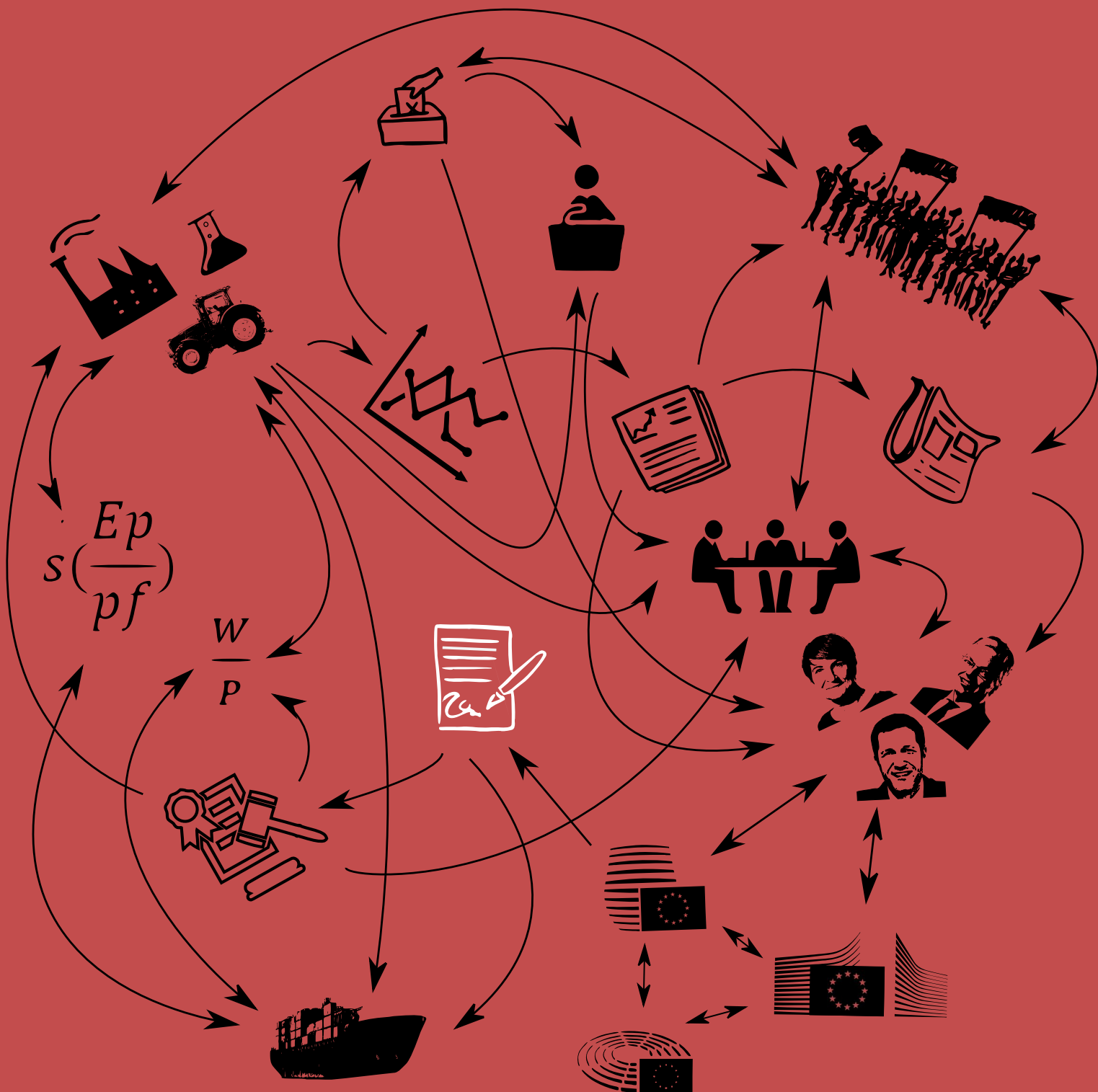


# THE DOMESTIC POLITICS OF EU TRADE POLICY

## The Political-Economy of CETA and Anti-Dumping in Belgium and the Netherlands

PHD DISSERTATION - YELTER BOLLEN - 2018



# **The Domestic Politics of EU Trade Policy**

*The Political-Economy of CETA and Anti-Dumping in  
Belgium and the Netherlands*

Dissertation submitted by Yelter Bollen, in fulfillment of the  
degree 'Doctor of Philosophy in Political Science'

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*Date: 18 October 1974. Time: 10:30 am. Location: Tabac Saint-Sulpice. Weather: dry cold, gray sky. Some sunny spells. It is one fifty. SNCF parcels service. The people from the funeral procession have entered the church. Passage of a driving-school car, bus 96, bus 63, a Horist's van, blue, which parks next to the undertaker's van and from which a funeral wreath is taken. In splendid unity, the pigeons go round the square and return to settle on the district council building's gutter. There are five taxis at the taxi stand. An 87 goes by, a 63 goes by. Saint-Sulpice bell begins to ring (probably funeral chimes). Three children taken to school. Another apple-green ICV. Again the pigeons go round the square. A 96 passes by, stops before the bus stop (Saint-Sulpice section); off it steps Geneviève Serreau, who takes rue des Canettes; I get her attention by knocking on the windowpane, and she comes over to say hello. A 70 passes by. The funeral chimes stop. A young girl is eating half a palmier. A man with a pipe and black satchel. A 70 passes by. A 63 passes by. It is five after two. An 87 passes by. People, in waves, still, continually. A priest returning from a trip (there is an airline label hanging from his satchel). A child slides a toy car along the windowpane of the café (slight noise). A man stops for a moment to say hello to the big dog of the café, peacefully stretched out in front of the door. An 86 passes by. A 63 passes by. A woman passes by. On her bag is written "Gudule". Almost in front of the cafe, a man squats down to rummage through his briefcase. An 86 passes by. A young man passes by; he is carrying a large portfolio. There are only two mopeds still parked on the sidewalk. in front of the café now: I didn't see the third one leave, it was a velosoleid. A man passes by: he is pulling a handcart, red. A 70 passes by. A man looks at the Laffont window In front of "La Demeure" a woman is waiting, standing near a bench. [...]*

- Georges Perec,  
An Attempt at Exhausting a Place in Paris

*Small countries, we know, are small. Big countries are big.*

-Vivien Schmidt,  
The Changing Political Economies of Small West-European Countries

# Nederlandstalige Samenvatting

Het Europees handelsbeleid kon de voorbije jaren op een zeldzame hoeveelheid aandacht rekenen. Eerst toen gevreesd werd dat de 'Grote Recessie' een mondiale uitbraak van protectionisme zou teweeg brengen, later met de politisering van de handelsverdragen met de VS en Canada. Ook de spanningen met China en Rusland en de echtscheiding met het Verenigd Koninkrijk kennen een belangrijke handelspolitieke component. Meer algemeen was er opnieuw een intensifiëring van langlopende debatten over de rechtvaardigheid van ons mondiaal economisch systeem, en over de mate waarin het soepel verkeer van kapitaal, goederen, en diensten bijdraagt aan sociale ongelijkheid, klimaatsverandering, en de erosie van nationale soevereiniteit.

Dit doctoraat probeert ons begrip te versterken van de politiek van buitenlandse handel (en investeringen), een beleidsdomein dat binnen de EU in sterke mate supranationaal is. De tekst bestaat uit twee grote delen:

Ik vang aan met een inhoudelijke en methodologische kritiek van de bestaande literatuur, waarin ik argumenteer dat er tot op heden te weinig aandacht is gegaan naar zowel (a) de (dynamische) rol van de lidstaten, als naar (b) de preferentievorming op 'nationaal' niveau. Ik betoog dat onze analyses van het Europees handelsbeleid ten eerste te sterk focussen op de als homogeen gepresenteerde actoren Raad en Commissie, en dat we ten tweede te weinig weten over de (binnenlandse) politieke economie van handelspolitiek. Mijn bijdrage is zowel een pleidooi voor gedetailleerde lidstatelijke analyses, als een zelfstandige studie naar de politieke economie van handelsbeleid in Europa. Naast deze meer 'empirische' stellingnames, probeer ik voorts een originele methodologische/metatheoretische bijdrage te leveren, door te opteren voor holistisch verklarend onderzoek. Dit doe ik door (mechanistische) *process tracing* serieus te nemen, te operationaliseren, en in de praktijk te brengen.

Het tweede deel bestaat uit een analyse van de handelspolitieke besluitvorming van België en Nederland. Ik probeer tot een exhaustieve verklaring te komen van de positionering van deze lidstaten in twee dossiers: het handelsakkoord met Canada ('CETA') en het anti-dumpingdispuut met China over zonnepanelen. Eerst presenteer ik voor elk land een inleidend hoofdstuk, waarin ik zowel een algemeen beeld schets van politiek, instellingen, en economische structuur, als een meer specifiek overzicht geef van de positionering en besluitvorming inzake handelsbeleid. Vervolgens volgt voor elk land een gedetailleerde empirische analyse van de rol die middenveld, bedrijfsleven, en besluitvormers speelden in het bepalen van de twee 'uitkomsten', d.w.z. de positie die het land innam op EU-niveau m.b.t. CETA en de anti-dumpingmaatregelen tegen Chinese zonnepanelen. Deze hoofdstukken zoomen in op elke stap van de mechanismen die ik in het vorig deel ontwikkelde. Het Nederlandse hoofdstuk over CETA verloopt bijvoorbeeld als volgt: na een analyse en samenvatting van de Nederlandse positie, test ik de stellingen dat deze positie is toe te schrijven aan (a) de invloed van het bedrijfsleven, (b) het middenveld, dan wel (c) de autonome preferenties van beleidsmakers zelf. Ik bespreek o.m. hoe en wanneer middenveld en bedrijfsleven zich bewust werden van CETA, hoe zij tot een standpunt kwamen en wat hun positie precies omvatte, met

wie zij dit standpunt vervolgens coördineerden, wanneer, waarom en op welke wijze zij hierna campagne/lobbyactiviteiten ontwikkelden, en in welke mate zij toegang verkregen tot (i) de pers (via een kwantitatieve en kwalitatieve analyse van pers-data en artikelen alsmede interviews), (ii) het parlement (interviews en een kwalitatieve analyse van de parlementaire debatten), (iii) het publiek (surveys, interviews, en andere data) en (iv) de directe besluitvormers van de uitvoerende macht. In het mechanisme van de beleidsmakers gaat er eerst aandacht naar de potentiële 'autonome' bronnen van de executieve positie (o.m. beleidsdocumenten, studies, bevestigingen, vroegere posities, (partij) ideologie, andere), vervolgens schets ik de interne besluitvorming, en bespreek ik hoe de uitvoerende macht zich verhiel tot de druk vanuit pers/parlement/publiek en lobbying. Deze analyse baseer ik op een combinatie van interviews en (interne) documenten. Na elk van deze stellingen 'getest' te hebben, kom ik tot een overlappende synthese waarin ik ze met elkaar probeer te verzoenen: waarom nam land X positie Y in?

In het laatste hoofdstuk probeer ik vervolgens enkele overkoepelende conclusies te trekken over de politieke economie van het Europees handelsbeleid, zowel in België en Nederland als meer algemeen.

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# *Acronyms and Abbreviations*

## **General**

AD – Anti-dumping  
CEO – Corporate Europe Observatory  
CETA – Comprehensive Economic and Trade Agreement  
CSO – Civil society organization  
ECI – European citizen’s initiative  
FTA – Free trade agreement  
GI – Geographical indication  
ICS – Investment court system  
IPR – Intellectual property rights  
ISDS – Investor-state dispute settlement  
NGO – Non-governmental organization  
NTB – Non-tariff barrier  
PTA – Preferential trade agreement  
PV – Photovoltaic  
S2B – Seattle to Brussels  
SIA – Sustainability impact assessment  
TPC – Trade Policy Committee  
TTIP – Transatlantic Trade and Investment Partnership

## **Belgian Chapters**

11.11.11. – Flemish development NGO  
ABVV/FGTB – Socialist trade union  
ACV/CSC- Christian trade union  
CM – Christian health fund  
CNCD-11.11.11 (also: CNCD) – Francophone development NGO  
DiV – Flemish department of foreign affairs  
FRDO – Federale Raad voor Duurzame Ontwikkeling

FWA – Walloon peak agricultural federation  
NBB – Belgian central bank  
UCM – Walloon SME federation  
UNIZO – Flemish SME federation  
UWE – Walloon peak business federation  
VBO/FEB – Belgian peak business federation  
WBI – Walloon department of foreign affairs

## **Dutch Chapters**

ABC – Farmers/developmental NGO  
CBS – Central bureau for statistics  
COV – Meat industry federation  
CPB – Central planning agency  
DNB – Dutch central bank  
FME – Manufacturing and technological industries federation  
FNV – Peak trade union  
IMH – Dutch trade policy department  
LTO-Nederland – Peak agricultural federation  
NZO – Dairy industry federation  
SER – Social-economic council  
SOMO- Stichting Onderzoek naar Multinationale Ondernemingen  
TNI – Development/research NGO  
VNO-NCW – Peak business federation  
WOB – Wet openbaar bestuur

# 1. Introduction

In the fall of 2016, a small Belgian region threatened to block an EU-Canadian trade and investment agreement that had been in the works for almost a decade. In the years before, Germans and Austrians had started hitting the streets to protest against similar negotiations with the United States, while Dutch poultry farmers sided with Eurosceptic nationalists in order to demand a referendum on the association agreement with Ukraine. In my home town, pear farmers have hung up huge banners that shout '*Politicians - give us back Russia!*', in response to the Russian embargo which has closed off one of their major export markets. After Brexit erupted, press reports of the UK's internal process revealed that the British foreign trade services have had to suddenly hire massive amounts of staff, because the administration had been hollowed out for years; their concordant amateurism has been apparent in the negotiations. Meanwhile, the struggle with China over its alleged 'dumping' practices, which has been ongoing for over fifteen years, continued to pit member states against one another, as some benefitted from cheap Chinese inputs while others believed their manufacturing base was being eroded beyond repair.

All these anecdotes relate to what is often presented as one of the crown jewels of EU supranationalism: foreign trade and investment policy. In this PhD, I hope to show that they should also lead us to investigate a layer that has until now remained largely absent in the study of this domain: the *domestic* political economy of European trade policy, and the genesis of member states' positions. Why did Wallonia's parliament suddenly revolt against the treaty with Canada? How well informed were the UK's positions on EU trade policies in the past decades, if its ministries had apparently been so understaffed? Did the EU's position on Chinese textiles' dumping result from lobbying by the Dutch and Swedish fashion industries? Why have so many states spun a web of bilateral investment treaties that now appear to open them up to lawsuits from multinationals, and why have civil society organizations suddenly taken notice? Or is this in fact part of a wider, yet until recently seemingly unsuccessful, history of attempts to mobilize the public on such a technical issue?

When I first encountered trade policy as a student, it was in the context of macroeconomic analyses. Having studied economics during the height of the Eurozone crisis in 2011-2012, I had spent long hours mulling over balance of payment problems and competitive asymmetries, and the ways in which these were being fueled by monetary policies, capital flows and unit-labor cost differences, but also by production structures, the centralization of wage bargaining and rent-seeking bureaucrats. Before, in my master's in political science, I had also written a thesis about the efforts to construct European trade unions - again in this same context of heterogeneous 'varieties of capitalism', which correlated with wildly differing socio-economic and political interests even within this ostensibly unified class of labor organizations. It is from this background that I started, somewhat haphazardly, this study of EU trade policy.

I was confronted with a literature that appeared to be largely unhinged from the sources I had learnt to draw on. Few and far between were the mentions of the

German employers' federation, of the varying trade-dependency across sectoral trade unions, the corporatist traditions of Sweden, or the messy domestic politics of services liberalization. Instead, a substantial part of the academic work was focused on the tug of war between the Commission and the Council.

My feeling that something was missing was further fueled by the works (and a series of summerschool seminars) of Mark Gilbert and Vincent Della Sala. I was a willing ear for their critiques of the discipline of EU studies, and its increasing detachment from the study of comparative politics and capitalisms, of European states and society. It was then that I first started to switch my research focus from EU-level developments to questions about the connections between the supra-national dynamic and the underlying drivers of the EU and its constituent entities. I began to write an historical overview of the political-economy of EU trade policy, where I tried to tie broad developments in the politics and economics in Europe with the trade policies and positions of the member states and the EU. This proved far more difficult than I had anticipated, because it turned out that there was nearly no literature available on which to build. At most there were a handful of occasional mentions of country positions, and even more rarely also domestic dynamics, in stray papers and books. I eventually abandoned this project to instead write a critique of the literature, which has now become the first chapter of this PhD. As I argue here, this lack of attention for the domestic forces that drive Council positions (but that also steer the actions of transnational firms and the EU-level associations of business and civil society) is problematic, and we need to mend it.

Of course, I then needed to put all this talk into some empirical walk, and this eventually turned into bulk of this 500 page research. Although my initial intention was to study the effects of the Great Recession on member states' trade positions, some initial research convinced me that this was untenable because there was simply too little material out there to build from, in order to construct such a 'dynamic' study with a clear longitudinal dimension. Influenced also by the analytical tradition in the philosophy of social science, and its call for holistic explanatory research, I decided to instead opt for a more detailed and encompassing investigation of the positions of certain countries on specific EU trade policies. For reasons that I lay out in the next chapter, this led to a two-year investigation of trade politics in Belgium and the Netherlands, more specifically of their positions in the trade agreement with Canada, and in an anti-dumping dispute in the photovoltaic sector.

### **The structure of my text is as follows.**

I begin with a **literature review**, in which I offer a critique of the existing academic corpus, and attempt to indicate what kind of research we should (also) be producing. I also outline my own contribution, discuss my case selection, and the questions I'll be trying to solve. I then move on to my **methodological chapter**: how will I investigate what? I will discuss in detail the method I have tried to operationalize and apply, mechanistic process tracing, as well as some of the meta-theoretical foundations that underlie my choice for explanatory within-case analyses. Next I discuss the **mid-range political theories** that guided my research. They provide potential answers for the 'why did country X take position Y' question, and will help me focus on a limited set of actor-oriented explanations: lobbying and campaigning by civil society and by business, and the autonomous preferences of decision makers.

In line with my mechanistic explanatory process tracing methodology, I build on these theories to construct the mechanisms which are tested in the fine-grained case studies that follow.

I then move on to the empirical half of my work. I first **introduce the cases** I'll be studying: CETA and solar panel anti-dumping; what did the politics and substance of these dossiers look like? The rest of the PhD consists of detailed empirical investigations of the states' positions in these two cases. This breaks down into three chapters per country: a contextual **background chapter**, where I look at some theoretically relevant aspects of the countries under scrutiny, an explanatory chapter on **CETA**, and an explanatory chapter on **solar dumping**. Each of the country-case chapters further subdivides into two (for solar) and three (for CETA) mechanism-specific analyses, which are then re-assembled into overlapping country-case conclusions.

The **final chapter** compares across cases and countries in order to draw more general conclusions about the politics of trade in Belgium and the Netherlands, while formulating some speculative lessons for the theories of trade that I built on. I also evaluate the extent to which my final product lived up to the expectations raised in the first chapter, and assesses, 'after the facts', the value added of my focus on the domestic politics of EU trade policy as well as the benefits and drawbacks of the process-tracing approach by which I performed my research.

### **A guide for the reader**

This study has taken on somewhat voluminous proportions. However, depending on the prior knowledge of the reader, some sections are less crucial and can be skipped or skimmed.

Readers that are already convinced of the prima facie merit of looking at the domestic politics of EU trade policy can skip most of the second chapter, moving directly to 2.3, where I discuss my own contribution and my case selection.

Readers that are already convinced of the merits of explanatory case studies, and the potential contribution of mechanistic process tracing to performing such analyses, may jump to 3.5, where I again summarize how the rest of my text will develop.

In chapter four, my treatment of the politics-of-trade literature is very 'mainstream', it is highly similar to reviews found in other books on trade and societal lobbying. Again, those already acquainted with this literature may rush forward, reading only the sections where I construct the mechanisms that I will be testing in the empirical chapters: parts 4.2.1.4 and 4.2.2.3.

In the empirical section of the PhD, some of the chapters are more contextual, and can be skipped by readers that already have an affinity with the subject. This includes the introductory chapters on the solar panel case and CETA (all of chapter five), and the introductory sections on the politics and economics of the Netherlands and Belgium (chapters six and nine). I often refer to these sections later in the text, but always with a very brief summary of the core elements.

Inside the case-country analyses, some sections are detailed empirical analyses of propositions, or of sub-propositions supporting higher level claims. These parts

present a large amount of evidence that is scrutinized in detail, yet reading each of these passages is not always crucial to the understanding of the case. This includes inter alia the analysis of the Dutch 'outcome' in CETA, the reviews of the parliamentary discussions or my analyses of the press' coverage of solar and CETA. After each of these sections, there is a summary which outlines the core conclusions of the previous empirical section.

I have tried to include many complementary summaries throughout the text, in addition to graphs, timelines and tables that present overviews of the positions, the sequence of events and the evidence I've collected. The reader may benefit from taking these out and using them as roadmaps throughout the rest of the text.

Finally, a **note on my use of quotations**:

Text that is between quotation marks and which is in italics is a direct or directly translated quote. Text that is between quotation marks but that is not in italics is just being emphasized. Every English quote that is included in the empirical chapters is my own translation, from either Dutch or French. Occasionally, I have left in quotes in the source's mother tongue.



## 2. The Literature On EU Trade Politics: A Critical Review

In the field of European Union (EU) trade policy research, a large amount of fruitful work has focused on decision-making struggles at the European level. However, few studies have been devoted to the dynamics of preference formation within the member states. There are no studies that systematically trace positions of EU member states on trade issues over the years, and we know little of national decision making. Even basic information on governmental procedures is lacking, nor do we know much about the actions and viewpoints of domestic political or societal actors. Furthermore, only a handful of authors try to explain why country A took position X in particular cases. Rather, member state desiderata have remained largely exogenous to analyses, while states have been treated as unitary actors.

Building on an empirical and theoretical critique of the current literature, this chapter first argues that we need to complement the question of ‘Why “the EU” did-’, with analyses of ‘Why member state X wanted-’.

### 2.1. EU trade policy – a brief introduction<sup>1</sup>

Trade policy has been an exclusive supranational competence of the EU since the Treaty of Rome, but the exact composition of this competence has altered, and grown, over time. Its scope was not precisely circumscribed in original treaty, leading to multiple rounds of conflict between (and among) the member states and the European Commission. Through various rulings of the European Court of Justice as well as Treaty revisions, the legal scope of the policy domain has been brought in line with the evolving reality of the international trade agenda. Since the Lisbon Treaty of 2009, the EU has become formally competent for all issues discussed during contemporary commercial negotiations, including trade in services, foreign direct investment and the trade related aspects of intellectual property rights (IPR).

Apart from negotiating at the bi- and multilateral level, the EU has also developed a number of unilateral instruments. This includes a number of preferential trade openings granted (sometimes conditionally) to developing states, such as the so called ‘generalized system of preferences’ (GSP) and the Everything But Arms provisions. These instruments will not be further discussed in this PhD. I will instead focus on another set of unilateral measures: trade defences. Anti-dumping, anti-subsidy and safeguard duties allow the EU to temporarily shield its market from foreign competitors. Here too, decision making procedures have been controversial both within the EU as well as internationally, especially in relation to the treatment of non-market economies – notably China.

These various instruments of trade policy have been characterized by different goals, decision making procedures and actor constellations (Young & Peterson, 2014). I will briefly discuss the procedural and policy developments in the uni-, bi- and multilateral spheres.

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<sup>1</sup> Parts of this overview were published in Bollen, De Ville & Orbie (2016)

### 2.1.1. Bi-and multilateral trade policy

Around the turn of the century, the EU heavily favoured a multilateral approach to trade liberalization, negotiated within the World Trade Organization (WTO). However, this strategy faltered as the ‘Doha round’ of multilateral talks entered deadlock.

The EU therefore turned towards bilateral agreements with other countries and regions, while further discussing ‘plurilateral’ treaties on more narrowly delineated topics (e.g. procurement, services, environmental goods). Whereas in the decades before the 2000s, the EU’s bilateral trade agreements were focused either on former colonies, candidate member countries or the near abroad (and were hence rather foreign policy than commercial instruments), since the 2006 Global Europe communication, the EU has put bilateral trade deals explicitly at the service of its commercial and wider economic interests.

This led to the opening of negotiations with the Association of Southeast Asian Nations (ASEAN), India and South Korea in 2007. The latter was signed in 2010 and became the first ever free trade agreement between the EU and an industrialised country (Bollen, De Ville, & Orbie, 2016). Other recent accords include EU-Singapore (concluded in 2014), EU-Vietnam (concluded in 2015), EU-Japan (started in 2013), the Transatlantic Trade and Investment Partnership (TTIP) with the United States (started in 2013 but now on hold), and the Comprehensive Economic and Trade Agreements (CETA) with Canada (signed in 2016). As will be discussed in more detail in later sections, these treaties have all been ‘new generation’ agreements: they went beyond the old emphasis on tariffs in goods, and have included items such as services, intellectual property rights, investment protection, and regulatory cooperation.

#### 2.1.1.1. Decision-making

Since the Treaty of Lisbon (2009), the procedure for initiating, negotiating and ratifying trade treaties goes as follows. If the Commission (more specifically its trade policy directorate, DG Trade) believes there may be potential for an agreement with a third country, it first performs a public consultation and a ‘scoping exercise’: informal talks with the aspiring trade partner(s) about the potential contents of a free trade agreement (FTA). If these talks appear satisfactory, the Commission then recommends the Council to open up negotiations. It’s up to the Council to approve this move, and to adopt a more detailed negotiating mandate to which the Commission must adhere. The negotiations themselves are conducted by the Commission, which however still needs to regularly report to the ‘Trade Policy Committee’ (TPC) of the Council, which convenes in Brussels every week, as well as to lower-level bodies such as the expert group on ‘services and investment’. Since Lisbon, the Commission also needs to keep the European Parliament (EP) up to date (Devuyst, 2013; Puccio, 2016).

If the negotiators believe the text is ‘technically finalized’, the EP and the Council are informed and receive the texts. This is followed by a ‘legal scrubbing’ phase, a legal review of the texts which can still take several months to complete. When this is

concluded, the deal is initialled by the negotiators, and the Council and EP are sent the updated treaty. The Council then has to sign the deal, either with qualified majority or unanimously, depending on the issues included in the accord<sup>2</sup>. Next, the EP needs to give its 'consent', which is the final step unless it's a 'mixed' agreement: if there are provisions that are still the (shared) competence of the member states, then all individual Council members need to ratify the treaty according to their national procedures (often involving parliamentary approval). If such national procedures, which can take a long while to complete, are necessary, the deal may still be provisionally applied, allowing most elements to already come into force while ratification is pending (ibid).

## 2.1.2. Unilateral trade policy

Apart from the mainly 'liberalising' multilateral and bilateral trade policy dimensions, the EU can take more 'protectionist' trade defense measures through the unilateral dimension. Here, the Commission can propose to take certain protective measures, of which anti-dumping measures are the most important, that have to be adopted by the member states in the Council. The EU has been one of the most ardent users of these defenses. Although the count of anti-dumping measures in force declined to historic lows before the crisis of 2009, the amount of industries, products and import value covered had been steadily growing since 2004, and the EU remained one of the top 3 users of anti-dumping and anti-subsidy measures. Its most important target has been China (Vandenbussche and Viegelaan 2011).

In recent years, there has been controversy on the legislative front. In 2012, the Commission launched a proposal to 'modernize' trade defenses, which would have (inter alia) limited the application of the lesser duty rule, the EU's policy of imposing duties solely to remove the injury caused by dumping (i.e. not including any 'punitive' tariffs). This rather defensive attempted reform was motivated at least in part by the contentious solar panel case (discussed in detail in chapter five) and other simmering anti-dumping disputes with China (Bollen, De Ville, & Orbie, 2016). Divisions within the Council blocked this package for years, although there was progress over the course of 2016 and 2017, pushed by China's (disputed) attainment of 'market economy status' at the WTO.

### 2.1.2.1. Decision-making

Trade defenses are handled by the Trade Defense Directorate of DG Trade, which is considered more 'protectionist' than DG Trade's ideological average and has a tendency to side with the producers requesting protection (Young & Peterson, 2014). The rules under which anti-dumping policies can be adopted have gradually become more 'permissive'. The first reform was enacted in 1992, when the threshold for adopting anti-dumping measures was reduced from a qualified to a simple majority. Adopting anti-dumping measures was facilitated again in 2004, when the majority count was reversed: a simple majority was now needed to block (instead of adopt) a

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<sup>2</sup> Unanimity is required if the deal includes provisions on intellectual property, foreign direct investment, cultural goods and social, educational and health services. An **abstention is not counted as a 'no'**, i.e. unanimity requires that not a single state votes against the trade agreement.

proposal, meaning abstentions were counted in favor of duties. Finally, the 2011 Omnibus Regulation that implemented the new comitology rules of the Lisbon Treaty further facilitated the adoption of duties. Since then, a proposal from the Commission can only be blocked by a qualified majority of member states.

Regulations related to trade defenses are discussed in the Council's Working Group on Trade Questions. The debates and votes over the application of trade defensive measures proposed by the Commission are held in a separate Anti-Dumping Committee.

## 2.2. The literature on EU-Trade politics – a critique

In the rest of this chapter, I will develop a criticism of the literature on the EU's trade policy (EUTP) which has occasionally popped up before, without it ever really gaining traction or developing into a new research agenda. My central claim is the following: for various reasons that are elaborated in the text, we need to complement the question of '*Why "the EU" did-*', with analyses of '*Why member state X wanted-*'. In other words: we need to open the black box of member state (MS) preferences. As I will demonstrate, this connects to Della Sala's (2014) call for 'EU studies' to complement its focus on the institutions and policies of the EU with more research on the socio-economic and political transformations happening *within* (and because of) it.

I will begin with an overview of the literature on EUTP, its emphasis, goals and claims, in order to show that there is a lack of research delving deeper into the preference-formation processes of the member states. I then discuss why this lack of knowledge is problematic, and I formulate a 'wish list' for further studies while exploring some of the theoretical and empirical complexities involved.

### 2.2.1. State of the art

#### 2.2.1.1. Overview of the literature

As has been noted in other reviews (Dür & Zimmerman, 2007; Orbie & Kerremans, 2013) the most 'productive' sectors of the literature on the EU's trade policy have dealt either with issues of inter-institutional wrangling, with the influence of various interest groups, and/or with the policy 'output' of the EU. It is thus very similar to EU studies in general (Della Sala, 2015). I will begin with a cursory overview of the literature.

Interest-group studies have looked at the relative power of NGOs versus business in accessing the Commission and influencing the policy process (Dür & De Bièvre, 2007), and at the role of exporters in pushing for competitive liberalization (Dür, 2007b; Garcia, 2010); they have defended (Meunier, 2005) and attacked (Dür, 2007a) the idea that supranationalization was aimed (and succeeds) at reducing policy-capture by domestic lobbyists; and they investigated the successful defeat of the anti-counterfeiting trade agreement by NGOs (Dür & Mateo, 2014), the fight between import defensive industries and a liberal coalition in the various textile 'wars' with

Asian economies (Comino, 2007; Eckhardt, 2011; Heron, 2007), the effects of ideas, institutions and interests on firms' trade policy demands in the services sector, and the role played by the European Commission in making sure liberalizing forces won the day (Woll, 2008).

Inter-institutional fights have also received an enormous amount of attention, not only in the studies that focus on it directly but also in many of the other papers mentioned here - an interest in which EU institution holds the reins permeates most of the literature<sup>3</sup>. Examples include the work of Sophie Meunier (see Meunier & Kalypso, 1999; Meunier, 2000, 2005), which has looked in detail at the fights over competence in agriculture, procurement, and aviation, as well at the member states' response to the Court's 1/94 opinion. In the past ten years, attention has shifted somewhat: away from issues of formal competence, and more towards the analysis of (de-facto) autonomy and power in the struggle over delegation and control that is so central to the literature on two/three level games and principal-agent theory. This body of work is quite voluminous. It has focused on the determinants of Commission autonomy, investigating such variables as the cohesion of the Council (da Conceição-Heldt, 2011b, 2013), the scope for Commission collusion and informal deal-making during various stages of bilateral negotiations (Gastinger, 2016), the importance of intra-Commission negotiations (Larsén, 2007), the growing importance of the EP (Van Den Putte, De Ville, & Orbie, 2015), and the effects of the 2004 enlargement - both on Commission autonomy as well as the growing control of large Members States (Elsig, 2010). These articles study the effectiveness of various oversight mechanisms used by the Council as well as the Commission's ability to get its way through informal deal-making, agenda-setting and control over the flow of information (Dür & Elsig, 2011).

Another thematic strand (that overlaps considerably with the studies above) deals with the EU's relationship with third countries. Here, authors look at how 'the EU' is (un)able to shape the international trade system, and at the way it behaves in multilateral as well as bilateral venues (De Bièvre & Poletti, 2013; Young, 2015). An offspring of this literature, which often portrays the EU as a single (though potentially 'conflicted') actor are the handful of works that seek to understand what the EU 'is', see for example Meunier & Abdelal's work on 'managed globalization' (2010) or Zimmerman's opposing, realist conception of the EU (Zimmermann, 2007).

In the past ten years there's also been a small (but growing) amount of studies that perform analyses of the discourse of EUTP. Crespy (2014) studies the contestation by citizen groups and trade unions over the GATS agreement, by investigating how these groups framed service liberalization as well as the ways in which the Commission, in its own communications, responded (and remained largely unresponsive) to their complaints. De Ville & Orbie (De Ville & Orbie, 2014) scrutinize the discursive response of the Commission to the crisis, and the way the Commission first fought the dangers of '1930s protectionism' while subsequently tying the need for growth to competitiveness and liberalization (external as well as internal). The majority of these studies (see also De Ville & Orbie, 2014; Siles-Brügge, 2011, 2013) are focused on the Commission and DG Trade. One rare exception is the

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<sup>3</sup> Though in trade policy-research this seldom happens through the lens of the 'classic' integration-theory debates (for a rare exception see Niemann, 2013).

paper by Mathieu & Weinblum (Mathieu & Weinblum, 2013), which looks at how Members of European Parliament (MEPs) have rallied around the need for fair trade even though the exact content (and the implications) of this ‘empty signifier’ differs immensely across ideologies.

Many of the authors from the previous paragraph intermingle with ‘critical’ social science. This body of work has a pronounced normative lining, although some authors are closer than others to the ‘radical’ edge of the literature (Orbie & Kerremans, 2013). Bailey & Bossuyt (2013), for example, criticize the idea that the Commission (and DG Trade) is trying to spread global development and egalitarianism through trade. In their view, this discourse is just an obfuscation of the neoliberal and neocolonial goals of the EU. In a similar vein, Lucy Ford (2013) works from the perspective of global political ecology and neo-Gramscian theory to pick apart the power relations and the discourses that explain the dominance of neoliberal over social and ecological goal. Sailing under yet another flag, Mark Langan (2009, 2015) uses his ‘moral economy’ framework to attack the discrepancy between the EU’s stated goals in its new generation of trade agreements with the Maghreb and the detrimental effects these deals are likely to have on human well-being, economic development, and migration flows. The EU’s pursuit of this ‘lose-lose’ scenario, he claims, must be attributed to the belief among EU policymakers that their aims are both ethically just and economically crucial.

#### 2.2.1.2. Analyses of the member states in current research

Many of the ‘critical’ works cited above find conventional academic work on EUTP deeply problematic; it is seen as reproducing the self-congratulatory narratives of the Commission, and as missing a more holistic perspective by being overly positivist. There is some merit in this critique, but it is not the line of argument I will be developing here. My bone of contention is primarily substantive, although I believe it also speaks to some methodological quarrels: there is hardly any work being done that tries to understand why member states favor certain policies.

**In the principal-agent literature**, the focus is on the struggle between ‘the Council’ and ‘the Commission’. In terms of the three-level-game metaphor, most attention is paid to the ‘second game’: that between the ‘international negotiator’ (the Commission) and the Council. In this literature, an interest in the positions (and, superficially, the preferences) of individual states is confined to the extent to which heterogeneous interests may divide the council and the effects this has on the autonomy of the Commission (da Conceição-Heldt, 2011b)<sup>4</sup>. **Studies on the EU in bi/multilateral negotiations** are mostly interested in the effects of Council divisions on the ‘effectiveness’ of the EU (e.g. the ‘Single Voice’ debate). If individual positions are explained at all, it is usually in a rather superficial manner – explaining member state preferences is not in itself the goal of this type of research. Studies of individual states and their commercial relationship with some country are rare as well, barring a

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<sup>4</sup> A special issue on principal-agent studies (in trade) (Dür & Elsig, 2011) criticizes this literature for focusing too much on one isolated part of the PA-relationship, ignoring dynamic ‘vertical’ links; yet none of the articles in the special issue looks at the ‘bottom’ of the delegation chain: the link from voters and national-level interest groups to higher level actors – even though these are explicitly included in the leading article’s diagram of the delegation chain (p. 332).

handful of exceptions, primarily related to member state-China relations (Smith, 2014). In the **interest-group literature**, there is a nearly exclusive focus on EU-level lobbying by EU-level actors. Very limited work has been done on the role of domestic lobby groups and their attempts to influence EUTP (either through national or European channels). A rare exception is the study by Dür & Mateo (2012), which looks at the efforts of national domestic groups in lobbying both their governments and the EU institutions on trade policy. **Discourse studies** are almost solely concerned by the language produced by the Commission. The only author (I am aware of) studying the role of arguments, frames, and deliberations among member state representatives is Arne Niemann (2004, 2013). He focuses on the importance of 'communicative action' in the trade policy committee and the 2004 'constitutional convention', looking at how deliberations shape and are shaped by interactions with the Commission, domestic political pressures, and various other variables like time constraints<sup>5</sup>. The above is also true for the **critical studies**, which either study 'the EU' or the Commission and its internal politics. Although often drawing from the neo-Gramscian work by Robert Cox, their analyses of the socioeconomic and ideological structures driving the EU's policies remain superficially oriented at the EU in aggregate. No attention is given to the variety and potentially contradictory (trans)national forces taking shape across the EU.

*In sum*, most research currently either ignores the positions of the member states or uses them as part of a variable that determines the behavior of the Council. When explanations of individual state's behavior *are* formulated, these are usually not very elaborate – taking at most two or three sentences<sup>6</sup>. Often, the situation in the Council is described using phrases like 'France and several other member states', 'Germany, supported by a series of small states', or 'the majority of member states'. In other words: the exact composition of the coalitions within the Council is treated as a negligible, perhaps even 'random' detail. In part, this is probably a side-effect of the research orientation of institutional/competence and principal-agent studies: what matters is the 'camps' and their size, not their composition. Apart from the dangers such vagueness may pose for the power of these analyses (as discussed in the next section), it also has the side-effect that our collective knowledge of member state positions across issues and over time is very fragmented<sup>7</sup>. More importantly, even when member state positions are mentioned, they are usually discussed in rather dichotomous ways (pro/contra; liberal/protectionist) – without any attention to the specifics (the content, the history, the driving forces) of their demands.

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<sup>5</sup> However, he does not explain where member states' (and their representatives') initial stances came from, nor does he discuss how the interaction between the Committee members and his somewhat vague variable of 'domestic constraints' took place, or what determined whether MS-representatives were successful in influencing their national principals.

<sup>6</sup> For example: Niemann (2004) claims that Spain was the only state opposing the Basic Telecom proposal in the late nineties, because the issue was 'substantially politicized' domestically. An entire world of politics is contained in that sentence, but we get little insight in why this politicization occurred, or why Spain eventually yielded to the Commission's pressure.

<sup>7</sup> In the study of EU anti-dumping there is another issue: it seems hard to square the picture various authors have painted of coalitions and dynamics within the Council, with some claiming dumping measures have been highly contentious, while others argue that discussions are characterized by generally peaceful log-rolling (compare Nordstrom (2011) to Evenett & Vermulst (2005) and Young & Peterson (2014)). Part of why we need more stock-taking of Member-State positions is because it will make it easier to check claims about the dynamics of trade politics within the Council (see *infra*).

Another problem is that we only know something about member state positions in relation to issues that eventually made it to the European agenda, reflecting the tendency of the literature to focus solely on politicized issues (Adriaensen, 2014)<sup>8</sup>. Similarly, we know next to nothing about the commercial policies of states prior to their accession to the EU. Was trade policy politicized in Sweden before 1994? In Poland? Portugal? Was it part of the discussion related to joining the EU or not? Knowing these things would help shed light on countries' roles after joining the Community<sup>9</sup>. Finally, statements about a country's 'overall profile/expected stance/probable preference' are often made based on (or at least: with reference to) no or a very limited amount of sources.

This member state-related language of the literature also reproduces one of the reductionist assumptions of realist IR: the portrayal of states as unitary 'actors' with identities, interests, and beliefs. Speaking about 'France', 'Germany', or 'Malta' as if these abstract entities were doing the acting can be justified in some cases – but only if we remember that this is an extremely simplified heuristic. As was remarked by Mark Gilbert in his criticism of 'integration' studies more generally: *'the problem is that states do not make treaties, their leaders do (2008, p. 652).'* 'France' is composed of a president, a prime minister, ministers, cabinets, bureaucracies, parliaments, diplomats, political parties, etc, all populated by people whose behavior in the end determines, to varying degrees, what is (not) said in the Council and the Trade Policy Committee. It is a token of the nature of EUTP research that there is almost never any mention of governments, parties, the ideological orientation of the national executive, or any other actor below the 'State' - let alone 'Tony Blair', 'Fog Rasmussen' or 'Giancarlo Galan'. These abstract entities are presented as thinking, calculating 'actors' with observable interests that they respond to in predictable ways<sup>10</sup>. I think this can at times be a useful shortcut, but it will always obscure the fact that what 'France' wants, thinks and does is contested also internally (and thus changes over time and across issues).

This conceptual characteristic of EUTP again leads to 'data issues': we lack basic information about domestic decision-making structures. We do not know<sup>11</sup> what ministries were involved, what committees there are, how internal disputes are settled, what procedures there are for consulting with interest groups, what kind of personnel (economists, lawyers, diplomats, ...) handles trade policies, whether parliament plays a role,... or how any of this has changed over the years. Digging through the literature yields some info France, Germany and the UK. But even information about the big three is fragmented, often vague, and scattered across various (ageing) sources (Asbeek Brusse, 1997; Falke, 2005; Hayes, 1993; Hiscox, 2002b; Milner, 1988).

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<sup>8</sup> As Adriaensen (2014, p15) correctly points out, this can in itself be very problematic since we're building our theories on a set of cases which may not be representative for the bulk of policy issues.

<sup>9</sup> For instance, the 'collusive delegation' argument loses some more steam once we realize that a majority of states did not play a part in constructing the supposedly 'insulated' institutional framework, and each of these may have had widely differing state-society relationships with respect to trade policy. See also Elsig(2010), who has suggested that in post-Communist member states, business is not used to exerting influence on trade policy, even though trade administrations are often in want of their input.

<sup>10</sup> As Gilbert remarks critically when discussing the work of Moravcsik: 'time passes, actors and circumstances change, new challenges arise, but the song of political behavior remains the same (2008: p. 653)'.

<sup>11</sup> In the sense that no one has ever bothered to compile any overviews. This information is bound to be available somewhere, at least its bloodless procedural aspects.



All of this leads to my central point: we do not understand, and do not really attempt to understand, why member states do what they do, or want what they want. There is theorizing nor empirical research, and the explanations that *are* given are often ad-hoc, marginal parts of a bigger story.

I am not arguing against the use of abstraction or stylized principal-agent analyses. I think both have their place. Nor am I arguing for a sort of interpretivist turn in EU studies where we should *only* focus on the local discursive struggles between national policy departments, et cetera, generalization, abstraction and theorization are valuable activities. In fact, I believe faceless theorizing as well as as-large-an-N-as-we-can-muster studies all have their place in political science. But: these are both just part of a bigger explanatory project, which will never yield satisfactory insights if we refuse to acknowledge the complexities of day-to-day politicking. In short, we need to understand the social, economic, and political forces that shape the context in which the inter-institutional wrestling match takes place. I try to develop this point in the next section.

### 2.2.2. Why this is a problem

I am not the first person to highlight this gap in the literature. Similar critiques have been vented by Alons (2013), Adriaensen (2014), Dür & Zimmerman (2007) and especially Young (2007a). These authors have all called for more studies of individual member states' trade preferences as well as the need for comparisons of domestic trade-policy making processes across the EU. However, only Alons (2010, 2013) and in part Adriaensen (2014) have subsequently lived up to this challenge while none of them have pressed sufficiently the need for this kind of research. In what follows, I will recapitulate and re-emphasize some of their claims while also introducing some new elements in order to demonstrate that this lack of attention to the member states is problematic.

The structure of this part is as follows I will make the argument that we need to study the positions and preferences of the member states (and the wider socioeconomic and political developments driving them), by addressing two rejoinders that would in fact make such a project superfluous from the standpoint of EUTP. I will first of all show that the member states still matter in the formation of trade policy, and secondly that their preferences are neither stable nor uniform. If these two conditions are fulfilled, analyzing member state preferences is indeed a relevant and necessary undertaking for EUTP.

#### 2.2.2.1. The member states are still important actors in EUTP

There would be little value in studying the member states if they had no control over the direction of European trade policy (and if we could assume this state of affairs will continue indefinitely, see *infra*).

Some years ago, one counter-argument to this claim was offered by the enduring autonomy of member states in their use of certain trade instruments. Until the early to mid-nineties, states were able to wield a variety of traditional trade barriers to co-regulate their borders, including quotas, voluntary export restraints and export

credits. However, as Messerlin (in a rare study of this phenomenon), has shown: this wiggle room vanished when these tools were gradually ‘communitarized’ – with national protections often being reproduced at the Community level (Messerlin, 2001). As the international trade agenda subsequently moved on to ‘new’ trade issues<sup>12</sup>, other areas of member state autonomy became politicized: their control over the international trade in services, public procurement, and the wide variety of domestic regulatory barriers that started showing up in the crosshairs of ‘deep trade’ liberalization. Member state autonomy in these domains was wielded first and foremost by deciding whether or not to support supranationalization, but was for example also exercised by their conclusion (to the dismay of the Commission) of bilateral deals on aviation services with the US (Meunier, 2005). Eventually, however, control over these domains was ceded to the EU, although the debates over mixity versus exclusivity in recent FTAs, and the recent Singapore ruling shows that this struggle has continued.

However, even though most instruments have been transferred to the EU, states do retain some domestic wiggle room. First of all, there are the many administrative and regulatory barriers that determine actual import costs. For example, Bourdet & Persson (2012) look at (tariff equivalents of) customs procedures, using calculations based on the World Bank’s ‘Doing Business’ database, to illustrate that third countries face strongly divergent customs regimes across member states, with potentially substantial trade effects<sup>13</sup>. Secondly, member states can also use European policies to obtain their own, country-specific trading regime. After studying fluctuations in ‘de facto tariffs’, Ehrlich (Ehrlich, 2009) concludes that “*individual EU countries maintain sufficient control over their trade policies [and] that the politics and economics within the individual countries still influence the setting of that policy in much the same way as they do in other countries (p. 166)*”. Dividing, per country, the value of customs revenue by the value of total imports, he shows that some countries import more high-tariff goods than others and thus that the protection offered by these barriers differs across member states. He attributes this to member states’ differing desires for openness across sectors. Although his data range from 1957 until 1994<sup>14</sup>, there is little reason to assume that the dynamic he puts forward is now wholly irrelevant: the member states can still have (or can at least strive for) individual ‘policies’ through the EU.

This is further underlined by the fact that the member states have held on to most of their prerogatives in old-fashioned commercial diplomacy and export promotion – another subject that has received little attention so far, except perhaps in regards to member state relations with China (e.g. Smith, 2014). This can be important in many ways, not least because it will of course impact the export performance of every country in different ways. Bilateral economic diplomacy can, for example, be relevant in relation to anti-subsidy and anti-dumping investigations by non-EU countries.

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<sup>12</sup> In part also because ‘the EU’ itself started demanding negotiations on such issues, often after expanding the internal market to these sectors.

<sup>13</sup> They leave open the question to what extent these differences are there by design/on purpose.

<sup>14</sup> A shortcoming of Ehrlich’s paper is that he does not justify this cutoff date. After trying to reproduce his study, I believe it is due to data availability.

Even though the EU may formally act as a unified actor, non-EU countries can still target individual member states<sup>15</sup>.

Of course, the most obvious way to propagate studying the domestic politics of trade from an 'EU studies' standpoint is that the positions of the member states, both individually and as aggregated by the Council, shape EU policies (Alons, 2011). They have to agree (*inter alia*) on negotiating mandates, ratify agreements and condone trade defensive measures, while also playing an important role in the construction (through EU laws and treaties) of the overarching trade-policy framework. Hence, even analysts that are only interested in EU-level dynamics have to deal with the fact that several of these European actors (the Council, but also the EP, the European Council and at times the Commission) are composed of units that are at least partially responsive to domestic concerns. In other words: the importance of country positions and preferences is implicit in much of the current literature<sup>16</sup>.

#### 2.2.2.2. Diversity and change in member state preferences

Even if the member states remain relevant, studying their preferences might still be superfluous if it can be shown that they are either all the same or, alternatively, different but in very predictable and stable ways. In this section, I expand and take issue with both these claims.

##### ***a. First point: the effects of EUTP differ across member states.***

Reviewing debates in the 1990s, Patrick Messerlin (2001) argued that both the 'fortress' as well as the 'liberal power' Europe stories were misguided: the EU's openness remained largely stable, in part because protections upheld by the member states were 'communitarized'. Dissolution of domestic policies was compensated for by community-level measures. This did not mean, however, that member state positions converged with regards to the effects and politics of trade policy: '*member state goals and strategies in trade policy thus will continue to differ – perhaps more than ever, because similar effects on member state economies can no longer be achieved by a differentiated use of trade instruments (2001:73)*'. Analogous to the asymmetric effects of the ECB's monetary policies, European trade policy can have different effects on each member state (and across time and sectors), and this leads to heterogeneous and potentially conflicting policy preferences at the EU level.

In recent years, such tensions have been most visible in trade relations with Asia. In a recent book, De Ville & Vermeiren (2016) show how the rise of China, in combination with EU's exchange rate and trade policies, had diverging effects on the economic and trade performances of the various forms of capitalism embedded in the EU. As has been argued by various authors (Comino, 2007; Eckhardt, 2011; Heron, 2007), this divergence subsequently led to various trade 'wars' of the past decade, mostly over policies targeting China. The asymmetric effects of East-Asia's rise led to intense political struggles within the Council and the Commission, over

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<sup>15</sup> For example, see the recent solar-panel dispute with China and the way Chinese counter-measures played a role in the eventual outcome.

<sup>16</sup> Even those in the principal-agent literature which argue that the Commission dominates the Council recognize the potential influence of the member states.

the use of policies that had become, and remained, European. Although discussions were particularly fierce over ‘old’ industries like textiles and clothing, there is, as Heron notes (2007), no need to assume that these fights are a thing of the past. He believed they would just shift to new sectors as emerging economies climb the value chain, something that seems to be well illustrated by the heated debates over defensive measures in solar panels and telecommunications, which broke loose after 2012<sup>17</sup>. With the rise of the ‘new’ and ‘deep’ trade agenda, disagreement has also sprung up about the need for services liberalization, rules-of-origin, the need for labor provisions, food safety issues, etc (Young, 2007b).

There is no single, ‘European’ stance towards all these issues – even though the EU has still managed to find the requisite majorities more often than not.

As in the previous sections, however, I must point out that we actually know far too little about the divergent effects of the EU’s trade policies. Little attention has been paid to how the distributional effects of trade policy are spread out, how member states try to manage this, or what the response of afflicted actors has been. Does anti-dumping benefit some states more than others? Vandenbussche & Vliegelaan (2011) say the duties are spread out evenly, but their analysis is quite rudimentary. Do EU tariffs have differing effects across the members? Ehrlich (2009) and Messerlin (2001) said ‘yes’, but their research is outdated. Are states still trying to foster some kind of ‘embedded’ compromise, through compensating the ‘losers’ of trade? Burgoon (2010) claims some are, but his data and interpretations remain superficial. There is much room for more interesting, in depth research here; and a lot of it seems essential if we want to understand the trajectory and the effects of the EU’s commercial policy.

### ***b. Second point: they have diverging and dynamic trade policy preferences***

In sum: the unequal effects of various trade policies, and the simple fact that the EU is composed of 28 states with their own socioeconomic and political systems that respond in a variety of ways to all sorts of ‘shocks’, means that their policy preferences will continue to differ.

But I still need to reply to the second critique: deep studies of preference formation may be superfluous if positions are extremely stable. Perhaps countries have well-known unchanging preferences across topics, maybe there is some kind of ‘state’ preference for a certain type of trade policy which is largely immune to the vagaries of politics, business cycles or ideology. In the literature, this currently boils down to the question whether there is an eternal divide between the ‘Northern free-traders’ and the ‘Southern protectionists’<sup>18</sup>. Alternatively, positions may be fluid yet largely

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<sup>17</sup> This is unremarkable from at least one chunk of the empirical literature on trade policy, namely works studying the determinants of trade defense investigations. One frequent result from these studies is that anti-dumping investigations tend to be linked to exchange rate fluctuations: when the domestic currency appreciates and foreign goods become cheaper, the call for defenses rises (see for example Bown & Crowley, 2013; Broz & Werfel, 2013). Today, there is still room for diverging fluctuations within the EU. Only 19/28 member states are part of the Eurozone, and even among the Euro-countries there is no reason to expect uniform effects from a given change in the exchange rate; for instance because some countries’ exports compete on quality rather than price (De Ville & Vermeiren, 2016; Marin, Schymik, & Tscheke, 2015). Hence, there will always be conflicting demands for defenses.

<sup>18</sup> Another divide implicit in the literature is that between ‘small’ and ‘big’ MS. The latter are assumed to be dominant, while the first are always seen as following the lead of a more powerful state – usually branded the

predictable. For example: if a government's position is always just a function of its trade balance in some sector then we could decide to leave the domestic 'black box' untouched. We would just accept that there's some mechanism producing, in general, expected outcomes without trying to pick apart the exact way this causal chain works. In both cases, rules of thumb rather than well-developed theories will do - 'like always, state X will probably do Y, probably for this (A) or that (B) reason'.

First, I would argue that even this kind of 'superficial' analysis has not been done in any systematic or even frequent way. Member state positions are often explained by pointing at variables like the competitiveness of a domestic industry or the trade balance, but as far as I know there has been very little research where such connections have themselves been the explanandum: 'do states' positions correlate with variable X?' This sort of research is very common for non-EU countries<sup>19</sup>, but it has rarely been applied to the EU as whole<sup>20</sup>, while Ehrlich (2009) and Evenett & Vermulst (2005) are the only ones I am aware of testing statistically the determinants of individual states' preferences<sup>21</sup>.

Secondly: the empirical support for such self-inflicted myopia is ambiguous. In 2006 Matthew Baldwin<sup>22</sup>, who had served in DG Trade for some time, criticized both practitioners and academics for '*[overemphasizing] simplistically [the] differences in the Council between the 'northern liberals' and the 'Club Med' protectionists* (Baldwin, 2006)', as this led to faulty interpretations of Council dynamics. Doubts over any sort of permanent division were also raised by Messerlin (2001), who showed how the 'structural' parameters driving member state preferences had been changing in the 1990s, which according to him correlated with a change in the usual pro-contra dynamics of traditional (market access-oriented) EU trade politics<sup>23</sup>. As has been remarked by Young (2007a), the dawn of the 'new trade agenda' since the 1990s further weakened the usefulness of our customary stereotypes, as the openness-versus-protectionism continuum lost relevance. New actors (non-trade ministries,

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'leader' of some coalition. This supposition has probably received even less scrutiny than the geographical heuristic. I would like to thank Niels Gheyle for pointing this out.

<sup>19</sup> For example, the amount of studies probing the determinants of anti-dumping investigations is huge, for a review see Nelson (2006).

<sup>20</sup> I'm aware of a handful of recent studies that also include the EU as a case: Bown & Crowley (2013), Knetter & Prusa (2003), Jallab, Sandretto & Gbakou (2006), and Oatley (2010). However, these authors do not really deal with some of the problems that arise by including the EU in such studies, for example in concern to the choice of independent variables; aggregate, EU-level exchange rates, economic growth or unemployment figures are problematic proxies for the political dynamics these models try to capture.

<sup>21</sup> This is somewhat surprising. In standard OEP research it is very common, and it would not require arduous data collection or advanced statistics to produce some basic (but interesting!) results. The only major hurdle is the collection/operationalization of the dependent variable: how to quantify the preferences of member states across time and issues? But if nothing else the quantitative political-economy literature has been creative in coming up with measurable proxies for the thing we're actually interested in.

<sup>22</sup> Although this critique loses its steam because of remarks later in his text, it has been supported by various other authors. Later in the text, Baldwin states that deals in the Council will often depend on the position of a small set of 'swing states', namely Germany, Austria, Finland and Czech Republic. He also claims that the 2004-enlargement has not tilted the ideological 'status-quo' regarding free trade. Both statements imply the existence of recognizable and largely stable 'camps'

<sup>23</sup> For instance, he argues that several countries whose manufacturing sectors were protected at less-than-average (the EU average) levels (Sweden, Finland, Denmark) in the early nineties moved further away from the EU average by 1999, while the more-than-averagely protected group (Spain and Italy) became less so. Because France got less open in the same period (starting from less-than-average protection), this may have caused it to lose its central, deal-brokering role in manufacturing trade (as, so claims Messerlin, illustrated by a series of anti-dumping cases that were defended fiercely by France but did not get past the Council). See Messerlin, 2001, pp. 121-128.

NGOs, ...) have demanded a say on new issues ('trade and -' labor, the environment, development, ...) and this has led to new cleavages cross-cutting the old socioeconomic divide. This is well illustrated by the current debates on the transatlantic trade and investment partnership (TTIP), with 'traditionally liberal' states taking a far more skeptical stance than supposedly protectionist southerners (De Ville & Silles-Brügge, 2015) and with concerns over food safety, regulatory cultures and sovereignty allegedly playing a more important role than the proposed tariff schedules. As the remarks by Heron (2007) quoted above make clear, however, coalitions may continue to shift even in traditional trade politics.

This hints at something else: the period where commercial policy was de-politicized and where member state trade preferences converged appears to have been very short indeed. Somewhere between the 'new protectionism' of the 1970s-1980s and the Seattle protests in 1999 there was the harmonious intermezzo that Baldwin (2006) dubbed '*trade policy Heaven*', when the member states converged on free trade without new trade politics lodging us back into 'trade policy Hell'. Yet even during the 1990s there were intense arguments over aviation services, public procurement, trade defenses, Uruguay, Blair House, et cetera, with member states taking positions that were not always in accordance with north-south distinctions.

Of course, there is no way to know all of this for sure unless we actually chart the positions of the member states in some detail. As was mentioned, the validity of the north-south shorthand has been questioned by various authors several times before. However, when surveying the literature it turns out that there is little trace of any authors actually defending this as a valid analytical distinction<sup>24</sup>. Rather: it is merely *mentioned* -when the coalitions in the Council seem to match up with a N/S distinction<sup>25</sup>, allowing the author to very briefly explain the states' positions (often implicitly) without delving into the issue much further (see *infra*). In this sense, it links up with a quote from a paper criticizing a widely held but erroneous belief of IR-scholars about their own field - in that the idea of a N/S divide is '*[...N]ot a detailed historical narrative that can be traced to a single authoritative source, or group of sources, but rather an 'anecdote' that has been briefly recounted by a wide variety of authors*' (Quirk & Vigneswaran, 2005, p. 90)<sup>26</sup>. Put differently: this shorthand seems to survive even though (and perhaps because) no one has ever bothered to check if, when and why it is valid<sup>27</sup>.

This may be even less benign than it seems. Rule-of-thumb analysis can lead to 'epistemological laziness': we tend to look for patterns which confirm our expectations. How many analysts have been content to cease their inquiry after

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<sup>24</sup> Exceptions are Young & Peterson (2014) and Alons (2011), who (briefly) support its validity, albeit with various qualifications.

<sup>25</sup> And, as can be seen from the table in the annex, they often do, but this is itself not an explanation, and there are many cases where positions have strayed from the expected path. As I explain, we might also worry whether the N/S heuristic leads to self-confirming 'laziness'.

<sup>26</sup> Namely the idea that there was a 'Great Debate' between idealists and realists in the early to mid-20th century, and that the realists were victorious. This story is largely nonsense (such a debate did not take place, there were barely any authors active that fit the characteristics of either 'camp', and the realists did not end up dominating the field), yet it is reproduced (briefly) by IR-scholars over and over in order to frame their own arguments (Quirk & Vigneswaran, 2005).

<sup>27</sup> Which might still be the case. I'm not claiming the heuristic is completely misguided; the divide on several policy issues has run along N-S lines. The point is that we should actually investigate this claim in order to judge whether and why it has been so, and how persistent it will be over time and policy issues.

finding some evidence that, prima-facie, the usual suspects were in their designated spot<sup>29</sup>? When combined with superficial, ad-hoc theorizing this produces explanations of deviations from the expected trajectory, without questioning whether the a priori assumption actually holds (weren't we wrong to expect this behavior in the first place? Were we expecting it for the right reasons?). A consequence of this is that member state preferences are somehow exempt from the ideas versus interests debate that still thrills much of the research community: the ad-hoc theory just makes a little ontological leap. When an author wants to explain some member state's behavior he or she will have some heuristics available, and when the economic (competitiveness, trade balance) one doesn't cut it the behavior must be due to 'well-known/deep seated' ideational concerns (fears over sovereignty, the desire to strengthen European integration, free trade ideology, ...).

### 2.2.2.3. Why it matters that they matter

Why then, is it problematic that we know so little about why the member states do what they do?

Does it really not matter whether 'the southern states' also includes Italy for a certain topic? Or whether Poland and Hungary but not Czech Republic and Slovakia were opposed to some proposal? Whether 'the majority' of states was 12/15 or rather 8/15? Again: the answer can only be 'no' if we're interested in nothing but intra-Community power struggles (rather than in the substantive content of trade policies, which will of course be influenced by the varying positions). But even in this case, our conclusions will be suspicious.

Even for the usual agenda (which institutions won?, which interest groups?), our explanations will remain vulnerable if we do not complement our focus on the interplay between 'institutions' with insight about the dynamics at less aggregated levels. The tendency will be to attribute everything that happens at the European level to developments at the European level, but there is no profound theoretical reason to believe why this would be the case. A member of the trade policy committee might be responsive to peer-pressure from fellow committee members, but he will also be under varying amounts of scrutiny from national bureaucrats, politicians, and at times 'the public'. The same can be true for MEPs (which are, one would assume, not solely and uniformly motivated by their drive to increase the European Parliament's weight) and ministers at the Council. It's as if we're estimating a model without controlling for several key variables.

At times, however, analysts have not been able to ignore the deviant, defiant, or simply influential role played by specific member states. What we are offered in those cases is usually a brief ad-hoc explanation. For example, when studying Commissioner Brittan's proposal to negotiate an FTA with the USA in the late nineties we might be content to note that 'the Council' was opposed (perhaps

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<sup>29</sup> For one potential example of this happening, see Larsen's discussion of intra-Council negotiations over the EU-South Africa accord: the author claims that there was broadly a classic North-South cleavage, but after noting that this is 'In line with a general pattern of EU trade policy', she also points out (briefly) that when it came to products sensitive to the 'North' (beef, milk powder, cut flowers) "protectionist tendencies were very clear in these states as well" (Larsén, 2007, p. 867). So to what extent did N/S divisions actually characterize discussions in the Council, and for what products?

referring to the aftermath of Blair House or citing EU/world-wide factors like growing suspicion of globalization or a lack of pressure from export interests). In other words, we could frame it as an instance of the Council re-asserting its control over bilateral trade negotiations. When looking at the events that led to the FTA being stillborn, however, no analyst would be able to ignore the important role played by France, as it appears to have been primarily Paris which fiercely opposed the proposal while most other member states were cautious at best. The researcher then gives us a two-sentence, *prima facie* plausible account of France's defiance. She might, for example, mention the Blair House ordeal, France's interest in audiovisual services, or the slumbering anti-americanism of 'the French'. Again, this explanation would be treated as something of secondary importance. It would not receive substantial attention, equally plausible stories would not be weighed, and the sources would be limited to a single interview or 'common knowledge'. What matters is that a member of the Council was opposed, that it had sufficient leverage to convince the rest or impose its will, and that the Commission did not get the mandate.

### ***a. History's end***

Many analyses tend to emphasize stability, argue from the status quo or from what is 'given'. How does the dynamic play out 'given the rules/the preferences' is then their *modus operandi*. But this ignores the fact that positions can change and that states can be dissatisfied with the status quo, that previous compromises may be called into question or circumvented through other means. When we only study the way the Council reacts to member states by the Commission and the way they struggle during the subsequent negotiations, with member state preferences only being a variable that determines agent autonomy, we miss the factors pushing for policy to go in a certain direction.

For instance, it is sometimes claimed that the EU is, at its core, structurally biased in favor of free trade. Hanson (Hanson, 2003) for example, attributes the persistence of free-trade policies (despite recessionary pressures) to the institutional make-up of the EU: the 'default condition' could simply not be overturned because of liberal veto-players. The story of 'collusive delegation' tells a similar tale: the common commercial policy has been designed to give the Commission, assumed to be a liberal actor, an important and autonomous role to hinder protectionist lobbying. Both of these stories are, however, contingent on some empirical assumptions which may not be true forever. The formal rules may hinder protectionist policies for a long time, but diverging wishes will increasingly strain the system. This may initially lead to liberal 'lock-in', but eventually political actors will have to find a way to let out some steam. Countries whose preference is perpetually frustrated in one area will demand side-payments in another, or they will try to and come to creative solutions to realize their policy objectives. It may also lead to politicization of decision-making itself and may call into question the transfer of sovereignty. Formal vetoes may be overruled by political power plays, and culminating policies may lead to a new 'default condition'.

Moreover, an institutional analysis is dependent on the *positions* of the MS, not their *preference*. But, as Young (2007a) has remarked: these are not the same. Two countries with different preference can have similar positions for strategic reasons (for



example, because they want a deal in another dossier), but also because they both have different ideas about the outcome of a certain policy (for example: countries may support stronger trade defenses both because they believe this will give the EU extra leverage in prying open foreign markets, or they may support such a new tool because they hope it will protect their own). This means that positions can change not just because preferences are altered, but also because analyses of likely outcomes or the politics change. Importantly: these positions are not the logical consequence of some timeless 'State Interest', but the end result of a process of aggregation. And, "[b]ecause of the aggregation process it is possible for positions to stay the same even if the underlying preferences change, at least up until some 'tipping point'" (Young, 2007a, p. 3). In other words: if we do not study the determinants of positions and preferences, we will almost always be caught off-guard when states adopt an unexpected stance, and we will not be able to give satisfactory explanations of the broader developments in European trade policy. For example, in regards to the unanimous support of all the member states for the start of the TTIP negotiations, all we have are partial and somewhat unsatisfactory ('power of the Commission's 'trading ourselves out of the crisis' discourse') explanations (Orbie & De Ville, 2014), which do not seem to take full account of how far several member states' positions have shifted since the last botched attempt at a transatlantic deal in the early 1990s. Apart from France, which resisted the Commission's 1998 proposal for a transatlantic free trade area most intensely, a wide variety of countries including the Netherlands, Germany, Belgium, Spain and Italy all voiced reservations about the Commission's initiative, while Denmark, Finland, Luxemburg, Sweden, Portugal and (although this was less clear at the time) Greece were supportive of the plans (Agence Europe, 1998).

To give a somewhat more dramatic version of this point, echoing an argument made by Mark Gilbert (2008, 2011), one could also point at the a-historical naïveté that is exhibited by the literature on EU trade policy (and EU-studies in general). There is an implicit belief in the stability of the current policy-making regime (and its policy-output) which is perhaps not wholly justified. Renationalization, disintegration or unpredictable other varieties of variegated cooperation are always possible. Alternatively, the progressive story of (increasingly liberal and supranational) European trade policy may eventually turn out to be a mirage, a lapse between protectionist intervals – perhaps within ten years we will find ourselves in need of explanations of an autarchic 'Fortress Europe'. It may seem unlikely today, but the Eurocrisis, looming Brexit and the current gradual breakdown of Schengen should teach us that Europe has not (and will not) escaped the twists of history. But in the research on EUTP as in the wider literature on the EU, there has been '*little attention [paid] to the question of the EU in "crisis" and the deeper social, political or economic forces that might raise challenges for the trajectory of European integration*' (Della Sala, 2015, p. 5). Our current heuristics and related ad-hoc explanations are based on superficial interpretations of historically contingent empirical regularities. Therefore, as a field, we are perpetually at danger of being caught off guard.

## 2.2.2.4. Questions we need to ask : on the interlinkage of trade with other policies

### *a. Entangled policy fields.*

There's a question looming between the lines of my remarks so far: are we interested in trade policy because it tells us something about European integration, or are we interested in trade policy because it's important in its own right, because it tells us something about the wider socioeconomic/ideological/political/et cetera forces in which it is embedded? If the affirmative answer is reserved for the latter two questions, then we need to acknowledge that trade policy is not an island – its effects, goals and politics are intertwined with other policies - and our studies will have to broaden their scope.

Looking at the member states will be helpful in this regard. Paying attention to decision making and preference-formation in and of the member states will help us study more closely the interlinkages between various domains: competition policy, foreign policy, neighborhood policy, industrial policy, monetary and fiscal policies, et cetera. Although researchers have recently started exploring some of these links (Clift & Woll, 2012; Damro, 2006; McGuire, 2006; Rosamond, 2012), they have so far merely scratched the surface. Again, I think this agenda would benefit from looking at the member states more closely, because this is where the interplay between these domains will be most visible and relevant. Some of these links just won't be obvious at the aggregate, 'EU' level.

I think this is true for a variety of topics, including foreign policy and geopolitics, but I will here focus on the connections between trade and other economic policies. In the past this link was quite obvious. For instance, import defensive industries often had the choice between not just trade policies but also domestic subsidies and regulatory support<sup>31</sup> - well illustrated by Milner's (1988) study of the French case in the 1970s & 1980s. But even today these links exist: on at least two occasions (during the 'aviation wars' and during the negotiations over the Basic Telecommunications agreement, both in the mid-to-late nineties) the Commission has used its strong competition prerogatives as a lever to get its way from member states in trade policy affairs (Meunier, 2005; Woll, 2008). The nexus is also present in the case of anti-subsidy disputes<sup>32</sup> and in the entanglement of the trade sphere with international investment and investment agreements. Perhaps a 'European patriotism' is taking the place of the national or local 'patriotisms', thus making studies of the national level less informative, but this is currently far from clear (and would indeed be, in itself, an important phenomenon in need of further study – see Clift & Woll, 2012b). As long as countries care about 'their' companies, 'their' workers, and 'their' international relations, it will be natural to study the ties between these various domains at this level as well as at (the ways in which they connect to) the EU-level<sup>33</sup>.

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<sup>31</sup> Of course, they could also opt to manage their own affairs through individual business strategies and/or anti-competitive behavior (Milner, 1988).

<sup>32</sup> For example, the way China attacked Spanish and Greece solar-panel subsidies in response to their governments' support for the EU's anti-dumping investigation that targeted Chinese imports of the same product.

<sup>33</sup> And the global level, although the distinction with the EU-level has become even less useful now that the EU is also responsible for trade-related investment.

Moreover, assuming we're interested in trade policy at least in part because of the distributional implications it has, because of the effects a certain regime of openness has on our socio-economic models – then we should also be interested in the links between various tools that shape these outcomes<sup>34</sup>.

### ***b. Democracy and legitimacy***

In his article, Baldwin (2006) lamented the cutbacks member states were<sup>35</sup> enacting in their national trade-policy capacity (personnel, money, ...) because the Commission was dependent on the ability of the member states to aggregate (and choose between!) various competing interests to make sure that its trade policies were widely supported. Although Baldwin only mentions 'interests', if interpreted broadly this points at an additional reason why more scrutiny of the member states is warranted. The support and the democratic legitimacy of Europe's trade policy depend on the extent to which it is seen as acceptable on both the 'input' as well as the 'output' side. This debate is more relevant than ever: trade policy nowadays impinges on core aspects of states' 'social contract', and this (along with the perceived lack of transparency and inclusiveness of negotiations) has led to sporadic outbursts of politicization and protest in the past 15 years. Some seem to claim that this problem can be solved at the EU-level, by strengthening the role of the EP and increasing the variety of stakeholders consulted, but this ignores the highly (and unavoidably) selective process that determines who gets a say there. As for many other policy areas, national channels will remain the most important *potential* venue for exerting influence on policies for a large majority of actors (and citizens in general). As was noted by Krajewski (2012), the debate about the democratic nature of the common commercial policy will not dissolve now that the EP has gained a more prominent role – the lack of input from national parliaments and other societal actors may be far more worrying. Again, we don't really know, and research of national decision-making is needed to find out how 'democratic' this part of the policy process is.

## **2.3. Plugging the gaps – Contribution of the PhD**

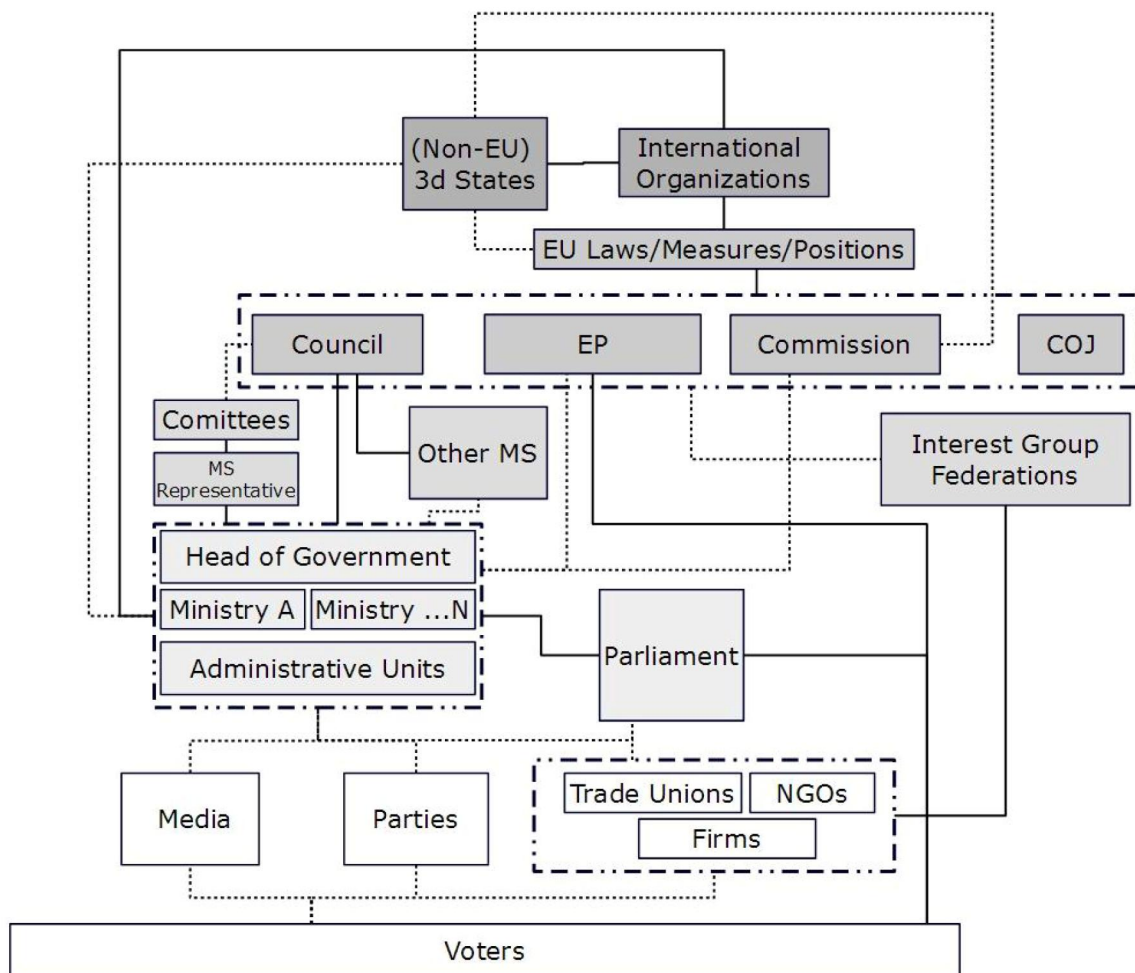
### **2.3.1. A research agenda**

What kind of research agenda might we distill from this critique? Where next, and in what way does this PhD try to contribute to the literature?

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<sup>34</sup> Which are subsequently turned into 'inputs' in the political process, of course. A neat example is the potential of a liberal feedback-loop: abolishing trade barriers weakens import-defensive and strengthens export-competitive industries, thereby eroding supporters of protectionism, which leads to further liberalization, etc. (Drezner, 2014).

<sup>35</sup> I have not found any other sources discussing this, and Baldwin's remarks remain very vague.



Even if we accept that the broad questions put forward by the preceding review are relevant, our explanatory work is currently hampered by a lack of empirical data. In terms of the flowchart portrayed above (a modification of the schematics found in Dür & Elsig (2011) and Young & Peterson (2014)), our most basic task will be to fill in some of the 'boxes' before we can start understanding the links. As I have tried to argue, we need to at least compose a better overview of member state positions across policy areas and time.

A valuable next step would be to gather information about national decision-making structures, of which we know little. We need to know how decisions within the member state governments and bureaucracies take shape: what ministries play a role, whether parliament is involved, what procedures there are to consult 'stakeholders', who has privileged access, et cetera. We need some cartography of both informal and formal decision-making. Johan Adriaensen (2014) offers an example of what this may look like: he gives us an overview of intra-governmental decision-making structures in Spain, Belgium, Estonia and Poland. Inspired by the Comparative Public Administration literature and based on semi-structured interviews with trade officials, he looks at a variety of factors like the amount and training of staff, state-society relations and inter-ministerial coordination.

Moving downwards brings us to the 'societal' level: very little is known about the positions of trade unions, business groups, parties or voters in relation to trade policy. Much like with the member states as a whole, we tend to rely on ad-hoc explanations and simple heuristics. For example, there is an assumption that

production forces from 'international' sectors tend to support free trade (see the work of Bieler (Bieler, 2005) and others), and that trade unions (in general) or left-wing parties will tend to be more protectionist. As with the member states, these rules of thumb are based on incomplete data. At the very least they are not universal across time and space: the British trade unions, for example, were long-time opponents of protections that got more and more divided on this issue from the mid-1960s on, while Swedish labor has almost always been supportive of openness (Hiscox, 2002b).

Even further down, we need a firm grasp of the economic developments as well as the ideological/paradigmatic debates. On the economic dimension plenty of work is already being done; there is no lack of detailed studies of the European economies and their trading relationships, production profiles, global integration, et cetera... It is more a question of putting this data to better use in our explanatory work. On the ideational front there is much more room for novel research. I am not aware of any studies that offer in-depth comparisons of the trade debate across member states, actors, or time<sup>36</sup>.

Finally, moving back up and sideways, a domestic-level focus could also teach us something about the behavior of MEPs and intra-Commission struggles. For example, there are numerous ideological but also national fractures within the EP, and research tying voting on trade issues to 'domestic' (electoral, party-political, ideological, economic...) pressures might offer an interesting avenue to further unpack the EP as an actor in trade<sup>37</sup>. The same is true for the Commission. So far, little attention has been paid to trade policy preference-formation of the Commission and DG-Trade<sup>38</sup>, which is often assumed to be a liberal actor. Again, apart from the changes in 'the Commission's' behavior across time & topics<sup>39</sup>, there is evidence that the position of individual Commissioners on trade issues is sometimes in line with their home-governments' views (e.g. Agence Europe, 2012c; Dür, 2007b; Elsig & Dupont, 2012). This linkage should be delved into as part of the wider attempt to pry open the Commission's black box.

I think the above should not just apply to the past fifteen years, but should also be seen as a call for a new history of the past decades of European trade politics. We should complement our central narrative, focused on European institutions' Sisyphean struggle for 'control' and 'autonomy', with an exploration of the politics of trade within the member states - and how this spilled over to and interacted with the European level. This will allow us to better answer questions about the stability of

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<sup>36</sup> Some of the studies that I am aware of are Irwin's (general) intellectual history of free trade (1998), Alons' (2010) discussion of the ideological views on agriculture and free trade in Germany and France (in the 1980s-90s), Schonhardt-Bailey's (2006) study of UK trade debates in the 19th century, and Falke's criticism of German (party-political) thinking on globalization and trade in the 1990s-2000s (2005).

<sup>37</sup> Of course, without ignoring the obvious importance of the European context and supra-national pressures.

<sup>38</sup> At times this leads to conclusions that may strike one as odd. For example, in the article by Elsig & Dupont (2012), they conclude that 'pluralist' conceptions of the EU's negotiation process, emphasizing the influence of interest-groups, are mistaken because the Commission was not pushed to start up negotiations with South-Korea due to interest-group lobbying, but rather decided to do so autonomously and pro-actively, 'driven by the desire to provide regulatory solutions to make sure that Europe's business can compete with other trading powers' (p. 499). Without some explanation about why the Commission would be intrinsically motivated by the EU's exporting capacity, it seems hard to claim that the Commission was more than the pluralist aggregator of business preferences.

<sup>39</sup> For example, although DG Trade is assumed to side with free trade forces, the Trade Defense Directorate which handles anti-dumping is considered more 'protectionist', and apparently lends a welcoming ear to import-defensive businesses (Young & Peterson, 2014).

preferences, the politicization of trade politics, and many of the other ones we're confronted with today.

Perhaps this research program violates the principle of parsimony. As I write this bus 38 passes by. Bus 29 passes by. It's now 11 o'clock. A pigeon is eating breadcrumbs from the sidewalk. One of its problems is logistical: the availability of documents, language issues and the sheer amount of work to be done are all important hurdles. But this is a challenge for anyone trying to do detailed comparative work across borders and it has not stopped similar research in other fields. Surely, there are ways for the research community to resolve these issues through some division of labor. It could also be argued that my critique will lead infinite regress: if we want to know A we should know how B works meaning we have to understand D in order to fully grasp C, etc... I think this is a sensible point to make in a world of limited time and money, and there are limits to the kind of gaps in our knowledge we should reasonably strive to fill up. But I would claim that we have not yet reached the stratum where costs outweigh the benefits of delving deeper: there are still gains to be made in our understanding of the EU, and of this now increasingly contentious domain of EU trade policy, by spending a portion of our attention to the domestic levels in the ways that I have outlined above.

### **2.3.2. My contribution**

How have I tried to contribute to this research agenda?

I considered a trade-off between (i) a more superficial comparative analysis, linking country positions over dossiers/time/countries with a select number of determinants, (ii) a more in-depth analysis of a specific box/link, e.g. the changing position of the trade unions, or (iii) an in-depth explanatory study of the position of a limited number of member states on a limited number of 'dossiers', i.e. an attempt to develop a comprehensive understanding of why these states chose to voice a certain stance at the EU level.

I decided in favor of the latter option for a variety of reasons. First, we currently don't possess the needed data about country-specific factors that the theoretical literature thinks are relevant. As I outlined in the previous section, there is simply not that much research about the national dynamics or positions. As I demonstrated, we don't know what the country-specific positions were for most dossiers, and it was too cumbersome for me to create a big enough database out of nowhere. Small-n comparisons or methods like 'qualitative comparative analysis' were more feasible, but I'm skeptical about what we can learn from such comparisons, and I believed a more in-depth approach was more fitting.

Considering the lack of beaten paths in this research domain, a comprehensive explanatory (but theory-guided) approach appeared to be the more worthwhile strategy: we still need to 'map the terrain', to find out what there is to know, to what extent existing theories may or not apply, what the contours are of the empirical setting we're examining - using the existing literature as a guide, but also allowing for the fact that there is probably much we don't know that would nevertheless be interesting to take up. I have therefore attempted to perform an analysis that combines many of the 'boxes and links' outlined in the previous sections' diagram:

building on the theoretical literature of trade politics (further discussed in chapter four), I have looked both at societal (business, civil society) preference formation and influence, as well as the role of decision makers' capacity, paradigms and party-politics, and the institutional (decision making procedures, access points, ...) and contextual (legislative-executive relations, the role of the press and the public, ...) structures that tie them together. What follows can therefore to some extent be seen as a set of pilot-studies about the domestic politics of trade in the EU.

My choice for explanatory studies was furthermore motivated by my reading of the literature on methods and the philosophy of social science, some which I quoted before. I believe there's a place, not just in the preparation of large-N analyses, of studies that go beyond hypothesis-testing, which wrestle with the complexity, idiosyncrasy and messiness of day-to-day politics, without giving up on the social-scientific goal of separating signal from noise. The 'Weberian', analyticist tradition in social science emphasizes that we need to confront the openness of the social world, and that theories (even when refined by large-N research) are ultimately only useful as a sort of heuristic tool; helping us understand the outcomes in a specific case, but not a goal in themselves (Hammersley, 2014b; Ringer, 1997). Since there are already plenty of theoretical ideas about the determinants of domestic trade policy, I wanted to put the existing trade political theories (often investigated with statistical methods) to work in the analysis of complex and muddy singular cases. This limits the amount of direct extrapolation that my study permits, but, as I argue in the methodological section, such within-case analyses may nonetheless produce insights that can help steer or inspire similar research in other country/case combinations.

I further develop these ideas in the next chapter, as well as the mechanistic process tracing method that both inspired and guided this research.

### 2.3.2.1. Case Selection

This still leaves the problem of country and case-selection. I chose to focus on the positions of Belgium and the Netherlands on the trade agreement with Canada (CETA), and on the solar-dumping dispute with China of 2013. This means that I will be producing four explanatory country-case combinations.

My choice for the combination of a trade-defensive dossier and a bilateral FTA was motivated by a dual consideration. First of all, these have been two of the most salient domains of EU trade policy in recent years, and it appears that they will continue to be so in the coming years. Secondly, it is often argued that the politics of these issues are nonetheless very different (e.g. Young & Peterson, 2014). This allows me to get a more complete picture of domestic policy making, and the way it varies across policy areas. While anti-dumping is both more narrow as well more dominated by (competing) business interests, the 'new generation' FTAs has involved a very wide array of themes and actors. Of course, this means I'm not looking at a range of other policy domains. Although not much has been happening in the Doha round in the past few years, it would have still been interesting to look at the politics of dispute settlement, or to investigate countries' roles in the big plurilateral agreements being negotiated such as the trade in services agreement or the environmental goods agreement. A really interesting addition would have been

to also include a legislative file related to trade competences<sup>40</sup>. However, I believe that my analysis of CETA and solar dumping can nonetheless help elucidate the politics of these dossiers as well, because they share many of the actors and determinants that I discuss in the coming chapters. In the introductory country chapters I have moreover tried to paint a somewhat encompassing view of trade politics across issue areas.

Why then the solar panel dumping case instead of the measures against, say, chlorine, metal fittings or shoes? Why CETA and not TTIP, South-Korea or Japan?

I believe studying **the solar panel** case can help us elucidate contemporary debates, because it was in many ways typical of today's EU anti-dumping policy: it concerned a case against China, which has for years been the main target of EU anti-dumping and which is at the forefront of current debates about the trade defense reform, it divided the member states, and it concerned a sector that was still pushing its technological frontier. As Tony Heron (2007) predicted, the politics of dumping were originally about 'traditional' industrial sectors such as textiles, but they have increasingly spread towards more high-tech sectors. Furthermore, it appeared typical in that the case seems to have been characterized by value-chain politics (Karmakar, 2013), with trade-dependent firms fighting domestic producers; again, such complex interdependencies have been characteristic of many recent disputes (Eckhardt, 2013). One of the benefits of choosing the solar panel case was also a drawback: the case became relatively salient both politically and publicly, which means that there were plenty of sources available and that people could still remember how the case was handled. Of course this saliency also weakened its utility, because we may learn less about how such dossiers are 'usually' dealt with; most do not receive this kind of attention. However, in the practical case-study work, I tried to compensate for this (and other ways in which the case was very specific, like the fact that China was the targeted country) by always inquiring about the usual way in which anti-dumping is handled (by decision makers, firms, trade unions, ...), to then contrast this with how they went down in solar.

The **choice for CETA** was originally made because it seemed like the process would be ending soon (contrary to TTIP or Japan), and because it appeared to be less of an outlier than TTIP, which had drawn a kind of politicization that most observers seemed to agree was unique, while more salient than the deals with (for example) Singapore or South-Korea. This again meant that more sources were available, and increased its relevance for the current debates on the EU's trade policy. In the end however, one of the most interesting aspects about CETA is that there is a pretty sharp distinction to be made between a pre-politicized and a politicized 'phase', which allows us to study both the 'business as usual' quiet politics (since the deal was very low on the radar for a long time), and the ways in which this changed after people started writing commentaries and marching in the streets. Because the deal was a comprehensive trade agreement, it also allows us to study the modern politics of trade in its various dimensions (investment, services, goods, regulatory cooperation ...), and the various kinds of actors and politics that these involve.

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<sup>40</sup> Initially I did start work on the botched 'international procurement instrument' and on trade defense modernization, but I abandoned these cases because of time constraints.



The choice for **Belgium** and the **Netherlands** was mostly pragmatic. I intended on speaking with a very wide range of civil society organizations, business associations, policy makers, et cetera. This was not feasible for more than two countries, nor for countries whose language I did not speak. France and Germany would have been the more obvious choice from the perspective of the EU-level literature, because they carry far more weight in the Council, but initial interviews for the German case made clear that the case was too complex and would require a more thorough knowledge of German. I also considered the United Kingdom, but Brexit made this option unappealing<sup>41</sup>. In terms of the 'pilot study' dimension of my research, it therefore made sense to study two seemingly manageable, accessible countries first<sup>42</sup>. Although somewhat detached from my argument thus far, I think studying one's own 'polis', is moreover justifiable and meaningful in itself: this is another reason why it made more sense for me to study these countries than, say, Ireland or Sweden.

However, I believe there are also good reasons for why the cases of Belgium and the Netherlands are interesting for other scholars of EU trade politics as well, i.e. why studying them may be useful for other budding students of domestic or EU trade politics.

First, although they are both small(er) states, they are founding members with a reputation of punch above their weights. Although this would need to be borne out in actual analyses the EU-level influence of individual states, this reputation indicates that it makes more sense to study them rather than (say) Estonia or Croatia. This is also true of their societal actors: as is discussed in the introductory country chapters (six and nine), Belgian and Dutch civil society organizations as well as business have been very well networked at the EU level, participating actively and often providing the leadership of networks such as the European trade union federations or BusinessEurope. Secondly, on the face of it, the politics of trade in these countries has followed a broader pattern of West-European trade politics, in that it has suddenly become more contentious. They thus offer us 'cases of' the effects of the 'deep trade' agenda on societal and parliamentary mobilization. The above characteristics also mean that they are arguably more similar to their influential neighbors than for instance Hungary, Malta or Finland. Thirdly, for all their similarities, Belgium and the Netherlands also offer a variety that is useful for inductive, exploratory research. Belgium has often been argued to sit at the dividing line of the 'North' and the 'South' in Europe. Momentarily taking this heuristic for granted, it is thus interesting to see to what extent the politics of trade differ in Flanders and Wallonia, and to what extent Belgium has succeeded in mitigating their potentially conflicting demands. Of course, we know that such pacification faltered quite spectacularly for a brief period in 2016, when Wallonia threatened to sink the deal with Canada, an episode which in itself merits some dissection from the literature. The Netherlands, on the other hand, has positioned itself squarely in the 'North', and thus offers us a chance to study the business interests and decision making paradigms that accompany and co-produce such a stance. Although

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<sup>41</sup> A train of thought that, in retrospect, seems misguided: if anything, better knowledge of the specificities of the UK's trade-political sphere is of far more immediate relevance than that many other states, precisely because of its impending, negotiated departure.

<sup>42</sup> Although, as I'll argue in the conclusions, I may have somewhat underestimated the complexity of investigating Belgium.

comparison is not my causal strategy, the similarities and differences of these two countries nonetheless allow me to draw some speculative lessons for the politics of trade, both in these countries and others. For instance about the differences between commercial policy making in a unitary state versus a federation, or between a state in which the power of the unions and the left has been weakened far more decisively than in the other. These factors will recede to the background while I perform my analyses, but they will return in the final concluding chapter, where I try to draw some empirical and theoretical lessons that surpass my case-level explanations.

### **In summary**

I will attempt to find out what the positions of these two member states were on CETA and solar dumping, and will then try to construct comprehensive explanations of these outcomes. These country-case studies have several simultaneous purposes. They need to work:

(i) as **detailed case studies** of a small part of the politics of two important EU policies, (ii) as **pilot studies** of domestic analyses of EU trade policy, which should (I argue) be reproduced in other countries as well, notably the ones we assume are politically more significant, and (iii) as **studies of the politics of trade in Belgium and the Netherlands**, with lessons for the lobbying, campaigning and decision making on foreign and economic policies in these countries.

Furthermore, as is laid out in the following two chapters, together the case-studies also function as (iv) an attempt to think through and apply **mechanistic process tracing**, and (v) a probe of the **utility of the mainstream theories** of foreign economic policy, for explanatory analyses of domestic trade politics.

### 3. Methodology – Mechanistic Process Tracing

In the previous section, I have described what I will set out to do in this PhD: I will attempt to explain the positions of Belgium and Netherlands in the solar dumping case and in CETA, in an effort to not only understand the genesis of these specific positions, but also to draw some broader lessons about the politics of trade in these countries and the EU.

In order to fulfill the goals of this research, I need to be able to distinguish between good and bad explanations, and to say something about causality within the cases I'll be analyzing. I also need to link my empirical goals with theoretical foundations and, although my direct explanatory work is targeting singular outcomes, to explore the limits of the extrapolation that within-case analyses permit. In this chapter, I will outline my methodology of choice: an adapted form of explanatory mechanistic process tracing. I will briefly discuss the origins of this approach, as well as its meta-theoretical foundations, in order to illustrate its goals, benefits and drawbacks. Then I move on to a more practical discussion of how we can actually perform this kind of study, before finishing with an overview of how it will be applied in my research.

#### 3.1. Process Tracing

Process tracing has, in the past 15 years, presented itself as a new attempt to reinvigorate qualitative within-case research. It has strived to come up with a new answer to the problem of 'n=1' causality: how can we make plausible claims about some phenomenon, without being able to compare? In other words: how must we think about evidence, and its connection to our (or: potential) explanatory assertions? Although sometimes used in a very loose sense, referring to or performing process tracing as if it were no more than a detailed chronological description of events, the methodological literature has increasingly included a set of more precise (and demanding) elements. There are various definitions, but the core of all accounts is '*an examination of intermediate steps in a process to make inferences about hypotheses on how that process took place and whether and how it generated the outcome of interest*' (Bennett & Checkel, 2015, p. 6). It's similar to some branches of explanatory historical analysis and the relatively young and upcoming field of 'analytical' sociology; they share a mechanistic account of causality, and a (varying) skepticism in regards to the feasibility of macro-level generalizations and the (self-)sufficiency of comparative and statistical methods<sup>43</sup>. In this research, I have built in particular on the (joint) work by Derek Beach and Rasmus Pedersen<sup>44</sup>.

I think the methodological literature on process tracing is at its strongest, offers the clearest guidelines, when it's aimed at theory-testing. It is somewhat less helpful in trying to explain singular outcomes or when thinking about how such within-case analyses can help us understand the broader context (or population). For me, the

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<sup>43</sup> Although many authors have argued in favor of combining process tracing with various kinds of cross-case and statistical data and methods (Bennett & Checkel, 2015; e.g. Lieberman, 2005, Schneider & Rohlfing, 2013). I think such a mixing of methods is very sensible. The easiest and most common way of putting it into practice is the way I have done so in this dissertation: by including quantitative work in my review of the literature, and using its results in my choice of theories, the construction of my prior and the weighing of my evidence.

<sup>44</sup> Their books and papers, but also their teaching at the ECPR summer/winter school.

'Weberian' tradition in social science has been an important source for answers on some of these questions, as well as chunks of the work that has been done in analytic sociology and history. Together, these sources combined into the methodological blend which motivated and structured my research, and which I will be presenting below.

These additions notwithstanding, my work does represent an attempt to take the core teachings of process tracing seriously. The current literature in my experience suffers from an unbalanced 'preaching over teaching' ratio, with few authors performing the kind of demanding evidence-led investigations that the method's textbooks seem to demand<sup>45</sup>. For example, of the three types of process tracing distinguished by Beach and Pederson in their 2013 book, they acknowledge that one of these has never actually been performed (see below). Of course methodologists have always been frustrated with practitioners, but the gap seems especially large in process tracing. I believe it's very much worthwhile to try and fill it, but also suspect that it may in part be due to some of method's inherent problems; these have been easy to ignore as long as no one tried to put it to the muddy task of actual research. In this sense, this PhD can also be seen as an investigation of the merits and limits of this kind of process tracing.

I will shy away from much of the more philosophical and meta-theoretical discussions that hover around these methods and 'approaches'. There is a lively debate about the ontological and epistemological foundations of some of the topics I'll be discussing, but (i) these debates remain unsettled and (ii) I have, I believe, assembled a methodology that is very close to the mainstream propagated by some leading authors. I have therefore limited my discussion of (and have not tried to contribute to) these underlying debates, especially since (iii) process tracing's combination of mechanisms and Bayesianism fits with a variety of meta-theoretical positions. In fact, Beach and Pedersen's own, explicit meta-theoretical positioning has drawn some criticism in this regard, from authors that are otherwise sympathetic to their methodological work; for example, Ylikoski remarks that '*[...T]hey make unnecessary metaphysical commitments. Fortunately, the reader can easily skip most of these philosophical curiosities*' (Ylikoski, 2015)<sup>46</sup>. These issues are therefore not core to my research.

## 3.2. Foundations

### 3.2.1. Mechanistic causality

One of the foundations of process tracing is its adaptation of mechanistic causality, which since the turn of the century has made its mark in historical research, in sociology and in the life and exact sciences.

The core goal of process tracing is always to 'unpack' the mechanism linking cause X with outcome Y. But what is a mechanism? As is noted by Hedström and Beardman

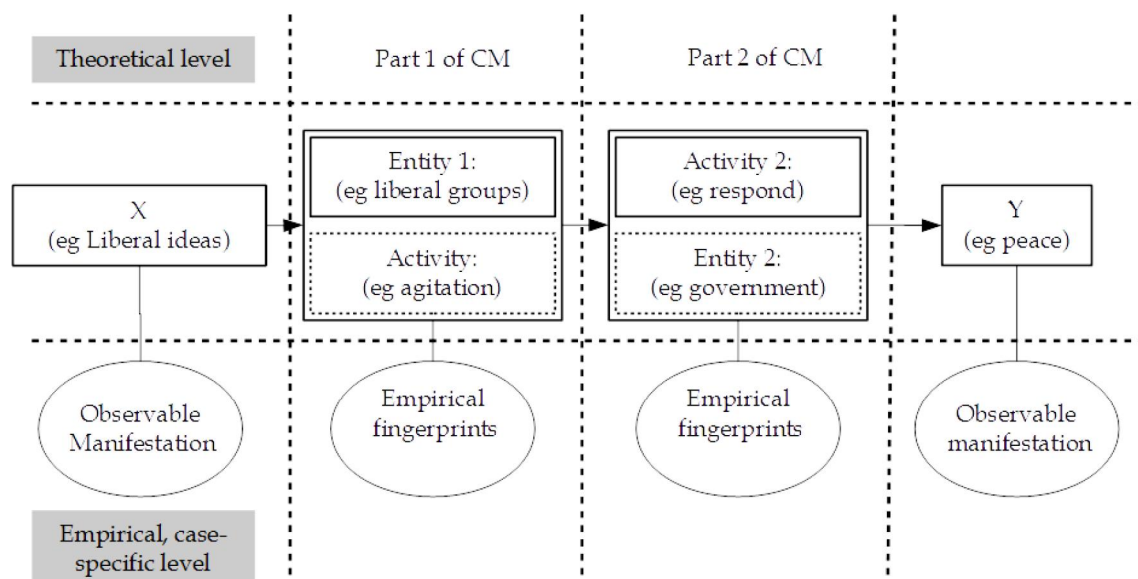
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<sup>45</sup> Perhaps there are many such examples on the way however, considering the amount of missionary work they've done in the past few years.

<sup>46</sup> '*For example, every time the authors write about causal forces, one can read them as claims about the transmission of causal influence, which is a much more neutral (and adequate) notion for their purposes*' (Ylikoski, 2015, p. 635).

in a review of the literature, there is ‘almost an overabundance of definitions’ of what constitutes mechanistic social science, and they show that even some of the most cited conceptualizations are quite dissimilar. A central feature of all of them, however, is ‘an emphasis on making intelligible the regularities being observed by specifying in detail how they were brought about. [...]the idea that mechanism explanations identify component parts that jointly produce the collective outcome to be explained is at the very heart of the approach’ (Hedström & Bearman, 2009, p. 27).

Beach and Pederson adopt the conceptualization by Mechamer, Darden and Craver (2000), which is one of the most widely used definitions in mechanistic social science (Hedström & Bearman, 2009; Little, 2010). According to these authors, mechanisms consist of ‘entities’ that bring about change by engaging in ‘activities’, whereby the outcome produced depends on the ‘properties and activities of the entities and the relations between them’. In Beach and Pederson’s translation, which I will be following, mechanisms thus describe the steps that a theoretical causal relation between X and Y is expected to go through, ‘how does X produce Y’, whereby each step of this mechanism can be conceptualized as ‘entities’ performing ‘actions’. Every part of the mechanism is an insufficient but necessary part of the relation between X and Y<sup>47</sup>. They offer the following **example, based on democratic peace theory**:



Source: Adapted from Beach & Pedersen (2013)

Mechanistic process-tracing thus entails more than producing chronological narratives of events. It is built around theoretical mechanisms, which can in principle be carried across cases: ‘[mechanisms are] constellation[s] of entities and activities that are organized such that they regularly bring about a particular type of outcome, and we explain an observed outcome by referring to the mechanism by which such outcomes are regularly brought about’ (Hedström & Bearman, 2009, p. 29, my emphasis). Even in explanatory process-tracing (see below), where we are focused on understanding a singular outcome and therefore need to bring in case-specific, ad hoc elements, there is still a desire to separate systematic from non-systematic elements.

<sup>47</sup> In the discussion by Beach and Pedersen they speak about how such causal mechanisms are theories of a system of connected parts that transfer ‘causal force’ from X to Y (Beach & Pedersen, 2013), but as I mentioned, this language has been attacked and we will abandon it here (Ylikoski, 2015).

### 3.2.1.1. The benefits of mechanistic analyses

Causal mechanisms are not the only approach to causality, and even their proponents acknowledge that they are not inherently necessary to make causal claims (Gerring, 2010; Hedström & Ylikoski, 2010; Ylikoski, 2011). However, they do offer **various benefits**, which are also the alleged benefits of detailed within-case process tracing.

As Hedström and Ylikoski argue, mechanisms break up an original ‘why question’ into ‘a series of smaller questions about the causal process’ (Hedström & Ylikoski, 2010). Although it is possible to make causal claims without using mechanisms (for example through counterfactual reasoning), unpacking the trajectory from X to Y in this way can strengthen our trust in X’s relevance. This way they help with distinguishing **spurious correlation** from causation, because we can demonstrate through what process X might be influencing Y (Hedström & Ylikoski, 2010; Ylikoski, 2011). Importantly, especially for the ‘explanatory’ variety of process tracing that I will be using (see below), a mechanistic approach contributes to a more in-depth *understanding* of certain social phenomena: they help us comprehend why a certain causal relation holds, when does it ‘work’ or does it break down (how sensitive is it to change?)<sup>48</sup>, what other potential causes may have produced the same outcome<sup>49</sup>, how general is the causal relation in a variety of ‘what if’ scenarios and across contexts (Ylikoski, 2011)? These ‘what ifs’ refer to a debate that I will return to near the end of this section: what is the relationship between mechanisms and counterfactuals, or in other words, the relationship between ‘why?’, ‘how?’ and ‘what if?’.

In sum: mechanistic accounts strengthen our **comprehension** of social phenomena beyond the immediate causal relation between X and Y: *‘[t]he account of a causal mechanism integrates an isolated piece of causal knowledge with a much larger body of knowledge and helps us to answer many natural follow-up questions about the conditions under which the causal dependency holds [...]. In this way the mechanism expands our ability to answer what- if questions, i.e., it deepens our understanding’* (Hedström & Ylikoski, 2010; Ylikoski, 2011, p. 21). As this quote indicates, mechanisms (in combination with counterfactual thinking, see below) can also help us deal with the **problem of extrapolation**, and with linking larger-N (e.g. QCA) or statistical work and singular cases. It is much easier to assess the relevance of a certain generalization if its underlying mechanism has been unpacked: this tells us what micro processes to investigate in order to better understand how a macro-process will behave in changing contexts (Bengtsson & Hertting, 2013; Weber, 2007). To give an example: we shouldn’t be content with the causal statement that ‘business lobbying had an influence on policy’, we should strive to unpack the mechanism because we want to know how this worked in practice, but also because studying the mechanism of business-lobbying will increase our understanding of the way decision making works, of how business is able to wield influence and why, of the other factors that are pushing for influence (and thus the limits of the ‘business’ factor), et cetera, enabling us to also answer questions like ‘what would the policy have been without

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<sup>48</sup> In Ylikoski’s formulation, building on the work of Woodward: ‘what is the range of interventions that this invariance allows without breaking apart’ (Ylikoski, 2011, p. 19).

<sup>49</sup> Again, counterfactually: ‘Interventions’ (ibid).

business influence', 'what if there had been more external pressure', 'what if the civil service had had a stronger preference of its own'. Process tracing therefore also allows us to check how 'strong' the link was: 'would business have wielded influence if the context had been slightly different?'

It might seem as if such an approach to causality may again lead to an **infinite regress** (Bennett & Checkel, 2015): each link between some entity/action and another entity/action combination can always be further broken down, consists of further 'why's' and 'hows'. However, this need not be the case: '*for a mechanism to be explanatory it is not required that the entities, properties, and activities that it appeals to are themselves explained. The only requirement is that such entities, properties, and activities really exist; their explanation is a separate question*' (Hedström & Ylikoski, 2010). For example, for a lobbying mechanism to make sense, we do not *necessarily* also have to explain why certain groups existed, why they were able to use computers to send out press releases, why there were newspapers present to read their press statements, why they spoke the same language, why anyone bought the paper, ad inf. It can be sufficient to establish (depending on our theory) that some lobbyists got involved, started a media campaign, and influenced policy. Or, if we want a more fine-grained mechanism: that they became aware of the policy at a certain time, that they performed a cost-benefit analysis and decided to oppose the policy, that they chose to start a campaign in the press, spent resources on actually doing this (hiring staff, writing press statements), that the media picked this up, that the issue then became an issue of public debate, that policy makers altered their cost-benefit analysis of enacting the policy, and that they then decided to abandon it. As Ylikoski argues, there is also a **cognitive dimension** to this problem. The marginal value of delving deeper into an explanation can decrease and even turn negative. Including things that are perhaps not core to the causal link one wants to investigate, can be more than a waste of time, it can actually harm the ability of the research to teach us something because the story becomes too hard to understand: '*This is a simple fact of human cognition: our memory and ability to focus are limited and burdening them restricts our inferential performance*' (Ylikoski, 2011, p. 8).

This relates to debates over the required amount of '**unpacking**'. The extent of requisite theoretical and empirical detail of the mechanism, i.e. the extent to which the black box between X and Y is cut into various theoretical steps that each have empirical manifestations, differs across approaches. Some of the **vagueness** surrounding the mechanistic approach (Gerring, 2010) becomes apparent when discussing what this should actually look like, and which amount of detail it should involve. Beach and Pedersen themselves try to distinguish between '*minimalist*' understandings of mechanisms and '*system*' understandings. In the minimalist version, there is still a loft of what they call '*greyboxing*': the causal relationship between X and Y is not fully unpacked, there is a hint of a mechanism, but shallow evidence of the connection is sufficient. They argue that this leads to a variety of process tracing that they call '*congruence studies*' or '*process tracing light*'. Such studies can be used to probe whether there are sufficient indications of a certain mechanism being present in a specific case; if so, this may subsequently lead to a 'real' **process-**

**tracing** test. The more in-depth process tracing then provides a more thorough and therefore convincing judgment about the causal force of X on Y<sup>50</sup>.

**In my own research**, I have opted for a mixture: a detailed investigation of loosely delineated theoretical mechanisms. Although I will stipulate a number of necessary steps (e.g. taking a position, do some lobbying, gaining access to policy makers, being influential) for each of the theories that I ‘probe’ (e.g. lobbying by business), and will thus not be content with finding prima-facie evidence tying my Y to the X (e.g. mere congruence between business’ press statements and the state’s position is not satisfactory), the potential empirical content of my mechanism’s steps is left very broad (e.g. ‘lobbying’ can entail a very wide variety of inside and outside strategies). This will hopefully become clearer when I present my mechanisms and investigate them in the empirical sections.

### 3.2.2. Theory-centered versus explanation-centered analyses

How can unpacking mechanisms help us to better understand a case in practice? What is the goal of this kind of research? And what is the relation between more general theories and case-specific elements? Here, Beach and Pedersen’s distinction between theory-testing, theory-building and explanatory process tracing is very helpful<sup>51</sup>.

**In theory-testing** process tracing, we know both our outcome and a potential determinant, and have a plausible mechanism linking them which we want to test. Although this mechanism is deduced from a theory, the actual empirical manifestation/expectations can be case-specific. This includes an inductive element: ‘how would we expect this theory to play out in the current context?’ The amount of case-specificity also depends on how detailed the theory is from which the mechanism was derived. A theory testing process-tracing is supposed to be very narrow: the goal is not to explain the outcome or to have various theories ‘compete’<sup>52</sup>, but merely to test whether one (or more) theories is (are) plausible given the evidence (Beach & Pedersen, 2013, 2016). In **theory-building** process tracing, we start from a correlation between determinant and outcome, or even just with an outcome without knowing what triggered it. The goal is then to come up with a mechanism after investigating the case, trying to assess whether some data can be ‘evidence of’ a certain case. As they argue, this is an ‘*iterative and creative*’ process working from existing theory and ‘*hunches*’; although this should arguably have read ‘probably would be’ since they add that there are currently no examples of such traces being performed (ibid). In both variants, the goals of the traces go beyond the investigated cases: the goal is to say something about a theory which can also be applied to other cases.

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<sup>50</sup> Beach and Pedersen claim that this difference between congruence analysis and process tracing reflects differing ontological commitments and they argue that there is a clear ‘cut-off’ point between congruence analysis and process tracing. I do not find this meta-theoretical foundation convincing, however, it’s clearly a matter of degrees, and the amount of uncertainty we’re willing to accept in regards to some causal claims and not others. This also seems like it’s firmly tied to the plausibility of the claims we’re investigating.

<sup>51</sup> They distinguish between the process-tracing and congruence-analysis variants of these three types, but I’m ignoring this distinction here.

<sup>52</sup> Unless another theory is in direct opposition to the theory we’re interested in, i.e. one theory’s confirmation automatically implies disconfirming the alternative.



As I have made clear, my interest is not primarily in theory testing or theory building, but in **explaining outcomes**. However, I think both testing and building are part of an explanatory analysis, and the distinction is not that crisp. Few researchers will be content to just limit themselves to either narrowly testing a theory (without striving to further explain the outcome) or coming up with an explanatory narrative of a singular case without thinking through its implications for similar events or more general theories.

The goal in an **explaining-outcomes process tracing** is not theory-centered, the case is not chosen because it is a 'case of' a certain phenomenon for which we're developing a more general theory. The goal is rather to come to a 'sufficient' explanation of an outcome: including enough determinants to account for an outcome without adding superfluous parts. As they point out, such a study is more akin to a holistic historical study, although it *'usually involves more generalized theoretical claims than historians feel comfortable with. In addition, explaining-outcome studies often have theoretical ambitions that reach beyond the single case'* (Beach & Pedersen, 2013, p. 19)<sup>53</sup>. Such an analysis therefore combines theoretical mechanisms with non-systematic (case-specific) elements. In a theory-testing trace, we would be content to stop after finding that a certain mechanism broke down because of some case-specific event, concluding that the theory could not account for the outcome. In an explaining-outcomes design, we would instead try our hand at another potential mechanism, or perhaps cease our investigation and explain the outcome using the idiosyncratic intervention. As they argue, the mechanisms here are more like 'heuristics', rules of thumb that point us towards plausible explanations; they may be abandoned or modified in order to fit the case (Beach & Pedersen, 2013). The stylized research process for this type proceeds as follows: we first look for already existing research that has investigated our outcome, or that has delved into aspects we believe may be relevant for explaining our outcome. We then assemble (and combine) a number of plausible theories, and adapt them to the context of our case. Finally, we investigate these theories in the case, adapting our theoretical framework and gathering more evidence until we reach a *'minimally sufficient explanation'*: a plausible explanation that does not contain any 'surplus' elements, i.e. determinants (either theoretically informed or ad hoc) that would not alter the explanation if were to remove them (Beach & Pedersen, 2013, p. 27).

What place is there for **theory and generalization in this approach**? In the analytic tradition that this explanation-oriented type of research derives from, theory is considered as a heuristic tool (Hammersley, 2014a, 2014b, Ringer, 1997, 2004). This pragmatic approach to theory derives from the openness of the social world; the 'open' and 'contingent' character of the social world and human interaction in general make theorizing problematic: *'it is not clear that the ontological preconditions for theorizing exist [...] the explanatory ideas on which social scientists rely should be seen as, at best, only plausible and potentially useful causal narratives [...] they do not have validity in*

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<sup>53</sup> I think this quote again points out that Beach and Pedersen are exaggerating the difference in ontological 'worldview' of the various kinds of process tracing, since clearly none of the approaches has a fundamentally different, underlying view of the existence of the nature of the social world: there is room in all approaches for systematic (pattern-like) and non-systematic (ad-hoc- elements that determine outcomes. The difference is situated in their ends, not in what Jackson (2011) would call their meta-theoretical 'wagers'. This should come as a relief, because this allows all these various kinds of process tracing to build on one another's' work, as well as that of many other social scientists working in their field.

*any general sense beyond their being functional in particular explanations'* (Hammersley, 2014, p. 48). However, as Ringer (another Weberian) explains, although this means social science should strive for something less demanding than universal laws, it should not give up its quest for 'rules of experience': *'imperfect empirical generalizations; incompletely universal and less rigorously formulated than full-fledged scientific laws.'* In this sense, this tradition again comes very near to the 'mid-level- theorizing' (theories that we only expect to function in a bounded set of contexts) embraced by mechanistic social science (Little, 2010). Deep knowledge of a case and '*schooled imagination*' may be essential, but the reliability and comprehensiveness of causal claims will depend on '*what [we] know about recurrent connections*' (Ringer, 1997, p. 98)<sup>54</sup>. And although we may be content to come to an idiosyncratic explanation in a certain case, the goal should also be to try and distinguish noise from signal in a different step of the research cycle/program. However, these 'rules of experience' (et cetera) are never the goal themselves, but always a means to an explanatory end<sup>55</sup>.

Therefore, as suggested in the previous paragraph, and as Beach and Pedersen themselves seem to acknowledge, this explanatory variety in fact encapsulates both theory-testing and (to a lesser extent) theory-building process tracing. We need to make a decision on what explanations to look for, and I think that this can well take the form of a series of theory-tests, especially if there's already a lot of explanatory theory to build on (which I think is the case in the literature on trade politics).

In my attempt to come up with a sufficient explanation, I have chosen to test a limited set of mechanisms, which were chosen based on two criteria. First, taking into account the cases as well as the existing literature on trade politics, these theories seemed like they could plausibly account for the outcome. But secondly, even if they were to be disconfirmed, then seeing *why* these theories failed to explain the outcome, by unpacking the mechanism, would still be a valuable exercise. Rather than continuing until I have a fully sufficient explanation however, I will end by reflecting on the inevitable deficiencies of my account in my conclusions; it's here that I also attempt to integrate some further case-specific factors external to the mechanisms, and think out loud about what other theories might have been useful.

I will now leave these more foundational aspects behind me, to focus on the actual conduct of my analysis. How can we actually perform within-case causal studies? Here, the value of the current process tracing-literature (compared to some of the more philosophical mechanistic social science literature from history or sociology) is greatest, since it has thought through a set of valuable methodological ideas that

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<sup>54</sup> According to Ringer there's actually no escaping this. Repeated use of 'heuristics' will occur explicitly or implicitly as soon as we attempt to explain some events. This is why here is no such thing as a-theoretical narratives (p. 78-79).

<sup>55</sup> This also creates clear space, even in this traditionally case-oriented tradition, for a virtuous combination of within and cross-case or even statistical work, as propagated also by some exponents of the process-tracing literature. An important fight over Weber's legacy is situated here: what kinds of knowledge can we use to assess causal claims (in the Weberian tradition: counterfactuals)? More specifically, this fight has been over the use of cross-case comparisons, statistics and law-like generalizations ('*nomological knowledge*'). I feel most comfortable with Ringer's (1997, 2004) and Hammersley's (2014b) (and others) interpretation of Weber, against that of e.g. Jackson (2011), which believes that we can and should use both qualitative and quantitative knowledge, both within-case and cross-case data to assess a causal claim. '*Even when [...] used together, they will not produce absolutely conclusive evidence, but they may well provide the resources for generating convincing explanations*', although there is an obvious tension here between breadth and depth (Hammersley, 2014b, p. 30).

allow us to check whether a certain mechanism was ‘at work’ in producing an outcome.

### 3.3. Testing mechanisms, constructing explanations

Mechanism-based explanations are more than ‘*mechanism-based storytelling*’ [...], because they need to offer evidence of the mechanism running its course, and need to show why some competing mechanisms were not equally plausible (Hedström & Ylikoski, 2010). The process tracing literature has developed some very useful tools for performing this kind of within case investigation. Combining Bayesian thinking about probability with the evidence-typology of Van Evera (1997) and linking this with the orthodox thinking on validity and reliability in qualitative designs, Beach and Pederson in particular have developed a practical toolkit for performing mechanistic probes.

#### 3.3.1. Bayesianism and evidence

I will here not discuss these Bayesian foundations in depth. Although some authors do attempt (or more accurately: plead that empirical researchers attempt) to fill in the Bayesian formulas with numbers (Bennett, 2015), their foremost use (as also advocated by Beach and Pedersen) is actually just in making explicit a way of thinking about research, and is thus more informal and heuristic, but nonetheless helpful in thinking about theory, evidence and objectiveness.

In a Bayesian analysis, we start from a certain idea about how the world works, which we then try to ‘test’ by collecting evidence. This evidence is in itself not straightforward, but also subject to an analysis: how powerful is it, how much does it teach us about the truthfulness of our theory? How reliable is it? As we will see, there is space here for both confirmatory as well as dis-confirmatory evidence. Three elements are central: our ex-post (after evidence) estimation that our claim is correct (the posterior), probability (likelihood), and our ex ante (before evidence) estimation of our claim (the ‘prior’). Our belief in a certain claim (the posterior) is determined by our belief in the claim before we collected evidence ourselves (the prior), and this estimation of the truthfulness of our claim is altered by evidence – in particular when this evidence was ‘surprising’. The more improbable a piece of evidence is, the more our posterior will be altered if we then do find this evidence (*ceteris paribus*). So surprising evidence is more powerful (Beach & Pedersen, 2016; Bennett, 2015).

The **power of evidence to alter our belief in some causal claim**, its ‘probative value’, is tied to the extent to which a certain piece of data, or perhaps the absence of an ‘empirical fingerprint’ we had expected to find, either supports or contradicts our theory. Van Evera (1997) distinguished two dimensions of importance here: uniqueness and certainty of evidence (my discussion is again based on Beach & Pedersen, 2013; Bennett, 2015; Bennett & Checkel, 2015).

**Uniqueness** signifies the amount of confirmatory value of a certain empirical prediction (should we find evidence X yes/no). With a unique prediction, there is strong confirmation if we do find this piece of data, because we would only find this fingerprint if our claim was correct; it does not confirm other theories (the existence

of the evidence was not predicted by other, competing, theories). So this piece of data supports our theory and no other, and finding it is an indication that our claim makes sense. *Not finding the evidence*, however, does not necessarily tell us much, because it can be a unique but at the same time highly unlikely (=uncertain) piece of evidence.

For example, if we believe a local government has altered its policy because of corruption, than a (for example) business-friendly policy shift is in itself not very unique: there are many competing explanations for such a shift. If, on the other hand, we think that local politicians promised (over the telephone, for example) lobbyists that they would alter policy in exchange for a bag of money, than this is a far more unique prediction: we would never be able to find such an explicit deal unless our theory of corruption-led change was correct. At the same time, it is clearly highly improbable that we'd be able to show that such a conversation and such an explicit deal actually took place. Should we somehow be able to prove that it did take place, then this piece of evidence has very high, confirmatory value.

Second, there is the amount of '**certainty**': what piece of evidence should we definitely find to make sure our claim does not become nonsensical? In other words: what if we find an absence of predicted evidence? This dimension is clearly linked to disconfirmation: our claim predicts that we should certainly find the fingerprint. If we do not find this piece of evidence (this can also include 'absence of absence of evidence X'), then this is a strong indication that our claim does not make sense. On the other hand, *finding* the piece of evidence only safeguards our theory from falsification, it does not in itself tell us it's also true (no confirmatory value): there may be other explanations for the existence of this piece of evidence (=not very unique).

An example: claiming that a local firm's lobbying led to a shift in municipal policy, only makes sense if there (i) was such a local firm present, (ii) policy was altered, and (iii) there are at least some traces of some sort of attempt at influencing decision making (meetings with policy makers, public statements, press releases, bribes, marches, ...). The presence of these elements would as such not necessarily prove our lobby theory is correct, but their absence might trigger falsification. Note however, that if the requirement of 'traces of influence' is formulated so strictly that we're practically demanding clear evidence that a bribe took place (e.g. camera footage of promises being made in exchange for money), then this 'test' of our theory becomes extremely demanding and thus highly un-certain.

Together, these two dimensions produce four types of evidence<sup>56</sup>:

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<sup>56</sup> Beach and Pedersen (2016) point out that it's important to realize that each of our tests/claims is in fact a bundle of interlocked sub-hypotheses. Our suspect only 'shot someone' if there was a bullet wound, if the bullet came from the gun we can link to the suspect, if she pulled the trigger. We can always further unpack our causal narrative, but there are pragmatic limits to this: we will always have to *decide* whether we have enough evidence to make a claim plausible. This of course links back to the earlier discussion on infinite regression and the limits of further unpacking.

		Dis-confirmation?	
		Certainty Low	Certainty High
Confirmation?	Uniqueness low	Straw in the wind	Hoop
	Uniqueness high	Smoking gun	Doubly decisive

**‘Straw-in-the-wind’:** these ‘tests’ are not very certain and not very unique. This means that by finding them we only deliver a little bit of credence to our claims, and that their absence is only a little problematic. A large amount of such (missing) evidence combined can of course have more probative value.

*Example: one interviewee that remarks that a surplus on the trade balance is of vital importance for Flanders, is as such only weak evidence of policy makers’ thinking being dominated by mercantilism. If such remarks return in almost every conversation, the evidence is far stronger. Mirrored: the mercantilist-claim does not run into a lot of trouble if a single interviewee denounces it, but if almost none of your respondents airs such beliefs than your theory is obviously in trouble.*

**Hoop tests:** highly certain but not very unique. This means they can potentially lead to falsification: we should really find a specific piece of evidence for our claim to make sense. However, even if we do find this data, this in itself does not prove that our claim is correct.

*The classic<sup>57</sup> example here is that of a murder suspect, which should have been in the country at the time of the crime.*

**Smoking gun tests:** highly unique but not very certain. Finding such evidence is a strong confirmation of our claim, but it’s pretty improbable that we’ll be able to find it – absence therefore does not imply strong disconfirmation.

*Another classic example, nomen est omen: if we catch someone holding a smoking gun at a murder scene, then this person is probably guilty. But such evidence is highly unlikely, and its absence does not exculpate anyone (otherwise, convictions would only be possible if someone is caught red-handed).*

**‘Doubly decisive’ :** unique and certain. It’s crucial that we find this piece of evidence to avoid falsification, and if we find it then this also provides strong confirmation.

*It’s hard to come up with social science examples of this sort of test<sup>58</sup>. The classic legal example is also somewhat convoluted: if we have a high-quality recording of a crime, and the faces of the perpetrators are visible, then the suspect that’s been accused of the crime needs to be recognizable among them. If they are they’re guilty, if not then they’re acquitted*

<sup>57</sup> By classic I mean: it seems that all of the textbooks on this topic reproduce the same crime-scene examples.

<sup>58</sup> And I have found none in the literature, which tends to reproduce the same murder-case/Sherlock Holmes examples over and over.

### 3.3.2. Types of ‘fingerprints’

Van Evera’s typology is concerned with the ‘probative’ value of evidence. Beach and Pedersen (Beach & Pedersen, 2016) have complemented this by categorizing the ways in which evidence may manifest itself empirically. As their subdivisions make clear, the different kinds of evidence are not the same as the various forms of ‘data’ we may employ (interviews, hearings, numbers, speeches, ...), these are just the raw material than can be *interpreted* as evidence (Beach & Pedersen, 2013, 2016). I will be using the following distinction to, before each case-study, think through the kinds of empirical material that we might have to look at in order to test a certain explanation.

**Sequence-evidence:** the chronology of events can be a piece of evidence. For example: if policy was altered before intensive meetings with lobbyists, then this counters explanations that build on such lobbying.

**Trace-evidence:** the existence/occurrence of a certain object/event can in itself be evidence. For example: a transcription of a meeting proves this it took place, a transfer of funds can be registered and proves money changed hands.

**Account-evidence:** Not the existence, but the contents of a certain document/interview/... can have probative worth. For example, what was said during a meeting (e.g. in a transcript, or as told by a participant), or the reasons someone gives (e.g. in an interview) for taking a certain decision.

**Pattern evidence:** an observed pattern (statistical, numerical, or otherwise) can make a certain claim more or less probable. For example: civil servants deviating from a certain administrative procedure they normally follow may be influence of lobbying. A more controversial interpretation, also touched only briefly by Beach and Pedersen, is that numerical or statistical patterns may direct us towards certain within-case conclusions. For example: a policy initiative that is derailed after meetings with affected parties is ‘more likely’ to have resulted (*ceteris paribus*) from said contact in a country that has a high score on a corruption-index. So qualitative as well as quantitative (and perhaps even statistical or comparative) material can play a role in evaluation certain claims – as long as we take contextual, case-specific factors into account<sup>59</sup>.

### 3.3.3. Reliability and accuracy

Finally, the probative value of evidence is not just affected by its logical/theoretical value, but also by its reliability and accuracy. In practice, collecting, interpreting and assessing evidence is far from straightforward: we are confronted with an infinite amount of potential observations, from which we have to make a selection (collect data) and from which we then need to choose the data that count as ‘evidence’. In doing so, we need to interpret the content of these observations (using our knowledge of the context that produced them): who says what, what does this mean, what does this document tell me, who wrote this report, why is my respondent using this turn of phrase, why aren’t I finding this meeting’s minutes, et cetera. Then we still need to determine how accurate the evidence is: is our interpretation correct?

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<sup>59</sup> Note how this again sheds doubt about the ‘actualist’ position of Beach & Pedersen, as discussed below.

Does it really tell me X about the claim I'm trying to make? Doubt and subjectiveness are unavoidable, and our evidence is forever threatened by unreliability and systematic bias.

**Triangulation** can help us solve some (but not all) of these issues. Account evidence from an interviewee we don't really trust will not do much to update our belief in a theory; on the other hand, if we can cross-check his/her narrative by using other, independent sources (internal documents, other actors telling the same tale, ...) then our original source becomes more trustworthy; the value of this collected 'data' is worth more than the sum of its parts (Beach & Pedersen, 2013, 2016). **Independence** of sources is of great importance here: we must, for example, be reasonably sure that our dubious source didn't also write the internal reports we're using to triangulate his/her account, or that our interviewees didn't all just read the same meeting-transcript without actually being present at the time.

### 3.3.4. Priors?

In this research process, there's clearly an important role for our 'priors' all around: in our estimations of the probability that we need to find a certain piece of evidence, of the probability that our theory is true, of the reliability of our evidence, of the amount of evidence we'd need to change our view of the plausibility of a claim. My discussion of the priors will be most explicit in relation to the prior of the entirety of the mechanism, and of the prior probability of its constituent steps. But thinking in terms of priors will return throughout my investigation, although often more implicitly: I will be thinking out loud about how reasonable it is to accept a certain claim given current evidence, or how reasonable it is to interpret a certain event or piece of data in a certain way.

How can we arrive at such priors? This is a subjective exercise, even if one would opt for a numerical/statistical approach. We can only make such estimations based on our theoretical/empirical knowledge of the case, of the context, of the 'world' (i.e. the existing literature, common sense, ...). In my explicit discussion of the mechanism-level prior, I will build on existing research, our theoretical knowledge and our knowledge of the case to answer three questions about our theoretical priors: '*(i) is the postulated relation theoretically plausible? (ii) what does existing research tell us about the relation on a cross-case level? (iii) what does the evidence of existing research on the case tell us about the plausibility of the relation?*' (Beach & Pedersen, 2016). Then, during the test of the mechanism, I will discuss whether the 'scope conditions' were in place that may have made it more likely a certain phase occurred.

In practice, the **divide between prior and posterior is not unproblematic**. An important issue, for example, is how a researcher can make a crisp distinction between his 'prior' and 'posterior' knowledge of a case. The muddy practice of research makes this neat methodological construct hard to operationalize, especially since there's currently a lack of examples that have tried to put it to work.

I will further reflect on these difficulties (and the wider merits/limitations of the Bayesian process tracing prescriptions) in the final conclusions – after conducting my research. For now, let me just state that it need not be problematic that this 'prior' is in fact an artificial (post hoc) construction. Its use as I understand it is informal, and

the point of constructing it is to force researchers to think through, and make explicit, what their expectations 'should have been', similar to the way in which hypotheses are often formulated after and during the empirical 'phase' of research. The researcher is merely stating: on this interpretation of the literature and the social world (an interpretation whose plausibility is then usually judged by the researcher, who may add his own theoretical 'we should actually have expected this and this because'), we would expect these things to happen. As I explained above: this helps us gauge the plausibility of certain interpretations in the empirical case work itself. For example: if we think it was highly plausible (based on the existing literature or previous patterns in the case) that business lobbied a certain dossier (for example because we know they were very influential in previous, similar cases, or because the literature tells us that they are usually very active in these kinds of cases), then we will need less evidence before we jump to the conclusion that business was probably involved in lobbying in our current case as well.

This is the way I have interpreted priors, and how I will be presenting them in my text.

### **3.3.5. From prior to posterior**

In a final (stylized) step we then need to add up the evidence to 'update' our belief. Our prior is updated by 'summing' the evidence we've collected. I will be doing this inside the body of the text, but also more explicitly and schematically in a number of evidence-tables. Here I discuss the uniqueness and certainty of the collected evidence, and what it tells us about whether or not a certain step of the mechanism took place.

## **3.4. From 'How' to 'What if': Bringing in Counterfactuals**

After performing the within-case analysis, I will want to formulate conclusions about which determinant played what kind of role in producing the outcomes, and to what extent we might expect this same determinant to play a role in other cases or contexts.

In doing so, I will naturally build on the evidence that I collected in the spirit of Beach and Pedersen's methodological framework. However, there will inevitably be gaps in these conclusions, and the evidence will not always be able to cut neatly through overdetermination, i.e. it will not be unique enough to decisively choose theory X over theory Y. To still be able to say something meaningful, I will require counterfactuals.

In doing so, I seem to be clashing with Beach and Pedersen, which reject any role for counterfactual thinking in process tracing; they call this their 'actualist' position.

This stance strikes me as somewhat surprising, and it appears to be in direct conflict with many (if not most) of other authors working with mechanisms. In fact, as was already evident from section 3.2.1., most seem to think that there is in fact a very complementary nature between counterfactuals and mechanisms. The way Hedström and Udehn (2009) (and others) see it, mechanisms do not substitute but complement counterfactuals, adding the 'causal depth' that is absent in



counterfactuals<sup>61</sup>. As Ylikoski has argued, the goal of explanation is understanding, and understanding something implies that we can answer a bunch of *'what-if'* questions about it: *'The degree of understanding conveyed by an explanation can be defined as the number and importance of counterfactual inferences that the explanatory information makes possible'* (2011, p. 5).

I concur with this view of process tracing and counterfactuals as being nicely complementary. Not just after a theory test, but also before, in the construction of priors and the choice of theories: counterfactuals help us assess whether a certain, potential (co-)determinant should be included or not. Arguably this is also how the *'prior'* works: *'considering what we think we know about the case, do we think X (e.g.) lobbying might have made a difference? In other words: 'would the outcome have been there without X?'* In explanatory and theory-building research, this is also important in choosing which theories to build on, where to look for potential explanations, what aspects of the case to check for their significance. What Beach and Pedersen call *'hunches'* are therefore steeped in counterfactual reasoning: *if we don't think something mattered, why take it up in our mechanistic analysis? 'If the presence of an entity or of changes in its properties or activities truly does not make any difference to the effect to be explained, it can be ignored. This counterfactual criterion of relevance implies that mechanism-based explanations involve counterfactual reasoning about possible changes and their consequences'* (Hedström & Ylikoski, 2010, p. 53).

I will leave this counterfactual discussion implicit in the construction of my priors, but will deal with alternative scenarios somewhat more explicitly in the concluding sections after each mechanism and in the construction of case-level syntheses. As will become clear, counterfactuals will be necessary to fill up the gaps left by the lacking *'uniqueness'* of much of the evidence that I will collect. It will be very difficult to conclusively favor one theory over the other based on the evidence that I have collected. Still, I hope counterfactuals will help me say something meaningful about the relative weight of competing determinants, both in the case at hand as well as in the wider population of cases.

### 3.5. In brief. What I will be doing

How have I translated all of the above in my research?

The empirical sections of the text will proceed as follows.

The purpose of the PhD is to better understand the conduct of trade policy in Belgium and the Netherlands, by way of four detailed case studies in which I try to explain the *'outcome'*, i.e. the position taken by these countries at the EU level.

In order to perform these analyses, I will first look for some guidance in the existing literature, by reviewing the theoretical and empirical literature on trade policy. This time not to critique it, but in search for determinants that might be of use in

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<sup>61</sup> Perhaps a way of reconciling this is by seeing Beach and Pedersen's position as a more narrow position about how we can test mechanisms. Then it does seem possible to argue that we're not interested in any what-ifs: can we or can we not find this or that piece of evidence proving/disproving this entity performed this action to this effect? As I have argued above, however, my goal is not to test theories, but to improve my holistic understanding of the politics of trade (in Belgium and the Netherlands, and elsewhere) by attempting to explain a limited set of outcomes.

explaining the outcomes I've observed. I will pick and develop only a limited set of such determinants to actually investigate the outcomes; this choice is based on what this literature deems relevant and interesting, but also on a number of case-specific characteristics that make investigating certain perspectives more worthwhile than others.

These determinants are then molded into causal mechanisms, which specify how a certain explanation should in practice manifest itself, what we should be able to 'see'. Again based on the existing (empirical, theoretical) literature, these determinants are encapsulated by a number of scope conditions; these are expected to have altered the likelihood that the hypothesized mechanism was operational, performed a certain 'step'.

To then probe the explanatory power of these mechanisms, I will first present each case's context, with an emphasis on elements that are emphasized in the theoretical mechanism and its scope conditions. Only then do I move on to the case studies. All of the above elements are combined with case-specific knowledge to produce a 'prior': would/should we have expected that a certain causal pathway was followed, that one of our determinants was influential? Next, each step of the mechanism is probed: can we conclude that the mechanism went through this step, or did it break down? To do so, I will present and discuss the evidence I have collected, while also taking into account the scope conditions (which serve as a sort of 'prior' for each step of the mechanism: if the scope conditions are 'beneficial' for the mechanism, I will need less evidence to conclude in its favor). After each mechanism, I formulate an interim-conclusion, where I discuss whether the mechanism was (not) falsified or (dis)confirmed and what explanatory gaps seem to remain. After investigating all of the mechanisms, I try to formulate a synthesis, an overarching explanation of the outcome, weighing the theories I have chosen, their evidence, and their inherent limits.

In the concluding chapter, I will try to escape the boundaries of these singular studies, now also leaning on comparisons across countries and cases, to ruminate about the lessons they hold for Belgium and the Netherlands, as well as for trade politics in other countries and over other policies. The purpose of this analysis is not to test or build theories but to use theories in order to explain my cases; yet I will still reflect on how helpful these theories were (or might be) in investigating these cases, and thus how helpful they may be in explaining other cases or cross-case phenomena.

## 4. Mid-Level Theories Of Trade Politics

What determines the position of member states in trade politics? As I have outlined in the previous chapter, even in explanatory case work we need not go about answering this question by relying solely on the idiosyncratic ‘data’ of the case *an sich*. Theory, and previous theory-tests, can both guide us and in some cases function as a sort of referee. In this final ‘pre-empirical’ chapter, I will discuss what determinants seem like plausible (sub) explanations for the Dutch and Belgian stance.

We do not have to start from a blank sheet – I believe many of the theoretical tools that can help us answer some of these questions already exist, and I will build on this existing body of work. These determinants are then turned into two separate mechanisms, as well as a number of ‘scope conditions’ that make it more or less plausible that these mechanisms played a role in causing the member states’ position. The empirical chapters then use these mechanisms to try and understand the preference-formation process in Belgium and the Netherlands – within CETA and solar, but also more generally.

### 4.1. The actors: business, civil society organizations and decision makers

In the ‘classic’ literature on trade policy, analyses build on economic theory to deduce preferences, and assume that trade-policy is formed in a largely linear manner, with voters and/or interest-groups transferring policy-demands to vote (or ‘bribe’) -seeking politicians. This literature, dubbed ‘open economy politics’ by Lake (2009) got much of its elegance because of its focus on traditional trade policies, in which the stakes were rather obvious, dichotomous and quantifiable: ‘where on the open/closed continuum will we end up in nation/sector X, given this constellation of interests, institutions and power?’. However, trade policy and politics have undergone a transformation over the past decades, with the rise of the ‘deep’ trade agenda which has led to disputes that look quite different from those dominating classic open-versus-closed politics. The regulatory turn in trade has contributed to the entrance of actors whose prime concern is not linked to direct economic gains: north-south organizations, environmental NGOs, consumer organizations, food watchdogs, human rights’ activists and others.

Building on this discussion, Young (2007b) has made a useful distinction between four kinds of trade policies, and the associated politics:

Politics:	Traditional Trade Politics	Commercial Trade Politics	Social Trade Politics
Policies:	Tariffs, quotas, trade facilitation, agriculture (export subsidies, levies)	Services, intellectual property rights, subsidies, (trade related) investment (measures), competition policy, government procurement, agriculture (subsidies.)	Sanitary and phytosanitary rules, technical barriers to trade, environment, labor standards, agriculture (multifunctionality)
EU/Member State Balance	EU dominance	Extensive member state involvement	Extensive member state involvement
Distribution of costs and benefits of liberalization	Concentrated costs and benefits, diffuse benefits	Concentrated costs and benefits, diffuse benefits (significant uncertainty)	Concentrated costs and benefits, diffuse benefits
Types of principle actors	Trade officials Firms Trade unions	Trade officials Non-Trade officials Firms Politicians	Trade officials Non-trade officials Firms Politicians NGOs
Prevailing ideational context	How to increase economic welfare? [How to promote development?]	How to increase economic welfare?	Whether to increase economic welfare at the expense of realizing post-material values?

Source: Young (2007b)

I will be using this stylization as the starting point, more specifically the distinction between types of actors, which we can roughly divide into non-economic societal actors, economic societal actors and state actors. In line with the **agency-oriented** foundations of process tracing (someone/something needs to do something), I will be building my explanations around these three groups, which I will re-categorize into ‘**civil society**’ (in which I will be including the trade unions and consumer groups) and ‘**business**’, while ‘**decision makers**’ will subsume both (trade-) experts and political policy makers.

In trying to explain state positions, I will focus on these actors as possible drivers of the position; more abstract or contextual determinants will orbit these actor-centered mechanisms as ‘scope conditions’.

In the following section I will build on the literature of domestic and EU trade politics, in combination with some actor-specific literature, to discuss why and under what circumstances we might expect these actors to have certain preferences about their state’s trade policy, and under which circumstances they might succeed at influencing said policies.

## 4.2. Causal mechanisms

### 4.2.1. Societal mechanisms – business and civil society

One of the major determinants of states’ trade policy that has been scrutinized by the literature is ‘societal’ pressure, by business groups as well as non-economic actors.

Why would societal actors care about trade policy, and in what way? Secondly, how might they go about influencing policy, and when are they successful? I discuss these three elements, preferences, strategies and influence, in turn.

#### 4.2.1.1. Economic interests

Why do firms and their associations care about foreign economic policy? One approach to studying trade policy is to look at the redistributive effects of trade flows: who is hit in what way by liberalization? The basic assumption is that economic actors are *'trying to maximize their incomes, and the question is what trade policy helps them to do this best'* (Milner, 2013, p. 724).

Much of the 'classic' literature of trade politics was focused on this question. It was deductively grounded in economic models about which actors would favor what amount of openness. The basis for these theories lays in **neoclassical trade theory**, which splits up into two opposing perspectives. On one side, the **Stolper-Samuelson theorem** emphasized factoral cleavages over trade policy, and predicted domestic trade conflicts would be waged between labor, agriculture and capital. The neoclassical theory of comparative advantage expected these factors to be divisible in clear winners (the abundant factor) and losers (the scarce factor). On the other side, **the Ricardo-Viner ('specific factors') model** believed that short-term adjustment costs were higher than in Stolper-Samuelson, and therefore expected cleavages to form around sectoral boundaries - for example textiles versus automobiles<sup>62</sup> (Hiscox, 2002b; Lake, 2009).

Although in principle these theories applies to capital as well as labor (but also consumer groups), most of it has focused on firms and organized business. Much research has specifically focalized around the distinction between **'liberal' and 'protectionist'** forces. The practical translation of this work in the political economy of trade has been to differentiate between 'import defensive' and 'export-offensive' or 'trade dependent' firms and industries. In the formulation of Gourevitch: *'Economic actors at the cutting edge of international competition are likely to support policies that promote open trading, not only for their own products but more generally for intensified specialization international trade. Actors less well placed in international competition are more likely to support protection or modes of shelter or subsidy'* (Gourevitch, 1986, p. 55). Often, this has been operationalized by looking at measures like (sub-)sectoral trade balances or other, more ad-hoc measures. The assumption is that sectors being hurt by imports will prefer more protectionist policies, and that offensive industries will oppose this.

The original models have been further refined and qualified; many additional factors have been introduced that should be taken into account when deducing actors' interests in trade policy from economic fundamentals. For instance, **'new trade theory'** contributed to this debate by noting that intra-industry trade had become an important feature of (North-North) exchanges, and that this altering composition of

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<sup>62</sup> This debate boils down to an argument over the amount of domestic factor mobility, assumed to be high in the factoral model, low in the specific factors model. Hiscox (2002a) has shown this mobility is usually limited in the short run but much larger in the long run, and has used variations in mobility to explain the domestic trade politics of a number of countries over time. This empirical quarrel continues, however (Milner, 2013).

trade flows also affect trade politics: because domestic and foreign varieties are imperfect substitutes, trade does not necessarily mean companies are put out of business by foreign competitors producing similar goods. In other words: the more trading countries look alike, the bigger the share of intra-industry trade and the smaller the redistributive effects (and hence the political implications) caused by differing factor endowments (Kono, 2009; Pomfret, 2008)<sup>63</sup>. **'New new trade theory'** has moved even further away from the classic factoral versus sectoral models, by emphasizing the role of individual firms. Based on more refined empirical work on the actual 'conduct' of trade flows, it has argued that in many cases it does not make sense to speak of a sector's trade preference, since there are large intra-industry differences. It is often only a small group of large, highly productive (and often multinational) firms that engage in exports and imports (see Bombardini, 2008, in Milner, 2013, p. 724).

In recent years, much of the empirical (and in its wake political-economy) literature has focused on a phenomenon that is linked to these 'new' trade theories: the international **fragmentation of production structures**, and the rise of 'global value chains'. The literature on 'global value chains' argues that the demand-side of protectionism has been transformed in recent decades: as boundaries between 'domestic' and 'foreign' industries have faded, so have the coalitions demanding protectionism. If the foreign content of a country's (or sector's or firms') exports is high ('exports require imports') then access to cost-efficient imports will be a crucial determinant of its (their) competitiveness. These exports might themselves be intermediates used in factories abroad, combined to produce goods that are subsequently re-imported for final consumption. When looking at trade from an integrated, value-added perspective, this means that trade policy measures like tariffs and anti-dumping measures can reduce the competitiveness of those domestic industries these instruments were designed to protect (upstream as well as downstream) (Ahmad, 2013; IMF, 2013; Timmer, Los, Stehrer, & de Vries, 2013). In short: *"beggar-thy-neighbour" strategies can turn out to be "beggar thyself miscalculations"* (Ahmad, 2013, p. 8). Global integration has made calls for protectionism weaker, but it has also led to an increase in complexity. Arguably, this has made it **harder for firms to assess what their trade policy interests are**. This is true a fortiori for a number of sectors (or issues) for whom it is intrinsically difficult to 'know' their ideal policy. As can be seen from Young's table, he distinguishes between traditional and what he calls **'commercial' trade politics**: services, intellectual property rights, investment, competition policy, government procurement. These issues have seeped into the trade policy arena since the 1970s, when some sections of (United States') business started pushing for a broadening of the trade agenda, especially in services and (therefore) domestic regulations (Woll, 2008). Apart from the engagement of a variety of new actors in trade policy (discussed below), this expansion of the trade agenda has also made it (even more) difficult for firms to know what's what: *'In an increasingly complex, technical, and politicized trade-policy environment, domestic trade-related interests find it increasingly*

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<sup>63</sup> According to Gilligan (1997, in Kono 2009), however, this may also induce firms to request variety-specific barriers, since the lobbying costs are directly associated with gains from protection. The collective-action problems of companies producing differentiated goods are smaller than those faced by producers of homogenous products. The effects of increasing intra-industry trade are thus theoretically ambiguous: the adjustment effects & market-structure effect are in opposition.

*difficult to define what their interests are, to agree on what purposes should be attributed to trade policy as well as on what strategies could best serve such purpose'* (Poletti, 2012, p. 17).

In other words, there is a distinct possibility that **even firms and sectors with clear interests (model-wise) in certain trade policies are not aware of these policies (or are not informed about their stake in the policy), or do not care**, or (especially in the case of smaller firms) do not have the technical capacity to fully understand what their stake is<sup>64</sup>, again quoting Gourevitch: *'There is considerable ambiguity about economic reality, and ambiguity permits different interpretations. Different understandings or models of a situation shape to different calculations of the costs and benefits of actions, its opportunities and disadvantages, and hence of behavior [...]. To the extent that economic reality is uncertain – which in real life is nearly always- cognitive elements affect decision making'* (Gourevitch, 1986, p. 63-64). This 'analytical' dimension of (material) trade interests should make us cautious about deducing preferences from economic fundamentals<sup>65</sup>: it's possible that firms perceive their interests very differently from what the models predict, or that they are overwhelmed by the costs of calculating a position and therefore refrain from getting involved. In fact, this option was a standard (if somewhat implicit) element of the classic political economy of trade, where it was often argued that for 'diffuse' interests the **costs of monitoring were too great**, preventing them from knowing and acting on their preferences. As Andreas Dür has argued, for example, it is in reality quite unlikely that exporting interests will be actively lobbying for new market openings: it is very cumbersome to constantly be on the lookout for potential opportunities abroad, and trade negotiations are a very uncertain and time-consuming ordeal; mobilization is therefore costly and risky. It's far easier to trigger groups if markets that they have already penetrated (either domestically or abroad) are threatened<sup>66</sup> (Dür, 2007b). More generally, the traditional literature has argued that concentrated, defensive actors are far more likely to become active in trade policy: *'[F]irms with expanding markets and ample profits tend to concentrate on business [...] It is the embattled losers in trade who go into politics to seek protection'* (Destler, 1995, p.4-5, cited in Heron, 2012, p. 47).

All in all, the theoretical and empirical literature on the trade preferences of economic actors offers us many useful insight, which can guide our expectations and point us towards fruitful venues for empirical research. In my case-studies, I was guided by these theories in selecting sectors, asking questions and interpreting my data. In practice, firms' and sectors' preferences are an empirical question however, especially in a singular case study, and I did not take them for granted but instead probed business' monitoring, preference-formation and positioning.

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<sup>64</sup> Or do not have the means to engage in trade politics even if they wanted to (this is taken up below).

<sup>65</sup> Apart from the fact that many of these models deal with the current material situation of firms and sectors, rather than what firms may perceive as potential opportunities or threats.

<sup>66</sup> Dür focuses on a specific scenario: when exporters' interests from country A to country B are threatened by a PTA of country B with another country C.

#### 4.2.1.2. Non-economic interests in trade policy

From the 1980s on, civil society started entering the trade politics' stage. Trade unions and human rights groups warned against the deregulatory dangers of the new 'deep' trade agenda, while consumer organizations became increasingly worried over the differences in production processes and standards across trading partners (until TTIP's *chlorine* chickens, this was most visible in the disputes over hormone beef and GMOs), and environmentalists started taking note of the (intrinsic) impact of trade on climate change as well as environmental regulations (Winslett, 2016).

One of the first big manifestations, and successes, of this new opposition to the international economic agenda targeted the multilateral agreement on investment (MAI), when a coalition of domestic as well as transnational (Friends of the Earth, WWF) environmental, labor, consumers' and other groups protested against the multilateral negotiations. Later that decade, the same heterogeneous movements built on the networks they had forged during the MAI-protests in order to organize one of the biggest trade-related mobilizations to date, the anti-WTO protests in Seattle in 1999 (Walter, 2001). Although this movement went somewhat into hibernation in the following decade (and was to a certain extent co-opted by the agenda of their opponents, see Hopewell, 2015), some of the (local, national, European, global) associations and networks continued to struggle against agreements like the General Agreement on Services. More recently they re-emerged in full force, and with the support of various new groups, during the mobilizations against TTIP and CETA

Why do these groups care about and invest in foreign economic policy?

One of the main reasons is related to **trade policy's substance**: the trade agenda has started impacting these groups' field of action. In this sense, the success of business in pushing for an expansion of negotiations towards issues such as IPR, services and regulatory barriers has been two-edged; it has also drawn the attention and opposition from a broad range of civil society groups. The expanding agenda has pushed up both the amount and the types of interest groups demanding a say on trade policy; at the WTO, in the EU and at the national level (Hanegraaff, Beyers, & Braun, 2011; Hopewell, 2015; Jarman, 2008; Walter, 2001; Winslett, 2016).

However, just like in the previous, 'economic' section, another set of reasons is related more to the **organizational capacities and interests** of civil society groups. 'Critical resource dependency theory' has underlined how constraints related to time and (safeguarding the future flow of) money can severely limit the issues an organization focuses on (Beyers & Kerremans, 2012). Even if an issue is considered important by an organization's staff, it may not be salient enough among the public or members to warrant spending much time on it, because this may endanger the group's (financial) support. A further disincentive to focusing on international/European affairs can come from a dependency on government funding, since this may again push groups to focus on the domestic level. These constraints have particular bite if resources are scarce and very competitive (ibid)<sup>67</sup>.

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<sup>67</sup> Beyers & Kerremans (2012) have investigated the relevance of these factors in determining CSOs', employers' associations' and trade unions' 'Europeanization' (attention spent on EU issues) in Belgium, the Netherlands,



Although the above is true for business as well as trade unions or NGOs, it produces a different kind of **responsiveness to public opinion**. Since citizen groups depend (and compete) more heavily on public support (both politically and in terms of resources), they will feel more immediate pressure to be responsive to salient affairs. This can produce what's called '**bandwagoning**': if a campaign successfully puts something on the public agenda, more and more groups will want to join in, which in turn boosts the visibility of the dossiers, thereby further strengthening the incentive to campaign on the issue, et cetera (Dür & Mateo, 2014). In other words: these organizations may have an underlying preference for developing a position on issues that are highly salient.

So, although EU trade policy may have become 'objectively' more important for many groups, and may also be perceived as such by their staff, their efforts to influence its trajectory will depend also on scarce resources, in particular the public's attention. *Ceteris paribus*: if public attention is low the literature would expect more attention for organizations that have a clear stake in trade policy and a relatively safe source of resources to diver to this subject, while we would expect civil society organizations in general (even if their stake in trade policy is vague) to pay more attention to trade if the opposite parameters are met, but if public salience is high.

#### 4.2.1.3. Strategies and influence

If a variety of actors believes they have a stake in trade policy, how might they try to exert influence? The large and ever-expanding literature on lobbying and trade politics offers a series of insights and angles that can help answer this question. In the literature on EU trade policy, a substantial part of it has been focused on the distinction in tactics and influence between 'business' and other interest groups (broadly conceived), such as NGOs, trade unions, protest movements, et cetera, i.e. 'civil society organizations' (CSOs).

I will begin by distinguishing two (categories of) strategies, before moving on to a discussion of when and why such strategies may be influential.

##### *a. Access and voice*

**Access** (also called 'inside' or 'quiet') strategies occur directly in the sphere where policies are being wrought and deals are being made (Beyers, 2004). In some of the 'classic' models of trade politics, this dynamic was modeled as a sort of 'bribe' offered by firms, with policy in return (e.g. Grossman & Helpman, 1994)<sup>68</sup>.

In the literature on trade politics and lobbying in the EU, as in the more general literature on contemporary lobbying (Culpepper, 2011; Keller, 2016), many authors argue instead that the kind of good being exchanged is not a monetary bribe, but

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Germany and France; they conclude that although groups tend to Europeanize more if the EU wields more influence over areas they care about, this effect is indeed countered by budgetary competition, a dependency on domestic subsidies, and a strong reliance on individual membership (fees).

<sup>68</sup> It offers a complete micro political-economy model of the government's deliberations, which revolve around weighing national income and campaign contributions from lobbies. The reasoning of lobbying industries is also modeled, their 'bribes' are endogenously determined by their stake in protectionism. The model predicts that organized import-competing/export sectors will receive protection/subsidies relative to their influence. Unorganized sectors will face extra burdens.

rather information in return for access (Dür & De Bièvre, 2007; Jarman, 2008)<sup>69</sup>. Groups using such an inside strategy seek *'influence by providing empirical evidence and expert knowledge on the potential favorable or otherwise implications of a given policy, and [aim] to convince policy-makers that, given the implications of the proposal, it is in their own interest to modify a policy in the proposed way'* (Keller, 2016, p. 5). Woll and Artigas (2007) claim that this dynamic has been strengthened by the move beyond tariffs; **'regulatory trade'** has increased the value of knowledge and expertise as a resource, because of the high complexity and uncertainty of issues like IPR or technical procedures, which has in turn changed the relation between interest groups and the state. Government actors are now actively reaching out to firms for information, while business itself needs governmental expertise to understand what's at stake. The dynamic is less one of *'pressure lobbying'* and more one of *'mutual dependency'* (ibid).

This exchange is **not altruistic**: societal actors get something in return for this information, namely some control over policies propagated by the government. It is also not perfectly pluralistic: compared to civil society, business is usually seen as the more advantaged actor in *'access strategies'* related to technical economic issues. *'Politicians do not want to risk messing up the economy unless there is a big political reward for doing so'* (Culpepper, 2011, p. 178), so they tend to defer to the expertise and experience of business – especially if the issue has low salience (ibid). Thirdly, this exchange is not purely *'technocratic'*, i.e. it is more than unfiltered data-transfer: the information may include impact assessments, employment effects, investment or production choices, in other words specific narratives about the problem and the consequences of specific solutions, that may increase the pressure to follow the preference of the consulted sector. Compared to business, non-economic interests' armory arguments over the effects of deep-trade regulations (health, environmental, democratic, ...) need to derive their force either from the intrinsic power of the arguments (arguably easier with a willing ear on the other side of the table), or by wielding a credible threat of mobilization and politicization. Of course, CSOs may in some cases also possess specific technical information that decision makers require. Finally, the information is not necessarily tied to aggregate effects, but may focus instead on politically salient *'domestic constituencies'* (da Conceição-Heldt, 2011a, p. 28).

This expertise-dominated access of the EU level is not necessarily mirrored at the domestic level, although some research indicates that it plays a role at all steps of the delegation chain. Bouwen (2002), for example, argues that access to the Council is *'bought'* using information on domestic interests, making this the most fruitful channel for national associations and *'national champions'*, while the Commission is especially open to large firms and European associations<sup>70</sup>. However, I will here also leave room for more **old-fashioned tit-for-tat lobbying**; societal actors may get in touch with and wield influence over policy makers by providing information, but

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<sup>69</sup> In his 2011 book on the politics of corporate takeovers, in which he studies this kind of dynamic in detail, Culpepper complained that *'The study of business power is currently more neglected than it has been for the last half century. [...] The concentration on business interests and their structural foundations has had an unintentional byproduct: a neglect of the mechanisms by which business converts its interests into policies'* (Culpepper, 2011, pp. 185–186).

<sup>70</sup> He distinguishes between *'expert knowledge'*, information on *'European encompassing interests'* and *'information on domestic encompassing interests'*, with firms providing mostly the first and big firms as well as business associations the latter two.

also by threatening them with electoral or economic consequences, by offering them a job or campaign support, by appealing to their sense of justice, et cetera.

In contrast, **'noisy' ('voice', 'outside') strategies** play out in the public sphere: press statements, street protests, social media campaigns, et cetera. Their purpose is to mobilize as widely as possible, maximizing the awareness of the issue and the claims being made by the interest group, in order to gain more leverage on the 'inside'. As Gheyle and De Ville discuss in their review of the literature on outside politics and politicization, this strand builds on the seminal work of Schattschneider (1960), who argued that political conflicts can be won by expanding the scope of conflict and involving public opinion; a strategy that would be most useful to the side that was more likely (or in danger of) losing a political battle. Successful outside lobbying brings in new groups, raises the public salience of an issue and diminishes the legitimacy of the opponents, putting pressure on decision makers to give in to the demands of groups that had first been overshadowed by more powerful players (Gheyle & De Ville, 2017).

Usually, it's assumed that this strategy is mostly used by civil society. Dür and Mateo (2012, 2013), argue that this is indeed the case for a variety of reasons: (i) citizen groups are dependent on public and visible activity in order to attract members; not just to ensure their organizational survival, but also because public support and a large amount of members are their main source of leverage and (ii) the informational and material resources of business associations give business groups more leverage on the 'inside'. As Culpepper has forcefully argued, business is often at its strongest when an issue's salience is low: *'Business frequently loses political battles when the general public pays attention to them, because when the public pays attention to issues, political parties start paying attention to the opinion of the median voter and stop paying attention to powerful interest groups'* (Culpepper, 2011, p. 6). Moreover, business may care about public opinion and may shy away from public discussions, or even abandon inside lobbying, if their involvement is threatening their public relations (Eliasson, 2015).

Of course, this 'median voter' mechanism can also turn against powerful civil society organizations and, as Keller (2016) argues, business may under certain conditions nonetheless make successful use of 'noisy' politics<sup>71</sup>. Moreover, there may also be fractures within business, and here too some groups may strive to attach themselves to broader coalitions, may harangue the legitimacy of opposing firms' preferences, launch press statements, et cetera. Following the review of Gheyle and De Ville, we may again expect that this strategy will mostly be used by the business factions 'losing' political struggles (2017)

## **b. Influence**

What determines whether these strategies are successful? Under what circumstances do (which of) these groups actually succeed at getting what they want?

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<sup>71</sup> If policy makers are involved that are especially vulnerable to the public/political fall-out from a decision (for example parliament rather than a regulatory agency) and if the issue seems like it may be susceptible to mediatization, a strategy of pre-emptive noise may be more successful in the long term – all the more so if there's ways of tying business' position to a broader societal aim (Keller, 2016).

A large part of the literature on economic actors' influence on trade policy (especially the literature on anti-dumping) has here emphasized the difference, already hinted at in section 4.2.1.1., between concentrated and diffuse and between offensive and defensive interests. Groups that face highly certain losses have a stronger incentive to mobilize than groups facing uncertain gains, and groups that have very **specific interests** to defend and that are either economically or geographically **concentrated** (e.g. a few, large firms instead of a multiplicity of spread out SMEs) are more easily able to overcome classic collective action problems<sup>72</sup>. For instance, they are more able to support standing organizations which can help them monitor trade policy, as well as organize and lobby (Eckhardt, 2013; Heydon, 2012). Based on this reasoning, it is often assumed that **protectionist groups** have a far easier time engaging in trade politics while benefactors of free trade (consumers, exporters, import-dependent firms) have a much harder time joining forces. The benefits of trade are much more diffuse, and accrue to a very heterogeneous group which is not easily mobilized, is harder to keep together, and which lacks the resources and unity of action to influence policy. It is evident that this arguments depends on empirical foundations (interests, resources, characteristics of production/organization, ...) which will not necessarily be (or remain) true across time or sectors. One major upheaval, so it is argued, has been the increasing **internationalization of production** across and within sectors, which has disrupted protectionist coalitions. This has been most obvious in the politics of trade defenses (e.g. anti-dumping), where vertical specialization across borders has made coordinated lobbying more difficult (Eckhardt & Poletti, 2016; Pomfret, 2008).

Especially since the turn of the century, the trade-policy literature has de-emphasized (except in studies of trade-defenses) the struggle between protectionist and liberal economic forces, and has instead scrutinized the relative influence of '**business**' versus '**civil society**' groups. The working assumption here is often that the latter camp is largely unsuccessful, for a number of reasons. Civil society has **limited economic leverage** related to investment or employment, and they seldom possess the kind of **technical information** policy makers seek. As diffuse interests, they also encounter **collective action problems** in mobilizing their constituency or the general public. As Dür and de Bièvre illustrate with CSO involvement with the EPAs and the WTO, this results in 'campaign flares' around general principles rather than long-term inside lobbying, which allows them to influence the agenda but does not translate in tangible policy effects (Dür & De Bièvre, 2007). Still, some studies have shown that civil society organizations can be **influential in certain contexts**. The massive 'outside' lobbying against ACTA (2011-2012), for example, succeeded in blocking the agreement with a strong public campaign which caught its proponents off guard; as the issue's resonance with the public grew, more and more groups jumped on the ACTA 'bandwagon' because it offered them an opportunity to highlight themselves and their demands. Business, however, remained in the background because it was afraid to openly confront the negative campaign (Dür & Mateo, 2014). Pianta has moreover argued that our evaluation of civil society's trade policy efforts are too short-term, that their success lies in the creation of a longer term, continued global justice movement (Pianta, 2014). Others have argued that the **power of organized business is overrated**. Gerlach (2006) for example has pointed at

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<sup>72</sup> For example, it's easier for them to spot and punish free-riders.

the limited means (e.g. their limited amount of personnel) of European business associations, and the difficulties these encounter in ‘harvesting’ their main source of influence with the Commission: input from their member firms<sup>73</sup>. This again relates to my earlier argument that firms, and therefore also their associations, may be overburdened by monitoring costs, and may therefore refrain from taking a (very specific) stance.

### *c. Scope conditions*

Clearly, there are no one-size-fits all theories, and we need to transcend these general dichotomies of civil society versus business or protectionists versus free-traders. As Klüver et al have argued, we need to include a variety of ‘mid-range’ theories and scope conditions to better understand the specific contextual factors that aided groups’ success in certain cases (Klüver, Braun, & Beyers, 2015). Building on the literature discussed above, I distinguish between three groups of such factors below. These will become the ‘scope conditions’ in my mechanism, their presence during a certain step will make it either more or less plausible that such a step actually took place. For example: even if the actual evidence is inconclusive, we may conclude that a business organization spoke to the executive if there were plenty of access points and if this organization had a lot of leverage (see below).

(i) One of the most important scope conditions is that of the ‘softness’ of the state: the amount to which the state is susceptible to pressure from outside/inside lobbying (Alons, 2011). This is closely related to the trade literature’s notion of veto points (e.g. Henisz & Mansfield, 2006) and **access points** (e.g. Ehrlich, 2009). The core message is simple: interest groups need to be heard, they need to somehow find their way into the policy process, in order to wield influence<sup>74</sup>. Again this literature has to large extent been built around the fights between protectionist and pro-trade interest groups over tariff policies, often finding that that protectionist pressures grow as the amount of ‘access points’ to policy makers increases (ibid). However, the basic idea is **generally applicable**, including to the campaigning and lobbying by non-economic actors: politicians or civil servants need to actually hear interest group’s desires, and the more decision-making actors that are accessible the more likely it is that one of them will also try and take these societal demands into account.

Van der Vleuten’s (2001, cited in Alons, 2011) distinction between three determinants of domestic ‘softness’ is helpful in thinking this through. He separates ‘centralization’, ‘the system of interest-mediation’, and ‘executive-legislative

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<sup>73</sup> According to Gerlach, this lack of feedback from their base opens them up to influence from the European ‘epistemic community’ of trade experts, but also leaves more space for the voice of big firms, whose interests do not necessarily overlap with that of the association’s median member. This ties back in with the earlier argument that it is very difficult for individual firms to monitor all these complex EU-level and international issues, which may in turn cripple the associations that are supposed to represent their sectors’ interests, while cross-sectoral organizations are likely to be faced with too much within-business heterogeneity to make their input very useful (i.e. specific enough) for decision makers.

<sup>74</sup> Several works have, in this light, underlined the increasing bureaucratization’ of policy-making, and policy-makers’ growing insulation from pressure groups. Chorev (2007) for example who argues that trade policy in the US was bureaucratized, put in the hands of domestic and eventually international administrations that favored free trade. A similar argument has been made about the delegation of trade powers to the EU. According to the theory of ‘collusive delegation’, putting trade in the hands of a supranational actor was supposed to produce more liberal results, because national governments were more susceptible to protectionist demands (Meunier, 2005).

relations'. **Centralization** relates both to the distinction between federal and unitary states, and to the amount of internal centralization among various executive actors (is there a lead ministry? Are multiple governments involved?). The more sub-levels and executive actors (ministers, prime ministers, ...) that get to have a say (formally or otherwise) in the state's position, the more veto and access-points are created and the weaker the state will be vis-à-vis a variety of societal demands. The system of **interest-mediation** refers to the classic distinction between pluralism and corporatism (and everything in between). To what extent do societal groups have an institutionalized say over the course of policy? Is the government forced to consult with them? Is there a tradition of such deliberations? Do they perhaps get to co-determine the substance of the policy, or do they play a role in its implementation? And if so: which, what kind of, and how many groups get access to this system?<sup>75</sup> Arguably, the more ad-hoc the role of interest groups, the bigger the leeway for the government to only consult actors that support its preferred position and the more precarious these groups' veto and access points<sup>76</sup>. Finally, **executive-legislative** relations '*indicate the degree to which parliament constitutes an actor whose opinions the government has to take into account*' (Alons, 2010, p. 46). A stronger parliament will weaken the potential of the executive to do as it pleases, and will also increase the role of societal actors if the parliament simultaneously functions as an access point for such groups<sup>77</sup>. The two determinants of parliamentary power that Alons distinguishes are the extent to which the legislature has any formal powers over the policy, and whether the government is supported by a firm parliamentary majority.

As the last of Van der Vleuten's determinants illustrates, 'access' points and softness are not only related to the accessibility and susceptibility of the executive level. In my own study, I will further broaden the notion of 'access points'. I will do this by distinguishing between 'inside' channels, where societal actors speak directly (face to face, in e-mails, over the phone, ...) with actors from within the executive, and 'outside' access, which means that societal actors have a means to communicate with the executive indirectly, through some kind of intermediary. The three outside venues that I will consider are 'the press', 'the parliament' and 'the public'. Since trade-policy making is dominated by the executive, I will conceive as the **legislature** as a potential 'outside' access point for interest groups. I will speak of societal forces having 'access' to the parliament if they succeed at getting their message *through* MP's questions and interpellations<sup>78</sup>. Secondly: I will discuss group's access to the

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<sup>75</sup> Again, I'm using these classifications in a somewhat looser way than Alons.

<sup>76</sup> In Alons' work, these elements all determine to what extent the government/State can give priority to its international considerations over domestic considerations (Alons, 2010, p. 47). My focus is broader: governments can have all sorts of preferences (also purely domestic ones), some of which are unrelated to direct societal pressure, but these autonomous preferences can then still be abandoned under such pressure. And this is more likely if the government is 'soft' in the ways she describes.

<sup>77</sup> A difficulty here is furthermore whether softness also determines the extent to which policy makers anticipate societal responses, and take into account previous societal positions. Softness can for instance indicate that civil servants and executive politicians have strong links with civil society organizations or business groups, and that they try to act in accordance with what they think their bedfellows would prefer. This is a problem that I think is hard to tackle conceptually, but which I will try to disentangle empirically.

<sup>78</sup> A number of my dissertation's jury-members questioned whether it was justified to classify parliaments as an *outside* access point. My main motivation was empirical, something that should be taken into account when extrapolating my results: I analyze two trade dossiers where the parliaments had no direct control over the state's position, where MPs themselves always had to work their way through executive players like ministers in order to wield influence. On the whole, it was a move that built on my loose conceptualization of 'access point' and that was primarily instrumental for a more fluid structuring of the text. For example, this allowed me to sidestep the problem of distinguishing between MPs from the opposition and those from the governing majority. I do not

**press** in this same manner. The success of 'voice' strategies depends to considerable extent on interest groups' (perceived) access to & influence over the media: these offer important channels for communicating with and putting pressure on policymakers as well as the wider public. Finally, influence over the **public** can be just as important, if we assume that policy makers know and care about the public preference. Having 'access' here can be operationalized in terms of public opinion moving because of an 'outside' campaign (as measured by surveys, for example), in large-scale mobilizations, or even in the broadness of a campaign organizer's societal coverage (i.e. how many people do they represent, on paper?).

An interesting element here is **how this softness relates to the 'capacity'** of the state. Before, I discussed the role of business' expertise as an important lobbying resource. Arguably, the influence of such expertise hinges on the ability of states to break this informational monopoly by doing their own research. As Culpepper has argued, this in turn relies on the salience of the issue: *'[high complexity] makes it difficult for politicians to challenge the expertise of business leaders, and [low salience] lowers their incentive to invest in redressing their imbalance of knowledge'* (Culpepper, 2011, p. 9).

(ii) The second dimension is that of '**receptivity**'. The state can prefer to hear from some groups rather than others, and be more receptive to some actors and positions than others. Building on Jessop (2002), Raza calls this the '**strategic selectivity**' of the state (Raza, 2016). I discuss the sources of such selectivity (political calculation, ideology, ...) in the section on policy makers' preference. Again, multiple access points can help actors evade such selectivity at one level (a ministry a sub-state government, a parliament, ...); some authors have for instance argued that civil society has been most successful when targeting the sub-national level: Raza has argued that the EU's strong '*neoliberal selectivity*' is highly problematic for civil society, meaning there may especially be opportunities for successful access at the national and sub-national levels. Some of civil society's successful campaigns against liberalization (for example the STOP GATS campaign 2002-2004), succeeded in large part because the sub-national level was drawn into the struggle: municipalities, provinces, and regional governments were used to mobilize resistance (Raza, 2016). Similarly, Pianta concluded that CSOs were more influential in the WTO when they linked multiple actions at multiple levels, combining transnational with domestic action (Pianta, 2014). Still, there is reason to believe that even here **business will be at an advantage**, and will benefit from easier and more receptive access; this is supported by research (in Ireland, Germany and Spain) which shows that business associations have an easier time getting heard by not only the European

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think my results would have been very different if I had approached the parliament as an 'inside' channel, or if I had split it up in separate 'inside' and 'outside' spheres. When analyzing, for instance, parliamentary ratification of the final CETA deal, it may make more sense to see the parliament as an 'inside' channel. However, as was pointed out by several of my jury members, this means that I am looking at the parliament as an intermediary, ignoring its potential for autonomous agency and influence. It is true that this is a separate causal mechanism that I have not tested in the same detailed manner as the societal and state mechanisms. However, some factors mitigated the absence of this explicit focus: (i) as I point out in the text, there is a general expectation that trade policy is dominated by the executive, which I believe is borne out by my empirics, making it less pressing to foreground this mechanism. (ii) The autonomous agency of the parliament is nonetheless taken up in the introductory empirical chapters, and is moreover part of (a) my assessment of the success of societal action and (b) the contextual determinants of executive influence. Parliamentary autonomy vis-à-vis state and society is scrutinized here, even though I do not dedicate a mechanism of its own to this narrative. Those with an interest in parliamentary agency can therefore read my text as a partial test of this theory.

Commission, but also national governments and European as well as national parliaments (Dür & Mateo, 2012).

(iii) The final scope condition I'm distinguishing is **leverage**. As discussed above, 'inside' as well as 'outside' strategies depend on the actors having some sort of leverage trade policy makers, or something to barter with in return for influence. This is likely to be bigger if an interest group represents an economically or electorally substantial group, i.e. if it can credibly argue that harming its interest also harms (and may agitate) an electorally or otherwise important constituency. Financial or networking resources can also play a role (e.g. giving policy makers' career a hand). Furthermore, we can also assume that actors will be in a stronger position to get what they want if there are no other, diverging or opposing, positions being formulated by other societal actors (Alons, 2010). As Klüver has argued, here it is important that we do not just consider groups individually, but rather the coalitions of which they are part (Klüver, 2013).

Finally, as has been argued most clearly by Young and Peterson (2014) in their sub-systems treatment of EU trade policy, there is reason to expect substantial differences across trade policy arenas. Although CSOs may have acquired some kind of role in the politics of the WTO and FTAs, they have been almost completely absent in the politics of anti-dumping and trade defenses. This latter field is generally considered to be dominated by (big, defensive) industry, and it lacks the overt 'deep'-trade dimension that has attracted CSOs to other areas (ibid).

#### 4.2.1.4. Hypothetical mechanism

##### *a. The mechanism*

What would the mechanism look like? What would we need to see in order to conclude that the societal-influence theory makes sense? Who would need to be doing what? Under which conditions would we expect a certain step to break down?

Based on the literature, I propose the following mechanism, which I think is detailed enough while still leaving open several alternative avenues for societal influence (e.g. lobbying as well as mobilization, ideational 'conviction' as well as economic calculation). As I indicated in the previous chapters, this open-endedness is acceptable because I'm not particularly interested in comparing the relative efficacy of particular pathways-to-influence, but rather in studying the channels they actually chose, and for what reason, and whether we can plausibly conclude that any of them were influential.

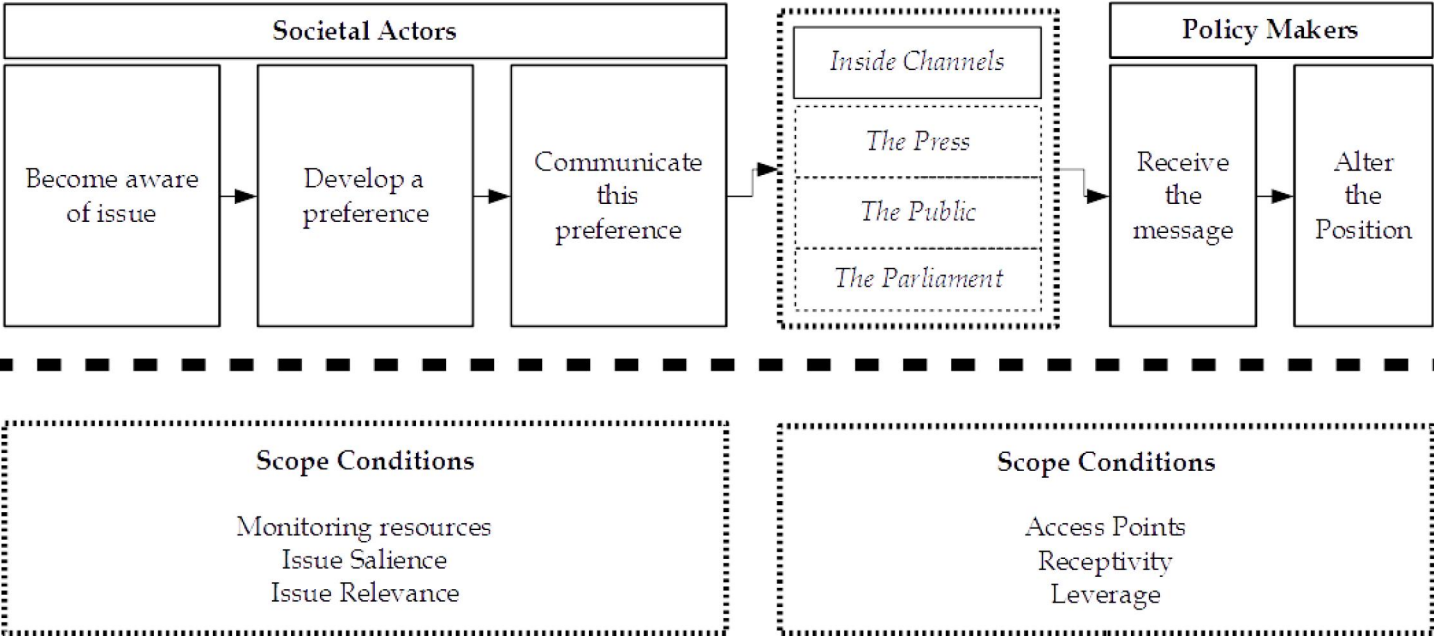
First, societal actors need to have somehow **become aware** of trade policy. This will have been more likely if they had dedicated resources to monitoring trade (either they themselves or through their associations), and if the trade policy issue was likely to be of interest for them (e.g. touched a sector they were active in, was with an important market, if it had become politically salient ...). Of course, as the public salience of an issue increases, the more likely it becomes that an organization picks up on an issue without having to perform much monitoring on its own.



Then, we would need to see societal actors **taking a stance** on the issue. I will assume that this is both dependent on, as well as evidence of, them having formulated a preferred outcome.

In the next step, they need to **get their message across** to policy makers, either via 'outside' channels, by working the parliament, the press and the public, or via 'inside' channels, by communicating directly with the executive. Success at this stage is more plausible if there are plenty of access points, i.e. if it's easy to get their message across in multiple inside or outside channels.

This then needs to have some kind of **effect** on policy makers. After 'ingesting' the societal message (the marches, the meetings, the parliamentary questions, the framing in the press, ...), some of the people with direct influence over the country's stance need to try and shift it towards the societal preference. They will be more likely to do so if they are ideologically/politically close to the demands being voiced (if they are **receptive**), and if the societal actors presenting them are unified and large, or have other kinds of **leverage** (e.g. employ/represent many people or a politically salient sector, succeeded at mobilizing the public, dominate the narrative in the press, ... ). These policy makers then need to alter the state's position. It is more plausible that they will actually do so if the amount of '**external pressure**', e.g. from other member states, a partner country or the Commission, is low.



In the text, I will for each country-case-mechanism combination first formulate a 'prior' based on the preceding literature review, the context of country-case, and whatever country-specific lobbying was available (e.g. publications on the successes of CSO lobbying in Belgium).

## ***b. Some clarifications***

I speak here of 'the' **societal preference**, but in my empirical investigation I will be investigating a multitude of such (at times conflicting) preferences, and I will thus discuss several such mechanisms simultaneously. In the CETA case-study, I will explicitly separate a 'CSO' mechanism from a 'business' mechanism. This was necessary, not only because it made it easier to structure the text, but also because they differed across the kinds of evidence I expected, as well as the values of their scope conditions, and the relevant factors determining their 'prior probability'. Of course there was also variance within these broad groups, but this is dealt with within their respective mechanisms. Because the CSOs played such a minor role in the anti-dumping case, I chose to discuss both groups in one mechanism there.

Secondly, when I speak of **influence**, I follow Klüver's commonsensical definition: *'influence is understood as the ability of interest groups to shape political decisions in line with their policy preferences'* (Klüver, 2013, p. 9). In my work, this means that the ultimate measure of influence is if societal actors manage to alter (or set) the state's position on a trade policy issue, supposedly after having first successfully influenced the positions of the executive (civil servants, the ministers, their cabinet, ...), through a series of inside or outside channels (influencing the parliament, the press, the public, ...).

Finally, in the **assessment of influence**, the last step of the mechanism, I will be combining several methods to perform this evaluation: (i) I will assess the congruence of societal groups positions' on the issue (say: pro or contra the anti-dumping measure) with that of the state (did they vote/plead in favor of either?), (ii) I will take into consideration the accounts of the actors involved (do any of them ascribe influence to societal actors?), and (iii) I will take into account the rest of the process-tracing evidence I have collected: the chronology of demands and positioning, the patterns of policy making, the weight of the scope conditions, and other relevant elements collected in the previous steps of the mechanism. These three dimensions correspond to the standard methods for measuring influence distinguished by Andreas Dür (2008).

## ***c. Evidence***

The presence of the various steps of the mechanism can be tested by looking for the following evidence. The list is merely an illustration, it is not meant to be exhaustive:

**Sequence evidence:** positioning/'action' by CS before change in policymakers' position; no prior attempts of policymakers to alter/coordinate position of CS; no public discussion/mobilization before civil society action.

**Trace evidence:** policymakers 'ingesting' CS's material/pressure (e.g. media reports of mobilization, reports of contacts between policymakers and CS), changes in policymakers' positions (e.g. public statements, policy-notes, private remarks,...), attempts to change the Belgian position (e.g. policy-notes, government stances, resolutions, intra-party maneuvering, ...), a shift in the Belgian position (as communicated to/worked for on European level).

**Account evidence:** policymakers attributing their changing position to CS actions (*in private conversation, an interview, in the press, public statements*), documents describing how a lobby group went about their campaign, policy documents outlining the positions of group,

**Pattern evidence:** data on intensity of contacts, correlations between contacts and changes in position, comparisons with regions that had less/more activity, previous patterns of societal influence on decision makers ... .

The uniqueness and certainty of the evidence that we may expect each step of the mechanism to produce varies across the steps, but also across cases and actors (e.g. civil society versus business). For instance, we should ‘certainly’ find some evidence of CSOs being aware of CETA of them taking in a position and of influence (e.g. congruence) over the state’s stance, otherwise we can disconfirm their role. However, considering the ‘quiet’ tactics of business, absence of evidence is a lot less convincing here. The uniqueness and certainty of the expected evidence for each step is discussed in the prior, and is linked to the actually collected evidence in a table at the end of each mechanism.

The final, crucial step, where I need to link decision makers’ actions (setting/altering the position) with societal pressure/demands, is also the most problematic one in terms of evidence because it is unlikely to be very unique: there are other competing explanations that may produce the same ‘fingerprints’. It will therefore be hard to decisively prove societal influence. It may be easier to falsify, for instance if we can convincingly show that interest groups were not aware of the issue or did not engage in any kind of lobbying, but here too there is good reason to suspect that we’re going to be confronted with absence of evidence rather than evidence of absence, considering the quiet nature of some lobbying strategies. As the latter indicates, it will probably be easier to disqualify CSO campaigning compared to firms’ lobbying. However, the interpretation and weighing of the evidence will be modified, and hopefully be made more decisive, by the assessment of (i) the prior and the scope conditions, and (ii) the tracing of a second mechanism: autonomous decision makers’ preferences.

#### 4.2.2. State-actors mechanism

Many authors from the (EU) trade-policy literature have argued that it does not make sense to see the state as a preference-free intermediary of interest group’s demands (e.g. Alons, 2010; da Conceição-Heldt, 2011a; Gourevitch, 1986; Milner, 2013; Poletti, 2012; Young & Peterson, 2014). Even in the prototypical political-economy model of Grossman and Helpmann (1994), interest groups’ ‘bribes’ were weighed by policy makers against some (exogenously set) wish to improve ‘public welfare’<sup>79</sup>.

Societal forces obviously need to **act through the state**; at one point, some governmental actor needs to do something in order to ‘produce’ trade policy.

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<sup>79</sup> In her review of the literature, Milner notes that there is in fact a case to be made that voters’ and interest groups’ preferences matter far less than the ‘*personal preferences and ideas of politicians*’, because the former often don’t have strong preferences about trade policy, nor communicate them (Milner, 2013, p. 727).

Moreover, in some cases there will either be conflicting or even an absence of societal preferences (communicated), while policy makers may still be required to take a stance. Secondly, there is plenty of reason to assume that policy makers also have their own, 'autonomous' preferences about trade policy, in what has at times been dubbed the '**supply** side of trade policy': *'the willingness of political leaders to supply protection or liberalization, as separate from demand of it'* (Milner, 2013, p. 728)<sup>80</sup>. The terminology of 'supply' is somewhat misleading however, it implies a largely reactive process ('to what extent are whose societal demands granted?') while policy makers may also have their own specific (proactive) demands in trade policy making; even in the absence, or in spite, of interest groups' appeals.

The plausibility of this mechanism then depends on whether governments actually have trade policy preferences outside of societal pressure: are they more than passive intermediaries? What are the potential sources of such predilections, and can we really claim that they are somehow autonomous? Next, are decision makers also able to turn these preferences into policy? To what extent are they forced (or willing) to yield to pressure from below? Below, I explore some of the theoretical ideas that can help us answer these questions.

But first, some clarifications

A first questions we need to answer is: **whose preferences**? Following Adriaensen (2014), I have placed my focus firmly on the executive. In EU trade policy, much like in the rest of EU politics, the role of the parliaments is extremely circumscribed; even on issues where the competence is not exclusively supranational, the government is the primordial actor. This is also the case in the countries I investigate. The legislature can (in principle) be influential, but only indirectly, through the executive. In my research, I treat the parliament as an exogenous force: it can transfer societal pressure or exert party-political force, but it does so from 'outside' of the actors I'm studying in this mechanism: ministers and 'their' civil servants<sup>81</sup>.

Secondly, I need to clarify what I mean with the '**autonomy**' of decision makers. My interest in policy makers' role as independent actors whose positions do not necessarily derive from societal pressures is of course threatened by endogeneity. The electoral, ideological as well as material concerns of policy makers in a certain dossier (discussed below) were perhaps not produced by immediate pressure from societal groups, but they may have still resulted from such input that was given in **the past**. Alternatively, policy makers might be **anticipating** a response from societal groups if they pick a certain position<sup>82</sup>. I have tried to circumvent this problem in the following way. I have chosen to consider positions as 'autonomous' in a very restricted sense: all positions that resulted without interest groups' pressure, or which can be plausibly argued not to have resulted from such input, *during the period and the cases under scrutiny*. If policy makers are anticipating a response from such groups, or if positions were in a previous 'phase' (some other time, some other

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<sup>80</sup> Milner again phrases it in the protectionist/liberal schematic, but it also applies (indeed, even more so) to the non-traditional politics of IPR, services, et cetera, where there is substantially more complexity as well as more normatively charged deliberation about the goals and legitimacy of interventions.

<sup>81</sup> And diplomats, although their functional role within the state apparatus may sometimes be a little different, I include them in this larger group of 'civil servants'.

<sup>82</sup> This again relates to the structural power of certain groups (notably business) in determining policies without having to communicate at all.

dossier) the result of societal pressure, I will still consider this an autonomous preference for my purpose, because this kind of societal influence is at this time only taking place within the heads of governmental actors<sup>83</sup>. I discuss the extent to which we can reasonably distinguish between a position that is derived from a 'tainted source' from those that are the result of more direct lobbying in the cases.

Finally, let me restate **my theoretical intentions** for this section. In order to make credible the story that a policy maker's preference determined a state's position, especially when there was a similar demand from business or civil society, I believe we need to be able to point to some plausible non-societal sources for this stance. So my interest here is mainly in thinking through a number of such sources, rather than being interested in testing which of these factors (e.g. ideas, interests) was the chicken, and which the egg. As I show below, this means I will only theorize this quite shallowly.

#### 4.2.2.1. Sources of preferences

**Why would policy makers care about trade policy?** Milner has argued that this is a gap in the current literature: '*[Our] models of policy makers' preferences seem the most underspecified and post hoc. Why are some policy makers more favorable to protectionism than others, why and when do their preferences change?*' (Milner, 2013, p. 728). Some have tried to construct (micro-foundational) models of policy makers' preference, but these have either remained too unrealistic or too ad hoc, and drew too heavily from the experiences of the United States (Ethier, 2011; Gawande & Krishna, 2003)<sup>84</sup>. However, there is in fact some literature that can help guide us, even in the more specific setting of EU trade policy. Building on the work of Van der Vleuten (2001), Alons has distinguished between three dimensions of state interests: **political, economic and ideational**<sup>85</sup>. I will use a modified version of her theoretical framework, along with the **comparative administrations** approach utilized by Adriaensen (2014), and some insights from the general literature of decision making theory.

The first dimension can be summarized as '**political**' **self-interest**. Governments (as well as individual parties and ministers<sup>86</sup>) care about their survival; they usually want to remain in office, and they usually intend on winning the next election. This means that governmental actors are susceptible to a number of pressures, first and foremost an **electoral** one. Some of the classic trade-policy models were based around this idea. Mayer's 'Median Voter' approach (1984), for example, assumed policy was determined by direct voting, and would therefore reflect the desires of a

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<sup>83</sup> Or not, of course, they may also have forgotten about the societal source of the position they're defending.

<sup>84</sup> Governments ('the supply of protectionism') aren't sterile actors that weigh their own, exogenously determined preference for 'social welfare' against bribes from rent-seekers (Lake, 2009). These models are often too reductionist to be of any real use, or do not offer realistic prognoses. In Ethier's words: they have not successfully resolved the trade-off between 'black box' and 'cognitive dissonance' issues (Ethier, 2006).

<sup>85</sup> She separates state (the state as an international actor) and government (the elected executive) preferences, but I will abandon this distinction here because it's less suited for my purpose. I also do not believe it would have been feasible to try and maintain this kind of distinction in practice, given that the same actors (at least to a large extent) have to represent both State and government preferences.

<sup>86</sup> It can also spread to civil servants and not just elected politicians, of course, since the latter will exert control on the former; civil servants' jobs may also be dependent on the electoral fortunes of their political chiefs - this depends on the way the bureaucracy is set-up.

'median voter' (Gawande & Krishna, 2003). This political dimension also has a **party-political** aspect: political survival in many cases does not just depend on electoral swings, but also on intra-governmental and even intra-party politics. Some examples: a party can start politicizing trade issues to wrestle for its space in the spotlight, or it may acquiesce on certain trade political issues to prevent intra-governmental conflict; an individual minister may also use trade as a whetstone to sharpen her electoral profile. My unpacking of this dimension in the cases will remain relatively limited, and I will not further theorize about it here. The above two dimensions of political self-interest are modified by the **structural characteristics** of the political system: whether there are coalition or majoritarian governments, the size of voting districts, party system, ... . These and other such elements therefore also play a role, apart from numerous more ad-hoc determinants, because political institutions will co-determine how political power is conquered and maintained (e.g. Kono, 2009; Milner, 2013). Again, I will not delve much deeper in this on a theoretical level, but I will pay attention to these issues in the case studies themselves.

Secondly, related more directly to the substance of trade policy, the executive may believe that it has **economic or regulatory interests** that need to be promoted. As Alons (2010) argues: the state wants to safeguard its economic interest because economic wealth is central to both the state's power in the international domain as well as the governments' short-term survival, since the electorate cares about economic developments. However, I believe that, even though it's safe to assume that most trade policy makers care about aggregate economic developments, the precise contents (ends, means) of this 'interest' is very open-ended and can perhaps not be deduced so easily; certainly not in relation to less traditional trade policy. Standard trade theory would claim that for most countries (especially the small states I'm investigating), supporting free trade is the most beneficial option (Pomfret, 2008), but these models have been debated endlessly, and in the 'real world' policy makers may be working from a far more mercantilist paradigm (Fairbrother, 2010). So although conventional trade theory offers some guide towards making a kind of 'informed guess' about what a state believes its economic interests are, this is only second-best (especially in non-traditional trade policy), and we will in practice need to check how the policy-makers involved thought about what *was* and about what *would aid* the national economic interest<sup>87</sup>. Again, it is possible that they do so independently from societal pressure: statistical research, reports, but also economic theories and other ideas about the material interest of 'the country' can all play a role here<sup>88</sup>. This brings us to the normative/ideological sources of their preferences, which I discuss below, but also again to the notion of **uncertainty** and **states'**

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<sup>87</sup> See for example Fairbrother (2010), who in his study of NAFTA showed that even (Mexican/US) supporters of free trade from within business or politics seldom understand let alone mention neoclassical trade theory; they actually hold views that are closer to the zero-sum paradigm of mercantilist thinking, seeing imports as a necessary cost of exports and approaching free trade as a tool for improving competitiveness in the global fight for jobs and profits.

<sup>88</sup> This distinction for me is purely practical, because it is clearly all part (in a very broad sense) of the world view of policy makers: they need to 'know'/'believe' that their 'task' is to improve aggregate economic well-being, about which they may have certain ideas that are not linked to political pressures. But what is seen as an 'economic reason' may differ across actors within the state, who may have different incentives but also different economic theories to go by; for example between a minister that cares about a specific firm's survival because of the electoral fallout its bankruptcy may produce versus a civil servant that sees said failure as part of normal, wealth-inducing competition, versus another one that believes the bankruptcy is threatening to erode the industrial fiber of the economy.

**analytical capacity.** Consider a state that wants to defend some vulnerable sectors, while opening up competitive branches. Clearly, it will be required to actually know which sectors are (potentially) vulnerable and which are (potentially) competitive. Adriaens (2014) has underlined the importance of states' ability to perform analyses, to gather info, to perform impact assessments: *'The quality of input brought into the policy process and the manner in which such data has been critically assessed and aggregated determines to a large extent whether an administration can accurately derive their interest in a trade negotiation'* (Adriaensen, 2014, p. 108). I have followed the example of his 'pilot' studies of trade administrations' capacity by trying to also gauge the human resources of the executive, as well as by delving in to the substance of the analyses and information-gathering they performed. Arguably, this uncertainty is even greater in deep trade politics, and thus states' **regulatory interests**; here, the economic and distributional consequences are even more precarious, and are further mixed with technical and normative headaches (Lang, 2009; Young & Peterson, 2014).

This brings us to the **ideological dimension** of policy makers' preferences. Politicians, but certainly also civil servants, have their own mental models about how the world functions, about what works and doesn't, about their goals and interests in trade policy making, about what's right and wrong (even if these may be very implicit) (Alons, 2010, 2013; Milner, 2013; Rodrik, 2014). In the societal section, I discussed this in terms of the 'strategic selectivity' of the state, hindering or favoring particular societal queries, but the worldviews of politicians and civil servants can also directly impact policy. The shapes and sources of these beliefs can be diverse, and **do not have to be economic**. They may also include a plethora of other considerations, including **foreign policy** (broadly considered). For example decision makers may resist agricultural opening because they think this will disfigure the countryside, they may agree to services liberalization because they believe this will lead to more productivity and thus employment, or they may support BITs because they think economic interdependency will facilitate world peace. These beliefs are more than the intermediary between (conflicting) societal demands and policy, they can be autonomous and independent, emerging from a wide variety of sources: party ideologies, the zeitgeist, normative political theory, religious beliefs...<sup>89</sup> A variety of these mechanisms have been discussed in the literature, but as I explained above, I will not attempt to further unpack them except in the empirics of my case, where I will include them in my search for potential sources of decision makers' preferences; again, the reasons given will be scrutinized to the extent that I want to see to what extent they are detached from immediate societal demands.

Finally, I would like to end by highlighting some insights which have also inspired the principal-agent literature, the role of **'bureaucratic' interests** and 'stickiness'. (i) Public choice theories (building on the classic works of Niskanen (1971) emphasize how civil servants can also have their own interest at heart: they might support

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<sup>89</sup> As Alons (2010) notes: in democracies, the *'policy principles and paradigms'* that guide governmental action can change after elections, but *'a change in government can lead to a paradigm shift, affecting the domestic ideological considerations of a State, without actually changing national identity'*. The concept of a national identity underlying state preferences may be a tricky one if it's detached from more 'meso' level, observable social 'things' such as ministries passing on certain ideas about the national interest, parties in power, interest groups using very similar discourses over time, etc. Without such grounding, a 'State' identity may turn into an essentialist-reductionist notion, with dubious explanatory power.

certain policies because these will lead to them getting more budgets, more autonomy, more power, et cetera. I.e. a substantive policy position can derive from an underlying preference for guarding and expanding their own competences and resources (Devos, Lannoo, Ossenblok, Rommel, & Van Liefferinge, 2012; Heywood, 2013). We don't need to share the quite negative evaluation of 'bureaucrats' embedded in this literature to appreciate the general insight that civil servants can care about their turf. Politicians as well as civil servants may also be guarding their competence because they think that other departments would mishandle the policy. This leads me to another aspect explored by Adriaensen (2014), linking the bureaucratic theories with the ideational dimension discussed above: '**where you stand depends on where you sit**'. Different public bodies (ministries, agencies, ...) can have differing positions because of their specific institutional context, e.g. a ministry of foreign affairs will take other things into consideration than the ministry of health or that of economics. Therefore, '*knowing which ministry assumes authority over trade can foster greater understanding of the internal policy formation process and ultimately the positions taken*' (Adriaensen, 2014, p. 101).

This means we also need to take into account the ways in which policy is **coordinated**: how are competences distributed, how are internal conflicts resolved, who gets so say what where, and ultimately: whose 'internal' position (which minister? Politicians or civil servants? In the Belgian case: which government?) eventually determines the state's position? In the empirical sections, I will pay attention to the preferences of these various, competing executives, and the ways in which they had to coordinate (or perhaps compete) to produce a single 'state' position.

The last element that belongs in this section is another staple of classic decision making theories: the role history, of ways of doing things, of past decisions, of the costs associated with changing trajectories; the possibility that policy makers are not putting that much effort into analyzing every (or any) alternatives or updates for the position they developed at an earlier time, and are in effect just **muddling through**: '*this position holds that, in practice, decisions tend to be made on the basis of inadequate information and low levels of understanding, and this discourages decision makers from pursuing bold and innovative courses of action*' (Heywood, 2013, p. 376). This perspective has seldom been applied to trade policy, with the exception of a very limited amount of work under the far more specific banner of (critical) historical institutionalism. For example, De Ville's argued that '*every major trade policy evolution since the Uruguay round has been a reaction or counter-reaction to past trade policies*' (De Ville, 2013, p. 628). Similarly, Tony Heron has pointed out the '*path dependent process of the multilateral agreement on textiles*' (Heron, 2011)<sup>90</sup>. The conception that I propose is somewhat different: civil servants and politicians will often prefer to auto-pilot their way towards a position, especially if the subject matter is not (currently) very salient or similar to other issues, *a fortiori* if this prior position was somehow codified in the form of an official position, a strategy, an internal agreement, et cetera.

In summary, a number of potential sources has been posited: (party-)political calculation, economic, foreign policy and normative considerations, the analytical

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<sup>90</sup> As De Ville (2013) points out, much of the institutionalist literature about trade politics is fundamentally akin to historical-institutionalism in this way, even if they don't mention the 'approach': they study the constraining effects of past institutional and policy choices.



capacity of the state, bureaucratic politics and coordination, and the stickiness of past positioning. These are all containers of many other theories, but I will not further unpack them. Instead, in exploratory fashion, I will leave them vague and inductive: a variety of considerations may shape decision makers' preferences in trade, and my search for such sources was guided by theory, but I let the empirics of my cases fill in the specifics. At most, I scrutinized the reasons given by my respondents in order to check to what extent we can say they these case-specific forces were plausible, and independent from societal pressure. My questions and queries have been guided by these theories, but my discussion of the latter has in turn been fed by findings or hunches driven by the empirics of my case (for example analytical capacity, or the role of party-politics).

#### 4.2.2.2. Constraints and influence

How does this preference mutate into our outcome? Of course, in the end, all policy makers need to do is 'make the policy'; in the abstract, the government gets to set its own position, there are no more intermediaries. It's where the buck stops. However, the literature has outlined a series of contextual factors which may lead an executive to abandon its own preferred position in favor of another actors'. To some extent, these are the mirror image of the societal theories discussed before: the stronger and more unified the preference voiced by interest groups, the more likely that a state will yield. However, this is of course not deterministic, and a government can also try to counter the pressures being exerted by such actors.

##### *a. Constraints*

**(i) Societal mobilization and politicization.** The stronger the mobilization by societal groups (whether on the 'inside' or in noisy campaigning), the lower the room for maneuver for trade policy makers (see, amongst many others, Alons, 2010; Culpepper, 2011; da Conceição-Heldt, 2011a; Poletti, 2012; Young & Peterson, 2014). **Mobilization** encapsulates both 'inside' as well as 'outside' activity, i.e. campaigning as well as lobbying. In addition, the stronger the **scrutiny** of an issue in the press, in the parliament, among the electorate, the higher and the more vocal the 'public' positioning in a dossier, the harder it will be for the executive to do what it wants. Apart from the strength of its mobilization, it's also important to what extent society is **unified**: governments will find it harder to deal with a large, one-sided campaign than with a heterogeneous group voicing numerous, conflicting demands. The more conflicts among the public, the bigger the leeway for policy makers to do as they please. In sum: *ceteris paribus*, government preferences will matter most when societal groups are either absent, very divided, equally as strong or unable to mobilize (*ibid*). However, note that high salience need not necessarily be the result of outside lobbying, there are many other factors that can catapult something to the top of the political or public agenda. The constraining effect may be similar, especially if it is one-sided.

**(ii) Domestic softness.** This corresponds to the scope conditions for successful societal lobbying/campaigning discussed in the previous mechanism. The more access points, the stronger the parliament and the stronger the institutionalized system of interest group intermediation, the more difficult it will be for the state to

resist the claims of societal groups. Again, the role of the parliament need not be related to interest group lobbying, but may be autonomous in its own right.

**(iii) External (foreign) pressure.** Finally, there are other than domestic pressure which can force a state to abandon or alter its position. For instance, if a member state fails to get the rest of the Council to veto agricultural liberalization altogether, it may need to devise a position on the precise changes on tariffs and quotas that the Commission should strive for. More directly, the negotiating partner (or, in the case of anti-dumping: the targeted country) might in various ways exert direct, bilateral pressure on a state to alter its position in the council. Again, Alons (2010) has adapted the existing international relations' literature to focus on states' domestic (and ideological) versus international (and political/economic) concerns (see also Milner, 2013, p. 507). She argues that in a more uncertain (multipolar) system, the state will be more likely to prioritize the latter interests over the domestic (ideological) dimension. I will once more deal with this pressure as an exogenous external factor, which can emerge in various ways and may or not be successful; however, I will again not theorize this much further, beyond a number of plausible heuristics: small states are weaker than big states, third states that are of economic (lots of trade, investment) importance will have more leverage, and member states will not enjoy being isolated within the EU and will eventually yield unless they are big or if the issue is a huge concern to them. These will guide my investigation of the case-specific ways in which external pressure may have forced decision makers to abandon their preferred position.

## **b. Influence**

Although the above determinants can constrain governments, they do not necessarily determine their position; states can always choose to incur the political and material costs of ignoring them<sup>91</sup>. Moreover, they can also put in 'work' to counteract such pressures: they can try to build coalitions with actors that share their preference, they can debate their opponents or reduce their access to decision making arenas<sup>92</sup>, or in other ways try to loosen the apparent constraints created by societal mobilization and external pressure. Some of this 'work' put in by the trade administrations or their political chiefs can in turn be used as evidence that they had (autonomous) preferences. This is discussed in far more detail in the empirical sections.

### 4.2.2.3. Hypothetical mechanism

#### **a. The mechanism**

Because I have less detailed theories and mechanisms to base myself on, but also because the core mechanism which I'm interested in is inherently more 'brief', the mechanism I'm presenting here is quite simple and intuitive, leaving a lot of space for inductive elements. For the statement, 'policy makers preferences determined the

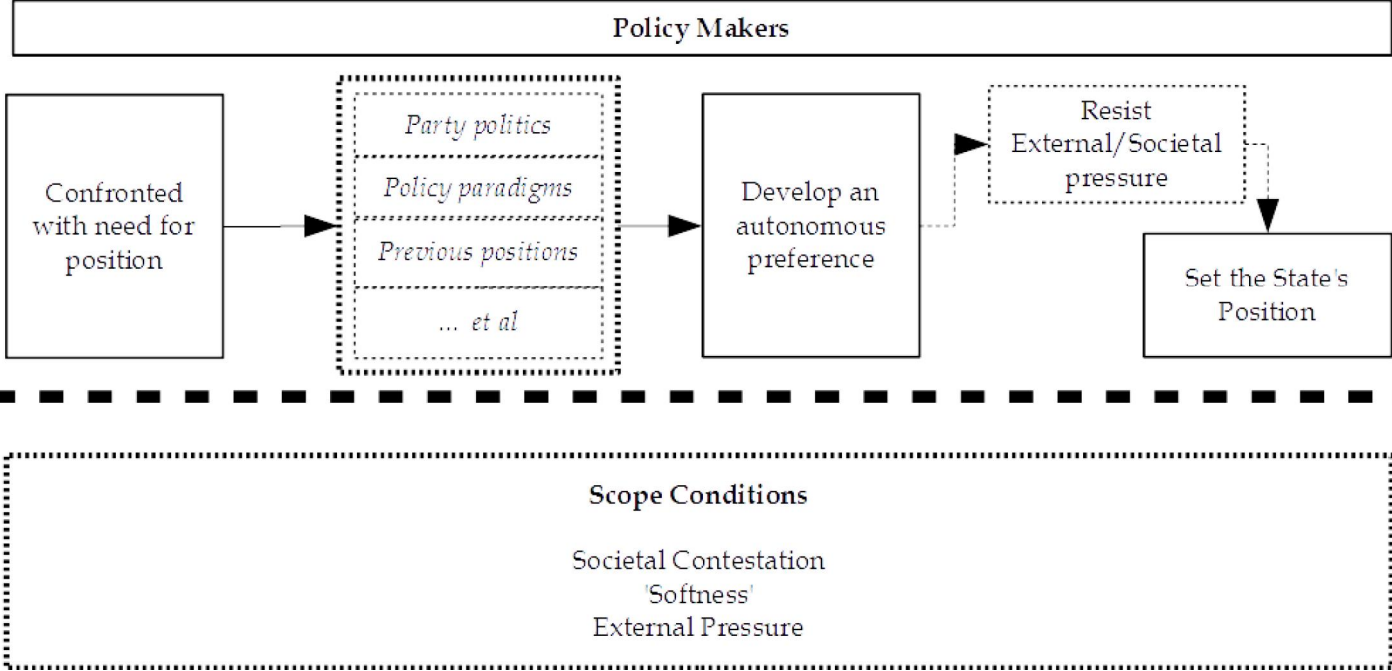
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<sup>91</sup> This is also implied by Alons: 'I therefore emphasize the role of governments in selecting a preferred policy option within constraints which are not only political in nature (e.g. farm lobby pressure). Instead, I assume that a government will defend the policy option which it deems to be the most attractive from the perspective of its political, economic and ideational interests' (Alons, 2013, p. 505 my emphasis).

<sup>92</sup> For example, the Commission 'manages the access' of various lobby groups, giving more space and entry to groups that support the Commission's trade preferences (Elsig, 2010).

position of their state on a trade policy issue’ to make sense, I believe we need to see the following steps.

First, executive actors needed to **acknowledge the existence of the policy** (CETA, anti-dumping), somehow becoming aware that this was indeed something that they needed to position themselves on. This includes them working proactively towards, or being involved in, the start-up of trade negotiations or the anti-dumping investigation.



Then, we need them to **take in a position** regarding the policy, e.g. in internal communications, in press releases, in the setting of the country’s TPC members’ mandate, et cetera. Since I’m interested in **‘autonomous’ preferences**, I will then investigate the sources of policy maker’s positioning: did they perform studies? Consult with stakeholders? Did they just copy the state’s previous positions? Did they have some party-political, ideological, or material reasons for coming to a certain stance? Again, the potential sources are manifold; I have focused on the ones that were most salient in the theoretical literature, as well as a few that seemed especially relevant in the context of a given case. The main point is that I need to find some plausible sources (i.e. reasons) for why their role was not that of (i) idle bystanders or (ii) passive transmitters of societal preferences.

Next, they would need to do some kind of **‘work’** to turn this preference into the state’s position: if there is pressure from external actors (other states, the Commission) or civil society they might need to counter or circumvent this in some way, and they might need to negotiate or deliberate with other (domestic) executive actors as well. As I indicated above, ignoring such pressure and just setting the state’s position they prefer can also be considered part of this step. If successful, this then leads to them **tuning the state’s position** in line with their ‘autonomous’

preference<sup>93</sup>. It is more likely that they succeed at this if the state is less 'soft', if there is no or weak external pressure, or if the societal mobilization is weak or divided.

### ***b. Some clarifications***

Note that '**preferences**' here does not necessarily mean that the policy-makers had some deep-seated desire for a certain position. It just means that they somehow decided that their state should put forward a certain position. There were limits to to which I further unpacked this: what reasons did they themselves believe they had, and do I think this was plausible? Just like in the societal mechanisms, I discuss multiple positions on a variety of subjects, across (certainly in the Belgian case) a variety of relevant and potentially influential executive actors, which to a varying extent can be said to be autonomous, and to a varying extent end up determining the 'outcome'.

Although it is not part of the mechanism as such, I will also be discussing **whose preferences** are 'successful' **within the executive**. I will not be spending much time unpacking this or theorizing about who is successful and why (i.e. I will mostly be taking my sources at face value and will here be more interested in the outcome than the process), but I believe it is of interest to our understanding of domestic trade politics if we also have some idea of whether this was a process driven by politicians or the civil service, by the ministry of finance or that of foreign affairs, or (in the Belgian case) by sub-state government A or B; i.e. to what extent different executive actors differed, **how they coordinated**, and whose position ended up in the TPC. It is also relevant for our investigation of the 'sources' of the state's preferences, as well as for our analysis of various of the scope conditions; for example, the degree of receptivity and 'softness' can differ across executive actors.

It's important here to also note that that societal pressure is not only considered successful if it changes the state's position *counter* to the preferences of civil servants or politicians, but also if it alters the position in a way that is in line with the 'autonomous' preference. For example, if the state is in favor of more openness in the food sector but does not have a very sector-specific position here, and is then nudged by the dairy industry which tells the government that they would like to see specific third-country rules being tackled, leading to the state changing its generally supportive attitude into a more concrete position targeting said regulations, then this is an instance of **successful lobbying building on an autonomous preference**. Allowing for such complementary influences is one way in which I will try to disentangle societal from state preferences; but even in these cases, I am still interested in finding out (to the extent this is possible) which elements of the position were 'societal' and which derived from executive preferences.

### ***c. Evidence***

The presence of these various steps can be tested by looking for (*inter alia*) the following evidence:

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<sup>93</sup> Which may or not be successful at also becoming the EU negotiating position, this is of less immediate relevance for me.

**\*Sequence evidence:** the state taking a stance on issues before receiving any input from stakeholders; lack of change of policymakers' positions even after contact with stakeholders

**\*Trace evidence:** attempts of policy makers to influence positions/activity of stakeholders; policymakers arguing with stakeholders; policymakers' performing analyses; policymakers debating amongst themselves about aspects of the FTA; policymakers taking a stance on aspects of the FTA; intensity of contacts with stakeholders; lack of change in positioning over time.

**\*Account evidence:** policymakers/stakeholders/internal documents attributing state's position to policymakers' own analyses/ideology/..., stakeholders claiming they had little influence/access (*in private conversation, an interview, in the press, public statements*)

**\*Pattern evidence:** correlation between contacts and changes in position, previous patterns of (lacking) societal influence on decision makers ...

Again, the uniqueness and certainty of the evidence that we may expect each step of the mechanism to produce varies across the steps, but also across issues (e.g. position on anti-dumping versus position on sustainable development in CETA). Here too, the interpretation and weighing of the evidence will be modified, and perhaps be made more decisive, by taking into consideration (i) the prior and the scope conditions, and (ii) the traces of the previous mechanisms.

After performing each of these 'checks' of the mechanisms, I will then try to produce a synthesis, an overlapping explanatory narrative where I combine the two mechanisms, using counterfactual thinking to plug the gaps and to draw some broader lessons.

## Part Two – Tracing the Politics of Trade

**The empirical half of this PhD is structured as follows.**

I begin by discussing the background of CETA and solar: the EU-level politics, the issues involved, the timeline. Then, I investigate the domestic politics of these cases in Belgium and the Netherlands, beginning with the latter country. First with an introductory chapter on the politics of trade in the respective country, followed by a separate chapter for each country-case combination. These country-case chapters in turn subdivide into separate analyses for each mechanism.

## 5. Introduction To The Cases: CETA And Solar

In this chapter, I will sketch out the background of the trade policy dossiers about which Belgium and the Netherlands formulated positions. Beginning with CETA, I will give a brief historical background, an overview of the EU-level developments, and a summary of the outcome.

### 5.1. The Comprehensive Economic and Trade Agreement

In the nineties and the early 2000s, Canada and the EU had negotiated a wide array of sectoral agreements, on issues such as customs regulations, veterinary rules, competition and research. After the turn of the century, they started thinking about uniting these with a bigger, comprehensive agreement. In 2005, negotiations started for the Trade and Investment Enhancement Agreement, which covered a number of issues that would also return in CETA, such as regulatory cooperation, procurement, financial services and intellectual property rights (IPR). Because Canada refused to also include its provinces in the agreement, the EU backed out of the talks in early 2006 (Woolcock, 2011)<sup>94</sup>.

In the years that followed, Canada actively lobbied for a reboot of the negotiations, at the EU level but also among several member states – notably Germany, France and Denmark. This eventually paid off, and the EU and Canada agreed to start work on a joint study in June 2007 (Woolcock, 2011). In 2008 this report was published; it looked at the potential merits of negotiating a bilateral trade agreement. Some highlights of the study include:

- The EU-Canada trade relationship '*appear[ed] to be significantly under-traded*', because EU trade with Canada was only about the size of that with India, while the Canadian economy was one and a half times larger.
- Their mutual importance was **asymmetric**: in 2006 Canada was the EU's 11<sup>th</sup> largest partner (about 2% of EU trade in goods), and it had decreased in importance since 2002. The EU's importance for Canada, in contrast, had grown. They were both important investment partners though: the EU was Canada's second biggest source of FDI, Canada the EU's fourth largest source. Within the EU, the **UK and France** had the most developed economic ties with Canada.
- Both the aggregate as well as the sectoral effects were expected to be far **greater (in percentage terms) for Canada than the EU**
- For the EU, the largest sectoral **output gains in percentage terms** were expected in processed foods, leather and apparel products, beverages and tobacco products and

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<sup>94</sup> Canada is a complex federal state, and the competence for trade is in various ways spread across its provinces and territories. Much like the US, hundreds of internal non-tariff barriers hinder domestic trade. Egan & Guimarães (2017) offer the example of transportation services: '*truck drivers shipping goods from a coastal port to Central Canada, may have to stop several times at provincial borders as different jurisdictions don't agree on when certain trucks can be driven, how goods should be loaded or even what tires are required on grounds of safety requirements*' (p. 4). Canada has tried to combat these internal trade barriers by negotiating intra-Canadian trade agreements; the 'Agreement on Internal Trade' of 1995 was replaced by the far more comprehensive Canada Free Trade Agreement (CFTA) in 2017 (Egan & Guimarães, 2017).

chemical products. Its services sectors would also expand. In **value terms**, processed foods, machinery and equipment and transportation services stood to gain, as well as motor vehicles and parts, domestic trade, insurance and consumer services. In the aggregate, an annual increase by 2014 of approximately €11,6 billion was expected (**0,08% of GDP**), strongly driven by services liberalization as well as 'dynamic' productivity effects.

- A consultation of **stakeholders** generated broad agreement that closer economic ties would be beneficial.

In a next step, the parties then commenced their 'scoping exercise', looking at which topics might be up for negotiations. This led to an important commitment by Canada to also include the provincial and territorial levels in the negotiations. Meanwhile, the Commission started working on a Sustainable Impact Assessment (published June 2011), again consulting some 350 civil society organizations, trade associations, academic institutions and government agencies. Eventually, based on all of this input, the Commission drafted a mandate and recommended the Council to begin negotiations (Hübner, Balik, & Deman, 2016). In the fall of 2009, the first round of negotiations was launched (Agence Europe, 2009)<sup>95</sup>.

For the EU, this was the first time it would be negotiating with one of the developed 'quad' countries, although in many ways it was the continuation of the EU's development towards negotiating ever more 'comprehensive' FTAs. For example, the 2009 FTA with South-Korea had also removed almost 100% of all tariffs, and had included services as well as IPR and regulatory/technical barriers to trade (Woolcock, 2011).

### 5.1.1. The negotiations

In 2010, after five rounds of talks, then trade commissioner De Gucht commented that he believed the deal should be closed before the end of 2011. Some difficulties remained in relation to shipyards and supply management, as well as geographical indications and potential imports of Canadian tar sand oil (Agence Europe, 2010b). **Services liberalization** was another important sticking point. Canada had requested that the EU abandon its usual approach to services liberalization, which made use of a so called 'positive list', in favor of a 'negative list': instead of only opening up the sectors explicitly mentioned in the deal, all services would be liberalized unless explicitly excluded. The Commission was in favor of such an approach, but several member states were skeptical. They had particular difficulties with the Commission's proposal to also modify its usual 'horizontal' reservation in public services (Fritz, 2015)<sup>96</sup>. Although this reticence was eventually overcome, the negotiations still

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<sup>95</sup> In July 2009, Canada also joined the ACTA negotiations which had begun in 2008. Other participants included Australia, Canada, the EU, Japan, South-Korea, Mexico, Morocco, New Zealand, Singapore, Switzerland and the USA.

<sup>96</sup> In the General Agreement on Trade in Services (GATS) of 1994 and in many bilaterals that followed, the EU included a 'public utilities exemption', which protected member states' right to uphold monopolies in certain sectors, or to grant them exclusive rights. This applied not just to water, waste treatment, etc, but was also referred to in the reservations on transportation, social and health services and cultural services. The traditional clause reads: '*services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators.*' It only applies to mode 3: commercial presence. In CETA, it is included in the EU's Annex 2 reservations (Krajewski, 2016).



missed De Gucht's optimistic deadline: in **2011, the mandate was enlarged to also include investment.**

Meanwhile, the Treaty of Lisbon had entered into force and from December 2009 on the **European Parliament** started more closely scrutinizing the negotiations (Bierbrauer, 2014). In a resolution in May 2010, the European Parliament called for a speeding up of the talks; GUE/NGL protested against the negotiations (Agence Europe, 2010a). In another resolution adopted mid-2011, the EP welcomed the progress made, but also formulated a series of problems with the negotiations, notably in relation to the opening up of procurement to the provincial and territorial level, tar sands' oils, IPR and trade in seal products. It also declared that it preferred state-to-state dispute settlement over ISDS. All in all however, the EP did not formulate any fundamental objections to the negotiations (Agence Europe, 2011; Jessen, 2017).

Although in April **2012** the EU and Canada were still aiming to conclude the talks that year, claiming '75%' of issues had been resolved (Agence Europe, 2012a), a number of tricky parts remained. These were mostly related to some of the EU's offensive interests: the bloc wanted the Canadians to go further on **rules of origin, public procurement** and **services** and **investment** (Agence Europe, 2012d). By October it was clear that the deal would be closed in 2013 at the earliest; according to Agence Europe, the **six 'sticking points'** at that time were IPR (including pharmaceutical patents and geographical indications), public procurement, investment (in terms of both market access and protection), services (financial services, cultural services and mode 4 provision), the automotive sector (including rules of origin, quotas and standards) and the chapter on agricultural market access' (Agence Europe, 2012b).

Although the EU was reportedly eager to close the CETA deal before starting up its TTIP talks, **new difficulties emerged in 2013** (Agence Europe, 2013h). In January the parties again failed to reach an agreement, because the EU felt that Canada was demanding too much market opening in meat (notably beef and pork), while the EU was not getting enough in return in dairy (particularly cheese). Other remaining difficulties (still) included **rules of origin** in cars and textiles, the EU's push for a two year increase in the protection of drug patents in Canada, and the EU's demand for more opening in telecommunications as well as the energy sector (Agence Europe, 2013j). **Beef and dairy** quotas again led to a failure of the talks in February (Agence Europe, 2013g), along with remaining issues in **pharmaceuticals** and public transport (Agence Europe, 2013f). In April, Ottawa requested an exemption on **financial services** from the sections on investment protection arbitration (Agence Europe, 2013k), and although the automobile chapter was resolved that same month, financial services, pharmaceutical patents, and meat and dairy quotas remained major hurdles throughout the spring and summer (Agence Europe, 2013l).

Eventually, it took an intervention by Canadian prime minister Harper and Commission president Barroso to break the impasse (Agence Europe, 2013a). On **18 October 2013, they reached an agreement 'in principle'**, although some legal and technical issues were still left unresolved (Agence Europe, 2013b). These issues, which included the rules of origin on cars, investment rules and the management of

agricultural quotas '*proved more difficult than expected*', and negotiations at the technical level continued well into 2014 (Agence Europe, 2014b).

At the same time, there was **increasing mobilization by civil society organizations** over the system of investment arbitration, investor-state dispute settlement (ISDS) and TTIP; this contestation eventually also spread to CETA (Agence Europe, 2013c, 2014a, 2014c)<sup>97</sup>. This meant that, although the management of agricultural import quotas was resolved in June-July 2014, the deal again entered troubled water because of ISDS, as this became an increasingly controversial topic among the member states as well. Germany in particular, in which the protests were especially pronounced, voiced new criticism of the system (Agence Europe, 2014e). The same dynamic was present in the European Parliament, where many members had become increasingly critical of the accord, notably because of the investor-state system; on the face of it, this potentially imperiled parliamentary ratification (Agence Europe, 2014f).

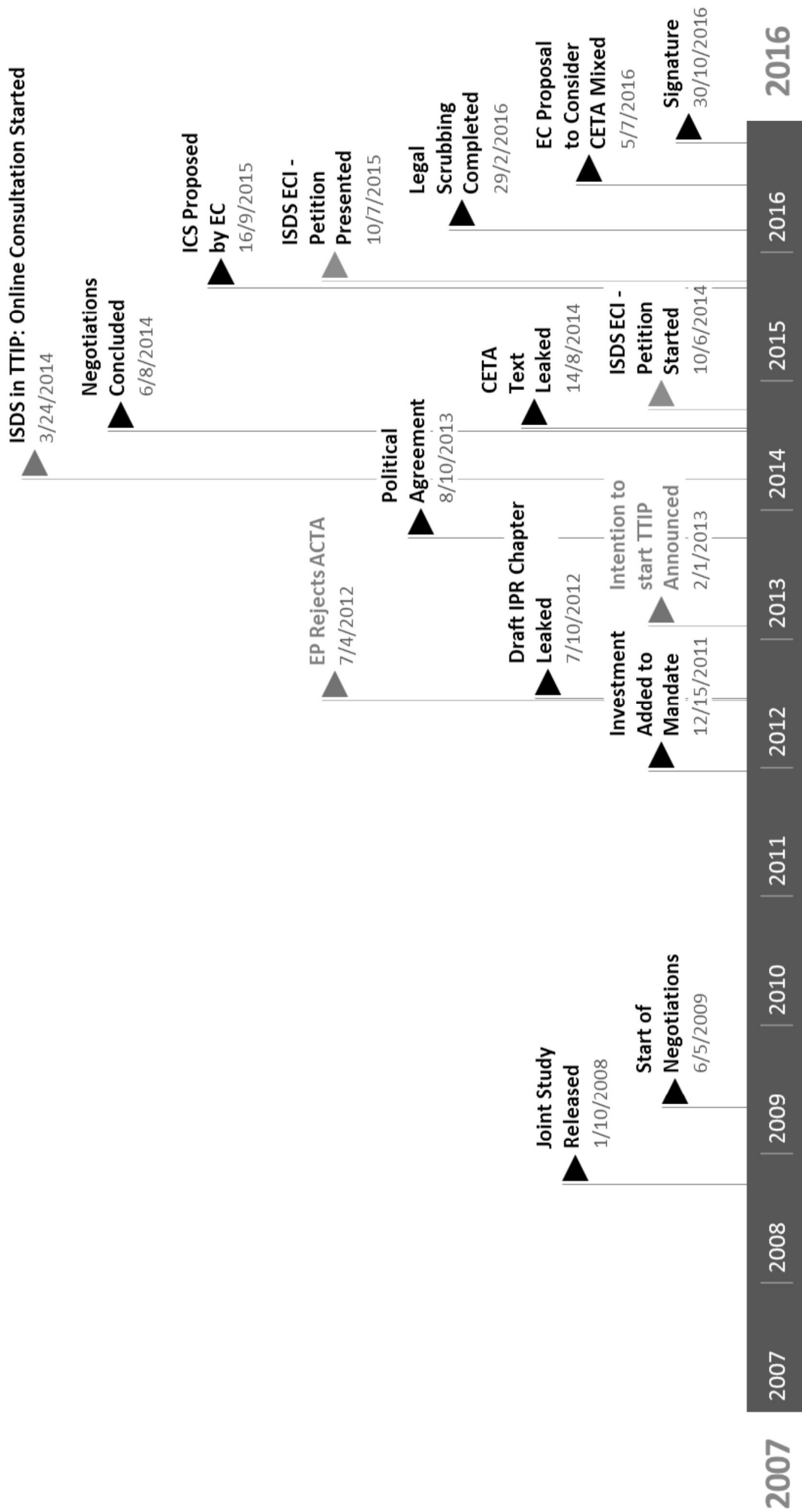
Nonetheless, at an EU-Canada summit in Ottawa on **26 September 2014**, CETA was '**concluded**' (Agence Europe, 2014h). However, the campaign against CETA/TTIP kept swelling, and the **worries in the Council over ISDS** did not disappear. One of the first tasks of the new Commissioner for trade, Malmström, was to meet with Berlin over investment arbitration (Agence Europe, 2014g). In January 2015, France's Matthias Fekl and Germany's Sigmar Gabriel<sup>98</sup> jointly asked the Commission to re-assess the ISDS system, citing the public contestation that was evident in the responses to the Commission's public consultation on the matter (Agence Europe, 2015a). In response, the Commission then proposed a series of changes to the system, namely the creation of a permanent **investment court** and the installing of an appeal mechanism (Agence Europe, 2015b). The Commission's reform proposals were generally met with approval in the Council (Agence Europe, 2015c), and talks with Canada commenced on how they (in the 'legal scrubbing' phase that had commenced after the deal's signing in 2014) could adapt the system without opening the rest of the treaty to renewed negotiations.

In February 2016, there was agreement on the new approach to investment arbitration. With this, the **legal scrubbing process was ended** (Agence Europe, 2016a). The final text was published on 29 February 2016.

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<sup>97</sup> This was despite the fact that CETA, according to some, in 2014 already included an ISDS system that was in many ways an improvement over the ISDS system found in many BITs, integrating various of the critiques these deals had accumulated over the years (Bierbrauer, 2014).

<sup>98</sup> Together with a number of other countries (including the Netherlands). They outlined four problematic dimensions: the right of states to regulate, the functioning of arbitration bodies, the relationship of the mechanism with the national judicial systems, and the appeal mechanism



However, in the meanwhile **new headaches** had started emerging. In May 2015, Greece had suddenly requested the addition of a geographical indication protecting feta cheese, an issue that was re-negotiated well into 2016 (Agence Europe, 2015d, 2016m). Then in April 2016, in response to a resolution of his parliament, minister president of Wallonia Paul Magette announced that they would not be able to ratify the deal without further guarantees (Agence Europe, 2016p). In that same month Romania threatened to veto the deal over the lack of visa-free travel to Canada for Romania and Bulgaria (Agence Europe, 2016n). Another struggle emerged over competence issues: whether the deal was a 'mixed' agreement or not. By mid-2016 most European states had positioned themselves in favor of declaring CETA a mixed agreement (Agence Europe, 2016j), and although its legal service opined that the agreement was an exclusive competence of the EU, the Commission eventually conceded and announced that it would deal with CETA as if it were a mixed agreement in July (Agence Europe, 2016e). This meant that each member state would not only have to sign but also ratify the deal, a process that was likely to take several years to complete.

However, **even the first step, at the executive level, proved perilous**. Although one group of states<sup>99</sup> called for the swift ratification of CETA (and the continuation of TTIP) in a letter to Malmström (Agence Europe, 2016c), others encountered more difficulties. Amid ongoing mobilization by civil society, especially in Western Europe, several member states voiced doubts over the accord. In September, Austria announced that it might potentially veto the agreement (Agence Europe, 2016d). The deal was also in danger because of doubts over investment protection in Slovenia, because of resistance in the social democratic party in Germany, and because of Bulgaria and Romania's ongoing discontent over their exclusion of visa-free travel with Canada.

In an attempt to sway the opposition, the EU and Canada proposed to include an '**interpretative declaration**', a document that would 'clarify' CETA without altering the text. This move was especially instrumental in helping to overcome the opposition in Germany<sup>100</sup>, and the declaration was approved by trade ministers on September 23 (Agence Europe, 2016f, 2016h).

At the same time, however, the '**CETA saga**' with Wallonia started escalating. I will discuss this in more detail in the chapter on Belgium and CETA, but in brief: in October 2013 the Walloon region, the Brussels-Capital region and the Wallonia-Brussels federation threatened not to ratify unless a number of demands, related in particular to agriculture, services liberalization and investment protection, were met (Agence Europe, 2016g). A period of intense intra-Belgian and Belgian-EU negotiations followed, as they tried to find an agreement before 27 October, the date that had been set for the deal's executive signing. The issue was discussed fruitlessly at a European summit on 20 October (Agence Europe, 2016b), after which Canadian

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<sup>99</sup> Czech Republic, Denmark, Estonia, Finland, Ireland, Italy, Latvia, Lithuania, Portugal, Spain, Sweden and the UK

<sup>100</sup> On the 19<sup>th</sup> of September, Sigmar Gabriel managed to get CETA approved by two thirds of his SPD delegates (Agence Europe, 2016f, 2016h). On the 13<sup>th</sup> of October, the chance of German blockage further withered when its constitutional court ruled that it did not oppose CETA's ratification as long as a series of conditions were met (Agence Europe, 2016k).

trade minister Chrystia Freeland travelled to Namur in order to directly with Belgium and Wallonia, an attempt that took some days but ultimately failed (Agence Europe, 2016o). After threatening with ultimatums, the European Council and Canadian prime minister Trudeau eventually decided on the 24<sup>th</sup> to give Belgium more time, although the signing remained planned for the 27<sup>th</sup> (Agence Europe, 2016l).

In the morning of **27 October**, a deal was finally struck within Belgium and with the EU and Canada. The final (12 page long) **interpretative instrument** affirmed the states' right to regulate for public policy purposes, and underscored that CETA would not lead to a lowering of norms related to the environment, health, consumer protections, labor, or food and product safety. It clarified that every party could itself define what a 'public service' entailed, and that social security and health insurers were not touched by the provisions in the financial services' chapter. An agricultural safeguard was provided, in case there were market imbalances (a notion that was to be further defined at a later date). The document also promised to work towards turning the ICS into a multilateral investment court, and to investigate how the clauses on sustainable development could be made more enforceable. The **intra-Belgian accord** reaffirmed the veto power of each of the Belgian entities, and stated that Wallonia, the Francophone community, the Brussels' region and the German-speaking community would not ratify the deal unless significant steps were taken towards multilateralizing ICS. The Belgian state was also obliged to request a ruling from the European Court of Justice (ECJ), on whether ICS was in line with the EU treaties.

This bargain was approved on the 28<sup>th</sup> by the three rebellious parliaments, and therefore allowed for Belgium and the EU to endorse CETA. On Sunday 30 October, the EU and Canada put their **signatures** on the accord (Agence Europe, 2016i, 2016q).

I have chosen **30 October 2016 as the cut-off point for my investigation**; everything that happened afterwards is beyond the scope of my research. The process did not finish after this date, however. After another intense yet unsuccessful campaign by civil society, the supranational chunk of the procedure was brought to an end when the EP approved CETA in February 2017. Provisional application was set to commence in April, as the deal started working its way through twenty eight domestic ratification procedures, but this was delayed due to new 'technical' quarrels, including over the agricultural quotas (Agence Europe, 2017). Eventually, CETA was provisionally applied in September 2017.

### 5.1.2. Business and civil society

According to Woll (2011) and Woolcock (2011), EU business federations (BusinessEurope and the European Services Forum) were supportive of the start-up of negotiations (something that was also reflected in the responses to the Joint Study), and were actively following and (publicly) 'supporting' the talks in the preparatory phase as well as during the negotiations. As Drache and Trew note in the same volume: *'Despite trade with Canada representing a drop in the bucket for EU firms, Canada is strategically important as a gateway to NAFTA'* (Drache & Trew, 2011, p. 85). However, as Woll shows, business was nonetheless lobbying far more intensely

on the Canadian side - including the sectors that opposed the deal. Both Woll and Woolcock therefore concluded that politics, the dynamics between the Commission and the member states, and the developing relationship between the EU and Canada, was more important in explaining the trajectory of the talks until then.

A similar picture emerges in relation to civil society. In Canada, a variety of **NGOs and trade unions** started preparing a campaign against the agreement as early as 2009, although they were not very influential in steering their government(s). In the EU, (transnational) civil society became active on the issue only in 2014 (Hübner et al., 2016; Jessen, 2017). The campaign against CETA only really started going in the wake of the mobilizations against the start-up of trade talks with the United States, the '**Transatlantic Trade and Investment Partnership**' (TTIP). In the autumn of 2013, European civil society organizations started mobilizing against the deal. German groups, initially led by 'Campact' were especially vocal, already in December the 'Seattle to Brussels Network' (S2B) succeeded in bringing together a much wider coalition from across the member states; they demanded the Commission for input on ISDS. In January 2014 the Commission gave in, with the launch of an online consultation about ISDS in TTIP. This survey attracted an unprecedented (150 thousand) amount of contributions, of which 97% rejected ISDS (Bauer, 2015; Hübner et al., 2016). Around the same time, 148 CSOs from eighteen member states supported the launch of a European Citizens Initiative (ECI); under the flag of the 'STOP TTIP' campaign, they managed to gather over three million signatures by 2015, overshooting the required minimum by two million<sup>101</sup>. The core of the **critique of EU civil society against CETA** revolved around ISDS on the one hand (echoing its protests on CETA), and negative listing on the other. They argued that **ISDS** would open up member states to litigation by Canadian firms (since 21/28 did not have BITs with investment dispute settlement with Canada), and that it would furthermore allow firms to threaten EU rules on, inter alia, food safety, genetically modified organisms (GMOs), climate policy, and resource extraction (e.g. fracking). They also feared that it would serve as a backdoor for similar litigation by Canadian subsidiaries of firms from the United States (Canada's main source of FDI). The ICS reforms did little to take away these criticisms<sup>102</sup>. In relation to **negative listing**, they saw particular threats for public services, and argued that this lauded in an unprecedented opening of EU services markets. However, apart from these two core issues, they formulated worries related to nearly all other aspects of the deal as well (Hübner et al., 2016; Powershift et al, 2016).

## 5.2. The solar-panel anti-dumping case

From 2002 on, after China's accession to the WTO, the EU's trade with China started booming: China became the EU's second most important trading partner in 2007. However, at the same time, worries about China's rise and the competitive danger that it posed started growing. As in the rest of the world, China became the EU's primary target of anti-dumping and anti-subsidy measures. There have also been

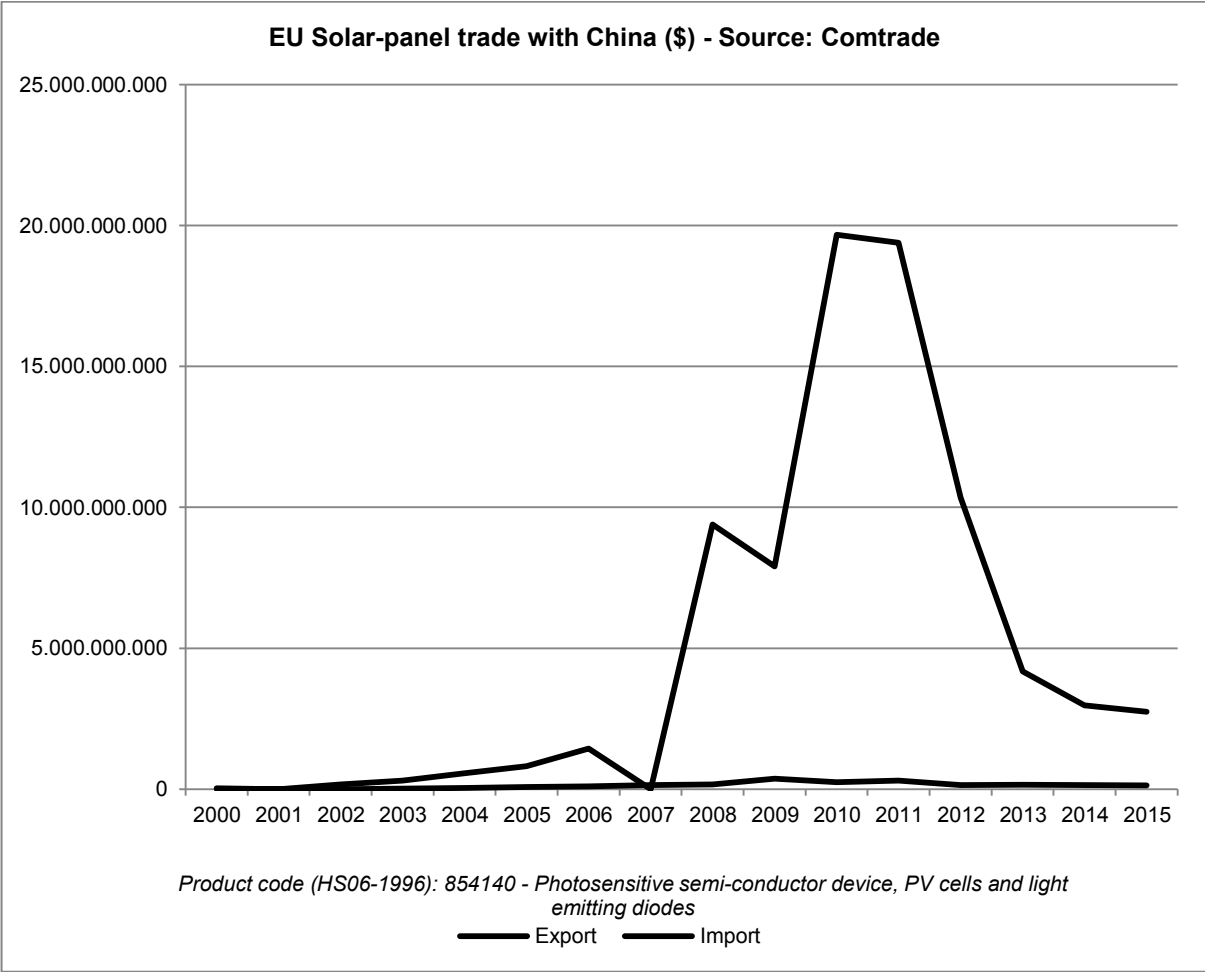
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<sup>101</sup> In September 2014 the Commission refused to accept the ECI, however, because it argued that negotiating directives were not legal acts. In 2017, the ECJ overturned this decision.

<sup>102</sup> Although it has been argued that they were instrumental in putting the civil society groups on the defensive, because the critics were now forced to make more technical arguments about why these reforms did not suffice, rather than being able to continue their salient discourse about the system's threats to democracy. See Siles-Brügge (n.d. Forthcoming).

numerous disputes between the two in the WTO. Although this at first remained limited to traditional, ailing industrial sectors like clothing and textiles or the shoe industry, trade frictions have steadily moved up the value chain - towards more technologically advanced and frontier sectors (Heron, 2007; Rovegno & Vandenbussche, 2011). The solar panel case can be seen as a continuation of this trend.

In the US and in a number of European states, solar energy, boosted by generous subsidies, started booming after 2000. A large amount of new firms sprung up (especially in Germany), not just in the production of solar panels but also in the manufacturing of components and inputs (solar cells, polysilicon) and in the installation of solar modules. Some years later, China followed by in turn subsidizing this upcoming technology (Plasschaert, 2016). This led to an immense increase in Chinese solar production, which was especially located near the end of the manufacturing chain - the assembly of cells into solar panels. Around 2009, the sector entered troubled waters. Overproduction led to downward spiraling prices, which combined with over-borrowing and a number of other factors to produce a severe crisis. This crash was deepened by developments in China: Chinese production had quickly outpaced domestic consumption, and its highly price-competitive producers had started throwing themselves on the global market. This eruption of Chinese photovoltaic exports was too much to bear for many producers of solar panels in the US and Europe, causing a substantial amount of firms to go bankrupt (ibid).



<b>Firms participating in the EU's solar-dumping complaint against China. Sources: Bown 2013, firms' websites</b>	
Companies	Country (Own search, firms' website)
Germany Schmid Group	DEU
Joint Solar Silicon (JSS)	DEU
Italy MEMC Electronic Materials SpA	ITA
MEMC Electronic Materials	Various EU Countries
SILFAB S.p.A.	ITA
Estelux S.r.l.	ITA
PrimeSolar S.r.l.	ITA
Spain Siliken Spain	ESP
All Others	EU

Frictions over trade in renewables increased, and eventually led to defensive trade measures by the United States in 2010. In 2011 these tensions also spread to the EU, when the German company Solarworld AG announced that it was preparing an anti-dumping case against China<sup>103</sup>. In the summer of 2012 it formally filed its complaint, under the banner of the newly formed industry group Prosun, simultaneously with an anti-subsidy complaint (Agence Europe, 2017). The European Commission accepted the filing, and started an anti-dumping investigation in September 2012 (Agence Europe, 2012e). The investigation looked at dumping in photovoltaic solar panels and their components (cells and wafers), and was the biggest, in terms of trade volumes, ever launched. As can be seen in the figure, the value of photovoltaic imports was worth \$19 billion in 2011.

The initiations of formal investigations immediately triggered a hostile response by Chinese solar firms and the Chinese government, which launched a WTO complaint against Italy & Greece over undue domestic support to their own solar industries. Although Angela Merkel called on *'the Commission, companies and China [to] resolve the issue by communication rather [through] antidumping procedures'* during a meeting with China's prime minister Wen Jiabao in August 2012 (Agence Europe, 2012e), soon after the dispute went into crescendo.

In the spring of 2013 the Commission announced it would be imposing provisional duties on Chinese solar firms in June later that year. In the meeting on the provisional duties (15 May 2013), eighteen member states voted against the imposition of provisional duties, five abstained, and four countries supported the duties (Interview - FOD Economie (2), 2016)

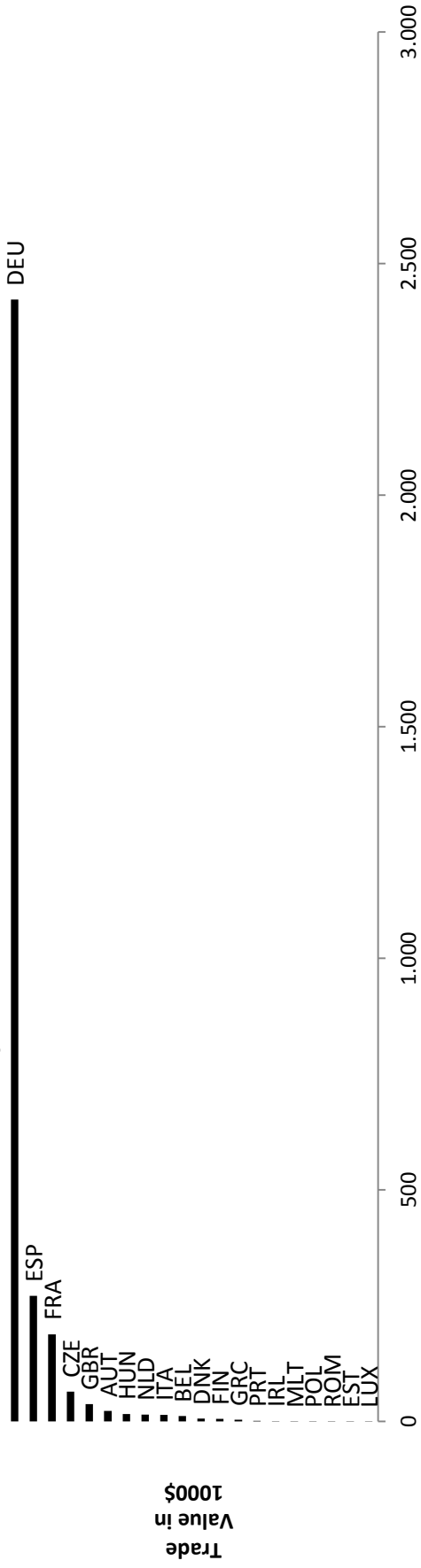
In public, the Commission was supported by a small group of member states led by France, Italy and Spain, but a wide coalition headed by Germany, the UK and the Scandinavian nations was very vocal in its opposition.

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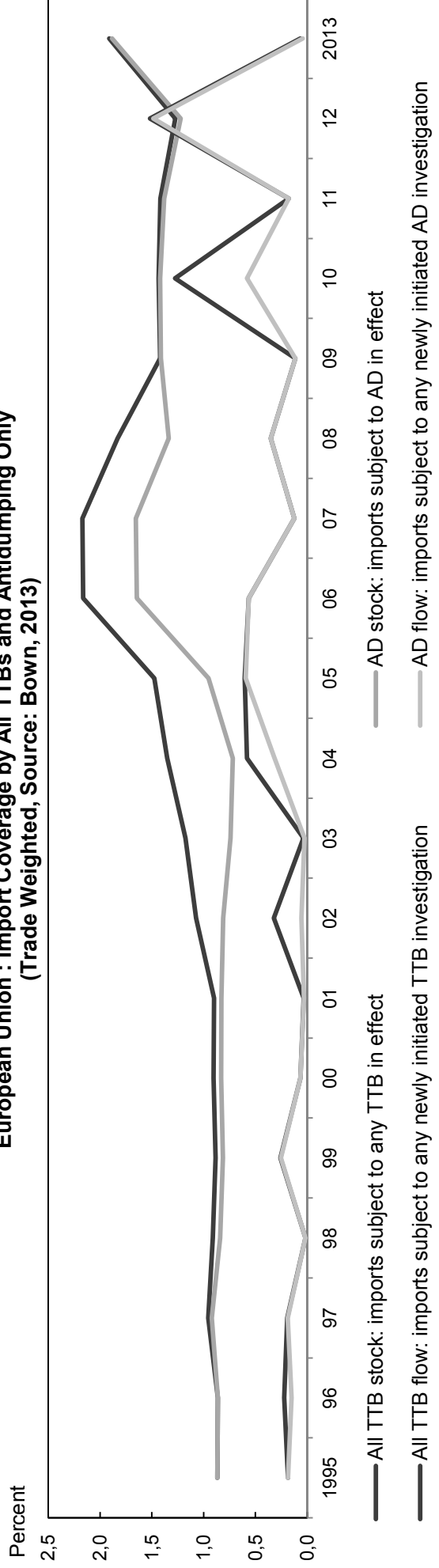
<sup>103</sup> A subsidiary of this firm had launched a comparable, successful case in the US - also against Chinese solar panels.



Photovoltaic exports to China, 2011. Source: COMTRADE



European Union : Import Coverage by All TTBs and Antidumping Only (Trade Weighted, Source: Bown, 2013)



The **costs of the duties** were bound to be spread very unevenly throughout the chain. Solar panels are made from a combination of glass and solar-cells, which are constructed from wafers made out of crystals from high-grade polysilicon; installation is very labor-intensive. Increasing the price of Chinese solar panels directly raised the input-costs faced by installers and also harmed PV-related parts/raw material exports to China, while protecting EU producers of finished solar panels. In parallel, Chinese retaliatory actions also threatened other European exporters (Curran, 2015; Karmakar, 2013). Thus, the case led to fervent **lobbying from** two opposing camps within business, depending on firms' position on the solar value chain.

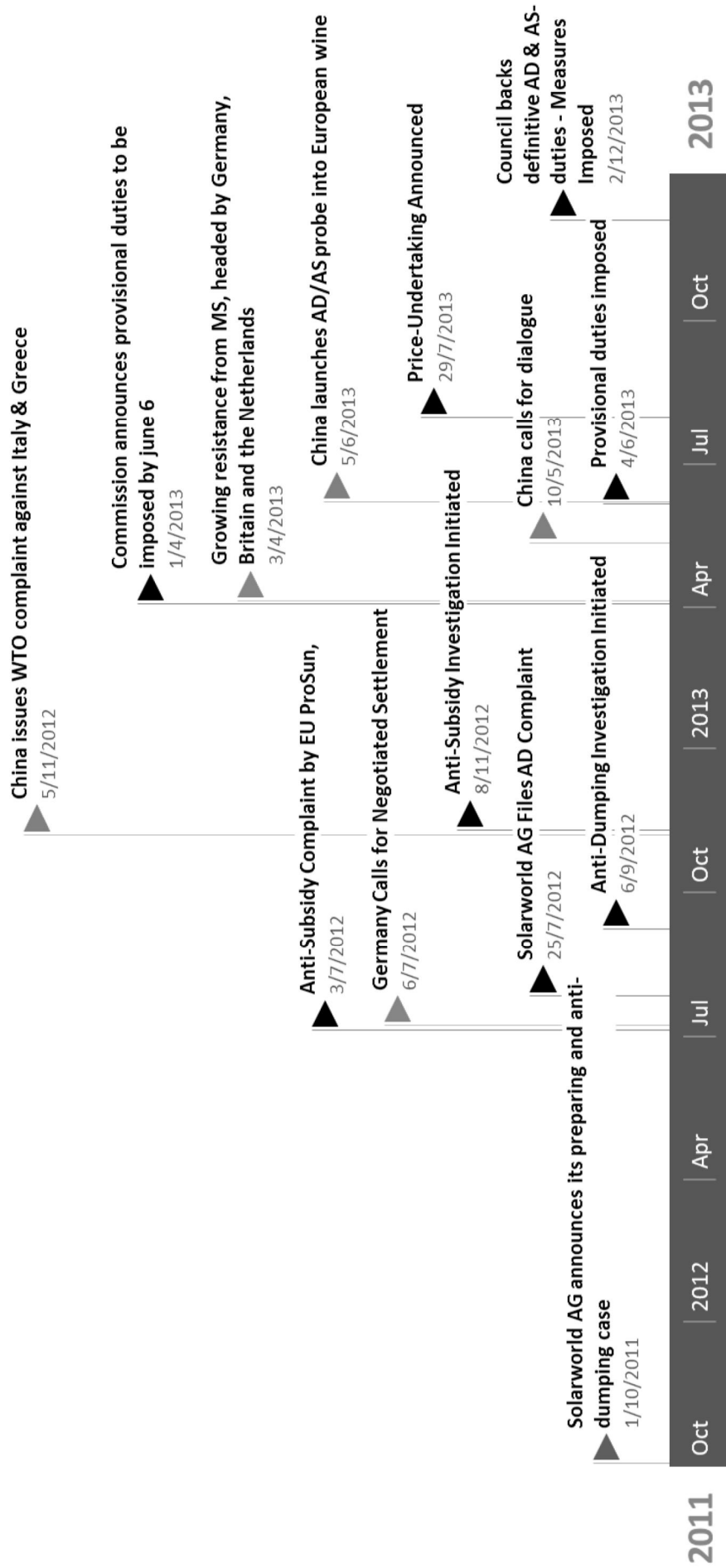
The side protesting against duties was far from negligible in economic terms. In 2010, installation costs accounted for more than half the average price of an installed photovoltaic system in Europe; this meant that the European value-added of such systems was substantial, especially because some European (notably German) firms played an important role in other steps of the production chain. The German Wacker Chemie, for example, was one of the most important producers and exporters of polysilicon (Curran, 2015). This side of the value-chain decided to push back against ProSun by rallying in the **Alliance for Affordable Solar Energy** (Afase) (dominated by firms from the UK, Germany and the Netherlands), which launched a vigorous counter-lobby. It warned that duties would '*bring about massive job losses for the EU and injure the European branch of the industry as a whole*' (Agence Europe, 2013d, 2013e). Afase consisted mostly of EU installation companies, manufacturers of intermediate goods from the solar chain, and Chinese solar-panel exporters. Many of the Afase companies had traded extensively with Chinese firms, both as suppliers and importers, which meant they had an interest in good relations with China and/or keeping Chinese import prices low. ProSun companies did not have these kinds of links. The European federation of the solar industry, the European Photovoltaic Industry Association (EPIA) did not take a clear position and tried to remain in the background, because its members included firms from Afase and ProSun (Curran, 2015).

<b>AD cases initiated by China against the EU during the solar panel dispute</b>	
<b>PRODUCT</b>	<b>Start of Investigation</b>
<i>Solar Grade Polysilicon</i>	11/01/2012
<i>Certain Alloy-steel Seamless Tubes and Pipes for High Temperature and Pressure Service</i>	05/10/2013
<i>Perchloroethylene</i>	05/31/2013
<i>Wines</i>	07/01/2013

Eventually the Commission still installed **provisional measures**. China retaliated immediately with its own investigations of European support to the wine industry, overtly targeting the pro-duties bloc – France in particular. This stirred up new

counter-lobbying on the European side, which, as Curran notes: '*[led to] a rather unusual situation where EU companies from within the sector, and even from unrelated sectors like wine, were lobbying simultaneously with Chinese companies against trade protection*' (Curran, 2015, p. 20). This combination of internal and external pressures eventually **forced the duties-bloc to back down** (Financial Times, 2014). In June 2013, Francois Hollande announced that he wished to '*settle the photovoltaic dispute with Beijing "in a conciliatory spirit"*' (Agence Europe, 2013i), and the Commission was forced to seek a settlement with China. In July, the Commission announced it had come to a deal with the Chinese government and that it would refrain from any anti-subsidy duties on Chinese solar panels. The agreed **price-undertaking** stipulated that Chinese exporters of solar panels who observed a minimum price of 56 cents would not be targeted by any duties. The 30% of Chinese exporters which did not agree to this deal and would still charge lower prices, faced a duty of 47.6% (instead of the original 50%) (Agence Europe, 2014d).

ProSun threatened to take the compromise to the ECJ, but the Commission went through with the negotiated **AS/AD settlement in the fall of 2013** by imposing a definite duty. Although only seven member states voted in favor of the duty while ten opposed it in the meeting of 22/10/2013, this did not suffice to reach the qualified majority to reject the duty (Interview - FOD Economie (2), 2016). One year later, the EU accepted a proposal by the Chinese Chamber of Commerce to lower the minimum price that Chinese manufacturers are allowed to sell their goods by, once more sparking outrage by Pro Sun (Agence Europe, 2014d).



# The Netherlands

## **Structure** of the Dutch chapters.

I begin by sketching out the political/economic/institutional context of the Netherlands, before moving on to a detailed explanatory study of CETA and solar dumping. The structure of the country-cases is summarized above each sub-chapter.

## A note on my **sources**.

In what follows, I have combined academic sources, press coverage, parliamentary hearings, interviews and a series of internal documents that were released by a 'Wet Openbaar Bestuur' (WOB) request. These are referred to in different ways in the text. The academic sources and interviews are included in the usual way, with references inside the text. The press articles, however, are included in the footnotes. All parliamentary pieces are referred to using the archival system of the parliament itself, they resemble the following: 'kst-1213-21', and can therefore be easily retrieved using the parliamentary database of the Tweede Kamer. This includes the 'letters' that the minister sends to the parliament on a regular basis, to inform them about the trade agenda and the Dutch position. The documents for the WOB-request are referred to by using their original file names. Again, this is to make it easier to retrieve the original document, which can be found on the website of the ministry of foreign affairs<sup>104</sup>.

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<sup>104</sup><https://www.rijksoverheid.nl/documenten/wob-verzoeken/2017/04/14/besluit-op-wob-verzoek-over-comprehensive-economic-and-trade-agreement-ceta>.

## 6. The Netherlands: Political-Economy And Trade Policy

In this chapter, I will provide contextual information on the Dutch (trade) political and economic system. The structure of this chapter is as follows: I first discuss the general characteristics of the Dutch political system and give a bird's eye view of recent political developments. Then I discuss the composition of the Netherlands' economy and employment, and look at its international trade and investment profile. Finally, I give an overview of to the pattern of trade politics and politicization: what are the decision-making procedures in trade policy, what has the Dutch stance been across trade issues over times, and what has the pattern of the parliamentary and public involvement with trade looked like in the past decade?

### 6.1. The political economy of the Netherlands

#### 6.1.1. Political overview

##### 6.1.1.1. General characteristics

The Netherlands is a constitutional monarchy, and a parliamentary democracy. Every four year, elections are held for the 150 seats of the **Tweede Kamer** (lower house). The electoral system is proportional, across a nation-wide voting district. There is no electoral treshhold. The Eerste Kamer (senate) is not elected directly, but by the members of the Provinciale Staten, which are elected at the provincial level. Since 2015, there is also the possibility of a non-binding advisory referendum. If a minimum of 300.000 signatures is collected a referendum can be held about an already existing law or decree; if 30% of eligible voters participate and a majority supports the referendum, it is passed. The Tweede Kamer can initiate laws and amend laws proposed by the government. The Eerste Kamer does not have these competences. To somewhat narrow down my research, I have chosen to focus solely, in the rest of my research, on the more important Tweede Kamer.

The three big traditional **parties** are the Christian democrats (CDA), which had until this decade been the largest party in government, the traditional party of the center-left, the liberals (VVD), the social-democrats (PvdA), which until 2010 had been the third largest party. In addition to these large formations, there are the protestant SGP and the orthodox ChristenUnie (CU), a less centrist socialist party (the SP), a green party GroenLinks (GL) and a social-liberal party (D66). In the past decade, new parties have risen, of which the Eurosceptic and 'Islam-critical' nationalist Partij voor de Vrijheid (PVV) led by Geert Wilders has been the most successful one. In 2006, the small 'party for animals' (PvdD) entered the parliament as well. A number of other parties have staked out a small territory in the increasingly fragmented party landscape, especially after the 2017 elections, but we will be ignoring them in this study.

The **government** consists of a prime-minister (minister-president), ministers and state secretaries, the latter do not have their own civil service (ministry) but are added to that of a minister. The Netherlands has always been ruled by coalitions of multiple parties.

In EU-affairs, the **executive has been the dominant force**. Although the parliament has strengthened its oversight of EU policymaking throughout the past decades, its influence has generally remained limited. The executive has retained much of its power, because of its persistent information advantage and its direct link to decision making. Moreover, MPs have often lacked interest and (therefore) expertise – not in the least because the electoral gains from delving into the technicalities of EU files have remained small (van Keulen & Vollaard, 2016). As I discuss further below, this has generally also been true of EU trade politics.

### 6.1.1.2. Dutch politics in recent years

Over the last decade, Dutch national politics has been plagued by political crises and unstable governments. I will give a very brief overview of the main developments.

ChristenUnie, PvdA and CDA led a ‘social-Christian’ cabinet between **2006 and 2010**, Balkenende IV. In the context of a heated societal debate (following two political murders since the turn of the century and the rise of far-right and nationalist parties), this government was moreover confronted with the credit crisis’ arrival in the Netherlands in 2008. In response, it launched a set of Keynesian stimuli, but it also enforced a (previously unthinkable) increase in the retirement age. In the end however, the cabinet did not fall over economic policy but over the continuation of the Dutch military mission in Afghanistan (Kockelmans, 2015). In the **2010 elections**, the CDA, which had led the previous four governments as the largest party, was decimated; they were now the fourth party in parliament. The liberal VVD became the biggest party, followed by the social democratic PvdA and the big victor of the elections, Geert Wilders’ Eurosceptic nationalists of the PVV. The elections further fragmented the Dutch party landscape: almost all parties were now mid-sized (Kockelmans, 2015). Mark Rutte of the VVD led the subsequent negotiations, and eventually formed a minority cabinet with the CDA, which was supported in parliament by the PVV (without it becoming part of the ministerial cabinet) – a cooperation that was fiercely criticized in the CDA (but eventually approved by a majority of its members). This government enacted a broad program of budget cuts, including in departments that had previously been guarded by the progressive parties’ participation in government: culture, nature and development cooperation. It also had to deal with the Eurocrisis, and the ongoing, fierce debates over migration and Islam stoked up by their partner, the PVV, in parliament. Meanwhile, the PVV was constantly struggling with internal crises and scandals, and the cooperation with the other parties became increasingly tense (Kockelmans, 2015). The brittle construction became untenable when an MP of the PVV left the party in March 2012, further diminishing the government’s majority, and after discussions over austerity measures were blocked by Wilders in April. The government was disbanded, and the **2012 elections** provided gains for the VVD as well as (more surprisingly) the PvdA, while CDA and PVV lost. After only 54 days of negotiations, the

liberals formed a government with the social democrats on 5 November 2012, Rutte II, with an agreement that promised further budget cuts and austerity. For the first time, they created a minister that combined foreign trade with development cooperation. The cabinet was still seen as unstable, however, because it did not have a majority in the senate; this meant it still needed the support from opposition parties in getting some of its laws passed. Both parties also started plummeting in the polls soon afterwards, and were dealt defeats in the 2015 provincial elections – which further decreased their margin in the senate. The PvdA, in particular, was criticized by its members for tagging along with the budget cuts (Kockelmans, 2015).

### 6.1.1.3. Societal actors, coordination, lobbying

In the post-war period, civil society was initially still heavily ‘pillarized’ across religious and socio-economic boundaries, with most organizations (notably parties, labor unions and churches, but also many other societal associations) combining under one, relatively homogenous flag. Over time these structures have disintegrated and have become far more heterogeneous, making room for new actors (Habraken et al., 2013). Today, Dutch civil society consists of traditional actors from the traditional ‘pillars’ like trade unions and church organizations, but also of a wide range of organizations that have sprung up to deal with other societal themes.

**Labor unions** grew enormously during the interbellum and remained strong after the war, but from the 1980s on gradually weakened due to, amongst other factors, the increasing heterogeneity of the labor force (Touwen, 2014). In the past decades, the unions have struggled with a falling degree of unionization (from one third of the workforce in 1970 to one sixth today), although polls indicate that a large majority of the population still supports them (Keune, 2016). In 1981, the socialist and catholic trade unions merged into Federatie Nederlandse Vakbeweging (FNV), which in 2015 took in previously quasi-autonomous federations like Abvokabo FNV (public services) and FNV Bouw (construction). Of the three main unions in the Netherlands, CNV, VCP and FNV, the latter is by far the largest. It consists of a central organization and a dozen sectorial sub-federations.

**Business** has not remained atomized either. According to Bouwens, the Dutch business sector has been one of the most coordinated worldwide. Since the 1980s, the business associations have acted as lobbyists, consultants and negotiators in service of their member firms, although the increasing EU-ization and internationalisation of business forced them to become more professional and specialized (Bouwens, 2015; Touwen, 2014). As with the unions, the degree of membership among firms has fallen, especially among SMEs; about 35% of all employers is part of a business association. However, together these members account for a stable 70% of all employees, meaning many large firms are part of the associations (Keune, 2016). In 1976 the catholic and protestant organizations merged, and in 1995 they combined with the a-religious associations to create what is still known as the VNO-NCW. In 2006 they partially merged with MKB Nederland (SMEs). The firms represented by VNO-NCW/MKB-Nederland combine 90% of private sector employment, spread over about 160 sectoral and sub-sectoral



federations. 60% of these firms have less than ten employees, only 5% has more than hundred. Some of these larger firms are individual members<sup>105</sup>. **Agricultural business** is represented by LTO Nederland, which also houses a number of sub-federations, such as LTO Varkenshouders (pig farmers) and LTO Melkveehouders (dairy cattle farmers).

Finally, apart from labor and employers, there is in the Netherlands an active **civil society** with a variety of 'thematic' social movements, which to some extent have become institutionalized as well. Some of the ones that are relevant for this study include for instance a series of organizations dedicated to **nature and the environment**, including large international ones like the WWF (with over 870 thousand members and supporters in 2012) and Greenpeace, but also Dutch ones like Natuurmonumenten or Milieudefensie. This group has seen a strong increase in its membership since the 1980s. Another cluster has focused on **international charity and development**, including the Dutch Red Cross, Unicef, Amnesty International and Oxfam Novib. Then there's a series of **consumer organizations**, like the Consumentenbond (473 thousand members in 2012), whose membership has nearly doubled in the past thirty years. Finally, although these perhaps fit in a distinct category, many **political parties** could traditionally rely on mass membership. However, this has been in swift decline: the big traditional parties (PvdA, VVD and CDA) have seen their numbers fall by 55% since 1980 (from 342 thousand to 159 thousand) (Posthumus, den Ridder, & de hart, 2014). In general, although traditional 'pillarized' organizations such as parties, unions and churches have been in decline, this has in part been compensated by a growth of many other societal organizations, whose numbers have been relatively stable in recent years (ibid). Not all of these are equally politically engaged. Moreover, some small organizations (in terms of members) have been influential in the debates on external economic policies; this includes for example Stichting Onderzoek naar Multinationale Ondernemingen (SOMO) or Transparency Network International (TNI), whose membership base is thin but which have carved out a reputation as researchers and organizers in the field of international economic relations and development.

These societal actors, in particular labor and business, have in concertation with the state developed various mechanisms to pacify conflicts, to deliberate and coordinate over social and economic policies. The Netherlands has, just like Belgium, been characterized as a '**consociational neo-corporatist**' system: ideologically diverse peak-organizations deliberate with the government in institutionalized as well as informal settings, in an attempt to produce consensual policies (Beyers, Braun, & Haverland, 2015). In the Netherlands, this has been dubbed the 'polder-model'.

The most important institutional manifestations of this system were the social-economic council (SER), the most important forum for tripartite socioeconomic discussions whose advices continue to carry real weight; the 'Studiedienst van de Arbeid' (StvdA), whose studies have been very influential; and the collective bargaining agreements and other ad-hoc accords agreed upon after bi/tri-partite negotiations. In these and other institutions, greased by strong informal networks bred from decades of continuous interaction, the 'social partners' were given an **institutionalized say over decision**

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<sup>105</sup> [https://www.vno-ncw.nl/sites/...vno/This\\_is\\_VNO-NCW.pdf](https://www.vno-ncw.nl/sites/...vno/This_is_VNO-NCW.pdf)

**making** (de Beer, 2016; Keune, 2016)<sup>106</sup>. Attempts to include environmental NGOs in these arrangements since the 1990s have never really taken off (Touwen, 2014).

Touwen characterizes the Netherlands as an '**internationally oriented consultation economy**': even when it turned increasingly towards regulated markets in the decades before and after the second world war, Dutch coordinative institutions (between and within labor, business and the state) were explicitly geared at **supporting trade and exports** (Touwen, 2014). After a gradual breakdown of this consensus in the 1960-1970s<sup>107</sup>, the trade unions have since the 1980s showed a new (or renewed) faith in free markets and the necessity of open trade while retaining their faith in the value of coordination and deliberation, a **neoliberal corporatism** shared also by business and successive governments (Touwen, 2014). According to Maarten Keune (2016), the '**discursive foundation**' of Dutch coordination has been based on a widely shared view of the general interest: competitiveness, fiscal prudence and a strong welfare state, supported by moderating wage demands and boosting employment (Keune, 2016)<sup>108</sup>.

Apart from the institutionalized coordination between the state and the social partners, the role of more pluralist **interest-representation has increased**. This development is linked the fracturing of the Dutch political and societal landscape, the decline in leverage and legitimacy of the big peak organizations, and the diminished legitimacy of the (non-transparent, democratically suspect) tripartite polder-model. Policy-making has therefore become more competitive and open, and the **role (and number) of lobbyists and 'public affairs' bureaus has increased** (P. van Keulen, 2017). However, the research on this phenomenon is far more limited than the pile of publications on the functioning of the Dutch 'poldermodel'. Available research show that lobbying has become increasingly professional and specialized, but the extent and influence of this activity is hard to gauge. Surveys also show that lobbying is heavily focused on the executive (civil servants rather than the legislature), although this is less true for NGOs than labor and business. Most groups report satisfactory access to decision makers (Beyers et al., 2015; Braun, 2016). From the late 1980s on, the 'Brussels-road' has moreover gained in importance, and many organizations have increased both their unilateral lobbying at the EU level (for example, FNV created a Brussels office in 1999), in addition to their activity within their EU-level (or international) associations<sup>109</sup>.

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<sup>106</sup> This deviation from parliamentary democracy was defended by arguing that the partners represented not just the interests of their membership, but that of the public at large. However, the waning legitimacy of these institutions has contributed (along with changing economic realities, labor's relative loss of leverage and doubts over the effectiveness of the system), to the partial demise of their power since the 1990s.

<sup>107</sup> When there were increasing wage demands, growing polarization and lack of agreements among employers and unions, but economic stagnation, pressure from (multinational) business, and a political shift towards market liberalism eventually made the unions agree to the Wassenaar agreement (1982), which (inter alia) restored the policy of wage moderation (Sluyterman & Wubs, 2015; Touwen, 2014).

<sup>108</sup> He speaks of an '*epistemic community*' of social partners that shares a common view of the economic problems and solutions facing the Netherlands, a community he feels has remained blind for the large, long-standing surplus on the Dutch trade balance.

<sup>109</sup> A lot of Dutch firms have also opened their own Brussels' offices (Heineken, Unilever, Akzo, Philips), as did several sectoral federation as well as the national federations like LTO Nederland and VNO-NCW. LTO-Nederland and VNO-NCW in particular reported (in 2002) that their access to EU decision making was very good, and the Netherlands' large firms and multinationals were well networked (for example in the European Round Table) and

However, the Dutch government has remained an important target of lobbying, also on EU issues, and business (especially smaller firms and sectors) as well as civil society has retained strong roots in The Hague (Beyers et al., 2015; Groenewout, Harryvan, & van der Harst, 2016).

### 6.1.2. Economic structure

What was the structure of the Dutch economy at the time the country had to deal with CETA and the solar panel case? Here, I present some general data on employment, production and trade across the Dutch economy, to give an impression of the countries' economic interests.

Since the turn of the century, even though Dutch governmental debt has remained low, growth has not picked up, unemployment and inequality have steadily crept upwards, and there have been worries over the increase in various forms of part-time and self-employed labor, as well as the boom in private debt. The Dutch economy has moreover become heavily 'financialized': capital markets are over three times and the banking sector is worth over five times Dutch GDP (Engelen, 2016). These worries have become more foregrounded since the financial and economic crises of 2008-..., and the austerity policies that followed. The **Great Recession** (and the subsequent rounds of austerity) had a strongly negative impact on the Dutch economy. According to the Central Bureau for Statistics (CBS), the Netherlands has since 2008 known the 'longest and most drastic loss of jobs' in 45 years (CBS, 2014). On the whole, the Dutch economy has moved further towards the Anglo-Saxon model and the coordinated nature of its socio-economic policy making, the 'polder model', has become more ambiguous (Engelen, 2016; Keune, 2016; Visser, 2016).

The **structure of employment** in the Netherlands is heavily service-oriented. In 2015, industry accounted for less than 10% of the jobs in the Netherlands, the bulk of all employment was in services (53% in private services, 30% in public services), while construction accounted for 3% and agriculture (narrowly defined, i.e. farmers) for only 1%. In terms of employment, the most important industrial sectors were 'furniture and other industry', the food industry, metals, machinery and chemicals and pharmaceuticals. Some of the most important service sectors include retail and wholesale, management and consultancy, and transport services and logistics. Financial and banking services were also a major sector. Much of this employment was in **large or mid-sized firms**, although about a third of all jobs were situated in firms with less than fifty workers. This means that many jobs were concentrated in a very small amount of large firms: only 0,2% of firms employs more than 250 people, while almost all others employ less than fifty (or none)<sup>110</sup>.

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influential. In contrast, most other societal organizations reported unsatisfactory access and influence (Groenewout et al., 2016).

<sup>110</sup> Calculation based on CBS.nl

### 6.1.2.1. Trade and investment

According to the 2016 KOF Index of Globalization, the Netherlands was the **fourth most economically globalized country** in the world - after Singapore, Ireland and Luxembourg. In the Doing Business indicators published by the World Bank, it shares a first place with Denmark and Belgium.

In 2012, the Netherlands' **goods** were primarily exported to EU, notably Germany, Belgium and the UK. Its most important extra-EU partners were the United States and China. The BRICs countries had been growing in importance in the years before - at the expense of the EU. Dutch **services** exports were primarily destined for Ireland, Germany, the UK, the US and Belgium. The Netherlands have, since the 1980s, run a persistent and growing **trade surplus** (taking no account of re-exports). According to the OECD's TiVA data, the balance in value added terms, the biggest surpluses of domestic over foreign value were reached with Germany, Italy, France, Ireland and Japan. The biggest deficits were with Norway, India, Luxembourg, China and Austria. According to the UN's **Merchandise Trade Correlation Index**, a measure of which countries exports similar goods (and are thus competitors on world markets), the Netherlands' export profile was in 2012 most similar to that of Belgium, Germany, New Zealand and Singapore. Compared to 1995, important new competitors included Taiwan, South-Korea, Japan, Finland, Austria and France<sup>111</sup>.

**Sectorally**, the biggest deficits were in personal services, real estate, R&D and other business services, and electrical machinery. Wholesale and retail trade, transport and storage, chemicals and chemical products, and food products and beverages showed the biggest surplus in value terms. Agriculture has remained very important to Dutch foreign trade. About two-thirds of its (considerable) agricultural output is produced for exports, making the Netherlands the second **foremost agricultural exporter** in the world (Dijkma, 2015 and WTO, 2015 in CBS, 2016). Since Dutch agricultural exports have moreover outpaced imports for years, some 55% of the trade surplus in 2015 was due to the surplus in agricultural goods (CBS, 2016). Flowers, vegetables, meat, milk and dairy products, and processed grains have performed especially well. If we broaden the scope of what counts as an 'agricultural' good, then fertilizers, agricultural machinery and animal vaccines have also been growing important export products (CBS, 2016). Together, these agricultural exports provided about 4,4% of the Dutch GDP and 4,4% of employment (CBS, 2016)<sup>112</sup>.

This trade dependency is more than a statistical fluke caused by trade-in-transit. An increasing share of **Dutch economic activity and jobs has become dependent on international commerce**. In 2013, a third of Dutch GDP was 'earned abroad' through exports, although this represented only a small share the far larger total value of exports, which were in turn (or rather: therefore) dependent on a growing share of imports (CBS, 2015b). According to the CBS (2014) almost a third of all employment in

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<sup>111</sup> Of course, since this index is calculated using total exports, including re-exports, it's hard to judge to what extent this reflects true competition and not value chain integration or the Netherlands' role as a trading hub.

<sup>112</sup> As in the other sectors of the economy (see below), a small amount of multinationals accounts for the bulk of this trade: about 70% of all trade in agricultural goods and services (CBS, 2016).

the Netherlands in 2013 was directly or indirectly related to exports. This was mostly due to the generation of new jobs in exporting sectors outpacing job growth in purely domestic activities, but also because previously 'national' jobs now helped ship value abroad. An important part of this shift occurred in services (with a doubling of jobs related to exports, 1988-2012<sup>113</sup>) rather than in goods (increase of 18%). Since total employment in industry and agriculture has continued to shrink, this means that *'these numbers [show] that the Netherlands is now less of a production country, but is increasingly focused on trade and services'* (CBS, 2014).

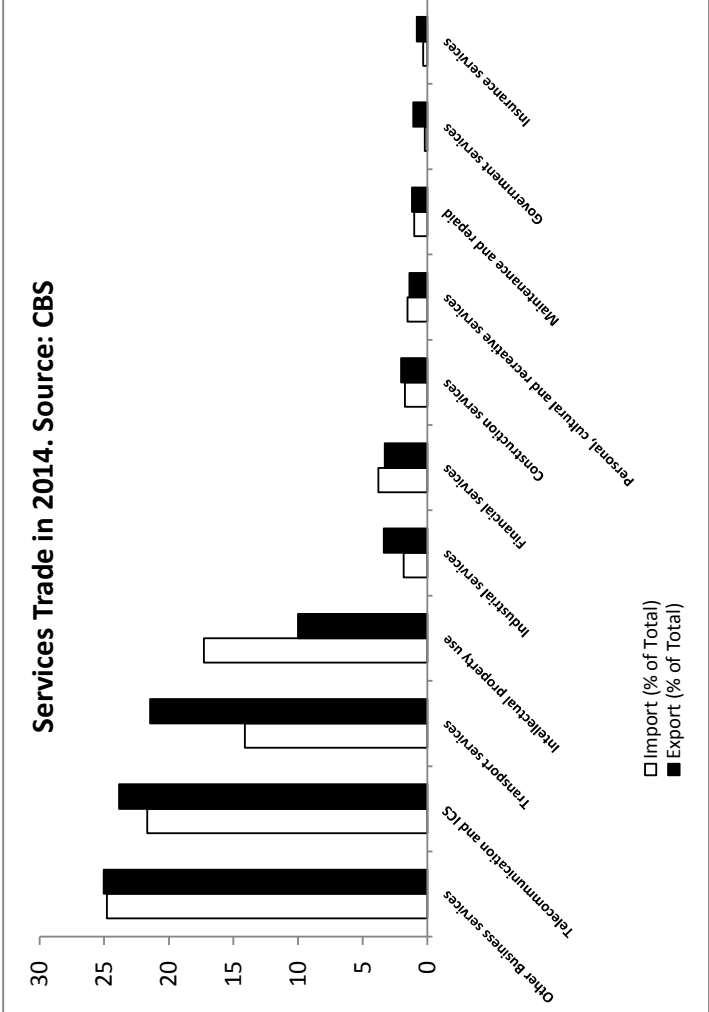
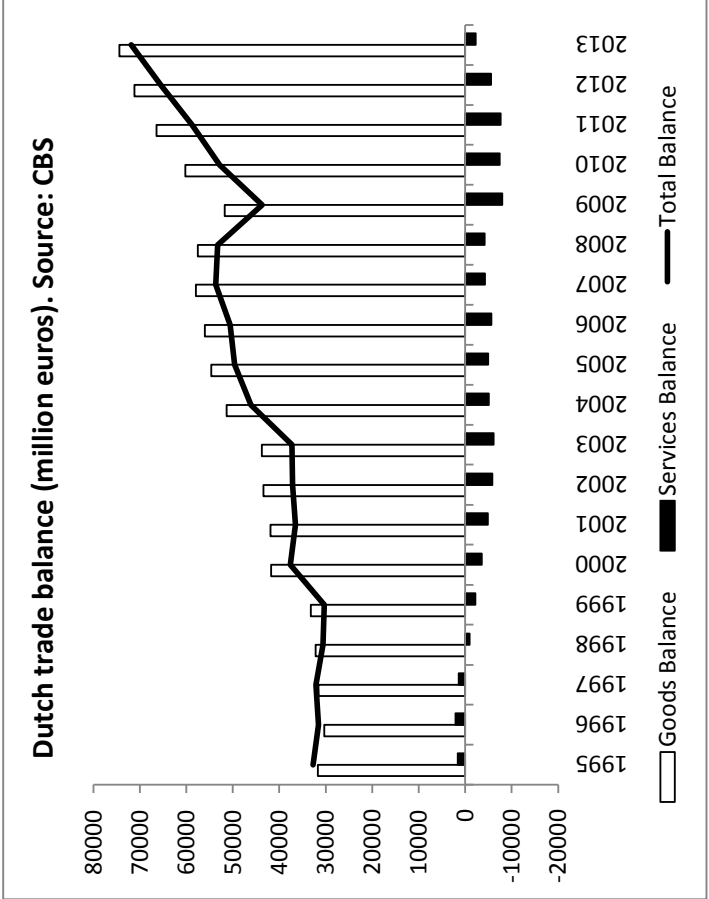
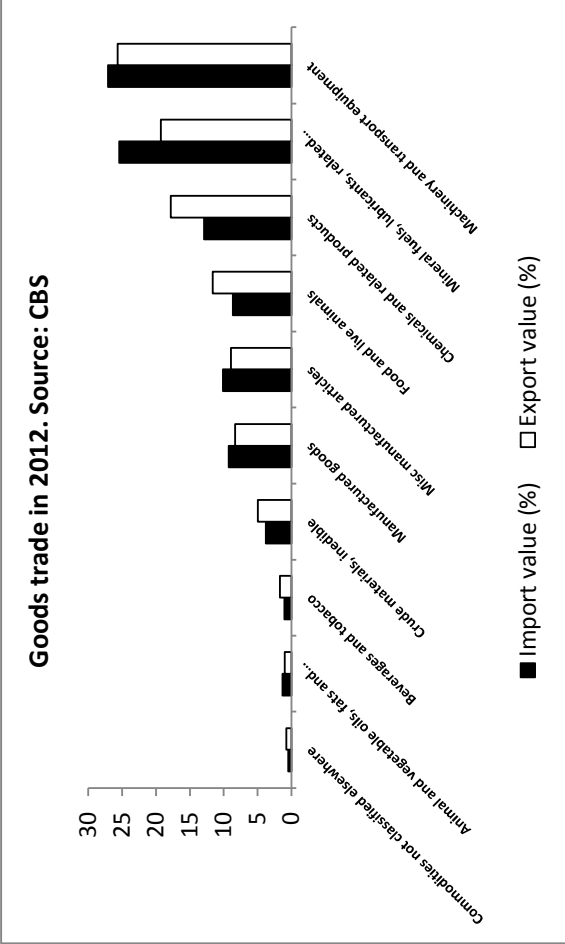
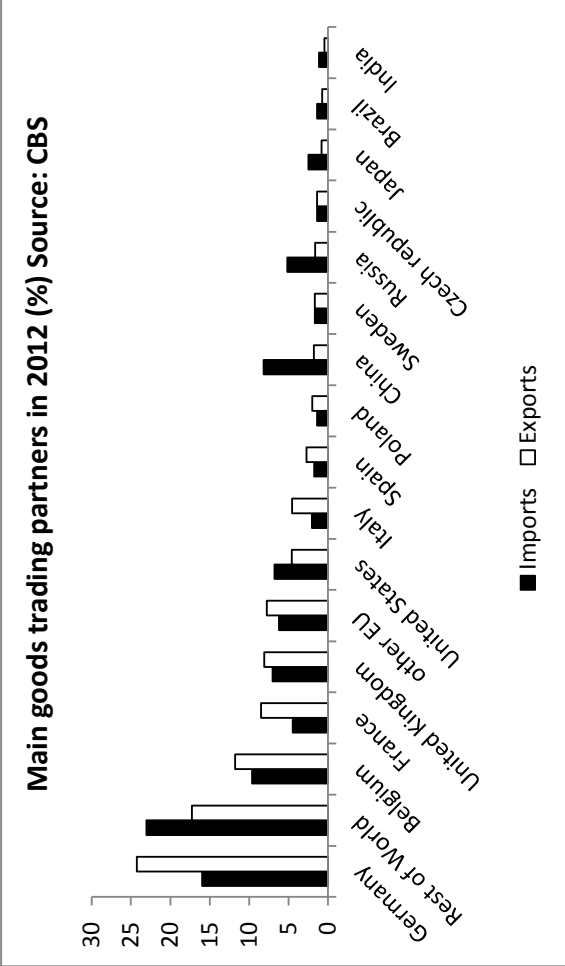
This trade dependency of production is further underlined by research, performed by the CBS, on the **Netherlands' integration in global value chains** (CBS, 2015b)<sup>114</sup>. The study shows that (as in other countries), the role of intermediary goods in production and therefore trade has continued to rise, in 2013 these inputs accounted for almost two-thirds of imports, thereby pushing up the import-dependency of exports: in 2013, 61% of **exported value was first imported** compared to 48% in 1988. The report estimated that 2.6 million Dutch employees had a job thanks to exports. Value-linkages have grown in particular with Asian producers (23% of intermediary imports in 2013, an increase by 170% compared to 1989). Of course, this internationalization was not spread around equally across the economy. According to the OECD Trade-in-Value-Added (TiVA) database (data for 2011). In transport and storage, post and telecommunications and construction services' around 80% of export value was produced domestically. Agriculture and manufacturing were far more international. Exports from the first were about 20% foreign, while on average 27% of all industrial export value was produced abroad, especially in energy goods, basic metals, electronic and optical equipment and chemicals (all over 30%) (in 2011, based on OECD TiVA). In services, the sectors whose exports embodied the least amount of foreign value were education, health and social work, real estate activities and financial intermediation (less than 10% of their export value was first imported).

The Dutch role in these value chains has shifted as well. Increasingly Dutch value-added has emphasized (high value-added) services over industrial activities: R&D, design, marketing and retail rather than production and assembly. This has also benefitted 'supportive' service industries that are dependent on other firms' exports, even though they themselves do not engage directly in trade: IT services, cleaning services, advertising and temporary employment agencies. In 2013, services accounted for 60% of Dutch export-related value added (CBS, 2015b).

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<sup>113</sup> Especially in retail, ICT and the temporary employment sector (CBS, 2014).

<sup>114</sup> Based on data from the OESO/WTO (TiVA) and the World Input Output Database.



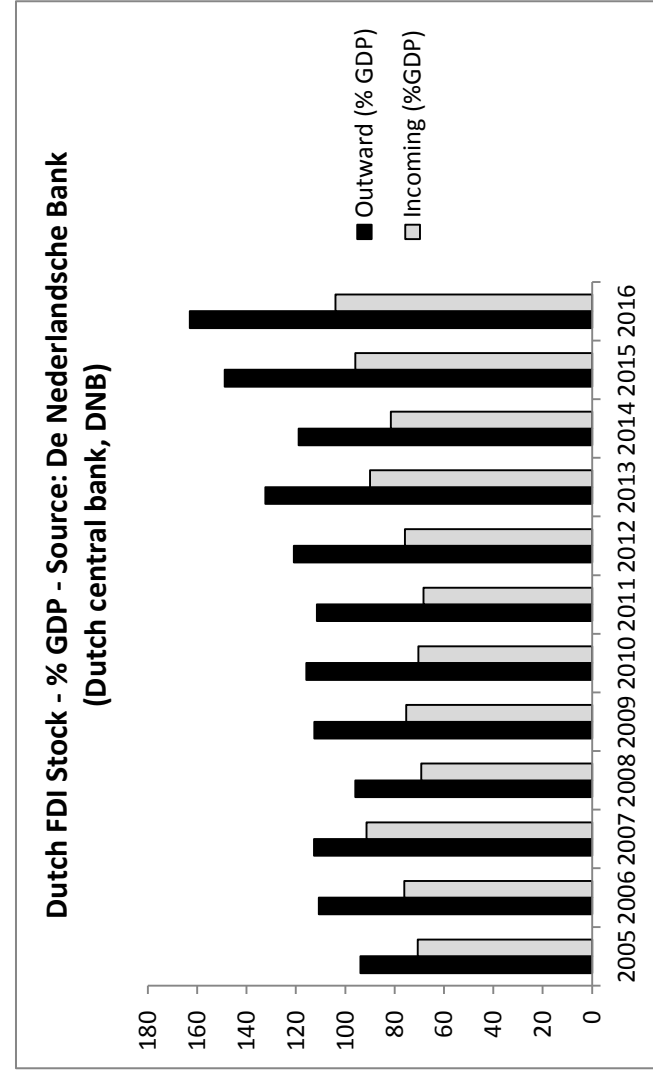
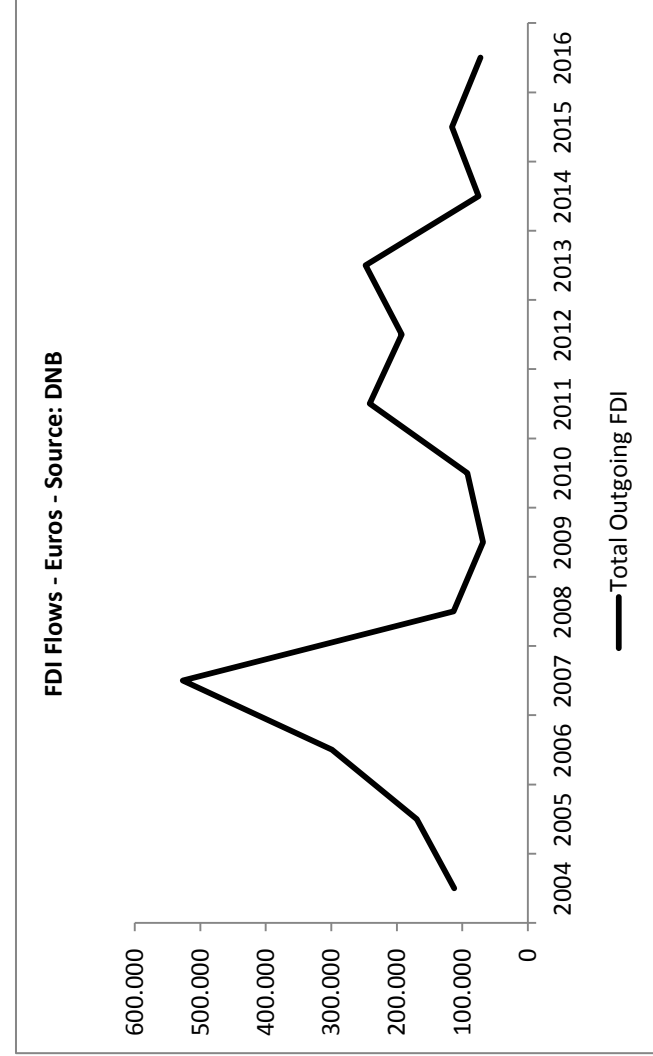
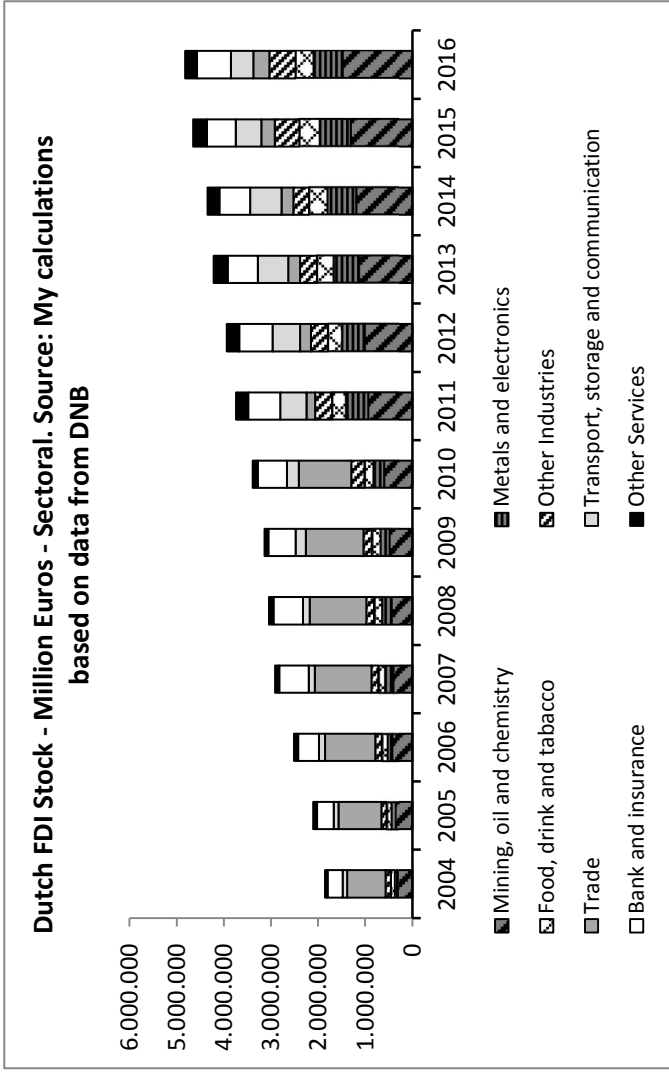
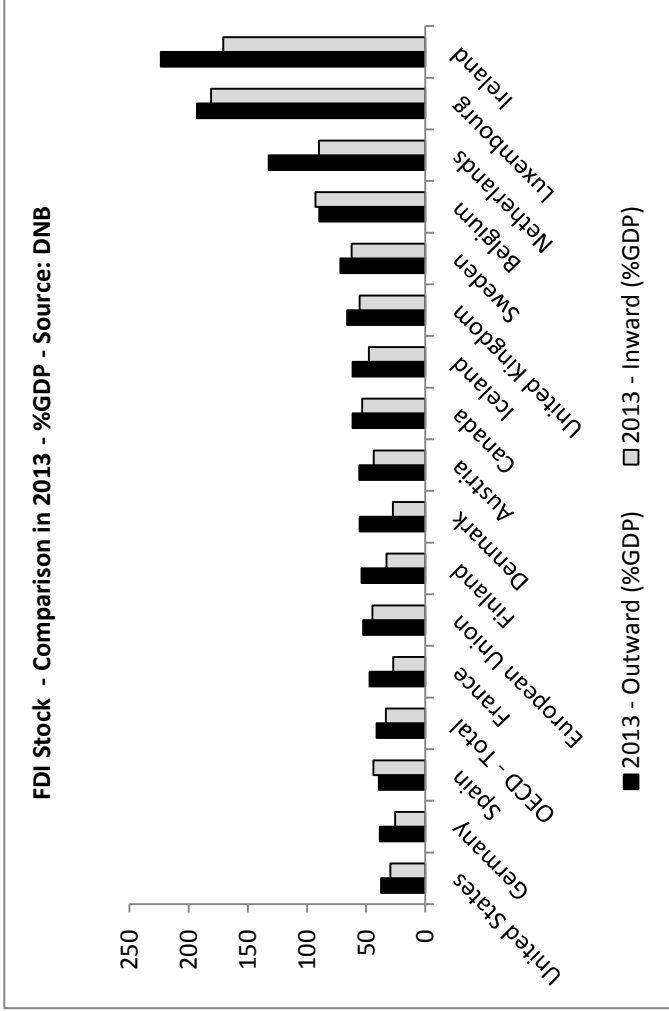
Finally, as was mentioned in the preceding section, **international investment** has become an increasingly important feature of the Dutch economy. In 2013, the Netherlands had one of the highest FDI/GDP ratio's in the world. This has contributed to the (already significant) internationalization of Dutch business. The Netherlands has not only been the 'recipient' but also the home country of several large, multinational firms (Sluyterman, 2015; Touwen, 2014)<sup>115</sup>. This role has remained significant. Although only 2% of firms operating in the Netherlands were **multinationals** in 2013 (Dutch and foreign), they accounted for a considerable portion of total employment (40%), value added (53%) and foreign trade (80%). Their share has also been growing, as previously domestic firms became multinational in recent years (CBS, 2015a). In contrast to Belgium, the Netherlands have also had a large population of home-grown Dutch multinationals. These represented about one fifth of total employment in multinationals, and employed some two million people abroad (CBS, 2015a). About 50% of total trade was conducted by foreign multinationals, 30% by Dutch multinationals and the remaining 20% by domestic firms (CBS, 2015a). However, SMEs have also been very (and increasingly) export-oriented (Touwen, 2014).

The growth of the Netherlands as a financial and investment hub has, however, also been met with **criticism**. The investor-friendly tax and investment policies and treaties have attracted thousands of letterbox companies, and the Netherlands has been accused of being a tax haven that facilitates treaty-shopping (van Os & Knottnerus, 2011). According to the tax Justice Network, in 2012 4/5<sup>th</sup> of all Dutch outgoing FDI consisted of 'pass-through' FDI, investments by multinationals in other countries via their Dutch holdings, often designed to avoid taxes by paying out dividends, interest and royalty payments to these holdings; such investment pay-outs are taxed less because of the Dutch system taxes, BITs and bilateral tax treaties (Tax Justice Network, 2014). Moreover, letterbox companies have used their paper presence in the Netherlands as a springboard for launching investor-state arbitration claims against third states, making use of the large and investor-friendly network of Dutch BITs (van Os & Knottnerus, 2011). We will return to this in the section on 'policy'.

In summary. The Netherlands is a highly productive service economy, which is heavily oriented towards and dependent on trade, with a very important role for a small number of large firms and multinationals in production, employment and trade. It has specialized in a number of business services, but is also one of the foremost agricultural/food exporters in the world. It is also a very important player in FDI, both on the receiving and the sending side.

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<sup>115</sup> In the late 19<sup>th</sup> century Dutch business was already thoroughly international, a trend that continued after the war with the rise of the large multinationals (Shell, Unilever, AKU and Philips) that would dominate the Dutch economy well into the next century, and an inflow of firms from the Netherlands' neighboring states as well as the UK and the US. After the second world war, it were in particular American firms that grew in importance (Sluyterman, 2015; Sluyterman & Wubs, 2015). From the eighties on, the liberalization of international capital markets and growing trade openness combined to produce another vast increase in the **flow of FDI entering** and leaving the Netherlands, with an increasing share of investments in and from other European (particularly neighboring) countries (Sluyterman & Wubs, 2015; Touwen, 2014). This was accompanied by a wave of mergers and acquisitions, certain branches of the Dutch economy were now entirely dominated by foreign investors (Bouwens, 2015).





## 6.2. Foreign- and trade policies

### 6.2.1. Policy

#### 6.2.1.1. Foreign policy

According to Duco Hellema *'neutrality and free trade'* best described the **pre-war** creed of Dutch foreign policy. **After 1948-49**, neutrality was to some extent abandoned with the acceptance of American leadership (and eventually enthusiastic atlanticism) and proactive support for nascent multilateral institutions, yet free trade remained at the heart of Dutch foreign policy. Simultaneously, the Netherlands became a strong proponent of European integration. From the late **eighties and nineties** on, this combination of support for free trade, progressive idealism and EU-enthusiasm, started waning. It was seen as being in conflict with Dutch sovereignty, influence and economic self-interest (Hellema, 2014). Under the governments of the past ten years, this trend has continued. With **Balkenende IV** (CDA, CU, PvdA, 2007-2010), the Netherlands stuck to a hesitant, skeptical stance towards the EU, evident in the cabinet's reluctant positions towards enlargement and the Lisbon treaty, and its resistance against a trade deal with Serbia. There was a general feeling that the Dutch influence over EU politics was waning, exacerbated by the lack of a clear strategy. More generally, the 'idealist' tenets in Dutch foreign policy were increasingly abandoned for (a more narrow conception of) self-interest; this was visible, for instance, in the way human rights were increasingly sidelined by economic goals in the state's dealings with China. A sense of disarray predominated, visible in the political unrest caused by some of the US-oriented policies the cabinet pursued, which eventually even led to the demise of the government: Balkenende IV tripped over the prolongation of a military mission in Afghanistan. Under **Mark Rutte's** brief (2010-2011) first term, there was again little sign of integrationist 'zeal' and economic interests were further foregrounded in EU affairs as well as other domains such as development policy; as then minister of economics', Verhagen (CDA) put it: *'We geven niet alleen hulp uit solidariteit. We willen ook dat Nederlandse bedrijven meer opdrachten kunnen binnenhalen uit ontwikkelingslanden'* (Hellema, 2014, p. 446)]. The same views were shared by minister of foreign affairs Rosenthal (VVD), who again doubled down on the emphasis of economics over human rights, *'Nederland hoeft niet altijd voorop te lopen'*. This was also evident in the geographic re-orientation of Dutch diplomatic resources, which were increasingly focused on economically promising regions like (South-) East Asia and the Persian gulf (Hellema, 2014).

**In sum**, Dutch foreign (and trade and development) policy has become increasingly dominated, at the detriment of developmental, human rights and pro-EU concerns, by vague notions of the 'national interest', as well as a right-wing critique of internationalism. In practice, this has led to a preeminence of economic considerations; the state's task is considered to be to help national firms thrive in an increasingly competitive global environment, by way of economic diplomacy (Hellema, 2014).

## 6.2.1.2. Trade and investment policy

### *a. Bi- multilateral trade policy*

In contrast to the general lack of information on Belgian positions, the Dutch position on EU trade issues has occasionally been mentioned in the literature on EU trade policy. For some reason, it is part of the small group of states whose position is at times mentioned explicitly. Although this does not allow us to offer a complete picture of the Dutch position across time and topics<sup>116</sup>, it's what's currently available. Combined with interviews, it allows us to paint a general picture of the Dutch stance.

According to Asbeek Brusse (1997), before the second world war the Netherlands' economic success was built on '*highly specialized, import-dependent industries and competitive exports*', although this was checked by a system of defensive quotas. These external defenses were lowered and partially replaced by more 'domestic' means after the war, for example by the government's very lenient stance towards cartels that (amongst other 'tasks') cooperating to keep foreign competitors out (Asbeek Brusse, 1997). The available literature confirms that this free-trade tenet has remained the core tendency of Dutch trade positioning. In the eighties, the Netherlands were part (along with the UK and Denmark) of the '*northern strategy*' launched by the German minister of economics, Otto Lambsdorff, an attempt to strengthen the coalition of free-trade minded states in the EU (Falke, 2005). At the WTO, the Dutch supported far-reaching liberalization in the WTO's basic telecommunications' services agreement, along with the UK, Sweden, Finland and Germany (Niemann, 2004). During the Doha round, they favored agricultural liberalization (against a heterogeneous batch of states including France, Belgium, Ireland, Poland and Lithuania) (da Conceição-Heldt, 2011a). In the bilateral sphere, the Netherlands was the first country to sign an **open-skies agreement** with the US in the nineties, setting off a flurry of bilateral deals as member states were afraid of losing their competitive edge with the Dutch (Meunier, 2005). In the **negotiations with South-Africa** (started in 1995), the Netherlands joined the UK, Sweden, Denmark and Finland in their call for a strong increase in openness - a coalition that was opposed by France, Portugal, Greece and Spain. However, when talks concerned goods from the 'North' (beef, milk powder, cut flowers), this camp was apparently no stranger to 'protectionist tendencies' either (Larsén, 2007). This judgment was echoed by Baldwin (2006), who noted that even the 'northern' states could be protectionist if their 'salmon or cut flowers industries needed defending'. However, it does seem like this represented deviations from a generally liberal trend.

### *b. Trade defenses*

On **trade defenses**, the same liberal approach is present. When the Commission launched its 1992 '**Trade Barriers Regulation**' proposal to reform the trade defenses, designed to severely strengthen the Commission's prerogatives, this was heftily opposed by Germany, Luxembourg, the Danish, the UK and the Netherlands (Garcia

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<sup>116</sup> A more complete picture would require more archival work and perhaps further use of the Dutch 'Wet Openbaar Bestuur'. I should note that such an investigation would probably be far easier here than in many other countries, due to the relative transparency of the government, and the ease with which these positions can be browsed by looking through the ministerial 'Letters' to parliament. Many of these are also available online. Time did not permit for me to conduct this research myself.

Molyneux, 2001). A very similar fight emerged in the context of the 1990 'utilities directive', which tried to introduce a kind of 'reciprocity' (or: 'Buy European') clause in procurement, favoring EU providers. Again, the UK, Germany and the Netherlands were vehemently against such a tool, while France and Italy were in favor (Meunier, 2005). Around the same time, the Netherlands was one of the countries that was in favor of *adopting* the WTO's panel report that rejected the EU's anti-dumping duties taken against Japan (in **audio tapes in cassettes**) (Garcia Molyneux, 2001). The same cleavages appeared in the debates on the **multi-fiber agreement (1995-2005)**; once more, defensive states like France, Portugal and Italy had to fight an increasingly vocal anti-protectionist coalition supported by the Netherlands, the UK, Germany and the Scandinavians (Eckhardt, 2010).

According to the data by Nordström (unpublished), the Netherlands was part of the **liberal group** before 2004<sup>117</sup>. This is corroborated by Evenett & Vermulst (2005), which estimated that the Netherlands only supported 8% of all AD action between 1991 and 2003. Our **interviews** indicate in general the Dutch stance has indeed long been that they only support cases in which there is clear evidence of predatory pricing, since dumping as such is not prohibited by the WTO and because price-competition is seen as just being part of market dynamics. This has been true even in some cases where the Netherlands was the only country that still had producer interests at stake. They are a little more 'lenient' when it comes to anti-subsidy measures, where the evidence of market-distorting interventions is more obvious (Interview - AD-Unit NLD (retired), 2017; Interview - AD Unit NLD, 2016).

More archival research seems necessary if we're to paint a complete picture of Dutch post-war trade positioning. However, the general, liberal, tendency seems clear. Judging from the interviews, as well as a cursory examination of recently published documents, this has remained so in recent years.

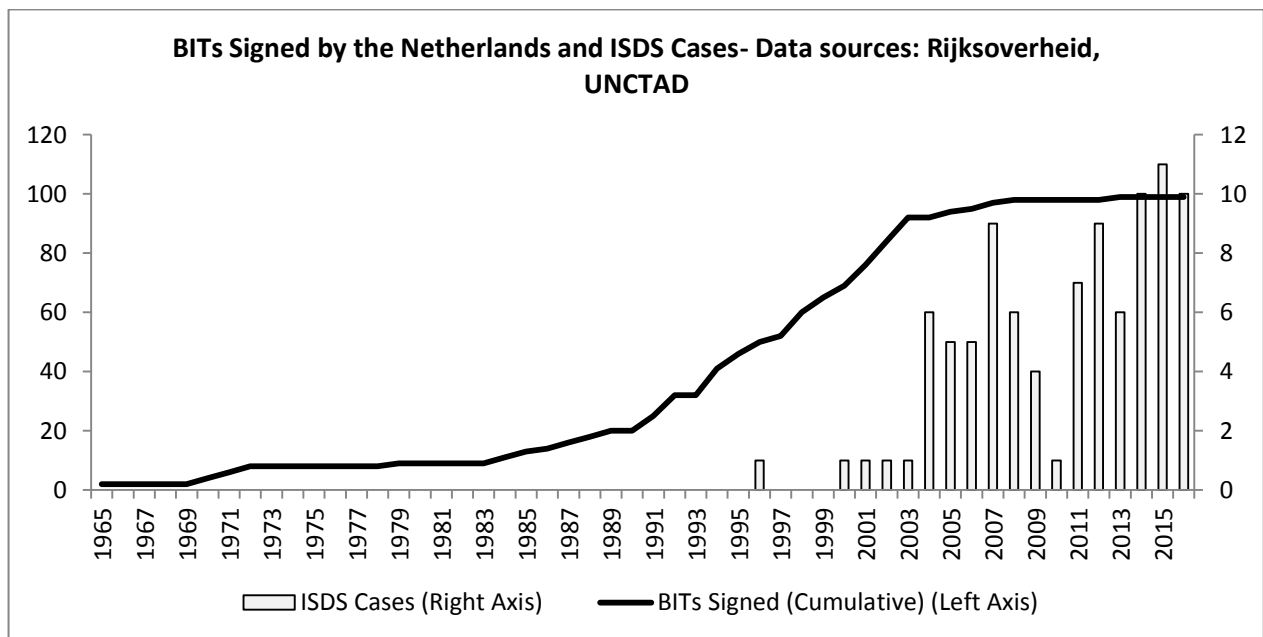
### ***c. Bilateral investment policy***

Finally, a word on the Netherlands' **bilateral investment treaties**, because an investment chapter was added to CETA in 2011 and has been one of the treaty's most controversial elements.

Worldwide, the Netherlands has been **one of the most active countries in signing bilateral investment treaties**, especially after attempts to create a multilateral investment treaty failed in the nineties. Since the turn of the century, the Dutch have focused specifically on negotiating BITs with large energy-producing and strategic countries (van Os & Knottnerus, 2011). In 2016, there were about 95 BITs in force:

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<sup>117</sup> According to this paper, if everyone shared the Dutch preferences, AD action would have only been condoned in 19% of all cases (compared to 98% for Greece, for example).



The **Dutch approach to BITs**, based on a model developed in 2003, is similar to the usual European approach and has been very investor-friendly. It has been explicitly designed to, in unison with a series of bilateral tax treaties and investment-friendly tax policies, attract businesses to the Netherlands; the social and environmental dimension of investment are sidelined in a non-binding preamble (Hanessian & Kloes, 2011; van Os & Knottnerus, 2011).

One aspect of the Dutch BITs that merits a highlight have been their **investor-friendly investor-state dispute-settlement clause**. Such a system was still absent in the first generation of BITs concluded in the 1970s, but has since become a regular feature. The core of the system consists of: “*direct access to ICSID; no exhaustion of local remedies; no requirements related to amicable settlements of disputes; and explicit reference to nationals of the host party being treated as nationals of the other Contracting Party, in case they are controlled by nationals of the home state*” (van Os & Knottnerus, 2011, p. 24). According to SOMO, all Dutch ISDS systems ‘*allow for investors to sue host states before international tribunals when they feel that host state regulations are impinging on their investment and expected profits*’ (van Os & Knottnerus, 2011, p. 21), while it is ‘*silent on requirements regarding transparency of procedures*’ (ibid, p. 21).

Because of its large BITs network and its tax system, the Netherlands has been an appealing host for holding companies, which may “*may provide "free insurance" by way of the protection offered by the Netherlands BIT with the country in which the investment is made*” (Hanessian & Kloes, 2011, p. 1). This helps to explain why some 10% of all **investor-state cases** by 2011 had been launched from the Netherlands, mostly by foreign subsidiaries of ‘parent’ firm’ based elsewhere; a majority of these were letter-boxes without employees or real activity. The Netherlands has never had to respond to any claims from third country firms (van Os & Knottnerus, 2011). According to data from UNCTAD firms have used the Dutch BITs to target other states 94 times; many of these cases were from multi-national firms. Of the non-pending cases, 10 were decided in favor of investors, 18 in favor of the state, and 21 were settled. The Netherlands had never been targeted by an ISDS case itself.

In the **debates on the EU-isation of investment treaties**, the FDI-laden Dutch have been an influential voice. As part of the 'Friends of Investment' (together with the United Kingdom, France, Germany, Sweden, Finland and Estonia), the Netherlands has fought against the phasing-out of existing BITs, and has demanded that potential EU investment agreements grant the same amount of investor protection offered by the BITs (van Os & Knottnerus, 2011). In a critical report, SOMO summarized that *'The Dutch seem reluctant to begin viewing their investment policy, with its generous protection of investor rights, in a broader policy context which would require a policy rebalancing to include specific investor obligations in relation to human rights and sustainable development. [...] Letterbox companies making use of investor-friendly Dutch BITs to challenge the regulatory frameworks of host states is not seen as problematic.'* (van Os & Knottnerus, 2011, p. 38).

## 6.2.2. Institutions and decision making

### 6.2.2.1. Decision making procedures - General

Before 2012, trade policy was primarily handled by the ministry of economics, sometimes by a state secretary for trade. After the 2012 elections, the new cabinet agreed to assign the policy to a new minister of 'trade and development': Lilliane Ploumen from the PvdA. This did not entail the creation of a new ministry, Ploumen was made co-chief of the ministry of foreign affairs, but it was nonetheless accompanied by an administrative reshuffle: the department (and civil servants) that focused on international trade within the ministry of economics were moved to the ministry of foreign affairs.

Since a lot of facets of trade policy overlap with the competence and expertise of economics, there is still quite **intensive coordination** with economics'. Part of this is 'permanent' mutual consultation: after the re-shuffle under Ploumen, a civil servant was assigned the task of coordinating between both ministries, a task that entails, for all trade dossiers from CETA to anti-dumping, bringing issue-specific experts together, resolving disputes, and making sure that economics is always involved in any trade dossier that touches its competences (e.g. telecommunication, energy, agriculture and services). There is also a more formalized venue for coordinating: the weekly (before each TPC) meeting of the 'interdepartmental council for trade politics', which has existed for over 50 years. In principle,, this council gathers the director-generals of the various ministries, but in practice it's attended mostly by the civil servants that are closely following individual dossiers. Here, all departments that have a stake in certain trade files (including for example the ministries of finance, health, agriculture and foreign affairs) come together to discuss ongoing issues, and to deliberate on the official position vis-à-vis the EU (Interview - MFA, 2017; Interview - Ministry of Economics, 2017).

The **division of labor across the ministries** shifts according to the topic but also the phase of the negotiations. During ongoing negotiations, more sectoral expertise from across departments will be necessary, while the signaling and ratification phases and the political advocacy these entail are largely in the hands of foreign affairs – unless question from the parliament again require specific technical input (Interview - Ministry of Economics, 2017). Overall, the governmental **resources/personnel**

**allotted to trade** were hard to gauge. Although there were for example only two designated experts focusing on TTIP/CETA, and just 'one person and a half' focusing on anti-dumping, they were backed by a variety of legal and sector-specific experts (for example in agriculture, services or investment) within foreign affairs, along with the expertise available from other ministries (particularly economics) (Interview - MFA, 2017).

#### 6.2.2.2. Trade decision making – Anti-dumping

The 'trade defense unit' (one person with one replacement) has since 2012 resorted under the minister of trade and development, although they coordinate actively with the experts from economic affairs.

After this 'unit' is notified of a pending investigation by the Commission, it usually goes through the following steps to determine the Dutch position. First, Dutch parties that are mentioned in the complaint are called. If the case is a big one (for example in terms of trade volumes affected) or if it concerns an important sector or firm, the unit will also actively try to get in touch with potentially affected actors. This also includes stakeholders that may be affected in a negative way should the duty be imposed. Apart from this proactive response by the unit, it is also open to conversations with any other interested party. These contacts largely happen through the sectoral federations, which are often better able to paint a more complete picture of a sector's interests (since they often represent both producers, users, importers and exporters). The cross-sectoral organization VNO-WNC plays a very limited role in individual cases; its involvement is larger when it comes to legislative reform (for example trade defense modernization, market economy status).

The unit will also investigate import and export statistics, and may get in touch with economic affairs to procure some more data on the economic importance of a certain industry. It also explores in which part of the supply chain Dutch firms are more active – i.e. seeing whether Dutch interests are situated more on the producers' or the users' side. The final decision is largely up to the 'unit' (i.e. the one person that followed this dossier up close); in most cases she can decide on the Dutch vote autonomously. There has been very little interference/involvement from other ministries. Economic affairs has sometimes gotten in touch because a case affected their sectoral strategies, the ministry of environment was interested in certain aspects of some cases (e.g. the phosphor and solar panel cases), and the ministry of finance was sometimes suspicious of the enforcement costs that imposing AD-measures potentially entailed, but this remained at the margins.

#### 6.2.2.3. The parliament, the public and the press

Finally, I would like to shed some light on the 'outside' access points discussed in the theoretical section, which play an important role in my scope conditions and empirical work. To what extent have the parliament, the public and the press paid attention to trade policy? These data will be used to gauge the a priori feasibility of outside strategies in the coming chapters.

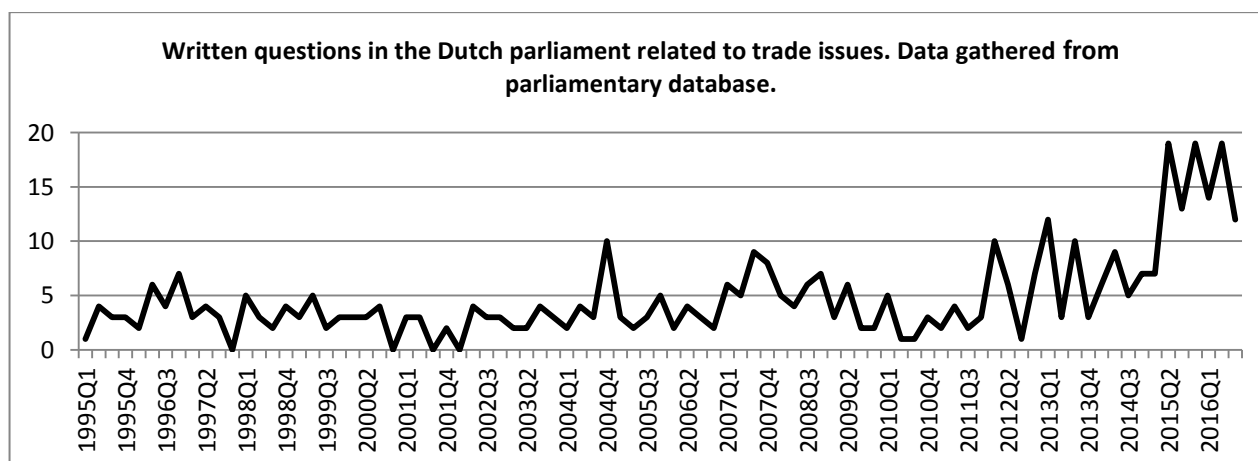
### a. The parliament

The dominance of the executive, and the lack of great interest from the parliament in EU-affairs, has mostly applied to trade politics as well.

First of all, here too the transparency of the executive vis-à-vis the parliament has improved. The government informs the parliament on a regular basis: before each informal and formal gathering of the Council's trade committee, there is a debate with the parliament's committee. Before this debate the minister sends out an annotated agenda of the upcoming gathering, which discusses the state of play at the EU level, the position of the Netherlands, and the balance of power in the Council. Afterwards, a report of the EU meeting is sent to both chambers (Interview - MFA, 2017)

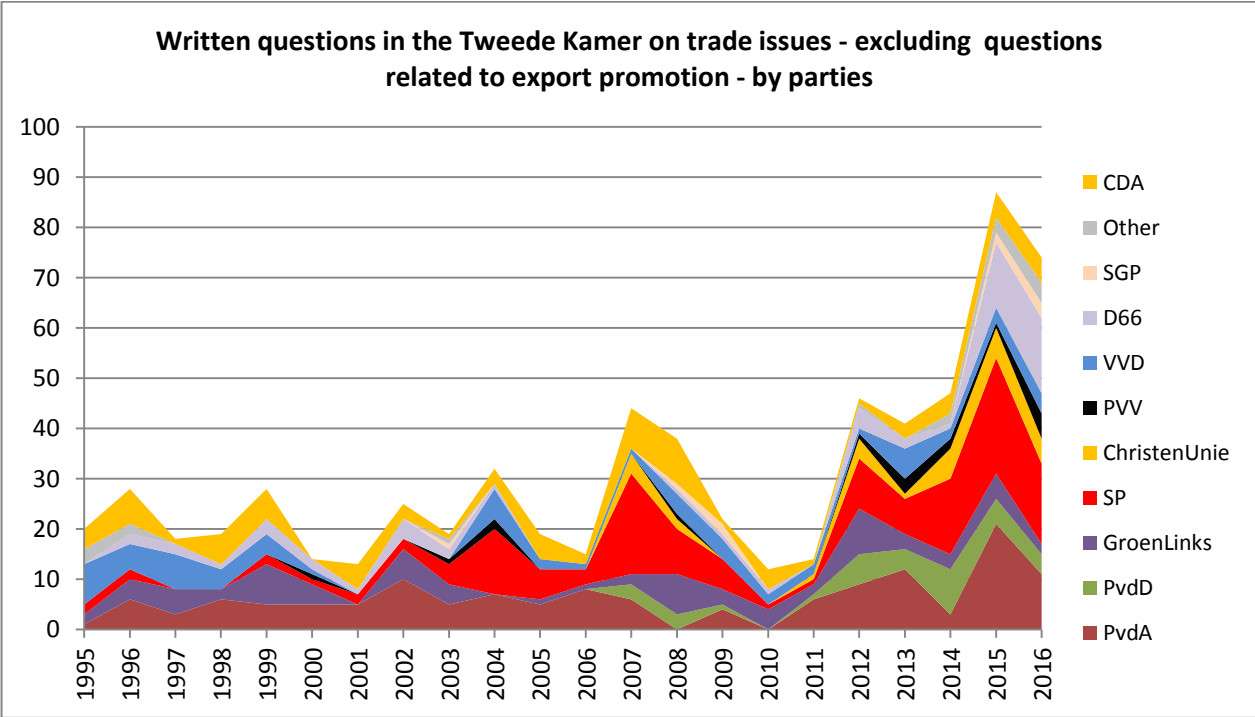
In principle, this flow of information means that the Tweede Kamer has been in a much better position to follow and intervene in the trade agenda than in many other EU states. Yet, trade issues have generally not been very high on the parliamentary agenda. Before the politicization of trade with TTIP and CETA, trade policy had seldom been a very sensitive dossier. Some exceptional prior episodes of heated debate were on the founding of the WTO and the Seattle protests, over the Multilateral Agreement on Investment, and ACTA. The association agreement with Ukraine was also heavily politicized, but here the trade-related aspects figured less prominently than the political dimension of the deal (Interview - MFA, 2017). Attention for anti-dumping measures or other, more technical aspects of trade policy has almost always been largely absent (Interview - AD-Unit NLD (retired), 2017).

As can be seen in the following graph, which was constructed by gathering written questions on trade issues through the parliamentary database<sup>118</sup>, there have since 1995 seldom been more than five trade-related written questions per year, until the upwards trend after 2013.



<sup>118</sup> Using the following key words: TTIP, CETA, ACTA, TISA, vrijhandel\*, handelsrelatie\*, handelsakkoord(en), WTO, economisch partnerschap, EPA, internationale handel, tariefovereenkomst\*, handelspreferentie\*, bilaterale overeenkomst, partnerschapsakkoord, handelsbetrekking(en), handelsbeleid, handelsovereenkomst(en), handelsverdrag\*, handelspolitiek, embargo, handelsbalans, buitenlandse handel, handelsdefensie\*, Importheffing, handelsmissie, wereldhandelsorganisatie, anti-dumping\*. For the key words with an asterisk, I added a thematic criterion to my search to narrow down the amount of results (which often overlapped with other domains): 'Economie - Handel' and 'Internationaal-Europa'.

If we then look at how this attention is spread across parties, we see the following.



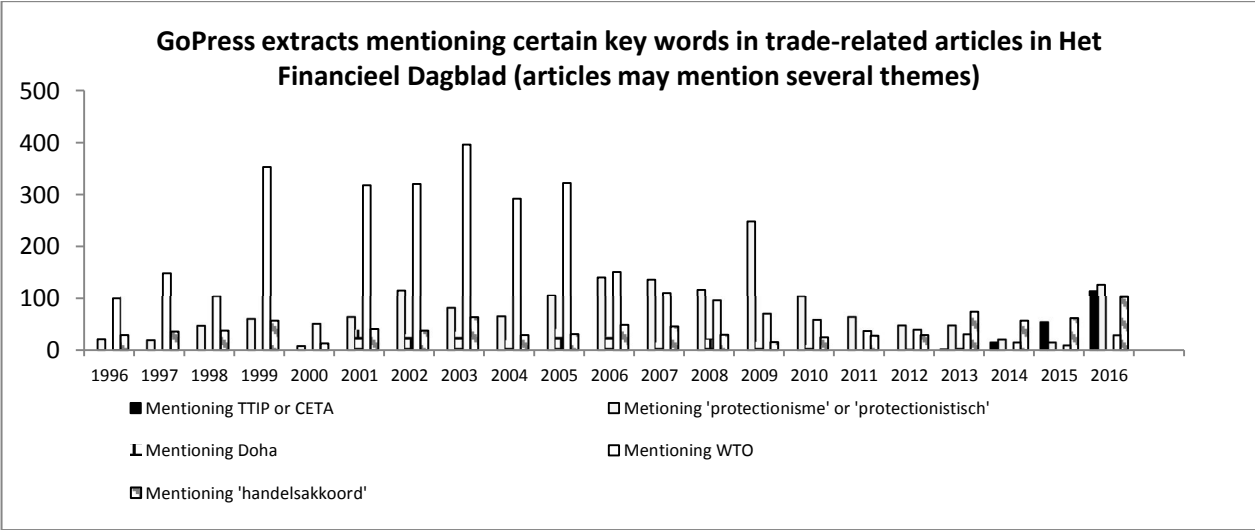
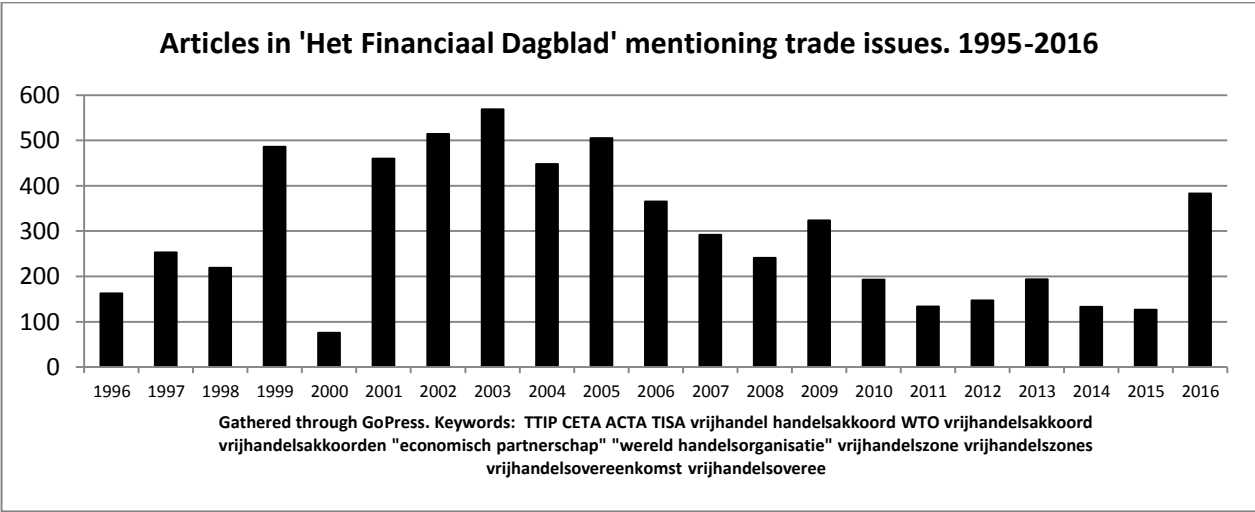
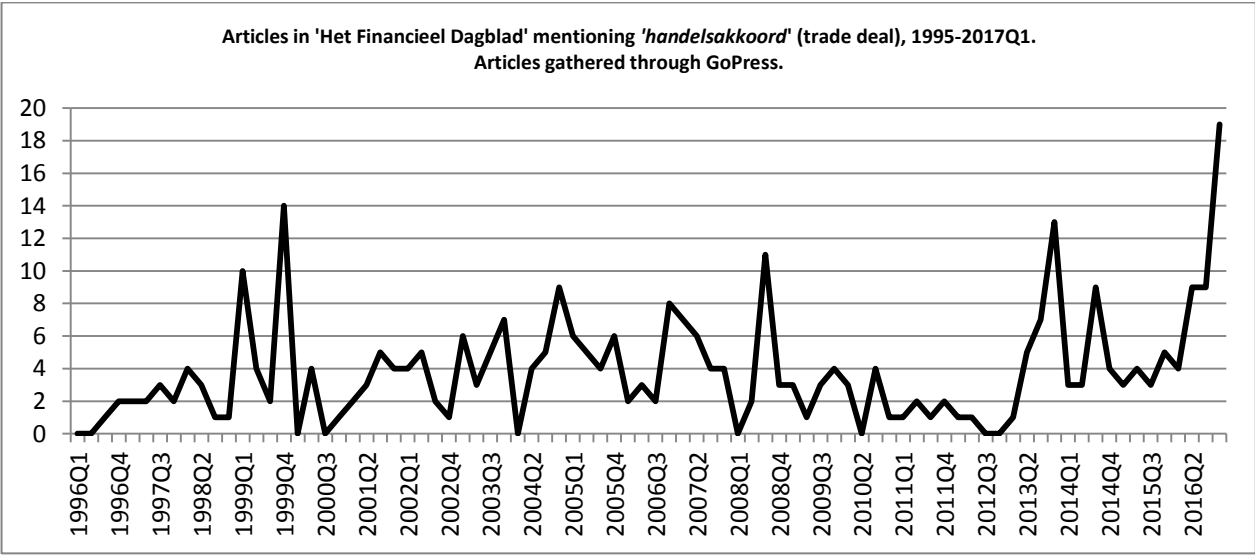
At least when considering written questions (time did not permit for an analysis of oral interpellations as well, for the Belgian case we did perform this more in depth review), it seems that trade has been an issue very much dominated by parties from the (socio-economic) left.

In sum, based on these data and the interviews, we can safely conclude that trade has seldom been a very ‘hot’ item in the parliament. The obvious exception has, of course, been the debate that has been waged on CETA and TTIP in the past few years. This will receive more scrutiny in the chapter on CETA, and in the concluding remarks.

**b. The press**

Finally, a brief glance at the press’ attention for trade issues. I used GoPress to search through the Dutch newspaper archives; to have some estimation of how the press’ attention has evolved. Het Financieel Dagblad was the only paper with an archive that went back to 1995. Since it’s a financial and economic paper, this probably represents a strong overestimation of the attention trade issues have received in the wider press. The second graph represents an even greater overestimation because it casts a very, very wide net. Although it’s hard to compare with just one paper in one country, it seems there has been generally far less concern for trade political issues in the past ten years (perhaps somewhat surprisingly considering the Great Recession and the protectionist scare this elicited). This is corroborated by interviews, which claimed that it has generally been very difficult to get the press to publish anything related to trade politics (Interview - TNI 2, 2017).



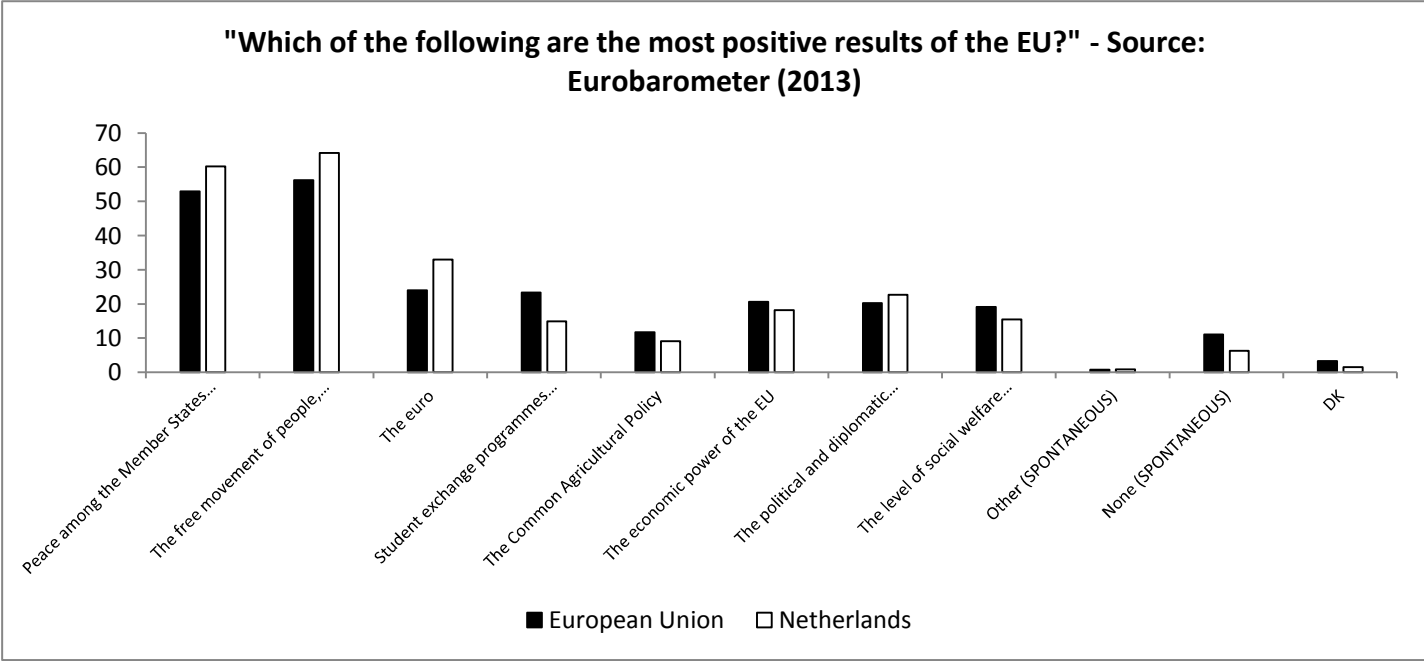
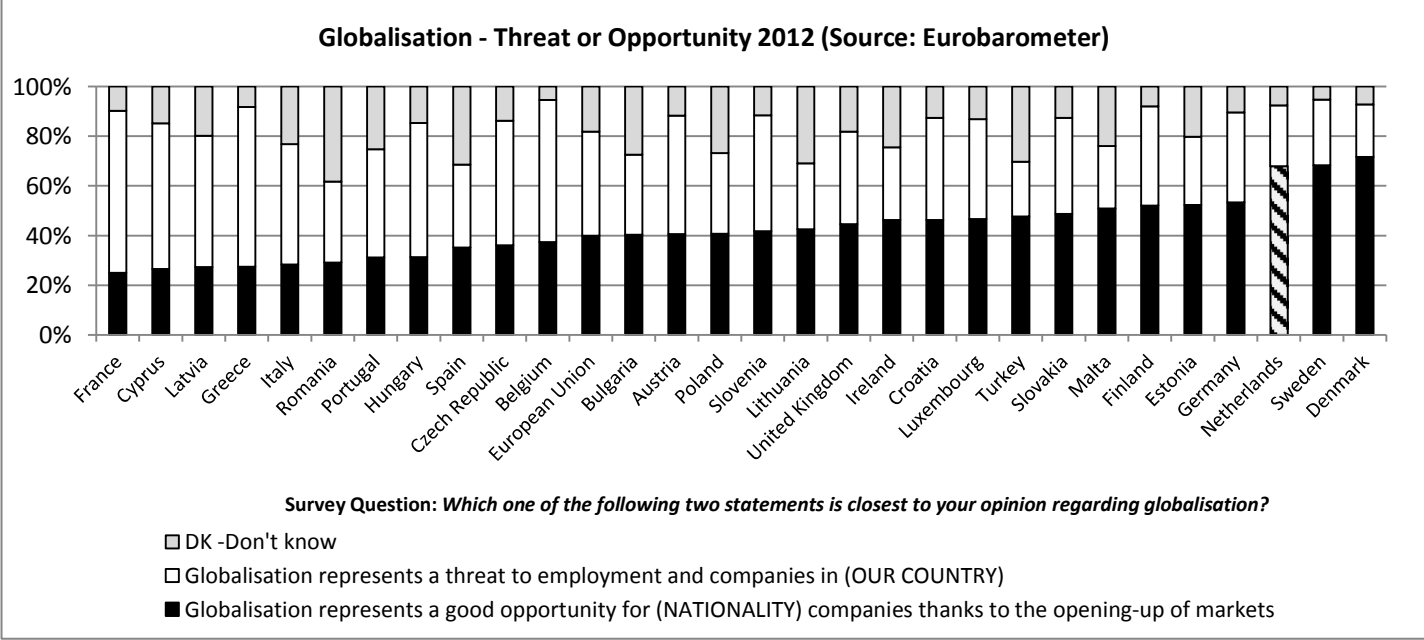


**c. The public**

The public's attention for these issues is even harder to measure, there are no surveys of public awareness of trade issues available. According to the experiences shared by several of my interviewees, it has generally been very low (Inter alia: Interview - AD Unit NLD, 2016; Interview - Head of IMH, 2017; Interview - Milieudefensie, 2017; Interview - TNI 1, 2017). It is hard to further substantiate this claim, but it does not

seem unreasonable, and it would fit with the broader belief that the public usually pays little attention to EU politics or the technicalities of foreign economic policy. Moreover, we may to some extent also consider the press' and the parliaments' attention for these issues as something of a proxy for the public's awareness.

What we do have, however, are some surveys on the *attitudes* of the public towards free trade and globalization. These demonstrate that the Dutch people have been pro free-trade, and have more generally embraced economic openness.



Of course, the above remarks in relation to the parliament, public and press are about the average pattern, and there have been deviations. The most obvious exceptions are the recent discussions over TTIP, TiSA and CETA, about which more in the chapter on EU-Canada. Another important recent episode was the kerfuffle over the association agreement with Ukraine, which played out in the same period (2014-2016) as the politicization of CETA, although it was distinct from the TTIP/CETA debates in many ways<sup>119</sup>. Here a group of (right-wing) organizations was very successful at gathering the requisite amount of autographs to launch a referendum on the DCFTA with Ukraine<sup>120</sup>. However, even though it became a major issue in the public and political debates, the public interest in the affair remained lukewarm. According to a survey conducted by Rosema et al, although the electorate generally supported the need for a referendum, they did not consider the Association Agreement itself of very high importance, and only a minority was intent on actually voting. Their research moreover showed that resistance against European integration was the biggest motivating factor for opponents, and that referendum was primarily seen as a vote for 'more or less EU' (Rosema, Kanne, & Klein Kranenburg, 2016)<sup>121</sup>.

This again illustrates the modest amount of public attention these issues can attract, even if it actually does come to a referendum, and if the minister-president is forced to take a far more conflictuous position at the EU level.

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<sup>119</sup> Initially, the deal with Ukraine did not lead to much parliamentary or public discussion, few parties paid much attention to it and the accord was ratified without much fuss; on the 7<sup>th</sup> of April 2015, it was approved by a large majority (199 vs 31 votes). Only the PVV, the SP and the PvdD voted against. This changed after GeenStijl, a popular right wing news site, announced that it was going to try and make use of the Netherlands' new referendum law (approved in 2015) to have a public vote on the deal (Rosema et al., 2016).

<sup>120</sup> The debate that followed was only partially focused on the accord's trade-related aspects. According to Rosema et al (2016), the main leaders of the public campaign, GeenStijl and Forum voor Democratie, 'did not hide' that they did not really care about the contents of the agreement, but were instead using the referendum to further their wider, Eurosceptic agenda. This was less true of the parliamentary discussions in the run up to the referendum, where economic and geopolitical frames were both present across the pro and contra camps (Otjes, 2016). Only one opponent of PVV opposed the deal mainly from a socioeconomic perspective: although they supported free trade, they believed that this deal would also lead to an increase in development cooperation and more lenient migration rules. The other opponents, the SP and the PvdD, also aired economic worries (related to social dumping (SP) and food safety and animal welfare (in particular related to eggs, PvdD)), but in general they relied more on geopolitical arguments: they criticized the EU for engaging in a dangerous sort of great powers' struggle with Russia. Among the proponents, the VVD favored the accord for geopolitical reasons, but mostly argued that it was a 'dressed up trade agreement' that would benefit both Ukraine and the Netherlands. Most other parties (D66, PvdA, GroenLinks) supported the deal for geopolitical reasons (Otjes, 2016). The CDA's position was more ambiguous and critical; they eventually came out in favor of the FTA in the run up to the referendum, then promised not to ratify during the elections in 2017, and eventually did (mostly) vote in favor in the Senate

<sup>121</sup> On the 6<sup>th</sup> of April, 2016, the vote was held and the Ukraine treaty was rejected by 61,1%, although the turnout was a low 32,2%. The ruling cabinet then promised to take account of the outcome; threatening non-ratification, they demanded the addition of a legally binding declaration, which needed to include inter alia that the agreement would not automatically open the door to Ukraine's EU-membership, nor military involvement of the Netherlands in Ukraine. In December 2016, an agreement was found and a text echoing these requirements was added. In May 2017, after the latest elections, the Netherlands ratified the accord (Teffer, 2017).

## 7. Explaining The Dutch Position In CETA

In this chapter, I will begin my explanatory investigation. The text proceeds as follows. First I will paint a picture of my 'Y', the position that was taken by the Netherlands throughout the negotiations, until the deal was signed in October 2016. Then, I systematically trace each of my three mechanisms, assessing to what extent they can plausibly account for the outcome. I always begin by estimating the prior probability of the mechanism, before proceeding to 'test' each mechanistic step. After performing three of these analyses, I construct an overarching synthesis of the country-case, in which I integrate my findings from the mechanisms into one explanatory narrative.

### 7.1. The outcome - The position of the Netherlands

I will first outline here what needs to be explained, namely the Dutch position in CETA. This is more straightforward in the Dutch case than it would be in many other countries, because the government communicates very openly with the parliament on the positions it takes at the EU level. Moreover, the released WOB documentation included the guidelines to which the Dutch TPC representatives had to adhere throughout the negotiation. In combination with interviews, I believe this allows us to get a reasonably accurate picture of the position of the Netherlands during (and after) the CETA negotiations. Still, this remains a complex outcome 'variable': the Dutch position did not remain static, and I will have to take stock of, as well as explain, the positions' alterations.

After discussing the details of the developments in the position, I summarize it in section 7.1.2. .

#### 7.1.1. Tracing the outcome

I will here present the developments in the Dutch position. For the ease of presentation, I will organize this year by year rather than according to subject or source. I will end with a more condensed summary at the end.

##### 2009

Until 2011, the only source we have are the WOB-documents. There were no letters to parliament about CETA.

The **first (September 2009) TPC meeting** (then still committee 133) I have a record of was a session in which the Commission requested feedback after Commissioner Ashton's visit to Canada, where she discussed the prospects for an FTA. The guidelines sent to the Dutch representatives told them to call on the Commission to work for, and push Canada towards, an ambitious agreement. The specific Dutch demands that needed to be brought up were the following: the involvement of the Canadian provinces in the negotiations was deemed 'essential', in order to ensure that these sub-national entities would also implement the full agreement (*'no picking and choosing'*). Secondly, 'as far as the Netherlands is concerned', the gains from an FTA with Canada were mostly to be found in the removal of NTBs, standards and regulations, *'for example in the heavily protected dairy sector'*. For the Netherlands, the high import tariffs in dairy are also 'strongly determining for the value of an accord

with Canada'. There is also 'much to gain' from opening services and public procurement markets.

Here as well as in the other meetings, there is no telling whether the Dutch representatives did in fact intervene, or whether their contributions to the discussion did in fact follow Den Haag's guidelines.

The **second meeting (02/10/09)** discussed the Commission's strategy and goals in CETA, along with some draft negotiating texts. The Netherlands reiterated the position as was described above (WOB - Nummer 2). The **third meeting (13/11/09)** discussed the first negotiating round. Again the initial position is reiterated, with extra emphasis on the provinces and Canadian dairy subsidies (WOB - Nummer 3). The same position was repeated in **fourth meeting (09/12/09) (WOB - Nummer 4)**.

## 2010

The **fifth meeting (08/01/10)** discussed the first tariff offers. The Dutch applauded the ambition these offers exhibited, and repeated their position. They also inquired about the negotiations on IPR and the political partnership negotiations (WOB - Nummer 5 - for the rest of this section I will only mention the number). After the second round of negotiations, the Dutch representatives were told to just '*listen*' during the **sixth meeting (29/01/10) (6)**. An attached assessment of the ongoing negotiations is optimistic: NAMA liberalization was far-reaching, agricultural liberalization less so but they still expected significant gains in dairy and (to a lesser extent) meat. During the **seventh TPC gathering (26/04/10) (7)**, the Dutch were told to complain about the Commission's poor communication and feedback on the topic of intellectual property: they were irritated that they '*had to get their information from a weblog (name edited out)*', and were wondering when they would be allowed to read and comment on the texts. In the **eighth meeting (07/05/10) (8)**, nothing much was added from the Netherlands' basic position (provinces, procurement, services, dairy), apart from some impatience about the pace of the talks. The **ninth meeting (11/06/10)** was the first to discuss *negative listing*, which according to the Commission (dixit the document) was something that Canada kept insisting on (9). The (very brief) Dutch position here is interesting because it is far more defensive than at later stages: the Netherlands explicitly had a 'reluctant' view of negative listing because it differed substantially from the EU's usual approach and therefore had uncertain consequences. The Dutch were therefore in demand of an in-depth analysis by the Commission. This position somewhat evolved, in less than a month, by the **tenth meeting (06/07/10)**: the Netherlands now stated that they had no principled objections to the use of negative listing, yet they questioned whether the pressure of the negotiations allowed for enough time to adequately prepare the transition from positive to negative lists. They therefore called on the Commission to be cautious on this topic (10). Further details followed in the **eleventh meeting (03/09/10)**, where the Dutch added that they still kept to a 'positive list' approach for *mode 4*, and that using negative listing in CETA should not be seen as a precedent for future deals; positive versus negative listing had to be weighed for every deal (11). Finally, in the **twelfth meeting (1/10/10)** the Netherlands decided to agree with the Commission's approach, supporting its bid to use negative listing for modes 1-3 while retaining possibility for reservations in some sensitive sectors. According to the guidelines, this way they hoped Canada would make a '*more ambitious offer*'; when '*combined with a ratchet*

clause, it paved the way for a deal that would surpass NAFTA-parity' (12). In the **thirteenth gathering (08/10/10)** they did not return to this subject, and the Netherlands again returned to outlining roughly the same 'PPSD' stance as always. The only difference was that, apart from the dairy sector, there was now also explicit mention of the 'great importance' of the postal and financial sectors (13). In the penultimate gathering of 2010 (**05/11/10**), this was again repeated, again with a slightly modified position on services liberalization - they now also stated that negative listing should not '*negatively affect the MFN-clause, which for the Netherlands was an essential safeguard of the multilateraliseability of CETA*' (14). At the final meeting of 2010 (**03/12/10**), the Dutch TPC members repeated the above positions once more (15).

## 2011

In preparation of the sixth negotiation round, the TPC meeting of **07/01/11** discussed the state of the negotiations so far (16). The Netherlands reiterated the exact position it had come to by the end of 2010. At the **sixteenth (21/01/11)** meeting, the Commission tabled a discussion of its proposal to expand the negotiations with Canada (and Singapore and India) with a chapter on investment. The Netherlands supported this initiative, welcoming the addition of an investment chapter which could serve as a '*benchmark*' for future deals. It emphasized the need for a level of investment protection that was comparable to the Dutch BITs (17). A week later (**28/01/11**), they discussed the sixth negotiating round and the Netherlands repeated its usual position (18). At the 19<sup>th</sup> meeting (**18/02/11**), they again discussed negative listing, and the Dutch again repeated their support of negative listing for modes 1, 2 and 3 but not 4. On the **first of April 2011 (20)**, the Dutch repeated their standard position, but now with two additions: in response to the Commission's document on labor norms in CETA, the Netherlands stated that they were committed to a binding reference to, at least, the four core labor standards of the ILO. However, they also stated that they did not support the system, proposed by Canada, to make the sustainability chapter binding by way of fines. They preferred a system of 'positive incentives'. Later in April (**21<sup>th</sup> meeting, 15/04/11**), the discussion switched to geographical indicators. The Dutch called for the addition of Gouda Holland and Edam Holland, two cheeses, to the list of protected names. In the run up to the 8<sup>th</sup> negotiation round, there was again an exchange of tariff offers in goods. These were discussed in the TPC meeting of **08/07/11 (22)**. After the eight round of negotiations, the Dutch representatives asked the Commission what its view was on the agricultural offers of Canada (**22/08/2011**) (23). The Dutch assessment of the EU offer was positive, judging that it offered enough room for more concessions from the EU in certain agricultural sectors if Canada offered more access in dairy, while offering almost full liberalization of non-agricultural goods. This assessment, along with the Dutch 'basic position', was also brought to the discussion of the 9<sup>th</sup> negotiation round, during the last TPC of 2011 on **09/11/11 (24)**.

## 2012

During the TPC of **20/01/12 (26)**, the members discussed the prospects for finishing the negotiations in the first half of 2012. The Dutch brought only their basic position. In February (**17/02/12**) (27) this became more concrete, and the Dutch apparently felt they had to react to new issues: apart from their usual lines, their mandate now

included the position that the Netherlands *'supports the Commissions initiative to –at the request of Canada- clarify the reservations related to public services'*; i.e the Dutch also wanted more clarity about what sectors would be open or not, because this *'would give more legal certainty for their own public services'*, but also because it *'may offer chances for their own offensive industries'*. At their **28<sup>th</sup> meeting (04/05/12)**, they discussed the next steps in the negotiations. Apart from repeating its basic position, the Dutch *'position/talking points'* here included a preference for retaining the EU's usual rules of origin system, even though it was prepared to seek a pragmatic compromise with the Commission since this would probably be impossible with Canada. Still, the Dutch emphasized the need to be *'meticulous'*<sup>122</sup>, because CETA would *'set a precedent for other deals with developed countries like Japan and potentially the US'*. Finally, the Netherlands was wary of the *'package deal'* proposed by Canada, because it did not include agriculture and textile and because it included an *'odd bargain'*. Later that month (11/05/12) (29), this debate/positioning was repeated. In June (22/06/12) (30), this position was largely repeated, apart from the point on the package deal, some cheer over the *'continued intention'* to finish up negotiations in 2012, and some remarks about (mutual) frustrations over the cooperation between the Commission and the member states. All of this was echoed in the position for the **31<sup>th</sup> TPC (13/07/12)**, with one addition: the Netherlands was worried about recent press reports that CETA would be a second ACTA; they were certain this would resonate in the EP as well as the Dutch parliament, and wanted to hear how the Commission was planning on handling this speculation. These worries were repeated in the meeting of **27/07/12 (32)**, with some additions: they were now also worried about the activities of certain *'internet interest groups'*, they needed more time to mull over the proposal regarding certain of these ACTA-like provisions, and urged the Commission to be more transparent about this issue with the member states. There were some more developments in the Dutch position in the run up to the TPC meeting of 14/11/2012, which prepared the next round of negotiations. Apart from its previous remarks on *'ACTA II'* and the need for more transparency from the Commission, the Dutch position also included a line stating *'in the negotiations, the defensive interests of the European meat sector are taken into account'*, followed by a request for more information on this aspect of the negotiations. Furthermore, the Dutch also took issue with the scrapping of work permits for certain *'(new) mode 4 categories'*. The Dutch position in the run up to another TPC meeting in September (**22/09/12 (34)**), foresaw that the negotiations had entered a final phase after much progress in the preceding months. They posed questions about the Commission's response to the latest agricultural offer of Canada, which excluded some agricultural tariff lines including Goudse Kaas. The Netherlands was also worried about Canada's attempt to include *'NAFTA/US'* elements in the investment chapter, which would limit the sectoral scope and access to investment protection. Such a proposal *'was in tension with the Commission's mandate'*. During the October session (**05/10/12 (35)**), the Netherlands brought no special positioning. A week later their position/talking points did undergo some changes, however. The Netherlands was now wondering how the tariff quotas for meat and dairy would be designed. Also some minor alterations to the language on investment: the Dutch now *'appreciate the Commission's is sticking to its mandate'*; the proposal by Canada would limit access to dispute settlement which was seen as

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<sup>122</sup> *'Zorgvuldig'*

*'undesirable for Dutch investors'*. Finally, the Dutch also formulated their position on the 'ACTA' provisions in CETA: they now pleaded for scrapping the paragraph on criminal persecution of IPR. There was another development in the Netherlands 'basic position' later that month (**26/10/12**) (**37**). For the first time, there was now mention of the Dutch prioritizing not just dairy, postal services and financial services, but also dredging and shipping. In regards investment arbitration, the Dutch now specified that the Canadian proposal does not offer enough protection, particularly for the financial sector. Finally, apparently the Netherlands had also responded negatively to the chairmanship proposal, made during the last meeting, to scrap all ACTA-like provisions related to criminal persecution except for a non-binding provision related to 'camcording'; the Netherlands would have preferred to scrap *all* of these provisions. However, they *'would not stand in the way of an eventual deal'*. In the following meeting in **November** (**38**), the Dutch had apparently worked on this position: apart from their basic position (dairy, dredging, shipping, postal and financial services, access to ISDS for finance), two issues that they highlighted for the final phase are the need for a higher level of investment protection in the financial sector, and improved market access for the maritime sector. Essentially the same position was voiced on **23/11/12** (**39**), but more briefly and clearly stated: *'the Netherlands can agree with the accord, if the most important remaining problems are by then resolved'*. Exactly the same positions were repeated on **27/11/12** (**40**) and 19/12/2012 (**41**), although in this last meeting the Dutch were even more forward about CETA being a *'balanced and high-quality deal'* that more than adequately reflected the Dutch positions. Only the Dutch interests in the financial and maritime sector remained incomplete. The Netherlands then apparently trusted that *'the Commission would present a successful end-result within the limits of its 'landing zones paper'*, but pressed it to keep an eye on the relationship between CETA and the start-up of negotiations with the US.

## 2013

During the first meetings of 2013 in **January** (**18/01/13**) (**66**) and February (**01/02/13**, **15/02/2013**) (**63**, **42**), the Netherlands expresses some regret that the negotiations had not been finalized, but they still believe this should be possible in the short term. In the first of these meetings, they again stressed the need for *'an adequate level of investment protection in the financial sector'*. The exact same position was reiterated in April (**05/04/2013**) (**64**) and June (21/06/13), although the latter talking points seem more irritated with the Canadian position in agriculture, and includes language like *'quality and substance in the negotiations remain paramount over speed'* – especially since the deal was still seen as a precedent for TTIP. Finally, however, the negotiations were concluded in the fall of 2013, and at the November TPC meeting (**15/11/13**) (**65**) the Dutch position was to hail the deal as *'a landmark trade achievement and a stepping stone to an integrated transatlantic market'* – even though they still had many questions about some ongoing issues (especially in services) about which the Commissions was not very talkative. One of these 'technical' issues that the Dutch here firmly resisted was the inclusion of *'investment screening for Canadian investment, mirroring the Canadian reservation in this area'*. The Dutch were *'strongly opposed'* to such screening. Finally, the Dutch also *'support[ed] the intervention of [a censored member state]'* in regards the division of competences and the nature of the deal. Especially due to some aspects related to transport services, the



Netherlands believed that the deal should be signed and ratified as a 'mixed agreement'.

## 2014

On 24/03/14, an internal memo discussed the management of the **agricultural quotas** which had been agreed on. According to the memo, the Netherlands was in favor of installing a system with licenses rather than a 'first come first served' system. Licensed quotas offered the EU importers (notably in the meat industry) more security. The Dutch pressure on the Commission, along with a number of other member states, had been successful in getting it to try and negotiate such a licensing system, overturning an already agreed deal that worked with a 'first come first served' system. The memo also made clear that the opening of markets in pork and beef had not happened without a set of demands and restrictions: the meat had to be in line with EU standards, i.e. hormone-free. The Netherlands expressed the hope that opening its market for hormone-free meat from Canada would eventually lead to a phase-out of hormone use in Canada, because of the huge market opportunities in the EU (WOB - Memo-Schoon\_redacted, 24 March 2014).

The earliest TPC discussion of CETA in 2014 occurred in April (**24/04/14**) (**72**). They repeated their resistance against investment screening (*'together with other MS'*), citing the dangers of uncertainty for FDI into the EU. They repeated their position on mixity. The next meeting was in May (**23/05/14**), when the Dutch position started with a telling quote: *"I believe the longer we wait now to finish CETA; the more chance potential controversies over TTIP may delay the conclusion of CETA"*. Apart from this the position just repeated the points on mixity and investment screening. These same points again came up in the September meeting (**12/09/14**) (**70**), with some additional remarks about the need to clarify the ISDS provisions, and a *'point on transparency'*: *'We were rather surprised by the Commission's decision not to initial the CETA text. We feel there is a dear need to publish the negotiating result as soon as possible: after three public announcements of political agreement on CETA, our stakeholders and parliament are getting impatient. We need to show them our results and the initialed text would in our view have been a good basis for that. Now that there will be no initialing, they would like to ask the Commission which options we have to publish the CETA text soon'*. On **7/11/12** (**69**), the TPC members then met with Bernd Lange, then Chairman of INTA. According to the WOB document, here the Dutch talking points for the first time acknowledged that ISDS had *'become a sensitive issue in many Member States, also in the Netherlands in relation to TTIP'*, however the Netherlands deemed ISDS a *'good balance'*, although they were still seeing if any technical alterations needed to be made. ISDS was also the subject of a lunch debate between the TPC members on **05/12/14** (**68**). Again the Dutch underlined the increasing political and public sensitivity, also in the Netherlands, of ISDS, mostly in the context of TTIP but they foresaw it may also spread to CETA. In order to safeguard TTIP and CETA, they believed it was *'important to [focus the debate] on improvements of the ISDS-system'* in order to increase its legitimacy.

Somewhere near the end of 2014, the Netherlands tabled a text, 'CETA and Beyond', along with Sweden, Denmark, Luxembourg, France, and Germany. This document took note of the *'intensive public debate'* related to ISDS, but also of *'recent cases [that] have raised genuine and strong concerns that ISDS carries the risk of abusive claims [...]'*. It

called for modifications of the system, notably clearer protection of the right to regulate, by way of a *'clarification of "fair and equitable treatment" and "legitimate expectations" of investors'*, and a carve-out for bank resolutions and sovereign debt-restructuring. They also proposed a set of procedural changes, notably the creation of a permanent 'trade and investment court' with a fixed pool of arbitrators, the introduction of an appeal mechanism, a pre-litigation mediation system, barriers against frivolous claims, and equal access to dispute resolution for SMEs. They also favored the introduction of a 'fork in the road' and a 'no U-turn' clauses, making it mandatory to choose between arbitration and local remedies.

## 2015

The debate on ISDS was continued in 2015, over another lunch meeting with the TPC members on **20/2/15 (73)**. The same worries and positions are repeated from the last meeting, although the Dutch assessment of the political winds had become even more bleak - the debate was more and more having an impact on CETA, and getting ISDS through the EP would 'very difficult' for TTIP as well as CETA. The only other (released) document is from the TPC's December meeting (**04/12/15**) (**43**). Here, the Dutch pleaded in favor of publishing CETA's mandate (the topic of the meeting), as well as broader transparency of the negotiations (e.g publishing position papers, some negotiating texts).

## 2016

Between 1 January and 30 June 2016, the Netherlands was chairing the Council. According to their preparatory document for the TPC meeting of **16/03/16 (44)** as well as interviews with the ministry of foreign affairs, CETA was not a priority for their presidency (Interview - Head of IMH, 2017). The document discussed the successful attempts of the Commission to get Canada to accept a revised ISDS system, ICS. Since this new text was *'completely in line'* with Dutch priorities (*'as set out in the 'CETA and Beyond' paper'*), the Netherlands was also expecting domestic stakeholders (parliament, business, civil society) to approach it *'constructively'*. The Dutch position on the final accord remained positive: the Netherlands expected to receive a *'disproportional share'* of CETA's benefits, *'5-10%'*, with the fall in tariffs saving *'numerous millions'* for Dutch firms, *hails the increased access for dredgers, feedering, telecom and accountants, the new openness of the public procurement market, the doubling of dairy quotas, and the strengthening of investment protections benefitting the Netherlands as the second investor in Canada'*. The Dutch presidency's strategy, as outlined, was to *'at all times pull CETA out of the TTIP discussion'*, to point out CETA was an autonomous deal that was already ready and that would benefit the EU. Two factors still put the deal at risk: developments in the EP (especially within S&D), and in the Council (the domestic discussion in Hungary and the Greek demand for stronger protection of feta-cheese). The second meeting was on the **28<sup>th</sup> of April, 2016** (**45**). This mostly discussed the same issues, although there was now also some controversy in regards the provisional application of CETA, which was being criticized for being undemocratic. There were also new domestic problems popping up in some MS, for example in the Walloon parliament, Romania and Bulgaria, and in the Netherlands (there was talk of a referendum). There was also some evolution in the Dutch position, which now explicitly mentioned that aside from the many benefits there were also some Dutch sectors that would be negatively affected, notably the meat

(e.g. pork and beef) industry but also some fishery (shrimps and cod) and the car industry may '*see some trade diversion*'. At the EU level, at this time the Netherlands was mostly struggling (alongside most other or all member states) with the Commission to get the deal to be acknowledged as 'mixed'. In July (06/06/16) (46), this issue was finally settled when the Commission decided to ratify CETA as a mixed accord. The discussion now focused on the details provisional application. The Dutch position here was that they needed to first discuss this with their parliament because of a set of parliamentary resolutions, but that they would probably argue that the following provisions should not be provisionally applied: portfolio investments, national expropriation, non-trade aspects of IPR and some aspects of regulatory cooperation. The Dutch general position in regards CETA remained the same (welcoming with some caveats, as outlined above). Later in July (47), the Netherlands now had to position themselves on the Slovakian presidency's proposals for provisional application. This discussion was continued on (22/06/16) (48) and (09/09/16) (49) - although the Netherlands always refrained from actually taking a position in the Council due the parliamentary restrictions. After a parliamentary debate on this issue on 14/09/16 this changed, and the 'talking points' of the Dutch delegation for the TPC meeting of (16/09/16)(50) were that the Netherlands would support provisional application of CETA, with the exception of investment protection, ICS, portfolio-investment and non-trade related aspects of IPR (51). This dossier was now also marked as a '*priority*' for the Netherlands. Along with these debates, a new item popped up in the preparation for the meeting of (30/09/16) (51) the addition of an interpretative declaration. The Netherlands was supportive of such a declaration, prioritizing the following: the addition of lines indicating clearly that CETA in no way hampers the practice of protecting public services now or in the future, does not negatively impact norms related to the environmental or health, and does not endanger the precautionary principle. The Netherlands was in particular demanding the addition of a promise that there would, in the near future, be a strengthening of the sustainability chapters by giving dispute settlement '*real teeth*' here. In order for the declaration to help '*further convince constructively critical opponents*', the Netherlands also believed it should be legally binding.

### 7.1.2. Summary : The position of the Netherlands in CETA

We can distinguish between some permanent features of the Dutch position, as well as some more detailed elements, some of which have changed over time.

The **overall position** has been supportive of an ambitious trade deal with Canada, favoring substantial liberalization across almost all sectors. This stance did not alter throughout the years.

The Netherlands has also had some very clear **offensive** goals, which did not change although they did become more specific over time. The sector whose interests it has foregrounded most since the very beginning was **dairy**: the Netherlands wanted the removal of Canadian subsidies and the broadening (or abolishment) of quotas. It also wanted the protection, by way of geographical indicators, of two Dutch cheeses - Edam and Gouda. Only after several years of negotiating did this disappear from the Dutch TPC members' guidelines, but it again played a prominent role in the positive evaluations of the overall deal in 2015/16. Two other offensive goals that were a

staple of the Dutch position since 2009 were the opening of **public procurement** and of **services**. The latter interest became more specific as negotiations progressed. From 2012 on, a general formulation was replaced with an emphasis on financial and postal services and certain maritime sectors, notably dredging and feeding services. The Dutch position on the methodology of services' liberalization did undergo some evolution: although they were initially suspicious of the new **negative list** approach, according to the TPC files it took them about two-four (between June and October 2010) months to switch to supporting this method in CETA (except in mode 4, and with reservations on sensitive public sectors).

The Netherlands was also very much in favor of adding an **investment chapter** to CETA, when the Commission proposed this in January 2011, supporting measures to boost investment flows between the partners and (in the 'final stage') vehemently rejecting the introduction of **investment screening**, which they saw as protectionist signaling (even though it would never be used). Sectorally, they were especially in demand for giving access to ISDS for the financial industry, a position that was reiterated throughout 2013 and 2014.

It is in the investment chapter, however, that they changed their stance on probably the most controversial aspect of the negotiations: **ISDS**. Initially, the Netherlands demanded a strong system of investment protection, including investor-state dispute settlement, comparable to that of the Dutch BITs. Although they remained supportive of investor-state arbitration, their love for the 'old' ISDS was lost near the end of 2014 and the beginning of 2015, when they tabled several reform proposals of the system which would eventually be taken up as the new Investment Court System (ICS).

Another area where there was a change in the position was on **intellectual property**, more specifically whether the agreement would demand for the enforcement of certain IP protections via criminal law. Although the Netherlands initially did not seem to have a position on this, they became strongly opposed to such provisions during the summer of 2012. They also opposed the criminalization of 'camcording', which did end up in the deal, but they decided not to make a 'red line' out of this.

The Netherlands does not seem to have had many (important) **defensive** interests. One sector that is mentioned in the TPC guidelines is the meat industry, which was called a defensive interest in 2012 and 2016. However, even here it seems that the Dutch position was to 'call the attention' for this rather than formulate any real demands; they were explicit in accepting the costs to the meat industry in return for the gains in dairy. However, they did in 2014 support the European meat industry's scheme for managing the quotas in agricultural goods through a system of licenses, overturning an already agreed upon system that the sector was less keen on. The Dutch contentment with the barring of hormone-treated meats can also be connected to this defensive interest, although this did not return in the TPC documents but only in evaluative internal memos<sup>123</sup>. Apart from this, their only other 'defensive' stance was related to **public services**, where they supported a 'hybrid approach': negative

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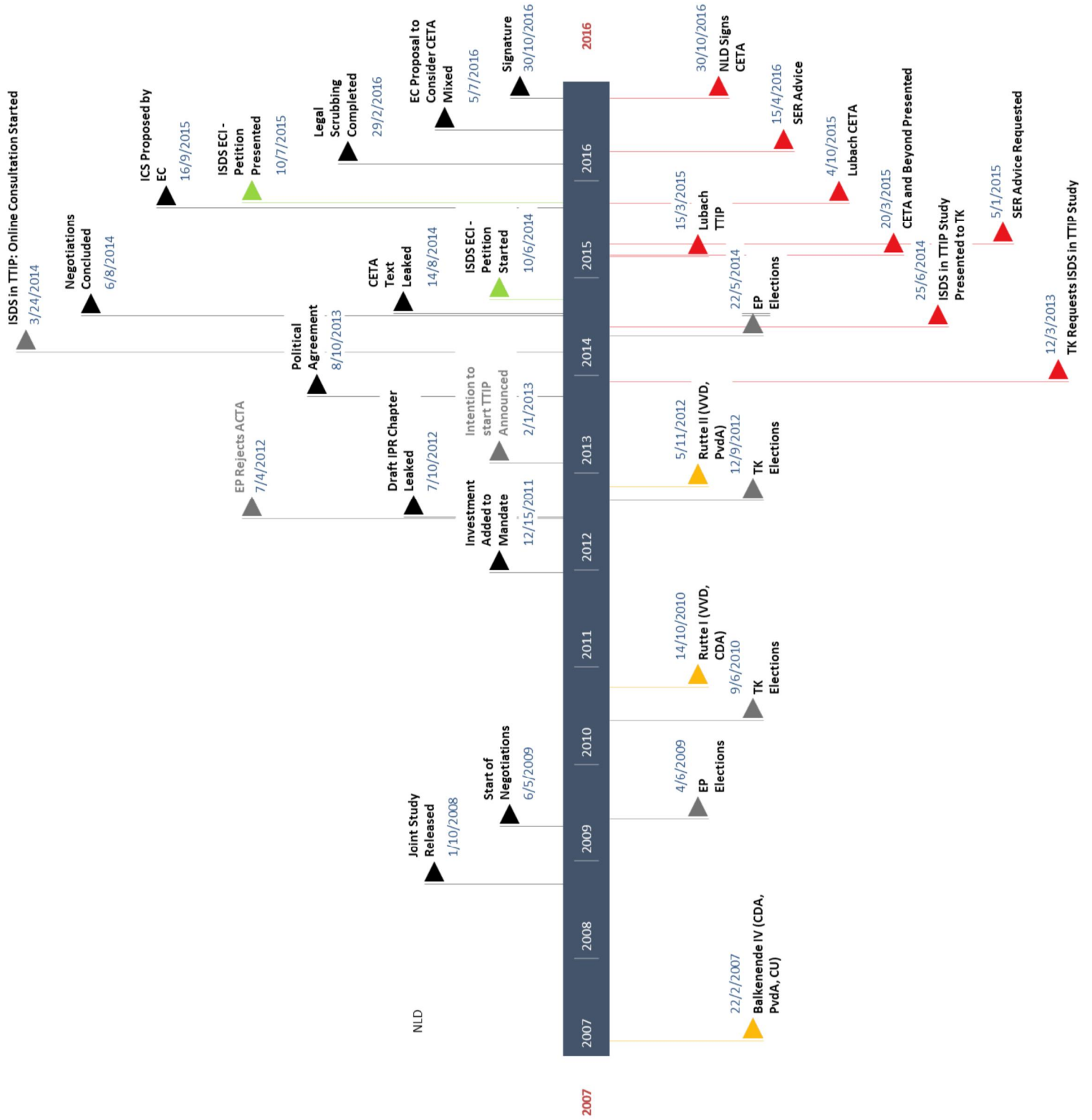
<sup>123</sup> In a Q&A prepared for the parliament in 2013, Ploumen hailed the quotas for hormone-free beef from Canada, because this would lead to an increase in the production of non-hormone treated meats there, eventually 'hopefully' leading to a phase-out of the use of hormones in Canada (WOB - Nummer 10 Redacted).

listing, but a retention of a horizontal EU-level reservation for public utilities in combination with sectoral exceptions at the member state level. They also resisted negative listing for mode 4, and included their own set of reservations (which was very limited, when compared to many other member states' lists).

The Netherlands supported the addition of ILO core **labor standards** in the labor chapter, but they opposed making the sustainability chapters **enforceable** using fines (as Canada proposed). This seems to have altered in 2016, when the Netherlands pressed for the addition of a clause in the interpretive declaration which promised that the sustainability chapter would be investigated, to see if it could be made 'more enforceable'. Although some of my sources claimed that the Dutch also called for the inclusion of **animal welfare** provisions, this never returns in the TPC documents. This may indicate that they were already pleased with the proposed/included provisions, or that they did not formulate such demands. But it does not seem to have been a priority.

Finally, the Dutch also pushed for some aspects related to the 'process' of the negotiations. In 2013 they started arguing that the deal was 'mixed', i.e. that it should undergo member state ratification, a position they held on to until the Commission gave in in 2016. They also called on the Commission to publish the initialed texts in 2014, and occasionally expressed irritation at the Commission's lack of transparency (also vis-à-vis domestic stakeholders). In the final phase, they pleaded in favor of several limitations on provisional application (notably on ICS), and in favor of a legally binding interpretative declaration that 'clarified' the deal in certain respects – notably related to food security, health, public services, the right to regulate, sustainable development and investor-state dispute settlement.

ANNEX 1 RESERVATIONS	
SECTOR	SUB-SECTORS
Supporting services for all modes of transport	<i>Customs clearance services</i>
Business services	<i>Legal services Hallmarking services</i>
Health services	<i>Veterinary services</i>
Fishing, transport	<i>All commercial marine activity undertaken from a seagoing ship, including fishing, aquaculture, and services incidental to fishing Transport services (passengers and freight) by seagoing vessels Pilotage and berthing services Vessel salvage and refloating services Other supporting services for water transport Construction for waterways, harbors, dams and other water works</i>
Energy	<i>Electricity distribution Transportation of natural gas</i>
Mining and quarrying	<i>Extraction of crude petroleum and natural gas</i>
ANNEX 2 RESERVATIONS	
SECTOR	SUB-SECTORS (If Specified)
Business services	<i>Supply services of office support personnel</i>



## 7.2. Civil society pressure

The first explanation I will be probing is that of civil society pressure: the thesis that CSOs managed to alter or set the Dutch position by lobbying the executive(s) or campaigning through the press, the public or the parliament.

I first discuss the prior probability of this mechanism: do we think it is likely that CSOs got involved, and that they were influential, given what we know about the Dutch context? Then, I systematically work my way through each of its steps to determine whether it played a role in the case.

### 7.2.1. Mechanism, evidence, 'prior probability'

#### 7.2.1.1. Evaluating the prior

Given what we know about the 'usual' politics of Dutch (trade) decision making, and the role of civil society in influencing it, how likely is it 'a priori' that they were influential in the CETA case? I.e: that they cared about the agreement, took part in some kind of inside/outside lobbying, and were able to reach and somehow affect policymakers' course of action. This judgment is based on my reading of the literature and our knowledge of Dutch politics, and plays a role both in deciding whether this hypothesis merits further scrutiny (is it plausible, yet non-trivial, enough to make it worth investigating?) and the kind of evidence I'd need to see to convince me (stronger if less plausible).

As was show in the contextual chapter, the Netherlands certainly had enough social movements and trade unions to muster the resources for trade-related monitoring and lobbying, although we also saw that their interest in these matters had generally been limited. Since the texts were only released in 2014, it may have also required dedicated resources and personnel to keep track with the specialized press/networks following this issue. Some smaller organizations had been monitoring trade policy for a long time however, and since 'awareness' is a public good it seems plausible that several sections of the CSO population were (at the very least vaguely) aware of the trade deal in its first years. Especially because from 2011 on, the European networks in which some of these groups were plugged in (S2B, ETUC, EPSU, ...) published critical remarks about CETA; this intensified after 2013-2014, when a European campaign was started up to protest the new generation of FTAs. So although the circle of organizations active on CETA may have been narrow at first (2009-2011), we would expect awareness (though perhaps not active work, given the lack of public interest in the matter) to have broadened over the years.

With CETA, trade policy also entered the 'deep trade' spectrum that touched these groups' policy-domains: the negotiations not only covered tariffs, but also services, investment, regulatory cooperation, chapters on labor and the environment, SPS elements, et cetera. As we saw in the case introduction, CETA was exemplary of the new generation of trade agreements, and was certainly of substantive interest for a variety of CSOs. If they knew about the deal, it therefore seems likely that they also developed preferences on some of its ('potential') contents. However, the public nor the press nor the parliament has been very interested in trade politics in the past, severely reducing the expected pay-offs of campaigning on trade while pushing up

the costs. Note also that the sustainability impact assessment performed in 2011 only expected very little effects on public services or education, and no changes to overall employment. It did anticipate some downsides for the quality of work and the environment – especially if agricultural liberalization led to intensified use of chemicals. This is in line with the view of Canada as rather small, benign and quasi-social-democrat state, this may have also served to alleviate the CSOs' worries.

If these groups still decided to exert influence, would we have expected them to succeed? Clearly, this would have depended on the kinds of organizations that got involved. The peak trade unions in particular enjoy particularly good access to decision makers through formal as well as informal venues. However, as we saw in 6.1.1.3., the trade unions have favored free trade for decades, making their involvement somewhat unlikely. Although they do not possess the same kind of access, the review in 6.1.1.3. did indicate that most CSOs also feel like The Hague's doors are reasonably welcoming. However, they do not possess the same kind of mass-leverage, and would therefore depend on either the power of their arguments or their ability to wage a successful public campaign. Given the general free-trade mindedness of politicians across the political spectrum (especially the parties in power) but also among the general public (see 6.2.2.3.) this seems like an uphill struggle. On the other hand, although it would be improbable for any given FTA to have received much influential attention from CSOs in 2009, if a campaign did get started then there was potential, given the associational density of the Dutch public, for a growing bandwagon of CSO activity, potentially leading to influence through the parliamentary and public channels. Their potential for 'inside' politics was arguably slim.

All in all, *prima facie* this narrative seems implausible, and I think we'd need some fairly strong evidence, i.e. the mechanism should not just survive falsification, but should also be able to present pieces of confirmatory ('unique') fingerprints.

### 7.2.1.2. Potential evidence

The presence of these various steps can be tested by looking for (*inter alia*) the following evidence:

**\*Sequence evidence:** positioning/'action' by CS before change in policymakers' position; no prior attempts of policymakers to alter/coordinate position of CS; no public discussion/mobilization before civil society action

**\*Trace evidence:** policymakers 'ingesting' CS's material/pressure (*e.g. media reports of mobilization, reports of contacts between policymakers and CS*), changes in policymakers' positions (*e.g. public statements, policy-notes, private remarks,...*), attempts to change the Belgian position (*e.g. policy-notes, government stances, resolutions, intra-party maneuvering, ...*), a shift in the Dutch position (*as communicated to/worked for on European level*).

**\*Account evidence:** policymakers attributing their changing position to CS actions (*in private conversation, an interview, in the press, public statements*).



**\*Pattern evidence:** data on intensity of contacts, correlations between contacts and changes in position, comparisons with regions that had less/more activity, previous patterns of societal influence on decision makers ...

## 7.2.2. Probing the role of civil society

### 7.2.2.1. Was civil society aware of CETA? Why?

Were they monitoring trade affairs? Through which channels? When did CETA appear on their radar, did they care?

We can roughly distinguish **three groups of CSOs**: (i) a set of NGOs that had been monitoring international trade and investment for a long while, and that did much of the early analytical and awareness-raising work, (ii) a group that hopped on board after hearing from/meeting with group one, and after they recognized both the importance as well as the mobilizing potential of TTIP (and CETA), (iii) mostly large, member-driven organizations that were late to join the campaign but then became an important source of leverage.

Transparency Network International (TNI) and SOMO formed the vanguard, Milieudéfensie and Foodwatch were two major organizations from the second group. The last group consisted in particular of Greenpeace, the trade union FNV and the Consumentenbond.

As was mentioned above, the **first group** lit the fuse of the Dutch CSO campaign. TNI had already been working on EU trade and investment deals for some time, and had particularly built up a lot of expertise on ISDS. According to TNI itself, they played an important role in kick starting the Dutch campaign. Before anyone else in the Netherlands became aware of TTIP, TNI had started working/sharing information on these negotiations within the S2B network - TNI was not just a member of S2B but also its 'host': S2B is an informal network without legal identity, so TNI did its bookkeeping and paid the S2B coordinators<sup>124</sup>. When TNI co-published an accessible paper on TTIP (and ISDS) by S2B in 2013, this triggered new awareness from various other Dutch organizations<sup>125</sup>. For example, one of the co-authors from TNI was interviewed about the dangers of TTIP by the magazine of Milieudéfensie (Interview - TNI 1, 2017). In October 2013, TNI, SOMO, Both ENDS and Milieudéfensie also co-organized an expert workshop on ISDS and investment protection<sup>126</sup>.

The cooperation with these Dutch organizations grew stronger after the German members of S2B came up with the idea to begin a European Citizen's Initiative (ECI), of which TNI became the Dutch coordinator. They reached out to a variety of other organizations in search of support, notably **Foodwatch** and **Milieudéfensie**, which together then formed a contact group. This group forged the Dutch Stop TTIP Campaign, which drove the Dutch effort in support of the ECI that was launched in July 2014 (Interview - TNI 1, 2017).

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<sup>124</sup> TNI would also pay the Dutch Stop TTIP coordinator, Jurjen Van den Bergh.

<sup>125</sup> [https://corporateeurope.org/sites/default/files/attachments/brave\\_new\\_transatlantic\\_partnership.pdf](https://corporateeurope.org/sites/default/files/attachments/brave_new_transatlantic_partnership.pdf)

<sup>126</sup> <https://www.tni.org/en/events/expertmeeting-investeringsverdragen> - October 2013 .

**CETA** did not yet figure in their campaign at this time, their involvement (and that of the other NGOs) with this treaty was more passive. Although TNI had paid some attention to the FTA in 2013, when they co-authored a report on fracking and CETA and the link between ISDS and fracking<sup>127</sup>, their involvement with the deal did not go much further. They believed it would be too difficult to build a campaign around CETA, so for a while they didn't do much with it. It was only when the campaign started selling CETA as TTIP's little sister that the former treaty became a more central part of the mobilization, and that they started making it part of their call for a referendum (which they originally only wanted to organize about TTIP) (Interview - TNI 1, 2017). This is discussed in more detail further below.

As was already discussed above, TNI and SOMO helped draw in a **second group** of NGOs: Foodwatch and Milieudefensie.

**Foodwatch** hadn't spent much time on trade issues since its creation in 2010, but this changed because of the debates on the new FTAs: trade policy began encroaching on their commitment to stricter regulatory protection of consumers' rights and food safety, and the new trade deals were increasingly seen as a threat to regulatory politics in the Netherlands and the EU – especially in combination with the increased leverage of firms (the food industry in particular) in setting standards, and the dangers of ISDS in helping further increase this leverage through legal action. Eventually, this bundle of threats led Foodwatch to speak out, and they formally started working on TTIP in 2014, when they joined the European citizen's initiative. According to Foodwatch itself, their monitoring had also been boosted by their German office. Led by the founder of Foodwatch, Thilo Bode, their German partner office had been actively monitoring the rise of the trade deals; Bode wrote a book about the FTAs in 2014 and became a prominent figure in the German anti-TTIP campaign.

Although Foodwatch had been aware of **CETA's** importance around the same time, they did not do much work on this agreement initially: it was difficult to get the public involved and also to gain the interest of journalists and politicians. With TTIP the negotiations were ongoing, which meant that there was 'stuff happening' all the time, while CETA's talks were already over and thus less eventful. Moreover, the US is bigger and was perceived more as a threat than Canada, so they focused on the deal that was getting most attention. This changed in 2015, after the airing of a critical show on TTIP by comedian Arjen **Lubach** which tremendously boosted the public's awareness of the transatlantic negotiations. They tried to use the momentum created by Lubach's show to further stoke up the opposition against TTIP, but they hoped that it would also allow them to bring CETA into the limelight as well. However, it wasn't until CETA had to be signed by the Council late 2016, when the Tweede Kamer had to give its consent to the government's signature, that it really entered the spotlight (Interview - Foodwatch, 2017).

**Milieudefensie** started paying attention around the same time. They too became aware of the contents of the FTAs (and their potential ramifications) through their European network, especially Friends of the Earth Europe. Gradually, their interest grew and they began thinking that TTIP might become the subject of a viable

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<sup>127</sup> <https://www.tni.org/en/article/eu-canada-trade-agreement-threatens-fracking-bans> - 8 May 2013 .

campaign, that they might be able to mobilize the public on this issue. Although there was initially internal skepticism about the campaigning-value of TTIP (some believed the issue was far too technical), they intensified their work when the public proved responsive. CETA eventually got caught up in this campaign as well: they believed that CETA's ratification may increase the chance of TTIP surviving, while in any case the ISDS clauses opened up a backdoor to litigation from American firms with Canadian affiliates. So it was really their work on TTIP that made them pay attention to the deal with Canada. At first their actions were very small, later they gradually expanded until they gave the trade deals their own campaigning team dedicated largely, '90%', to TTIP and CETA (Interview - Milieudefensie, 2017).

The **last group** that got involved included some far larger organizations.

Although some work had already been done on the deals by their European trade union federations, for the Netherlands' biggest union the **FNV** the impulse to start work on TTIP came primarily from rising pressures by the NGOs; these were 'small but persistent', and their research and campaigns managed to influence some of their more active board members. A couple of their representatives became very interested in the topic, and increasingly started pushing the board to pay more attention and 'work with' the deals. Eventually, their efforts paid off, and FNV got increasingly involved from 2014 on. Another element was that, as TTIP became more and more contested, the demand grew for a clear position of the union - not just from CSOs, but also by the government (in the SER) and MPs. In 2015 this led to much internal debates, an increasing involvement by their members, and a vote in their members' parliament about the 'TTIP-advice' that the FNV had agreed on with the employers' federations within the SER<sup>128</sup>. For the FNV, its European structures (ETUC and the sectoral European trade union federations) were less important for their initial awareness of the (importance of) the FTAs, although they still participated actively in coming to a joint position at the EU confederate and sectoral levels (Interview - FNV, 2016).

Like the other organizations, their attention was directed largely at TTIP. It took until 2016 before they became more active on TISA and **CETA**, again because the latter suddenly became much more of a hot topic. One of the major *substantive* reasons for why the FNV took a critical position on the FTAs, apart from the sheer 'economic' size of the deals which led to greater worries over job losses, was the investment chapter. In contrast to past discussions about the fairness of certain BITs' provisions, which were always about effects on labor in third countries, the ISDS/ICS clauses were now seen as posing a far more direct threat to the union's own interests. This shift was characteristic of a broader movement, in which the union became more critical of the effects of trade for its own membership, and in which there were now

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<sup>128</sup> In terms of dossier, different sectors may focus more on different areas of trade policy. The metal sector, for example, was paying a lot more attention than the others (or the confederate level) to the discussions related to China's bid for Market Economy Status and the anti-dumping measures in the steel sector. At the confederate 'FNV' level, however, most energy has been spent on the bilateral FTAs, mostly TTIP and in 2016 especially CETA, although the contestation of those deals has also led them to pay more attention to other agreements (Japan, Singapore, TiSA).

doubts over whether the gains from further trade liberalization still outweighed the costs and risks<sup>129</sup>.

The addition of the **Consumentenbond** to the coalition was also considered important by the other NGOs: they had a very large amount of members, and were not part of the 'usual suspects'. Although I did not speak to the Consumentenbond myself, TNI claimed that this organization's participation was influenced by the fact that their European federation, the BEUC, had taken a stance against TTIP. Their most important substantive concern was ISDS (Interview - TNI 1, 2017).

Finally, **Greenpeace** had for years worked on trade, more specifically on the WTO, but in recent times this topic had moved to the background. In 2014-2015 they had a lot of internal debates about whether to get back involved in these discussions. One of the difficulties was that trade was such a cross-cutting dossier, while Greenpeace had grown accustomed to work very issue-specific (campaigns on the oceans, forests, climate change...), so it was difficult to see how the FTAs fitted into their campaigning structure. Greenpeace NL pushed hard in Greenpeace International to pick this up, and eventually a European campaign was set up, coordinated by Greenpeace NL<sup>130</sup>. They started cooperating with the other CSOs in 2015, and their involvement was further deepened when they were sent undisclosed documents about the TTIP negotiations, which they leaked to the press in 2016. At first their focus was entirely on TTIP, but this started changing after they realized that CETA was on many counts very similar (Interview - Greenpeace NL, 2017).

The above organizations were the major actors in the CSO campaign, but they were joined by a number of smaller organizations as well. Some of these included farmers' groups, these are discussed in more detail in the mechanism on business lobbying. Of course, there were also CSO organizations with a stake in trade policy that we might have expected to join the campaign, and that we can at least assume were aware of the negotiations, but that remained on the sideline. One of the most prominent examples is **Oxfam**, which was not involved in any of the CETA/TTIP work (Interview - ABC, 2017)<sup>131</sup>.

### **In summary**

We can distinguish between a small band of trade and development oriented organizations that had built up a lot of expertise in trade-related dossiers and which were aware of CETA at a quite early stage, and the CSOs that only got involved when TTIP was making headlines in 2014.

Their involvement was in part pushed by the substance of the deal, although it's clear that most of them only became aware of the treaty's contents after they had first scrutinized TTIP. Others, such as TNI, had been aware of CETA but did not think that the issue was 'campaignable', a sentiment also shared by other organizations

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<sup>129</sup> The first messages on FNV's website about CETA appeared in December 2014, but these were still mostly about TTIP. See: <http://www.FNV.nl>.

<sup>130</sup> Together with Germany, Austria, Belgium, and Spain. In the beginning, Italy and Greece were also pushing this subject, with the latter taking the coordinating lead, but the economic crisis made this too burdensome for them (Interview - Greenpeace NL, 2017).

<sup>131</sup> Although it would have been interesting to also investigate why such an organization chose *not* to become involved, I could no longer find time to perform the necessary interviews.

such as Milieudefensie. Pressure from members as well as the perceived shift in the issue's saliency led to new organizations taking interest in the issue and eventually contributing to the campaign. This was confirmed by the coordinator of the CSO campaign (from 2015 on): the CSOs had been aware of the contents of CETA for a long while, but it seemed too difficult to turn the treaty into an appealing campaign. There were several other FTAs being negotiated, and Canada was widely seen as a harmless country. However, after their analyses of the treaty's texts pointed out that there were some very toxic elements in CETA, their strategy became to push awareness by continuously linking it with TTIP: 'if we can already make these kinds of deals with Canada, can you imagine what the agreement with the United States is going to look like'. But there were also direct, substantive links, because US multinationals would get access to ISDS through their Canadian affiliates. So at first the narrative was: CETA is TTIP with Canada, and CETA is TTIP through the backdoor. This fostered interest in the deal, and eventually they started seeing and dealing with CETA as an **independent dossier** (Interview - CSO Coordinator, 2017).

It's clear that the decision to campaign on TTIP was itself also the result of an assessment, not only of its substance, but also of the extent to which the CSOs could launch a successful public campaign about this issue. Arguably, they would not have spread their campaign to CETA (and would have been unable to draw in organizations such as FNV) if these efforts at mobilizing their membership's and the public's interest in the EU-US negotiations had failed. The boost in media-attention given by Lubach's show in 2015 as well as the press' coverage of the anti-TTIP protests in other countries (notably Germany) was probably of considerable importance. This is discussed in more detail in the section on 'outside' lobbying.

Apart from the domestic dynamics, it's moreover clear that an important part of the CSOs' increasing awareness of the FTAs, but also the organization of their campaigns and their analyses of some more technical aspects of the deals, were influenced by input and sometimes coordination by their **European networks**. TNI's early engagement was stimulated by its participation in the S2B network, Foodwatch kept in close touch with the offices in Germany<sup>132</sup>, Consumentenbond was triggered by the opposition of the BEUC, Milieudefensie also got involved in the S2B network and was hooked up to the network of Friends of the Earth Europe, and the FNV was part of ETUC and sectoral federations such as EPSU.

#### 7.2.2.2. Did civil society take a position on CETA?

##### *a. Empirical*

As was discussed in the previous sections, it appears that the CSOs did not actively follow CETA **throughout the negotiations**. Only TNI and SOMO took in positions related to the deal, namely on the investment chapter. They co-authored critical reports published in 2011 and 2012. For example, a 2011 report, co-authored with Corporate Europe Observatory (CEO), S2B and a number of other organizations, demanded the following<sup>133</sup>: *'The incorporation of investor obligations into investment*

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<sup>132</sup> Via daily e-mails and weekly Skype-calls, along with occasional meetings to coordinate or share info.

<sup>133</sup> *Public interest, social and environmental policies under threat. Change EU investment policy – now is the time!* Published January 2011, URL: [https://www.tni.org/files/download/Investment\\_Briefing\\_S2B-et-al\\_Jan2011.pdf](https://www.tni.org/files/download/Investment_Briefing_S2B-et-al_Jan2011.pdf)

*agreements in particular in areas of human rights and corporate accountability; more precise and restrictive language regarding investors' rights; the abolition of one-sided and secretive investor- to-state dispute settlement mechanisms; an explicit recognition of the right of governments to regulate and to formulate policies of general interest'. However, these reports (see also Eberhardt & Olivet, 2012) focused mostly on EU investment treaties as a whole, and did not mention CETA. As was indicated above, the amount of lobbying and campaigning also remained very limited. The first public statement of TNI (along with CEO and the Council of Canadian) on CETA was published in 2013, with a report that linked ISDS in CETA to the dangers of fracking. Here, they again called for the abolishment of ISDS (Eberhardt, Feodoroff, Lui, Olivet, & Trew, 2013).*

From 2014 on, a growing amount of CSOs took up positions on a far wider amount of topics. I will not discuss all the various specific positions taken by different organizations, but will rather (largely) discuss them as a group. I believe this is justified because they were mostly homogenous,. It's not always wholly clear which positions are targeting only TTIP, only CETA, or both, but the latter seems most common and was certainly the case in their public positioning.

Throughout the years of campaigning, most of the CSOs shared the following demands/critiques:

**Transparency and democracy:** Many critiques focused on the 'secrecy' surrounding the negotiations, and dissatisfaction with the changes made by the Commission in response to this critique (FNV, 2015). They feared that CETA's *Joint Committee* would be able to alter aspects of the accord without parliamentary approval, thereby undermining the power of the parliaments. Moreover, the provisions on investment protection would hollow out national law, threatening 'regulatory chill'.

**Investor-state dispute settlement:** ISDS was seen as giving 'excessive' rights to foreign investors, as discriminating against domestic business, and undermining the power of governments to regulate. The judges were tied by commercial interests, and could therefore not considered as wholly autonomous from business interests. They criticized the lack of an option for appeals, and highlighted that even just the threat of huge fines would have a 'chilling effect' on regulations – threats to litigate would just need to be voiced, firms needn't even win cases. They did not agree with the Dutch position that ISDS in CETA had taken account of these worries because measures taken in the general interest were excepted from the clauses on compensation/expropriation – they argued that these assurances remained incomplete and vulnerable. More generally, ISDS was seen as unnecessary between states with a well-functioning rule of law. ISDS (and ICS) in CETA were also seen as an important, dangerous precedent for ISDS in TTIP. CETA was moreover seen as '*TTIP through the backdoor*': the treaty with Canada would function as launching pad for ISDS cases against the EU by US firms based in Canada (Foodwatch, 2015; Milieudefensie, 2014; TNI & SOMO, 2014).

**On ICS:** Although they sometimes welcomed some of the reforms to the ISDS system, most of the CSOs remained very critical. The FNV, for example, in a 2015 letter to the parliament, sided against '*alternatives to ISDS*' in CETA as well as TTIP because they believed that any kind of investor-state arbitration would unfairly discriminate against purely domestic (Dutch) firms, which would not have access to

this parallel judiciary (FNV, 2015). The CSOs in general remained of the position that such a system was not necessary between states with a developed rule of law, and that ICS did not take away the danger of the system being abused by firms – threatening the right to regulate, democracy and a wide variety of rules and standards (environmental, labor, ...) (Milieudefensie, 2014).

**Public sector:** The CSOs demanded that public services be kept out of the FTAs. The ‘negative list’ approach was criticized: it was seen as opening the door for competition from (‘and via’) Canada since the Netherlands had already privatized many chunks of public services (Algemene Onderwijsbond, 2014; FNV, 2015, 2016).

**Race to the bottom:** In combination with regulatory cooperation and ISDS/ICS, they feared that CETA would lead to a downgrading of norms for food safety, labor, health, the environment and animal welfare. CETA did not adequately protect the European precautionary principle; by not including this principle in the agreement, CETA might make it impossible to forbid certain substances without the danger of high fines claimed by North-American firms. By working with ‘mutual recognition’, rules and norms were more generally not being harmonized at a new, higher lever, so CETA would not promote, and would even impede, higher global norms. By furthermore not making the sustainability chapters enforceable, CETA was ‘undermining an ambitious sustainable agenda’ (FNV, 2016; Foodwatch, 2016).

**Provisional application.** The CSOs opposed provisional application, especially the provisional application of the provisions on ICS. Provisional application meant that the treaty would come into force without parliamentary approval, giving Canadian multinationals (and US firms based in Canada) a gateway to claim damages, leading to regulatory chill in domains like environmental or labor law, food safety, animal welfare and consumer protections. Provisional application would moreover be hard to turn back, should CETA not survive national ratification, something with which there is as of yet no experience. They argued that it was necessary for CETA to first undergo parliamentary ratification, after giving parliaments due time to study the texts. They pleaded specifically against provisionally applying the provisions on ICS, on regulatory cooperation, the entire investment chapter, the chapter on energy and domestic regulations. But more generally, they believed the deal was too controversial for it to be applied provisionally at all (FNV et al., 2016; Milieudefensie, 2016a).

**Interpretative declaration:** In a letter sent to the parliament in October 2016, the CSOs (signed by FNV, Greenpeace, de Consumentenbond, Milieudefensie, Foodwatch, TNI, SOMO, VCP, CNV) set out their position on the interpretative declaration: apart from their doubts about the legal power of the document, they were critical because the declaration ‘*only clarified the existing text, but does not structurally alter [CETA], and therefore does not address our fundamental objections [...]*’ (TTIP-Alarm Coalitie, 2016).

Something the opponents of CETA (at least on the CSO side) spoke less about were the **economic effects** of CETA. Their opposition to the deal does not seem to have been motivated (to any large extent) by fear of shifting trade flows or job losses. Very often, opponents of the deals emphasized that they were not opposed to free trade as such. Only the trade union spoke of this on some occasions, but even they remained

vague and speculative while insisting that they were in principle supportive of free trade (e.g. FNV, 2015). In general, the economic side of CETA seems to have been considered of lesser importance; usually the potential effects were downplayed, but even when some organizations allowed for (minor) positive effects from lowered trade barriers, they still underscored that the biggest danger lay in the deals effects on norms, democracy, et cetera (Milieuddefensie, 2016b).

The positions of the coalition of Milieuddefensie with a number of farmers' groups is discussed in the business mechanism.

### 7.2.2.3. Did they develop lobbying/campaigning efforts?

I will here discuss the general organizational developments of the campaign, the next section has more details on its tactics.

As was outlined above, a first round of very limited outside and inside lobbying was performed by TNI in 2011, which met with policy makers and published an early report on fracking in CETA. However, the bulk of activity in the Netherlands only got started after the creation, in 2014, of the Dutch **TTIP-Alarm alliance**, which was initially composed of Milieuddefensie, Foodwatch, TNI and SOMO. Although quite heterogeneous (not least in terms of size), this initially loosely structured group which met only occasionally eventually (around 2015) became a more closely coordinated club with its own one-man secretariat (Interview - Foodwatch, 2017). According to the NGOs, the initial heterogeneity of the coalition made its message more powerful vis-à-vis policy makers and the public, but also made it easier for other more moderate players to join or support the campaign, since it meant that they weren't associating themselves with a small band of activist hardliners (Interview - Foodwatch, 2017; Interview - Milieuddefensie, 2017).

One of these large, less-than-radical organizations was the biggest trade union, **FNV**. Although they participated in the 2015 demonstration, FNV wasn't officially part of the coalition until 2015. Aligning the goals and methods of the NGOs with those of the FNV had not been an easy process. The trade union had a better network and leverage with policy makers than the NGO's, and was therefore always trying to safeguard some space for negotiations. They were also keen to analyze any deliberate internally about new developments or texts (such as the interpretative declarations). All this meant that they did not want to outright reject TTIP or CETA, while for the NGOs such a 'hard' position made a lot more sense: they needed a clear message because they had to start mobilizing for their campaigns, had to start collecting signatures for a referendum, etc. These differing approaches sometimes made it hard to respond quickly and in unison, while also making agreements about positions, campaigning methods or the wording of texts and slogans more arduous. All in all, however, these differences were seen (by the NGOs as well as the union) as mostly 'strategic' in nature and after some time they worked out a satisfactory mode of cooperation: according to FNV, cooperation had been 'very good' since the summer of 2016, when they started preparing the protest of October 22<sup>nd</sup> (Interview - FNV, 2016; Interview - Foodwatch, 2017; Interview - Milieuddefensie, 2017). Similar balancing acts were performed with the **Consumentenbond** which was actively involved in the 'inside' and 'outside' campaigns, and was according to my other interviewees drawn in by the 'serene' tone of the anti-CETA/TTIP campaign in 2016



(Interview - CSO Coordinator, 2017; Interview - TNI 1, 2017), but also **Greenpeace**, which generally sided with the strategy of the coalition but meanwhile retained much space for its own actions and maneuvers. One of the major contributions that they engineered by themselves was the 'TTIP-leak' of May 2016 (Interview - CSO Coordinator, 2017).

As is discussed in more detail in the next section, these CSOs cooperated in a campaign that was waged with a wide arsenal of 'outside' tactics including press commentaries, twitter storms, petitions and protests, but also a substantial amount of direct discussions with the ministries.

Not all of these organizations participated in the same kinds of actions, however, along the way the alliance developed an implicit division of labor. **Foodwatch** was more involved in doing research and using the press/campaigns to bring out their stories. Their contacts with the parliament remained limited, and included mostly e-mails of their positions and the occasional telephone call; only very rarely did they meet with politicians in person. They relied on other members of the coalition to do that kind of lobbying (Interview - Foodwatch, 2017). **Milieudefensie** focused primarily on building up public mobilization through campaigning. This started with calls for petitions, small public actions, disseminating information, etc. This was part of a wider attempt to build an online network around the issue, a community that later formed the basis for some of the demonstrations they organized with smaller NGOs. Their 'analytical' work was more limited, they did not play a leading role in researching the treaties and their technical aspects; they trusted TNI and SOMO to do this kind of work. They did however write articles that helped disseminate those more technical analyses of the treaties to the wider public. **TNI's** role was more 'analytical and supportive', less lobby-oriented; in part this is because they're not really a Dutch organization, and they don't have any Dutch members. However, they *did* facilitate their allies' lobbying efforts: they tracked the parliamentary agenda, alerted the group when the time was right to send out letters, helping with the formulation and signaling of said letters, etc... Only occasionally did they meet with MPs, this was mostly left to more voluminous organizations like **FNV**, **Milieudefensie** and the **Consumentenbond** (Interview - TNI 1, 2017). Finally, **Greenpeace** saw its role primarily in handling the media, in presenting stories. They were also the ones that worked intensively with the press to present the 'TTIP-leaks' story. They were less able to mobilize people for actions in the streets, this was left to organizations like the unions (Interview - Greenpeace NL, 2017).

Over the course of the campaign, many of these organizations increased the resources spent on trade, although they often remained modest even when compared to their other domains. Initially, one of the (then) four campaigners of **Foodwatch** had to divide his time between trade and various other campaigns, in 2016 they had one full-time trade person. In **Milieudefensie**, the amount of people working on trade summed up to about ten that worked on the FTAs at least occasionally, while a core group of five people spent most of time their time on them. This made them one of the largest players in the Netherlands (Interview - Milieudefensie, 2017). Although it is hard to gauge its precise extent, in the **FNV** there was also an increase of resources allotted to trade: they formed a working group on trade agreements at the confederate level, which gathered some of the interested board members, and in 2016 they hired one full-time employee dedicated to analyzing the deals - supported by

legal and economic advisors (that also had many other tasks). Still, although many people worked on trade occasionally, and although the interest in trade and investment politics had certainly grown since 2014, resources spent on this issue remained modest (Interview - FNV, 2016).

The CSO movement against TTIP/CETA was mostly led by **left and center-left** organizations. This is somewhat surprising insofar as there was a partially simultaneous campaign against the agreement with Ukraine, which was led by forces associated with the right, and which for the first time produced political debates on FTA's provisional application. This campaign did share some of the critiques voiced by the TTIP/CETA campaign, especially in regard to taking back/safeguarding democratic control and sovereignty. However, none of the right-wing groups involved in the Ukraine campaign engaged much with the anti-TTIP/CETA movement<sup>134</sup>. The latter's discourse focused not just on democracy and transparency, but also social justice, environmental concerns and food safety. Apart from an online platform that occasionally wrote pieces about the treaties, they did not develop any real campaigning, and thus this remained firmly in the hands of the progressive groups (Interview - Foodwatch, 2017; Interview - Milieudefensie, 2017). There was **one major exception** to this picture: apart from the stop-TTIP alliance, another coalition, which arguably blurred the line between 'CSO' and 'business' lobbying, was forged by Milieudefensie, the agricultural wing of the FNV ('Agrarisch Groen') and certain farmers' organizations - of which many have traditionally been on the political right. Milieudefensie acknowledged, this '*TTIP en Landbouwcoalitie*' was not very ideologically homogeneous, since the farmers' groups were primarily driven by their economic interests - not by environmental or broader societal concerns. This was true a fortiori for the poultry and pig farmers, but less so for the arable farmers and dairy farmers, who were more inclined to care about not just a 'fair price' but also about producing in a more ecologically sustainable way (Interview - Milieudefensie, 2017). This diverse group was nonetheless able to publish in April 2016 (after a 'somewhat arduous but constructive' series of discussions) a joint manifesto, protesting various aspects of CETA and (particularly) TTIP (ibid). Together, these allies of the TTIP-Alarm alliance bolstered the image of the anti-TTIP/CETA campaign as going beyond the usual suspects, although the non-participation of groups from right-wing groups may have weakened them. We will pick this up when we discuss the movement's influence.

### **In summary**

The CSOs geared up to wage a coordinated campaign with a wide variety of organizations, some of which were large, institutionalized players with thousands of members, others more bent on developing well-researched critiques without much power in numbers. This took off in 2015, but peaked in 2016. In the following section, I show how well they were able to make use of a variety of potential inside and outside access points.

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<sup>134</sup> One occasional exception was Thierry Baudet and his new party, Forum voor Democratie

## 7.2.2.4. Did they succeed at gaining access and conveying their message?

### *a. Scope conditions*

Compared to the Belgian case, the amount of access points to Dutch decision making is rather limited: there is only one executive, and one government coalition, staffed by ministers without ministerial cabinets. The amount of openness depends on the kinds of actors, however: the trade unions, in particular, can still depend on the old neocorporatist networks and institutions to provide them with close links to the ministries. This means that until 2015, when the unions got involved, the direct inside access to the executive was dependent on the goodwill of the minister in charge. Although this may have improved under Ploumen, there is little reason to suspect that her liberal predecessors were particularly keen on meeting organizations such as SOMO and TNI on a regular basis. On the outside, as I argued in the prior and in the introductory chapter, the public, the parliament and the press had not been 'mobilized' on trade issues very often, and were unlikely to be very receptive to trade-skeptical voices. There is little reason why this should have been any easier for CETA- at least not until the start-up of the TTIP negotiations in 2013, when FTAs suddenly became a hot issue on the international scene. Even then, however, successfully politicizing this trade agreement in the Dutch arena would have remained a very difficult task.

In other words: when judged from a distance, the Dutch context did not seem like fertile ground for strong CSO access. Although it's unlikely the CSOs would have been wholly unable to get their message across to the executive, regular inside and large-scale outside access would have been very surprising.

### *b. Empirics*

#### *b.a. Outside access point 1: The press*

According to TNI (Interview - TNI 2, 2017), the press had almost always been very reluctant to publish anything about FTAs or things like ISDS, because the subject was considered too technical and too remote from Dutch affairs or interests. Even when the TTIP negotiations got started, their attempts to get this item on journalists' agendas were unsuccessful, they were never very interested. They were usually waiting for the deal to be concluded before spending any time on it. Eventually this changed, and the CSOs believed they helped bring about this change in various ways.

First of all, the press *was* prepared to publish the opinion pieces that TNI had started producing on the negotiations. These may have been picked up by 'Zondag met Lubach', the broadcast that led to a spike in press and public attention after March 2015<sup>135</sup>. TNI also worked closely with an episode of 'Tegenlicht', broadcast by the VPRO in October 2015, about ISDS, which helped raise awareness by a more 'objective' source<sup>136</sup>. TNI also put direct effort in raising the FTA-related expertise of journalists, by organizing a 'masterclass' about ISDS for reporters from (amongst

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<sup>135</sup> They had some indications that this was indeed the case. I was unable to get in touch with Lubach's editors to check up on this, however.

<sup>136</sup> <https://www.vpro.nl/programmas/tegenlicht/kijk/afleveringen/2015-2016/ttip.html>

others) RTL News, NRC Handelsblad and Het Financieele Dagblad, in which they had an academic explain the system and its potential dangers. TNI believed this workshop had been very helpful in fostering both attention and the necessary technical expertise among the press. Many of these journalists would continue to write pieces about TTIP/CETA and ISDS, and increasingly other reporters became interested as well – especially as the public’s awareness kept growing<sup>137</sup>. Finally, when eventually the coalition got started, the **NGOs also coordinated their press and social media strategies** (Interview - TNI 2, 2017)<sup>138</sup>.

All in all, TNI felt that, particularly in the beginning they were **able to get their own message through**, probably because at first they were the only ones writing about the subject and because they were at that time still seen as a research organization (instead of activists). Over time, however, TNI was no longer able to get its opinion pieces published since most media felt like this message had gotten enough coverage, and there were more pieces from other journalists. Some of these were more distrustful of the NGOs and relied more firmly on sources from the government and the Commission (and also saw TNI as part of the activists). Roughly the same narrative was repeated by the coordinator of the anti-TTIP/CETA Alliance (who started work in September 2015). In general, access to the press was good. For example, a lot of the commentaries they wrote got published. However, for a long time the dominant frame about the CSO campaign was of them being a group of scaremongers, using arguments revolving around chlorine chickens or how TTIP can give you cancer. This started shifting somewhat when the societal debate picked up, leading to more in depth analyses being published as well. But at crucial times, such as during the Wallonia-episode, the contra-CETA campaigners’ arguments tended to disappear from the press to the benefit of CETA-boosting messaging, until after the crisis was resolved. On the whole, they did get **sufficient space** to present themselves, but always within the *‘dominant frame’*: that these FTAs were necessary, and that resistance against them was mostly situated among idealists that didn’t know or care too much about economics or economic growth (Interview - CSO Coordinator, 2017).

For a long time, the CSO coalition was the only vocal player in the public sphere: the **supporters of the FTAs had been caught totally off guard**, had not counted on this kind of opposition, and it took them ‘far too long’ to muster a sort of counter-campaign. This was true for domestic players like VNO-NCW or LTO, but also for the European Commission: they had not expected the protests, and were late to come up with their own strategy. As we will see, this assessment is echoed by official and business sources. However, TNI also reckoned that once the proponents got up to speed they were reasonably successful at recapturing the debate; for example, they successfully presented ICS as a meaningful reform of ISDS, which led many

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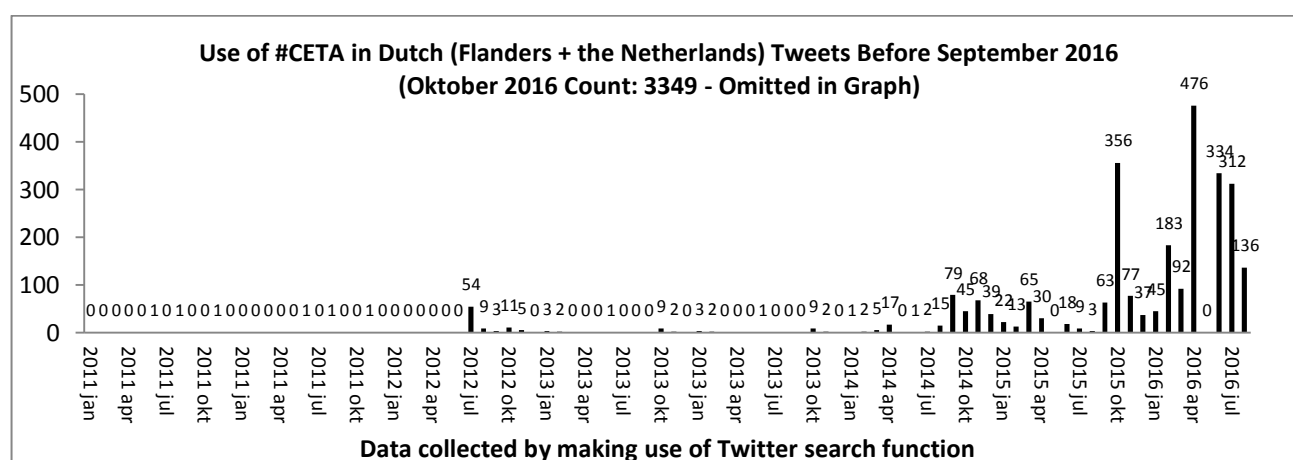
<sup>137</sup> TNI felt like this eventually produced a somewhat ironic turnaround: now they (and the other NGOs) were being blamed for only paying attention to CETA/TTIP, allegedly because these were popular/notorious among the public, and not the many other FTAs – while in contrast they felt like they had tried (and failed) for years to get the press and the public interested in FTAs and BITs; only with TTIP did they catch the public’s and the press’ eye.

<sup>138</sup> This became somewhat less tight when some really big players like Greenpeace joined, however, because these had their own large press and communications’ departments and were more secretive about their strategies and tactics. For example, Greenpeace did not consult with the other members of the coalition before leaking TTIP-negotiating docs in 2015. This didn’t pose much of a problem though, since these organizations tried to reach different groups.

journalists to believe that the CSOs' complaints had been dealt with, making them more unwilling to publish renewed criticisms of the system (Interview - TNI 2, 2017)<sup>139</sup>. Here, Lubach's show also had its drawbacks: he focused strongly on the danger of 'chlorinated chickens', which then became a central feature of the press' framing of the protests, but which was an argument that was not central for many of the CSOs and which could moreover be used against them, because it was easier to refute and to portray as 'alarmist'. The CSOs actively had to search for other narratives to counter the view that they were only pushing these kinds of arguments (Interview - TNI 1, 2017).

In all of this, CETA, was almost always mentioned in relation to TTIP - both by journalists and by the NGOs themselves. Even when it in 2016 gained some 'autonomous' prominence in 2016, the EU-US negotiations remained a standard part of the context of most pieces about CETA (Interview - TNI 2, 2017).

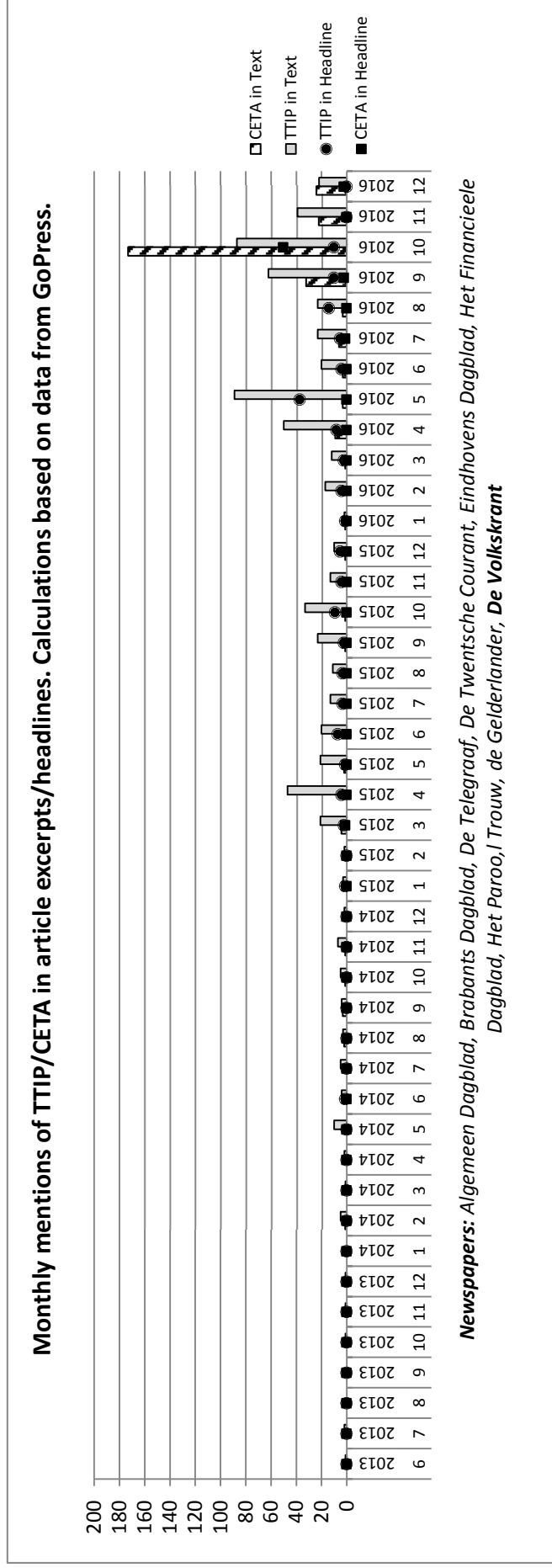
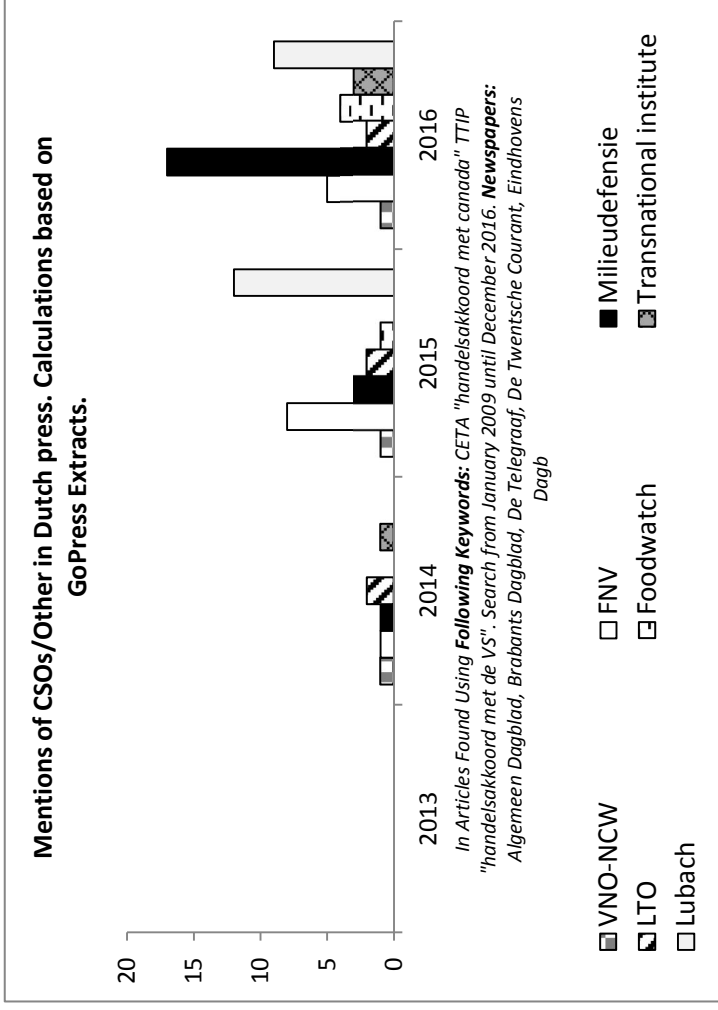
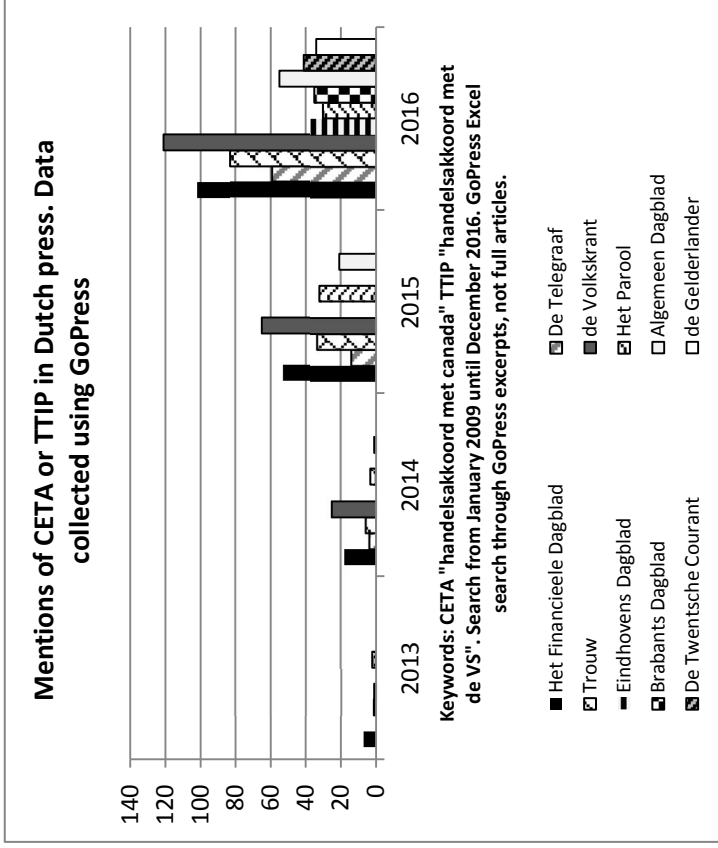
The NGOs also had an active campaign on **social media**. When Lubach mentioned in his broadcast that everyone should use #TTIPAlarm on twitter, they decided to coopt this, and they actively used it to promote their campaigns for over a year. Again, TNI believed this was a big help in awareness-raising, as were their coordinated actions like 'twitter-storms'. Such actions were especially successful because the coalition contained some members like Milieudefensie and Greenpeace which, in contrast to for example TNI itself, had the network and the members to make them work. Online mobilization also played an important role in gathering people for the protests in Amsterdam (Interview - TNI 2, 2017).



In order to **further check their access to the press**, I have conducted an analysis (textual and quantitative) of print media using the GoPress database. I used this database to read excerpts from a variety of larger newspapers (Volkskrant, Trouw, Algemeen Dagblad, Financieel Dagblad and De Telegraaf), while doing some very basic quantification of excerpts and headlines from a larger pool of papers. I will here give an overview and brief analysis of the press' treatment of CETA. This discussion will also be important in the business & civil service mechanisms.

From the GoPress selection, the following picture emerges.

<sup>139</sup> A similar argument about the rhetorical difficulties that ICS posed for the critics of TTIP and ISDS is made in (Siles-Brügge, n.d.).



Newspapers: Algemeen Dagblad, Brabants Dagblad, De Telegraaf, De Twentsche Courant, Eindhovens Dagblad, Het Financieele Dagblad, Het Parool, Trouw, de Gelderlander, De Volkskrant

It's clear from these graphs that the FTAs got a far bigger amount of coverage in 2016 and 2015 than in the years before, and that there was also a broadening of the newspapers spending time on this issue. As was clear from the comparison in the Netherlands' introductory chapter, there was also far more attention for trade policy than there had been in the past years. It's clear that most of this attention has been focused on TTIP, with a first peak in March 2015, when Lubach aired his first show. The press' attention for CETA was non-existent before 2013, and only started picking up in 2014 and 2015 – but it remained limited, even after Lubach spent time on the deal in October 2015. CETA only really made the headlines in October 2016, when its ratification became a hot issue both in the Netherlands and abroad. These simple calculations (based on extracts, not full articles) also show that the CSOs (especially FNV and Milieudefensie) were consistently mentioned in the coverage, far more often than the business organizations (VNO-NCW, LTO).

Of course, this does not tell us what the press was actually writing. In order to gain an impression of the substance and tone of the coverage, I read through a collection of articles (from one specialized business paper, *Het Financieele Dagblad*, and a more general paper, *De Volkskrant*) collected through GoPress.

The first reporting on CETA in the Dutch press was by the financial-economic paper *Het Financieele Dagblad*. In **2013**, it wrote a piece on the closure of the negotiations, which were seen as 'setting the stage for the negotiations with the US'. The article included comments from the Dutch meat sector, which criticized the deal for allowing for too much imports of beef and pork. Minister Ploumen was quoted in disagreement: according to her the meat industry was 'innovative and strong', sustainability clauses would prevent European environmental and animal welfare norms from burdening EU producers, and CETA would grant the Dutch economy a boost of 600 million to 1,2 billion Euro's<sup>140</sup>. There were no further details in article, which spent only 400 words to examine the treaty.

There was a little more reporting in **2014**.

CETA started being 'infected' by the growing debate surrounding TTIP, as shown by a series of commentaries; for example *De Volkskrant* published a piece (26/02) by Rens van Tilburg (SOMO) warning about TTIP (ISDS, regulatory competition, bad effects on environment and social tensions within EU); the EP, which was up for elections three months from then, would have to approve TTIP, as well as 'the already negotiated accord with Canada, which also includes a dispute settlement mechanism'<sup>141</sup>. The same paper published a piece (19/08) that headlined 'The nightmare of Canadian farmers', calling the deal a blessing for the logistic sector in the Netherlands but a nightmare for the Canadian dairy industry. It called CETA a testing lab for TTIP; the importance of both agreements was 'immense', and Dutch business was quoted as 'cheering' the accord. According to VNO-NCW CETA showed that the EU could still do trade deals after the failure of the Doha round, 'with CETA, an important psychological hurdle has been taken for finishing the deal with the US'; they called civil society's criticism of ISDS greatly exaggerated. On the other hand, civil society organizations were reportedly unhappy especially about

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<sup>140</sup> Handelsakkoord met Canada biedt hoop op deal met VS - *Het Financieele Dagblad* - 19 Oct. 2013 - Page 5

<sup>141</sup> Ook de vrije handel heeft een prijs - *De Volkskrant* - 26 Feb. 2014 - Page 35

ISDS. TNI is quoted, criticizing ISDS (which would also allow US multinationals to attack the EU through Canada) and the potential imports of tar sands oil<sup>142</sup>.

On the occasion of Ploumen's presentation of her evaluation of ISDS in the Tweede Kamer in September 2014, TNI (Hilde van der Pas) was able to publish another commentary about TTIP and CETA in De Volkskrant, again criticizing ISDS and the dangers the FTAs posed for social, environmental and food safety standards<sup>143</sup>. It also spent some attention the imports of tar sands oil, a '*dirty*' kind of oil that was now being allowed into the EU - in part because to be able to finally sign CETA<sup>144</sup>. Het Financieele Dagblad kept to reporting about the remaining uncertainty about the accord, due in part to doubts within the member states (especially Germany)<sup>145</sup>. There was one exception: they included a piece with comments from the Canada Europe Roundtable for Business, which supported ISDS and applauded the NGOs for making this '*non-issue*' politically salient<sup>146</sup>.

Further increase in 2015. Reporting of protest against ISDS by civil society, of Ploumen's proposal (along with German, French and three other social democratic parties) to modify the system in order to safeguard governments' policy space, and of civil society's (quoting Corporate Europe Observatory) lack of enthusiasm for these modifications<sup>147</sup>. Also articles on food safety concerns<sup>148</sup>, and Greek attempt to get additional protections for Feta in the accord<sup>149</sup>. In September 2015, a long commentary was published in De Volkskrant, signed by TNI, SOMO, Both Ends, Foodwatch, Greenpeace, Milieudefensie, ABC, WILPF and WEMOS. The piece focused on ISDS and ICS ('*lipstick on a pig*'), whereby CETA was portrayed as 'TTIP through the backdoor', allowing US firms to use investment arbitration against the EU through their Canadian affiliates<sup>150</sup>. Protesting TTIP was useless if CETA was ratified.

In 2016 there were reports of the preparations being made by civil society for a referendum on TTIP and CETA; this is also the frame in which De Telegraaf mentions CETA for the first time<sup>151</sup>. Het Financieel Dagblad, in June, also wrote about how Ploumen was time and again forced to defend the FTAs, which many on the left were 'painting as a conspiracy against social security, the environment, public health and human rights', and their campaign to organize a referendum had already gather over 155 000 autographs<sup>152</sup>. The papers furthermore reported about how the Council, '*led by Liliane Ploumen*' believed CETA should be a mixed accord, which

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<sup>142</sup> De nachtmerrie van de Canadese boeren - De Volkskrant - 19 Aug. 2014 - Page 25

<sup>143</sup> Handelsverdragen zijn niet fair - De Volkskrant - 10 Sep. 2014 - Page 34

<sup>144</sup> Voor EU is vervuilende teerzandolie gewoon olie - De Volkskrant - 21 Oct. 2014 - Page 25

<sup>145</sup> Onzekerheid blijft rond akkoord EU en Canada - Het Financieele Dagblad - 25 Sep. 2014 - Page 5; Feestje met een nare bijmaak - Het Financieele Dagblad - 01 Oct. 2014 - Page 4

<sup>146</sup> 'Relocatie kan de grote verrassing worden' - Het Financieele Dagblad - 24 Nov. 2014 - Page 9

<sup>147</sup> Speciaal hof moet angel halen uit handelsverdrag - De Volkskrant - 02 Mar. 2015 - Page 2; Ploumen wil vrijhandelsverdrag met Canada aanpassen - Het Financieele Dagblad - 03 Mar. 2015 - Page 2; Kritiek op aanpassing handelsverdrag Ceta - Het Financieele Dagblad - 04 Mar. 2015 - Page 5

<sup>148</sup> Brussel: kippen kunnen ontsmet met azijnzuur - De Volkskrant - 28 Mar. 2015 - Page 14

<sup>149</sup> Fetakaas bedreigt handelsverdrag - De Volkskrant - 07 May. 2015 - Page 28

<sup>150</sup> Verdrag EU-Canada is TTIP via de achterdeur - De Volkskrant - 25 Sep. 2015 - Page 20

<sup>151</sup> Volgend referendum wordt al voorbereid - De Volkskrant - 07 Apr. 2016 - Page 2; Nieuwe referenda op komst - De Telegraaf ; TTIP valt ook in Amerika verkeerd - De Volkskrant - 02 May. 2016 - Page 9; Brussel wil handelsakkoord met Canada in oktober ondertekenen - Het Financieele Dagblad - 14 May. 2016 - Page 6

<sup>152</sup> Rechtse kastanjes - Het Financieele Dagblad - 07 Jun. 2016 - Page 4



would in the Netherlands would probably lead to a referendum<sup>153</sup>, but also about the domestic resistance against provisional application (GroenLinks, the SP and Milieudefensie are quoted), because it was seen as undemocratic<sup>154</sup>. More criticism was published by De Volkskrant in July, with a piece on the sugar-lobby, which leaned heavily on a report by Corporate Europe Observatory. According to the article, the sugar lobby was pushing heavily for CETA and TTIP, because this would allow firms to file legal disputes against countries trying to limit sugar use<sup>155</sup>.

This started drawing pushback. A commentary by the chief editor of Het Financieele Dagblad criticized the Commission for bending the knee and granting CETA mixity; fear of trade and globalisation was '*sucking Western democracies into a protectionist spiral*'. Further delaying CETA's ratification would hurt the EU's image abroad: if it couldn't succeed in making a deal with Canada, with which other country could it still hope to conclude an agreement?<sup>156</sup>. Still, in the summer there wasn't much reporting about the Dutch domestic politics of trade, most of it focused on the EU level and the difficulties in Germany, although the scale of the general mobilization (EU-wide) around TTIP was questioned; Het Financieele Dagblad spoke about an '*invisible, supportive, majority*'<sup>157</sup>. This continued well into September, when there was mostly (brief) low-key reporting about the signing of CETA and the negotiation of the interpretative declaration<sup>158</sup>. If CETA was mentioned at all, it was mostly in the context of (the failure of) TTIP; again, Het Financieele Dagblad pleaded in favor of both FTAs, and called on politicians (in the EU) to forego their electoral opportunism in order to conclude the deals<sup>159</sup>.

There was more fuss in October, when the Tweede Kamer had to give its ratification a green light. An article in De Volkskrant discussed the protests of 'tens of thousands of people across Europe', also in the Netherlands, against CETA and TTIP, and their fears in terms of social, health and environmental standards and ICS. SP (Jasper van Dijk) was quoted, calling CETA TTIP through the back door, and citing the dangers for food safety because of Canada's use of hormones and GMOs. Ploumen and the PvdA in the Tweede Kamer (Jan Vos) denied that concluding CETA would be a prelude to approving TTIP<sup>160</sup>. Several commentaries: De Volkskrant published one by a professor of international economic law, praising CETA's economic and political benefits but attacking investment arbitration, calling for a removal of ICS in order to 'save CETA' from being voted away by the EP<sup>161</sup>. It also published an editorial commentary, which praised the Dutch parliament for approving CETA that week,

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<sup>153</sup> Brussel gaat confrontatie met lidstaten aan over handelsakkoord Canada - Het Financieele Dagblad - 29 Jun. 2016 - Page 4

<sup>154</sup> Brussel haalt bakzeil bij handelsdeal met Canada; elk EU-land moet Ceta ratificeren - Het Financieele Dagblad - 06 Jul. 2016 - Page 4

<sup>155</sup> Suikerlobby aan winnende hand - De Volkskrant - 30 Jul. 2016 - Page 35

<sup>156</sup> Niet treuzelen met handelsakkoorden - Het Financieele Dagblad - 07 Jul. 2016 - Page 2

<sup>157</sup> TTIP begraven om Ceta te redden - Het Financieele Dagblad - 01 Sep. 2016 - Page 5; Duitse partners openen het vuur op elkaar - Het Financieele Dagblad - 30 Aug. 2016 - Page 3; Gesprekken over TTIP 'mislukt' - De Volkskrant - 29 Aug. 2016 - Page 21; Hoe groot is de afkeer van TTIP? - Het Financieele Dagblad - 19 Sep. 2016 - Page 5

<sup>158</sup> Vrijhandelsverdrag met Canada ondertekend - De Volkskrant - 21 Sep. 2016 - Page 31; Kans op akkoord is nu nul - De Telegraaf - 23 Sep. 2016 - Page 22; Vrijhandelsverdrag met Canada op komst - De Volkskrant - 24 Sep. 2016 - Page 28; EU en Canada stoppen bijsluiter 'in mensentaal' bij handelsverdrag Ceta - Het Financieele Dagblad - 07 Oct. 2016 - Page 2

<sup>159</sup> TTIP-verdrag dient een groter belang - Het Financieele Dagblad - 26 Sep. 2016 - Page 2

<sup>160</sup> Handelsverdrag met Canada krijgt groen licht van Kamer - De Volkskrant - 12 Oct. 2016 - Page 2

<sup>161</sup> Red CETA en stop het investeringshof - De Volkskrant - 12 Oct. 2016 - Page 22

and cheering the defeat, in a 'context of growing international mercantilism', of the 'loud-mouthed monster-coalition of left-wing and right-wing activists, environmentalists and trade unions, that have opposed the treaty [...]' <sup>162</sup>. A similar piece was posted by Het Financieele Dagblad, which minimized CETA's economic importance, but instead emphasized it was a test of the EU's credibility in trade. The deal had been unfairly dragged into the protests targeting TTIP, which also led to the Commission's unwise decision to allow for national ratification<sup>163</sup>.

In the weeks that followed, most of the attention shifted towards Wallonia's resistance against the deal. The portrayal of this interlude was quite negative: Paul Magnette and the PS were reportedly driven by electoral calculations (pushed by the PTB, a desire to sabotage the federal government) rather than substantive concerns, for which they had had plenty of time in the ('over five', 'seven') years of negotiating the text, and which had already been met by the adaptation of ISDS into ICS and the inclusion of an interpretative declaration. Moreover, a lot of emphasis was put on the alleged ('absurd', 'hilarious', 'incredible', 'surrealistic') un-democratic nature of the Walloon veto, because a tiny fraction of the total EU population was blocking a deal approved by millions of Europeans. The episode was seen as damaging to the EU's (and Belgium's) image abroad, and its power to conclude trade deals with less 'friendly' countries<sup>164</sup>.

This episode also attracted more general commentaries about the forces resisting TTIP-CETA. In several pieces, De Volkskrant was very skeptical about the 'coalition of anti-globalists and eurosceptics' that was resisting CETA, framing it as part of a wider backlash against free trade and the EU; the paper listed all the benefits that would accrue to the Netherlands if CETA was ratified, and that more generally had flown from freer global trade, dismissing the protestors' fears; it hoped that politicians would pay no heed to the 'ghost stories' of a 'noisy minority'<sup>165</sup>. Similar pieces were put up by the editors of Het Financieel Dagblad<sup>166</sup>

The opponents of CETA were able to draw a bit of attention with their protests in Amsterdam (21/10), which led to some (brief) statements in the press: in De Telegraaf, Consumentenbond pleaded in favor of the resistance (lack of consumer protections, investor state dispute settlement)<sup>167</sup> and the coordinator of the TTIPAlarm Coalition repeated the movement's criticisms (ISDS, food safety,

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<sup>162</sup> CETA - De Volkskrant - 13 Oct. 2016 - Page 23

<sup>163</sup> De geloofwaardigheid van de EU, daar draait Ceta om - Het Financieele Dagblad - 14 Oct. 2016 - Page 9

<sup>164</sup> CETA-verdrag wankelt - De Telegraaf - 15 Oct. 2016 - Page 37; Walen dreigen vrijhandelsakkoord van EU met Canada te torpederen De Volkskrant - 15 Oct. 2016 - Page 2; Waals 'nee' doet EU-verdrag met Canada wankelen - Het Financieele Dagblad - 15 Oct. 2016 - Page 5; Waals veto op Ceta is schadelijk voor Europa - Het Financieele Dagblad - 17 Oct. 2016 - Page 2; Toverdrank uit Wallonië - Het Financieele Dagblad - 17 Oct. 2016 - Page 6; Waals verzet nekt vrijhandelsakkoord - De Telegraaf - 18 Oct. 2016 - Page 24; Laatste kans voor handelsverdrag met Canada - De Volkskrant - 19 Oct. 2016 - Page 4; De tegenstemmer wint - Het Financieele Dagblad - 19 Oct. 2016 - Page 9; Handelsministers stellen verdrag uit - De Telegraaf - 19 Oct. 2016 - Page 25; Man van het harde woord laat zijn tanden zien - Het Financieele Dagblad - 20 Oct. 2016 - Page 12; EU-grondleggers ontpopp en zich als EU-dwarsliggers - De Volkskrant - 22 Oct. 2016 - Page 4; Ceta is nagel aan Europese doodskist - Het Financieele Dagblad - 24 Oct. 2016 - Page 6; Hypocriet - De Telegraaf - 27 Oct. 2016 - Page 19; Handelspolitiek op helling - De Telegraaf - 28 Oct. 2016 - Page 22; Handelsoap legt vertrouwenscrisis bloot - Het Financieele Dagblad - 29 Oct. 2016 - Page 6

<sup>165</sup> Afkeer van verdragen speelt EU parten - De Volkskrant - 18 Oct. 2016 - Page 15; Handel en inspraak De Volkskrant - 20 Oct. 2016 - Page 23; Hoe vrijhandel een vies woord werd - De Volkskrant - 21 Oct. 2016 - Page 4; Akkoord ontsierd door kijvende staten - De Volkskrant - 28 Oct. 2016 - Page 6

<sup>166</sup> Een goede verliezer is een loser - Het Financieele Dagblad - 22 Oct. 2016 - Page 13

<sup>167</sup> Handelsverdrag - De Telegraaf - 22 Oct. 2016 - Page 45

environmental standards)<sup>168</sup>, while De Volkskrant gathered statements from protestors and the event's public speakers – although it confronted these with claims by 'economists, policy makers and politicians' <sup>169</sup>.

In November, after Wallonia's crisis was averted, CETA also played a role in a somewhat broader debate on the merits of free trade. This time there was some more space for contradicting opinions. De Volkskrant published an academic's commentary criticizing the FTAs and the neoliberal agenda they were a symptom of<sup>170</sup>, and they and Het Financieel Dagblad published pro/contra pieces about the merits of free trade and the need to take care of globalisation's 'losers'<sup>171</sup>, although both papers published long commentaries (by economists) that fiercely criticized the ('mistrust-driven', 'factually baseless') protests against CETA, arguing in favor of the huge merits of free trade for the world and especially the Netherlands<sup>172</sup>.

### **In summary**

The press review shows that there was indeed considerable attention for the criticisms being voices by CSOs and opposing parties, while there was relatively little space (either in arguments or in direct quotes/mentions) of the supporters of CETA. However, the tone changed towards the fall of 2016; before September 2016, the opponents of CETA seem to have had better access or a more willing ear in these papers than during this more tense phase, when reporting was more critical of the CSOs' claims. Even then, there was extremely little pushback from business associations like VNO-NCW (or its members); the pro-CETA commentaries rather came from economists and the papers themselves.

Altogether, the amount of ink spent on the issue remained modest.

#### *b.b. Outside Access Point 2: The public*

The main work of the CSOs was oriented at raising awareness and mobilizing the general public. They did so through their work in the press as well as online, but also through petitions, rallies and protests. Below, I survey the extent to which this was successful.

To do this, we can first review the extent to which some of the organizers' own initiatives achieved their goals.

For example, one of the instruments that some of the CSOs put to work was the organization of a **referendum**. In the fall of 2015 Foodwatch, TNI, Milieudefensie and MeerDemocratie decided they would try and organize a referendum about TTIP; over the course of 2016 they decided to add CETA<sup>173</sup>. Together they formed 'Platform

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<sup>168</sup> Achtduizend demonstranten tegen handelsverdragen - De Telegraaf - 23 Oct. 2016 - Page 15

<sup>169</sup> Wat moeten we met al die spullen uit Amerika en Canada? - De Volkskrant - 24 Oct. 2016 - Page 2

<sup>170</sup> Bezie handelsverdragen met scepsis - De Volkskrant - 03 Nov. 2016 - Page 24

<sup>171</sup> 'Mondialisering heeft dringend een facelift nodig' - Het Financieele Dagblad - 03 Nov. 2016 - Page 9. Vrijhandel is niet altijd goed. Dat vindt niet alleen Trump - De Volkskrant - 23 Nov. 2016 - Page 8

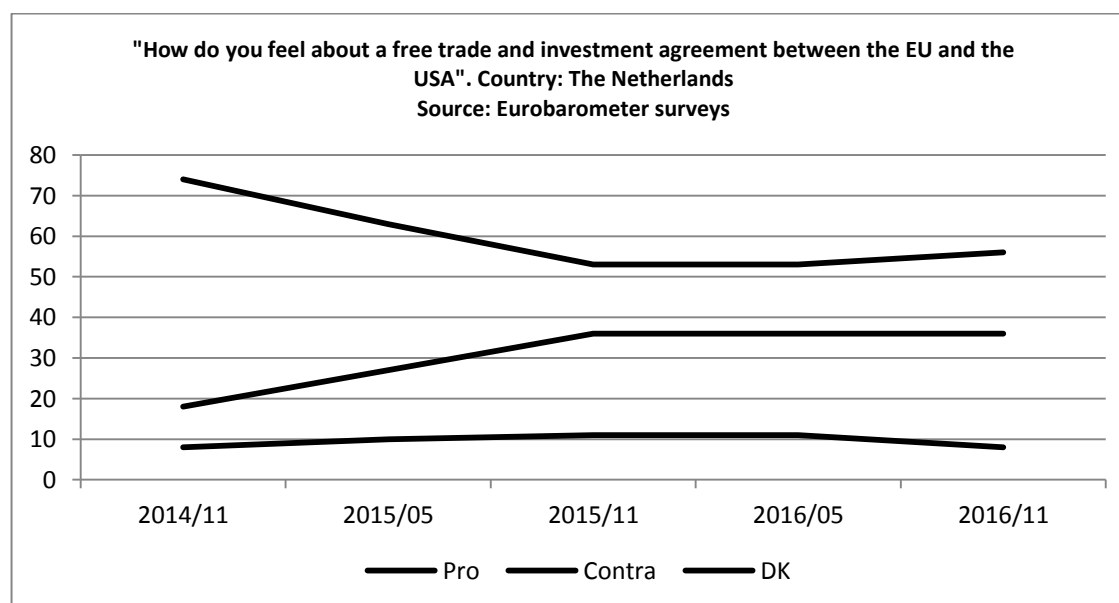
<sup>172</sup> Vrijhandel blijft middel om welvaart voor allen te creëren - Het Financieele Dagblad - 05 Nov. 2016 - Page 18; Laat zien dat autonomie en open grenzen elkaar juist niet uitsluiten - Het Financieele Dagblad - 03 Nov. 2016 - Page 11

<sup>173</sup> As was discussed before, this initiative was not supported by all of the CSOs (e.g. FNV), but over the course of 2016 it did receive backing from a group of other (small, mostly agricultural) organizations. Varkens in Nood,

TTIP Referendum'. In the Netherlands, it's only possible to start officially collecting autographs for a (non-binding) referendum about laws that have been approved by the parliament and the senate, but the Platform decided to already start a petition. In September 2015 it launched the 'ttip-referendum.nl' website, by April 2016 they had collected 67000 autographs, which rose to 200 000 by the end of that year; a substantial effort which also received some press coverage. Their **protests** offer another indication: the TTIP demonstration they had organized in 2014 had drawn only 50 people. According to Milieudedefensie, a protest organized in October 2015 managed to gather 'a few thousand' people<sup>174</sup>, and their day of action in the fall of 2016 pushed this to 7000 (Interview - Milieudedefensie, 2017).

They considered this a success, which they attributed in part to their own campaigning, but also to a more 'structural' foundation related to the substance of the FTAs: in contrast to previous trade debates, which revolved around whether agreements or our firms were hurting the global south, the countries, multinationals and clauses involved meant people understood intuitively that this time their own well-being might be affected. However, they also acknowledged the importance of the media in facilitating their efforts. According to **Milieudedefensie**, there was barely any discussion of TTIP before Lubach's March airing, and their mobilizations really picked up afterwards (Interview - Milieudedefensie, 2017).

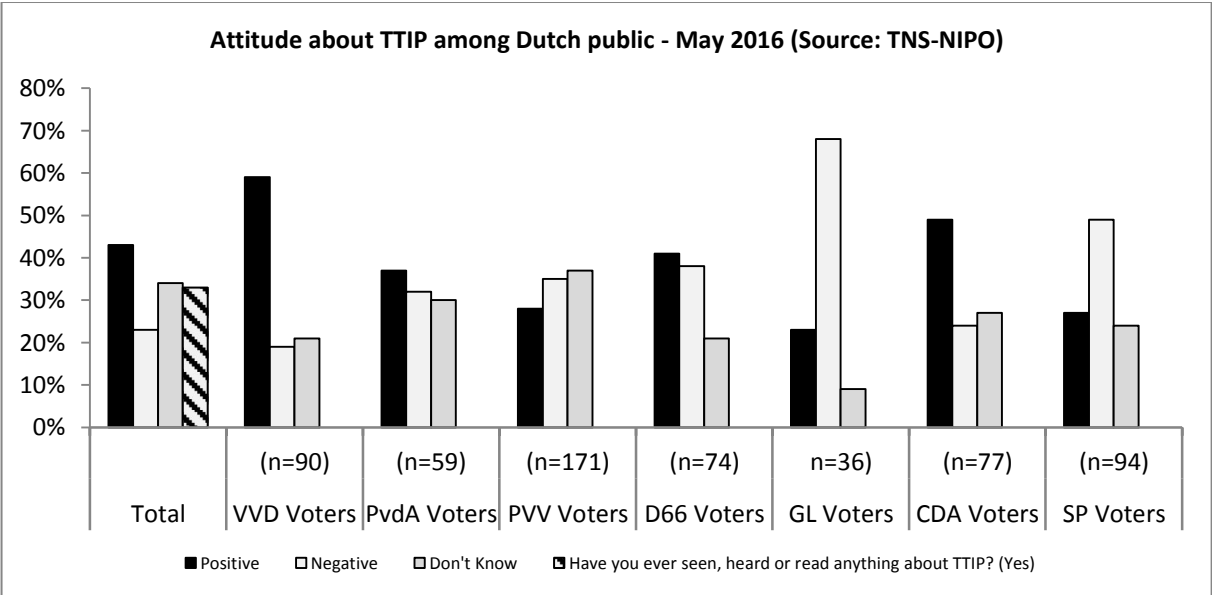
Secondly, we can review some 'external' measures of the public's engagement. Although there have been no **opinion polls** about CETA, there have been several about TTIP. Since the campaigns were so intertwined, it does not seem unreasonable to consider the public's knowledge and opinion of TTIP as a proxy for that of CETA - although it's almost certainly an overestimation. First of all, **Eurobarometer** surveys show that support for TTIP decreased between 2014 and 2015, after which it stabilized (and eventually rose again). A majority of Dutch remained in favor, with a (+-)15-point lead over those who opposed the deal.



Dier & Recht, Transitie Nederland, Nederlandse Akkerbouw Vakbond, Women's International League for Peace and Freedom, Aarde Boer Consument, Viervoeters, Nederlands Palestina Komitee, DiEM25  
<sup>174</sup> <https://www.tni.org/en/node/22337>

A more **detailed (online) survey** was undertaken by TNS-NIPO<sup>175</sup> in May 2016. It showed that about a third of the Dutch public had heard about TTIP, which according to TNS-NIPO was quite high; they compared this to how, two months before the Ukraine referendum, less than half of those surveyed knew the referendum was about to take place. However, knowledge of the negotiations was often quite shallow.

They noted that about 29% of the public was in favor of the deal, 25% opposed it, and 46% wasn't sure (after being told about it by the researchers). Among who said they'd heard about TTIP, 49% opposed it. There were strong differences across parties: people who during the last elections voted for GroenLinks or SP opposed the deal far more often than voters for VVD or CDA, while the PVV's electorate was less outspoken. Respondents were also asked to give arguments in favor or against the deal, summarized as follows by the polling agency: opponents of TTIP were afraid of negative effects on food safety and the environment, and were critical of the US; proponents of TTIP mostly used economic and geopolitical arguments. Finally, there was support for a referendum on the deal: 43% supported, 23% opposed organizing one.



Note that there was some difference between the results of both surveys, the 'don't know' category is much larger in the TNS-NIPO results. It's hard to gauge to what extent this is due to methodology, the phrasing of the question or other reasons. And of course, the studies are about TTIP, not CETA.

However, it seems safe to conclude that the public had been to some extent responsive to the campaigns from the NGOs or the media, and that parts of it had become more critical than they would otherwise have been. Especially among some of the parties on the left, the opposition was stronger. However, this was countered by a strongly supportive stance among the voters of one governmental party, the VVD, and mild support among voters from their coalition partner the PvdA; together over three quarters of the public either didn't have an opinion or was in favor of TTIP.

<sup>175</sup> <https://www.tns-nipo.com/nieuws/persberichten/meerderheid-voor-referendum-over-ttip/>

## **In summary**

Although a sizeable chunk of the electorate became aware of TTIP, there was never a majority that opposed (or strongly favored) the deal – neither in this group or in the wider public. Perhaps within some parties’ rank and file there was increasing pressure to take a firm stance, but seemingly not among those that presided in the government (although voters’ attitudes can differ from party members’), and the ambiguous developments in aggregate support (as such) are unlikely to have (decisively) moved the political spectrum either way. To some extent this can also be seen in the party manifestoes for the 2017 elections: the SP, GroenLinks and Partij voor de Dieren took an explicit stance against CETA and TTIP, but most other parties included quite cautionary ‘yes, if’ remarks about the trade deals. The VVD, PvdA, CDA and D66 all claimed that they’d approve the deals if they met certain criteria (related to sovereignty, the environment, food norms, ...). Of course, the fact alone that the FTAs were included is an indication that the campaign was successful in boosting the saliency and sensitivity of this issue.

### *b.c. Outside access point 3: The parliament*

Finally, the CSOs actively tried to make use of the parliament. We can here distinguish between the tactics and success of the ‘NGOs’ (Foodwatch, Milieudefensie, TNI) and that of trade union FNV.

**The NGOs** felt like they had good access to the parliament, and they met with most of the political spectrum. The parties on the left, chiefly the SP, the PvdD and GroenLinks, were eager to take up their arguments and protest against the deals. The campaign’s narrative on ICS in particular became easy to ‘sell’ after a while. Although they also met with them a few times, the VVD and D66 were a lot less welcoming. According to the alliance’s coordinator, D66 was surprisingly difficult: the party told them that they had chosen to follow the line of their MEP Marietje Schaake, which meant that they at no point really took the analysis of the CSOs into consideration. Their position was therefore surprisingly ‘neoliberal’, and their tone in the debate was the most populist. After the CSOs campaigned on D66’s membership, however, there was a change of policy – they then decided to still support CETA/TTIP, but more quietly, in the background. The CDA was more hesitant, as was the PVDA – which was critical of the deals but which also had to safeguard their minister’s position (which had voiced strong support for TTIP and CETA) and the survival of the cabinet. The CSOs tried to put pressure on the social-democrats by pointing at the critical approach of their faction in the EP, but it became increasingly difficult to reach them. The coalition also invested a lot into speaking to the Christian parties. By including a focus on the agricultural and the rule-of-law dimensions, they contributed to the fact that the SGP and CU never actually said ‘yes’ to CETA in parliament. Although it eventually became critical of the deals as well, it was politically and ideologically difficult for the coalition to also work with the PVV (Interview - Foodwatch, 2017; Interview - Milieudefensie, 2017; Interview - TNI 1, 2017).

Access was even easier (and seemingly more continuous) for the FNV. There were strong ties between several of its members and some of the parties<sup>176</sup>, and a lot of the parties had trade unionists in their ranks. Moreover, according to my source a majority of parties is always willing to lend an ear to the unions, even if they don't always agree with them, because they think the social partners should play an active role in decision making (for example CDA). Only a few parties believe that the unions are just an interest group like any other. But even here the FNV could be sure its voice would be heard if it managed to come to a joint position with the employers – which it eventually did in regards to TTIP, in 2015. The FNV also felt that their use of these networks **had paid off**. In case of the discussions on mixity and provisional application, a majority of the Tweede Kamer had regularly supported good, critical positions that were at least partially based on letters and positions of the union (Interview - FNV, 2016).

According to the coordinator of the TTIP Alliance, the **CSOs' role in the parliament** was to first of all make sure that there *were* discussions about this dossier. The proponents weren't going to bring it up, and the opponents needed the CSOs' research to find their way on this difficult, technical issue. However, there had been parliamentary questions at quite an early stage, and he did not really know who made the first move; he thought it was quite possible that researchers from TNI and SOMO had already been playing a role in this early stage (Interview - CSO Coordinator, 2017). TNI itself seemed more confident: certainly in regards to ISDS they had been **influential** in the parliament. If they had not started raising this issue, it would never have been debated in the Tweede Kamer (Interview - TNI 1, 2017). The previous paragraph also made clear that some of the other CSOs shared this assessment; they seem to believe that they had indeed weighed on the parliamentary debates.

Unfortunately, I was unable to speak to any MPs<sup>177</sup>, so I had to rely on the CSOs' own assessment of their access and influence. To somewhat triangulate their claims as well as to gain further insight in the parliamentary dynamics, I have produced an **overview and analysis of the parliamentary debates** on CETA. I present them here, but this discussion will also return in the business & civil service mechanisms.

**Before 2011**, there were no debates, nor were there any written questions. In **2011**, there was just one Q&A (**24/05/2011, RAZ<sup>178</sup> & RBZ<sup>179</sup>**) in which CETA was mentioned. Koppejan (CDA) asked about 'reports' that there had been difficulties in opening up certain Canadian services markets. He asked (then) state secretary Bleker whether this included sectors that were of interest to the Netherlands (**kst-21 501-02-1062**). In, **2012** there was again only one committee debate (**15/06/2012, RAZ & RBZ**) in which 'the negotiation of a free trade deal with Canada' was mentioned. CDA voiced its support for the progress made in the negotiations, and hoped the deal would be swiftly concluded. They inquired as to whether the cabinet had already

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<sup>176</sup> My interviewee had been a representative in the Eerste Kamer for the SP until he went back to the union in 2016.

<sup>177</sup> I only spoke to one parliamentary member of staff from the SP. My interview requests were rejected by all of the other parties, before and after the elections of 2017, even by some of the smaller parties like PvdD. None of the MPs was able to find time to speak to me. This stands in stark contrast with the easy access to MPs in Belgium, but also to the willingness of the Dutch civil service to grant me interviews; it came as a surprise.

<sup>178</sup> Raad Algemene Zaken

<sup>179</sup> Raad Buitenlandse Zaken

analyzed what export opportunities the deal offered, and if so what sectors might benefit. In the same supportive spirit, Schaart from the VVD wondered why the deal was taking so long to conclude, what problems remained. The PvdA, however, complained about the lack of information the parliament was getting about the FTAs under negotiation (CETA is mentioned in a series), and about the lack of clarity in regards to the employment effects, sustainability and human rights aspects of FTAs (not CETA specifically). He added: *“Ik wil mijn spreektijd vooral benutten om stil te staan bij het vrijhandelsakkoord met Colombia en Peru”* (kst-21501-02-1159).

There was more debate in 2013. In the first meeting (**04/01/2013, CBH&O**<sup>180</sup>), there were again some general (and brief) questions by the CDA about the economic benefits of the deal and about when it might be concluded. However, for the first time there was also a question about investor-state arbitration (they don't use the acronym, yet), which was also the first time the SP intervened in the debates: the wondered whether the minister 'acknowledged the risk' of the Netherlands and the EU being targeted by claims. The SP also wondered whether the deal would be mixed and would thus require parliamentary ratification (kst-21501-02-1208). In a subsequent written deliberation with the minister (**03/05/2013, CBH&O**), however, the only CETA-related questions were again posed by the CDA and the VVD; these again dealt solely with the benefits and timing of the deal (kst-21501-02-1251). Later still, (**16/07/2013, CBH&O**) new parties got involved and the debate became somewhat more eventful. The SP (quoting from a newspaper article by the *Volkskrant*) and GroenLinks, for example, expressed their worries about investors' protections in CETA (citing well-known the German Vattenfall and the Australian Morris cases). Although they made clear that they rejected such provisions if they could in fact challenge national laws and policy space, their interventions were still mainly oriented at accruing information and did not reflect any clear or fixed stake in regards the deal or the dispute system (kst-21501-02-1275)<sup>181</sup>.

The final mention of CETA in 2013 occurred in the October (**14/10/2013**) meeting of the Committee on Agricultural & Fishery, where the PvdD and the SP asked questions about what dangers CETA (and TTIP) posed for animal welfare and battery eggs (kst-21501-32-746).

The first discussion of CETA in 2014 (**03/02/2014**) occurred in the environmental committee, with a lone question by the PvdD. The party's chairwoman asked the state secretary to confirm that CETA would not prohibit an import-ban on oil from tar sands - but this didn't trigger a substantive discussion. The deal also came up in a written debate organized by the committee on agriculture and fisheries (**25/03/2014**), with a question by the SGP about the (lack of a) licensing system for quotas in agricultural goods. Far more attention was paid to CETA in July (**09/07/2014, CBHO, CEZ**<sup>182</sup> & **CEUZ**<sup>183</sup>). For the first time the PVV also showed an interest, although its questions about the right to regulate and investors' protection were rather benign and largely informative [no clear position, except in regards to mixity].

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<sup>180</sup> Comité Buitenlandse Handel & Ontwikkeling

<sup>181</sup> *'Jasper van Dijk (SP): Is dat volledig onjuist en is het verdragsrechtelijk inderdaad niet zo dat [ISDS] landelijke, nationale regelgeving overruled? minister Ploumen: Volgens mijn informatie is dat idd. onjuist, zoals ik u net zei. De heer Jasper van Dijk (SP): Dat is wel goed nieuws. De heer Van Ojik (GroenLinks): Dat is zeker goed nieuws. [...]'*

<sup>182</sup> Comité Economische zaken

<sup>183</sup> Comité Europese Zaken



GroenLinks, on the on the other hand, now started staking out a more concrete position. Quoting from the text's preamble, they criticized the text's wording in regards to the right to regulate, as well as the composition and functioning of the ISDS tribunals. They called for a comparison between ISDS in TTIP and CETA. Together with the SP, they for the first time also aired some worries in regards to the parliament's ability to scrutinize and debate the deal(s) and the cabinet (kst-21501-02-1398). These worries were largely repeated by GroenLinks, the PvdD and the SP in September (**10/09/2014, CBHO & CEUZ**), when these parties complained about the 'legal scrubbing' taking so much time, and the lack of clarity in regards to the issues that apparently made such extensive 'scrubbing' necessary. Again, they also lamented the confusion as to when the parliament would be able to read, discuss and perhaps decide on a CETA text. The PvdD also called for removing agriculture from TTIP and CETA.

The other parties did not participate in these discussions, which in any case were dwarfed by the debates over TTIP; these took up most of the meeting's time (kst-21501-02-1419). The next month (**01/10/2014, CBHO, CEZ & CEUZ**), the SP asked long questions about stories in the press concerning German doubts about ISDS and the struggle that was taking place amongst the Council and the Commission. Once more, they demanded more information. For the first time they also raised the issue of provisional application, condemning reports that clauses like ISDS might be applied before the parliament had had a say. The VVD, in contrast, welcomed the publication of the CETA deal, and asked the minister to present the parliament with a summary of the 1600 page tome. They defended the deals and especially ISDS from the 'anti-scientific' claims made by NGOs like Greenpeace. This triggered a long debate between the SP and the VVD on the rumors about/dangers of 'frivolous claims', and whether such stories were the product of scaremongering by a small club of NGOs. The PVV, PvdA and GroenLinks remained somewhat in the background, asking more general questions about ISDS and the procedures related to ratifying the deal; others did not participate (CDA, SGP, CU, PvDD, others). For the first time, the minister was asked to make a series of commitments for the Tweede Kamer: she had to forward the parliament an 'appreciation'<sup>184</sup> of CETA, and the MPs were to receive a 'technical briefing' about the deal as well as an update about Germany's position on ISDS (kst-21501-02-1420).

In 2015, as the debate over TTIP got more heated so did the discussions revolving around CETA. Once again, more parties joined the fray (CU, D66, CDA). In March (**11/03/2015 - CBHO, CEUZ, CEZ**) MPs started using the phrase 'in CETA and TTIP', thereby entangling CETA in the more ferocious debate that had sprung up on TTIP. The PvdA pointed to the criticisms being raised by the FNV, and made some critical remarks about investor-state arbitration. They praised minister Ploumen's proposal (presented the week before at the EU level) to modify the system. Again there were several questions (by the SP, the PvdA) related to procedural issues: will the deal be mixed, what role for the Tweede Kamer, can the text still be modified to include ICS rather than ISDS? The other parties did not comment on CETA directly, but only discussed TTIP or more general issues related to free trade, such as ISDS and the need for a referendum on TTIP (which, in the debate, was supported by the SP and the PvdD, but opposed by the PvdA) (kst-21501-02-1494). A few days later

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<sup>184</sup> An evaluation from the government's perspective.

(16/03/2015), CETA was for the first time also discussed with prime minister Rutte, although far more attention was paid to TTIP and other issues. Again, much of the criticism was leveled at investors' protection, but to some extent there was also a broadening of the criticism. The SP, for example, referred to 'the worries' of trade union FNV related to potential job losses, to a hollowing out of employee rights and the public sector (kst-21501-20-966). In November (20/11/15, CBHO & CEZ), a debate was held on the same day the Tweede Kamer received a petition (signed by over 100 000 Dutch citizens) against TTIP, a few days after the TTIP-critical episode of Lubach. The SP referred to the Lubach show, arguing that '*CETA is TTIP through the backdoor*' - a remark that was echoed by the PvdD and, for the first time also (albeit in less crass terms) the PvdA. The latter party stated that the exclusion of American firms from CETA's investor-state dispute settlement system was a 'hard precondition' for its ratification. Other newcomers to this debate (at least in direct relation to CETA) were D66 and CU, which stated that they were pleased with the 'death of ISDS' and its replacement with a new system. Several parties made remarks about the positions of civil society, as well as the rising public opposition (e.g. 'TTIP-free communities'). The PvdD for example, referred to the widespread opposition of farmers' organizations (*'except for the chairman of the LTO'*) against TTIP and CETA. Again, these remarks were primarily made in the context of an increasingly ferocious (and increasingly detailed) debate about TTIP and ICS (kst-21501-02-1551). Further questions about ICS (by the SP) followed later that month (27/11/2015), in a written deliberation (kst-21501-02-1557) and in December (08/12/2015, CBHO & CEZ & CEUZ)(kst-21501-02-1604).

In 2016, parties finally fixed their positions and a clear supporters/opponents dynamic emerged; there were also much more references to the NGOs, trade unions, and the CSOs' mobilization. On the 20th April 2016 (20/04/2016, CBHO & CEZ & CEUZ), the opponents clearly included the PvdD (they opposed provisional application and called for referendum on CETA), the SP (cheap, low-quality agricultural products that produced under low standards might start 'flooding' EU markets) and GroenLinks (sharing the former's worries, but adding that CETA was also important because it set the bar (too low) for the TTIP talks, where the EU had to deal with the US' 'far lower' standards). There were also increasing doubts from the CU about ISDS (the Netherlands has a well-functioning judicial system, why is this necessary?) and SGP, which criticized TTIP and CETA because these treaties might, '*as pointed out by farmers' and environmental organizations*', lead to a race to the bottom for environmental regulations, food quality and food safety. Other parties were caught somewhere in between. This included the PvdA's somewhat ambiguous position. On the one hand they condemned the SP's rhetoric (because it framed the treaties as an 'attack on democracy'), but they also voiced their own concerns related to tar-sand oil and the dispute settlement mechanism - which they believed ('in line with the SER's advice') should have also covered labor and environmental norms. Similarly, the CDA's position remained 'positive-critical', while they also voiced worries (with reference to the SER's advice) related to food standards, health, the environment, consumer protection, and the interests of Dutch farmers<sup>185</sup>. The VVD

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<sup>185</sup> Although the participants of the SER deliberations felt like the advice had been taken up quite accurately by politicians, I believe that the debates actually show a lot of ambiguity; opponents and proponents all refer to the SER's advice, but at the very least seem to have had very different assessments of what it implied for a series of issues, including CETA's ratification.

at this time was the only party that straightforwardly emphasized its support for signing and provisionally applying CETA (kst-21501-02-1636)<sup>186</sup>.

The longest (and fiercest) debates on CETA were held in September and October<sup>187</sup>, largely along the same lines.

During September's committee meeting (**14/09/2016, CBHO & CEZ & CEUZ**), three parties again came out very clearly against the deal. **First**, the **SP** repeated its harsh criticisms: they claimed it was an undemocratic deal that would diminish European standards. They strongly opposed provisional application, and believed (referring to the petition ('177 autographs') and actions launched by Milieudefensie) that the ratification of CETA by the Netherlands would surely be followed by a referendum. Secondly, **GroenLinks** also vehemently attacked provisional application, and rejected both TTIP and CETA on three grounds: its rejection of ICDS, of the soft non-binding language in the fields of labor and environment, and of regulatory cooperation. Finally, the **PvdD** also opposed CETA; it did not safeguard the precautionary principle for GMOs, animal health and food safety. Although it did not offer much in the way of arguments, the **PVV** joined these parties in calling for a referendum on eventual ratification. Among the proponents, the **VVD** expressed its surprise at the sudden 'unrest' in the Tweede Kamer over a deal that had been negotiated for years; they hoped CETA would be signed and ratified as soon as possible. Other parties remained ambiguous. The **PvdA** welcomed a letter sent by the FNV (12 Sept), and the four criteria it raised for CETA, but they did not wish to support the letter's call to resist signing CETA. They also '*[did] not wish to question the mechanism of provisional applications*', although they weren't happy with the way this was arranged in the Lisbon Treaty; they supported excluding some aspects like ICS and IPR. **The CDA** praised the merits of free trade '*in principle*', but also called for a '*level playing field*'; they remained vague about provisional application. **The CU**, after thanking the minister for the way she had communicated with the Tweede Kamer, referred to the protests by the farmers, and expressed doubts about the minister's belief that CETA was in line with the SER's seven criteria; more specifically, they mentioned criteria 3 and 4: protecting and increasing European standards/policy space in favor of health & the environment. They wondered whether the 'precautionary principle' would still be standing after CETA. Lastly, the **SGP** stated that agriculture should either be completely cut out of CETA and TTIP, or 'sufficiently compensated' (kst-21501-02-1673).

Finally, in October (**12/10/2016, CBHO & CEUZ**), a full three-hour session with minister Ploumen was dedicated to CETA. Several parties (GroenLinks, SP, CDA) complained about the speed at which the Tweede Kamer had to decide on CETA, given that a new '**interpretative declaration**' had just been stitched to the accord – which was sent to the parliament only one day in advance of the debate and whose (the parties complained) legal value was unclear. They wanted the debate and the

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<sup>186</sup> Throughout this debate, as well as many others, parties also kept inquiring about a set of procedural issues related to ratification, provisional application and mixity. As an aside, I must confess that I do not fully understand why MPs kept posing the exact same questions (and receiving nearly identical answers) over and over throughout two years of discussions.

<sup>187</sup> In June (**27/06/2016, CEUZ & CBZ, with PM Rutte**) CETA briefly came up in the context of a debate on Brexit, when the SP (Roemer) asked the PM whether Brexit also meant the end of CETA (because this deal had been negotiated by 'the old EU') (kst-21501-20-1138). Two days before (**22/06/2016, CBHO**), a brief intervention (by the VVD) was related to CETA's mixity (kst-33625-221).

government's signature (scheduled for the Council meeting of 27/10) to be postponed (and the declaration scrutinized by the *Raad van State*). This was rejected by D66, VVD and the PvdA, which argued that the legally binding nature of the declaration was quite clear. A second debate revolved around the substance of the deal, which again drew out clear pro/contra positions from most parties. The **SP** and **GroenLinks**, pointing at the opposition by civil society, clearly opposed the treaty; they argued that it prioritized the elimination of trade barriers over social and environmental standards, while including clauses (such as ICS) that may limit the state's ability to serve those latter goals. The **PvdA** defended the deal against these attacks, claiming that many of the problems that had been raised over two years of debate had been taken up by the minister, who had successfully brought them to the EU level; CETA would lower regulatory burdens, raise environmental norms, and boost economic growth. This claim was then attacked by **GroenLinks** and the **SP**, again with reference to the positions by civil society and the labor unions. **D66** outlined four demands that needed to be met in order for them to support CETA, and argued that all of them had been checked off: the deal is good for SMEs, people will 'notice the benefits', norms will not be lowered, and the rule of law will not be impaired. Moreover, CETA would perhaps help counter the renewed global rise of protectionism. The **SGP** on the other hand acknowledged that investor-state arbitration had successfully been adapted after being criticized, along with other objectionable parts of the treaty, but they still opposed CETA because of its effects on Dutch farmers. **CDA** agreed, in more timid fashion, with this criticism, again calling specifically for some of the promised, compensatory 'flanking measures' to be made more concrete; in the end, the party stated it remained unsure about whether it would support CETA or not. The **PVV** came out against the deal, claiming it threatened Dutch sovereignty, and hoped it would be decided on via a referendum. The **VVD** remained supportive as ever, praising the minister (*'she did what she could to meet the demands of the parliament'*). The VVD argued that the minister had in fact been able to adapt the deal in relation to labor laws and the environment, bringing it in line with the SER's and their coalition partner's (PvdA) demands – even though they themselves believed these adaptations had been largely unnecessary (or even undesirable). *'The VVD is not happy with all of the [SER's] criteria, but the PvdA is particularly committed to some of them. A government composed by [our] two parties ends up sitting in the middle – that's just the way it is. This was the best attainable result'* (Teeven, VVD) (kst-21501-02-1690). 2016's last sighting of CETA was in December **(01/12/2016, CBZ & CEUZ)**, when the PVV again asked whether the interpretative declaration was legally binding (kst-21501-02-1709).

Parliamentary Resolution (Motions) on CETA			
Name	Date	Goal	Minister's Response
Motion Verhoeven (D66)/Sjoerdsma (D66) [kst21501-02, nr. 1437]	19 November 2014	Considering that the mandate for TTIP has been made public, but not the mandate for CETA, although its text has been release: make public the negotiating mandate for CETA	<i>'The mandate was officially released on 15/12/2015'</i>
Motion Jan Vos (PvdA)/Teeven (VVD) [kst21501-02, nr. 1544]	11 November 2015	Modify the ISDS clause in CETA, in order to make it confirm with the proposal for TTIP, before bringing the treaty to a vote in the European Parliament	<i>'The proposal for an ICS was added to CETA during the legal scrubbing procedure'</i>
Motion Jasper van Dijk (SP) [kst21501-02, nr. 1609]	28 April 2016	CETA can allow access to European markets for products that do not conform to European norms	<i>'The European Commission as well as I myself have on numerous occasions indicated that European standards nor the precautionary principle are at stake in CETA'</i>
Motion Grashoff (GL)/Jan Vos (PvdA) [kst21501-02, nr. 1615]	28 April 2016	Wait for a judgment from the Dutch parliament before taking in a position on the Commission's proposal for CETA's provisional application	<i>'The Netherlands did not take a position on this proposal before the parliamentary debates on the 14th and 15th September (2016)'</i>
Motion Bruins (CU) [kst31985, nr. 28]	7 June 2016	Exclude ICS from CETA's provisional application	<i>'This motion has been taken up in the position of the cabinet on provisional application, as seen in the annotated agenda for the informal Council of 23 September'</i>
Motion Bruins (CU) [kst31985, nr. 30]	7 June 2016	The motion calls on the government to work towards getting (i) public services and (ii) other sectors as mixed competences	<i>'Trade deals never tell member states how to run their public services. Neither does CETA. In brief, the parliament will always remain involved with public services like energy, water, healthcare or education'</i>
Motion Jan Vos (PvdA)/Teeven (VVD) [kst31985, nr. 38]	7 June 2016	The motion requests that the government does not agree, during the time in which CETA is in force, to any changes that diminish the demands set forth in the treaty about labor standards and the environment	<i>'I have agreed to this wholeheartedly and will keep defending this'</i>
Motion Teeven (VVD) [kst31985, nr. 40]	7 June 2016	CETA should be signed as soon as possible	<i>'Taking the other motions into consideration, as well as the fact that they have been executed by the government, I believes that I can also executive this motion, thereby following the cabinet's line by agreeing on the proposals for signing and provisional application of the treaty'</i>

Source: WOB - Nummer 17\_Redacted, p.13

## **In summary**

There was very little attention for CETA until 2013, but even when the debate got started parties' positions remained somewhat fluid at first. From 2014-2015, these became increasingly fixed, and harsher, with more and more parties participating in the debate. By 2016, parties had largely split into fervent opponents, strong supporters, and ambiguous supporters of the deal.

CETA's parliamentary opponents often echoed arguments used by the CSOs, this applies especially to the PvdD, the SP and GroenLinks. They referred to the mobilization by civil society on a very regular basis, and later to the SER's advice. They used the societal mobilization and arguments to support their own contestation of CETA and to appeal both to the minister and the other parties of the left (notably the PvdA). Other parties (particularly the SGP and CU, but also the PVV) didn't mention the NGOs or the trade unions (although they did sometimes allude to the SER), but instead often referred to the protests by farmers. They also used many of the arguments from the farmers' campaign. Some parties tried to occupy a skeptical but all-in-all supportive middle ground, notably the PvdA (whose arguments were somewhat closer to the CSOs) and CDA (which sometimes echoed the CSOs, but also farmers). D66 and the VVD were early and persistent supporters of the agreement. All of these parties also referred to the SER's report, from which they distilled a far more favorable assessment of the deal.

Substantially, the debates focused much of their attention on ISDS, on CETA as a 'Trojan Horse' for American firms (and thus TTIP), and the worries over the state's right to regulate and its 'policy space'. Concerns over environmental and food safety were also discussed at length. 'Hard-core' economic arguments (employment, trade flows, growth) seemed to be less salient, although they played an important role in both the SP's and the 'farmers' parties' attacks (job losses, unfair competition, plunging prices), as well as in the counter-arguments by CETA's supporters (the necessity of trade for Dutch economic welfare). Finally, there were endless debates about mixity and provisional application, and also clear opposing lines on whether the interpretative declaration was sufficient and legally binding. The mobilization by civil society and the farmers, the advice of the SER, and the position of 'the public' were permanent background features of the debates - especially from 2015 on.

### *b.d. Inside Channels: The Minister, the Ministry and the SER*

On the 'inside', the CSOs sought contacts with decision makers directly, either by meeting with the civil service or the minister or by sending them letters. As can be gleaned from the CSOs' comments about their limited pre-2014 campaign on CETA, it seems that these contacts were extremely limited during the negotiations. The WOB files also do not show any activity from the CSOs in this period. In fact, they tell us that in some domains that would later come up, more specifically related to animal welfare and the use of GMOs and hormones, there were little to no remarks by societal actors (WOB - 20. Memo-Schoon\_redacted, 27 March 2014). Only on investment protection is there reason to expect that there had been some activity, because the S2B network, which included SOMO and TNI at the time, did do some limited EU-level (notably in the EP) campaigning about the investment chapters proposed by the Commission in 2011. Since we know that TNI and SOMO had been

critics of ISDS and BITs in the Netherlands, and taking into consideration the central role of the Dutch in these discussions, it seems unlikely that they did not try to discuss CETA's investment chapter with the ministry when it was first proposed. However, TNI's online archive only shows the general S2B statements, without much reporting of its own, and nothing related specifically to the Netherlands. I found no further evidence to back up this hunch.

To organize my discussion of the inside lobbying once it got going, I will again draw the same rough distinction between the smaller activists and the big institutionalized players.

TNI had, even before Ploumen, enjoyed good access to the ministry - at their own initiative. However, they claim this started becoming more difficult when they began raising the issue of investment protection more often. According to TNI, the person that was in charge of this dossier at the ministry of economics in the end refused to meet them any longer; in 2015 he left the ministry to work as a lobbyist for FILA (this is discussed in more detail in the section on decision makers' preferences) .

When Ploumen entered office, **the NGOs that worked on trading (including TNI) were invited to come talk to the minister**. They wanted to have a more open relationship with the NGOs, and to have regular talks on the FTAs - not just CETA and TTIP but also other ongoing negotiations, although were gradually pushed to the margin as the TTIP/CETA campaign gained speed. TNI reports that the ministry was sometimes very frustrated over being 'outgunned': they only had one person working on the deals while the NGOs were with so many. After some time, the relationship with the ministry became more hostile; they became more reluctant and the IMH's director started picking fights on twitter. According to TNI, it became more and more difficult to have talks about CETA or TTIP, and in 2016 they **got 'locked out'**. Only when Ploumen announced her 'reset' and the new handelsbepalingen did open discussions recommence (Interview - TNI 1, 2017). The Alliance's coordinator had experienced the same dynamic: the frequency of discussions became lower, and the dynamic of the conversations with the ministry also altered. The Coalition had about six conversations with the ministry over the course of two years, but when the issue became more tense politically the meetings were increasingly reduced to both sides (again) presenting their positions - without engaging in a meaningful dialogue (Interview - CSO Coordinator, 2017)<sup>188</sup>. He confirmed the **antagonistic** attitude of the IMH's chief's online persona.

The other NGOs were even more skeptical of the ministry's openness. According to Foodwatch there was initially no trace of any true participation: they felt like the consultations organized by foreign affairs were merely 'window dressing'<sup>189</sup>. It wasn't until the opposition against the deals grew that the ministry became more willing to lend them an ear (Interview - Foodwatch, 2017). Milieudefensie also claimed that there had only been occasional, ad-hoc contacts with foreign affairs.

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<sup>188</sup> According to the coordinator, at first, they felt that the civil servants were pleased to engage in a bit of 'sparring' about the substance of the deal. But later, when it became clear that the CSOs' narrative was actually threatening their position, also on a more technical level, and when it thus became clear that feeding them with new information might actually help them win certain discussions, the civil service became more careful (Interview - CSO Coordinator, 2017)

<sup>189</sup> They sometimes called on people to send letters to the contact point (an e-mail address) of foreign affairs, but this led to little response.

Only after they were invited to the *handelsberaad* did these deliberations become more structured. They spoke to the minister in person on two occasions, once after they launched their manifesto with the farmers, and once as part of the CSO coalition - after a parliamentary debate in which MPs called on the minister to again meet civil society and discuss their complaints. However, the latter meeting also included LTO Nederland and VNO-NCW (Interview - Milieudefensie, 2017). They were also somewhat skeptical of the information that was fed to them (and the parliament) by the government, especially after a leaked TPC transcript showed that the Dutch representatives did not actually fulfill the minister's promise to oppose (in the TPC) the provisional application of ICS in CETA (Interview - Milieudefensie, 2017).

As part of the country's neocorporatist pillars, the FNV enjoyed far more permanent informal as well as institutionalized access to multiple layers of decision makers. The feeling of being largely excluded from policy making, shared by the NGOs, was less intense at the FNV: its top layers are always able to get a hold of ministers if needed. Thanks to the SER and the 'position of the polder', they are closer to the seats of policy making power than the NGOs. However, although they were consulted on TTIP/CETA as part of the regular meetings over these kinds of international treaties, they did not feel that their input was being used that much by the ministry. Only the advice that they created in the SER, together with the employers, was really taken seriously (see below) (Interview - FNV, 2016).

They also shared some of the complaints about transparency and accountability voiced by the NGOs<sup>190</sup>, and formulated a more general complaint in relation to the 'The Hague route': the growing role of the EU in trade meant that, in their domestic discussions with the parliament and the ministry, they were increasingly speaking to a sort of intermediate layer, which then had to transfer societal demands to the much less accessible (for them at least) EU levels, while the actual negotiators (from the Commission) remained out of their direct reach. They developed some good contacts with MEPs and could rely on some Brussels' networks through their Brussels' office and ETUC, but DG Trade and Malmström remained out of reach (Interview - FNV, 2016)<sup>191</sup>.

All in all, it remains unclear to what extent the FNV used its networks to speak with the ministries, although they clearly enjoyed good access they did not seem to feel that their input was really taken into account, and (as I discussed before) their involvement with the TTIP/CETA campaign only got going in 2015. However, the FNV did play an important role in one of the polder's main post-war institutions: the **SER**. In 2015, in response to pressure from the parliament, Ploumen requested an advice on TTIP by the SER. As I showed above, this advice played an important role in the subsequent parliamentary and public debates on CETA as well as TTIP, although it's also clear that the advice was interpreted in varying ways across the political spectrum. The discussions in the SER were also a venue for relaying their

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<sup>190</sup> And supported the government's attempt to solidify, by creating the *handelsberaad*, the informal consultations started over TTIP/CETA

<sup>191</sup> Apart from the 'inter-sectoral' level's collectively agreed positions and actions, there was also **autonomous lobbying by the FNV's sectoral sections** on parts of the deals that they felt more strongly about. The interests of these various sectors did not always neatly align, but this did not lead to internal struggles or tensions; it just meant that some of them focused more on some (aspects of) treaties than others. For example, the public and private services' sectors focused more on TISA, while the industrial sections and agricultural sections felt far more threatened by TTIP (Interview - FNV, 2016).



concerns about the treaties directly to decision makers, which were present (but did not intervene, apart from giving information and interpretations of the texts) during the discussions with the employers (Interview - SER Secretariat, 2017).

The advice was published in April 2016, and it put forward **seven criteria** for assessing TTIP: (i) *'it must strive to focus the globalization process on increasing social prosperity that is sustainable, including in emerging economies and developing countries [...]*', (ii) *'promote European values, including the protection of human rights and workers' rights, the environment, democracy, and the rule of law [...]*', (iii) allow *'the EU to maintain and if needed raise its relatively high level of protection, both in legislation and regulations and via other policy- measures; provisions for regulatory cooperation, the liberalization of the services market, the lowering of tariffs, and arrangements for investment protection should not be detrimental to this'*, (iv) [...] allow *'governments to retain sufficient policy leeway to be able to adequately safeguard and improve the levels of protection afforded to people and the environment'*, and (v) [...] allow *'governments to retain the potential to declare certain services to be "of general public interest" and thus to exclude them [...]*'. Finally, the advice called for (vi) *'flanking policies in order to properly manage the effects of trade and investment agreements, and (vii) 'promoted greater transparency of trade negotiations, to more effectively involve 'the Dutch parliament, the business community, the trade unions, and civil society organisations' (SER, 2016, p. 13).*

Although the other CSOs weren't formally kept up to date about the process in the SER, they still had some control over what was happening because FNV had to rely on many experts from their network. The wider coalition largely embraced the resulting text, because it was a big victory for the FNV that they were able to get include a statement which said that ISDS and ICS was not necessary between two states with developed legal systems<sup>192</sup> – although the CSOs' campaign coordinator claimed that they as well as the FNV were later disappointed with the lack of effect this advice had politically (Interview - CSO Coordinator, 2017)<sup>193</sup>.

## **In summary**

The CSOs met with the ministry on several occasions to discuss TTIP and CETA. From documents released through the 'WOB' request, we know that Ploumen received several letters about ISDS from the CSOs in 2014, and about a wider range

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<sup>192</sup> On pages 97-98 of the report, it states *'According to the SER, a separate investment arbitration mechanism in and between properly functioning and highly developed legal systems is not necessary.202 The SER believes that the "royal route" involves improving the legal systems in the countries concerned.'* However, it adds: *'An ICS could provide a solution until such time as all the EU member states and all the US States have a properly functioning legal system. It is therefore relevant whether national systems can be expected, within the foreseeable future, to provide sufficient guarantees for investment protection (the "royal route").'* ICS/ISDS also remained the only section where there was an explicit remark from the trade unions, as separate from the SER's (social partners') opinion: *'None of this alters the fact that – in the eyes of the trade union movement – there would still be a one-sided form of dispute resolution in the interest of foreign investors, without guarantees of a balanced consideration of interests in relation to other interests (public interests, people and the environment, labour standards). This aspect will have to be assessed within the context of whether TTIP will provide for mandatory and effective implementation, compliance and enforcement of the obligations in the sustainability chapter with regard to core labour standards as well as a mandatory disputes mechanism, and, if so, how it will achieve this'* (SER, 2016, pp. 97–98).

<sup>193</sup> Since the minister and most parties will, once the deal is again put before the Dutch parliament for ratification, want to measure the CETA accord with the SER's TTIP advice's criteria, the SER's partners have decided to start work on this themselves, in an attempt to come to an advice on CETA as well. So far, they have not been able to work this out: such a statement about an actual, negotiated deal is more difficult than coming to criteria about one that's still being negotiated (Interview - FNV, 2016).

of issues later<sup>194</sup>. These documents clearly show that the **ministry was aware** of the CSOs' arguments: the WOB files with the letters from the CSOs almost always include a written response by Ploumen, along with a preparatory memo by the ministry of foreign affairs. They had several meetings in person, and the guidelines/analyses for the TPC meetings often include chunks of text on the rising contestation of (varying aspects of) CETA. Other documents and interviews further confirmed that the IMH was aware of the CSOs' arguments and campaign, although it was a little bit behind the curve when it came to CETA. However, The CSOs also claimed that their access to the ministry became **more and more difficult** throughout 2016, both in terms of being able to meet and in terms of the quality of the exchanges. I further discuss this in the decision makers' mechanism.

It seems that most of these communications happened in **2014 at the earliest**, although this may be due to the waning memory of my respondents, gaps in the WOB-files and the lack of a paper trail of earlier meetings. However, considering the previous steps of the mechanism, I think it is unlikely that many CSOs attempted to get in touch with the ministry before 2013. Only TNI and SOMO may have undertaken such lobbying related to the investment chapter, but as I discussed before, they themselves indicated that they had only done a very limited and campaign on ISDS and fracking in CETA in 2013. In parallel, through the **SER**, the government got a close look at position of the FNV in 2015-2016, a position that was also fed by the other CSOs.

#### 7.2.2.5. Did they succeed at influencing policymakers' position?

##### *a. Scope conditions*

Before and during the negotiations, only a small group of NGOs was working on the FTAs, and they had to engage with governments that were always led by the liberal VVD. They did not attempt to involve the public in a trade-oriented campaign, and we can assume that their leverage was very low. Influence in this phase seems highly implausible.

After 2014, the CSOs were moderately successful at politicizing the FTAs, and gathered a relatively heterogeneous group of actors: activists as well as big, institutionalized players such as the unions or the consumers' organization, left-wing associations as well as a number of traditionally right-wing farmers' groups. parliamentary activity increased markedly, and a number of parties became either fervent or cautious critics of the deal, often echoing the criticisms raised by the CSOs. This also led to a number of clear 'motions' from the parliament, calling on the government to change its position. These resolutions were moreover directed at a

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<sup>194</sup> Foodwatch sent four letters to Ploumen in 2016 (WOB - Document 5-2), that Foodwatch Consumentenbond & BothEnds sent Ploumen a letter in September 2016 (WOB - Document 6), that a 'human rights movement' sent one in 2016, that SOMO & TNI sent a joint letter on ISDS in (WOB - Document 26), that Milieudefensie sent a mail about ISDS in September 2014 (WOB - Document 24), and that the Algemene Onderwijsbond (teachers' union) sent a mail about ISDS in November 2014 (WOB - Document 23). The minister also received several letters from local communities that had declared themselves TTIP/CETA free (WOB - Document 14-8) Preparatory **memos for meetings**, also included in this WOB, moreover confirm that Ploumen had a meeting with the trade unions, NGOs and LTO in October 2016, one with the 'TTIP en Landbouwcoalitie' in September 2016, one with an organization that I suspect was Greenpeace in March 2016 and I believe also in September 2016 (WOB - Document 15-16). She met with a 'critical academic' in November 2015 (WOB - Document 18).

minister from the PvdA, whose party was dropping in the polls and who arguably had to safeguard her progressive appeal. However, the CSOs were less successful in also engaging the governing parties in the parliament; the VVD remained fiercely opposed to their demands, while the PvdA was torn at best, but ultimately defended the accord. The dominance of the CSOs in the press also started waning over the course of 2016, and although a sizeable chunk of the electorate became aware of TTIP/CETA, there was never a majority that opposed the deal. All in all, their mobilizations 'in the street' remained very small as well, although their online petitions were more successful. Moreover taking into consideration that that the negotiations had been concluded and that the scope for modifications was very narrow, receptivity was arguably further pushed downwards; it therefore appears plausible that the CSOs would have been able to elicit minor changes to the Dutch position, but more far-reaching alterations or a rejection of the deal would have been very surprising.

### ***b. Empirics***

Business, the CSOs themselves as well as sources within the ministries all agreed that the opponents of CETA/TTIP were very successful in drawing attention to, and dominating the discussion on these FTAs (Interview - Head of IMH, 2017; Interview - LTO Nederland, 2017; Interview - Netherlands Maritime Technology, 2017; Interview - TNI 2, 2017). They influenced both the public, the media's and the parliament's agenda. This was also evident from a lot of the other evidence provided above. Did this also result in actual changes to the Dutch position?

According to their own assessment, the most tangible result of the coalition's campaign was the **reform of ISDS** in CETA. The ISDS system was a very important target of the NGO's campaign, and they successfully turned it into one of the most controversial aspects of the deal - both among the public and in the parliament. Without their pressure, ISDS in CETA would never have morphed into ICS (Interview - CSO Coordinator, 2017; Interview - TNI 1, 2017; Interview - TNI 2, 2017). As I discuss in the section on decision makers' preferences, this was acknowledged by the ministry itself. Apart from these assessments of the various sides, the influence of the CSOs' campaign can also be gauged by analyzing the WOB files. These documents (discussed in more detail in the decision makers' mechanism) show that the civil service was well aware of the public and parliamentary pressure, and that this led to altered positions on the IPR-provisions in CETA, on the interpretative declaration and on the provisional application of ISDS/ICS.

To the extent that we can attribute the increase in parliamentary, press and public criticism and scrutiny of the treaty to the mobilization by CSOs, which I have shown to be a reasonable proposition, it is clear that this pressure in turn led to changes in the Dutch position. The cumulative evidence (presented in a table at the end of this mechanism) of internal (WOB) documents as well as public remarks by decision makers, the pattern of Dutch positioning in the past and the sequence of pressure and positional changes, rejects falsification and to some extent confirms the influence of this 'outside lobbying' on the Dutch position in a number of areas. This mechanism offers a plausible explanation for the Netherlands' shift on ISDS, for its call for various restrictions on the scope of provisional application, for its repeated

calls for more openness from the Commission, and for its support of a binding interpretative declaration.

Falsification of CSO influence seems warranted for a number of other issues.

(i) They **did not take any positions** on many other aspects of the deal, notably related to offensive/defensive market opening in services (except on public services, but the Netherlands did not include any relevant reservations here, cfr. Belgian position, see Belgian outcome), or on offensive/defensive goods trade; overall, they seemed fine with trade liberalization as such. During the negotiations (until 2014), they seem to have been completely uninvolved, so there is also no attributing the similarity (to some extent) of certain Dutch negotiating positions with CSO demands, to the latter's *subsequent* (in 2015-16) lobbying/campaigning. See for example the Netherlands' initial reticence on negative listing, its call for reservations on public services, its support for GIs, its support for 'mixity', for provisions on animal welfare or the inclusion of text on sustainable development and core labor standards. Even though some of these positions were to some extent similar to CSOs' *later* demands, or could arguably relate to their ostensible preferences, they did not result from direct lobbying/campaigning.

A caveat, here, in relation to the Dutch shift on IPR. Although I will show in the decision makers' mechanism that there are indications that there was some domestic CSO activity on the '**ACTA-like**' IPR chapters (next to a campaign on the EU level), potentially contributing to the shift of the Netherlands on these chapters in 2012, this was never brought up by my interviewees and seems to have been a marginal aspect of their own campaign. I did not further investigate this dimension of the position any further for lack of empirical leads (and time).

(ii) They also **took certain positions which then did not lead to any positional change**. The Netherlands did not change (and, as we will see, decision makers openly resisted changing) its position on (for example) negative listing or its position that norms and standards were sufficiently protected; it did not reject provisional application, did not support re-opening the treaty and eventually signed the agreement. If we assume that they opposed the Dutch approach to investment protection during the negotiations (I showed in the section on CSO positioning that we have reason to think this was the case), it seems they were also unsuccessful here. Moreover, it does not appear **that the ICS reform sufficed** for the coalition, or that it convinced them to support CETA's ratification. This was evident from their attacks against ICS, their unrelenting campaign throughout 2016, their attempts to influence the vote in the EP in 2017, and their continued efforts to launch a referendum.

(iii) There is **another plausible theory** for some of the positional changes that we observed and here ascribed to CSO pressure: decision makers autonomously changing preferences. I will discuss this in a separate mechanism, and will then come to an overlapping explanatory synthesis of the Dutch position in the concluding section of this country/case study.

Apart from the Dutch substantive position at the EU level, the CSOs did feel that they had been moderately successful at influencing the domestic '**process**' of trade politics. After their campaign gained speed and the public and political awareness and contestation of the FTAs increased, it became somewhat easier for them to be

heard at the ministry of foreign affairs and minister Ploumen eventually announced her 'reset' of trade policy and the creation of the *'handelsberaad'*. For some partners communicating with foreign affairs remained difficult, especially for those that weren't invited to the *handelsberaad*, others were quite pleased with this process (Interview - Foodwatch, 2017; Interview - Milieudedefensie, 2017; Interview - TNI 1, 2017).

However, the **NGOs remained skeptical** about the substance of Ploumen's 'reset' of trade policy (see the decision makers' mechanism), since this reset did not entail any loss of support for TTIP or CETA while failing to table anything that was substantively novel compared to previous years (Interview - Foodwatch, 2017; Interview - Milieudedefensie, 2017). According to Foodwatch, you *'could feel that the civil servants working [at the ministry of foreign affairs] still believe[d] in these treaties'*, and that their eventual outreach only came about because of pressure from the press and the parliament. According to Milieudedefensie, it was hardly surprising that Ploumen did not really do much with the input from the CSOs' campaign, since their positions were barely reconcilable: the CSOs wanted the treaty's ratification to be stopped and for work to re-start within a far more transparent and inclusive process, but they also demanded a more sustainable and just treaty as such. This was just not the minister's line, and they hadn't yet been able to create the requisite pressure to force her to change her position (Interview - Milieudedefensie, 2017). The **trade unions** were somewhat more cheerful about the current outcome. They felt like there had been at least some acknowledgement of the worries voiced by the campaign, even though they would have preferred it if the Netherlands had not yet supported the deal, because substantial problems remained: public services were still threatened, the sustainability chapters were non-enforceable, and the investor-state arbitration system, although reformed into ICS, was still undesirable because it still set up a parallel judiciary for investors between two *'developed democracies with well-functioning legal systems'* (Interview - FNV, 2016).

Although their influence is, I believe, indisputable, as of 2017 it still remained quite modest in terms of 'goal attainment': the treaty still has many shortcomings which the CSOs believe are fundamental, and they would rather see it rejected altogether. This might still change if they successfully launch (and win) a **referendum**, about which they remained optimistic (Interview - Foodwatch, 2017)<sup>195</sup>.

#### 7.2.2.6. Conclusion

I demonstrated that the CSO mechanism performed every requisite step: there was awareness, positioning, action and influence. In the next chapters I will discuss two competing explanations for some of the same shifts in the Dutch position, but I will argue that these alternative theories cannot account for all of them. Leaving out the influence of CSOs would therefore lead to an explanation of the Dutch position that is inadequate.

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<sup>195</sup> This optimism was probably blunted when the elections produced a center-right government in 2017, which announced that it would be scrapping the referendum law.

Causal hypothesis: Societal lobbying or campaigning influenced the Dutch position on CETA. Prior probability: low		
	Propositions	Evidence- Assessment <i>(source)(characteristics of evidence in relation to proposition: high/low - uniqueness, certainty)</i>
1	CSOs were aware of the negotiations/treaty	<p>Pattern – most CSOs do not track low-saliency topic of trade policy (literature review, interviews) (lc, lu)</p> <p>Account – small number of CSOs aware before/during negotiations, growing in number after 2014 (interviews) (hc, hu)</p> <p>Trace evidence – CSO positioning on CETA during and after negotiations concluded (press, positions, parliaments, ...) (lc, hu)</p> <p>Trace – press coverage of CETA increasing formidably after 2015 (data) (lc, lu) (assumption: leads to awareness)</p> <p>Account/trace – dense domestic network of CSOs sharing info (interviews, literature) (lc, lu)</p> <p>Account – some CSOs connected to EU networks working on FTAs (interviews) (lc, hu)</p> <p>Account/trace – Substance of CETA relevant to several CSOs (interviews, literature, CETA text) (hc, lu)</p>
2	They had a preference	<p>Trace &amp; Account – CSO positioning &amp; campaigning on CETA during and after negotiations (Public/press statements, interviews) (hc, hu)</p> <p>Trace &amp; Account – CSOs had preferences related to substance and process of treaty (analyses, interviews) (lc, hu)</p>
<b>Strong confirmation of CSO awareness &amp; preference</b>		
3	They successfully communicated this preference to Dutch decision makers	
3.a	They had inside access	<p>Account – occasional meetings of (and letters by) some CSOs with (to) DM throughout and after negotiations (interviews) (hc, hu)</p> <p>Pattern/Account – continuous informal and formal access of trade unions to DM (interviews, literature) (lc, lu)</p> <p>Trace – trade unions and employers create SER advice on TTIP with input from other CSOs (interviews, advice, press) (lc, hu)</p> <p>Account – more difficult, antagonistic and shallow relation with DM near second half 2016 (interviews) (lc, hu)</p> <p>Account – DM claim they kept meeting with CSOs (interviews) (hc, hu)</p>
3.b	They had outside access	<p style="text-align: center;"><b>Press</b></p> <p>Trace – CSO commentaries published on CETA/TTIP (press review, interviews) (lc, hu)</p> <p>Pattern – From minor treatment of trade issues in specialized press towards more and more general reporting from 2015 on (data) (hc, lu)</p> <p>Account/trace – Before 2014 no interest in commentaries/pieces on FTAs (interviews) (lc, hu)</p> <p>Account/trace – good relations with some journalists, organizing workshops for journalists on FTAs (interviews) (lc, hu)</p> <p>Account – good access to press &amp; ability to steer framing between 2014-2015 (interviews) (lc, hu)</p> <p>Account – reduced access to press &amp; ability to steer framing over the course of 2016 (interviews) (lc, hu)</p> <p>Trace – Relatively good (compared to other, business) presence of CSOs and their critiques in press until fall 2016 (press review, gopress data) (hc, lu)</p> <p>Account/Trace – Active and successful use of social media (interviews, twitter data) (hc, hu)</p> <p>Trace – SER report picked up by many parties (parliamentary review) (lc, hu)</p> <p style="text-align: center;"><b>Parliament</b></p> <p>Account/Sequence – CSOs claiming that they parliament would not have started work on CETA without CSO pressure (interviews, parliament, press)(lc, hu)</p> <p>Trace – widespread use of arguments similar to CSOs’, as well as references to mobilization by CSOs, by some parties in debates (parliamentary review)(hc, lu)</p> <p>Sequence/trace – shift towards more skeptical stance by Christian parties (parliamentary review) (lc, hu)</p> <p>Account – former: because of CSO lobbying (interviews) (lc, hu)</p> <p>Pattern – shift from very minor treatment of trade issues towards highly active treatment in Wallonia and later also federal and Flemish parliaments (data, interviews)(lc,hu,lr)</p> <p>Account – CSOs met regularly with MPs of all parties (interviews) (hc, hu)</p> <p style="text-align: center;"><b>Public</b></p> <p>Pattern – Increasingly more critical and less neutral/uninformed positions about TTIP (survey 1) (assumption: TTIP is a proxy for CETA) (hc, lu)</p> <p>Pattern – Even in other purportedly high-salience campaigns (Ukraine), awareness &amp; public mobilization remained modest (literature review, surveys)(lc, lu)</p> <p>Trace – overall still high support and substantial group that lacked opinion for/on TTIP (survey 2) (assumption: TTIP is a proxy for CETA) (hc, lu)</p> <p>Trace – Small street protests organized by CSOs (interview, press review) (lc, hu)</p> <p>Trace – Successful collection of autographs for ECI (hc, hu)</p> <p>Trace – Successful collection of autographs for referendum (lc, hu)</p> <p>Trace/Pattern – increasing number of TTIP-free zones as campaign progressed (data) (lc, lu)</p> <p>Account – CSOs claiming public was successfully mobilized (interviews, press, parliaments)(hc, lu)</p> <p style="text-align: center;"><b>General</b></p> <p>Trace – DM talking about public/parliamentary/press pressure (internal memos) (lc, hu)</p>
Strong confirmation of outside and inside access after 2014. Disconfirmation of outside access before 2014. Weak confirmation of inside access before 2014.		
4.	They influenced the Dutch position	<p>Account – DMs claim CSOs successfully made the Netherlands change position on ISDS (interviews) (lc, hu)</p> <p>Account – CSOs not pleased with extent of ISDS reforms (interviews, online/press statements) (hc, hu)</p> <p>Account – DMs claim that parliamentary/public pressure made them change position on number of issues (‘ACTA’ &amp; process, ICS) (internal memos)(lc, hu)</p> <p>Trace- Dutch position on number of issues similar to demands from CSOs (text)(hc, lu)</p>
<b>Weak/moderate confirmation of influence after 2014. Strong/moderate disconfirmation of influence before 2014.</b>		

## 7.3. Business lobbying

The second explanation I will be probing is that of business lobbying: the thesis that organized business and firms managed to alter or set the Dutch position by lobbying the executive(s) or campaigning through the press, the public or the parliament.

I first discuss the prior probability of this mechanism: do we think it is likely that business got involved, and it was influential, given what we know about the Dutch context? Then, I systematically work my way through each of the mechanism's steps to determine whether it played a role in the case.

### 7.3.1. Mechanism, evidence, 'prior probability'

#### 7.3.1.1. Evaluating the prior

Would we have expected business associations (or firms) to know about CETA? For them to develop a preference, to communicate this to decision makers, to exert influence on the Dutch position?

#### Preferences

Since 'capital' is the abundant factor in the Netherlands, rather than labor, the Heckscher-Ohlin theory would lead us to expect employers, as a 'class', to be generally supportive of freer trade. Arguably, this is also supported by the large measurable trade dependency of Dutch production and exports, which I discussed in the previous chapter. Widespread resistance against a deal with Canada would be extremely surprising, I expect that the basic stance of 'business' was in favor of any FTA, including CETA.

However, this is not necessarily true across sectors (or firms), and is less helpful when we're interested in their more specific support for (or resistance against) particular aspects of a deal with Canada. It is also less helpful when we need to assess the importance of this FTA, in light of the large costs associated with following and influencing trade policy - especially for more complex, globally integrated sectors.

To assess the potential importance of CETA for a variety of sectors, I have followed the usual modus operandi of the literature by looking at some indicators of the relative economic weight of Canada, and at the competitive pressures it may exert.

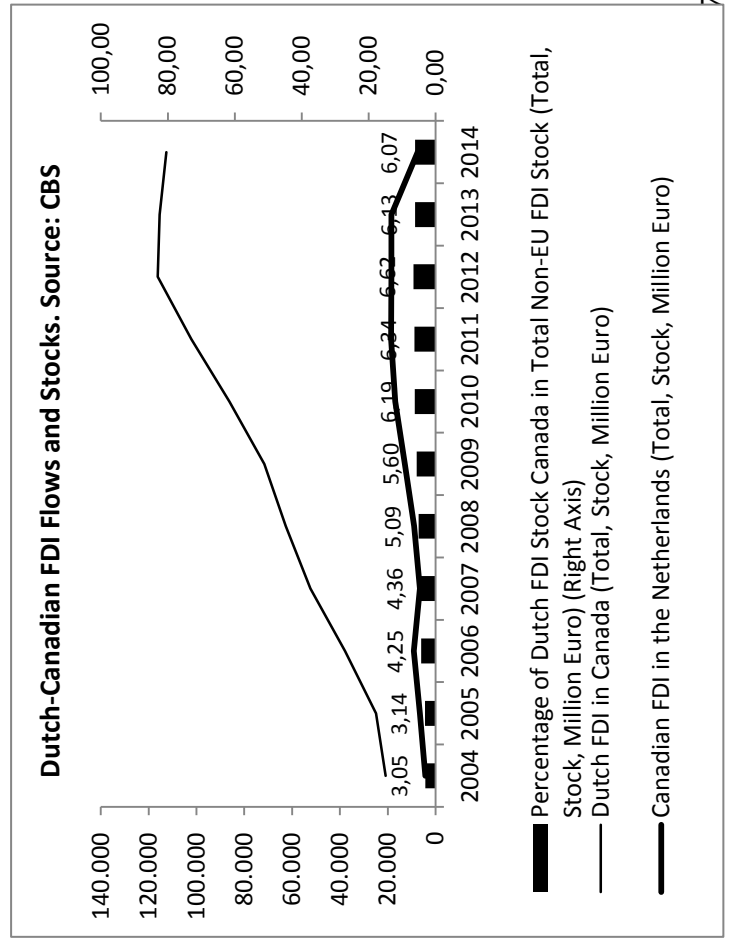
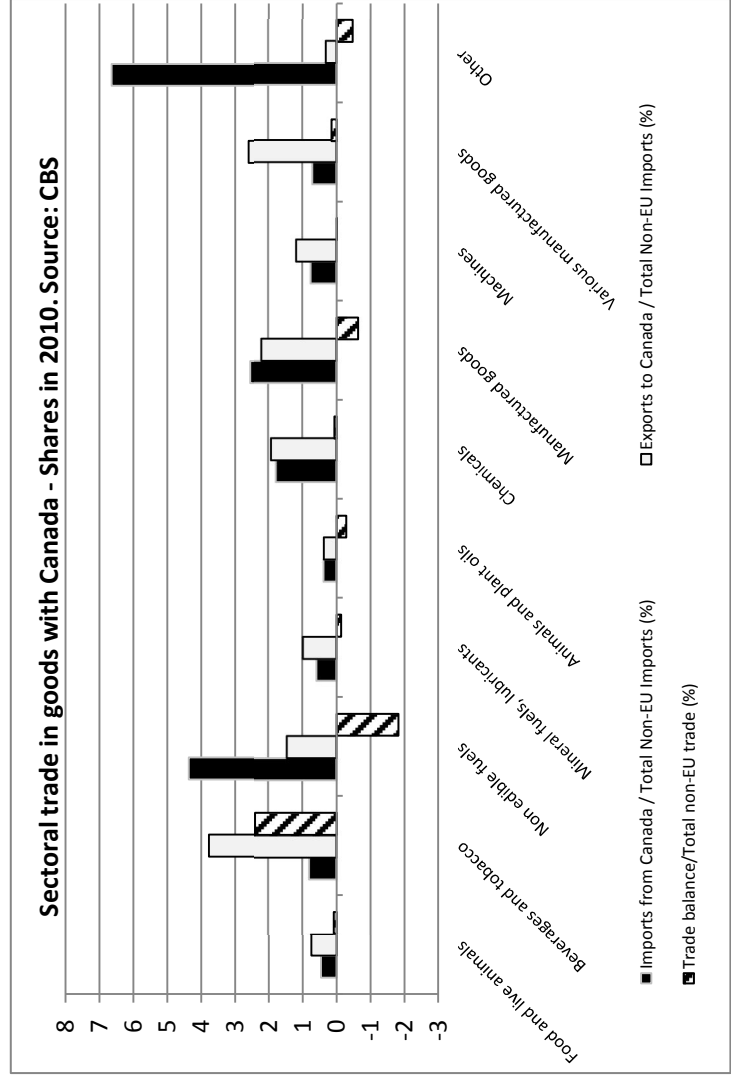
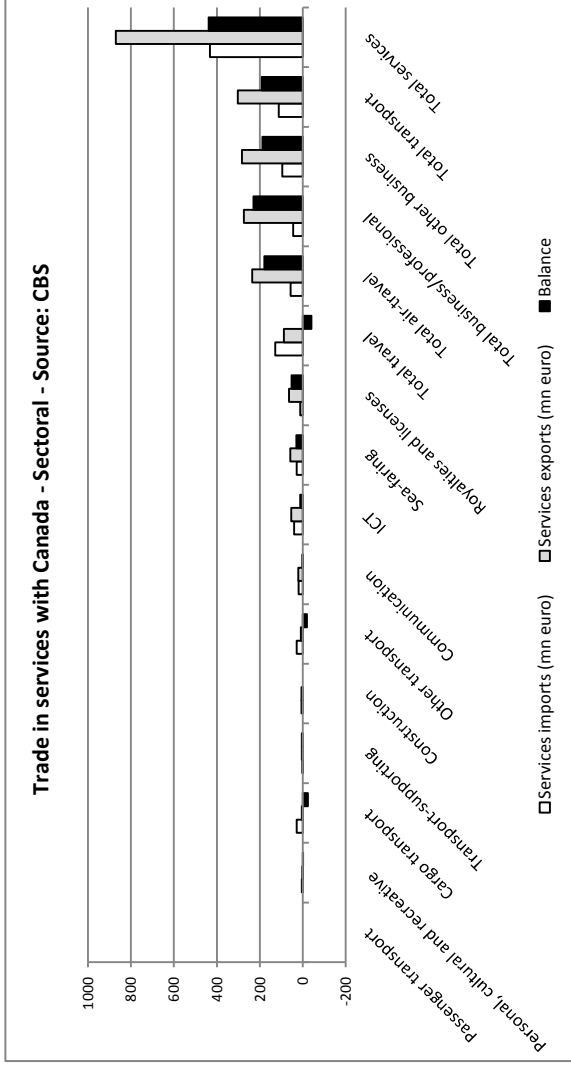
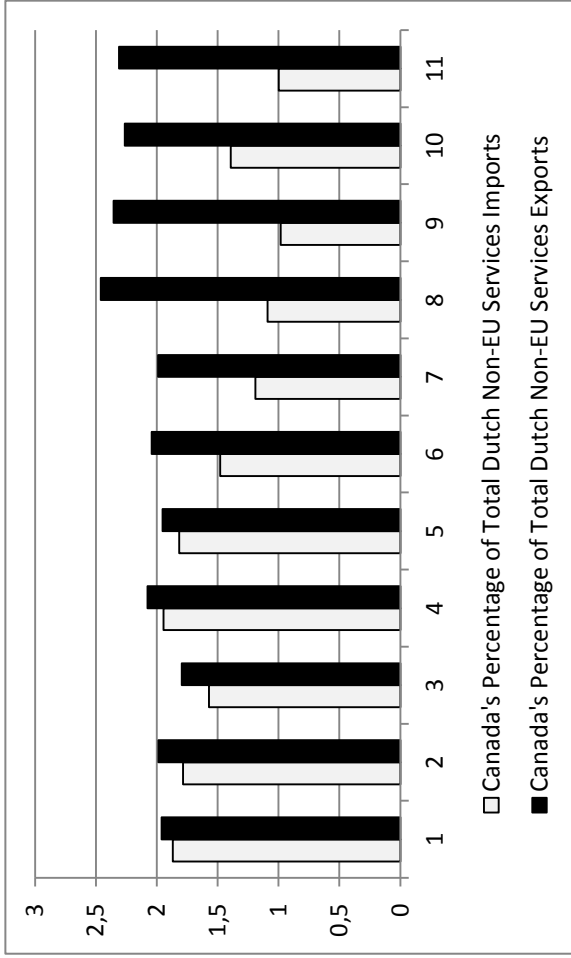
	Trade Complementarity Index (Source: UNCTAD)		Merchandise trade correlation (Source: UNCTAD)
	Can (X) NLD (M)	NLD (X) CAN (M)	
2005	0,57	0,57	-0,005
2006	0,60	0,57	0,008
2007	0,60	0,57	0,002
2008	0,60	0,58	0,061

2009	0,59	0,58	0,009
2010	0,58	0,56	-0,005
2011	0,59	0,60	-0,032
2012	0,60	0,57	-0,008
2013	0,57	0,60	/

These metrics show that the Netherland's merchandise trade correlation index for Canada was basically zero for years, meaning that in aggregate these countries do not export the same goods, and are therefore not competitors on the world stage (based on current flows). The trade complementarity indices (between 0 and 1) have been similarly stable, hovering around 0,55 since 2005, indicating that they do export some of the goods that the other imports, but do not have any particular interest in signing a PTA. This expectation is further strengthened by the low overall importance of Canada as a **trading partner**. Looking at the proportion of Dutch exports to Canada across sectors, we see that the share of Canada in Dutch exports was very low. In 2010, at most 4% of extra-EU exports in beverages and tobacco were sent to Canada and 2% of extra-EU exports in chemicals and manufactured goods. I checked for further variation at the sub-sectoral level, where the same analysis revealed that there were modestly more substantial exports in 'wood and cork' (+-7% of total non-EU), in yarn (+-6%) and in beverages (5%), and there were substantial imports in some primary goods (oils and fats, animal skins, timber, anorganic chemicals and fertilizers). However; the picture is the same mostly: there were few (sub)sectors in the Netherlands with a significant (existing) stake in trade with Canada in 2010. The data further show that the Canadian market has been quite a small target for services, in recent years increasing in absolute numbers, but not as a share of total services exports. Dutch firms have increasingly invested in Canada, with Dutch FDI stock doubling in importance since the early 2000s, but all in all it was still only a modest recipient in 2011. Vice versa, even though in absolute numbers investment from Canada has kept rising, Canada holds only a very small share of foreign investments in the Netherlands.

As a rough heuristic, these figures tell us that the stakes for Dutch business were not very high. However, they may have hidden interdependencies and, more importantly, market opportunities that these data cannot grasp (i.e. there may be no trade or investment because of tariffs, NTBs, ...) . This requires more data and modeling, for which I turn to the Commission's Joint Impact Assessment. Although these data are not country-specific, they may still point towards specific sectoral threats and opportunities. The sustainable impact assessment estimated (based on several modeling scenario's) that a deal would have the most **negative effects** on EU producers of **beef** and (particularly) **pork**, while the EU stood to **gain** particularly from better **access in dairy** - in particular from the removal of NTBs in the production of **cheeses**. There were also large potential benefits (depending on the kind of liberalization) in **beverages and prepared foods**. In industrial goods, there were potential benefits for the **automotive industries** (depending on the rules of origin) and for the **textiles industries** ('in the long term'). dispute settlement (European Commission, 2011). However, the biggest gains were expected in **services**,





especially for **maritime transport services** and **feeder services**. It did not expect substantial effects for the **financial sector**, but positive increases in output and trade for **non-financial business services**. It also saw large potential benefits from opening up the Canadian **procurement** markets, especially if the provincial markets were included as well. The impact assessment found no evidence that **ISDS** would bring any particular economic benefits compared to other (e.g. state-state) systems of Meats and dairy are important agricultural and food products and exports for the Netherlands, so it appears these conclusions would have rung true for the Dutch producers as well. The same goes for other processed foods, but less so for the automotive or textiles industries. Business services and maritime transport services are significant parts of Dutch employment, exports and production, however, so it's likely that these sectors had an interest in the agreement, followed it, and lobbied in favor of further opening. In the aggregate, we might expect that business engagement would generally be low. Dutch business did not have a big stake in these negotiations, except for some more narrow sectors: the meat and dairy industries, some services sectors, and in procurement notably the dredgers.

### **Influence**

Would we have expected these sectors to invest resources in monitoring and analyzing the (potential) treaty with Canada, to try and influence the Dutch position?

First, we would have needed them to be **aware of their stake in the negotiations**. As was discussed in the introductory chapter, Dutch business is highly organized (i.e. there are peak business & agricultural organizations as well as many sectoral associations with dedicated staff), has strong networks at the EU level (i.e. EU peak and sectoral federations in close contact with the Commission, but also their own channels to EU decision makers) and is plugged in to the Dutch neocorporatist structures (i.e. regular flows of information from decision makers). Moreover, there is a high degree of 'multinationality', with numerous large firms that engage in international trade and investment. Based on this, we would expect many Dutch sectors and firms to be aware of coming and ongoing negotiations, at varying levels of detail, without much effort. If many of them did not take a position, we would expect this to have flowed from indifference (e.g. because of the limited weight of CETA) rather than a lack of awareness of the stakes.

Secondly, they would have had to **try and gain access** to Dutch decision makers. Although there was no literature on trade-related lobbying in the Netherlands to guide us here, the introductory chapter showed that Dutch business still used the 'The Hague' channel on EU topics in general. Given the combination of pluralistic openness and neocorporatist access points, Dutch decision making structures should also have been a welcoming channel- especially to organized sectoral or peak associations. In line with the importance attributed to trade by decision makers, we would also expect them to reach out proactively, or to at least extend open invitations to provide the government with input on trade-related interests. 'Inside' lobbying is therefore expected to have been relatively effortless.

Of course, as was pointed out in the theoretical review, this may have altered once public **salience** of the issue grew, perhaps making politicians more wary of dealing with controversial business interests. Firms themselves may have also perceived the

potential public relations' dangers of getting involved in an increasingly controversial treaty to be too big, leading to a rollback of 'quiet' efforts as well as a lack of firms' participation in public debates.

Thirdly, they require some kind of **leverage** to 'trade' in return for influence. Note that in terms of **receptivity**, we would expect Dutch decision makers to be especially interested and welcoming for offensive interests, while defensive stakes may have a harder time being influential – i.e. we would expect them to need more leverage (in terms of employment, production, public support, ...), in order to make them successful in diverting the Netherlands from its generally export-boosting, 'liberal' approach. In accordance with the lingering neocorporatism of decision making, we would furthermore expect the state to be especially welcoming to more aggregate, sector-level positions rather than sub-sectoral or firm demands. In response, the 'losers' of a (potential) treaty may have opted for a noisy 'outside' strategy, but it seems hard to imagine how this might have been successful given the general lack of attention for trade issues among the public, as well as its generally liberal stance. We would not expect them to (successfully) engage in such tactics, unless there was room for a 'Schattschneiderian' expansion of the scope of conflict: if they could latch on to (or instigate) a wider movement with broader claims that enjoyed more general legitimacy.

Repeating this exercise for each of the sectors, firms or issues at stake in CETA would take it too far. But the general point is clear: the prior probability for this mechanism high, and failure is expected to have come from lack of business preferences and lobbying rather than access or leverage. Sub-sectorally, failure may have also resulted from conflicting business interests – here we would expect the more aggregate or offensive interest to have been more successful in winning over decision-makers.

I looked for the same types of **evidence** as in the CSO mechanism.

## 7.3.2. Probing the role of business

### 7.3.2.1. Awareness

In my discussion of the role of business, I will distinguish between the big cross-sectoral federations, sectoral associations and firms, and a group of other associations that don't fit well in either category. Since I did not include this in the introductory chapter, I will also briefly discuss the 'usual' trade monitoring of the latter three groups, before moving on to their CETA specific work. It was impossible to study all of the sectoral groups, even though for business almost every industry federation (or firm) is 'potentially' a relevant actor, because the trade deal touches almost all of them (or: had the potential to affect all of them in many ways, depending on the outcome of the negotiations). I chose to focus (i) on the big peak federations, (ii) on some of the sectors that were highlighted in the SIA or in the introductory economic chapter (e.g. the broad food and agricultural sector, the maritime sector, financial services) and (iii) on those that played a visible, politically salient role (notably the meat industry). In the interviews with these groups, I asked my respondents whether and which other sectors had or had not played a role in the CETA negotiations. I believe this combination of 'key' interviews (with snowballing) and their assessment

of the engagement and influence of other players, has produced a reasonably comprehensive overview of business' involvement in CETA.

## Cross-Sectoral

VNO-NCW worked on trade within its '*committee on trade politics*', which is staffed by representatives from the sectors and a number of major firms. It was chaired by a staff member whose work was dedicated to following international trade. These meetings were also frequented by civil servants from the ministry of economics. They were furthermore active within Business Europe, where they also had a seat in the committee on international trade, and they had developed their own presence in Brussels; here there were a few people working on trade issues (among other dossiers) as well. VNO's task was to come to a joint position with the members, and to relay this to decision makers as well as the public (if necessary). Their role was not analytical: for CETA nor other FTAs did they produce any kind of research. FTAs are always give and take, meaning some of their membership's sectors will lose while others gain; this made such in-depth analyses useless for the peak federation. Coming up with detailed preferences was therefore considered a job for the sectors themselves, VNO-NCW's outlook was more abstract, more general (Interview - VNO-NCW, 2017; Interview - VNO-NCW BXL, 2017).

According to my source, VNO-NCW's international trade officer, there was not a lot of attention for CETA within VNO-NCW until recently (i.e. 2016), in part because so much energy was absorbed by TTIP, not in the least because the US was such an important market. Trade with Canada, and the attention for CETA, had been much smaller. Although he was not around at the time, my interviewee believed that this was also the case before he arrived in 2015 (Interview - VNO-NCW, 2017)<sup>196</sup>.

## Sectors and firms

Some (large) **firms and sectors**, most of which are part of VNO-NCW, also had their own monitoring and lobbying capacity, in The Hague as well as Brussels. According to VNO-NCW, the attention for trade politics among its member organizations was always very diverse. The more active sectors included the **chemical industry** and the **food industry**, in particular its sub-sectoral organization for oils and fats. The **dredgers** also always tracked these dossiers closely, as did the industrial federation **FME**. All have dedicated personnel working on trade. However, my interviews show that this general attention for trade did not necessarily translate into much interest in CETA. The analytical/monitoring work done by the sectors and firms in regards to CETA was extremely varied.

In the largest sectoral federation, **FME** (which groups 2000 firms across 60 sub-branches<sup>197</sup>), trade policy was mostly monitored through the VNO-NCW and their foremost<sup>198</sup> European federation, Ogralime; they only had one person working on international topics, for which trade was just one of many dossiers. Although **FME**

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<sup>196</sup> Before coming to VNO-NCW, he had worked on trade issues for the ministers and the ministry of Economics, in varying positions, since 2005.

<sup>197</sup> According to FME, this meant they employed over 220 000 people and produced about one sixth of the Netherlands' export value. Their branches are grouped in a series of clusters: Agri-Food, Constructed Environment, Chemistry, Creative Industries, Energy, High Tech, Life Sciences & Health, Logistics, Air and Space Travel, Materials, Oil & Gas, Shipbuilding, Security, Transport and Logistics, Horticulture, Other. Source: FME.nl.

<sup>198</sup> FME's sub-branches are represented in a variety of other European associations.

tried to get their members involved in its position-formation on trade, this was often difficult because the subject was so remote to many of them; individual firms often didn't see what benefits a trade deal may have, so companies didn't really pay much attention<sup>199</sup>. Judging from the interview, it seems unlikely that they were not aware of the deal at an early stage (for example through their seat in VNO-NCW's trade committee), but their interest seems to have remained limited. Nor did my interviewee at FME<sup>200</sup> think that their **sub-sectors** were very active on trade or CETA. She believed they mostly followed these issues through FME, because it wasn't a very sector-specific dossier (Interview - FME, 2017).

I checked with two of FME's sub-sectors that popped up in the Dutch position: ship-building ('**Netherlands Maritime Technology**') and the agro-food technology sub-sector ('**Agri & Food FME**'). As I will discuss in some more detail below, neither of them followed the negotiations very closely.

In another major sector, **dredging**, it was not the business associations but rather the major firms (Boskalis & Van Oord) that were the main actors. The *Nederlandse Vereniging van Waterbouwers* followed the general political developments surrounding CETA and TTIP, and was present during discussions of these dossiers in the European Dredging Association (EUDA), but they were not informed about any Dutch CETA-specific positions or lobbying. Since Boskalis & Van Oord were the only two Dutch dredging companies that were active on international markets (and were far larger than the other member firms), it made more sense to leave this to them. Although they did discuss TTIP and civil society's campaign against the FTAs in the trade committee of VNO-NCW, they also left this public debate up to VNO; they did not see the added value of entering this loaded debate themselves (Interview - VNO, 2017). Unfortunately I was not able to get in touch with these firms, but documents made public after a WOB-request show that at least one of the big dredgers was aware of CETA by the end of 2011 (at the latest). As I discuss below, Boskalis and Van Oord's role in the European Dredging Association (EuDA), the large amount of resources they have available (e.g. dedicated 'area experts') and information about dredging in the Belgian case (see below) lead me to believe that they were up-to date about these issues during and perhaps before the negotiations got started.

I was also unable to contact some other sectors whose interests returned in the Dutch TPC files (e.g. financial services), but based on my interview with VNO-NCW, I have reason to believe that several of these were not very active on CETA. According to VNO-NCW, the **financial** sector was not very involved in trade politics altogether. The internationalization of Dutch banking had taken a big hit since the crisis and the fall of one of the Netherlands' biggest, multinational banks; trade agreements had since become far less important for them. Although they were still following Brexit and TTIP (where they did have substantial interests), Canada was quite remote for them. Secondly, although they usually did follow trade in this sector, the **chemical industry** was a lot less active on CETA. Finally, the food **industry**, in particular the sub-sectoral organization for **oils and fats**, was always well informed about trade

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<sup>199</sup> At least not until after the deal has been concluded and is about to be applied, then they'll be interested in what exactly has changed, how they need to be in order (what paperwork etc) to reap some of the benefits, and they'll count on FME to break this down for them.

<sup>200</sup> Who had been working there since 2016.

politics, but they cared far more about the FTA with Mercosur than CETA (Interview - VNO-NCW, 2017). In an e-mail from the Dutch food industry association, the FNLI, they told me that they had not been very involved, and they referred me to their dairy and meat sub-sectors, as well as their European federations (E-Mail - FNLI, 2017)<sup>201</sup>.

Of course, lackluster interest in itself does not necessarily mean that they did not deliver some input to the ministry.

The only non-primary sectors that I tracked down which had a highly proactive approach to CETA were the dairy and the meat industry. The **Dutch Meat Industry Association (COV)** was aware of the upcoming treaty very early on, as part of their generally strong monitoring of trade policy which had been ongoing for over 20 years. They made a detailed analysis of CETA's potential significance for their sector, and studied what consequences the deal might have on the wider web of FTAs being spun (Interview - COV, 2017). In other words, they were strong on technical specifics as well as strategy. As I will show, they also lobbied both the Dutch government and the European Commission very actively. The **Dutch Dairy Organization (NZO)** was also tracking trade policy actively, as were its members<sup>202</sup>. As is usual in these cases, they received signals about the upcoming FTA from multiple sides: from the European Dairy Association<sup>203</sup>, but also through announcements by the Commission and the Dutch ministries of economics and foreign affairs. They subsequently kept tracking CETA throughout the negotiations (Interview - NZO, 2017)<sup>204</sup>. They also developed a specific position and gave their input to the Dutch government.

## **Agriculture**

In 2016, a team of six people was working on international dossiers full-time for the main farmers' organization, **LTO**. They had only one person working in Brussels full-time (on trade and related issues), but one of his tasks was coordinating the over 50 people that spent part of their time working on a variety of EU-related dossiers for various sub-sectors. They also cooperated closely with VNO-NCW and their European association, COPA-COGECA,. In the preceding years, they had focused most of their energy on CETA, TTIP and Ukraine, dossiers that drew a lot of attention in the Netherlands, although they also tried to work on the other ongoing negotiations<sup>205</sup>. All in all, this meant that **LTO** was aware of CETA at a very early stage, even when the mandate was still under construction (Interview - LTO Nederland, 2017).

Within agriculture, there was a set of organizations that became very critical of TTIP and CETA after 2015. In part, this included a group of small, independent **farmers'**

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<sup>201</sup> The EU associations of dairy and meats, but also FoodDrinkEurope.

<sup>202</sup> NZO's members are highly interested in every opportunity to improve their exports. They usually follow these dossiers from up close, and not just through the information the NZO feeds them; they're always looking for information that helps them gain entry to markets (Interview - NZO, 2017).

<sup>203</sup> Which drafts positions on European law and regulations. As soon as there's an announcement from the Commission that an FTA is going to be negotiated, - the EDA looks to what extent this creates export opportunities for dairy producers.

<sup>204</sup> Within the NZO, they have their own commission, called trade and economics, in which the members of NZO are represented. They meet five times a year to discuss trade and economics related subjects.

<sup>205</sup> They believe, for example, that a deal with Japan may have more (positive) consequences for Dutch agriculture than CETA (Interview - LTO Nederland, 2017).

(and social/human rights) groups that had long been critical of trade agreements, which had been monitoring trade for years under their united platform *Aarde Boer Consument* (ABC)<sup>206</sup>. ABC had done much work on the WTO sugar reforms of 2004, together with Oxfam and Milieudefensie, and between 2011 and 2013 was involved in the agricultural chapter of the alternative trade mandate. However, TTIP only really turned up on their radar in 2014, with the help of the S2B network. CETA hit their agenda even later (see below) (Interview - ABC, 2017).

On the other hand, what would in 2015 become the **farmers' coalition against TTIP** also consisted of some organizations that were part of what you could call the 'mainstream' farmers' groups. Two of these were part of LTO, like LTO Pluimveehouders and LTO Varkenshouders, others were independent<sup>207</sup>. It is unclear to what extent these were all following trade, but it seems like they were at most aware of the FTAs from a distance. According to the coordinator of the farmers' coalition, one of the most important<sup>208</sup> opposing groups, LTO Varkenshouders, did not have its own specialists to monitor trade policy; they left this to the analysts of LTO Nederland<sup>209</sup> (Interview - ABC, 2017). This is confirmed by LTO, which claims that LTO Nederland had been aware, from very early on, that there were offensive as well as defensive interests at stake in CETA, but that this only led to an open fracture within the organization when first TTIP and then CETA were heavily politicized by the NGOs. While most of their firm-level members had not been very interested in or even aware of the ongoing negotiations ('in spite of LTO's own efforts')<sup>210</sup>, the FTAs suddenly became a contentious issue for some of these defensive producers – notably the **pig farmers** (Interview - LTO Nederland, 2017).

Although the groups in this farmers' coalition were aware of the deal, **CETA remained in TTIP's shadow until 2016** (Interview - ABC, 2017). They did include an analysis of CETA in their report on TTIP/CETA, published in 2015, specifically in regards to the effects on pork, beef and arable farming. But there was simply more literature available on TTIP, and the quantities that were likely to come from Canada were a lot smaller than those from the US; the potential damage was far greater with TTIP. An important reason for focusing on CETA anyway was its precedence value: blocking this deal would have reduced the chances for TTIP's survival; if TTIP had not been there, the odds would have been smaller that they would have started work on CETA (Interview - ABC, 2017).

### **In summary**

It seems that the peak federations as well as many sectors were indeed aware of CETA; there was persistent monitoring of trade policy performed across Dutch business. However, many seem to not have been tracking the deal to any substantial extent or in much detail. As is discussed below, this also led to limited positioning

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<sup>206</sup> The members are: Nederlandse Akkerbouw Vakbond (arable farming), Nederlandse Melkveehoudersvakbond (dairy), Vereniging voor Biologisch-dynamische Landbouw en Voeding (organic farming), Boerengroep Wageningen, WILPF (women's rights), Toekomstboeren, Vereniging tot Behoud van Boer en Milieu

<sup>207</sup> Nederlandse Vakbond Varkenshouders, Dutch Dairyman Board, according to ABC, Nederlandse Vakbond Varkenshouders did have its own policy officers, and had probably been following CETA.

<sup>208</sup> They were the biggest, and the most visible in the campaign.

<sup>209</sup> LTO Varkenshouders' board mostly consists of farmers and it doesn't have any offices of its own.

<sup>210</sup> Moreover, LTO believed that the meat sectors' stake in the negotiations had been nuanced, and that their defensive interests had not been neglected.

and lobbying. The exceptions to this generally lukewarm reception were the peak farmers' organization, the dairy and meat sectors, and a group of farmers' organizations (including farmers from the meat sector). However, this latter group only became aware of CETA around 2015-2016.

### 7.3.2.2. Positioning and communication

Did they have a position on CETA? Why? Did they communicate this to Dutch policy-makers?

Because it better fits my data for this section, I will here deviate from the CSO mechanism text's structure, and discuss both the 'preference' of several business groups as well as their positioning, i.e. whether they communicated this to policy makers in some way. The next section has more details on the tactics they used (inside, outside) and whether they were able to gain access.

Available sources seem to indicate that the interest in CETA in the 'pre-political' phase, from VNO-NCW as well as from the sectors, was very limited.

VNO-NCW came to its position on CETA after consulting with its members. This happened through its internal trade politics committee, which gathers firms, sectoral representatives and experts. Because of the heterogeneous membership this position is normally quite general, but always in favor of free trade. Especially in the politicized phase, VNO-NCW's primary stake in CETA was (therefore) strategic rather than linked directly to the deal's substance: although Canada isn't even in the Netherlands' top-twenty trading partners, making the economic importance of the FTA quite modest, they feared that if CETA were to fail that this would have very negative repercussions for the rest of EU trade policy: if this agreement stumbled, negotiating future deals would become even more difficult (Interview - VNO-NCW, 2017; Interview - VNO-NCW BXL, 2017).

The most controversial aspects of the deal that VNO-NCW supported (inter alia in the SER report on TTIP, see below) was the inclusion of **investor-state dispute settlement**. Within the VNO, there was a broad consensus that such a system<sup>211</sup> needed to be part of trade and investment deals (Interview - FME, 2017; Interview - VNO-NCW, 2017). However, in the case of CETA this was again a least partly because of 'strategic' considerations not directly linked to the benefits of such a system with Canada: if they were able to agree on a good system in CETA, this could then also be used in the negotiations with countries such as China, where ideally there would be a system of investment protection present. If the EU was to say to Canada or the US that investment protection was unnecessary, it would become harder to get China on board with such a system. So here too, a more strategic vision was at the base of this position (Interview - VNO-NCW, 2017).

In **2016**, when the deal's ratification became politicized, VNO-NCW took a public stance on several other aspects of CETA as well, in defense against the criticism from the CSOs. In an open letter published in October 2016, the VNO listed the following points: (i) The **interpretative instrument** was legally binding and clarified that CETA

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<sup>211</sup> VNO-NCW had always supported **ISDS**, but it was fine with ICS as well. In the SER's advice it said that there was always room for improvements, but that ICS was a step in the right direction (Interview - VNO-NCW, 2017).



would not hamper the state's right to regulate or any EU norms or standards, but all of these things had already been included in the treaty's text. (ii) The deal would provide **large economic gains**; it might produce an increase in trade of 25%, and removed competitive disadvantage with the US. It opened up a promising public procurement market, and included important protections for intellectual property rights. (iii) CETA included strong sustainability clauses and norms, which would help to cement these high norms globally. (iv) The treaty was important because the EU needed to send a signal that it was able to do these kinds of deals, and because it would set a precedent for future FTAs<sup>212</sup>.

### **Firms and sectors**

Among the other **sectors and firms**, it is not clear how many came out with a position. A number of sectors and firms came to more specific demands, however.

A **web-search** of the sectors produced very little CETA-related material. There were zero messages about CETA or Canada (or, often, 'trade agreement') on the websites of the NZO (dairy, includes the cheese makers), the NLT (transport and logistics), NLD-ICT (ICT services), the FNLI (foodstuffs), the VNCI (chemicals), Nefarma (pharmaceuticals), or the FME (manufacturing), although several of these did publish articles related to TTIP<sup>213</sup>. In the agricultural sector's specialized news media, boerderij.nl and BoerenBusiness.nl, the first messages about CETA dated from 2014 and 2016 respectively. Although this probably doesn't tell us much about firms' inside lobbying during the negotiations, it does indicate that they remained in the background (or on the 'inside') after CETA got politicized, and that for at least some of them the treaty was not high on the agenda. Another piece of (circumstantial) evidence supporting this hunch was the list of **participants in the Netherlands' 2015 economic mission to Canada**<sup>214</sup>. Almost half (24/60) of all participating firms were either agricultural producers (notably vegetables, flowers and veal), manufacturers of agricultural/horticultural technology (i.e. constituents of FME Agro-Food), or providers of agricultural business services. Seventeen firms (including the two Dutch dredgers) were involved in a variety of services related to urban planning, engineering, construction or 'environmental management'. Fifteen firms were involved in ICT or other business services; Rabobank was the only financial institution present. Finally, four firms were involved in non-agricultural manufacturing, including floor tiles production and packaging. There was no trace of sectors like postal or feedering services, nor shipbuilding. None of the cheese or other dairy products' producers participated either.

Secondly, my interviews confirm that major industries barely got involved with the deal. My contact at **FME** for example<sup>215</sup> did not believe that FME had given much detailed input during the **negotiations**. They were present in the trade committee of

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<sup>212</sup> <https://www.vno-ncw.nl/nieuws/zaak-om-ceta-snel-weer-op-de-rails-te-krijgen>

<sup>213</sup> For example: <https://www.vereniginginnovatievegeneesmiddelen.nl/cms/showpage.aspx?id=23986>, <http://www.fnli.nl/werkgebieden/concurrentiekracht/standpunten/transatlantic-trade-and-investment-partnership-ttip/>, <https://www.vnci.nl/nieuws/nieuwsbericht?newsitemid=2656403457>, <https://www.fme.nl/nl/ttip-inzet-nederland>

<sup>214</sup> Source: firms' descriptions in the mission booklet published by the government, see: [https://www.rvo.nl/sites/default/files/2016/10/Missionbooklet\\_Canada\\_2015.pdf](https://www.rvo.nl/sites/default/files/2016/10/Missionbooklet_Canada_2015.pdf)

<sup>215</sup> Which had only started work after the negotiations had been concluded, but she did for a while work with the person that had been present during the negotiations.

the VNO-NCW, but she doubted that they had a CETA-specific position. The FME's official stance at the time differed little from the overall position it held in 2016: a very general stance in favor of free trade and FTAs. She also was not aware of their branches giving specific input to the ministry; the sub-sectoral associations are even closer to the firms' daily reality, and trade politics is a remote issue for them. FME did not launch any kind of consultation of its members, and did not perform any kind of CETA-specific analyses (Interview - FME, 2017).

However, this does not mean that CETA was insignificant to FME. Although the treaty and the market as such were not important for their sectors (in general)<sup>216</sup>, CETA mattered because it was a far-reaching, inclusive treaty, and because it had attracted a large amount of societal debate: the outcome of CETA was going to set an **important precedent** for future deals. Since FTAs in general were highly valuable for FME's internationally-oriented members, CETA in turn became an important issue (Interview - FME, 2017). This stance was in line with that of their European federation. Judging from the website, Orgalime<sup>217</sup> did not develop any (public) CETA-specific positions, while discussions in the later 'political' phase (when my interviewee was present) were mostly focused on the '**strategic**' aspect of CETA. It was valued for its precedence/exemplary stature as a new-generation deal, and as such required defending (Interview - FME, 2017).

The FME's role in regards to **ISDS** was **very passive**, although they were certainly interested in the inclusion of such a system in CETA, and discussed it in the VNO-NCW's trade commission as well as in Orgalime. Their main goal was to follow the discussions in order to be able to communicate their complications for their members, to be able to explain to them what would change, and how they could make use of CETA.

In FME's sub-sectors, the picture seems to have been roughly the same. According to my interviewee from FME, the trade interests and problems highlighted by their members in FME's annual 'international business' analysis were fairly homogenous across sectors, and Canada was never in their top markets. The only exception were their sectors in the **agro-food cluster** (e.g. processed foods, agricultural machinery). Here Canada was in fact one of the higher target countries. However, based on interviews with their agro/food cluster and the shipbuilders (see below), I tend to think that whatever position they had was probably quite shallow, and it seems that they did not communicate it to the government. Both emphasize that they weren't following the negotiations very closely, that they barely took part in any kind of lobbying (and never even met with the Ministry), and that they only consulted with their members at a very late stage and then received lukewarm response. They supported the lowering of tariffs, but this was not a priority (see next section).

As I already discussed in the previous section, my sources claimed that the financial sector, FME nor the chemical and pharmaceutical industry did much follow-up of CETA, and the FNLI sent me to two of its sub-sectors. Moreover, this appears to have

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<sup>216</sup> In contrast to the EU-UK post-Brexit negotiations and TTIP, where there were larger, more immediate interests at stake for the sector at large.

<sup>217</sup> The European engineering industries association, which represents mechanical, electronic & electrical, metalworking & metal articles industries; claims they account for 25% of output and a third of exports in manufacturing.

been the general trend among Dutch business, with a number of specific exceptions. As I show in the next section, the shipbuilders were pleased with the tariffs, but they had not proactively worked on CETA (in contrast to their work on TTIP, for example), and there was also a letter from the Dutch music industry association NVPI which called for the inclusion of IPR in the provisional application of CETA, and which lauded CETA's IPR chapter. However, this letter was only sent in 2016, and it is unclear to me to what extent they were involved in the earlier phases of the treaty. I found no evidence of any of the services' sectors (e.g. postal, business services, custom clearing services, ...) taking in a position or lobbying the government. Of course, absence of evidence is not necessarily evidence of absence, something I discuss in the following section. On the whole however, it appears that business' interest was low, and that even if some sectors did communicate a position, it seems plausible that their input was offensive but shallow - offering general but non-specific support for market opening in some of their (sub) sectors.

According to some of my business sources most Dutch firms were simply not that interested in CETA because, in the end, this concerned only a small market. And although most non-agricultural sectors and firms do seem to have supported CETA, they largely remained **passive** when the deal was endangered politically. My interviewee at the ministry claimed his contacts offered some additional (apart from the size of the market) reasons for their lack of campaigning vigor in this phase: (i) global value chains had made it very hard for firms to work out whether they had a specific (let alone vividly demonstrable) stake in an FTA with Canada, and (ii) they did not want to end up in the crosshairs of the NGOs (Interview - Head of IMH, 2017). A third reason for this passivity at the domestic level may have been tied, not to disinterest in CETA but to **disinterest in the domestic level versus the European dynamic**. Some lobbying efforts seem to have been much stronger at the EU level, even in sectors that also did a bit of lobbying at the domestic level (e.g. the meat processing industry). Others may have ignored the domestic level altogether, for example because they did not think their government needed to be, or could be, swayed, or because they believed these matters were best handled by their European associations; they may have given their input there and left it at that.

There were a few exceptions: in dredging, in dairy, in the meat sector, and in agriculture more generally.

As was mentioned, I was unable to arrange interviews with any of the major Dutch **dredging companies**. However, according to my interview with their business association, their interests in regards to market access are the same as those of the other big European dredgers (Jan De Nul, DEME) (Interview - VNW, 2017). Since these are the foremost members of the European Dredging Association (EuDA), I believe we can safely assume that EuDA's stance is a reflection of the Belgian and Dutch firms' position. The EuDA mentions CETA for the first time in its 2013 annual report, in a supportive but vague appraisal; the coming TTIP negotiations were discussed more extensively (EuDA, 2013). Its 2015 report again supported CETA and wished for its speedy implementation; it specified that there were big new market access opportunities in dredging, now that *'European built, flagged, owned and crewed dredging vessels (and equipment) may compete in private dredging projects as well as publicly (federally) procured dredging projects as long as they fulfill the other requirements of the temporary Coasting Trade act'* (EuDA, 2015). So we know they were at least

backing the final result, even if this does not help us with uncovering their position *during* the negotiations. However, we also know that the European dredgers' association (EUDA) lobbied the Flemish government (see Belgian mechanism) and that the Flemish executive then got in touch with DEME. We also know that the Dutch ministry of economics sent letters to the dredgers. So we can assume that the dredgers communicated a position to the Dutch government over the course of 2011-2012, i.e. around the time it was discussed in the TPC and defended by the Netherlands.

Controversy seems to have remained limited to a very specific (sub)sector: one of the most controversial issues, during the negotiations as well as in the Netherlands, was related to trade in **cow and pig meat**. According to the COV, the **meat industry** had made an assessment of their stake in the CETA negotiations very early on. For them, it was very clear that they had some defensive stakes in this FTA, and they demanded strong limits on the imports of pork and beef from CETA; not just because they were afraid of the Dutch meat production in itself, but because they wear wary of the cumulative opening throughout the various FTAs the EU was negotiating. When they were unsuccessful in limiting the amount of quotas, they pleaded in favor of managing them through licenses rather than a first-come first-served system, because this gave them more control over the composition of the meats that would fill up the quotas, thereby helping to alleviate the pressure somewhat. Although CETA was in itself against their interests, at least when considered in isolation, they still decided to support the deal because of a longer-term strategy: they were hoping that CETA might help set the standard for future deals, notably with Asian countries and particularly Japan, where their interests were far more offensive. Their positive gains in the latter deals would compensate for their losses with CETA (Interview - COV, 2017). As is discussed below, the **farmers from the same sector** did not share this strategic scope and only saw the immediate threat from the deal- although they only came to a clear position against CETA in 2015, which they then abandoned at the end of 2016 (Interview - LTO Nederland, 2017).

One of the big trades in return for market access for Canadian meat was more access for EU **dairy products**. In the Netherlands this was to the benefit of the COV's sectoral colleague, the NZO<sup>218</sup>. After it was informed of the upcoming negotiations, the **dairy federation** had discussed the dossiers with its members: how much did they trade with Canada, how interesting would it be to get more market access? Based on these deliberations, its trade and economic committee indicated that Canada was a promising but very restricted market; they were pleased the EU was starting negotiations. There were particularly opportunities in cheese, i.e. for about half of all processed milk products in the Netherlands. So the members were very interested. In cooperation<sup>219</sup> with the European Dairy Association (which also produced analyses), the NZO also took up the demand for geographical indications: 'quality cheeses' Edam and Gouda needed to be protected by the deal (Interview - NZO, 2017).

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<sup>218</sup> They are the major members of the Dutch food industry association, FNLI.

<sup>219</sup> The NZO itself was in favor of including GIs, after discussing this within its committee, but this was also raised by its European association which in turn was responsive to the Commission's apparent which to spread GIs as widely as possible for economic and cultural reasons. My source wasn't sure who first proposed to push/support the push for GIs, but they did take this up at the ministry (see below) (Interview - NZO, 2017).

During the political phase, however, it seems clear that non-agricultural business (including the food industries) was quite unified. According to VNO-NCW there had perhaps been some sectors that gained more while others lost because of CETA, but none of them, including the meat sector, opposed the final agreement (Interview - COV, 2017; Interview - VNO-NCW, 2017).

## **Agriculture**

The biggest exception to the harmonious consensus within business was formed by the **fractures among the farmers**.

In the positioning of **LTO Nederland**, the sectors are dominant. This means that for example the dairy sector can be against a certain deal while the meat sector is in favor. In such cases, lobbying becomes quite difficult for LTO because they have to represent both sides, although they will always try to come to one general line. Much like in VNO-NCW, this heterogeneity is part of the reason why the position taken by LTO is often quite broad (and usually in support for free trade): the people lobbying for the central federation have to represent (and reconcile) 18 sectors.

**In CETA**, LTO got involved in the process very early on, even during the initial formulation of the mandate. My interviewee claimed that one of the priorities they pushed for (along with the Germans, the Belgians and the Danish) to include was animal welfare (Interview - LTO Nederland, 2017). However, buried deep within the WOB documents is an evaluation of the animal welfare provisions on CETA by the IMH, which seems to **contradict this claim**. The memo notes that *'contrary to TTIP, there has barely been a (societal) discussion of GMOs and hormone-treated meats in CETA [...]. During the negotiations, in contrast to TTIP, there were barely any worries voiced about animal welfare either from the sector or civil society. During the negotiations, [redacted] never expressed a wish for more robust animal welfare provisions'* (WOB - 20. Memo-Schoon\_redacted, 27 March 2014).

What is more certain is that, apart from animal welfare, they also had a set of clear defensive interests, notably **beef and pork**. They called for quotas in the latter sector especially. Their interests in **dairy products**, on the other hand, were very offensive. Here they pleaded for more market opening by removing Canada's protective quotas (Interview - LTO Nederland, 2017). More generally, in the public debate, because they were faced with a membership that was divided on the merits of TTIP/CETA, the position that **LTO Nederland** took was a 'nuanced' one: they were in favor of the deals *'if done properly'* (Interview - LTO Nederland, 2017).

On the opposing side stood the **Landbouwcoalitie**.

Over the course of 2014, the opponents to the deal from within the agricultural sector got organized. From 2014 on, Aarde Boer Consument started doing small campaign work on TTIP. In 2015, ABC met with poultry, pig, field and dairy farmers during a debate on TTIP; they found their positions overlapped, decided to team up, and sent their first joint letter to parliament<sup>220</sup>. In the spring of 2015 they then met with

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<sup>220</sup> Nederlandse Vakbond Varkenshouders, LTO Varkenshouderij, the Nederlandse Vakbond Pluimveehouders, the Dutch Dairymen Board, the Nederlandse Melkveehouders Vakbond, the Nederlandse Akkerbouw Vakbond and the Vereniging voor Biologisch-Dynamische Landbouw en Voeding.

Milieudefensie to **forge a wider coalition**, which was joined by Bionext<sup>221</sup> and FNV Akkerbouw in 2016 (Interview - ABC, 2017). Although LTO Pluimveehouders would eventually leave the coalition, after pressure from LTO and because poultry was not a part of CETA, this larger group offered them the necessary financial space to write analyses and to start lobbying the parliament more intensely (Interview - ABC, 2017). The construction of this coalition was greatly criticized by LTO – not only because these farmers were now mobilizing against their own economic interests (in a broader sense, because they benefitted from freer trade in general and because CETA would set a *'gold standard'* for TTIP, in which they had an offensive stake), but also because their relation with these NGOs had before been quarrelsome *'to say the least'* (Interview - LTO Nederland, 2017). In October 2016, the group was severely weakened when the pig farmers left<sup>222</sup>.

The farmers' coalition against TTIP/CETA was indeed ideologically heterogeneous<sup>223</sup>; although they were somewhat united in their rejection of unfair trade competition, even here **differences** remained: the poultry and pig farmers were (generally) far more export-minded, while the arable farmers would rather bar agriculture from trade talks altogether. Still, they managed to find a unified position. In their **Manifesto from April 2016**, which mostly focuses on TTIP, they<sup>224</sup> criticized CETA for abolishing tariffs on certain agricultural goods, and for installing tariff free quota's in beef, pork and sweet corn. *'Because of this liberalization, Canadian products will enter the EU markets that were produced at less strict standards in the areas of animal welfare, food safety and the environment.'* This would lead to unfair competition because higher EU norms meant EU farmers were less cost-competitive, which would drive smaller family firms out of the market in livestock and arable farming. Moreover, TTIP and CETA would lead to job losses in the supply and processing industries, putting pressure on wages and labor provisions in the entire agricultural sector. Finally, because of lacking controls, the imports may also endanger food safety (milk produced by cows raised with hormones may still enter the market) (Geurts, 2016).

### **In summary**

During the negotiations there were a number of offensive demands voiced by at least the dredgers and the dairy sector. There was also widespread support for the inclusion of ISDS. The meat sector had clear defensive demands. The Dutch music industry also sent out a position, but I only have evidence of them getting involved late in 2016. For many sectors, however, I still lack clear evidence about their (non-) positioning. Of course, considering the lack of 'certainty' of such 'fingerprints', my inability to track them down cannot in itself be considered a falsification of (sub-) sectoral or firms' positioning. However, I also have evidence that a number of sectors did not get involved in CETA (i.e. evidence of absence rather than absence of

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<sup>221</sup> Bionext, the chain-wide organization for organic agriculture, was also more passive on CETA than TTIP, because they had some members that were set to gain from the former deal (Interview - ABC, 2017).

<sup>222</sup> According to ABC, this was because they were promised a sort of financial compensation, but minister Ploumen denied this several times in the parliament.

<sup>223</sup> The sectoral farmer's organizations such as LTO Varkenshouders were ideologically, party-politically on the right side of the political spectrum, and generally supported free trade, while the NGOs and some of the smaller farmers' groups tended more to the left.

<sup>224</sup> The report was then signed by Nederlandse Vakbond Varkenshouders, LTO Varkenshouderij, Nederlandse Vakbond Pluimveehouders, Dutch Dairymen Board, Nederlandse Melkveehouders Vakbond, Nederlandse Akkerbouw Vakbond, Vereniging voor Biologisch-Dynamische Landbouw en Voeding, Platform Aarde Boer Consument, Milieudefensie and FNV sector Agrarisch Groen.

evidence), including the financial sector, the FNLI, FME (and also specifically its agro-food sub-sector), the chemical and pharmaceutical industry, the shipbuilders; in general, Dutch business, so my sources claim, was generally uninterested during the negotiations. If asked, they would offer support for further opening, but did not proactively push for this or more specific positions. This is further supported by some circumstantial evidence that I present below. A general lack of business input is also evident from the WOB-sources, although we can doubt how exhaustive these really are in this regard (see below).

In the 'political' phase, it is clear that most of Dutch sectors supported CETA. The only exception were a number of farmers' organizations, the most major one being LTO Varkenshouders. However, this somewhat more intense pro/contra positioning was exceptional. Instead of passionately splitting in pro/contra camps, the overall attitude of many business associations and their members seems to have been one of supportive disinterest rather than active engagement, both before and after the conclusion of the negotiations. On the whole, **business also remained quite unified** throughout the public debate, which was mostly waged by (and delegated to) VNO-NCW. Within VNO-NCW the meat (processing) industry was more defensive, but this did not lead to any kind of open conflict. It just made the inter-sectoral organization less useful to them in their inside lobbying. After the deal was concluded, the COV publicly supported CETA (Interview - COV, 2017).

Of course this brings us to the question of my sources' (and their memories', or their own sources') reliability, especially considering that several of them had not been around during the entire 2009-2016 period. This is taken up in the concluding section.

### 7.3.2.3. Did they gain access?

#### *a. Scope conditions*

My general expectations in regards to the scope conditions for this section, as I developed them in the CSO mechanism, hold true for business *a fortiori*: (very) good inside access, poor outside access.

#### *b. Empirics*

##### *b.a. Inside channels - The ministries and the SER*

For CETA, just like with any other trade agreement, there was a permanent dialogue between VNO-NCW and the Dutch government. Their task was to look at the bigger picture, the entire economy. So, with the exception of a couple issues<sup>225</sup>, they had not lobbied on any very specific points in CETA. This is up to the sectoral organizations, although some of these specific demands were of course also raised within the VNO's trade committee's discussions with the ministry. For example, the dredgers' association, NABU, had discussed the issue of public procurement of dredging services with the ministry and the Commission, but they also brought it up in the

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<sup>225</sup> My interviewee did not disclose what these issues were.

committee (Interview - VNO-NCW, 2017). The relationship with the ministry of foreign affairs was very good (Interview - VNO-NCW, 2017)<sup>226</sup>.

If the **WOB Documents** are comprehensive, then we can only conclude that contacts between the ministry of foreign affairs or economics and business were extremely limited. The documents list no preparatory memo's for any meetings with firms or associations, and only two pieces of written communication. In 2011/2012 there were some contacts between the MFA and representatives of the dredgers, at the initiative of the former, where the latter pointed out their interest in removing Canada's 'Coasting Trade Act' (WOB - Document 36). Much later in the process, on 22/09/2016, (WOB - Document 19), there was a letter to Ploumen by the Dutch music industry association (**NVPI Audio**), which urged her to support CETA and its '*earliest possible provisional application [in particular] the Intellectual Property Chapter*'<sup>227</sup>, hailing the importance of non-EU markets for their revenue (67%) as well as CETA's IPR protections<sup>228</sup>.

It seems extremely unlikely (and is clearly falsified by some of my interviews) that these were the only contacts that took place. However, the sources that I discussed in the previous section do seem to indicate that they had in fact remained limited. During a parliamentary debate, Ploumen herself argued that they had '*sufficiently*' debated CETA with societal organizations over the years, and that '*business had also come forward, albeit to a lesser extent*' (kst-21501-02-1690, 12 October 2016).

**In agriculture**, LTO's lobbying efforts targeted DG Trade, COPA-COGECA and the Dutch domestic arena; in the latter sphere, they tried to influence the Dutch position by lobbying the parliament as well as the ministry. They had good, regular contacts with both the ministry of economics and the ministry for foreign trade, which they believed was keen to hear them out. These contacts intensified in the last few years. For example, foreign affairs had one person that worked exclusively on the agricultural dimension of FTAs, and LTO's Brussels office spoke to her at least two to three times every month. Especially when the CSOs' campaign gained speed, the ministry became even more eager to hear LTO's nuanced position in favor of the deal. As the cross-sectoral spokesman, their broader narrative was needed to counter the idea that all farmers were against the deal, even though only the pig farmers were actively mobilizing against it (Interview - LTO Nederland, 2017).

As I already discussed in the previous section, FME did not have a detailed position on CETA, and remained in the background during the negotiations. Although FME did think CETA needed to be defended for its precedent-value, it did not step up its lobbying or campaigning in the '**political**' phase; it mostly worked through the VNO-NCW, believing they would be stronger when speaking with one voice. One minor exception was a meeting (arranged by their agro-food expert) between FME and the Canadian ambassador for the Netherlands, where they discussed the agreement and

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<sup>226</sup> Although they did not feel that they had been favored over the CSOs in any way.

<sup>227</sup> 'The CETA Agreement contains important commitment to better protection of recorded music- notably through a guarantee of compliance with the WIPO performances and phonograms treaty (WPPT) standards and a commitment to comprehensive protection of broadcasting and communication to the public rights in particular'. I.e. it seems they were being harmed by the exclusion of the non-trade aspects of IPR from provisional application.

<sup>228</sup> Some of those on the more 'defensive' side in the debate on audiovisual liberalization may enjoy the fact that this letter, sent from Amsterdam to The Hague, was composed in English.



the difficulties it was encountering (Interview - FME, 2017). Its agro-food cluster did not take any autonomous action either, they were represented by FME in VNO-NCW. The only FME sub-sector that had a specific stake in CETA were the **producers of agricultural and food-processing machinery**. Even here, however, they only followed the negotiations from a distance. They never got in touch with the Dutch government or the Canadian embassy. A survey of their members was conducted in 2017, long after the negotiations were already concluded; it garnered lukewarm responses (Interview - FME Food & Agri, 2017).

This lack of interest, and thus lobbying/campaigning activities, also included **sectors** whose economic stake was taken up in the Dutch position. For example, the Dutch shipbuilders' association, **Netherlands Maritime Technology (NMT)**, barely did any lobbying on CETA (in contrast, for example, with its activity on TTIP) – even though it was pleased with the final agreement because it substantially lowered tariffs on ships (from 25% to zero over the course of seven years). The reason they did not lobby on this issue is that Canada did not hold on to especially protectionist legislation (such as the US' 'Jones Act') that had to be addressed offensively, and because they somewhat assumed that countries like Canada and the EU would work on lowering tariffs in these kinds of goods. Since their resources were limited, they only did some limited lobbying at the EP (along with VNO-NCW) when the Parliament had to ratify the deal. The sector's Brussels' office was also quite sure that none of the major Dutch shipbuilding firms had done any lobbying: only after the negotiations had ended did they get in touch with their sectoral association's Brussels lobbyist, looking for info about what tariff lines had been changed (Interview - Netherlands Maritime Technology, 2017).

**Of the sectors**, the WOB documents cited above made clear that the NVPI and the dredgers sent letters as well as had personal meetings with the ministry. The **meat industry association** (not farmers but butchers, processors) did so as well (Interview - COV, 2017). In **dairy**, at the beginning of the CETA negotiations the NZO communicated what their interests were, that it was a good thing that the negotiations were being started and that notably in cheese there were still important barriers. They received technical briefings from the EDA, which they adapted in certain respects and, on the specific Dutch interests, raised this with foreign affairs and economics so that these could bring them to their working groups. However, even though they had a big interest in CETA, my source<sup>229</sup> wasn't sure to what extent they went into the depths of the negotiations, to also provide people with their arguments to steer negotiations at the technical level. In cheese it was actually already clear for everyone that there was an opportunity to increase exports to Canada (Interview - NZO, 2017).

The **farmer's coalition against TTIP** met with the ministry three times in the summer of 2016, of which one meeting was directly with Ploumen. According to ABC, this was in part because the parliament put pressure on the ministry to meet with them, after the coalition had published its manifesto at the Tweede Kamer in July. Before and after this episode, they had not been in direct contact with foreign affairs (Interview - ABC, 2017).

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<sup>229</sup> Which had only arrived there in 2016, but which before had for years worked on agricultural issues in the ministry of economics.

## The SER

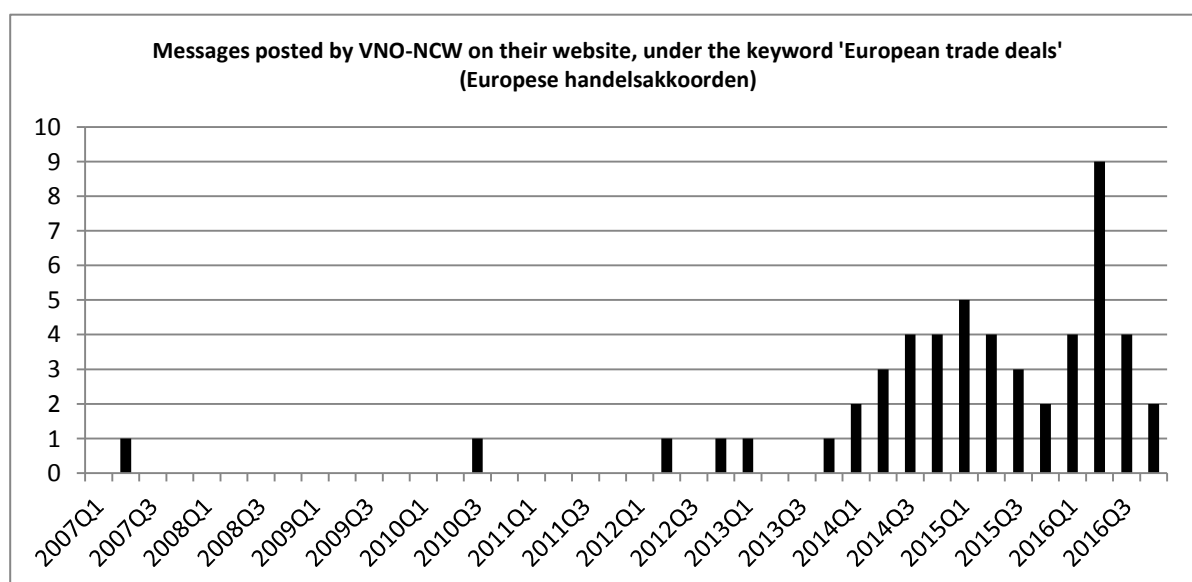
VNO-NCW and LTO Nederland were also consulted in the SER.

LTO Nederland was pleased with the outcome as well as the tone of the deliberations on the TTIP-advice. According to them, this was because the discussion was very factual and not emotional – even while those same organizations were waging a war of words outside of the SER. Things did get more difficult once each partner had to present the advice to their members. In LTO, for example, the pig farmers (which had their coalition with the NGOs to think of) tried to reject the text, but they were overruled by the rest of the federation’s board. LTO also felt that, even though the unions eventually managed to get their rank-and-file to approve the text, they later failed to also adhere to it politically, publicly, while the employers did change their positioning in line with the advice (Interview - LTO Nederland, 2017).

It was a good advice, picked up across the political spectrum (although the interpretation varied widely) as the (mostly) unanimous position of employers and trade unions, offering a framework to evaluate other FTAs including CETA. VNO-NCW saw the remaining ambiguity on ISDS as reflecting a trade-off between the unions and VNO-NCW: the employers want to keep in investment protection and ICS, and in return the trade unions want to include a kind of dispute settlement for the sustainability (Interview - VNO-NCW, 2017).

### *b.b. Outside channels - The press, the parliament and the public*

VNO-NCW, business’ primary ‘outside’ voice, felt that the way they had communicated about the FTAs had not been sufficiently effective<sup>230</sup>. ‘Other societal actors’ had been very vocal, and very efficient in getting their voice heard (even if sometimes they only represented small groups) (Interview - VNO-NCW BXL, 2017).



<sup>230</sup> However, by the beginning of 2017 this had not led to any concrete steps, and so far the politicization of trade had not led to them hiring any new staff or in any other way increasing resources for trade politics.

In this phase, **firms' passivity**<sup>231</sup> became problematic for business' counter-campaign: the VNO-NCW had a very hard time finding firms that wanted to give input about whether they were in favor or against CETA and why (Interview - COV, 2017). This was confirmed by the ministry of foreign affairs, which encountered the same difficulties in their search for firms that could help support CETA through clear illustrations of its potential benefits (Interview - Head of IMH, 2017).

In regards to the **press/media**, VNO-NCW still felt that their access to the press was good, the media always knew where to find them when there were questions about FTAs. On CETA however, they didn't really try to get any commentaries published in the press, although they did send out communications through their website and social media (Interview - VNO-NCW, 2017). LTO also acknowledged that it was clear that the farmers' anti-TTIP coalition succeeded in capturing the public's, the parliament's and the press' attention, and in presenting themselves as *the* farmers' voice. However, it felt like it was able to gain a stronger footing in the public debate over the course of 2016: by then, when media wanted to run a story on international trade, they had also started paying attention to the agricultural dimension, and LTO had reaffirmed itself as the spokesperson here (Interview - LTO Nederland, 2017).

The general **lack of PR-energy** on the business side was also underscored by the NGOs, the ministry and some other business associations (Interview - Head of IMH, 2017; Interview - Netherlands Maritime Technology, 2017; Interview - TNI 2, 2017; Interview - VNW, 2017), and also appears evident from the press analysis included in the chapter on CSOs. VNO-NCW, along with other business associations, also lamented the **emotionally loaded/irrational debate** ('chlorine chickens') that was waged over TTIP and CETA; they felt like it was very difficult for them to counter this with rational appeals. They tried to neutralize this by drafting an advice in the SER, to see what the treaty was really about, what criticisms were actually valid. This succeeded to some extent: the analysis did not leave much of the opponents' claims standing, and the weight of the SER's legitimacy succeeded in somewhat rationalizing the debate (Interview - VNO-NCW, 2017).

My review of the press in the previous mechanism tends to confirm this narrative. Business voices were largely absent in the press coverage, while giving ample space to the critics. Near the autumn of 2016, although the references to VNO-NCW or LTO remained largely static, the coverage became more supportive of CETA. Given the relatively late and lackluster campaign by business, it seems implausible to attribute the continuing support for CETA (using TTIP as a proxy), among a large part of the general public. However, support did stabilize and then slightly increased around the time that business supposedly became more involved and successful in the debate (see the press review included in the previous mechanism).

VNO-NCW, as well as some of its sectors, also lobbied the **Tweede Kamer**, in particular the parties of the left. They claim that this was to some extent successful, but offered no further details (Interview - VNO-NCW, 2017). LTO's **campaign in the parliament** only started after the FTAs started getting politicized, in the years before the Tweede Kamer had not paid much attention to FTAs. Some parties were more receptive to LTO's message than others. The federation was generally closer to the

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<sup>231</sup> For example, one of the deal's main Dutch beneficiaries, the NZO, did not participate in any of the public or parliamentary campaigning (Interview - NZO, 2017).

parties on the right, although they also considered PvdA's outlook to be quite 'nuanced'. VVD, ChristenUnie, CDA and SGP often adopted their viewpoints. LTO also believed that they had been able to somewhat correct the increasingly negative discourse on CETA in the parliament, and to counter the idea that the farmers that joined the NGO's coalition were speaking for all agricultural interests. They claim they successfully influenced, i.e. softened, the position of a number of parties; if we were to compare the discussions in the *Tweede Kamer* with the letters sent by LTO, we would see that several of their points had been directly adopted (Interview - LTO Nederland, 2017).

Interestingly, the **farmers' coalition** seemed to believe roughly the same thing. They sent their first letter to parliament in 2015, and organized public actions at the Tweede Kamer in April 2016. Their efforts here were supported by good personal networks: the then chairman of the NVV was a former policy officer of the VVD's fraction, and an MP from CDA had before been part of the NVV as well. These farmers' organizations also had strong links with CU and SGP, while ABC kept in touch with SP, PVDD and GL. Overall, they felt that their campaign in the Dutch parliament went well. They felt that CU, SGP and GroenLinks in particular started using their arguments in debates, while CDA and PvdA remained more in the background; D66 and VVD were their most vocal opponents (Interview - ABC, 2017).

In the review of the parliamentary debates, I showed that the major opposing parties, the SP and the PvdD, but also a number of smaller Christian parties, the SGP and CU, often referred to the protests by the Landbouwcoalitie. They also used many of the arguments from the farmers' campaign. The future of the pig farmers in particular became an issue that was hotly debated in the parliament, with attached discussions over the dangers of hormone-treated meats. However, the parties of the center and the liberal right remained either fervent or ambiguous supporters of CETA.

### **In summary**

From interviews as well as the WOB documents, it is clear that business interests' access to the ministries was good, both through regular direct contacts with economics and foreign affairs, as well as via the meetings in the SER. When things turned 'noisy', however, business started at a disadvantage,, which they were slow to turn around.

#### **7.3.2.4. Was their input influential? Conclusion**

##### ***a. Scope conditions***

Based on the literature, we came to a somewhat ambiguous expectation regarding the explanatory power of business influence in the genesis of the Dutch position(s) on CETA. This ambiguity has returned in the case study. Before 2014, I would argue that the leverage of business was considerable. CETA politics was certainly 'quiet' politics at this time, there was no public and barely any CSO attention for this dossier, excluding a brief spurt of attention related to IPR in 2012. The amount of internal divisions was limited, and the receptivity of decision-makers was high. As I discuss in the decision-makers' mechanism, the civil servants that took care of this

case were highly attuned to the wishes of organized business. And yet: although business had very good access to relevant decision makers before and during the negotiations, arguably the most important phase for many of its more specific interests, it seems as though only a handful of sectors actually made use of this channel to communicate certain desiderata.

After 2014 (and for most parts of CETA actually until 2016) trade politics became noisy, albeit focused on a limited number of issues: there was intense attention for the deal as such (pro/contra CETA), on ISDS, and to a lesser extent on regulatory cooperation, services liberalization and aspects related to agricultural trade (food safety, meat imports, animal welfare). Here, business was largely on the defensive because of the relatively unexpected success of the CSO campaign, because of the lack of 'emotional' force of their arguments, and because of firms' and sectors' reluctance to expose themselves to public criticism by engaging in the debate. This was largely what we would have expected, with one major exception: a small but substantial sub-association of LTO broke away from its peak federation to protest against the deal. 'Broadening the scope of conflict' by creating an alliance with a number of NGOs, they succeeded at linking their sectoral, defensive demands with a wider narrative about food security and fair trade. In other words, there were publicly visible intra-business divisions; as Ploumen noted agriculture was '*not able to speak with one voice*' (kst-21501-02-1673, 14 September 2016). And yet, despite these sub-optimal conditions, it seems clear that the balance of power remained tilted in favor of the groups that favored CETA as it had been negotiated by 2014: the executive was still led by a liberal party, the negotiations had already been concluded, and the government had a clear preference for offensive and more aggregate interests over defensive interests such as those of the pig farmers.

### ***b. Empirics***

To what extent can we then decide in favor of business influence?

Only in agriculture did some of my interviewees evaluate the fruits of their labor. **LTO Nederland** was 'not displeased' with the outcome of the CETA negotiations, they believed they had had good contacts with the government, and that they could clearly see their positions being taken up in the letters of the government. Judging from their correspondence with the ministry, they also believed that the Netherlands had actively support their wish-list at the EU level. They were unsure whether this reflected their lobbying efforts, however: most of their demands were '*reasonably predictable*' for the ministry, except for their position on standards on animal welfare (Interview - LTO Nederland, 2017). However, even the novelty of this demand for animal welfare was contradicted (quite starkly) by a representative from the meat industry (Interview - COV, 2017). The leader of the opposing **farmers' coalition** was also pleased with the campaign they had set up, and the way they had been able to weigh on the debate in the parliament; it was partly because of their work that there were, for the first time, numerous parties opposing a trade treaty (Interview - ABC, 2017). However, their concrete 'goal attainment' in terms of Dutch positioning was limited.

How do these claims hold up in light of the evidence?

There was **congruence** of communicated business preferences with the state's positions on ISDS and later ICS, its position in favor of opening procurement markets and dredging services, its position on non-agricultural market liberalization, on the opening of dairy markets (and the tackling of specific barriers in cheese), on the inclusion of two GIs (again in cheese), on the defensive nature of meat and the management of agricultural quotas, and on the start-up of negotiations and later the signing of CETA in 2016. We can moreover see the mechanisms 'performing' all of the requisite steps. However, this evidence amounts to **non-falsification** rather than a strong confirmation of the thesis that lobbying caused these positions. There is still considerable doubt about the sequence of business input and subsequent positions by the Netherlands. Besides LTO, none of my sources clearly attributed any of the states' position to (their) business lobbying and, especially in combination with the generally liberal, export-offensive disposition of the Netherlands, there is another plausible explanation for the Dutch stance: autonomous decision makers' 'preferences', which for example may have come to the exact same positions on e.g. the Dutch interests in cheese or dredging, even before being given similar input by industries. For example, note that although LTO was pleased with the results of their lobbying, they also acknowledged that the government was probably already in line with these demands. In the last mechanism I will assess this alternative narrative.

There was **disconfirmation** for a number of sectors. I found evidence that showed there was either no positioning or no lobbying for certain issues and sectors, on which the Dutch nonetheless took positions in the TPC: financial services, pharmaceuticals & chemicals, shipbuilding, and machinery. Although it is less clear whether (but plausible that) the Dutch supported these provisions, the WOB files also showed that there was, during the negotiations, no '*societal*' pressure on GMOs and hormone-treated meat, or in favor of animal welfare from business. There was also no congruence between the Dutch positions on the liberalization of meat or the demands of the contra-CETA farmers, and the Netherlands argued in favor of leaving out non-trade IPR in the provisional application despite the music industry's lobby in 2016. We can also see that the state supported a search for a strengthening of the enforceability of the sustainable development chapters, although VNO-NCW argued that these were fine as they were.

Falsification (and confirmation) were more troublesome for a number of other issues. Even though I have gathered no (or even some counter-) evidence about business positioning or lobbying on these issues in CETA, this does not allow me to conclude with adequate certainty that the Dutch government did not consult with the industry on these issues; this seems especially unlikely in the case of the financial industry's carve-out from ISDS, its demands for opening in a number of private services, its position on IPR, and the shifts in the position on ISDS. This assessment would alter if we were to assume that the WOB-files were comprehensive, i.e. that if we did not find any evidence of lobbying here that it therefore had not taken place (i.e. that it became highly certain evidence). Take into consideration that the WOB files did include e-mails to dredging firms from 2011, a number of letters from business and CSOs, and memos about meetings with foreign officials and civil society organizations. Yet some of my business sources clearly indicated that they had met with decision makers to discuss the treaty, meetings that were not included in any of the files. I therefore assume that they are, for some reason, incomplete. Perhaps part

of the reason is that these meetings took place continuously and informally, for example in the VNO-NCW's trade policy committee. This would have allowed sectors and large firms to communicate directly with the Ministry without leaving any sort of paper trail. Of course, they may have also just given them a call, and it seems that meetings at the level of the civil service (which were arguably the most important ones during the negotiating phase) were not taken up in the WOB request. The ministry of economics rejected a request for more information about their consulting practices during the negotiations.

In the last mechanism, I will discuss to what extent there were plausible alternative sources for this position, apart from direct input from the affected industries, in order to assess whether I can conclude in favor of either explanation.

<b>Causal hypothesis:</b> Business lobbying or campaigning influenced the Dutch position on CETA. Prior probability: High		
<b>Propositions</b>	<b>Evidence- Assessment</b> <i>(source)(characteristics of evidence in relation to proposition: high/low - uniqueness, certainty)</i>	
<b>1</b>	Business organizations and/or firms were aware of the negotiations/treaty	<p>Account - various business associations argued they were following trade policy and/or eventually became aware of CETA (interviews) (hc, hu)</p> <p>Trace - business associations and firms with resources to track trade (websites, literature review) (hc, lu)</p> <p>Pattern - close networks with EU and domestic DM of some firms/associations (interviews, literature) (lc, lu)</p> <p>Account - business association's resources for tracking trade were very circumscribed (interviews) (lc, hu)</p> <p>Trace - press coverage of CETA increasing formidably after 2015 (data) (lc, lu) (assumption: leads to awareness)</p> <p>Trace/account - business associations taking in positions on CETA on the inside/outside (interviews, documentation) (lc,hu,hr)</p> <p>Pattern - most firms, especially SMEs, do not track trade policy (literature review, interviews) (lc, lu)</p>
<b>2</b>	They had a preference	<p>Account and trace evidence - various cross-sectoral and sectoral business associations took in positions about the (potential) deal, before and after the negotiation (interviews, press statements, parliamentary hearings, WOB documents) (lc, hu)</p> <p>Account and trace evidence -several farmers' groups took position against the deal after the negotiations (interviews, press statements, online) (lc, hu)</p> <p>Account/trace - Several sectoral associations did not take in any positions during or after the negotiations (interviews, websites, press) (lc, hu)</p> <p>Trace - Limited amount of sectors participating in economic mission (mission booklet) (lc, lu)</p> <p>Trace evidence - European dredging association taking position (assumption: reflects joint stance by Belgian &amp; Dutch dredgers) (lc, hu)</p>
<b>Strong confirmation of post-negotiation awareness and preference of several business groups, mixed (weak to strong) confirmation of awareness and preference of several business groups before and during the negotiations, mixed (weak to moderate) disconfirmation of awareness and preference of several other business groups (and firms).</b>		
<b>3</b>	They successfully communicated this preference to Dutch decision makers (lc, hu)	
<b>3.a</b>	They had inside access	<p style="text-align: center;"><b>First phase</b></p> <p>Account evidence - continuous meetings of DM within peak level (interviews) (lc, hu)</p> <p>Account evidence - lobbying by dairy and meat sectors (interviews)(lc, hu)</p> <p>Trace evidence -meetings between dredgers and DM (WOB memos) (lc, hu)</p> <p>Account evidence - preference for EU channel over national channel (interviews) (lc, lu)</p> <p style="text-align: center;"><b>'Political' phase/general</b></p> <p>Trace evidence - very limited amount of letters or contacts found in internal documents (WOB) (lc, hu)</p> <p>Account evidence - good relationships of peak business organization with DM (interviews) (lc, lu)</p> <p>Account evidence - meetings of peak-organizations (including agri) with DM (interviews) (lc, hu)</p> <p>Account/trace evidence - meetings of/letters from opposing farmers' groups with/to DM (interviews, memo's) (lc, hu)</p> <p>Account/trace - meetings with DM and trade unions in SER over TTIP advice (interviews, text) (lc, hu)</p> <p>Trace - TTIP advice in SER (text)(lc, hu)</p>
<b>3.b</b>	They had outside access	<p>Account - Business felt they were unable to control public debate (interviews) (lc, hu)</p> <p>Account - difficulties in garnering PR-support from firms/sectors (interviews) (lc, lu)</p> <p>Account - Good access to the press (interviews) (lc, hu)</p> <p>Trace/account - Business became active in debate far later than CSOs (online statements, data, interviews, press review)</p> <p>Trace - Business less well represented than CSOs in press (data, press review) (lc, hu)</p> <p>Account - meetings of business groups with MPs (interviews) (lc, hu)</p> <p>Account - successful steering of debate/questions through some parties by business (interviews)(lc, hu)</p> <p>Account - successful steering of debate/questions through some parties by opposing farmers' groups (interviews)(lc, hu)</p> <p>Trace - opposing farmers' groups' arguments taken up by some (smaller) parties, these groups referred to by MPs (parliamentary review) (hc, lu)</p> <p>Trace - some parties had position that was very similar to those of other business organizations (parliamentary review) (hc, lu)</p>

	<p><b>First phase: Moderate confirmation of lobbying on certain issues, mixed (weak to moderate) disconfirmation of lobbying on other issues/in certain sectors, moderate disconfirmation of firm-level lobbying (except in dredging).</b></p> <p><b>Second phase: strong confirmation of (limited) lobbying/campaigning in favor, mixed (moderate to strong) confirmation of (limited) lobbying/campaigning in favor and against CETA</b></p>	
4.	They influenced the Belgian position	<p>Trace - Congruence between business position &amp; Dutch position in some areas (dredging, dairy, signing CETA, TRQs in meat, GIs) (hc, lu)</p> <p>Account - No lobbying on certain issues (negative listing, ISDS) (interviews) (lc, hu)</p> <p>Account - No lobbying on certain issues (beverages, pharmaceuticals &amp; chemicals, shipbuilding) (interviews) (lc, hu)</p> <p>Trace - No evidence of lobbying on many issues (lack of evidence) (lc, lu, n/a)</p> <p>Sequence - Netherlands in certain positions after lobbying/campaigning by some sectors (TRQs) (hc, lu)</p>
	<p><b>Confirmation of influence in some sectors (see text), and overall (pro-CETA). Moderate disconfirmation of influence on certain issues, weak confirmation of influence on certain issues (see text)</b></p>	

## 7.4. Decision makers' preferences

The third potential explanation I will be testing posits that it was not societal influence that produced the Dutch positions, but that these were derived autonomously by policy makers: civil servants stationed at the ministries had their own preferences and performed their own analyses, and these formed the basis for the stance of the Netherlands on CETA.

### 7.4.1. Mechanism, evidence, 'prior probability'

#### 7.4.1.1. Evaluating the prior

To investigate the prior probability of decision makers' autonomous preferences determining the outcome, I need to answer a number of questions outlined in my theoretical section.

#### Preferences

One: why would we expect Dutch policy makers to care about trade policy? In the theoretical review, I outlined a number of potential sources. The first of these is political-electoral calculation: politicians may be inclined to pay attention to trade because of electoral or party-political reasons. As I showed in the introduction, we might assume that this is generally a quite modest incentive: there are indications that the public (and therefore the parliament) does not pay much attention to trade issues, and that it's not high on the electoral (and therefore parliamentary) agenda. However, the introduction also demonstrated that there is a strong liberal sentiment among the public. Politicians aiming for the median voter (e.g. the ideologically softened, centrist governing parties) may therefore be inclined to support free trade if choices need to be made, and this might be translated into the policy line the civil service has to follow. The political overview presented in the introduction also showed that there were other pressing issues than trade politics dominating the Dutch day-to-day political agenda. Recall moreover that the Dutch governments have (as always) been coalition governments. We may expect that these characteristics further drove coalitions towards the liberal middle. Of course, we know that the dynamic changed from 2015 on, when the issue significantly gained in public salience. Yet, as I demonstrated in section 7.2.2.4.b.c., even then the median voter remained supportive of the FTAs (also among the PvdA and VVD's voters), and the electoral gains of deviating from a supportive 'free trade' position would have probably seemed limited. Moreover, the PvdA may have been more inclined to support CETA's opposition, but would have been constrained by its liberal coalition



partner. This constraint would have loosened near the end of the cabinet's four-year term in 2017.

Secondly, the executive may have believed that the Netherlands had important interests at stake in the negotiations. The literature pointed notably at economic, regulatory and foreign policy interests. As I already pointed out in previous chapters, the aggregate **economic** gains from CETA were projected to be very modest, but positive. Considering the small significance of Canada as a trade and investment partner, we might expect policy makers to have had an equally positive yet lukewarm attitude towards CETA. However, the Netherlands perceived itself as being (/was) extremely trade-dependent and policy makers may therefore have had a strong general (non-specific) support for whichever FTA – especially if it was seen as a step towards a deal with the much more significant United States. There were also projected gains for the food industry and agriculture, a much touted 'top-export' of the Netherlands, and in services, less important in its trade profile but a heavy-weight in terms of value-added and employment. Finally, in investment, CETA was one of the first EU deals with an **investment** chapter and investment protection. Considering the global leading position of the Netherlands as a host as well as an emitter of FDI, and its long-standing preference for strong investor-friendly BITs, we may have expected the state to take a special interest in this chapter as well. In terms of **foreign policy** objectives, the geopolitical significance of an FTA with Canada for the Netherlands is unclear. The country was a NATO ally with close ties to the US, so the Dutch may have supported a deal from an Atlanticist reflex, but otherwise the foreign policy rationale was arguably limited. As was emphasized in the theoretical overview, the above depends on the state's **capacity** to investigate and 'know' its interests. The more resources, the more we might expect a member state to investigate its preferences across a trade policy dossiers, and the more we might expect it to intervene with home-grown positions in a variety of (technical) issues. Judging from my analysis of its trade decision making, I would say that the state had sufficient capacity, not only in the ministries but also in supportive analytical institutions such as the central bureau for statistics (CBS), the central planning bureau (CPB) and the semi-private consultancy Ecorys.

Next, a variety of normative and ideological considerations may have played a role. Again, this is *a priori* largely a known-unknown, since there has barely been research about this. However, there have been studies of the general economic paradigm of policy makers, which I discussed in the introductory section. As argued by Keune (2016) and Engelen (2016) a pervasive export-oriented mercantilism dominates the major parties and the executive.

Finally, I highlighted the role of stickiness and 'bureaucratic' choice dynamics. As I indicated above, there are good reasons to expect that politicians as well as the civil service handled CETA on 'autopilot': the strategic and economic weight was in itself very modest but positive, and the state's overall attitude towards FTAs was highly favorable. We might therefore expect that most positions did not derive from new, Canada-specific discussions or analyses, but from the position that the government had held (across the topics being negotiated) in previous talks: a strong investment chapter, support for sustainable development clauses, offensive services opening, rules on animal welfare – all of these are by now 'traditional' elements of the Dutch

position<sup>232</sup>. In relation to the factor of ‘where you stand depend on where you sit’, I noted in the introductory chapter that the reported level of inter-ministerial conflict is normally very low. Moreover, I have no a priori reasons to suspect that foreign affairs had a very different outlook than economics, and as my interviewee argued, the merging of economics’ trade policy units with the ministry of foreign affairs did not lead to any sort of shifting paradigms or bureaucratic interests. All this is somewhat contrary to what I expected based on my literature review, and may be due to tendentious reporting by my interviewees. I therefore remain agnostic on how this played out in CETA.

## Constraints

The next question is whether we would have expected policy makers to have been able to turn whatever preferences they might have had into the Dutch position. Here I believe it makes sense to somewhat insert the descriptive findings from the previous **societal** mechanisms: CSOs’ and public pressure were at first almost totally absent and then stronger from 2014 on. Especially on the debate over ISDS, the critics dominated over the course of 2014 and 2015. However, the supporters of the deal became more vocal in 2016, and even before the pressure was mixed, meaning the societal pressure was at all times divided. This neocorporatist and lobby-friendly state is generally ‘soft’ however, leading me to expect a big *potential* role, i.e. openness to, ‘quiet lobbying’ in the less politicized earlier phases of the negotiations. There was also a boom of attention in the **parliament**, challenging the executive dominance of this issue which was probably pervasive before 2014. Yet, the majority parties had to safeguard their government (and the PvdA its minister), and the parliament’s formal powers to change the Dutch position remained limited. Together, this arguably left plenty of leeway for decision makers to do as they pleased except on a number of highly salient issues (among the public and the parliament)- notably ISDS and the ‘democratic process’ of the talks (transparency of the talks, the role of parliament, the extent of provisional application, ...). On more ‘technical’ economic interests, we should also expect business to have found the state a very willing partner; especially if business’ interests were offensive, we would have expected the state to take them up.

A final element in this section was the amount of **external pressure**. We can expect the Netherlands to have been on the offensive side in many of the controversial issues that arose (negative listing, ISDS, dairy and meat, IPR), but I lack good grounds for expecting external pressures (whether from other member states, the Commission or Canada) on the Netherlands to have been either high or low.

## In summary

Overall, judging from these (artificial) a priori considerations, I think we should expect policy makers to have had a preference, even in the absence of any societal lobbying, in favor of negotiating and concluding an FTA with Canada, and a

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<sup>232</sup> Not just in EU FTAs, where there was of course the newly expanded competence of the EU, but also in the many other trade policy discussions that had been waged in the past fifteen years: the GATS, the WTO, their own BITs, et cetera . Note however that the Netherlands did not have a BIT with Canada, and that the path-dependency in terms of existing investors being affected may have been (seen as) limited; however, since the competence was new, CETA may have been seen as an important precedent towards EU investment chapters with other countries with which there was already a Dutch BIT.

preference for more market opening in the Dutch offensive sectors, notably foodstuffs and services, as well as a clear preference for some normative issues such as sustainable development and animal welfare. In investment, we can expect the state to have had a preference in favor of strong protections.

As usual, these priors are turned into more detailed, step-specific scope conditions in the analysis that follows, in which the empirics from previous steps of this and the other mechanisms is also taken up.

#### 7.4.1.2. Potential evidence

The presence of these various steps can be tested by looking for (*inter alia*) the following pieces of evidence:

**\*Sequence evidence:** the Netherlands taking a stance on issues before receiving any input from stakeholders; lack of change of policymakers' positions even after contact with stakeholders.

**\*Trace evidence:** attempts of policy makers to influence positions/activity of stakeholders; policymakers arguing with stakeholders; policymakers' performing analyses; policymakers debating amongst themselves about aspects of the FTA; policymakers taking a stance on aspects of the FTA; low intensity of contacts with stakeholders; lack of change in positioning over time.

**\*Account evidence:** policymakers/stakeholders attributing the Netherlands' position to policymakers' own analyses/ideology/..., stakeholders claiming they had little influence/access (*in private conversation, an interview, in the press, public statements*).

**\*Pattern evidence:** correlation between contacts and changes in position, previous patterns of (lacking) societal influence on decision makers, deviations from previous patterns in positioning.

#### 7.4.2. Probing the role of decision makers' preferences

##### 7.4.2.1. Did they have a preference? When? Why?

Compared to Belgium, tracing the preferences of decision makers in the Netherlands was a relatively easy assignment because there were no intra-state negotiations. Also, because there was more transparency vis-à-vis the parliament, and because of the WOB-request, I had access to more documentation from before 2014. However, somewhat to my own surprise, it was more difficult to also speak to decision makers at the more 'technical' levels, and impossible to find anyone involved in the deal from before 2014. Moreover, even in the Netherlands there were no public statements about CETA from before 2011. This means that my views about the internal kitchen are more limited, and I have no evidence of decision makers taking any stance on CETA from before 2011, except of course of the TPC guidelines as summarized in the 'outcome' section.

This also means that it makes less sense to organize my discussion of policy makers' preferences in a pre/post-2014 period. Instead I will first discuss the evidence of the ministerial position, for which there is plenty of material post-2011, before moving on

to a discussion of the civil service's stance. As I mentioned above, this should actually be read in addition, as a complement, to the 'outcome' section.

### **a. The ministers**

The first public comments on CETA were made in the parliament, by then secretary of state (of economics) **Bleker**. He argued (in response to a question) that the Netherlands would strongly benefit from an accord with Canada, because Dutch firms would get the same access to the Canadian market as US firms. This would be a great opportunity, especially for services like ICT and transport. However, he also argued that more progress was still necessary in some important sectors, financial and postal and courier services, in which they were asking the Commission to push Canada to go much further (kst-21501-02-1056, 21 April 2011). In 2012, he again reiterated his general support for the deal, and further listed the Dutch economic interests that were at stake in the negotiations: dairy, postal services, financial services and courier services were all offensive interests (kst-21501-02-1159, 15 June 2012). In response to a written question about 'ACTA-like' provisions in CETA, his colleague, minister of foreign affairs Verhagen, furthermore added that IPR was a 'small but important part of FTAs', but that in response to the negative vote (on ACTA) in the EP and a motion (2884) concluded by his parliament, that the cabinet was going to resist the inclusion, in any future deal, of the provisions that the Tweede Kamer had rejected in ACTA (such as the criminal prosecution of IPR infractions) (ah-tk-20122013-13, 18 September 2012).

During the first parliamentary debate on CETA with **Ploumen**, the minister repeated the generally positive assessment of her predecessors, including the position on 'ACTA-like' provisions<sup>233</sup> (**4 January 2013**, kst-21501-02-1208). This remained her discourse throughout 2013 and the beginning of 2014, apart from her developing stance on ISDS in CETA (discussed below), some minor changes in regards to the offensive goals emphasized, explicit support for the treaty's mixity<sup>234</sup>.

One of the few substantive issues in which there was a clear development in the Dutch position was **ISDS**. As was shown, the Netherlands had always been a big supporter of ISDS and had for example also been very accepting of some of its more controversial elements (like letterbox firms making use of it). They had also worked to include this 'golden standard' of Dutch BITs into the EU standard, through their 'friends of investment' coalition'. However, although the Netherlands (and Ploumen) remained in favor of the inclusion of (some kind of) ISDS, they did over the course of 2013 and 2014 start changing position on the specifics.

At the request of her parliament, following increasing (parliamentary and societal) criticism of the system, Ploumen in 2014 ordered a **study of ISDS in TTIP**. However,

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<sup>233</sup> While again arguing that the Netherlands felt that their financial and maritime sector was not sufficiently covered, and that they would be pushing for this in the final stages. On ACTA: Ploumen acknowledged these worries, and vowed that they had successfully resisted all ACTA-like provisions except for the lines on camcording

<sup>234</sup>. In a Letter (**31 mei 2013**) on the final phase of the negotiation, the minister further declared that Netherlands was going to 'again emphasize the importance' of some open agricultural dossiers, that the Canadian market would open up for dredging services, and that certain maritime services would be opened up (kst-21501-02-1262). In **May 2014**, the minister's report of the EU's foreign affairs council (8<sup>th</sup> May) specifies (for the first time, as far as I can tell) that 'many Member States, including the Netherlands, emphasize that they believe CETA is a mixed agreement, and should therefore be signed as well as ratified after its conclusion' (kst-21501-02-1385 (23 mei 2014).

she at first argued that it was improbable that this would spill over to CETA, because she felt that the system in CETA was fine as it was: there were sufficient protections of the right to regulate, of states' right to take non-discriminatory measures in the public interest, and against frivolous claims. There was also no way for (American) letter-box companies to make use of the system. Although they still needed to further study ISDS in CETA on the basis of the definitive texts, *'as far as she could judge at that moment, [CETA's ISDS] confirmed to her standards and that of the parliament'* (kst-21501-02-1398, 24 April 2014).

The last quote shows that Ploumen was **leaving space for changes**. This was also clear from comments she made in the Council a month later (at least according to her preparations disclosed by the WOB): *'the TTIP consultation on ISDS leads to the conclusion that the ISDS chapter in CETA is currently being evaluated as a potential blueprint for TTIP. It is politically and for a broader public difficult to argue that we endorse CETA including ISDS the coming months, when this evaluation has not been concluded. I would like to hear Commission's views on this'* (WOB - Nummer 7, May 2014).

Eventually, after the report was published, by September 2014, she argued that the criticisms and proposals for improvements raised by the study (which the minister largely supported) **would have to be addressed in CETA** as well (kst-21501-02-1419, 10 september 2014). This was also the position she then defended in the Council in November 2014: the outcome of the public consultation on ISDS in TTIP had to be taken up in CETA; ISDS in CETA offered an opportunity to also introduce a *'high-end and balanced standard of investment protection'* for other deals, like TTIP (WOB - Nummer 8, 5 November 2014). Later, she repeated that she intended to include the improved model of ISDS in all future investment treaties; she argued that Commissioner Malmström was *'well aware'* that the Netherlands, along with some other countries, wanted to include a *'new and improved version of the dead and buried ISDS'* in CETA. The new system reflected all the worries raised in the TK: *'transparency, the appointment of judges, conflicts of interest'*, all of which concerns that Ploumen *'fully agreed with'* (kst-21501-02-1551, 7 October 2015).

This positional turn was spelled out in the **'CETA and Beyond'** text published in March 2015 by the Netherlands and six other states. The document took note of the *'intensive public debate'* related to ISDS, but also of *'recent cases [that] have raised genuine and strong concerns that ISDS carries the risk of abusive claims [...]'*. As I outlined in the Dutch outcome, *'Beyond'* called for some modifications of the system, along the lines of Ploumens remarks cited above: (i) *'a clearer protection of the right to regulate'*<sup>235</sup>, (ii) *'a carve-out of bank resolutions'*<sup>236</sup>, (iii) *'the introduction of an appeal mechanism'*<sup>237</sup>, (iv) *'the creation of a new mechanism with a permanent secretariat'* (a *'trade and investment court'*), (v) *'stronger protection against frivolous claims'*, (vi) *equal access for SMEs*, and (vii) *"fork in the road" and "no U-turn clauses"*<sup>238</sup>.

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<sup>235</sup> *'[B]y way of a 'clarification of "fair and equitable treatment" and "legitimate expectations" of investors.'*

<sup>236</sup> *'[S]tates shall be able to restructure and reschedule sovereign debts with no exposure to investment protection proceedings'*

<sup>237</sup> *'[W]hich has the potential to rectify some of the legitimate concerns that arbitral tribunals are facing'*

<sup>238</sup> *'Investment protection shall not allow for national court decisions to be challenged by arbitral mechanisms. Arbitral mechanisms shall not be allowed to act de facto as a "Supreme Court", overturning national court decision. We therefore strongly favour to introduce a clause making it mandatory to choose between arbitration and local remedies'*

These alterations **did not mean that Ploumen was no longer supporting the inclusion of investor-state dispute settlement**<sup>239</sup>. In the 2014 letter in which she presented the ISDS study to the parliament, she noted that: (i) some form of ISDS was important for Dutch firms, among the top in global senders of FDI, because in investing abroad they took significant financial risks, and because having protections like ISDS made Dutch investors more proactive, thereby also leading to growth and employment at home. She also '*noted*' that most parties in the Tweede Kamer did not dispute the necessity of some form of ISDS (as such), but that there were worries over its current form. In October 2016<sup>240</sup>, she further clarified why investor-state dispute settlement was also necessary with well-ordered OECD countries like Canada: although she trusted the Canadian justice system, including it was important because it was '*all or nothing*' – they wanted to include the system in future deals with countries whose legal order was less pristine, and it therefore needed to be included in Canada as well (kst-21501-02-1673, 14 September 2016). In a preparatory Q&A document, she added that, on **investor-state dispute settlement, the Netherlands should rest easy**: it had had BITs with partner countries of Canada for a long time, and had never been the target of litigation by any of these countries' firms' Canadian affiliates. Since ICS in CETA included a clear 'right to regulate', and was more clearly restricted to firms with actual economic activity in Canada, there was no need to worry (WOB - 8. Memo-Schoon\_redacted).

Apart from this, there was not that much change in the Dutch position after 2016, apart from a number of issues related to sustainable development and some procedural aspects; generally, however, Ploumen defended what had been agreed in 2014. I will discuss these further elements below.

In **November 2014**, at the request of the parliament (kst-21501-02-1420 , 1 October 2014), the minister published a detailed evaluation of the **outcome of the negotiations**. A comparison with a Q&A prepared for a parliamentary debate in 2016 (in addition to the transcript of this debate), shows that on purely commercial areas, the position of the minister remained largely unchanged.

**In general**, the government believed that the outcome was a '*balanced agreement that would greatly benefit the Netherlands, one of the most open trading countries in the EU*' (kst-31985-23, 17 November 2014). Commercially the deal was good for a series of offensive interests while defensive interests in agriculture were only modestly affected. CETA moreover offered protection, enforcement and the further development of important norms and values: sustainability, environmental norms, labor and human rights, food security and animal welfare (WOB - 8. Memo-Schoon\_redacted, 6 September 2016).

First of all, the minister noted that there were considerable gains for the **Dutch maritime sector**, notable in dredging and feeding services (transferring goods from big ships to smaller ships). Gains were also supposed to be '*relatively strong*' for the financial sector. Secondly, the government believed that CETA deal was a 'balanced

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<sup>239</sup> In the CETA and Beyond paper it also reads that '*It is necessary to take action to address concerns in the EU, but also to promote a modern and effective investment policy that allows the EU to grant a high level of protection for our investors abroad*', my emphasis. Source: '*brief regering; Aanbieding geannoteerde agenda Raad Buitenlandse Zaken over handel op 25 maart 2015*', pp.1-3.

<sup>240</sup> And probably some other time, sooner, but this is the paper source I tracked down.

deal' when it came to **agriculture**: almost all agricultural tariffs would be eliminated, but special attention (*'balanced quota's'*) had been given to *'sensitive sectors'* like meat and dairy products. There were also big gains for offensive interests in dairy. Especially important was the continuation of the EU's ban on hormone-treated meats and GMOs. She was also pleased that the parties had promised to cooperate intensively in regards to animal welfare. Dutch agriculture would furthermore benefit from two **geographical indicators**, protecting the cheeses Edam Holland en Gouda Holland<sup>241</sup>. Thirdly, the deal was 'unprecedented' when it came to government **procurement**, with Canada opening up at the national, regional and local level. Dutch firms would in particular profit from procurement related to docks and airports. Finally, the Netherlands pleaded for and was pleased with the removal of (**'ACTA-like'**) **clauses** that wished to enforce intellectual property rights by threat of criminal punishment (kst-31985-23 (17 November 2014)). In 2016 she further added some of the benefits of **regulatory cooperation** (less testing costs, especially for SMEs), that Dutch employees (engineers, architects) would be able to work in Canada more easily, and that CETA offered a high rate of **IPR**, *'invaluable for one of the top-5 innovative countries'*. **All in all**, cheaper, more sustainable production for consumers and firms and a better competitive position visa-a-vis India and China would be the overall result (WOB - 8. Memo-Schoon\_redacted, 6 September 2016).

In contrast to 2014, the 2016 Q&A also included a long list of **rebuttals to potential criticisms** of the deal and the interpretative declaration, especially in regards to the right to regulate, the dangers for public services and the democratic nature of the deal.

(i) On the **precautionary principle**, she argued that this was protected by the deal, CETA would not hinder the EU's application of the principle. In the interpretative declaration, this was further clarified by again confirming the right to regulate of states. (ii) In relation to **public services**, CETA did not force any privatization, and states reserved the possibility to deem private services public. She wanted to maintain the possibility for more public control, and this was provided by CETA. (iii) She dismissed the possibility of a normative **race to the bottom** because of the lowered tariffs, in fact she believed the deal had the potential to lead to a 'race to the top'<sup>242</sup> (iv) The **interpretative declaration** reflected the Dutch position very well, by clarifying that CETA did not affect governments' say over public service, by confirming the checks on investment protection, a statement on the protection of (e.g.) standards of environment and health, a promise to strengthen the sustainable development chapter in the future. Although it did not alter the treaty, it did offer clear, unambiguous and legally binding clarifications. (v) She defended **ICS** as

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<sup>241</sup> In 2016 she was a little more specific on the widespread benefits versus narrow costs for agriculture: the dairy sector would benefit by doubled quotas and zeroed tariffs, Gouda Holland and Edam Holland would be protected; horticulture (e.g. flowers) would also benefit, as would processed foods. Some sensitive sectors were excluded: chickens, eggs, egg products, while the quotas in meat would be slowly increased over several years, and would only include non-hormone treated meat. She also noted that, according to the Commission's impact assessment, only about 0,07% of employment in these sectors stood to be lost if the market was opened as projected (WOB - 8. Memo-Schoon\_redacted, 6 September 2016).

<sup>242</sup> According to the minister, CETA offered the *'opportunity'* to discuss production rules, like animal welfare, while getting the benefits from an open economy instead of closing off and rusting away by reverting to protectionism. She would think it was highly unwanted if Canada were to lead to **lower rules** because of increased competition, and she believed that CETA had enough safeguards to prevent this from happening. There were non-binding procedures included to lead to a race to the top, and national or EU policy (e.g. in food safety, environmental standards, labor and human rights) would still just continue to be in force.

discussed above (WOB - 8. Memo-Schoon\_redacted). Taking all of these elements into account, Ploumen argued that CETA was therefore **also compliant with the SER's seven criteria**<sup>243</sup>.

These were the positions communicated publicly. As I will show below, sometimes these were the result of public or parliamentary pressures (manifest or anticipated). I was unable to uncover much about the early process surrounding the deal, I know very little of the preferences held internally, except that the preferences for offensive market opening in services and agriculture, a strong investment protection chapter and strong IPR were clearly not CETA-specific, but were part of the general stance of Dutch trade policy. I demonstrate this in the next section.

Although it's not central to the mechanism, I should also note here that it's not always clear where the civil service ends and the minister begins. For a clear illustration of this, see the WOB documents that spell out the minister's position. Even though the documents take her notes and previous positions into account, and the fact that there was obviously lots of direct coordination between the minister and her civil service, she remained dependent on her staff to provide her with the needed information and summaries –especially (we can suspect) when the debate became increasingly technical.

### ***b. Civil service***

According to the NGOs (and a journalist following TTIP/CETA), the **civil service**, as they 'experienced' it throughout their campaign and in consultations, was unified in its firm support of the FTAs, including controversial aspects such as ISDS (Interview - Follow the Money, 2017; Interview - Foodwatch, 2017; Interview - TNI 1, 2017). This impression is supported by interviews with the ministry and a variety of other sources.

First of all, it was apparent from their views of the public and parliamentary debates. Although they believed some of the societal worries that emerged in the critiques of TTIP and CETA were genuine and legitimate, and 'had to be taken away', sources from the ministry were generally unhappy with the way the debate was conducted and with the arguments used by both the CSOs and their allies in the parliament (Interview - Head of IMH, 2017). They felt that several NGO's often bent the truth, and even the trade union was seen as leaning on unfair and untruthful arguments (notably that TTIP 'would be giving us all cancer' by evading REACH). They were especially vexed by the CSOs' claim that the FTAs would allow for the imports of chlorine chicken and hormone beef, claims [they] believed they had parried quite rapidly - only to then see the critiques move to investment arbitration, which was portrayed as a shadowy sort of secret tribunals only accessible to firms. Finally, in their numerous debates with the 'small circle of critics', they felt like these people were not at all prepared to have a genuine debate; they had dug in their heels and

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<sup>243</sup> She believed this was the case because: (i) there was a reservation for public services, (ii) Canada and the EU were clearly committed to cooperating on labor and human rights, animal welfare and the environment, (iii) nothing in CETA forced the EU to lower its standards on food safety or the environment, the right to regulate was encapsulated in several parts of the deal, (iv) regulatory cooperation was voluntary, (v) the revised chapter on investment protection safeguarded governmental policy space and the right to regulate in the public interest. The minister concluded that CETA was in alignment with the advice (kst-21501-02-1653, 7 Sept 2016).



were far from willing to consider opposing arguments (Interview - Head of IMH, 2017).

The same discourse can be found in their internal memos, made public after a WOB request. In September 2016 the IMH sent minister Ploumen its evaluation of an article on CETA that had been published in Social Europe Journal, by Stanley Hoffman. The IMH wrote that Hoffman *'is right to emphasize the importance of trade'*, and was correct in his assessment that *'protectionism is not the solution [for worries about fair globalization], but that globalization should be more social and environmentally friendly'*, but they also believed Hoffman was mistaken on certain points, and here *'often reproduces the same mistakes made in the societal debate'* (WOB - 9. Memo-Schoon\_Redacted)<sup>244</sup>.

The trade department's chief's own assessment of the origin of, and the public susceptibility to, the critiques against the FTAs was mistrust of the American consumer (and food) culture, mistrust and fear of the antagonistic American legal tradition, and a general anti-Americanism that turned out to be far more prevalent than they or the Commission had anticipated. In his opinion, this played an important role in the opposition not just against TTIP, but also against CETA. When the debate shifted focus towards CETA, instead of attacking Canada (or Canadian norms, standards, etc) CETA's critics attacked the FTA by linking it with TTIP and the US: CETA would just be *'TTIP through the backdoor'*, *'TTIP's little brother'*, would allow American firms to use Canadian affiliates as a launching pad for investment disputes against the EU (Interview - Head of IMH, 2017). So, as they saw it, anti-Americanism remained the cornerstone of the CSOs' campaign (Interview - Head of IMH, 2017).

A similarly bleak evaluation was offered by the debates in the **Tweede Kamer**, which were believed to have been of low quality, and focused on *'scoring political points'* rather than the substance of the deal. They were also very annoyed with some MP's support for a referendum, they saw this as a way of dodging their own responsibility to study the texts, of their responsibility to arrive at their own substantive evaluation (Interview - Head of IMH, 2017). Just like the CSOs, the parliament's attention span was criticized for being focused very narrowly on CETA and especially TTIP: there were barely questions about EU-Japan or EU-Vietnam (Interview - MFA, 2017)

They were somewhat more understanding of the most vocal critics from the **business/agricultural side**, the pig farmers, since they could see how added imports would further endanger this already embattled sector. But they remained just as critical of their rhetoric, which spread unfounded fears about being *'flooded'* by Canadian pigs and hormones. They felt it was very difficult to defend themselves against such claims, since these reduced the debate to *'our word against theirs'* (Interview - Head of IMH, 2017).

Some of the documents I present in the following sections further illustrate this preference: the ministry participated in debates, published opinion pieces, et cetera, thereby at least seemingly demonstrating a preference for signing and ratifying the treaty. Apart from this general support for free trade and the FTAs, and their clear

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<sup>244</sup> They disagreed in particular with his claim that the judges in the ICS system wouldn't be independent, with his demand that public services be wholly excluded from ISDS/ICS<sup>244</sup>, and with his *'[incorrect] claim that public services are at risk [because of negative listing]'*.

disagreement with much of the arguments used by the CETA's opponents, parts of the civil service also appear to have held **strong preferences for certain more specific sections** of the agreement.

In particular, there seems to be convincing evidence that the Dutch TPC members were, during the years in which an investment chapter was being added to CETA, being led by a strong supporter, **Nikolas Lavranos**, of a very investment-friendly system of investment arbitration, which was very skeptical if not hostile to the criticisms and reform proposals of the NGOs, and of the calls (from the NGOs but also the EP and several member states) to create a special, less protective regime for the financial industry. Between 2010 and 2014, Lavranos, a professor specialized in international arbitration and investment law, was policy advisor for the ministry of economics and later foreign affairs between, and as such was responsible for the negotiation of BITS while also serving as the Chief Negotiator for the Netherlands in the TPC. As reported by Corporate Europe Observatory, he favored 'investor-friendly' investment treaties, and was critical of the attempts to reform the investment treaty system. As can be seen in footage of an arbitration conference (in 2012) he presented himself as a 'policy maker, or rather a policy defender' and, apparently believing he *was 'able to speak under Chatham House rules, which may allow me to say a little bit more than otherwise possible'*, as **very critical of the role of the EP and the NGOs in influencing the EU's approach to investment treaties**: "*[we will need to] navigate maximal investor protection [while also] giving something to the EP and the NGOs, because this seems to be the main purpose of the EP and to some extent the Commission: to please the biased calls, and the biased criticism [...] we will have a much more narrow definition of investor, we will maybe have a carve out of financial services, and we will maybe have a minimum standard, [...a] specific article on indirect expropriation [...a] more explicit definition of regulatory space.[...] what we have seen here, at this moment, is that because of other policy influences from the NGOs, from the EP, we're narrowing down and leveling down our investor protection.*" During his time there, the Netherlands defended its own system as a 'gold standard' in the TPC meetings and rejected deviations for the financial sector. The Dutch proposals leading to ICS only came after he left the ministry, in July 2014, to co-found the 'European Federation for Investment Law and Arbitration' - a lobby group in favor of stronger investors' protection<sup>245</sup>.

And finally, of course in principle, **all positions taken by the Netherlands are essentially positions taken by the policy makers**, and therefore to some extent prima facie evidence of their own 'preference' - especially when there is no strong indication that these positions were audibly called for by businesses or CSOs. There may be a variety of reasons why civil servants may take the initiative even in more 'technical' areas like government procurement, dairy quota's or investor-state arbitration. The 'autonomy' of these positions is further investigated in the following section.

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<sup>245</sup> When he was hired, Global Investment Protection cheered that '*[with] Nikos Lavranos in our team we can offer investors hands-on knowledge on how to defend [investor assets] against destructive government interventions.*' Source: <http://www.globalinvestmentprotection.com/2014/09/11/nikos-lavranos-joins-global-investment-protection-as-head-of-legal-affairs/>.

See also <http://www.globalinvestmentprotection.com/2014/09/11/nikos-lavranos-joins-global-investment-protection-as-head-of-legal-affairs/>. Lavranos' strong personal preference (and his antagonistic way of conducting negotiations), were also confirmed by Belgian sources (Interview - FOD Economie (1), 2017).

## In summary

Policy-makers did voice a number of clear preferences. An overview is included a table at the end of this chapter. In the next section, I investigate to what extent there were non-societal sources for these positions.

### 7.4.2.2. Autonomous preferences?

Before moving on to more specific sources of decision maker's positioning, it is worth underlining once more the fundamentally positive and proactive attitude of successive Dutch governments towards free trade. The people in charge of CETA were no exception.

This was evident, for example, for **ministers' remarks** made in the Tweede Kamer. In 2011 state secretary **Bleker** stated it as a *'profession of faith'*: *'I think that the Netherlands and the world benefit tremendously from fair free trade'* (kst-21501-02-1062). His executive colleague Verhagen, minister of economics between 2007 and 2010, and of foreign affairs between 2010 and 2012, argued in 2012 that *'[f]ree trade agreements are of great importance for economic recovery and growth, for the EU and particularly for the Netherlands'* (ah-tk-20122013-13 18 Septembers 2012). Similarly, in Ploumen's first appearance before the committee on foreign affairs, she argued that she *'does not have to point out the importance of trade for the Dutch economy. Foreign trade equals domestic jobs. This how we'll be making a large part of our money in coming years'* (kst-21501-02-1208, 27 November 2012)<sup>246</sup>. Although the vision she laid out of free trade in an article in 2016 (and many of her comments, see also the previous section) was quite nuanced (rule-led free trade, with special transition periods for developing countries or vulnerable sectors), here too she added that it was particularly pressing for policy makers to regain trust in free and fair trade. FTAs needed to be of assistance here, by focusing not just on growth but also on redistribution and the effects on environment and climate (Ploumen, 2016).

Judging from my interviews with current and former staff members, this was **also true of the civil service**. The departments working on trade have long been supportive of further liberalization, and see this as a central interest of the Dutch economy (Interview - AD-Unit NLD (retired), 2017; Interview - Head of IMH, 2017; Interview - MFA, 2017). As the IMH's chief remarked: they couldn't/wouldn't have just *'swept aside their fundamentally positive attitude towards trade'*, since the latter has always been such an important part of their economy; *'the whole of Amsterdam is built on trade'* (Interview - Head of IMH, 2017). In a screening of the **department of trade politics in 2007**<sup>247</sup>, the department stated its main goal very clearly: *'further opening international trade and investment flows, and strengthening the international economic rule of law'*. The *'cause'* of the *'problem'* that needed solving was also crisp: *'the protectionist attitude of governments has led to a closure of borders for trade flows'*<sup>248</sup>. The department emphasized the importance of lowering trade barriers, as was *'supported by analyses from OECD, IMF and the WorldBank'*. Over time, free trade

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<sup>246</sup> See also in 2016: *'The Netherlands is an open economy. 2.2 million Dutch jobs are there thanks to international trade. Trade agreements are important if we want to keep these jobs.'* (kst-21501-02-1673, 14 September 2016).

<sup>247</sup> With the purpose of investigating the goals, instruments and effectiveness of this service

<sup>248</sup> EINDRAPPORT BELEIDSDOORLICHTING HANDELSPOLITIEK - Projectgroep Beleidsdoorlichting Handelspolitiek - November 2007 - <http://www.rijksbegroting.nl/binaries/pdfs/beleidsdoorlichtingen/ez-handelspolitiek.pdf>

would lead to *'a more efficient international division of labor and therefore productivity increases and economic growth'*.

Although this generic support for (fair) free trade in itself does not help us understand the Dutch position in all its specificity, it seems clear that this fundamental attitude permeated all of the other sources discussed below.

### **a. Declarations, policy notes and analyses**

The first set of documents that I have sifted are the government declarations and the policy-notes drafted by the ministers in charge of foreign trade policy – in search for sections related to either Canada or specific sectors (e.g. agriculture, IPR, services, investment ...), i.e. elements that might help us understand the building blocks of the Dutch position in CETA.

We see very little attention to trade in the 2007 **government declaration** of CDA, the PvdA and ChristenUnie. A single line offered support for further liberalization (in the WTO), also in agriculture<sup>249</sup>. There were more details in a later document (June 2009), the **'cabinet's vision on trade policy'**, cosigned by minister of foreign affairs Verhagen and state secretary of economics Heemskerk. The text argued that *'in a globalised world, and certainly in times of financial and economic crisis, sustaining and strengthening the multilateral trade system, and combatting protectionism are in themselves a strategic foreign policy interest. All the more for an open economy like the Netherlands, which is dependent on foreign trade for over 50%'* (p. 4). The rest of the document mostly focused on the political aspects of various trade instruments: sustainability, human rights, ... , with a focus on relations with emerging and developing economies (notably China and India) (kst132502). That same year, there was also a declaration on **'Non-Trade Concerns and Trade Policy'**, which again looked at things like animal welfare, labor rights, development goals and other non-commercial dimensions of trade policy, and set out the cabinet's vision. On FTAs, the Netherlands supported the Commission's effort to include a chapter on sustainable development, with a focus on cooperation and positive, supportive measures. On social clauses, the Netherlands supported a sanctioning mechanism and a role for the ILO, again supporting the Commission's initiatives here. Apart from a 'political dialogue', the suspension of the FTA was considered a potential last resort<sup>250</sup>.

There was no attention at all for trade in the government declaration of PVV, Cda and VVD. The agreement of **VVD and CDA in 2010**, however, does spend some time discussing the matter. The text put a strong emphasis on improving competitiveness, and the dependency of Dutch economy on trade is highlighted. Most attention is spent on (the export potential of) agriculture and agrofoods, but there is also a bit of text on the necessity of investments<sup>251</sup>. Finally, animal welfare is briefly mentioned as a specific point of interest for the cabinet's EU-oriented politics. Again this government also published a **trade policy declaration** (in 2011), co-signed by minister of foreign affairs Verhagen and state secretary Bleker<sup>252</sup>. They again strongly

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<sup>249</sup> 'Samen Werken, Samen Leven'. Coalitieakkoord tussen de Tweede Kamerfracties van CDA, PvdA en ChristenUnie. 7 February 2009

<sup>250</sup> <https://www.rijksoverheid.nl/documenten/kamerstukken/2009/05/07/kabinetsvisie-non-trade-concerns-en-handelsbeleid>

<sup>251</sup> Although there is no mention of investment treaties.

<sup>252</sup> 'Buitenlandse Markten, Nederlandse Kansen', 24 June 2011

accentuated the huge importance of trade for the Netherlands, historically as well as in exporting its way out of the 2009 crisis<sup>253</sup>. One of the four main goals stated by their ministry was '*freeing trade and investment flows*'; via the multilateral level, but also complemented with FTAs that could go beyond the WTO, for example on NTBs, IPR, investment, services, government procurement and sustainability.

Finally, **in the 2012 declaration** (VVD, PvdA) the same hurrahs for trade return, '*out of interest as well of conviction*': Dutch firms had a big stake in foreign economic relations which needed to be protected; safeguarding the international economic legal order was part of this. Minister for trade and development Ploumen then in 2013 published her own policy note, called '**What the world deserves**'<sup>254</sup>, in which she (inter alia) argued that extra-EU trade and investment relations (especially with emerging economies) had become ever more important as the EU's projected growth remained weak. She supported the bilateral trade agenda, mentioning almost every ongoing negotiation (from Brazil to Vietnam, but in particular TTIP and Japan) except for CETA. However, in a (long) list of countries on which the cabinet was going to focus its trade and investment efforts, Canada was included<sup>255</sup>. Like her predecessors, she underscored the importance of FDI, and the necessity of protecting Dutch investors abroad. The Netherlands was '*one of the biggest investors worldwide*', in part because of the web of almost a hundred BITs it had spun. She would continue to strive for a high level of protection in the EU's new BITs, but also for the inclusion of a sustainability in the investment chapters.

In sum, the attitude to trade and investment of successive Dutch governments and ministers has been free-trade oriented and offensive. However, between 2007 and 2013 **not one of these documents mentioned CETA**, nor was there any discussion of commercial relations with Canada. These documents were also quite sparse in regards to specific sectoral opportunities and threats. Services and agrofoods were occasionally foregrounded, as well as a set of non-commercial elements including sustainable development (social, environmental) and animal welfare .

What were the **other sources** for the Dutch position? Were there any other analyses performed?

First of all, note that the Dutch government was, even in the absence of any of its own economic analyses, presented with choices over which sectors to favor *because of* societal lobbying. According to a source from the ministry, there were conflicting calls from the dairy and meat sectors, but also in a number of industrial branches where there were (less openly debated) opposite interests in importing and exporting firms. Although they usually tried to take up all interests in their position, conflicts like this sometimes made it necessary to cut the knot at the ministry. This decision would in part be based on whether it was possible to come to European coalitions on this issue, if other member states supported such a stance. But they would also judge

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<sup>253</sup> They claim that global trade opening had since the 1970s boosted Dutch households' income by on average 1400€ annually, but they still saw room for improvement. They offer lots of praise for the role of exporting firms in the Dutch economy, as well as for importers and investors; studies show that these are big, highly productive employers and producers.

<sup>254</sup> 'Wat de wereld verdient: Een nieuwe agenda voor hulp, handel en investeringen' (kst-33625-1, 5 April 2013).

<sup>255</sup> They were going to 'focus' on Australia, Belgium, Brazil, Canada, China, Colombia, Germany, France, the Gulf, India, Iraq, Japan, Malaysia, Mexico, Nigeria, Ukraine, Poland, Romania, Russia, Singapore, Turkey, Vietnam, the UK, the US, South-Africa and South-Korea.

whether specific interests were in the interest of the Netherlands as a whole (Interview - MFA, 2017)<sup>256</sup>. This was most clearly the case in agriculture. Ploumen also made such remarks in the parliament, in the context of the potential losses for some agricultural sectors because of CETA: *'The Dutch government thinks that trade agreements can only be closed if everyone is heard and if the interests of all parties are weighed. This does not mean that we can only conclude agreements only if [every one of those parties] also gains. You also need to [cut knots]'* (kst-21501-02-1673, 14 September 2016).

In response to an interview question wondering where the Dutch positions (in dredging, services, etc) came from if not from business lobbying, the head of the IMH claimed that these standpoints largely came from civil servants *'looking out the window and thinking'* about the Netherlands' economic interests, based on analyses, reports and conversations. Their defense of a sector like dredging was the unsurprising result of such analyses, since *'they are world leaders here'*. They didn't need firms' lobbying to tell them this (Interview - Head of IMH, 2017). This position was echoed by an interviewee from the ministry: the sources for the Dutch position included economic research ordered from other agencies, their own analyses of country-specific trade barriers, and consultations with stakeholders. Often these sources were nicely complementary, with firms *'confirming the ministries' findings'* (Interview - MFA, 2017).

These remarks were made about FTAs in general, however, and it has remained unclear to me to what extent there were many analyses of the Dutch stake in CETA; interview requests about this subject were rejected by the ministry of economics. Ploumen herself seems to have quoted mostly from the **Commission's impact assessments**. Late in 2016, a written parliamentary question asked Ploumen whether she had charted the financial effects of CETA for various affected sectors. Her response was that the Commission had conducted an impact assessment, just like it did before every deal, and that based on this the cabinet had expected CETA to yield a positive effect for the Netherlands. On the face of it, this was also the impact assessment to which state secretary Bleker referred to in 2011, when he told the parliament that he had seen *'very pretty'* numbers about the expected gains from CETA<sup>257</sup>. However, the Commission's studies were not member state-specific.

Going through the publications of the **Central Bureau of Statistics (CBS)** and the **Central Planning Bureau (CPB)**, which performed many studies about the Dutch economy and its interests in trade and investment, I was not able to track down any other CETA-specific studies, nor is the deal or Canada discussed in any public, trade-related reports. The CBS does not mention CETA in any of the 'international trade monitors' it published between 2008 and 2016, while Canada is at most mentioned once or twice in a table. There is also no mention of Canada (except in tables, graphs) in any of the more specific and technical studies that the CPB performed on a variety

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<sup>256</sup> Even if a specific firm would clearly gain from them. For example in TTIP, some Dutch firms had an establishment in the US, which meant that they supported tariff barriers since these gave them a competitive advantage over exporting firms without such a local presence. But even though specific firms would gain from such a position, this was not something the Dutch government had to concern itself with (Interview - MFA, 2017).

<sup>257</sup> He didn't want to share them with the parliament however, in a somewhat amusing (lack of) exchange: *'Ik heb de cijfers voor mij, cijfers die ik gisteren in het vooroverleg heb besproken. Men zei mij toen namelijk: het heil komt uiteindelijk van vrijhandel; kijk maar naar de getallen. Mijn reactie daarop was: dat soort exacte cijfers zegt niet alles, want er is meer in de wereld dan dat. Ik zal die getallen dus niet noemen, maar ik kan de leden wel zeggen: het zijn mooie bedragen'* (Bleker, 2011, kst-21501-02-1062).

of trade policy issues between 2007 and 2016. While the CPB did do studies of the potential effects of TTIP and Brexit on the Dutch economy, these two analyses seem to have been quite exceptional as well. CETA is (only) mentioned in the CPB's analysis of TTIP, but just in the margin<sup>258</sup>. However, perhaps some of the non-CETA specific studies that the CBS and CPB did were used to deduce Dutch interests in the negotiations with Canada. See for example some of the studies that I used to write the introductory chapter on the Dutch interests in trade and investment. Clearly, these studies have offered continuous analytical support for the pro-trade and pro-investment (and investment protection) positions of the Dutch government. However, some of the Netherlands 'traditional' interests, like dredging, were never mentioned in any of these dossiers, so this again raises question about their specificity and their usefulness during rather detailed trade negotiations.

The WOB's memo's do show that the IMH and economics were producing more limited (legal) analyses of a number of specific questions. For example, during the debates on provisional application in the summer of 2016, the IMH mulled over which sections were to be excluded from provisional application. It weighed several options, leaning in part on a legal analysis of EU/member state competences, in part on the anticipated effects for investors (it was not in favor of taking out portfolio investment because this would lead to legal uncertainty for investors) (WOB - 8. Memo-Schoon\_redacted, 26 August 2016). There were similar references to technical notes on **tar sands** (WOB - 26. Memo-Schoon\_redacted, 4 November 2013) and **IPR enforcement** (the 'ACTA-like' provisions) (WOB - 27. Memo-Schoon\_redacted).

The clearest link between a positional shift during the negotiations and analytical work was related to **investor state dispute settlement**. As was discussed before, in 2013, Ploumen had been asked by parliament to investigate the '*potential social and environmental consequences of ISDS for the Netherlands, and the financial risks for the government*'. A study was ordered with a German and a Dutch university and with Ecorys: 'The Impact of Investor-State- Dispute Settlement in the Transatlantic Trade and Investment Partnership'.

According to the minister, in the ministerial letter that accompanied the report, this 140 page report influenced her position on ISDS; in particular, the minister drew conclusions in regards to (i) the problems of the current proposal<sup>259</sup> and (ii) a number of solutions, and she discussed why and in what ways there was room for reform of ISDS<sup>260</sup>. These proposals would later turn up in the 'ISDS CETA and Beyond'

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<sup>258</sup> I double- checked by downloading all documents related to international trade that seemed (vaguely) relevant based on the title, between 2007 and 2016, from the CPB and CBS publications page, and then performing a PDF search for the keywords CETA and Canada.

<sup>259</sup> The researchers concluded that there was no proof of an 'American claims culture', and judged that the risk of 'regulatory chill' was already very small but could be further reduced if some of their proposals were taken up. They also estimated that the financial risks for the Netherlands of including ISDS in TTIP were small. If some of the highlighted risks were mitigated, the researchers concluded that the benefits of including ISDS in TTIP outweighed the downsides.

<sup>260</sup> (1) The researchers argued that an '**exhaustion of local remedies**' clause, forcing investors to first go through the national court system, would actually form another way of appeal and would raise costs for the states as well as the investor. The minister shared this analysis and therefore did not support such a clause. (2) She did however support their proposal to include a '**fork in the road**' clause, which stipulates that investors have to choose whether they want to make use of the national courts or ISDS. (3) She supported strengthening the scope for weeding out spurious claims. (4) She supported including pre-tribunal mediation between the investor and the state. (5) She agreed with the researchers' analysis on letter-box firms and believed that it would be sensible to include a clause limiting access to ISDS to firms that have 'substantial economy activity' in the receiving country.

communication, as discussed above, which in regards to some elements was definitely a deviation from the Dutch position up till then.

Although it seems quite likely that there were internal analyses of the Dutch interests in Canada (at least of the macro-level kind produced in Belgium, see 10.4.2.2.b., which for some reason were not included and never referred to in the WOB files, I also believe that I'm justified in concluding that the analytical vigor invested in CETA was modest. And yet, the Netherlands did take up detailed, sector-specific positions in the TPC – as shown in the 'outcome'. Where did these preferences derive from? Inspired by my theoretical section, I would like to point out some other potential, non-societal sources.

### **b. Stickiness**

According to a source from the ministry of foreign affairs, since the Dutch economic interest is not very volatile, **a few positions/demands have become almost 'standard'**: in government procurement, agriculture, dredging, and the wider maritime sector, the Netherlands has very specific interest, which means these will be taken up, almost as a matter of course, in most trade negotiations – even if they will still need to investigate the specific barriers for each prospective FTA-partner (Interview - MFA, 2017).

This is illustrated by the letter related to dredging that was also mentioned in the previous mechanism. In December 2011, an e-mail (**WOB - Document 36**) from **economics** (DG International Relations) was sent to a representative of the dredging sector<sup>261</sup>. In this mail, the person from economics' presented herself as *'the person representing the Dutch interests in EU deals currently being negotiated with Singapore, Canada and Malaysia'*, and inquired whether there were any specific points she could bring up in the negotiations, any specific barriers to trade the sector would like to see tackled. She also offered to talk in person. In their reply, the dredgers agreed to meet, while also pointing the negotiator towards Canada's 'Coasting Trade Act', which they believed was hindering their operations there and which they believed was potentially WTO incompatible<sup>262</sup>. This seems to confirm that the government was already prepared to defend the dredgers' interest, and that consultations (for which they took the initiative) were only needed to fill in the specifics<sup>263</sup>.

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(6) Prudential exception: the minister supported the need for exceptions that allow for (non-discriminatory and proportional) the nationalization of banks with foreign owners during a crisis. (7) As the researchers note, ISDS definitions can be very vague or very specific; the minister supported a closer definition to reduce the room for interpretation. (8) She followed the researching in supporting an umbrella clause and (9) in limiting ISDS to post-establishment. (10) Although the researchers point out that ISDS disputes about government laws have always been won by the states, she still acknowledged the (societal) worries related to the Vattenfall case in Germany and the Philip Morris case in Australia. She would therefore support texts that offer sufficient policy space. (11) She supported increased transparency of the tribunals and (12) creating the opportunity for states to correct unwanted interpretations by the tribunals. (13) She followed the researchers in adding a 'code of conduct' and in creating a list of independent arbiters, remove the appearance of conflicts of interest. (14) Finally, she agreed with the report that a professional body for dispute settlement judges would be a useful addition (kst-21501-02-1397, 25 June 2014).

<sup>261</sup> It's unclear who, but since the letter discussed 'members' this person was probably from a sectoral organization.

<sup>262</sup> No further info is included, but it seems reasonable to assume they met somewhere in the beginning of 2012.

<sup>263</sup> The TPC guidelines explicitly start including dredging as a Dutch interest from October 2012 onwards.



'Stickiness' may have also played a role in the position of the Netherlands on the method of **services liberalization**. Initially, the Netherlands was cautious about the use of **negative listing**, according to the WOB files because *'negative lists demand a different approach than the EU is used to using. At this moment, it is hard to predict the consequences of switching to negative lists'*, and they first demanded more studies (WOB – Nummer 19). This shows (to the extent that these WOB files show us the 'true' reasons of policy makers) that the switch in approach in itself elicited some hesitation. A later remark by Ploumen further indicates that the composition of the Dutch negative list was also susceptible to this kind of dynamic. An MP asked her whether the Netherlands had tried to put any financial services on the negative list (and why), to which she (i.e. her administration), responded that the Netherlands had *'already in 1994 in the GATS offered foreign financial institutions the possibility to establish themselves in the Netherlands [...]. The Netherlands has never seen any reason to make exceptions for (certain kinds of) financial service providers'* (ah-tk-20162017-1075, 30 January 2017). Again, part of the answer lies in previous (multilateral) commitments that limited the state's room for maneuver<sup>264</sup>.

As a final example, consider the Dutch position on **investment protection**. Lavranos was perhaps an especially fervent proponent of strong investment protection, but it is very unlikely that this position was unknown when the ministry decided to hire him. There is plenty of evidence suggesting that the Dutch position on investment protection was long-standing, and was largely in line with that of Lavranos even before his arrival. It did not emerge out of nowhere in 2011. For example, in the previously mentioned 2007 screening of the foreign trade department, there was a chapter on BITs in which the service lauded the contribution of such treaties to the international legal order and to the further freeing of trade and investment flows. It saw its own Dutch model BITs as especially beneficial and as an example for other countries, for example because it included a very wide definition of what constitutes an 'investor'. Several state secretaries for trade defended had similarly defended the Dutch BITs as good for Dutch business, and had for example also taken a very lenient stance on the question of letterbox-companies' use of ISDS – an issue that became controversial in CETA. See for example the response from 2008 by then trade minister of economics Heemskerk<sup>265</sup>, in which he defended<sup>266</sup> the access of letterbox firms to ISDS included in the Dutch BITs. His successor, Bleker, in 2011 offered a very similar defense of the access to BITs' protections for any (whatever the extent of their activity) registered investor in the Netherlands or the partner country (Kst-21 501-02 , 24 May 2011)<sup>267</sup>. As was demonstrated in 6.2.1.2.c., the Netherlands had since the Lisbon treaty done its best to transport its 'golden model' to the EU level, as part of the 'Friends of Investment' coalition. It seems plausible to assume that it had, until its change of heart under Ploumen by the end of 2013, defended this position in

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<sup>264</sup> Much like in Belgium, see the decision makers' mechanism for CETA.

<sup>265</sup> In response to a parliamentary question about ISDS in the Dutch BITs. See <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2008/02/01/vragen-van-de-leden-irrgang-en-van-bommel-beiden-sp-over-bilaterale-investeringsverdrag-tussen-nederland-en-bolivia/8007620.pdf>

<sup>266</sup> Or more accurately, in which he explained that this was the case, without much further ado. The purpose of the BITs as such, according to Heemskerk, was in part to increase the appeal of the Netherlands as a destination for foreign investors.

<sup>267</sup> Bleker added that this set-up allowed the Netherlands to also demand certain investor obligations, a model it was now going to try and export to the EU. As Somo (2011), which also referred to these two sources, argued however: Dutch BITs at the time did not contain any such investor obligations.

the various FTAs, including CETA. Of course in this case, the position did eventually (to some, perhaps limited extent) end up changing.

The Dutch 'historical' position on investment illustrates a difficulty with determining whether a position was 'autonomous', one that also pops up in various other issues (e.g. dredging, see above). In the departmental screening cited above, the foreign trade service itself boasted that the model text for the Dutch BITs was developed '*in close cooperation with business*', and the Dutch model was often praised as '*state of the art*' by '*business and renowned law firms*'<sup>268</sup>. This shows that, even though decision makers were perhaps basing their positions on reports or policies drafted years ago, without any societal input at the time of for example CETA, **these prior positions may themselves have been intensively influenced by non-governmental actors**. Decision makers might have been aware of this, and might have anticipated a societal response if they would have deviated from the beaten path.

Finally, even if there had in fact been CETA-specific lobbying, other 'sticky' dynamics might have played a role. After a few rounds of negotiating, civil servants might not have wanted to suddenly make any **U-turns**, but there may have also been a process of '**forgetting**' what the original foundation for a certain position was, due to personnel changes, the loss of contacts, the passage of time, et cetera. At the MFA there have been a striking amount of personnel changes in the past few years, and often my interviewees did not know who their predecessors were. This may have led the civil service to **defend positions whose origin was unknown** even to them, simply because it had been the Dutch stance for years. This possibility was also hinted at by a journalist which had been tracking CETA/TTIP (Interview - Follow the Money, 2017), and is somewhat supported by the ministry's remarks about their 'basic stance' noted above.

### ***c. Bureaucratic self-interests, political calculation***

The final positional source that I would like to briefly discuss in this section is that of various kinds of self-interested behavior, by the civil service as well as the political level.

Among the civil service, there may have been self-interested behavior from the **ministries and departments**, perhaps taking or pushing for certain positions because these would boost the means or prestige of certain offices. However, as was already noted above, sources from the ministries of foreign affairs as well as economics denied that there were many conflicts and everyone seemed to agree (at various levels) that inter-ministerial and inter-departmental cooperation was generally smooth (Interview - Head of IMH, 2017; Interview - MFA, 2017; Interview - Ministry of Economics, 2017). I have not found any other evidence that suggests bureaucratic skirmishes had any effect on the Dutch position<sup>269</sup>.

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<sup>268</sup> Similarly: for its very positive assessment of BITs, it pointed towards analyses performed by the OECD, but also to interviews of firms performed by the service.

<sup>269</sup> The only sign of differing positions among the ministries that I found in the WOB files was from state secretary of safety and security Teeven, but here Teeven himself (or, probably, his civil servants working on this issue) apparently acknowledged that he position of Ploumen would override his. Of course, it's quite possible that my sources were unwilling to share such information, or maybe these fights had occurred far earlier in the negotiations (potentially, for example, related to the inclusion of an investment agreement in the deal) or perhaps they had been pacified with the integration of the IMH into foreign affairs in 2013 – although my sources were

Secondly, it's possible that individual civil servants had their self-interest at heart when pushing for some positions. One of the most notorious examples in the Dutch case is again related to Lavranos, and illustrates the potential grey zones between business lobbying, genuine ideational commitment and self-interested 'foresight': **Lavranos** left the ministry in 2014 to co-found and lead the European Federation for Investment Law and Arbitration (EFILA), which '*aims to be the main voice*' of users of investment arbitration at the EU level. It houses law firms representing some of Europe's biggest companies<sup>270</sup>. In September 2014, he also joined Global Investment Protection AG. Apart from Lavranos, I have managed to collect a number of other examples that illustrate the revolving door between the ministry of economics and business. However, this is of course highly speculative, and I cannot tie this general pattern directly to CETA<sup>271</sup>. But it further blurs the line between societal and governmental preferences.

Finally, in the Belgian case (as I discuss in the CSO chapter of the Belgian CETA case) it has been argued that Wallonia's PS and cdH started taking radically different positions on CETA in 2014, perhaps even stoking up the discontent with the deal, because they wanted to sabotage the federal government and increase their left-wing appeal in the face of a surging PTB. As in the Belgian case, I have not delved very deeply into such **party-political dynamics** in the Netherlands, because I believe this would take me too far. Suffice to say that in the Dutch case I have found no evidence of either the VVD or the PvdA initiating the politicization of CETA post 2013, and I believe it is improbable that they did this under my radar: I have only found traces of them defending most aspects of the deal. Ploumen may have been more susceptible to pressure from progressive civil society than her predecessors (something I discuss in the scope conditions for the next section), but judging from her efforts to defend the deal over the course of 2015-2016, the total lack of political saliency of CETA before the CSO campaign got started in 2014, and the fact that the negotiations had already been in an advanced stage when she entered office, it seems highly unlikely that she herself played a part in politicizing this FTA.

If ministerial preferences or electoral calculation played a role, it was only in response to societal mobilization. And, although there are indications that Ploumen

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certain that this reorganization had not had any effects on the Dutch positioning (Interview - Ministry of Economics, 2017).

<sup>270</sup> EFILA was very critical of the reform proposals of the Commission in regards to ISDS in 2015.

<sup>271</sup> I used LinkedIn to filter for people whose current/former employer was the ministry of economics/foreign affairs and whose former/current employer was one of the employers' federations. This method was of course quite simplistic and the findings in themselves do not allow me to say anything about either the personal motivations of these people nor their effect on policy (let alone trade policy specifically). I will present them anyway, just to substantiate the empirical basis for this 'hunch', and because I think they might be helpful in researching the good contacts between business and the ministries: the current secretary for international economic affairs for VNO-NCW had between 2010 and 2014 been the Dutch deputy permanent representative to the WTO, and had before been connected to the ministry of economics since 2001, the person working on trade at VNO-NCW's Brussels' office had done an internship at the ministry of economics, the director of the international enterprise department at the ministry of foreign affairs had between 1999 and 2004 been the senior advisor on international economic affairs at the VNO-NCW, the senior policy officer at the directorate for EU and international affairs at the ministry of economic affairs had done an internship at VNO-NCW, the secretary of innovation and industrial policy at VNO-NCW had spent six years at the ministry of economics, another 'policy secretary' of VNO-NCW had worked in the ministry of economics for almost 14 years before moving to the employers' federation, an advisor on EU affairs had done an internship at foreign affairs, and another 'senior policy advisor' had been an intern at the ministry of foreign affairs. My contact at the dairy processors' federation NZO had (according to the website of NZO) also recently switched roles, she had worked at the ministry of economics or years, specifically on agricultural issues and dairy.

herself may have been more keen to give in to the CSOs than some of her predecessors might have been, in practice she was heavily constrained by the fact that she was in a coalition with the VVD. The parliamentary review and the sections on CSO lobbying clearly illustrated the difficulties that the PvdA encountered in finding its voice in this debate, not in the least because they were torn between defending some of their 'natural' societal partners and their minister. According to the coordinator of the CSO campaign, the CSOs invested a lot of energy into the labor party without much result, and they claim that sources within the party acknowledged that their minister was heavily constrained by the VVD, and had even less room for maneuver than she may have wanted (Interview - CSO Coordinator, 2017).

### **In summary - autonomous preferences?**

We can conclude that there were several plausible wells that may have driven the Dutch stance, even though we could not always point towards separate origins for all of the specific positions.

I pointed to pre-existing or autonomous preferences for the position in agriculture, public procurement, dredging, maritime services, financial services, investment protection, ISDS, sustainable development, the inclusion of core labor standards, animal welfare, GMOS and hormone beef, its initial and evolving position on negative listing, the scope of provisional application, GIs, and, more generally, the support for starting up negotiations with Canada, and the desire to sign and provisionally apply the deal as soon as possible after it was concluded.

There are plausible, decision-maker level reasons for all of these positions, often unrelated to the Canadian context: the strong capacity of the Dutch state to produce (or procure) economic studies, all of which have throughout the years supported more openness in certain sectors, government declarations tying the hands of coalition governments, previous multilateral commitments, legal analyses, the standard long-time Dutch position (e.g. in its BITs) and other path-dependent dynamics, and the apparent preference for all ruling parties and ministers, as well as their civil service, for extending liberalization and boosting exports, and the constraints of coalition governments between parties of the center left and right.

Of course, the uniqueness of these sources as explanations for the Dutch position is often very limited: they may have themselves resulted from direct lobbying, potentially with an eye to affecting the state's position in CETA. There is also a blurred line between direct and anticipated lobbying; for example, in 2012 the Dutch state seems to have taken quick note of some initial press and parliamentary attention for some of the IPR elements in CETA, leading to a hard position against these provisions because they feared that this would eventually lead to a campaign against the treaty.

It's also important to note that these positions may to a very large extent have been complementary with business (and perhaps sometimes CSOs') preferences: the state may for example have taken up dredging as an offensive sector without needing to consult with the sector first, but it may have still reached out to the sector for more specific technical information about the demands they needed to bring forward.

In the next section, I will investigate the extent to which decision makers defended their own preferences during the negotiations. This will to some extent also serve as a renewed investigation of the autonomy of its preferences. In the final, 'synthesis' section, I will then attempt to clearly state to what extent the three mechanisms help us explain the Dutch position.

#### 7.4.2.3. Did this preference become 'operational'?

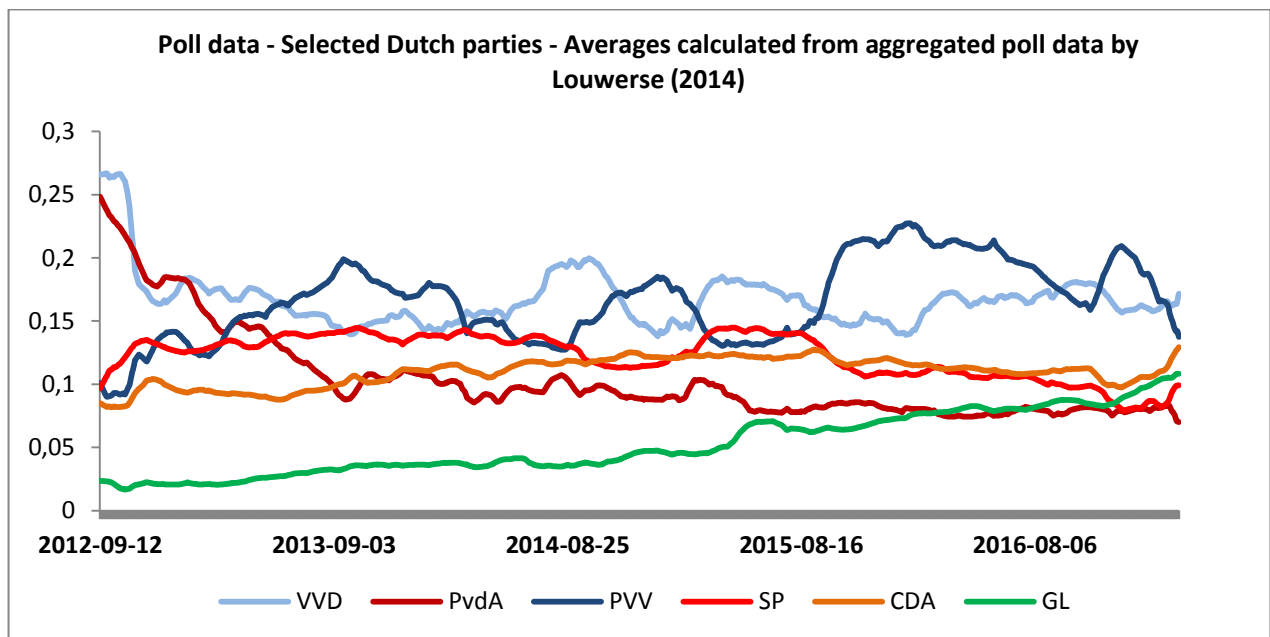
##### *a. Scope conditions*

Again, a number of scope conditions influenced the plausibility of this mechanism working its way from preferences to influence. Firstly, there is the extent of the state's 'softness'. The more susceptible it was to societal influences, the less plausible the influence of this mechanism becomes. This was to large extent already discussed in the previous mechanisms: I showed that there were a number of access points, but the ministry could have chosen to further lower access if it wanted to do so. As discussed before, it seems that the ministries were highly receptive to input from business, but firms nor the associations were involved very actively in the negotiations. The sectors that were (dairy and meat), were opposed to one another. All in all, this left decision-makers with considerable leeway (or, from another angle: it forced them) to set the Dutch position based on their own assessments, predictions, et cetera. Their room for maneuvering vis-à-vis the small group of CSOs trying to wage a campaign on ISDS throughout 2010-2012 was even larger.

Then, as I've repeated ample times by now, the pressure on the executive grew over the course of 2014-2016. The arrival of Ploumen as the minister of trade and development also made the state a softer target: a minister from a social democratic party that was doing very poorly in the polls<sup>272</sup>, harangued by some of her party's 'natural' allies. In 2016 the foremost neocorporatist venue of the Netherlands, the social partners cooperating in the SER, also published a united advice on the FTAs (actually on TTIP, but it was applied to CETA as well). These developments make it more plausible that policy-makers became increasingly constrained by societal preferences. However, there were countervailing forces: although business was initially caught off guard, it regained a stronger footing over 2016, making the societal 'signal' mixed. The general public also remained divided on the issue, and a majority of the parties in parliament were either supportive of CETA or conflicted. These divisions were also present in the business groups speaking up after 2014; the sectional farmers' interests were countered by other sectors and the peak agricultural federation.

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<sup>272</sup> Based on poll data from Louwerse (2014)



### **b. Empirics**

What ‘work’ did they put in?

Contrary to the Belgian case, there were no real internal negotiations between various administrations or sub-governments. As I demonstrated above, on the whole there was very little internal conflict and the deal was low on the political agenda until 2016.

According to sources from the ministry, there were some discussions ‘at the start’ between the ‘hard core trade political advisors’ that had a ‘*technical*’ approach to trade politics, and some of the civil servants that had a more ‘*political*’ approach. For example, the ‘technical’ group saw animal welfare provisions as nothing more than an NTB, helping to guard against imports from countries with lower standards, while others argued that the demand for a provision like this reflected a genuine and legitimate societal concern, and that ignoring voices calling for such concerns would make it far harder to negotiate trade agreements (Interview - Head of IMH, 2017). The technical approach had long been dominant, because the subject was also considered as such. My interviewee believed that this may have been part of the reason why they were so slow to spot that the societal support for the FTAs was being hollowed out. However, **within the ‘technical’ discussions**, such divides were absent. My source could not recall a single instance in which the ‘technical’ trade interests being foregrounded by one the ministries clashed with those of another ministry (Interview - Head of IMH, 2017).

As far as I can tell, there was also very little conflict over this issue between the ministers or governing parties. Seeing how politicized this issue was and how many different actors were eyeballing it, the fact that none one of my interviewees (in the civil service, business or civil society) brought it up indicates that the cabinet was at the very least good at keeping such conflict internal. The real struggle was situated between the government and a series of societal and parliamentary forces, on a number of very narrow issues (ACTA, tar sands) before 2014 and then on an increasing number of aspects as the deal’s politicization progressed. Especially in

2016, the minister as well as her civil service suddenly had to defend the deal on several fronts at once<sup>273</sup>.

It is clear from the WOB documents that the ministry was keeping an eye on the societal and parliamentary debates; internal memos often briefly discussed the state of play in civil society and the Dutch parliament – especially in 2016. For example, a memo from December 2014 analyzed how a parliamentary motion against ISDS in CETA had been rejected in the Tweede Kamer, illustrating that there was *'still a narrow majority in favor of including ISDS in CETA and TTIP'* (WOB - 19. Memo-Schoon\_Redacted, 11 December 2014). Before, they had kept a close eye on the dangers of ACTA for CETA (see below), and the mobilization against tar sands in 2013 (WOB - 26. Memo-Schoon\_redacted, 4 November 2013)<sup>274</sup>. In July 2016, the IMH praised the Commission for its proposal to include an interpretative declaration, because it showed that the Commission was *'aware of the societal worries'* around CETA. According to the memo, the Commission was trying to *'take the wind out of the sails'* of CETA's opponents with the declaration, something that the IMH *'appreciated and supported'* (WOB - 12. Memo-Schoon\_redacted, 6 July 2016).

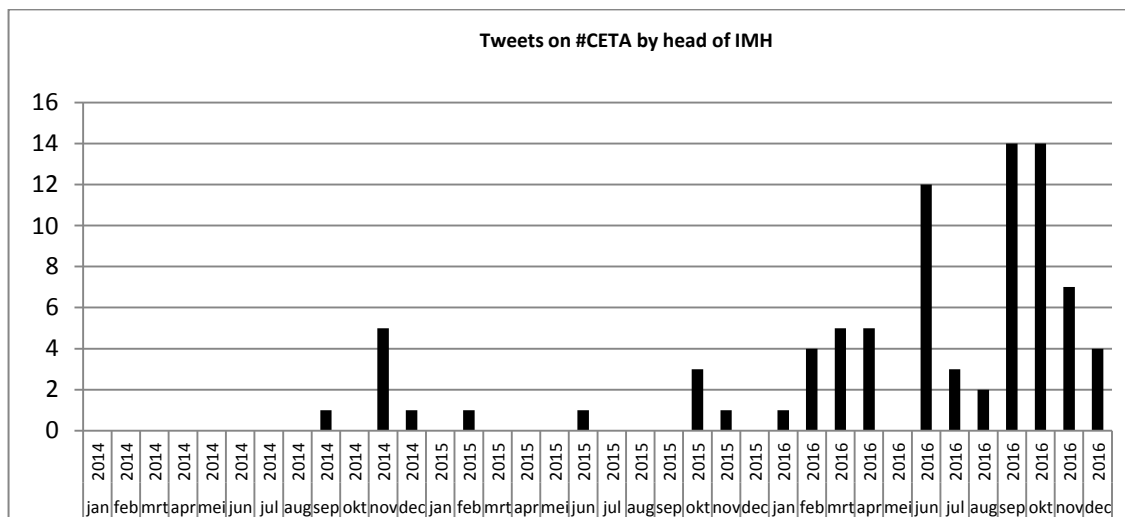
Still, although the civil servants from the Ministry participated in over fifty debates to discuss the FTAs, they were still **caught off guard when the debate suddenly moved to CETA**. Even when the Netherlands was chairing the Council (Jan-Jul 2016) the deal still largely escaped their attention, because at the time they still believed the deal would quietly move to ratification and provisional application; but then it *'exploded shortly after the summer'* (Interview - Head of IMH, 2017; Interview - MFA, 2017). This is supported by preparatory TPC documents for the Dutch presidency, in which CETA was not prioritized.

As was already noted above, the ministry was not a neutral bystander but actively took part in the societal debate that had ensued. One notable example is that of Ronald Roosdorp, director of the IMH. On twitter, he actively participated in discussions on the FTAs; he was clearly unafraid to pick sides, and in fact often seemed bent on confronting the CSOs: his tweets were at times somewhat ad-hominem, and often included antagonizing language (and smileys) (Twitter, Interview - TNI 2, 2017).

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<sup>273</sup> Comparing the documents prepared by IMH (and at times edited by the minister) for parliamentary Q&As with the minister is also interesting in this regard. In 2012, during the first brief debates, the preparations were quite short (about three pages), and anticipated very general questions: what are the benefits of CETA, what is the timeline. The only specific problems for which an answer was prepared was related to tar sands and ACTA. Compare this to the 2016 Q&A preparations, which were over 20 pages long and included long, detailed sections on ISDS, negative listing, public services, provisional application, et cetera (in the WOB documents, these Q&As can be found in the files called 'Nummer').

<sup>274</sup> In the memo, the IMH briefly discussed the campaign and the parliamentary dynamic. It then presented a technical analysis of this issue, and then offered an answer for the minister, in which she would detail that although the Netherlands was skeptical of the environmental effects of tar sand oils, CETA would not distinguish between oils and therefore should not play a role in this debate.



Although their relations ‘offline’ were friendlier and more professional, Roosdorp’s online persona was cited as a contributing factor in some NGO’s increasingly difficult relationship with the MFA (Interview - TNI 1, 2017; Interview - TNI 2, 2017).

In the debates with their parliamentary and societal adversaries, the ministry sought the support from other proponents, which were clearly seen as allies. For example, the IMH **actively tried to get business engaged in the debate**, and tried to get their input to strengthen its case in favor of the FTAs. Arguments that CETA would add 0.03% to the EU’s GDP in ten years were considered too weak and abstract, especially when confronted with vivid threats like the ‘chlorine chicken’ used by CETA’s opponents, and they wanted concrete examples from firms that could illustrate the benefits of the deal. However, to his surprise he never really got such input from them and he expressed irritation at some of the reasons<sup>275</sup> they offered for this passivity, notably that the firms did not feel like picking a fight with the NGO: ‘*He wouldn’t be able to fight this fight for them*’ without their engagement. His criticism extended to the employers’ federation, VNO-NCW, which he thought had not participated in the debates as strong as they could have<sup>276</sup> (Interview - Head of IMH, 2017).

According to most of my interviewees from the CSOs, the MFA also **regulated access** to certain players whose voices they were less keen on hearing. As was mentioned in the section on CSO lobbying/access, their relationship with the ministry became more troublesome over the years. This first became apparent before 2014, when the person in charge of the investment chapter (Lavranos) no longer wanted to meet with the NGOs that were then working on this (Interview - TNI 1, 2017). But the problem re-emerged throughout 2016, when the NGOs claim that it became more difficult to meet with the ministry. My sources from the ministry denied that this was the case

Of course, as I already demonstrated, **Ploumen** also played an important role in this phase; debating the deal in the Tweede Kamer, in the media, in public debates, et

<sup>275</sup> He could empathize with some of their reasons (discussed in the business mechanism) for this with, like the fragmentation of value chains making it hard to actually come up with a really strong and direct example, but was still generally frustrated with their lack of response.

<sup>276</sup> Although he realized that a stronger position by the employers, as tainted a source as the ministry to many of the opponents of the deal, may not have done much to win the debate



cetera. As I showed, she disagreed with many of the arguments being used by the CSO campaign. Nonetheless, she regularly spoke with sympathy about the concerns of the critics, even if she disagreed on the whether these were warranted in CETA. For example, she regularly defended the precautionary principle<sup>277</sup> or the right to regulate<sup>278</sup>. Ploumen also tried to **appease civil society** with a number of initiatives, such as proclaiming a 'reset' of trade policy and the creation of the *handelsberaad*, and she acknowledged that future deals should be discussed at an earlier stage by a wider group of stakeholders - including trade unions, NGOs and consumer organizations (kst-21501-02-1690, 12 October 2016). As I noted before, her rhetoric almost always remained open to the concerns of CETA's opponents'.

However, according to sources within the CSO campaign, Ploumen was always more committed to them in words rather than deeds. Although they lauded these initiatives, they also saw them as too little too late; they felt it was more of a public relations exercise than an actual policy shift, and whatever substantive concessions they got from her were wrested through the parliament and not because of good 1:1 relations. The only exception was the reform of ICS (Interview - CSO Coordinator, 2017).

In the fall of 2016 Ploumen herself expressed some **exasperation** in the parliamentary debates: the text had been public for 25 months, it had been debated with the parliament for over 20 times (also before it was concluded), most of the parliamentary motions had been followed by the cabinet, there had been plenty of discussions with civil society and business, and the Netherlands had been able to attain most of what it wanted during the negotiations as well as in the "scrubbing" phase and the interpretative declaration. She realized there were still critical remarks from some sides, and the Netherlands was not fully pleased with each and every part of the accord, but *'Op een zeker moment meent het kabinet dat de zorgen voldoende geadresseerd zijn'* (kst-21501-02-1690, 12 October 2016)<sup>279</sup>.

She used a similar argument against the protests of the **farmers coalition**: in the end, in the face of conflicting interest it's the government's job to cut the knot. As she argued in the fall of 2016, Dutch agriculture was not a 'monolith', but consisted of various sub-sectors whose interests do not always align. Some may gain while others lose, and it's up to politicians to weigh these conflicting interests. In CETA, where it had *'from the beginning been clear that things would not get easier for producers of livestock'*, and where agriculture had indeed voiced conflicting demands, the government eventually ruled that the treaty was good for the Dutch economy as a whole, and also for the majority of Dutch agriculture (*'the second exporter in the world'*) (kst-21501-02-1673, 14 September 2016; kst-21501-02-1690, 12 October 2016). In making the same point somewhat earlier, she had also leaned directly on arguments

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<sup>277</sup> See for example kst-21501-02-1673, 14 September 2016.

<sup>278</sup> E.g. her comments in the debate on 24 April 2014 (kst-21501-02-1398), or her remarks made in her evaluation of the ISDS-in-TTIP report.

<sup>279</sup> *'Teeven: Raakt de minister echter niet een beetje in verwarring? Ze doet meer dan de SER van haar vraagt en dan nog is er sprake van rupsje-nooit-genoeg. Wordt de minister niet een beetje verdrietig? Minister Ploumen: Ik wilde net zeggen dat de Minister nooit in verwarring raakt, maar hooguit een beetje verdrietig is'* (kst-21501-02-1690, 12 oktober 2016).

made by LTO in favor of CETA, in order to dismiss the farmers' coalition's sub-sectoral worries<sup>280</sup>.

To briefly summarize: the ministry was actively arguing against civil society's opposition to CETA, while seeking input from other societal actor (business, LTO) to counteract the discourse of CETA's opponents (CSOs, farmers' coalition).

As Ploumen herself emphasized, however, she had still done her best to fulfill the wishes of her parliament, and had fulfilled the requests of almost all the parliamentary resolutions. The WOB files also offer some quite **direct evidence** that the ministry at times felt obliged to **alter its position** because of (anticipated) societal or/and parliamentary pressure. In 2012, an internal memo directed at Ploumen (WOB - 27. Memo-Schoon\_redacted) discussed the (ACTA-like) sections that allowed for **criminal prosecution of IPR violations** in CETA. (Then) state secretary Teeven had apparently communicated his preference for copying similar parts from the FTA with South-Korea (where such sections were included), but the assessment of IMH was that, although they supported this on substantive grounds, this option offered too many **political risks** that might have threatened the broader accord: the media was already making the link with ACTA, suggesting that ACTA was being implemented through CETA's backdoor, and D66 had asked questions using this frame in the parliament. Digital rights' activists would not think it was acceptable to include any references to criminal prosecution, *'and politicians would tend to follow them'*<sup>281</sup>. Therefore, IMH pleaded in favor of 'option 2': scrapping any reference to criminal prosecution of the IPR chapter<sup>282</sup>. Another example is the Dutch position on **provisional application**. Although the IMH had pleaded in a memo in June 2016 to not exclude ICS or investment protection for several reasons (WOB - 14. Memo-Schoon\_redacted)<sup>283</sup>, it later considered this option politically unfeasible: a parliamentary motion (Bruins) would not be executed, and the majority of member states had slowly turned against provisionally applying ICS (WOB - 8. Memo-Schoon\_redacted, 26 August 2016). I found no indications that the ministry at any point deviated from its preferred position because of pressure from business, although it did sharpen its stance related to the management of quotas in early 2014 (at the latest), which the state itself argued was in line with the demands of the industry. This was before the Landbouwcoalitie's campaign got up to speed, however (WOB - Memo\_Schoon-Redacted, 24 March 2014).

Of course, the role of societal pressure was most evident in **ISDS**. As already discussed, here too it was a combination of pressure from the parliament and the

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<sup>280</sup> See also her response to a motion by the GSP to exclude agriculture from provision application; the minister replied that, apart from the practical impossibility in implementing it, the SGP also needed to keep in mind that there were large differences in interests within one sector, as *'was shown by the discussions of the manifesto that was presented by Milieudefensie and farmers' organisations against TTIP, in a reaction, LTO Nederland stated: "Dutch agriculture benefits from a trade deal, as long as it's well designed. [It's incomprehensible] that a sector that exports over 70% of her produce is resisting trade negotiations" dixit LTO [...]'* (WOB - nummer 15, 28 april 2016).

<sup>281</sup> It's not wholly clear whether their main worry was domestic; the memo primarily mentions the danger of the EP striking down the deal.

<sup>282</sup> Furthermore, they argued that it was necessary that the entire IPR would be published as soon as possible, in order to **reassure the general public**. It noted that Teeven would align with her position.

<sup>283</sup> Taking ICS out of provisional application would give a bad signal in regards to the importance that the Netherlands attributed to this issue in other negotiations like TTIP. It would also lead to 'the sub-optimal result' that investors would get preferential market access, but would after settling in the market not benefit from additional protection.

CSOs, an awareness that it would be hard to explain to the public if ISDS were to be changed in TTIP but not in CETA, and the minister's conclusions from the study she had ordered on ISDS in TTIP (WOB Nummer 7, cited above). The influence of the NGOs was confirmed by sources within the ministry. According to director of the IMH, investor-state dispute settlement had never been very controversial, and they would never have had the debate about the 'shadow side' of investment arbitration, nor would they have ordered any studies about ISDS, or would they have tabled significant reforms to the system in CETA, without external pressure from the NGOs and public opinion (Interview - Head of IMH, 2017).

According to sources at the Ministry this positional switch was not just 'passive'; they actively and successfully worked to alter **the EU's position and eventually CETA**. The Netherlands saw that the same discussions were being waged in Sweden, France and Germany, with whose (social-democratic) trade policy minister they were already in touch. They therefore proposed for them to the joint 'CETA and Beyond' paper, which outlined a series of adaptations of the ISDS system. After presenting this both to their own parliament as well as the other member states and the Commission, this then both triggered as well as formed the foundation for the ICS proposal subsequently put forward by the Commission. Hence, still according to the ministry, the Netherlands took the initiative and actively shaped the reform of investment arbitration in CETA. They acknowledged that they were lucky to have been supported by Germany and France, though, which were facing the same problems and had the same general outlook (Interview - Head of IMH, 2017; Interview - MFA, 2017). Again, much of this is supported by the TPC documents and internal memos that I discussed before.

This brings me to the final factor exerting force on their position: what about **external pressure**? As we noted earlier, the Ministry itself made clear that the Dutch position was always also weighed in terms of its feasibility at the EU level: would they be able to construct a workable coalition in the Council and with the Commission? Because I have focused so strongly on the domestic level, my assessment of the importance this determinant played is quite limited. In the parliament, minister Ploumen argued that the Netherlands got most, but not everything, of what it wanted from the treaty. On many aspects of the deal the Netherlands does indeed seem to have gotten what it set out for, although the TPC positions may have already been a compromise of what seemed attainable. Still, the TPC documents show that they kept bringing up a set of offensive interests over the course of several years, and they seem to have accepted a bit of isolation (together with Sweden) to successfully fight the inclusion of investment screening. They also successfully toned down (together with other member states, no doubt) the extent of criminal IPR persecution, although they had to yield on camcording. The Netherlands was faced inevitably with a certain set of actors and institutions in the EU as well as internationally, that constrained and altered the positions it took. In the WOB files, there are occasional mentions of the state of play in the Council, and sometimes this is explicitly taken up as a factor determining the Dutch position (e.g. on provisional application). The Ministry also met with other ministers (outside of the Council) to discuss CETA, and in 2015 (as part of the economic mission) and in 2016 (in phone calls on the interpretative

declaration) spoke bilaterally with the Canadians<sup>284</sup>. However, the extent to which these contacts, and the dynamic inside the EU, altered the Dutch position within the Council (and its working groups) remains unclear based on the research I have conducted.

Causal hypothesis: Autonomous decision makers' preferences influenced the Dutch position on CETA. Prior probability: High		
	Propositions	Evidence- Assessment <i>(source)(characteristics of evidence in relation to proposition: high/low - uniqueness, certainty)</i>
1	Did they have a position	Trace- ministerial positions about CETA throughout and after negotiations (parliamentary hearings, press review, internal memos) (hc, lu, Account – civil service had preference about Dutch position on CETA (debates, press, interviews) (lc, hu) Trace – civil service had opinion about CSO campaign (interviews, twitter, press) (lc, hu)
1.a	Did they have an autonomous preference?	
1.a.a	Was a societal position absent?	On some issues: yes On others: no
1.a.b	Did they rely on/where there alternative, 'autonomous' sources?	Trace – Analysis of TTIP Trace – DM position on (some aspects of ) treaty based on economic analyses and foreign policy arguments (trace evidence, account evidence) (hc, hu) Trace – DM analyses show skepticism towards CSO and farmers' groups critiques, and a preference for FTAs (memos) (lc, lu) Trace evidence - Absence of evidence for autonomous source for ordering report on TTIP-ISDS... Trace/account – Dutch TPC led by very strong supporter of ISDS (lc, lu) Trace – positions taken in by Dutch TPC members, also on issues in which there was no or counter-evidence of societal lobbying (memos, see previous mechanism) (lc, hu) Account – DMs claiming that many/most of their positions resulted from analyses, pre-existing preferences (interviews) (lc, hu) Trace/account – very positive stance of DMs towards trade deals in general (interviews, remarks in parliament) (lc, lu) Pattern- tradition of liberal, export-oriented state preferences (literature, interviews) (lc, lu) Trace – limited attention for trade issues in government declarations (texts) (lc, lu) Trace – emphasis on the economic importance of investment & free trade + support for BITs, FTAs and some specific issues in government declarations & policy notes (texts) (lc, lu) Trace – no sign of CETA in any of the government declarations or policy notes (review of declarations) (lc, lu) Pattern – tradition of unchanging positions on some issues (e.g. animal welfare, sustainable development, freer trade, dredging) (interviews, reports, policy notes) (lc, lu) Trace – no studies of stake in CETA by CBS/CPB (website search, reports) (lc, lu) Trace – support for free trade and competitive interests in investment, agriculture, services, general business in reports by CBS, CPB (reports)(lc, hu) Trace – legal analyses performed about some aspects of CETA (internal memos)(lc, hu) Lack of evidence - Absence of CETA-specific analyses by DM (absent)(lc, lu, n/a) Trace – Dutch state & ministry well-staffed and enough resources to perform such analyses (interviews, websites) (lc, hu) Trace – Dutch position on financial services was limited by GATS commitments (DM remarks in parliament)(lc, hu) Account – no conflicts between ministries, no effects of institutional shift (interviews)(lc, lu) --- Trace – minister Ploumen argued that the critiques of TTIP-ISDS were in accordance with her own criticisms Resistance against extrapolating TTIP/ISDS report to CETA... claims that CETA was already fine... Account evidence – DM claiming their position on ISDS resulted from CSO pressure (interviews)(lc, hu) Account evidence – DM claiming that their position came from their own analyses, reports, existing positions... complemented by business input (interviews) (lc, hu)
<b>Strong confirmation of autonomous sources for DM preferences in most areas of Dutch positions</b>		
2.	Did they 'work' towards putting this preference into the position?	
2.a	Was there external/societal pressure	

<sup>284</sup> The WOB files show that in 2014, she had a meeting with minister Fekl from France, about ISDS and ICS (WOB - 13. Memo-Schoon\_redacted, 22 September 2014), on 23 April 2015 there was a telephone call between her, Fekl, and Sweden, Germany, Denmark and Luxembourg, to discuss the follow-up on their paper on ISDS in CETA ('and beyond'), in July 2016 she met with minister Machnig from Germany about the hurdles facing CETA, and to emphasize the importance of CETA making it, 'a litmus test for the entirety of the EU's trade policy' (WOB - Memo-Schoon\_redacted, 20 June 2016). Late in September, she also spoke directly to Chrystia Freeland, to thank Canada for its willingness to negotiate an interpretative declaration, and to outline the Netherlands requests in regards to this declaration.

2.a	Was there external/societal pressure	<p>Societal:  Yes - See other mechanisms  EU-level, International:  Trace - Netherlands and Sweden only countries to resist investment screening</p>
2.b	Did they resist this pressure?	<p>Trace evidence - internal memos show DM taking account of pressure in position (lc, hu)  Trace evidence - Dutch position altered (CETA &amp; Beyond, memos) (hc, lu)  Trace evidence - remaining dissimilarity between positions of CSOs/opposing farmers' groups and DM/The Netherlands (memos, positions, press)  Trace/account evidence - DM defending CETA against CSO critiques (hc, hu)  Trace/account evidence - Some antagonism between DM and CSOs (twitter, interviews) (lc, lu)  Sequence - shift in position of Netherlands after pressure increased (sequence)(hc, lu)  Pattern - deviation from long-standing position on investment protection (literature review, historical DM comments &amp; reports) (lc, hu)  Trace/account - position prefers one business' preferences over that of another sector (dairy over meat), DM arguing that they had to cut this knot (interviews, parliamentary review) (hc, hu)  Account - Ploumen arguing that ICS in CETA was in accordance with SER criteria (internal memo, parliament) (hc, lu)  Account - Ploumen arguing that the DM always looked at aggregate economic interest, which sometimes means specific interests lose out (parliamentary review)(lc, hu)  Account - DMs asking business for arguments to use against CSOs (interviews) (lc, lu)  Account - DM doing their best to follow parliamentary motions (minister's remarks in parliament)(lc, lu)  Trace - very critical remarks by DM on CSO-criticisms of ISDS, pre-2014 (transcripts, blog posts) (lc, hu)  Trace - strong DM supporter of ISDS in CETA later joins ISDS-lobby group (lc, lu)  Trace - revolving door between economic affairs and business (LinkedIn, websites) (lc, lu)</p> <p style="text-align: center;"><b>Strong confirmation of DM influence on most positions.</b></p>

## 7.5. Synthesis

In this final section on CETA, I will attempt to come to an overarching 'narrative' about the position of the Netherlands, combining the conclusions from the mechanistic traces.

The period in the run-up to and the start of the negotiations was dominated by business and civil servants. However, although there was general support for the start-up of the negotiations, with the exception of the investment chapter CETA as such was not high on the agendas of decision makers or business.

It is very hard to here disentangle the preferences of business with those of the civil service or the minister, but this in itself shows that their relation was highly symbiotic. I showed that business probably voiced a set of demands and concerns, and I think that we can safely assume that the Dutch state was extremely 'soft', meaning it was very willing to transfer these demands to the EU level; especially because most of them were export-oriented and offensive, and arguably not so dissimilar to the demands that were raised by a series of other member states, or that had been foregrounded by the Commission in its own studies of the benefits of a prospective deal. Strong defensive interests would have had to muster more leverage to get their wishes through, however, especially if they conflicted with the demands of an offensive interest. This was the case between meat and dairy, and we see the Dutch clearly favoring the dairy industry's interests (which had also done its share of lobbying). This was the case until after the increased market opening had been agreed upon - then there was room for siding with the 'losers' in the design of the management of the quotas.

However, we also saw that the interests of business were not very pronounced, and that many of the sectors seem to not have engaged in much lobbying. In part this appears to have been because they could rest easy: the civil service was already aware of their trade policy interests, and was prepared to represent them. Many of business' preferences were moreover wholly in line with what successive Dutch governments had outlined as their interests in trade, supported by numerous (statistical) analyses throughout the years. Counterfactually, I think that even had there been no business interest in CETA whatsoever, the Dutch state would have taken roughly the same positions. Clearly, the civil service as well as the political level was convinced that it needed to support the Dutch approach to investment and trade, to open up services, to focus on dredging and procurement, and to push for offensive opening in agricultural and especially dairy markets. All of these issues were also highlighted in the Commission's own impact assessments and in the kind of shallow analyses that I performed in my prior, which we can assume were performed by the Dutch ministries as well. This take seems even more plausible considering that Canada was not a big opportunity nor a big threat, so the stakes were arguably low. Business as well as the civil service were on auto-pilot, defending positions that had been established in previous rounds of discussions.

This same symbiosis was apparent on investment. We know that the Dutch model BIT was developed in close cooperation with business, and in CETA the civil service and business were once more in agreement over the need to include ISDS, and strong investment protection provisions. However, here it seems that the civil service was actually more inclined to defend the Dutch model, free from things like safeguards of the 'right to regulate' or from more narrow definitions of 'investor', than business, which supported a system 'like ISDS', but which seems not to have been especially interested in the specifics. Other sensitive issues were also handled on 'auto-pilot'. For instance, the Dutch called for animal-welfare provisions and bans on hormone-treated beef, although no societal actors had shown any major interest in these items. Again, we can attribute this to symbiosis: decision makers already knew that this was the desired outcome for business (and the general public), and they could copy-paste this stance from other negotiations. The same applied to the Dutch support for non-binding sustainable development chapters: this demand was included as a 'matter of course', it was uncontroversial in the Council, was based on the previous Dutch positions, and reflected a (perceived) consensus among societal actors. On the other hand, an issue that was highly controversial in Belgium, negative listing, seems to have elicited few worries. Although the Netherlands was a little skeptical of this novelty and the extra analytical work it required, it quickly came to the conclusion that this would provide additional negotiating leverage in more important sections (e.g. procurement) while not endangering any sensitive sectors. So here, commercial interests clearly trumped path dependency. Judging from the TPC documents, it only took them about a month to start shifting from being very suspicious of negative listing to in principle supporting it as long as it did not count as a precedent; even this resistance against its precedent value was later abandoned<sup>285</sup>.

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<sup>285</sup> At least judging from the Belgian ministry of foreign affairs' remarks in the FRDO of 2015, which here complained about being totally isolated in their support for positive listing. See the Belgian chapter on decision makers' preferences in CETA.

These issues do show the difficulty in gauging the extent to which the Netherlands was also protecting a more normative agenda in the trade debate; positions such as animal welfare were in line with business preferences (and apparently purely seen as an NTB by parts of the ministry). Or take the Dutch support for Geographical Indications, which conflicts with the alleged free-trade enthusiasm of the government(s). The Netherlands has consistently asked for the inclusion of its own GIs in the past few accords, and CETA was no exception. How does this relate to the liberal stereotype? One area where the Netherlands did seem to be genuinely motivated by non-commercial desires was its plea for greater transparency, and its irritation of the Commission's lack of initiative in this regard. The Netherlands called for a release of the chapters on IPR when these became controversial, and later wished for a swift release of both the negotiated text as well as the initial mandate. It also supported mixity at an early stage. The government also kept the Tweede Kamer up to date with regular ministerial letters on the ministerial/TPC meetings.

**Civil society** barely played a role in this first phase. The development/research NGOs continued their work on ISDS, which also expanded to CETA, but they were not successful at getting the Netherlands to change its position here, and the relations with the Ministry on this issue deteriorated when they pressed the issue. Many other NGOs, as well as the trade unions, had tuned out of trade policy or were broadly supportive of the FTA-agenda, and were not really paying much attention. This started changing after 2014. From 2013, a group of NGOs started working on TTIP; as part of their usual work on trade policy, but also stirred by the increase in activity in the European networks they were a part of, notably S2B. These organizations tried to involve a series of other CSOs in this campaign, and over the course of 2014 they were successful – again aided by these groups' EU-level involvements. After it became clear to them that this was something they could actually campaign on, Milieudefensie and Foodwatch joined in and they started working on turning TTIP into a noisy issue in the Netherlands as well. Over the course of 2014-2016, they succeeded at broadening the scope and size of the organizations involved, spreading also to the main trade union, the consumer federation, Greenpeace, and a number of smaller organizations. They also successfully, yet temporarily, joined forces with some strange bedfellows – a number of dissatisfied farmers' groups that had broken off from their peak federation to protest against the FTAs.

Although the CSO campaign initially focused mostly on TTIP, this eventually spread to CETA as well, especially in relation to ISDS. However, only around the summer and fall of 2016, did CETA become the core of their campaign. Altogether, it seems as though they were quite successful. First in the more limited debates in the press and the parliament on ISDS (and food safety), then also among the public. Internal documents show the civil service becoming anxious over the danger of a spillover from the increasingly heated TTIP debates to CETA, especially in relation to ISDS, and this combination of increasing public pressure and a desire to nip an escalation in the bud, led to the Dutch support for a modification of ISDS. We can only speculate as to whether this was related to the departure of Lavranos (or vice versa), but these shifts did coincide. On most issues besides ISDS, the ministry and its chief nonetheless resisted the CSOs' claims. However, the strong parliamentary action that the campaign had elicited still forced the executive to change course on a number of topics, such as provisional application and the interpretative declaration. I do not

think that we would have seen these positions without CSO pressure working its way through the parliament and the press. Direct inside lobbying was arguably of much less importance, the CSOs did not feel the ministry was very receptive, which is confirmed by my analysis of their own preferences, and the ways in which they tried to defend them from CSO influence. The CSOs certainly did not make the ministry change course through the rhetorical force of their arguments alone. Instead, they were able to push the press as well as the parliament in a more critical direction, forcing a social-democratic minister to defend her left flank, while her party was plummeting in the polls and elections were due in early 2017.

Perhaps Ploumen's social-democratic profile would have led her to support the reforms of ICS without any such public lobbying. However, I think this seems implausible given the long-standing Dutch position on ISDS, and the fact that Ploumen was tied up by a coalition with the VVD. Based on the evidence I have collected, I believe that the Netherlands would have either resisted reforms, or had certainly not been part of a lead group. However, this depends on one's interpretation of ICS: if you see this system as a shrewd way of changing nothing of substance to a system that is essentially still the same investor-state dispute settlement structure that had already been included in CETA, like many of the CSOs do, then the Dutch 'switch' is merely a diversion, meant to safeguard investor-state settlement's inclusion in TTIP and other treaties. But the minister certainly remained supportive of the system that had already been included in CETA until it became clear that the genie was out of the box. At that time, it no longer made political sense to defend CETA's system while altering the proposals for TTIP.

There does not seem to have been much pushback from business against the switch from ISDS to ICS, unless this happened through channels that I did not pick up in the WOB requests or my interviews. From the interviews with business it appears that they were not that concerned with the specifics of this instrument, they supported a system *like this*, some kind of investor state dispute settlement, but ICS suffice just as well as ISDS had. However, here we must wonder to what extent business just did not feel prepared to wage this debate once it had become public and noisy. Very much in line with the existing literature on this kind of dynamic, we saw that they did not feel this was a debate they could easily win, or that a strong position from the employers would make much of a difference. Moreover, the neocorporatist institutions of the Netherlands gave them a path to come up with a more 'neutral' 'non-partisan' advice in the SER, even though this came after the Netherlands had already switched track. It therefore appears that this was something that escaped the control of the employers for a while, the public and European dynamic momentarily got the best of them, and the best they could do was to support the *fait accompli* of ICS.



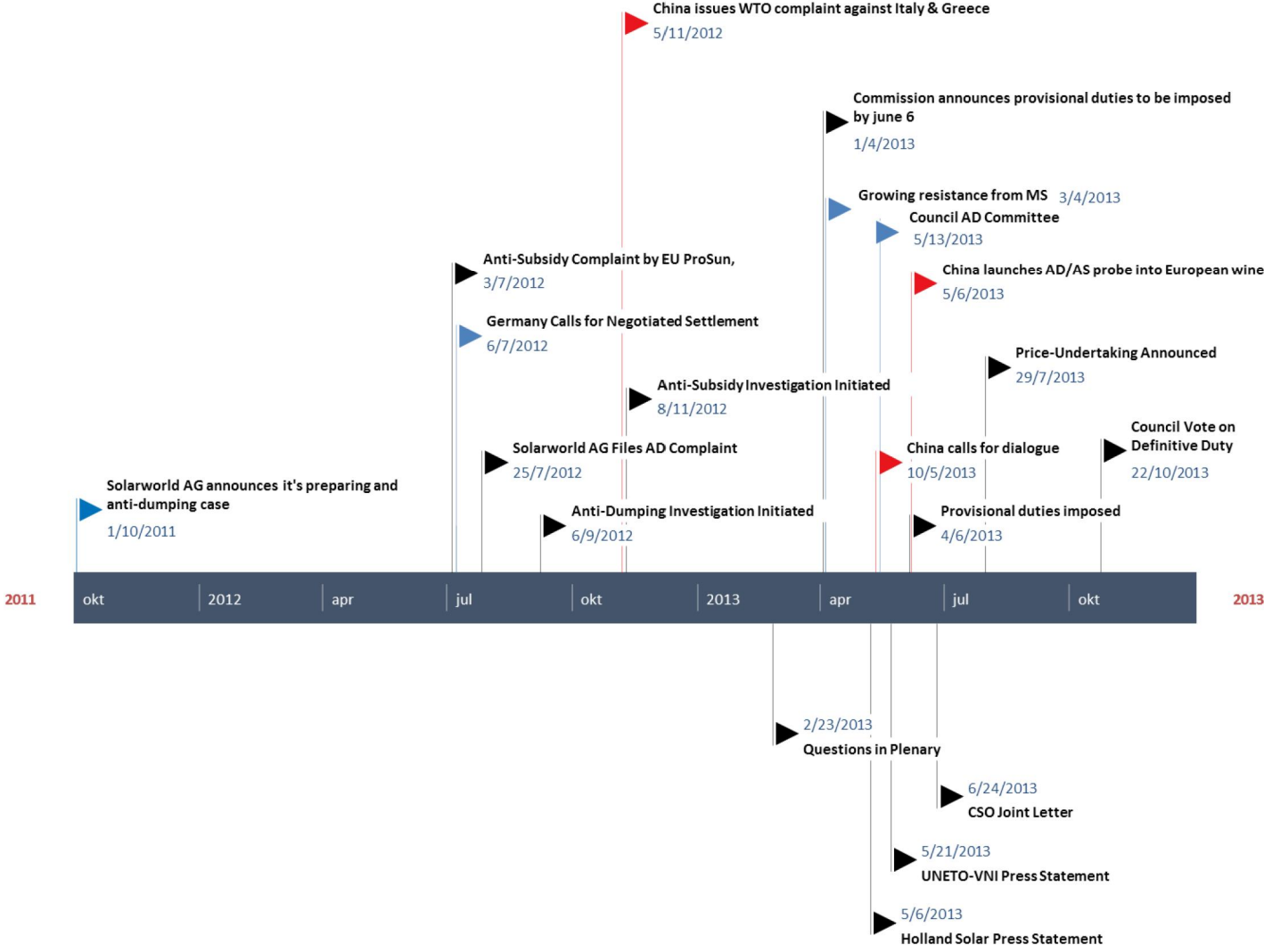
<b>Government positions</b>	<b>CSOs</b>	<b>Sectors</b>	<b>VNO-NCW</b>	<b>'Autonomous' Sources</b>
<p><b>Goods</b></p> <p><b>Goods offensive</b> Dairy Automobiles (rules of origin) NAMA in general</p> <p><b>Goods defensive:</b> Meat (Beef and pork) – not a red line, but supported: License system for quotas No opening for hormone-treated meat</p>	<p>All efforts at regulatory cooperation should be resisted</p> <p>Insufficient protection of food standards (GMOs, hormone beef)</p>	<p>Dairy sector in favor of opening, in favor of GIs</p> <p>Meat sector requesting maintenance of quotas; later meat sector requesting tariff rate quotas managed through licensing system by importing countries</p> <p>LTO in favor of market opening in dairy, more defenses in meat Request for licensing system</p> <p>Several sub-sectoral farmers (notably pig farmers) opposed increase in meat quotas</p> <p>No specific positions by FME or member firms No position by agro-food machinery (FME)</p> <p>No position by shipbuilders during negotiation</p>	<p>During/before negotiations: Support for FTA with Canada</p> <p>In 2016: Supported CETA's signing</p>	<p>Liberal preferences of ministers and civil service Government declarations and policy notes emphasizing the necessity for trade and investment treaties; 'Economic studies'; Commission's impact assessment In agriculture: studies/previous lobbying by civil society on agriculture Government declarations and policy notes supporting liberalization in agriculture (first: 2007) 'Standard' position on agriculture Conflicting societal interests; Interest in boosting aggregate economic gains over sub-sectoral preferences</p>
<p><b>CETA</b></p> <p>Pleased with deal in 2013 – except maritime and financial Precedent for TTIP Support signing (2014-2016)</p>	<p>Against signing &amp; ratification</p>	<p>All non-farming sectors supported CETA's signing after conclusion of deal</p> <p>Select group of farmers' groups, notably pig farmers, opposed signing of CETA until autumn 2016</p>		<p>Liberal preferences of ministers and civil service</p> <p>Prelude to TTIP</p> <p>All: assessment of potential for agreement at EU level</p>
<p><b>Services</b></p> <p><b>Services method:</b> from positive, to negative (hybrid)</p> <p><b>Services offensive:</b> Postal Feederling Dredging Financial</p> <p><b>Services defensive:</b> Public services Mode 4</p> <p><b>Reservations:</b> [A1] Veterinary services Energy distribution/transport Gas &amp; Petroleum extraction Legal &amp; Hallmarking services Customs Clearance services Fishing, sea-transport and waterworks [A2] Supply services of office personnel</p>	<p>All efforts at regulatory cooperation should be resisted</p> <p>Against use of negative list Stronger protections required for public services</p>	<p>Dredgers in favor of market opening, removal of Canadian NTBs</p> <p>Financial sector no position</p>		<p>Liberal preferences of ministers and civil service</p> <p>Government declarations and policy notes highlighting the Netherlands' offensive interests in services liberalization</p> <p>CBS/CPB studies on gains from services liberalization (in general)</p> <p>'Standard' position on dredging 'Standard' position on maritime services</p> <p>Lack of experience with 'negative list' method of liberalization</p> <p>Multilateral commitments, e.g. GATS' openness in financial services</p>
<p><b>IPR</b></p> <p>GIs – Edam &amp; Gouda First supportive – no special position Then – contra criminal persecution Also on camcording – but no red line</p>		<p>2016: Music industry in favor of IPR protections</p> <p>Dairy sector in favor of GIs</p>		<p>Anticipation of societal pressure after initial press coverage Legal analyses of IPR enforcement Standard position: GIs Edam and Gouda also included in FTA with South-Africa and the FTA with Vietnam</p>
<p><b>Investment</b></p>	<p>Rejecting the inclusion of ISDS in CETA</p>		<p>Support for ISDS (Minor) evidence</p>	<p>Government declarations and policy notes</p>

<p>In favor of investment chapter Strong ISDS Access of Financial Sector to ISDS Contra Investment Screening (2013-2016)</p> <p>In 2014: ICS Proposal</p>	<p>Rejecting the inclusion of ICS in CETA Reform of investment protection chapter, e.g. addition of right to regulate</p>		<p>against resistance to switch to ICS Support for ICS</p>	<p>emphasizing the Dutch tradition in, and necessity of strong investment protections Long-standing position on investment protection Strong personal preference of person in charge Revolving door (A?) Study on ISDS in TTIP CBS/CPB studies on gains from BITs and investment protection (in general)</p>
<p><b>Procurement</b> In favor of opening – also inclusion of provinces</p>		<p>Dredgers in favor of opening</p>	<p>In 2016: Support for procurement opening</p>	<p>‘Standard’ position in favor of procurement market opening</p>
<p><b>Sustainability</b> No fines Binding reference to CLS ILO Support for animal welfare provisions Support for precautionary principle,  Strengthening of dispute settlement in these chapters (interpr decl – 2016)</p>	<p>Precautionary principle should be explicitly included in treaty All efforts at regulatory cooperation should be resisted  Sustainable development chapters should be enforceable through usual dispute settlement system</p>	<p>During negotiations: No position on animal welfare (?) No position on hormones or GMOs  2015-2016: Critical farmers calling for stronger protections on hormones, GMOs and animal welfare, need for on-site controls</p>	<p>In 2016: Support for sustainable dev chapters (as they were)</p>	<p>Government declarations and policy notes (2009) emphasizing the Dutch tradition in, and necessity of sustainable development chapters in FTAs, inclusion of core labor standard, animal welfare  Political calculation/party politics/ministerial preference</p>
<p><b>Process</b>  In favor of <b>mixity</b> from on 2013 In favor of <b>publishing</b> initialed text (09/2014), and mandate and certain negotiating texts (12/2015)  Limits on <b>provisional application</b> (2016): excluding investment protection, ICS, portfolio-investment and non-trade related aspects of IPR  Legally binding <b>interpretative declaration</b> including: protection of domestic right to regulate, labor/env/animal/health standards, precautionary principle, binding labor/env chapters</p>	<p><b>No Provisional Application</b> Specifically: the provisions on ICS, on regulatory cooperation, the entire investment chapter, the chapter on energy and domestic regulations  It was not sufficiently clear that the interpretative declaration was legally binding. The treaty should be re-opened instead of clarified in this way</p>	<p>Music industry in favor of provisionally applying the IPR chapter</p>	<p>In 2016: Interpretative declaration was unnecessary but not unwelcome (legally binding, but did not add anything new)</p>	<p>Mixity: legal analysis (transport competence)  PA: Legal analyses; unfavorable to taking out portfolio investment from provisional application</p>

# 8. The Dutch Politics Of Solar Dumping

## 8.1. The outcome

In this case, the outcome is a lot less complex. According to my sources, the Netherlands voted against provisional measures, and was opposed to the imposition of a final duty. In June they pleaded in favor of a negotiated settlement with China, as proposed by the Commission, but they abstained on the price undertaking which the Commission proposed in the summer of 2013 (interview, kst-21501-02-1270).



## 8.2. Interest group lobbying

Because of the far more limited CSO and business lobbying that was undertaken in the solar-panel case, compared to an FTA like CETA, I will not be discussing these in separate mechanisms. Rather, I will be grouping both groups in one sub-chapter. To improve the flow of the text, I have also merged some of the mechanism's steps.

The structure of this section follows that of the previous mechanistic traces: a prior followed by a step-by-step trace.

### 8.2.1. Prior

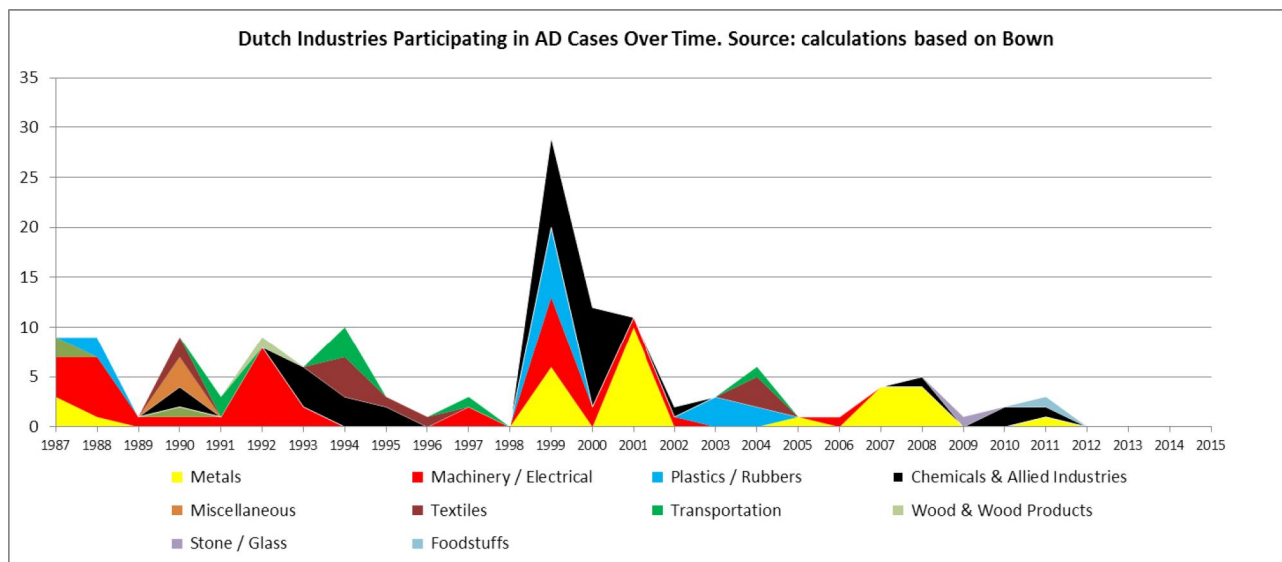
Given what we know about the determinants of states' and the Netherlands' positioning on anti-dumping measures, and the influence of interest groups in this process, how likely is it 'a priori' that interest groups determined the Dutch position in the solar panel case?

First, **business**.

The assumption in the general literature on anti-dumping politics is that these politics are heavily dominated by defensive producers' interests (see the theoretical review), although value chain integration may weaken their plead for protection. Since there is no specific literature on the Dutch politics of anti-dumping that I can review to refine this assessment from the literature, I will instead base my prior on the pattern of dumping-participation by Dutch firms, in combination with some (second-best) data on Dutch voting and interviews about the usual position of the Netherlands.

Dutch firms have **regularly participated in EU AD procedures**, but the last time they did so was in 2012. Even before 2012 there were several years in which they did not (or to a very limited extend) take part in any investigations, although there was also a severe increase in participation in 1999, 2000, and 2001. Sectorally, we can see that a variety of industries has taken part in investigations (including plastics and rubbers, metals, chemicals, textiles and machinery and electrical equipment), but that the activity of most of these died down after 2005; the only partial exception is the metal sector, which took part in about ten investigations after 2010. The list of favorite targets is topped by an unsurprising trio: China, South-Korea and Japan. At the firm level, the **most active companies** have been Philips (in a variety of branches; a Dutch multinational), a variety of steel companies (Hoogovens, Corus) that have in recent years all become part of Tata Steel, and Hydro Agri Sluiskil, which in 2007 became part of the Norwegian multinational Yara International. Most of the other companies on the list are also (part of) multinationals.

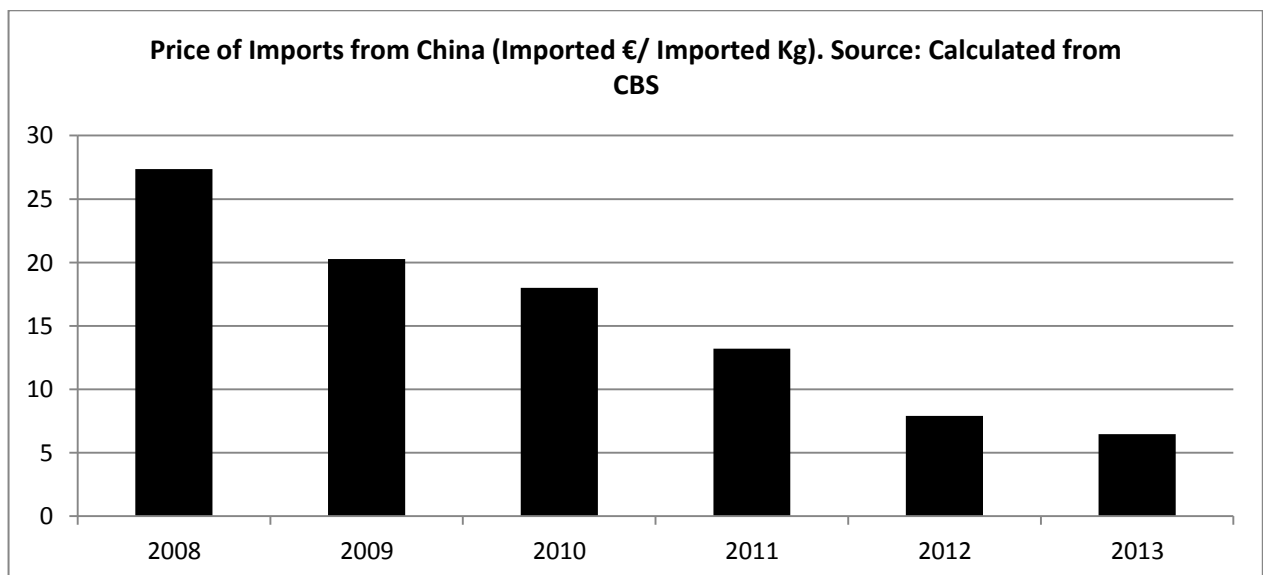
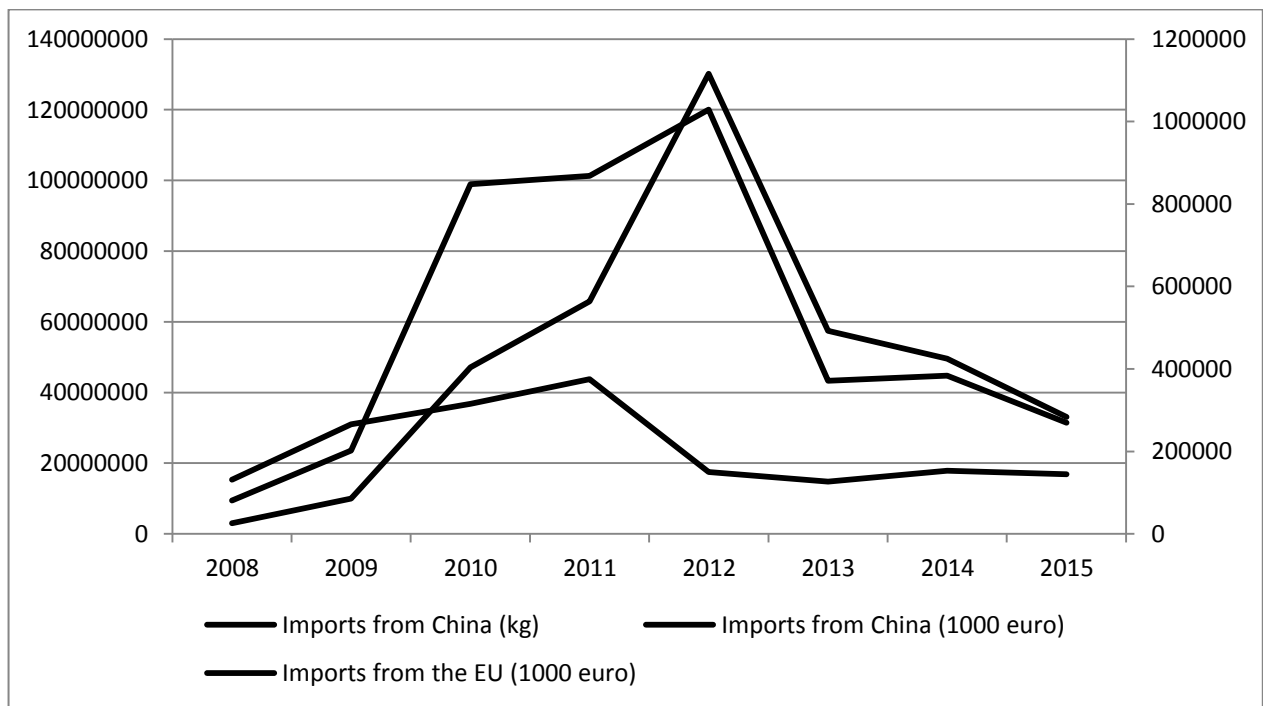
Dutch Firms Participating in AD Cases				
Hydro Agri Sluiskil	23 Swedish Match	4 Quaker Oats Chemicals	2 International Furan Chemicals	1
Philips	22 Accordis	3 Stork-Werkspoor Diesel	2 ITS BV	1
Corus Tubes	17 Batavus	3 Abengoa Energy	1 Lankhorst Touwfabrieken	1
Hoogovens Steel	10 Henzo	3 Accell Group	1 Nedri Spanstaal	1
Wellman Pet Resins	9 Pdm Magnetics	3 Bolsius	1 Norit	1
AKZO	8 Voridian	3 CPO Magnetic Products	1 Oliveira Holland	1
Kemira	8 DSM Agro	2 DSM Melamine	1 Ophahell	1
Eastman Chemicals	6 Dupont De Nemours	2 Eja International	1 PPG	1
Sittard Netherlands	6 Holland Sweetener Company	2 EPM	1 PQ Silicas	1
Gazelle	5 Maatschappij van Berkels Patent	2 Grass Valley	1 Themphos International	1



**In other words:** firms from highly concentrated and well-organized sectors (multinational manufacturers) have participated in AD investigations. And yet, the Netherlands has seldom supported measures. According to the data by Nordström (unpublished), the Netherlands was part of the **liberal group** before 2004: if everyone shared the Dutch preferences, AD action would only be condoned in 19% of all cases (compared to 98% for Greece, for example). This is corroborated by Evenett & Vermulst (2005), who estimate that the Netherlands supported 8% of all AD action between 1991 and 2003 (2 votes in favor, 1 abstention, 21 opposed). Our interviews indicate that this position **has not shifted much**, over time: the default position of the Netherlands has been not to support measures (Interview - AD-Unit NLD (retired), 2017; Interview - AD Unit NLD, 2016).

Of course, as we know from the literature reviewed in chapter four, this pattern may also be due to continuous pro-trade counter-lobbying, or the weakening of protectionist coalitions by vertical integration: even the lobbying by some of these concentrated, defensive industrial sectors has become weakened by global sourcing. It may be that these industries appear concentrated and homogenous, while in fact they've been splintered by growing value chain integration. Integration may have spurred counter-lobbying as well as a further lowering of the receptivity of policy makers (who also look at economic data and consider some account of the 'national interest'). In other words: we may be overestimating the lobbying-strength of the industries that have participated in Dutch anti-dumping, and perhaps the state has in fact been susceptible to strong counter-lobbying by groups that resisted anti-dumping tariffs. The literature would deem such persistent counter-lobbying unlikely, though.

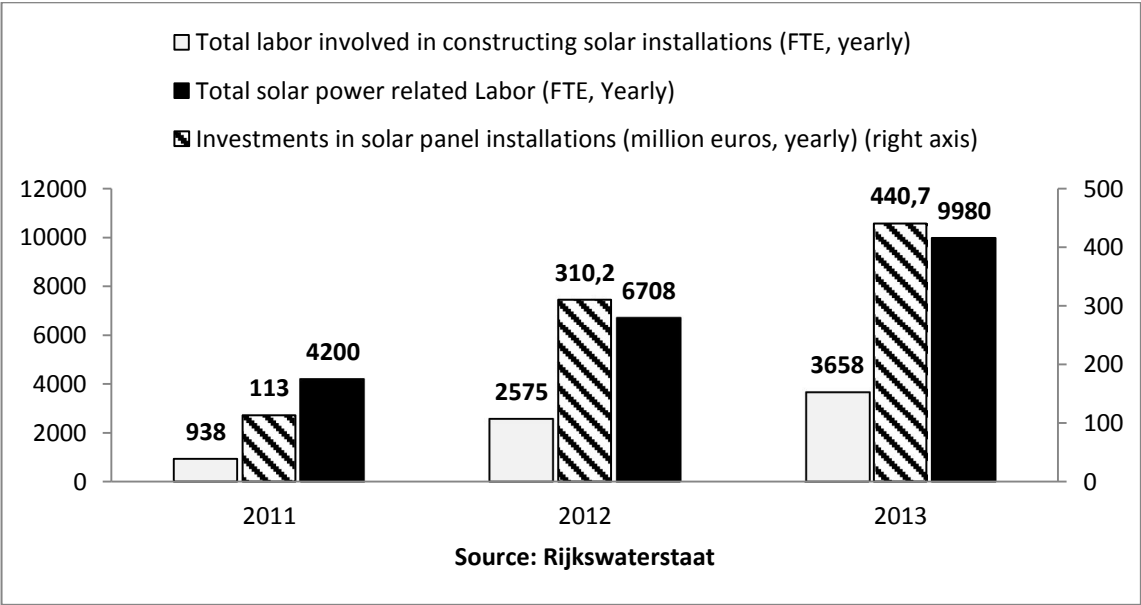
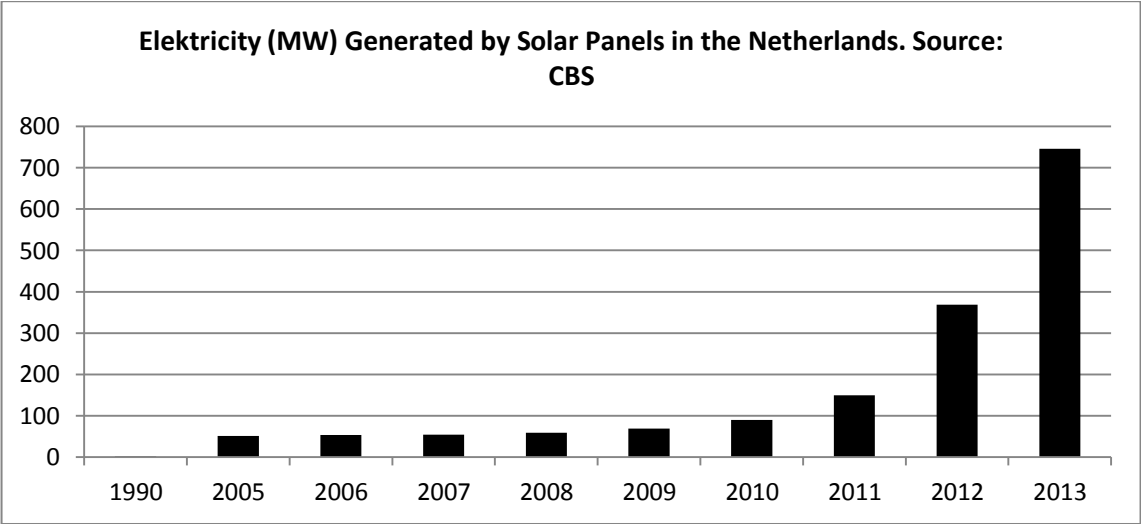
**What did the photovoltaic-business sector look like in the Netherlands?** As in many other EU countries, Dutch imports of PV had risen enormously in 2010-2013, and China had emerged as by far the most dominant source of finished PV products. The Netherlands had become an important hub for importing and distributing solar panels to the rest of the EU.



Although this in part reflected the rising demand in the EU at large and the Netherlands' port-effect, it was also part of a turn towards renewables in the Netherlands itself. Although the Netherlands was somewhat behind in terms of solar-capacity (for example compared to Germany; the Netherlands had not subsidized this technology to the same extent), it had in recent years been catching up. Data from the CBS show that solar power had been taking off as prices dropped, again mostly because of the plummeting prices of Chinese imports<sup>286</sup>. This fostered the growth of not only growing PV '**consumption**' (investment in solar capacity), but also **retail** (import, distribution) and **service** (installation, construction) activities; this led to **growing employment** in downstream and upstream activities (CBS, 2012).

<sup>286</sup> <https://www.cbs.nl/nl-nl/nieuws/2012/34/sterke-toename-van-zonnepanelen> .

Rising imports also came at a cost, however: domestic manufacturers were outcompeted, and Dutch PV production had largely disappeared by 2010 (CBS, 2012). According to a presentation by UNETO-VNI, in May 2013 there were 812 firms offering PV installations, of which the vast majority had no or only a handful of employees. 31 were large distributors, and 27 were foreign firms<sup>287</sup>. According to the CBS, in 2010 there were 35 firms (many of them small) importing directly from Belgian, German or Chinese producers, a number that grew to 100 in 2010 and 330 in 2012<sup>288</sup>.

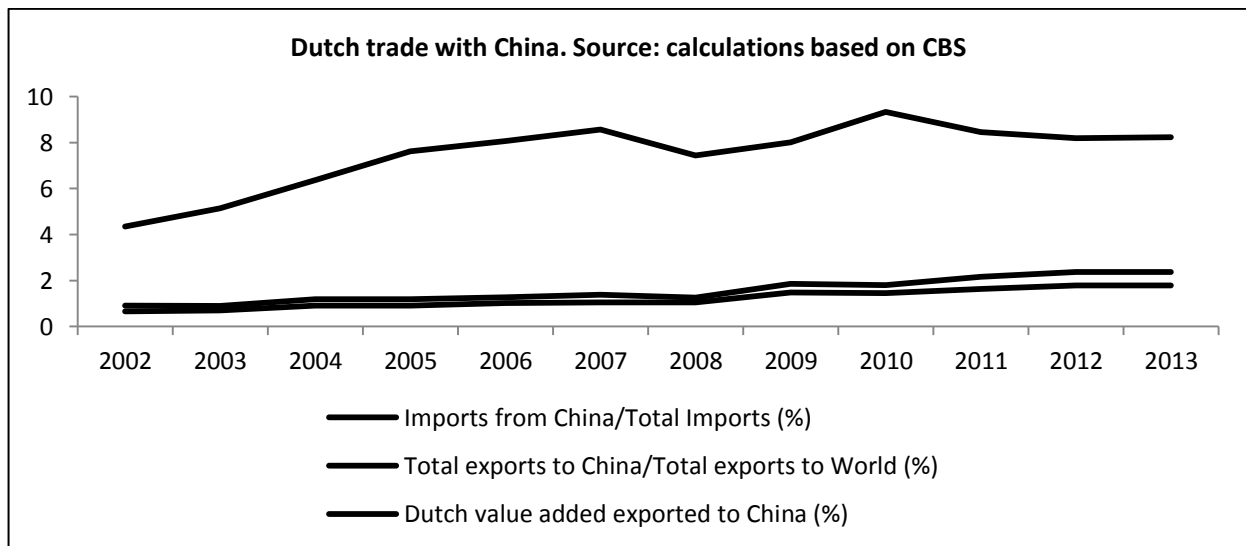


All in all, we might assume that quite a number of Dutch firms and employees had an economic stake in cheap PV imports from China, while it seems that there were few producer interests to be threatened by them. Although these were mostly small firms, they were organized in a number of federations (see below) and their stake in the issue was quite clear: a large anti-dumping tariff would have a predictably negative effect on the margins of importers and installers.

<sup>287</sup> <https://www.uneto-vni.nl/stream/presentatie-algemene-informatie-pv-markt-nederland-2014>

<sup>288</sup> <https://www.cbs.nl/nl-nl/achtergrond/2013/46/bijgeplaatste-zonnestroom>

Dutch Exports of Goods targeted by Chinese AD Action in 2013 (%) - Source: COMTRADE		
	Sectoral Exports to China/Total Exports in Sector	Sectoral Exports to World/Total Exports to World
Sparkling wine of fresh grapes	0,00046	0,10409
Wine other than sparkling wine of fresh grapes	0,00396	0,32492
Wine other than sparkling wine of fresh grapes	0,00006	0,02719
Silicon	0,00005	0,00034
Tetrachloroethylene	0,00000	0,00926
Tubes, pipes & hollow profiles	0,00062	0,00497
Tubes, pipes & hollow profiles	0,00004	0,03600



Of course, the dispute was potentially relevant for **other Dutch sectors** as well, because it threatened to lead to repeated rounds of trade retaliation. It seems that none of the anti-dumping actions taken by China were very relevant for any Dutch exports, though these sectors may have still been worried about China's future market potential. The Chinese share of Dutch exports had been growing as well, although it was still far-outgunned by imports. Based on this metric, Chinese tariff fluctuations were not of an immediate concern to much of Dutch business - although it was flagged as an important *emerging* market in many CBS and CPB publications.

### In summary

Given the engrained liberal pattern of Dutch policy making, it may actually be easier to prove the influence of protectionist lobbying than that of liberal lobbying. The latter has to vie for causal relevance with the more obvious 'business-as-usual' explanation. We would only rule in favor of contra-AD lobbying in case there was a very strong pro-duties block that may otherwise have overwhelmed the basic pro-trade stance. The former explanation is easier to substantiate: if we find a protectionist outcome, it is quite plausible that this deviation from the usual pattern resulted from business lobbying (as long as we find the necessary steps). In other



terms: it will be relatively easy to *falsify* as well as *confirm* the role of protectionist lobbying (in something that somewhat approaches a 'doubly decisive' test), while it will be very hard to *confirm* (but easier to falsify, e.g. if there is no evidence of activity) the role of liberal lobbying.

Considering the state of the sector in the Netherlands, however, strong lobbying on either side would be somewhat surprising: it concerned a new sector which was geographically fragmented, full of very small enterprises, and without a single large manufacturer that might incur the costs of monitoring and collective action. The firms' associations may have been equally constrained by the small size and resources of their members.

### Secondly, **civil society organizations.**

As I discussed in the theoretical review and in the Dutch introductory chapter, these have been almost completely absent from lobbying the trade defensive policy sphere. Perhaps the solar panel case was special because of the environmental dimension, but it would still be quite surprising if we would find that they played an influential role. Moreover, as with contra-duty business, it will be hard to prove they played a significant role unless there was substantial counter-lobbying.

#### 8.2.1.1. Potential evidence

**\*Sequence:** lobbying before (change in) position is determined

**\*Trace:** policymakers' meetings with interest group's representatives (*as reported in interviews, public statements*), positioning by interest groups (*press releases/published statements*), a shift in the Dutch position (from open ended to determined, or from position x to position y) (*in ministerial Letters, as communicated to parliament, as visible in public statements/council documents*), no reverse lobbying (eg. politicians pushing interest groups to support a certain position).

**\*Account:** policymakers attributing their changing position to interest groups' actions (*in private conversation, an interview, in the press, public statements*), interest groups attributing their success/failure to lobbying (*idem*)

**\*Pattern:** data on intensity of contacts, correlations between contacts and changes in position, comparisons with similar/different cases, previous patterns of interest group's influence on decision makers, (shifts compared to) patterns of past positioning

#### 8.2.2. Probing the role of CSO and business lobbying

##### 8.2.2.1. Were interest groups aware of the case?

###### *a. Empirics*

There were two business associations representing the PV industry at the time of the dispute. **Holland Solar**, with a staff of about five, was the dedicated branch organization of the solar sector. Its members (+130 in 2016) included distributors, producers, installers, consultants and architects. The association was itself a member

of the organization for the Dutch sustainable energy sector (Nederlandse Vereniging Duurzame Energie), the European photovoltaic industry association (EPIA, now called Solar Power Europe) and Solar Heat Europe. The other group was **UNETO-VNI**, which was the association of Dutch installers' firms. Although this was a much larger organization (with about 70 employees in 2016 and over 5000 member firms, UNETO-VNI is one of the largest employers' organizations in the Netherlands), PV installation was only one of several sub-activities it represented.

According to one of my respondents, which had been the head of **Holland Solar in 2013**, the association had routinely tracked European affairs, in search for potentially relevant regulations and initiatives. He believed they probably became aware of the pending case both through their own monitoring as well as through their membership of the European photovoltaic industry association (EPIA). He also claimed that they were the only representatives of the industry doing any work on this at the time; UNETO-VNI, FME or other organizations did not get involved, nor did VNO-NCW (Interview - ex-Holland Solar, 2017). **UNETO-VNI** acknowledged that they did not really follow trade policy from up close. They sometimes discussed these issues a little bit within their European federation, the European Association of Electrical Contractors (AIE), but never very intensely. It was Holland Solar, which was also more vested in the specific details of the solar industry, that drew their attention to the dumping case. However, as we will see below, they did do some work on the issue over the course of 2013 (Interview - UNETO-VNI, 2017).

It was impossible to check how and when **individual firms** got involved in this issue<sup>289</sup>. There was plenty of attention for the issue in Dutch solar's specialized press, and Holland Solar also launched a survey among its members. Moreover, there may have been proactive mobilizing by some of the European lobby groups' (AFASE and EU ProSun) larger members. The precise channels remain unclear, but many firms were evidently aware of the case because (as I show below) they joined coalitions and lobbied the government.

As we know from the introductory chapter on Dutch trade politics, there were very little **NGOs** doing much trade monitoring in 2013, and the few organizations working on this were looking at issues like ISDS or trade-and-development. However, as I show below, some of them, including a couple consumer organizations, eventually became aware of the case. Because of their one-time and limited role, and because I already discussed the monitoring channels of the major trade-related CSOs in the CETA-chapter, I decided not to further investigate the channels through which they became aware of the case. It seems unlikely that they were aware of the dispute before it was debated in the press.

#### 8.2.2.2. Did they have a position? Why (not)?

In an initial reaction in May (06-5-2013), **Holland Solar** remained very ambiguous: *'Holland Solar believes that free, transparent and fair global trade eventually leads to a healthy market for solar. Undue subsidies for producers and dumping do not contribute to this and should cease as soon as possible', '[An anti-dumping tariff] is a correctional measure,*

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<sup>289</sup> Although I did compile a list of contact details of the firms that became part of AFASE (see below), launching a survey was unfeasible given time constraints.

*but unfortunately also hinders free trade'. They announced they would be doing a survey to get a better look at the consequences for the Dutch market.*

According to an interview with the then head of Holland Solar, this ambiguity resulted from **internal divisions**. Although the Netherlands had never had much solar-panel producers, the dumping case still created a rift within the association and coming to a unified position proved to be impossible. On the one hand, many of the (somewhat larger, +- 10 employees) **trading firms** (buying and selling solar panels) and the many small **installers** opposed the measures. They were mostly interested in their turnover and in suppressing costs, and therefore resisted measures that would bar their access to cheap imports. On the other hand, a number of people, especially from within the federation's secretariat (which believed its task was to think strategically rather than short-term) but also among the membership, was more focused on the market's **long-term development**. They supported the measures because they believed that non-distorted market relations would aid the development of the best technologies and products, thereby safeguarding the developing PV-market - which had just started to really pick up in 2012-2013. Unwanted trade practices from China were detrimental to this long-term goal. This position was also supported by a number of trading firms whose faith was tied to that of the European producers, either because they were sister firms of these (especially German) manufacturers or because they were contractually bound to distribute European panels. These companies therefore had a stake in safeguarding European manufacturing, and in raising the relative price of the Chinese competitors (and their importers) (Interview - ex-Holland Solar, 2017).

These divisions were clearly reflected in the aforementioned **survey**, which was published 17 May 2013. The respondents were mostly installers or distributors, all of them were SMEs (60% had less than ten full-time employees). The poll investigated how firms thought their firms would be affected by various scenarios. If there was no anti-dumping tariff, the majority expected 'business as usual': growing turnover, but a significant upward price-correction, with new firms entering the market and more panels being installed. If tariffs were increased, about 60% expected a significant (25%-100%) loss in revenues and a more substantial increase in prices, while a quarter of the respondents expected unchanged or higher revenues. The amount of active firms would drop sharply, as would sales, although 10% did not share these expectations and another 10% believed turnover would increase. A majority opposed the tariff (80%), 40% believed 'another measure to correct Chinese trading practices' would be more fitting. *'The general picture of the survey is that the members [of Holland Solar] expect, in the short term, a significant negative influence on the revenue, price and sales in the Netherlands, if an import tariff were to be introduced'*<sup>290</sup>.

According to Holland Solar, when there are these kinds of internal divisions, sectoral **federations tend to refrain from taking overt positions**: splitting up the membership by choosing sides would quickly lead to the end of the association. This is why they decided not to take a very clear position. They remained ambiguous and non-specific (Interview - ex-Holland Solar, 2017). Although they did not publish any more positions after May 2013, they did comment on the case in a radio interview in June: *'If the Chinese government is subsidizing solar panels, than this is unfair competition that*

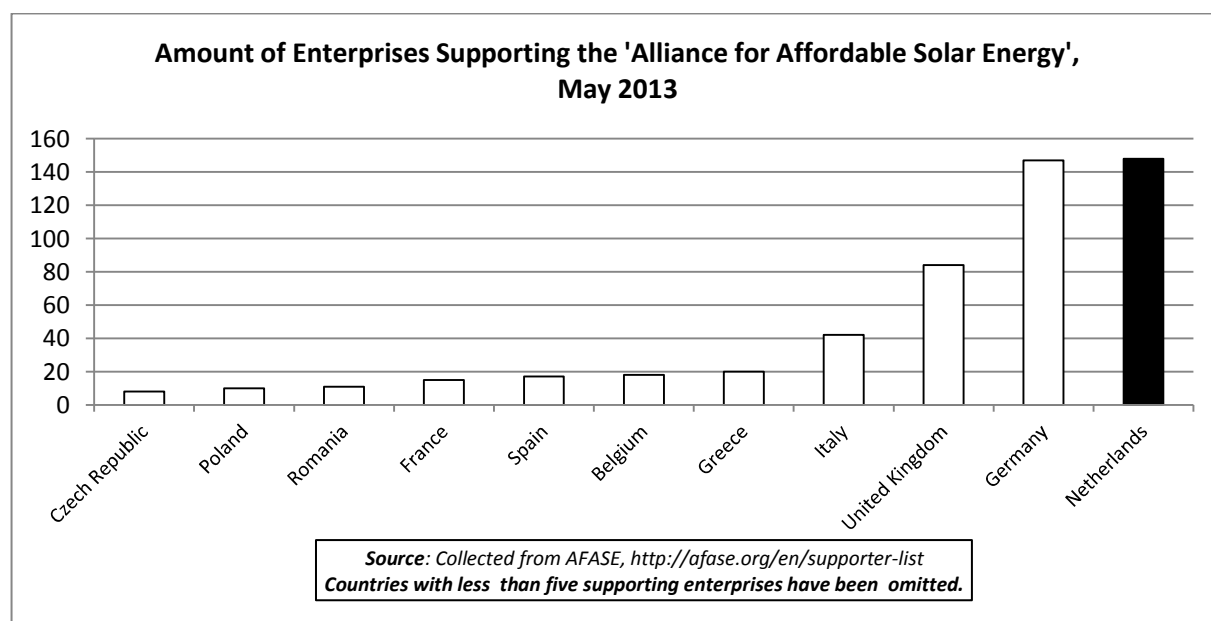
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<sup>290</sup> <http://hollandsolar.nl/nieuws-van-2013-pagina3-a170-enquete-effecten-importheffing.html>

should end', but also 'the import tariff of 47% percent on Chinese solar that the Commission is threatening to impose, is bad for the solar panel trade', because it was increasing uncertainty on the market. In subsequent messages on Holland Solar's website, **the group remained ambiguous**, lamenting the uncertainty that the dispute around the measures was causing on the market, but without taking a clear stance against them<sup>291</sup>.

Nonetheless, this ambiguity still led to a lot of hefty discussions within the organization. Some of the more activist traders went on to create their own association in support of the measures, and invested considerable resources in lobbying Brussels and The Hague (Interview - ex-Holland Solar, 2017).

The installers, united in **UNETO-VNI**, sent out a press release in May 2013 (somewhat contradicting the earlier remarks by my Holland Solar source). They had discussed the solar panel case with their members in one of their specialized internal groups, and had decided to oppose anti-dumping measures. In their statement, they argued that the measures would be harmful for their sector as well as the Netherland's climate goals: '*Thanks to the availability of Chinese solar panels, the price has been falling for years, making investing in solar more profitable in a shorter term. Raising tariffs would undo years of price drops, just at a time when solar was about to reach grid parity*<sup>292</sup> [...]'. Measures would slow down the growth in renewable energies, negatively impacting the installation branch and harming its turnover and employment (Interview - UNETO-VNI, 2017)<sup>293</sup>.



<sup>291</sup><http://hollandsolar.nl/nieuws-pagina19-a172-interview-over-importheffing-op-radio-1.html#.WgdJd3a1trQ>;  
<http://hollandsolar.nl/nieuws-pagina19-a174-het-besluit-van-de-europese-commissie-geen-einde-aan-onzekerheid-voor-de-branche.html>;  
[http://hollandsolar.nl/nieuws-pagina21-a168-importheffing-op-zonnepanelen.html#.WgdJ\\_na1trQ](http://hollandsolar.nl/nieuws-pagina21-a168-importheffing-op-zonnepanelen.html#.WgdJ_na1trQ);

According to my source, these divisions were at the time also present in the EPIA, causing the European federation to also remain in the background. The same conflicts arose in Germany, although somewhat more intensely because there were more producers' interests there (Interview - ex-Holland Solar, 2017).

<sup>292</sup> The point where producing solar power is just as expensive as 'regular' current

<sup>293</sup> I was sent the press release over e-mail, it is not available online anymore. It was published on May 21 2013. They cited from a study performed by 'Prognos', which claimed that an anti-dumping measure of 60% would lead to a loss of 240 thousand European jobs over the course of three years.

Of the **other business actors**, neither VNO-NCW nor any of the other sectoral organizations (such as FME) played a role (Interview - ex-Holland Solar, 2017; Interview - UNETO-VNI, 2017). However, a large amount of individual Dutch firms joined the **AFASE coalition**, which opposed the duties. On the other hand, no Dutch firms participated directly in the complaint. The list of members of the **ProSun coalition**, which supported duties, was also never made public. If any individual firms supported the imposition of measures, they did so only via inside channels.

**Individual firms, consumer organizations and environmental NGOs** also took up positions. On June 24<sup>th</sup> 2013, Aedes (a PV firm), Woonbond (landlords' organization), Vereniging Eigen Huis (house owners' organization), E-decentraal (a federation of sustainable energy cooperatives) and Natuur & Milieu (an environmental NGO) sent a **joint letter** to the European Commission, in which they opposed its plans to impose a duty. They claimed it would raise the costs of installing solar panels by 25%, harming the social and environmental interests of house owners and landlords (Solar Magazine, 2013). There was also a position by the **Consumentenbond**, on the sixth of June. On their website, they responded to the imposition of the tariff: it was going to hurt consumers and hinder the promotion of solar panels, and the Consumentenbond opposed it (although they urged consumers not to be too frightened, solar panels would still be profitable even with the tariff) (Consumentenbond, 2013). According to 'wattisduurzaam.nl', a PV industry news site, NGOs WWF and Natuur & Milieu had also sent out a press-release<sup>294</sup> that clearly opposed AD measures in solar (in June 2013).

### 8.2.2.3. Did they lobby for/communicate this position? Did they gain access?

#### *a. Scope conditions*

Based on the decision making procedures described in the first chapter, 'inside' access in general should have been good. Any interested party can get in touch with the core decision-makers in this domain. 'Outside' access through the parliament and the press is less plausible, given the general lack of interest in this matter, and because of this domain's institutional insulation: there was no need for parliamentary ratification, and these dossiers were clearly seen as an executive competence. Still, it was a high-profile case, and this may have made the press as well as the parliament more willing to voice interest groups' concerns.

#### *b. Empirics*

##### *b.a. Inside channels – The Ministry*

**According to the civil service**, they were contacted by, and met with, a wide variety of parties: distributors, producers of polysilicon, and the importers. The only actor that was conspicuously absent was the solar industry's sectoral organization, **Holland Solar**, which represented the entire spectrum of interests across the solar value chain (users as well as producers). Eventually, the ministry had to take the initiative to visit them themselves<sup>295</sup>, and it turned out that this organization was

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<sup>294</sup> Which I have not been able to recover.

<sup>295</sup> Interested parties usually come to The Hague.

unable to come to a joint position because of the many conflicting positions taken across its membership (Interview - AD Unit NLD, 2016). This picture was confirmed by Holland Solar itself: they had not gotten in touch with the ministry because of internal divisions; there was no point in lobbying if they could not present a clear position (Interview - ex-Holland Solar, 2017).

As was pointed out in the previous 'step' of the mechanism, however, supporters and opponents of the measures had proceeded to **lobby autonomously**, outside of Holland Solar. It seems like this activity was more vigorous on the contra-AD side: although an industry source claimed that there had been pro-duty lobbying by distributors of European panels (mostly from Germany), a high-ranking civil servant could not recall such activity (Interview - ex-Holland Solar, 2017; Interview - Head of IMH, 2017). Affected third parties, such as the wine industry or the general group of China-oriented exporters appear not to have gotten involved in lobbying efforts (ibid).

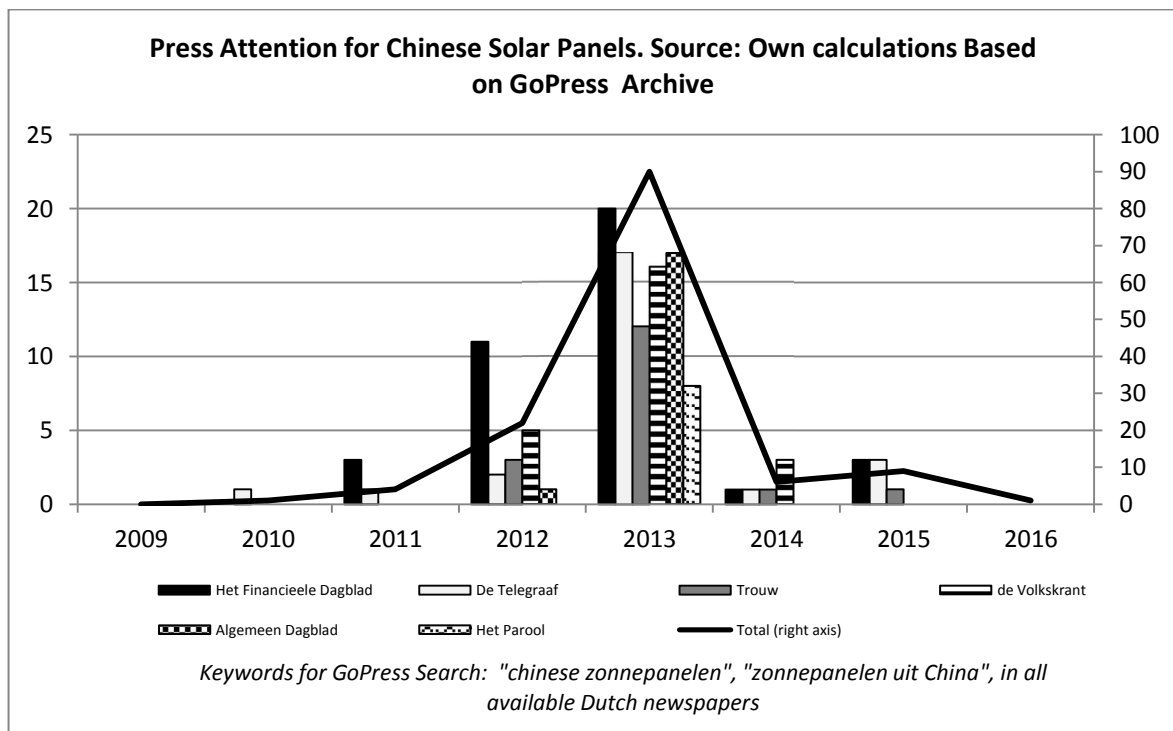
The solar panel case is also the only anti-dumping case (as far as I can tell) in which Dutch NGOs have ever become active. Usually, **non-business actors** (NGOs, consumer organizations, ...) are barely present on these matters, and they never get in touch with the 'unit'. Only in solar panels did NGOs send them a letter, protesting against the measures (Interview - AD Unit NLD, 2016).

However, there was **no further follow-up** after this letter (ibid). Apart from this letter sent by four NGOs, the ministry did not receive word from any non-business actors. This lack of engagement with the government was confirmed by one of the engaged organizations; Holland Solar was also not aware of any NGO activity in this dossier (E-Mail - Consumentenbond, 2017; Interview - ex-Holland Solar, 2017). I decided not to do any further follow up on their lobbying, since it seems implausible that there were active, influential groups that I've missed.

**UNETO-VNI** contacted the media and wrote press statements, but they never got in touch with the ministry (Interview - UNETO-VNI, 2017).

#### *b.b. Outside channels - the press.*

According to my interviewees, **non-business actors** (NGOs, consumer organizations, ...) did not actively lobby the government. As was clear from the previous section, however, they did send out a series of press releases. Individual Dutch firms were part of the AFASE coalition, which also performed a bit of transnational outside lobbying. To further investigate the potential 'outside' strategies of these groups, as well as the general public and political salience of the issue (factor in the second mechanism), I analyzed the coverage of solar dumping in the press.



The solar panel case received early press coverage (based on a search through newspapers' archives using GoPress), starting from when the complaint was lodged with the Commission in August 2012. The following months, alarming headlines warned about potential retaliation and an impending trade war with China, although the focus was largely on 'European' rather than specifically Dutch firms and interests<sup>296297</sup>. The sole commentary that was published, in *De Volkskrant*, argued that 'China should be granted its place under the sun': consumers are benefitting and Europe is making money in other parts of the supply chain (machine-building, R&D, installation)<sup>298</sup>.

In May 2013, the press focused on the division, both among member states and within the solar industry, over the Commission's proposal of a 30% duty <sup>299</sup>. These pieces also started discussing the potential effects on Dutch industry and consumers. A piece in *het Financieel Dagblad*, for example, discussed in quite neutral terms the role of Dutch industry in the solar value chain<sup>300</sup>, but *de Telegraaf* reported in more detail about Dutch business' response: they interviewed importers and installers that were very unhappy with the measures, but also some firms, 'for example Dutch producers in Bangladesh, that were hoping to expand their exports to the EU'. More frequent were the articles about how a 'price explosion' was impending for consumers of 'environmentally friendly, sustainable and, [thanks to cheap Chinese imports], budget-friendly' solar panels', because of the EU's efforts to end dumping<sup>301</sup>. Meanwhile, the politics of the case were highlighted: several newspapers paid attention to the German and Chinese resistance against the 'protectionism' of the Commission, as well

<sup>296</sup> Handelsoorlog met China dreigt om zonnepanelen -Trouw - Fri. 07 Sep. 2012

<sup>297</sup> China probeert ook Brussel te intimideren - Het Financieele Dagblad - Thu. 20 Sep. 2012

<sup>298</sup> Gun China een plek in de zon -De Volkskrant - Fri. 09 Nov. 2012

<sup>299</sup> Europa wil heffing van 30% op zonnepanelen die uit China komen - Het Financieele Dagblad - Sat. 04 May 2013

<sup>300</sup> Made in Holland' speelt een cruciale rol in mondiale productielijnen zonnepanelen - Het Financieele Dagblad - Fri. 17 May

<sup>301</sup> Prijsexplosie dreigt voor zonnepanelen uit China - Algemeen Dagblad - Sat. 25 May 2013

as the opposition against duties that Dutch minister of economics Henk Kamp voiced in the Tweede Kamer<sup>302</sup>. In June, the papers took note of similar criticism leveled against the duties by secretary of state of finance Weekers, during a Dutch economic mission to China (when there was also a tax deal concluded)<sup>303</sup>. There were no (again, based on the GoPress search) reports of parties' or politicians' views, other than the ministers', throughout the dispute.

Throughout June 2013, reporting continued in a tone that seemed to vary from neutral to negative, remarks or commentaries in favor of AD-measures were rare. Articles reported on how the Dutch market for solar panels had boomed due to the low prices, a development that was now threatened by 'eurocommissioner De Gucht's plans'. The plans had importers and installers fearing losses in turnover and jobs, and were opposed by 'most' member states<sup>304</sup>. They warned that the 'looming trade war' might hurt Dutch SMEs and Dutch firms that wanted to invest in China<sup>305</sup>. *De Telegraaf* conducted an online poll ('*stelling van de dag*', on their website), where three quarters of the participants opposed the duties for environmental and employment reasons<sup>306</sup>. According to a piece in *Algemeen Dagblad*, Dutch firms were not at all worried: some firms did not fear for their exports or their investments (mostly in high-tech, where firms felt secure about China's need for their products), yet paper, milk and metal producers were said to oppose the duties; they feared new barriers to their exports<sup>307</sup>. Again the papers took note of the cabinet's opposition, quoting for example minister Ploumen against imposition of duty<sup>308</sup>.

The week after the price undertaking was agreed upon, reporting was mixed. *Algemeen Dagblad* gave space to the negative reaction of the solar panel sector, headlining with '*Deal with China may cost jobs*'<sup>309</sup>. *Het Financieele Dagblad* recorded the reaction by minister Ploumen, who said that she was 'pleased' with the deal, preferring it over a 47% tariff, 'although she still needed to study the details'<sup>310</sup>. *Trouw* first focused on the relief that the '*trade war is almost over*'<sup>311</sup>, but the next day published a commentary supporting the Commission's defense of the solar industry (keeping EU industry and know-how alive), while expressing its doubts over the price undertaking – the agreed price might be too low for industry yet too high for consumers/installers<sup>312</sup>. After this episode, there was no more substantial reporting on the issue (at most, it was mentioned in the margin of some other issue).

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<sup>302</sup>Brussel dooft handel in zonnepanelen - De Telegraaf - Mon. 27 May

De Zonnekoning De Telegraaf - Wed. 29 May 2013at; Dreigende taal van China over heffing op zonnepanelen - De Volkskrant - Mon. 27 May 2013

<sup>303</sup>Verdrag effent handel met China - De Volkskrant - Mon. 03 Jun

China in verhevigd offensief tegen dumpingheffingen EU - Het Financieele Dagblad - Mon. 27 May 2013

<sup>304</sup>Solarbranche wacht met spanning af: wel of geen EU-heffingen op Chinese panelen -Het Financieele Dagblad - Tue. 04 Jun. 2013

<sup>305</sup>'China profiteert van verdeeldheid Europa' -De Telegraaf - Fri. 07 Jun

<sup>306</sup>Consument is de dupe - De Telegraaf - Sat. 08 Jun. 2013

<sup>307</sup>Alert op Chinese represailles - Algemeen Dagblad - Sat. 08 Jun. 2013

<sup>308</sup>Europa maakt Chinese zonnepanelen flink duurder - Trouw - Wed. 05 Jun. 2013 - Page 17

<sup>309</sup>Deal met China kan banen kosten - Algemeen Dagblad - Mon. 29 Jul

<sup>310</sup>Ploumen tevreden met compromis zonnepanelen - Het Financieele Dagblad - Mon. 29 Jul.

<sup>311</sup>Handelsoorlog tussen EU en China lijkt voorbij - Trouw - Mon. 29 Jul. 2013

<sup>312</sup>Aarzelend Europa betaalt hoge prijs voor goedkope zonnepanelen - Trouw - Tue. 30 Jul. 2013



## In summary

All in all, we can conclude that the attention in the press was either neutral or unfavorable for the imposition of duties. There was a lot of focus on the potentially detrimental effects of the measure on the Dutch PV sector, but also on the dangers of a trade war for the Dutch economy in general. The measure was also seen as hampering the push towards renewable energy. Some articles included firms' views or based themselves on business' statements, while there were never any quotes, commentaries or mentions from/of environmental NGOs or other civil society organizations. This can be seen as evidence of successful outside lobbying by contra-AD groups, while protectionist actors either did not attempt to use these channels, or were unsuccessful.

### *b.c. Via the parliament*

Holland Solar could not recall being involved in lobbying the parliament. They tracked the parliamentary debates and responded to the information sent to them, but it did not seem like they engaged much with MPs. When considering their conflicted position, this seems unlikely. I have no reason to believe that UNETO-VNI or any of the other sectoral organizations did actively lobby the parliament. I do not know if any other coalitions or individual firms decided to lobby the parliament. There are some indications that consumer organizations or other NGOs sent some letters to MPs (see the remarks by MP van Tongeren, below), but I have not been able to verify this. However, as I show below, if any pro-duty forces did try to steer the debate in the parliament, they were clearly unsuccessful.

There was only one **parliamentary debate** on this issue, during question time in the plenary, on 21 February 2013 (kv-tk-2013Z03651). Because it is so brief, I will also include the ministers' responses, so that I can just refer to these remarks in the section on decision makers' preferences.

The debate was commenced by MP Van Tongeren (**GroenLinks**), who referred to *'worrying messages'*, aired by the public news in February, about potential import tariffs being raised on Chinese solar panels. She claims her inbox *'exploded from mails of worried owners of solar panels, organizations and local communities that were working on this'*, and wanted to know what the Dutch position was. She argued that the Netherlands *'does not have any problem with cheap cellphones or cars from Asia, so why should it have problems with a product like solar panels, which is so beneficial in the efforts at increasing the share of clean energy'*. A trade war had to be prevented and employment in this sector had to be stimulated; if the minister still supported a tariff, Van Tongeren wanted to know whether this could be levied only on panels that were produced in poor environmental or social conditions. After the ministers' replies, which she welcomed, she challenged him to be a little more visible, ambitious and maybe even aggressive on the matter in the EU. Such an approach was also supported by Vos (**PvdA**). He noted that the Netherlands and Germany had heavily subsidized this sector to help keep prices low, and that it was particularly painful that the EU was now proposing these measures just when solar panels were becoming profitable for the public. He was surprised about the position of the other member states, especially since *'240 000 jobs'* were at stake, and encouraged minister to get Europe to change course. Lastly, these criticisms of anti-dumping were shared by Leegte

(VVD), which praised the minister for supporting free trade in what he saw as a battle between north and southern Europe. *'How can we avoid having to enter into this kind of confrontation with China every year until it gets market economy status in 2016?'*

**Minister of economics Kamp** shared these worries. He disagreed with the Commission's dumping methodology as well as the conclusion of the investigation. He did not believe that dumping had been shown to have taken place. Moreover: *'on the basis of these imports a large installation-industry has arisen'*, which was good for the environment, but also good for employment. The duties would be a 'really big problem' for the sector, would increase prices and uncertainty for investors. In sum, they opposed the imposition of a tariff, and the Netherlands was doing its best to nudge the EU away from this confrontational trajectory. They wanted the Commission to come to a negotiated arrangement with China to prevent a trade war; this was the third anti-dumping measure against China in a row, and the Chinese were starting to retaliate. However, he did not believe that it was useful to make a ruckus over this, since it was already clear that a majority in the Council was in favor of measures; as usual in cases against China. Kamp believed an aggressive approach would be fruitless, they could only try to alter the Commission's and the Council's positions behind closed doors. In the meanwhile, the Netherlands was trying to get distributors of solar panels to adhere to OECD rules on sustainable entrepreneurship.

At the *'explicit request of the parliament'*, the minister then later briefed the parliament about the solar panel dispute in May and June 2013 (kst-21501-02-1270), but this does not seem to have led to much follow-up in the Tweede Kamer.

### **In summary**

From the discussion it emerges that the resistance against duties had cross-party support; the VVD, the PvdA, GroenLinks criticized the Commission's measures from an environmental as well as an economic viewpoint. They also cautioned against triggering trade wars with China, and wanted the minister to get Europe to change course. However, my evidence linking this to interest groups' parliamentary lobbying is mostly indirect. The MPs echoed the arguments made by those opposing the duties ('240 000 jobs'), the plenary question was lodged before the issue became a hot item in the press, and Van Tongeren claimed her inbox had 'exploded' because of citizens'/groups' questions about the case. However, none of my sources claimed to have performed any kind of parliamentary lobbying, and the environmental/liberal dimension (in combination with some early press coverage) made the green/liberal parties' attention and position far from surprising. More conflict or less unsurprising position in the parliament (such as in the steel dossier, see the concluding section of this case) would have been a stronger indication of contra-duty lobbying. On the other hand, if the protectionist side tried to influence the debate via the parliament, they were highly unsuccessful.

### *b.d. The Public*

There are no data available on the public's opinion of solar panel dumping, anti-dumping, or (trade) relations with China. Nor was there any trace of protests, petitions or other manifestations of the 'public's' voice.

## 8.2.2.4. Was their input influential?

### *a. Scope conditions*

The Dutch solar sector did not represent a unified front – on the contrary. As was shown above, the branch organization shied away from taking a position, and there was lobbying on both sides. Still, the contra-duty's hand was arguably stronger. The number of firms and jobs involved in importing, distributing and installing solar panels had been booming, as had export-dependent activities in the production of machinery and technology. They joined, in large numbers, a publicly visible European campaign (AFASE) that was able to tie its interests both to job losses as well as the environmental agenda, and their message was picked up (or at least shared) by Greens, Liberals and Social-Democrats in the Tweede Kamer, as well as in the press; a similar message was also spread (to a limited extent) by some of the environmental NGOs as well as house owners' and consumers organizations. All in all, this side had economic as well as political leverage. On the contrary, by 2013 the Netherlands no longer had domestic PV producers. The only defensive players were distributors linked to manufacturers from other European states (notably Germany), whose narrative (infant industry, unfair competition, quality) was not reproduced in the popular press or the parliament.

As is shown in the prior and the section on decision-maker preferences, **receptivity** for protectionist lobbying has generally been low among the most important players (the civil servants), and it is skewed heavily towards opposing duties. Therefore, lobbying-leverage should probably be very high (concentration plus brute economic weight) in order to overcome this bias. However, it seems implausible that many sectors in the small and extremely open and integrated Dutch economy can present such a unified protectionist force. Moreover, minister Ploumen (and Kamp) appeared sensitive to the environmental argument against imposing duties on photovoltaic panels.

### *b. Empirics*

In the end, both the ministers and the civil servants involved were convinced that anti-dumping measures in solar were a bad idea, and the Netherlands fought the imposition of duties in the Council. Although it later abstained on the final price undertaking, the specialized press claimed that this price deal was in fact not problematic for Dutch importers/installers because the minimum was roughly equal to the going market price<sup>313</sup>. According to the decision makers involved, this change of heart was not tied to industry lobbying (Interview - AD Unit NLD, 2016).

How can we interpret this result?

This is 'certain' evidence of influential contra-AD lobbying: the Netherlands opposed measures, and the leverage and receptivity enjoyed by this group (which went through the various steps of the mechanism) make it reasonable to link this outcome to their activity. This mechanism therefore 'performed' all of the necessary steps. However, even though it does not break down, I will discuss in the concluding section that we lack unique, confirmatory evidence, and that there is a competing

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<sup>313</sup> E.g. <https://www.consumentenbond.nl/zonnepanelen/landelijke-subsidiepot-zonnepanelen-leeq>

narrative which is just as plausible; I will argue, counterfactually, that decision makers would have probably gone ahead with rejecting measures even without business lobbying. The result for the protectionist coalition is more ambiguous: the Netherlands never supported measures, but eventually did ‘abstain’ instead of opposing the final deal. I would argue that there is not enough supporting evidence to make plausible the interpretation of this vote as a ‘protectionist’ turn; the leverage and receptivity of this group (which also went through the various steps of the mechanism) was far weaker, and whatever the cause of this somewhat-milder position, it is too unlikely that it came from protectionist groups convincing policy makers. Evidence that I present in the decision makers’ mechanism supports this take.

### 8.2.3. Conclusion

In conclusion, I cannot falsify the role played by liberal lobbying: they were present, they had leverage, their arguments were picked up by the press and the parliament, and the final position is in accordance with their preference. Yet the confirmatory value of my evidence is still very weak, because it is never very unique: the liberal outcome can also be attributed to ministerial agency, parliamentary pressure, or (most plausibly) the standard position of the civil servants that was corroborated by their economic analysis. On the other hand, it seems clear that protectionist lobbying did not pay off. Although we see the mechanism performing most of the steps, they did not in the end manage to convince policy makers. There is no evidence linking the Netherlands’ apparent positional switch, from an opposing vote to an abstention, to lobbying. It is unlikely that I missed any new interventions from protectionist business in June, and there is nothing that points towards new actors or leverage suddenly entering the stage. In order to explain the latter shift, and to better weigh the importance of interest group lobbying in the earlier phase, I will now turn to the policy makers’ mechanism.

<b>*Causal hypothesis:</b> Societal lobbying or campaigning influenced the Dutch position on solar dumping.		
	<b>Propositions</b>	<b>Evidence- Assessment</b> <i>(source)(characteristics of evidence in relation to proposition: high/low - uniqueness, certainty)</i>
1	Business organizations, firms and/or CSOs were aware of the case	Account- Sector associations claim they were aware of solar case (interviews) (lc, hu) Trace- Monitoring capacity, associations with several staff members (websites) (hc, lu) Trace-press reports about the case (assumption: ‘firms’/COSs read press reports ) (press) (lc, hu) Account- contra-duty groups lobby government (interviews) (lc, hu) Trace- press and online statements about case (websites, press) (lc, hu) --- Pattern (account) - Usually very little CSO follow-up of anti-dumping (interviews, literature) (lc, lu) Trace - CSO positions about the case (websites, press statements) (hc, hu)
2	They had a preference	Account and Trace evidence - positions pro and contra duties within PV sector association (interviews, survey) (lc, hu) Account evidence - ambiguous position by sector association (interviews) (lc, hu) Account evidence - no position by installer association (lc, hu) Trace & account evidence - contra-duty position by installer association (interview, press statement) (lc, hu) Trace evidence - many individual firms took part in contra-duty lobby group (membership data, interviews) (lc, hu) --- Trace evidence - CSOs taking positions contra-AD in press statements, online (press statements, websites) (hc, hu)
3		They successfully communicated this preference to Belgian decision makers (lc, hu)
3.a	They had inside access	Account evidence - meetings between contra-AD groups and DM (interviews) (lc, hu) Account evidence - DM seeking out HollandSolar, but no position (interviews) (lc, hu) Account evidence - group of contra-AD firms met with DM (interviews) (lc, hu) Account evidence - no DM-lobbying by pro-AD groups (interviews) (lc, hu) Account evidence - no inside meetings by installers’ association and DM (interview) (lc, hu) Trace/pattern evidence - change of (usual & initial) Dutch position from ‘against’ to ‘abstention’ (interviews, literature review) (hc, lu) --

		Account evidence – no inside lobbying by CSOs except single letter (interview) (lc, hu) Pattern evidence – usually total absence of CSO lobbying in AD (interviews) (lc,lu,hr)
3.b	They had outside access	Trace evidence – press publishes articles that are very similar to contra-AD group’s positions (press review) (lc, lu) Trace evidence – arguments made by business also found in claims by MPs (parliamentary debates) (lc, lu) Trace evidence – contra-AD firms quoted in articles (press review) (lc, hu) Pattern evidence – deviation from usual non-attention of parliament for AD (interview) (lc, lu) --- Trace evidence – total lack of CSO statements on AD in regular press (hc, hu) Account evidence – MP was contacted by large group of (unidentified) group of contra-AD citizens (claim made by MP in parliamentary question) (lc, hu) Pattern evidence – Usually no lobbying by CSOs on AD (interviews) (lc,lu,hr)
<b>Strong confirmation of anti-AD lobbying, moderate disconfirmation of pro-AD lobbying, strong disconfirmation of CSO lobbying/campaigning. CSO mechanism breaks down.</b>		
4.	They influenced the Dutch position (lc, lu)	Trace evidence – Dutch position at EU level initially in line with that of contra-AD groups (interviews)(hc, lu,hr) Trace/pattern evidence – change of (usual & initial) Dutch position at EU level from ‘against’ to ‘abstention’ (interviews, literature review) (hc, lu) Trace evidence – Positions of minister in parliament in line with that of contra-AD groups (parliament) (lc, lu) Trace evidence – Position of civil service in line with that of contra- AD groups (interviews) (lc, lu) I.e.: (Public) positions of DM not in line with those of pro-AD groups (lc, hu) Account evidence – shift of the Netherlands was not due to lobbying but due to idiosyncratic ‘event’ (interviews) (lc, lu)
<b>Moderate confirmation of anti-AD influence, weak confirmation of pro-AD influence, weak disconfirmation of pro-AD lobbying, strong disconfirmation of CSO influence</b>		

## 8.3. Decision Makers’ Preferences

### 8.3.1. Prior probability – potential evidence

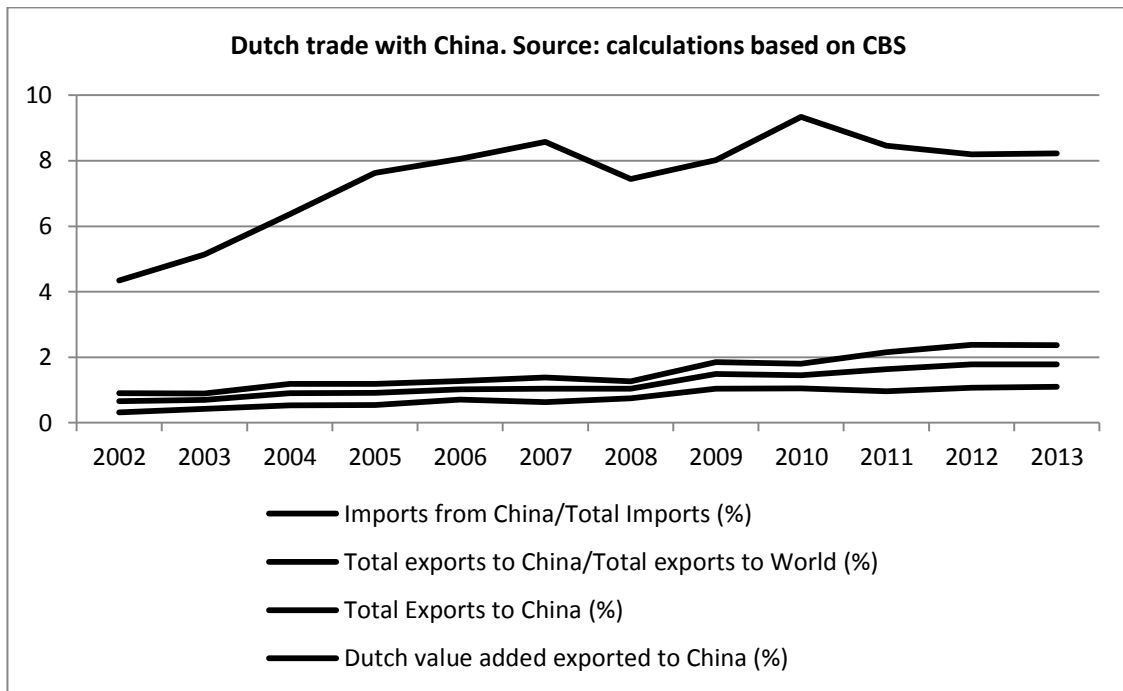
#### 8.3.1.1. Prior

Is it plausible that decision makers’ preferences influenced the Dutch position in this dossier?

#### Preferences

First, what about electoral **preferences**? In relation to anti-dumping, I believe we can double down on the prior expectations in the CETA case: no one (the public, the press nor the parliament) had been paying much attention to these dossiers, and any ministerial position was unlikely to result in either big electoral pay-offs or damages. However, when in doubt, we may have expected policy makers to lean towards the liberal preferences of their imagined median voters.

Secondly, much of the prior discussed in the business section is also valid here. The economic effects of the measures seem to have fallen squarely on the negative side, and economic analyses that we would expect the Dutch state to have performed would have shown this. We can also expect that they had a broader distaste for trade conflicts with China which, as we saw in the previous case and in the introductory section, had been designated as one of the most important emerging markets. The Dutch strategy was to boost trade and investment, not rake up tensions. Even though its share in Dutch exports remained modest, China had grown into an important source of imports.



Thirdly, I demonstrated the low rate of Dutch support for anti-dumping measures over time in the previous prior. According to interviews with the civil service, this is not just because of firms' lobbying, but part of their 'default position'. In their final decisions, the civil service traditionally tends to **lean heavily towards a more liberal approach**; they have almost always (for decades) opposed duties. In fact, in general the Dutch stance is that they only support cases in which there is clear evidence of predatory pricing, since dumping as such is not prohibited by the WTO. Price-competition is considered to be just a part of regular market dynamics. This has even been true even in some cases where the Netherlands was the only country that still had producer interests at stake<sup>314</sup>. According to a now retired civil servant that worked on these issues for many years, this stance has always been undisputed among the responsible civil servants (Interview - AD-Unit NLD (retired), 2017; Interview - AD Unit NLD, 2016; Interview - Head of IMH, 2017).

There is no reason to expect that this had been any different under minister Bleker (VVD) or minister of economics Kamp (VVD), which first had to deal with the case, but perhaps Ploumen (PvdA, from November 2012) did deviate from the trend. However, even if this minister from the labor party was more keen on protecting EU industry, then she was still constrained by her coalition with the VVD, and the environmental angle may have tilted the balance.

## Influence

There is little reason to suspect that the executive would have felt obliged to alter this preference under pressure from either inside or outside lobbying. As I discussed in the previous mechanism, business was divided, the parliament was against measures but was not paying too much attention, and the press' coverage mostly concerned the EU-China dimension rather than the specific effects for the Netherlands. It did become heavily politicized in the Council, but the Netherlands would have been able

<sup>314</sup> They are a little more 'lenient' when it comes to anti-subsidy measures, where the evidence of market-distorting interventions is more obvious.

to side with a set of large member states either way, although supporting duties could have attracted China's ire.

All in all, the Dutch executive probably did not prefer anti-dumping measures, and would have faced few domestic or external constraints in turning this preference into an opposing vote. A priori, forgetting for a moment the societal mechanism, it is therefore quite sensible to link the initial stance against measures to decision makers' preferences. However, the move to switch from a 'no' to an abstention is far more surprising from this perspective. Strong disconfirmation would be needed to lower my belief in the first proposition, but strong confirmatory fingerprints would be needed to overturn my skepticism in regard to an autonomous switch in favor of measures.

### 8.3.1.2. Evidence

The presence of these various steps can be tested by looking for (*inter alia*) the following pieces of evidence:

**\*Sequence evidence:** the Netherlands taking a stance on issues before receiving any input from stakeholders; lack of change of policymakers' positions even after contact with stakeholders

**\*Trace evidence:** attempts of policy makers to influence positions/activity of stakeholders; policymakers arguing with stakeholders; policymakers' performing analyses; policymakers debating amongst themselves about the anti-dumping measure; policymakers taking a stance on the AD measure; low intensity of contacts with stakeholders; lack of change in positioning over time

**\*Account evidence:** policymakers/stakeholders attributing the Netherlands' position to policymakers' own analyses/ideology/..., stakeholders claiming they had little influence/access (*in private conversation, an interview, in the press, public statements*)

**\*Pattern evidence:** correlation between contacts and changes in position, previous patterns of (lacking) societal influence on decision makers, deviations from previous patterns in positioning

### 8.3.2. Probing the role of decision makers' preferences

#### 8.3.2.1. Did they have an autonomous preference?

We can assume that the ministry of economics had already been aware of the solar market's general characteristics, and the role imports were playing in its development. The CBS had already been **monitoring** the situation in the PV sector in the years before. It published reports in 2008, 2009 and 2012<sup>315</sup>. These analyses remained quite limited, however, and did not look in detail at the trade/employment/production developments. Its 2012 analysis was somewhat more expansive though; here, the CBS noted that the adaption of solar energy in the

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<sup>315</sup><https://www.cbs.nl/nl-nl/nieuws/2008/20/zonnestroom-niet-erg-in-trek-in-nederland>;  
<https://www.cbs.nl/nl-nl/achtergrond/2009/18/zonnestroom-in-nederland-groeit-langzaam>;  
<https://www.cbs.nl/nl-nl/nieuws/2012/34/sterke-toename-van-zonnepanelen>

Netherlands was finally starting to make up its huge distance to the European average, in part because of the continued drop in prices which was, so the report argued, partially caused by the influx of cheap solar panels from China (CBS, 2012). The ministry did not need firms or sectoral associations to tell them, in 2012-2013, what the solar market looked like, or what role Chinese PV was playing in its development.

Secondly, it is clear from interviews that the **civil servants** working on this issue were strongly opposed to the duties (Interview - AD Unit NLD, 2016; Interview - Head of IMH, 2017). According to my interviews with the civil service, there were major reasons for why they opposed preliminary measures. After receiving the notification from the Commission, the Dutch quickly understood that the case was really big – in volume terms it affected a bigger volume of trade than many other cases combined. They performed an economic analysis according to the usual procedures, as described in the Dutch introductory chapter, which showed that Dutch firms were **situated largely downstream** (importers, retailers, installers) **and higher upstream** (solar technology). This analysis showed the Netherlands no longer had any solar panel producers, but did have a lot of installers and retailers, as well as some producers of machinery used in the manufacturing of solar panels, which mostly exported to China. The AD levies were increasing the uncertainty for domestic PV-investors, and were therefore hurting both importers as well as the upstream firms. The unit again underscored the relevance of their **liberal 'basic position'**, also in this case. They saw no reason to deviate from this stance in the solar panel case (Interview - AD Unit NLD, 2016; Interview - Head of IMH, 2017).

The **ministerial** interventions in parliamentary debates, their answers to parliamentary questions, ministerial letters and interviews with the civil service make clear that the political chiefs involved were also opposed to the duties. As can be seen in the replies of **minister of economics Kamp** to the parliamentary debate discussed in the previous mechanism, he opposed AD measures for several reasons: (i) he did not believe that the Commission had convincingly shown that dumping had occurred, (ii) cheap imports had allowed for a thriving installation-economy to emerge in the Netherlands, these jobs, as well as the environmental effects the sector was generating were now at risk, (iii) the string of measures that the Commission had been lodging at China was threatening to trigger a trade war, while the Netherlands was in favor of keeping good relations and integrating China in the international framework peacefully. Instead of imposing AD, he believed the Commission should try and come to a negotiated deal. Very similarly, **minister of trade and development Ploumen** summed up the reasons the cabinet was against solar AD in a letter to parliament (May 2013): (i) a tariff will lead to a '*substantial*' price hike, and because of this to a '*substantial*' decrease in the demand for solar panels; this might cost '*many jobs*' in the installation sector, (ii) A decrease in the amount of newly installed solar panels is bad for the national goals in renewable energy, (iii) China has threatened to launch counter-measures; the Netherlands benefits from trade with China, and does not seek an escalating trade war (kst-21501-02-1262). In a news article in June 2013, she commented that '*in the past few years, the demand for solar panels has been rising because Chinese competition had made the panels*



*cheaper and cheaper. An increasing amount of firms and households is now seeing the benefits of sustainable solar energy*<sup>316</sup>.

As I showed in the chapter on CETA, this position is hardly surprising, given the strong support both ministers have voiced (in policy notes, interviews and parliamentary debates) in favor of free trade. However, since ministerial engagement with this issue was rather limited, it is likely that they were mostly reproducing the civil services' analysis/position without much further political ado<sup>317</sup>. The civil service did however claim that the weight of the environmental dimension was somewhat greater because of their social-democratic ministers' emphasis on value-driven trade policy (Interview - AD Unit NLD, 2016).

### **In Summary**

There is ample reason to assume that decision-makers had an autonomous preference for resisting anti-dumping measures in solar.

#### 8.3.2.2. Did this preference become operational?

##### *a. Scope conditions*

As was shown in the previous mechanism, society was divided, although it was a little bit stronger on the contra-AD front. I also demonstrated that the solar panel case attracted quite some press, which eventually also led to parliamentary questions and a debate in the plenary. The politics of the case had therefore stopped being very 'quiet': MPs and press were looking and the minister had to publicly defend the Dutch position. However, this should not be over-emphasized. The parliament only spent a single current-affairs discussion in the plenary on the matter, without any further follow-up, none of the NGOs tracked it very closely, and business was all in all still divided. So the societal pressure exerted on policy makers remained very modest, even though the case was unusually 'sensitive'.

In terms of **external pressure**, my interviewees claimed that there was generally very little deal-making going on between member states in trade defenses. The Netherlands, moreover, was not interested in such deals because the Council has, since Lisbon, lost much of its power to stop the Commission from imposing measures. Because there is a protectionist majority in the Council (at least from the Dutch perspective), the weight of the Netherlands is limited so it doesn't have much to bargain *over* or *with*. The same is true for their **relations with the Commission(er)**: the Dutch (liberal) position is well-known, and the Commission knows that it probably won't be able to convince them through bilateral contacts. That energy would be misspent anyway, because the Dutch vote is seldom decisive. The **pressure exerted by targeted states** is also limited. There are regular contacts with ambassadors or trade councilors from these countries, and particularly with China these meetings are sometimes about trade defenses. But this does not involve much more than them reading out their arguments, and the Dutch side listening – these are not negotiations. Moreover, often the Dutch and the affected party are already in agreement since they are both opposing the anti-dumping duties (Interview - AD

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<sup>316</sup> Europa maakt Chinese zonnepanelen flink duurder - Trouw - Wed. 05 Jun. 2013

<sup>317</sup> Which, of course, was in practice writing the ministerial letters and answers.

Unit NLD, 2016). As I show below, they claimed this was also how things went down in the solar case, making the amount of external pressure modest as well.

## ***b. Empirics***

What did policy makers do to turn ‘their’ preference into the Dutch position?

In the domestic sphere, there were not that many actors to persuade. First of all, it seems that there was no **struggle between the ministers and their administrations**. As was discussed above, in anti-dumping dossiers, the final decision is in practice largely up to the ‘unit’ (i.e. the person that followed the dossier up close). However, if this case-holder believes (after discussing this with their chief) the AD proposal may become politically sensitive or if it is a really big case (which may lead to parliamentary questions), then the unit will first present the case to the minister. According to our interviews, it has not played such a big role which minister was at the helm of the ‘unit’. It is often seen as a very technical subject, and they are **seldom very interested**. Although the solar panel case was one of these more sensitive cases, where the political level played a role, and although Ploumen had a larger stake in this issue because she cared about the environmental dimension, even her engagement remained rather marginal (Interview - AD Unit NLD, 2016)<sup>318</sup>. There were no disputes between ministries either: apart from the expertise they sourced from economics, foreign affairs led the case (Ibid, Interview - Ministry of Economics, 2017).

Secondly, they **consulted with the sector**, but business turned out to be divided on the issue. According to the civil service, these division within the sector did indeed give them more **leeway** in deciding on the Dutch position themselves. The lobbying from non-business actors had been more unified but remained rather ephemeral (a single letter) (Interview - AD Unit NLD, 2016).

Finally, there was no need for parliamentary ratification, and in any case the **parliament’s attention** for the issue remained limited, and parties took positions that were very similar to that of the executive. Somewhat uniquely, this appears to have been an issue in which MPs from the greens sided with the economic right. If there was any tension between the parliament and the executive in this dossier, it was perhaps at the level of **means rather than ends on the EU level**. In the parliamentary debate, several MP’s called on minister Kamp to wage a more vocal and assertive opposition to the measures at the EU level. However, Kamp countered such calls for a more aggressive approach: the minister claimed that the Netherlands was largely powerless to do anything about the measures since a majority of member states was (‘time and again’) in favor of targeting China. Their only hope was to try and convince the Commission and these member states by debating behind closed doors.

The Netherlands did not participate in the public attempts to influence the Commission’s position, i.e. it did not co-author the letter published in the Financial Times. It did send (publicly available) letters to the Commission. According to a **ministerial letter**, the Netherlands, during the **Council meeting of June 14** in which

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<sup>318</sup> The civil service also felt that the free-trade oriented prime minister and the generally liberal cabinet were helpful in resisting protectionist pressures being exerted by the steel sector, although this ‘defensive’ wind could not be resisted completely because steel had been very successful in gaining support from the parliament (Interview - AD Unit NLD, 2016; Interview - Head of IMH, 2017).

there was a discussion between the Commission and the Council over the Commission's proposal for a negotiated solution, sided with 'other more liberal member states' to warn about the dangers of retaliation if the Commission chose to still impose measures, and underlined the importance of solar for attaining Europe's climate goals. However, the Netherlands also tried to bridge the divide between the supporters and opponents of the deal: emphasizing the threat of an escalating trade war, they called on all member states to support a negotiated solution in the short term (kst-21501-02-1270).

The civil service claimed that the **external dynamic** in the solar case was very similar to the usual dynamic described in the scope condition. There were meetings with Chinese representatives, but again this did not entail more than the Dutch listening to the Chinese arguments, with which they were basically already in agreement. The Chinese retaliatory actions and threats did not influence the Dutch position, nor were they designed to do so, since they affected sectors (wine, polysilicon) where the Dutch (exporting) interests were minimal. They also met (once) with Karel de Gucht to discuss (amongst other topics) the solar panel case, but this conversation remained limited to a mere repetition of each side's (well-known) position. This insistence on the modest pressure exerted on them in reaching their position seems a little exaggerated, especially when considering the perceived importance of China as an upcoming trading partner and the increasingly tense EU-China relations. But it is likely that they did not perceive it as being oriented towards the Netherlands, as forcing them into any kind of political direction, because they were essentially on China's side in this dispute and had various allies in the Council as well.

However, when the Commission then proposed a **price undertaking in the second phase**, the administration again advised against such a deal<sup>319</sup>. However, the Commission 'outsmarted' the administration: it took the decision, and got in touch with the Dutch minister, over the weekend. Because the civil servant tracking the solar dossier was unavailable<sup>320</sup>, the minister eventually decided to just agree '*in the spirit of compromise*' with the deal. Although this would later lead to some conflict with the minister of economics<sup>321</sup>, the decision had by then already been taken. The Netherlands couldn't have blocked the price deal anyway, since its vote was not decisive.

This interpretation assumes that the minister would have voted in a different fashion if the civil servant had not been '*on a boat*'. But it is not implausible to assume that council dynamics in combination with the low stake for the Netherlands (at this point, at least, they had no decisive say) would have produced this position anyway. In any case, the source of the policy change is external to the Dutch process: a move by the Commission/council, potentially in combination with some domestic idiosyncrasy. This take is supported by the Netherlands' later (in 2016) opposition to a renewal of the final duty (Interview - AD Unit NLD, 2016).

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<sup>319</sup> Because of the arguments mentioned above, but also because this sort of deal would pose all sorts of enforcement-related problems (and costs) for the Netherlands (which is an important transit hub for (solar) goods).

<sup>320</sup> He or she was out sailing.

<sup>321</sup> I have not been able to determine the extent or nature of this conflict.

### 8.3.3. Conclusion

There is plenty of evidence of the decision makers having a strong preference in opposition to AD, based on some research and consultations, but also on their economic-theoretical *gut*. They put this position ‘to work’ in the Council, without being/feeling very constrained by either civil society, business, the parliament or external pressure. There were no divisions between or within the ministries.

However, eventually, the Netherlands up supporting a negotiated solution in the Council, and they abstained on the proposed measures even though civil service wanted to remain ‘against’. There is no evidence to support that this was the effect of domestic lobbying, rather it seems to have resulted from a combination of external pressure and random noise. The way this case was handled in Belgium (see chapter 11) offers a complementary explanation: taking into account the lack of a qualified majority that could resist duties, the Belgian executive decided to take the least unfavorable option (compared to a non-negotiated duty) and support (by not opposing) the price undertaking, while still signaling discontent via an ‘abstention’. It seems reasonable to suspect that minister Ploumen was offered a similar deal by the Commission, even though it was apparently closed in a haphazard way, and even though there are indications that the minister of economics was far from pleased with the way this was handled

This means that neither the societal nor the state-level mechanism can be falsified. It seems they were both relevant in the case. In the interest of some wider lessons about the explanatory power of the mechanisms, and the lessons this case study can hold for other anti-dumping dossiers, I still attempt to further examine their explanatory worth in the ‘synthesis’ section.

<b>Causal hypothesis:</b> Autonomous decision makers’ preferences influenced the Dutch position on solar dumping. <i>(source)(characteristics of evidence in relation to proposition: high/low - uniqueness, certainty)</i>		
	<b>Propositions</b>	<b>Evidence- Assessment</b> <i>(high/low - uniqueness, certainty, reliability)</i>
<b>1</b>	Did they have a preference?	Account evidence - civil service was opposed to duties (interview) (lc, hu) Trace evidence - the leading ministers were opposed to duties (parliamentary hearings) (lc, hu)
<b>1.a</b>	Was this an autonomous preference?	
<b>1.a.a</b>	Was a societal position absent?	No - see evidence presented in previous mechanism
<b>1.a.b</b>	Did they rely on autonomous sources?	Account evidence - civil service performed an economic analysis of the effects of solar AD (interviews) (lc, hu) Account evidence - civil service underscored importance of their liberal predisposition (lc, hu) Trace evidence - Account evidence - minister Ploumen (also) opposed duties b/c environmental dimension (interview) (lc, lu) Trace evidence - the ministers opposed duties in parliament, (also) by pointing towards the environmental dimension (parliamentary debates/letters) (lc, lu) Account evidence - civil service used societal inputs in their analysis of the duties (interviews) (lc, hu) Account evidence - much DM leeway because Dutch industry was divided (interview) (lc, hu)
<b>2.</b>	Did they put this preference to work?	
<b>2.a</b>	Was there external/societal pressure	Societal: Yes - See previous mechanism Pattern - usually no pressure/bargaining over AD positions (interviews) (lc, lu) Account evidence - no pressure exerted in solar case, although there were some meetings with Chinese embassy and Commission (interviews) (lc, hu) Account - high salience case, divisions in the Council, debates in the press (press reports) (lc, hu)
<b>2.b</b>	Did they resist this pressure?	Account evidence - minister switched sides after call from Commission (but: idiosyncrasy) (interview) (lc, hu) Trace evidence - minister taking in (resisting) position of contra- (pro) AD groups (parliamentary hearings) (lc, lu)
<b>3.</b>	Did DM preferences	Account evidence - combination of input and analysis/intuition produced Dutch position (interviews) (lc, hu)

influence the Dutch position?	Account evidence – societal divisions gave civil service leeway to do as it saw fit (interviews) (lc, hu) Account evidence – position was then altered because of bargain between minister and Netherlands was too small to stop measures from being enacted (interviews)
<b>Moderate confirmation that autonomous preferences determined initial position against duties, moderate disconfirmation that autonomous preferences drove shift to abstention</b>	

## 8.4. Synthesis

In this section, I will again integrate the preceding explanatory probes. What were the determinants of the Dutch position on solar panel anti-dumping in 2013?

I found evidence for both the societal and the decision makers' mechanism. There is therefore nothing in the data itself that allows us to falsify the causal relevance of contra-duty lobbying in producing the Dutch stance, since every step of this mechanism was performed. I therefore need to abandon the Beachean rulebook (which is only interested in 'what happened' and not in 'what could have happened') for some counterfactual reasoning, based on what I've learned about the 'usual' way in which these cases are handled, and the ways in which certain inputs are processed to produce certain outcomes. This allows me to construct a sort of 'ideal-typical' response to anti-dumping investigations, which I believe *ceteris paribus* leans heavily towards resisting measures.

The Dutch initially voted against measures, and we saw that there was an active contra-AD lobby, including a feeble role for some CSOs, while pro-duty lobbying remained weak. If firm lobbying had been totally absent, I believe the outcome would have been the same. Decision makers spoke with firms, but they also performed their own economic analyses and their assessment of the 'national interest' was firmly in favor of open trade in PV. This was further fortified by environmental concerns of the trade minister but, more importantly, also by the civil service's very strong preference for holding on to a principled liberal position that was very skeptical of the case (any case) for anti-dumping. However, consider also the scenario in which decision makers were devoid of clear preferences, choosing mechanically whichever group mustered the most 'leverage'. Again, it would appear that the outcome was a 'liberal' one: although there were mixed lobbying efforts, the leverage of the 'users' and importers seem like it was larger, and their campaign more unified; only a sub-section of the distributors, linked to foreign EU firms, supported measures while the sectoral association refused to come forward, and domestic production was absent.

What lessons does this hold for Dutch decision making on anti-dumping more generally? That the open economy of the Netherlands is unlikely to produce either strong or unified protectionist lobbying, and that the liberal outlook of decision makers (political and administrative) will tend to tilt heavily towards rejecting protective measures even if lobbying is more unified.

This latter remark ties in with a third counterfactual: what if there had been strong *protectionist* lobbying? Again I think that the usual result would have been unchanged, I would claim that the preference (and the aggregate economic picture) contra measures is so strong, and the inside access to the executive so narrow, that they would only be able to do this if they were able to make this dossier a highly sensitive dossier by way of outside lobbying. A comparison with the recent dumping

cases in steel can help me illustrate the limits of the 'usual' response. According to the civil service, in contrast to the solar power producers, the Dutch (and European) steel lobby has been extremely well organized and powerful, and they succeeded at growing a massive amount of support across party lines in the parliament (with MPs echoing the arguments being used by the steel lobby). Although the civil service was clearly opposed to the defensive measures proposed by the Commission, they tried to get some of the steel users' lobbies to step up their game, and in fact felt like they were supported by the liberal cabinet in resisting some of the protectionist pressure, in the end the political demand for a more protectionist stance was too much; the Netherlands supported, or did not resist, some of the measures that were enacted. As a source from the ministry remarked: the contra-duty lobbying was simply too weak, and the political capture by steel lobbying too great, for the civil service to be able to further oppose measures 'by itself' (Interview - AD Unit NLD, 2016; Interview - Head of IMH, 2017).

# Belgium

## **Structure of the Belgian chapters.**

The structure of the Belgian chapters is identical to those of the Dutch section. I begin by sketching out the political/economic/institutional context of Belgium, before moving on to a detailed explanatory study of CETA and solar dumping. The structure of the country-cases is summarized above each sub-chapter.

## **A note on my sources.**

Again, I use an eclectic combination of materials, which is referred to in varying ways: academic sources and interviews are cited in the text, press articles are included in the footnotes. Parliamentary pieces are referred to using the archival system of the respective parliaments. For Flanders, this is of the form 'CRIV 54 COM 298', in Wallonia 'C.R.I.C. N° 56' and in De Kamer 'C95 - BUI3' - albeit with a number of variations. This should allow the reader to retrieve the sources by using the parliamentary databases.

## 9. The Belgian Case: Institutions, Economics And Trade Politics

I will again begin by providing contextual information on the Belgian (trade) political and economic system. The structure of this chapter is as follows: I first discuss the general characteristics of the Belgian political system and give a bird's eye view of recent political developments. Then I discuss the composition of the Belgian economy and employment, and look at its international trade and investment profile. Finally, I give an overview of to the pattern of trade politics and politicization: what are the decision-making procedures in trade policy, what has the Belgian stance been across trade issues over times, and what has the pattern of the parliamentary and public involvement with trade looked like in the past decade?

### 9.1. The political economy of Belgium

#### 9.1.1. Political overview

##### 9.1.1.1. General characteristics

Belgium is a **federal state**, consisting of three communities and three regions. The competences of the sub-federal entities have strongly increased throughout a series of state-reforms, which have also given them a firm hold over foreign and trade policies. These are discussed in more detail in section 9.2.1.. In my work, I will be largely ignoring the roles of the Brussels region and the German community; I will thus be focusing on the role of Flanders (the Dutch speaking community and the Flemish region, subsumed under one parliament and government) and Wallonia (the Francophone community and the Walloon region, each with their own, partially overlapping parliament and government).

The **party system** is fragmented, with separate 'traditional' (social-democratic, Christian democratic and liberal) and Green parties on both sides. The bonds between these parties has further loosened in recent years, and federal coalitions have been mounted without both halves of participating 'party-families'. The PTB is the only unitary Belgian party remaining. In Flanders, there is furthermore the Flemish nationalist party N-VA and the extreme-right Flemish nationalists of Vlaams Belang.

Flanders	Wallonia
Sp.a – <i>Social democrats</i>	PS
CD&V – <i>Christian democrats</i>	cdH
Open VLD – <i>Liberals</i>	MR
Groen – <i>Green party</i>	Ecolo
N-VA – <i>Flemish nationalists</i>	
Vlaams Belang – <i>Extreme-right,</i>	



<i>Flemish nationalists</i>	
PvdA – <i>Far-Left</i>	PTB

The federal **government** consists of ministers and state secretaries, and is headed by the prime minister. Governments are always coalitions, consisting of Flemish as well as Walloon parties. The Flemish government is upheld by the Flemish parliament, the Walloon government is supported by the Walloon parliament, the Francophone community government by the French community parliament. These governments are all headed by minister-presidents, and have all always been coalitions of multiple parties.

In the Belgian system, including in the sub-entities, the **parliaments** are usually considered far weaker than the executive, in large part because of the discipline enforced by the parties. The room for maneuver of individual MPs is very slim, and their role is strongly determined by their task in either defending or criticizing the governing coalition(s) (Verleden, 2016). As we will see below, this has been true *a fortiori* for the parliamentary work on EU affairs and trade politics.

The institutional architecture of the **bureaucracies** resorting under the ‘political’ level is far from homogenous across the Belgian entities. I will not develop this any further here, but, if necessary, I will flag it in the coming sections. One noteworthy aspect of all Belgian and sub-federal executives, however, is the reliance of ministers on well-populated ‘**cabinets**’: outsized secretariats that take up an intermediary role between the political and administrative level, which provide important analytical and political footwork for their ministers. The cabinets play a role in preparing and analyzing policies, in inter-departmental deliberations, in coordinating with the parliament and the parties, and in consulting with (and being lobbied by) societal stakeholders. They therefore play a key role in Belgian decision making. In this, the Belgian system is different from the Netherlands, where there is a larger role for the civil servants from the ministries in all these activities, and where the ‘political secretaries’ (usually just one or two) of the minister play a comparatively minor role (Vancoppenolle, van der Steen, Noordegraaf, & van Twist, 2010).

### 9.1.1.2. Belgian politics in recent years

Belgian **domestic politics** has been tumultuous in recent years<sup>322</sup>. In the 2007 federal elections, a cartel of the Flemish nationalist party N-VA and the Christian democrats CD&V (CD&V-N-VA) won almost 30% of the Flemish vote. This brought the debate on state-reform to the forefront of the government negotiations, while Wallonia’s parties did not wish to further continue the transfer of competences. The negotiations that followed were very difficult, and lasted for 192 days – almost purely because of institutional headaches. Eventually, the caretaker government was transformed into **Verhofstadt III**, but this remained little more than an interim government, with limited competences and only 14 ministers and no state secretaries. It was also the first ‘asymmetric’ federal government: liberals and Christian democrats on the

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<sup>322</sup> These paragraphs are based in part on the political overview compiled by Devos, Bouteica, Moens and Ossenkloek (2016).

Flemish side, liberals, Christian democrats and the PS from Wallonia. After an institutional agreement was finally reached, **Leterme I** was formed with the same parties in March 2008. In December, however, this government fell over the resolution of a bank, Fortis. Until November 2009 Belgium was then led by Herman **van Rompuy** (who then went on to head the European Council). Meanwhile, negotiations had continued, and eventually **Leterme II** was formed in November 2009, with the PS and both sides' liberal and Christian democratic parties.

In 2009 there were also **regional elections**. In Flanders the CD&V and N-VA were victorious, and they formed a government with the sp.a (which was not in the federal government) headed by minister-president Peeters. The previous government had been formed by CD&V/N-VA, Open VLD and sp.a. In Wallonia, the PS-cdH cabinet that had been in power since 2004 was joined by Ecolo, forming Demotte II.

There were again **federal elections in June 2010**, after a campaign that was once more focused on issues of competence and federalism. N-VA was now the dominant party in Flanders, while Wallonia's PS again became its region's *primus* with 37% of the electorate. These conflicting results led to the longest government formation in Belgian history, lasting for 541 days. This meant that the caretaker government's role was gradually expanded, since it had to deal with urgent budgetary and socioeconomic issues in the context of the Euro-crisis. Eventually an agreement was found on the competence-related issues, but this still left difficult talks on socio-economic themes. **Di Rupo I** was finally formed with CD&V, sp.a, Open VLD, CDH, PS and MR on 6 December 2011. It enacted Belgium's sixth reform of the state, as well as socioeconomic policies that combined austerity measures with liberal-leaning reforms.

The (federal, regional and European) elections of **2014** focused on socioeconomic issues rather than on the question of competences, but it was still unexpected that the N-VA (which again was victorious, reaching historic heights of 32,4%) decided to put its core *raison d'être* on hold in favor of 'economic recovery'. After 138 days of negotiating, **Michel I** was formed. It was again asymmetric, grouping the N-VA and the liberal parties from both sides, but only the Flemish Christian-democrats. Moreover, it did not represent a majority of Walloon voters, since the MR was the only Francophone party present. While Michel I was the first Belgian government without Walloon socialists in over 25 years, the PS was still present in the regional governments Magnette I and Demotte III, together with cdH<sup>323</sup>. There was more symmetry with the Flemish formation, where **Bourgeois I** was formed with the CD&V, N-VA and Open VLD. Michel I enacted austerity measures and reforms that drew much criticism from social partners in both sides of the country, including from the Christian trade union (which is the strongest union in Flanders and continues to have good ties with the CD&V). Socioeconomic debates were also waged from within the coalition, resulting in opposing views between CD&V and the more right wing N-VA and Open VLD.

In very general terms, it can be argued that we have seen a development towards the right (in socio-economic sense, but also on other dimensions) in Flanders, with the

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<sup>323</sup> I.e. the minister-presidency of the Walloon region and the community were again split, although the nomenclature of a unitary Walloon-Brussels Federation was kept <sup>324</sup> I will be using the Dutch acronyms for bilingual entities.

rise of the center-right Flemish-nationalists N-VA. In Wallonia the left has fared better and the party landscape has so far not seen the kind of shake-ups witnessed in the north. As this complicated the creation of federal governments, Belgium has gone through a series of political-institutional crises since 2007. Since late 2011, the constitutional storm has set somewhat, although the austerity policies of Di Rupo I and (far more intensely) Michel I have elicited protests and strikes from progressive civil society and trade unions.

### 9.1.1.3. Societal actors, coordination and lobbying

How are societal interests organized in Belgium? Through what channels do they usually confer with decision-makers? Traditionally, Belgian society has been 'pillarized', with an associational life that was heavily sectionalized; business organizations, trade unions and much of civil society at large were divided across socio-economic, language and confessional lines. This also translated into privileged relationships with political parties, both within the legislature and the executive; the pillars' organizations had direct lines with their cross-section's associated politicians. Today, these constraints have been loosened and the system has become more pluralist, although special relationships continue to exist, and politicians may still carry the 'stamp' of a certain section of Belgium's cross-cutting cleavages.

Belgian business is organized both sectorally and regionally. The big interprofessional federation is the *Verbond van Belgische Ondernemingen/ Fédération des Entreprises Belges (VBO)*, under which a series of sectoral federations resort, which at times further break down into sub-sectoral organizations<sup>324</sup>. In addition there are the regional federations, *VOKA* and the *UWE (Union Wallonne des Entreprises)*, which organize their region's firms at the supra-sectoral level. Finally, there are the dedicated organizations of the small and medium-sized enterprises (SMEs); these don't have a federal organization, only two regional ones: *UNIZO (Flanders)* and the *UCM (Wallonia)*. Sometimes (such as in the solar panel industry), (sub-)sectoral associations only represent one half of the country. There are also two major (and a number of smaller) farmers' groups, the *Flemish Boerenbond* and the *Walloon Front des Agriculteurs Wallonnes (FWA)*. The organization of the trade unions is similar. There are three trade unions, of which the *Christian ACV* and the *socialist ABVV* are the biggest ones. Again, these are organized both at the federal level but also across sectoral and language lines. For example, the *ABVV* includes a federation for public services, which is split up into the Dutch speaking *ACOD* and the Francophone *CGSP*. Belgium has been the only EU country to buck the trend of dropping unionization, the percentage of the workforce that's a member of one of the unions has actually increased since 2000, reaching around 70% in 2010 (Vandaele & Faniel, 2012).

In addition to these traditional socio-economic organizations, there are a number of other civil society organizations that are relevant for this research. Along with *Oxfam*, *Flanders' 11.11.11* and *Wallonia's CNCD-11.11.11* (from hereon: 'CNCD') are Belgium's major development NGOs. They are Belgium's most active campaigners in regards to trade and development. Together with the unions, these NGOs formed the 'Decent Work' coalition in 2007 to jointly campaign on sustainable globalization; this

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<sup>324</sup> I will be using the Dutch acronyms for bilingual entities.

coalition has also acquired some institutionalized access to the government's consultations (see below). Next, there is the consumers' organization Test-Aankoop/Test-Achats, one of the few remaining unitary organizations, with about 350 000 members. Thirdly, as part of the traditional socio-economic/confessional pillars, there are five health funds ('mutualiteiten'), which play an important part in the administration of health insurance and services. The biggest, Christian health fund has over 4 million members; together with the trade unions and a number of other organizations, it's united in the Christian employees' movement, Beweging.net (called ACW until 2014). Finally, apart from more minor groups which we will discuss in the CETA case-study, there are a number of environmental organizations: big international groups like Greenpeace and the WWF, but also the Flemish Bond Beter Leefmilieu and the Francophone Inter Environnement Wallonne. These groups again banded together in a cross-cutting formation, the Climate Coalition, along with the development NGOs, the trade unions and a group of other, smaller organizations.

Members/volunteers (rounded down)/sub-organizations (in 2016)	
Socialistische Mutualiteiten	3 000 000 members
Landsbond van de Neutrale Ziekenfondsen	523 000 members
Christelijke Mutualiteit	4 500 000 members
ACV/CSC	1 700 000 members
ABVV/FGTB	1 500 000 members
ACLVB/CGSLB	295 000 members
Fédération Inter-environnement Wallonie	151 member organizations
Greenpeace Belgium	100000 members
Bond Beter Leefmilieu	123 member organizations
CNCD-11.11.11	56 member organizations, 47 local groups, 40 000 volunteers
11.11.11	60 member organizations, 330 local groups, 20 000 volunteers
Test-Aankoop	360 000 members

How do these groups communicate with and influence decision-making?

The Belgian state has been categorized as '**neocorporatist**', to indicate the institutionalized role of interest groups in decision-making. This is most pronounced in relation to socio-economic decision-making and the management of relations between capital and labor, where 'representative' employers' organizations and trade unions play an important and formally engrained role (Destrooper, 2017; Devos & Humblet, 2011; Fraussen, Beyers, & Donas, 2015). There has been an attempt to reproduce these tripartite and bipartite institutions at the regional level, here too employers, unions and the state can discuss (and negotiate over) social and economic affairs. According to Luyten (similar to the Dutch case, see 6.1.1.3.), Belgian socio-economic policy-making has been increasingly dominated by a **discourse of competitiveness**, with a growing focus on wage-costs over productivity and redistribution. The role of the state in the state (and the EU) in enforcing certain margins on the social partners has grown, and the balance of power has tilted in favor of business (Luyten, 2011).

This neocorporatist system was originally closed to groups from outside the 'representative' peak organizations. In addition, policy-makers tended to rely on the input from members of their own 'pillar', further reducing access. In the past decades, Belgian interest representation has to some extent opened up however, becoming slightly more pluralist. This has to do with the decline of the pillars, but also with the strong of state-reforms, which have increased the number of access points to executive actors whose competences often overlap (Destrooper, 2017; Fraussen et al., 2015). The state reforms have also made it more difficult for civil servants (who in Belgium often serve in a similar post for many years, reducing their dependence on outside input), to see the bigger picture, making them more susceptible to groups with issue-specific expertise (Destrooper, 2017). However, the limited amount of research on this issue (focused on committee representation in Flanders) still indicates that the system of interest-representation remains far more open to big umbrella organizations with lots of staff, i.e. the traditional neocorporatist players still have an important foot in the door. In part, this is because of the state's reliance on 'committee' governance, where a small group of usual suspects meets for years on end in specialized gatherings (Destrooper, 2017; Fraussen et al., 2015). Destrooper furthermore argues that the multi-layered Belgian system lends itself well for revolving-doors dynamics, but this has never been investigated empirically (Destrooper, 2017)<sup>325</sup>.

More specifically in relation to EU affairs, Beyers et al (2015) find that business interests and labor are highly aware of EU-affairs, but that the unions have not developed much EU-oriented activities while many NGOs (and business organizations) have. All are very well networked at the EU level, representatives (or former members) of Belgian business and labor play important role in their European federations and their lobbying on EU issues has increasingly occurred through Brussels' channels, but the national level remains of great importance. Even at the 'EU' level they mostly talk to national MEPs and members of the permanent representation. Destrooper similarly argues that there is far less EU-oriented activity than one might expect (given that the EU institutions are so close by), because most Belgian organizations are already very well networked at the (sub-)national levels (Destrooper, 2017). Groups' lobbying in EU affairs is heavily focused on the executive, notably the sectoral' rather than the 'line' ministries (e.g. agriculture and health rather than foreign affairs), although the Belgian associations also tend to lobby MPs whose parties are part of the governing.

The role of these groups in trade-policy-making is developed further in the sections below and in the case-studies.

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<sup>325</sup> More generally, it seems that very little research has been devoted to lobbying dynamics inside Belgium, or to tracing what groups wield influence over which kinds of policies through what channels. There also seems to be a lack of public debate about these issues in Belgium, apart from the times when it's part of a bigger 'political' scandal, such as recent affairs related to the links of local politicians with real estate groups.

## 9.1.2. Economic structure

### 9.1.2.1. Structure of production and employment<sup>326</sup>

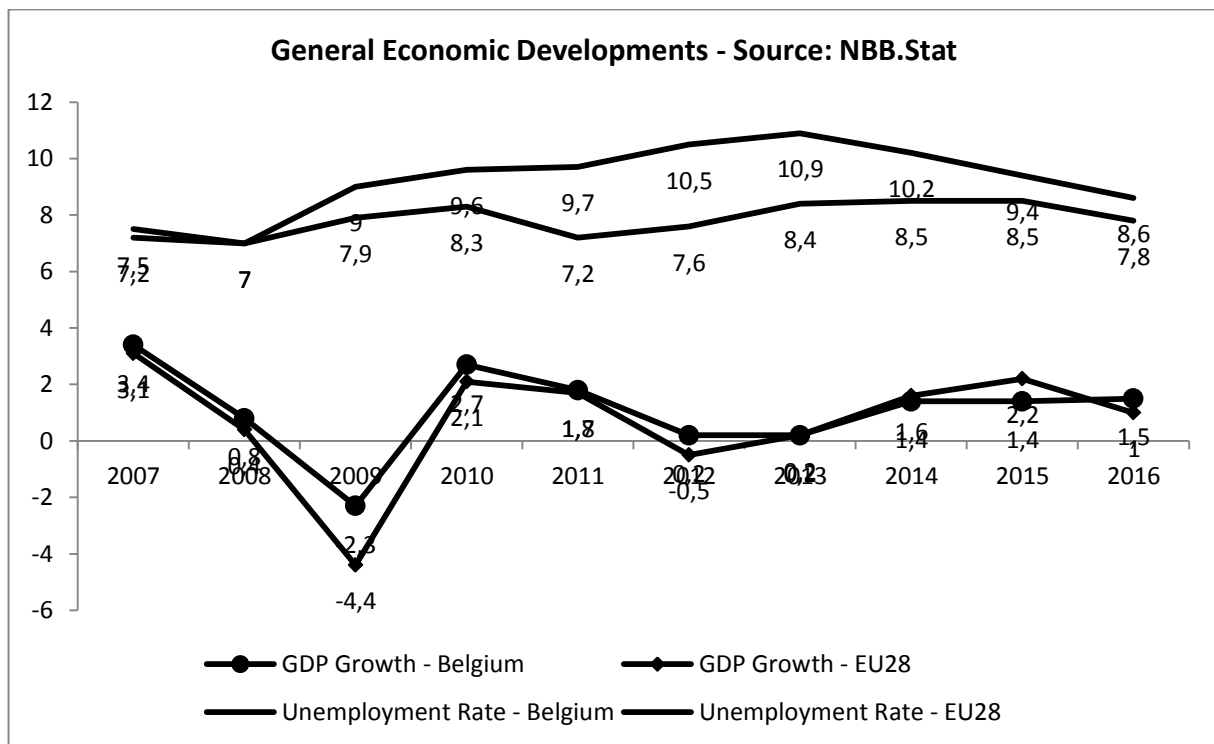
**Belgium is a small open economy, heavily dependent on trade and foreign companies.**

**Industry** still accounted for about 15% of Belgium's GDP in 2015, while agriculture and construction only took up 0.6% and about 5% respectively. A variety of private services represented about half of Belgian production, public services (including defence and public administration) filled up the remaining 20%. Most employment is in private services (45% in 2013) and public services (32%) followed by industry (19%) and agriculture (2%). Although the largest corporations (>250 employees) employed 30% of all workers and produced 39% of value added (in 2013), 94% of all Belgian firms employed less than 10 people and only 0.9% has more than 50 workers. SMEs (<250 employees) play an important part in the labour market (54% of all employees had fewer than 50 colleagues) as well as for Belgium's GDP (source: NBB.stat).

Some of the biggest industrial employers include the metal industry (280 thousand employees in 2014), the processed food industry (85 thousand) and chemicals and petroleum (123 thousand). Some traditional industrial sectors like clothing and textiles and the metal industry have faced hard times: employment has declined by 36% (2005-2014) in the latter and by 20% in the former sub-sector. The food industry on the other hand has become an important part of the agro/industrial landscape in Belgium (particularly in Flanders): in 2014 it represented 10% of industrial exports and 18% of industrial employment. In the private services sector, sizeable sub-sectors included transport and logistics (employing 160 thousand people in 2014), distribution (250 thousand) and accommodation/leisure/food service activities (112 thousand). The financial industry is also a big player (107 thousand, especially in banks and insurance), although there have been lay-offs since the crisis. 'Social profit' services (e.g. education, care for the elderly) have boomed in the past decade (+35%, 2005-2014) and currently employ over half a million workers. In agriculture, the dwindling amount of agricultural enterprises (fewer than 25 thousand in 2014) increasingly specialize in a specific sub-sector (primarily livestock farming), whilst steadily expanding the scale and technology-intensity of their operation. Pork, milk, beef, vegetables and gardening products represent the largest chunk of total production (in value terms) (sources: NBB.stat, Steunpunt WSE).

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<sup>326</sup> Parts of this chapter have (in revised form) been published in Bollen & De Ville (2016).



Like the rest of the EU economies, Belgium was hit by a recession in 2009. However, it then outperformed the rest of the Eurozone – first by shrinking less than its neighbors, later by recovering faster, reaching its pre-crisis GDP in 2011. Unemployment remained largely stable (NBB, 2013). Yet the enduring financial crisis (several large financial institutions had to be rescued) further aggravated the already worrying government debt/GDP ratio. This led to a series of budgetary cuts and fiscal reforms after 2011, bringing down the deficit to roughly 100% of GDP in 2014 (OECD, 2015). This aggregate picture hides some **big regional differences**. The switch in economic fortunes of Flanders and Wallonia (the wealthier region prior to the 1950s) continues to this day; in 2015, unemployment in Flanders was only 5%, while it was 12,5% in Wallonia. **Flanders moreover takes up 80% of Belgian exports** and also houses most services, especially those that are directly related to trade and logistics. The most export-driven agricultural operations are in the north of the country as well (source: NBB.stat).

### 9.1.2.2. Trade and Investment

In 2015 Belgium was the 12th largest **exporting nation** in the world (goods & services), although its share of global markets has been dwindling for years. The 2016 ‘KOF Index of Globalization’ ranks Belgium as the ninth most economically globalized state worldwide, and the country has also performed very well in the trade-related Doing Business indicators published by the World Bank (sharing its first place with states such as Denmark and the Netherlands) (Dreher, Gaston, & Martons, 2014; World Bank, 2013). Most of its commerce is intra-EU, notably with Germany, France, the Netherlands, the UK and Italy. Its foremost extra-EU markets (in 2015) are the US, India, China, Turkey and Switzerland. The importance of non-EU markets has been growing in recent years (notably with the BRICS countries), although in 2015 the EU regained some of its share (growing from 70% to 72% in Belgium’s export share) (source: NBB.stat). Belgium remains specialised in **intermediate goods** production and trading. The share of intermediates in domestic

value added is among the highest in the EU at two thirds, while the share of final products is among the lowest (Dhyne & Duprez, 2013).

An important part of Belgian **employment and GDP is dependent on trade** – mostly with its neighbours but increasingly also with non-EU countries. For example, according to calculations by the European Commission, in 2011 about 17% of all employment in Belgium was supported by EU exports to non-EU countries, some 2.5 percentage points above the European average (up from 10% in 1995). Three quarters of these jobs were in services, only 23% was in manufacturing, and 30% (twice the European average) was linked to EU trade with the US. Total value added generated in Belgium by EU exports to the rest of the world has increased by 180% since 1995, and this export-dependent share in value added has increased from 11% to 18% in 2011. About 16% of all value added embedded in Belgian exports is from a non-EU source, another indication of the extent to which Belgian competitiveness is dependent on the price and quality of imports (Arto, Rueda-cantuche, Amores, & Dietzenbacher, 2015).

The **trade performance of Belgium** (measured using the ‘national concept’ of the National Bank, which excludes re-exports) has been mixed in the past decade. After plummeting in late 2008/early 2009, the trade balance in goods recovered, before becoming negative again in 2011 and 2013. In 2015, however, it became positive for the first time since early 2010. Belgium’s trade in services has performed far better, displaying surpluses for almost ten years now. The overall trade balance has largely been in deficit since 2011, although the gap generally became less pronounced from 2013 on. In the first quarter of 2016 there was a slight surplus of €750 million. According to the UN’s Merchandise Trade Correlation Index (which does include re-exports), **Belgium’s most important competitors are situated within the EU**: Belgium’s export profile is most similar to that of the Netherlands, Spain, Finland and Germany. In recent years, however, there has been increasing pressure from Asian economies, notably Korea, China, Japan and Singapore (sources: UNCTAD, NBB.stat).

Belgian **industrial goods** are traded predominantly with the EU (about 70% in 2015), top partners include Germany, France, the Netherlands and the UK. In imports as well as exports, the role of non-EU countries is still limited; in 2015 only 5% of industrial exports hailed from China, for example. The US remains the dominant extra-EU partner, claiming one tenth of industrial imports and 7% of exports. In terms of composition, **chemicals top both exports (30%) and imports (28%)**, followed by machinery (13%, 14%) and automobiles and other transport equipment (13%, 14%). **Services** represented 27% of total Belgian exports in 2015, which is quite sizeable compared to other European countries. They are mostly traded with the **European market** (68% in 2014), although again the share of exports to the US (11% in 2014) is significant. Trade with the BRICs has increased somewhat in the past decade but still remains marginal (2% in 2014). In line with the openness and logistically favourable position of its economy, Belgium performs particularly well in trade-related or -supporting sectors: **transport, communication and logistics** represented almost 40% of all service exports in 2014 (sources: NBB.stat, UN COMTRADE). In comparison to other Eurozone countries, Belgian exports are more strongly oriented at traditional services, and less at knowledge-intensive sub-sectors like ICT or financial services (Belderbos, Roggeman, Sleuwaegen, & Van Hove, 2013).



In **agriculture and foods**, Belgium's neighbours are the most important trading partners. It imports about 62% of agro-goods from these countries, and they receive 67% of exports (in 2014). The rest of its imports (+/-25%) are drawn mostly from outside of the EU, and consist mostly of goods like soy, palm-oil, coffee and chocolate. Other major agricultural export-markets include the rest of the EU-28 (17%); trade with the BRICs (3.6%) and the US (1.5%) remains minor (Platteau, Van Gijsegheem, & Van Bogaert, 2014). Belgium is not an insignificant player in these goods, taking up a fifth place in the EU's total agricultural exports (with 8% in 2014). Its products have performed quite well in recent years, the trade balance has been positive and Belgium in 2016 had the sixth-largest surplus in the EU. The Belgian **food-industry** in particular has become increasingly trade-oriented, with exports generating around 50% of its revenue in 2013. The dairy products represent the highest portion of export value, other important products include chocolate, frozen vegetables, processed grains (e.g. cookies), processed potatoes (e.g. fries) and beer<sup>327</sup> (Platteau et al., 2014).

**Foreign investment** has played an important role in the development of the Belgian economy. In 2014, Belgium had the 14<sup>th</sup> highest stock of inward FDI to GDP ratio (216%), the ratio of outward FDI to GDP was 213%. After controlling for capital in transit<sup>328</sup>. Belgium's position becomes similar to that of the Eurozone average, but its degree of financial openness is nonetheless high. Among developed economies, Belgium sticks out because it is still receiving more FDI than sending out (Duprez & Van Nieuwenhuyze, 2016). In 2010, the vast majority of Belgian FDI was located in Europe, followed by North America; country-wise, its top recipients were Luxembourg, the Netherlands, France, the US and Germany.

Although only a very small amount of firms operating in Belgium are **multinationals**, these account not only for the **bulk of Belgian trade** (exports and imports), but also produce nearly **half of all value added** and employ about a **third of private sector workers**. The bulk of these companies are from within the EU28 (60% in 2013), but the United States remained the biggest individual country to invest in Belgium – both in terms of persons employed (19% of employment in non-Belgian multinationals), number of enterprises (27%) and production value (27%). The only other non-EU country of some significance was Japan, which represented roughly 3% of the same indicators. The large majority of these firms have been operating in Belgium for over ten years, and they are active in services as well as manufacturing (Dhyne & Duprez, 2013).

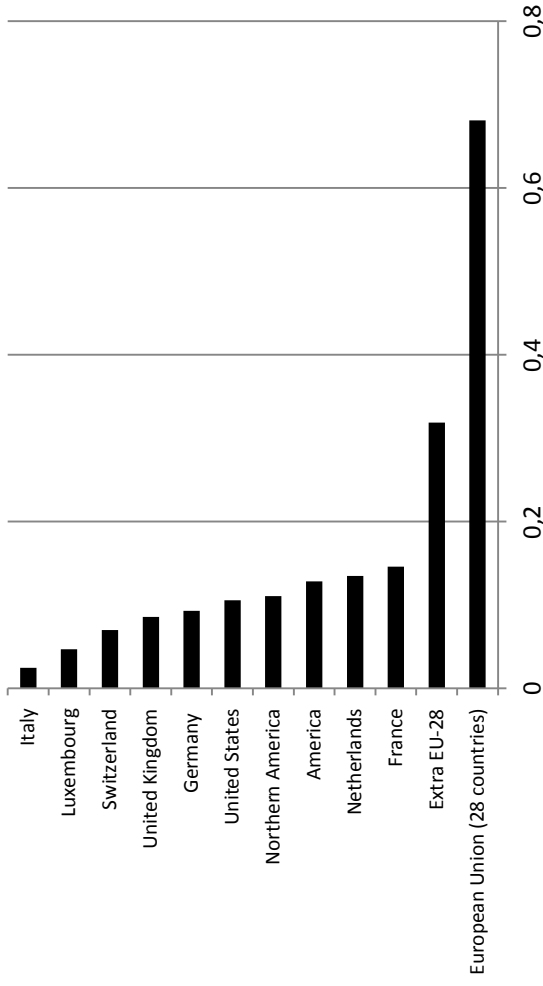
Again, there are big **differences within Belgium**. In 2012, 80% of total Belgian trade (imports and exports) was taken up by Flanders, and 86% of all extra-EU trade; again, most of this is taken up by large multinational firms, only 27% of SMEs is active in international trade (Kersschot, Kerremans, & De Bièvre, 2014). As Kersschot et al argue: *'This means that of all public authorities in Belgium, whether federal or regional, the Flemish authorities have the greatest stake in EU external trade policy-making'* (2014, p. 23).

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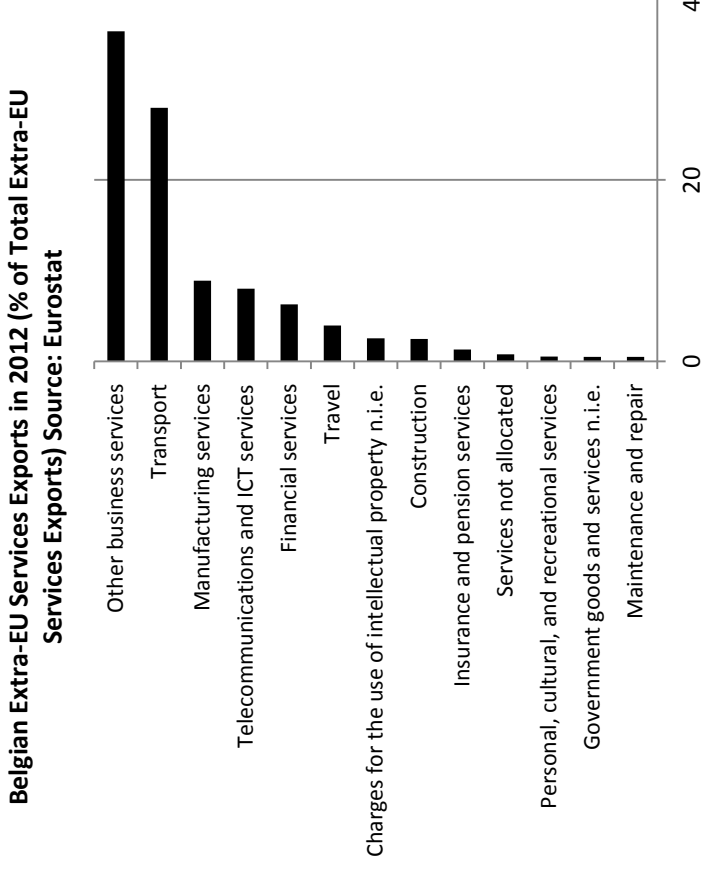
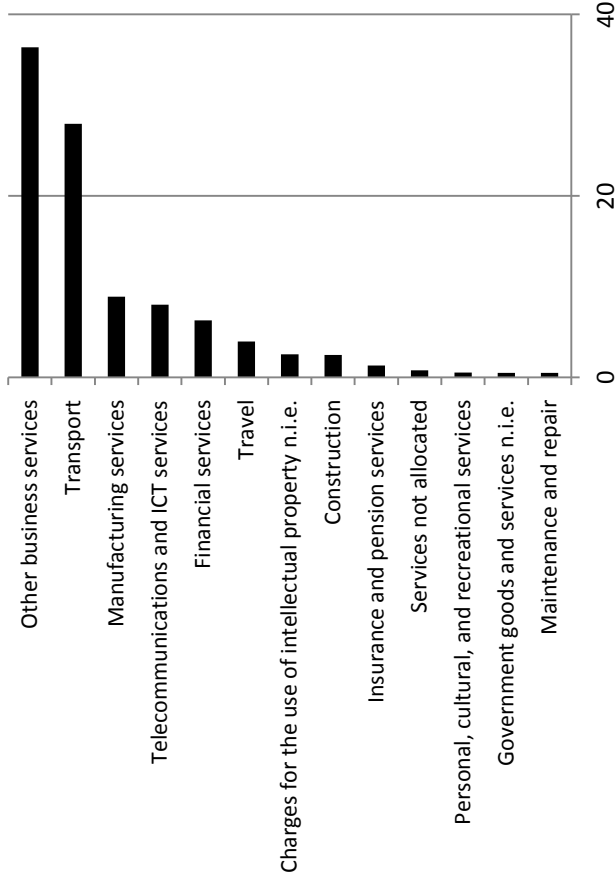
<sup>327</sup> Some producers, particularly those of pears, were struck hard by the Russian embargo imposed after 2013. In 2014, Belgian exports of pears, apples and pork to Russia all declined with about 20% compared to the year before (based on data downloaded from the WTO COMTRADE database).

<sup>328</sup> Held in Belgium temporarily, mainly for tax purposes.

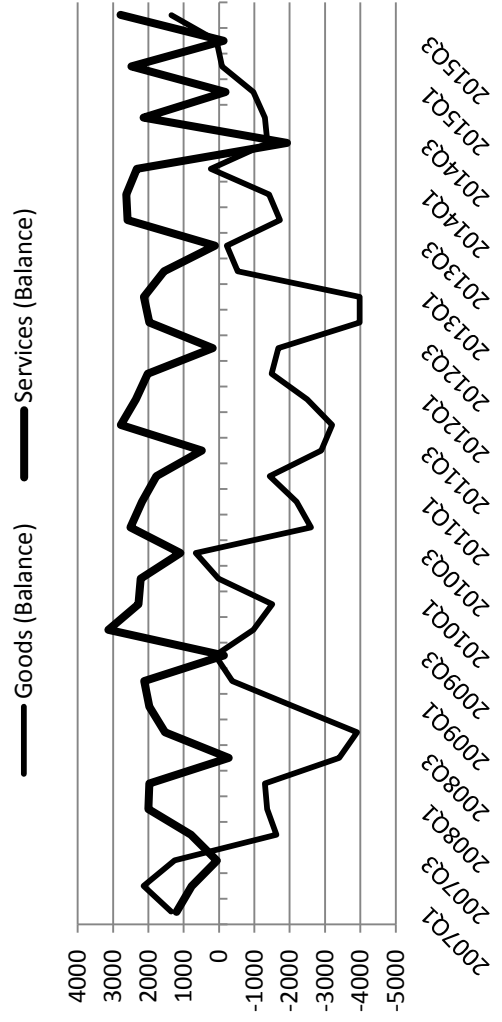
**Top 10 Belgian Services Exports Destinations (% Exports).**  
Source: Eurostat



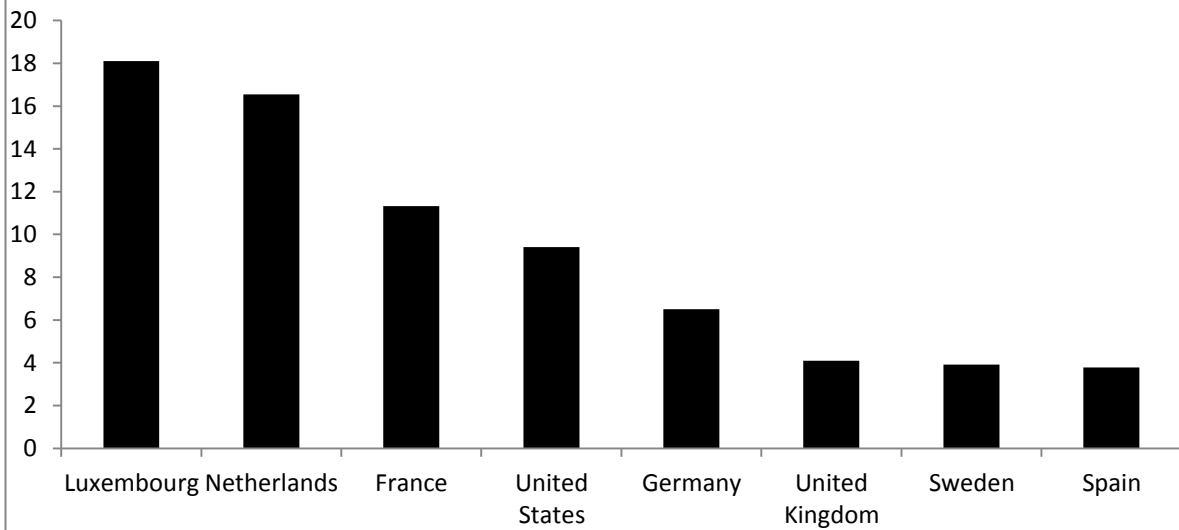
**Belgian Extra-EU Services Exports in 2012 (% of Total Extra-EU Services Exports) Source: Eurostat**



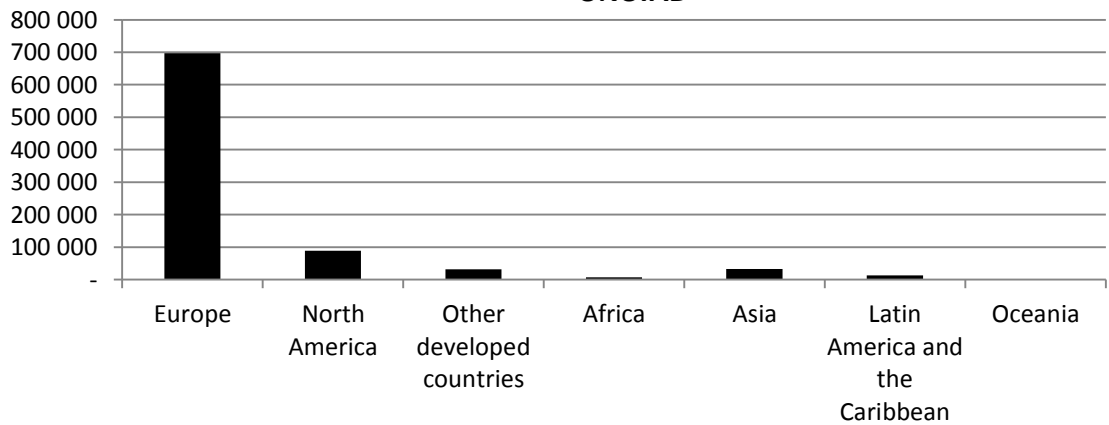
**Trade Balance Belgium (Mn Euros) (National Concept, Source: NBB)**



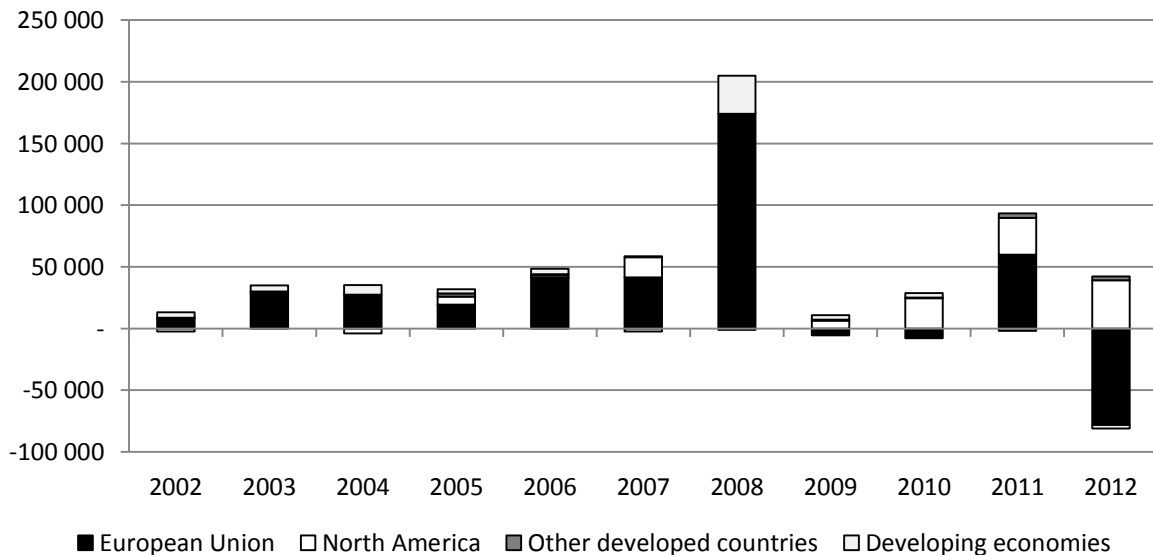
**Percentage of total outgoing FDI Stock in 2010. Top countries. Source: UNCTAD**



**Belgium - Outgoing FDI Stock in 2010 (Million Dollars). Source: UNCTAD**



**Outgoing investment Flows - 2010 - Million Dollars. Source: UNCTAD**



## 9.2. Foreign- and trade institutions and policies

### 9.2.1. Policy

#### 9.2.1.1. Foreign policies of Belgium, the regions and the communities.

Because of the institutional reforms that have been enacted in the past decades (see below), Belgium has both an official 'Belgian' foreign policy as well as regional and community-policies. Because the trends in the policy stance of these entities will be of importance in the coming chapters, I will briefly discuss them here.

In his history of **Belgian foreign policy**, Rik Coolsaet distinguishes two 'vital' interests that have driven Belgium's behavior on the world stage ever since its independence: the interwoven goals of protecting the state's political autonomy (mostly from being dominated by its large neighbors) and increasing economic prosperity. Since the end of the Second World War, this has translated into three strategic pillars: supporting multilateralism, promoting the broadening and deepening of European integration, and protecting Belgium's economic and commercial interests. The latter 'pillar', often translated into a protection of rule-guided free trade and export promotion, has been particularly dominant. Much of Belgian foreign policy in fact boiled down to economic diplomacy, with a particular orientation towards its immediate Western-European surroundings. This general tendency has again been reinforced since the 1990s; at the federal as well as the regional administrations, attracting investors and supporting international exports have been at the forefront of policy (Coolsaet, 2014).

In the period under scrutiny, however, foreign policy has missed strategic direction.

On the face of it, Belgium remained a capable and energetic actor on some core dossiers even after the continuous political crisis of 2007-2011 erupted. It chaired the EU Council in 2010, drawing unanimous praise, was an active actor during its time in the UN security council (2007-2008), and even decided to join the war in Libya in 2011 - even though it was at that time led by a caretaker government. However, Belgian foreign policy had nonetheless resided in a 'vacuum' since 2007. Many foreign policy initiatives, including attempts to come to a new, overarching strategic outlook, were put in the freezer, and Belgium's attempt to focus on some niche issues (global governance, land mines, ...) remained underdeveloped. A lack of guidance predominated as departments failed to coordinate on the ground as well as strategically. This resulted in a cautious short-termism rather than strategically oriented vigor (Coolsaet, 2011).

These problems persisted in the years that followed. Budget cuts enacted since the lingering financial-economic crisis of 2008-... further diminished the funds for aid and development as well as for defense, and there were also closures of diplomatic missions. Shrinking resources and personnel negatively affected Belgium's ability to formulate and defend a coherent international strategy, which had already been weighed down by the increasing internal fragmentation of competences and resources (Renard, 2015). Evaluating Belgian foreign policy between 2010 and 2015, Renard speaks of the '*growing feeling [...] that the Belgian system may have become too complex to function properly. It is characterized by a fragmentation of competences, resources*

*and responsibility*' (Renard, 2015, p. 3). There were some attempts at prioritizing, for example in development policy there was now a more narrow focus on poor and fragile countries in Africa, and Belgium became an active actor in the discussions on terrorism and radicalization. But in general Coolsaet again concluded that Belgium had not been able to further define its vital interests; his evaluation remained the same as in 2011. Although policy notes again supported the promotion of multilateralism, European integration and economic diplomacy (as well as a focus on regional crises), Belgium's foreign policy was essentially reactive (Coolsaet, 2015; see Renard, 2015, and the articles included in this special issue).

Although most foreign policy has remained coordinated (and externally represented) by the federal ministry, the **sub-federal governments** have since the 1980s been developing their own administrations, and have to some extent tried to carve out their own emphases and policies.

Before the state-reforms of 1993, the foreign policy of the **francophone community** was centered on promoting the French language and culture, on increasing their own independent visibility abroad, and on promoting 'cultural foreign trade'. The Walloon **region** focused strongly on trade promotion, inter alia by building up its own network of trade representatives. Between 1995 and 2005, the community and region started cooperating more intensely, notably in their attempts to foster 'partnerships' with other (mostly French speaking) countries and regions. Since 2005, Wallonia's foreign policy has been steered more strongly by its regional economic strategies (the various 'Marshallplans' of which the first was launched in 2005), which have underlined the need to boost foreign trade and investment. Cooperating with the community and making use of the network of its regional trade and investment agency, AWEX, it has in particular tried to reach out to BRIC countries, in hope of fostering trade relations. Although Wallonia's foreign policy strategies have also always spent much attention to the promotion of values and (especially after 2010, when the greens entered the regional government) sustainability (as well as *Francophonie*), these goals have at times clashed with its economic goals. This is most clear in the many, ongoing arguments over Wallonia's arms' trade (Criekemans & Catherine, 2011). **Flemish foreign policy** has (similarly) focused strongly on cultural policy and (especially since the late nineties, with the creation of Export Vlaanderen) on promoting Flemish trade and investment. According to Criekemans & Catherine, there has been a lot of continuity in these policies, although the focus on economic interests has grown steadily - especially since 2009. Institutionally it has always been unified, although its foreign trade administration has been under permanent reforms since the 1980s; it has moved from a horizontal structure (a service coordinating the other departments' foreign policy initiatives) to a vertical one in 2005-2006 (one ministry of foreign affairs) (Criekemans, 2010; Criekemans & Catherine, 2011).

### 9.2.1.2. Trade and investment policy

What position has Belgium taken up in EU trade and investment policies?

#### *a. Bi-multilateral*

The Belgian position in EU trade has never been the subject of much research, and Belgium is almost never mentioned in the usual literature on trade policy. This means that there are very little traces of its position over the years. Doing the necessary archival work to compile such a list myself went beyond the scope of my PhD, so we have to go on the general patterns discerned by (current) practitioners. In a previous article (Bollen et al., 2015), based on interviews and what is perceived as common knowledge about the Belgian stance, we summarized a few tendencies of the Belgian positions as follows.

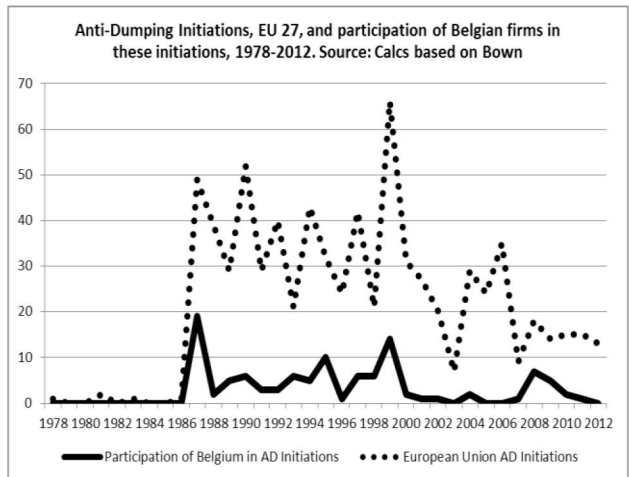
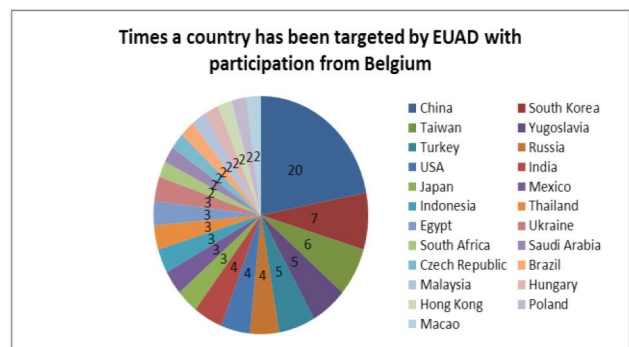
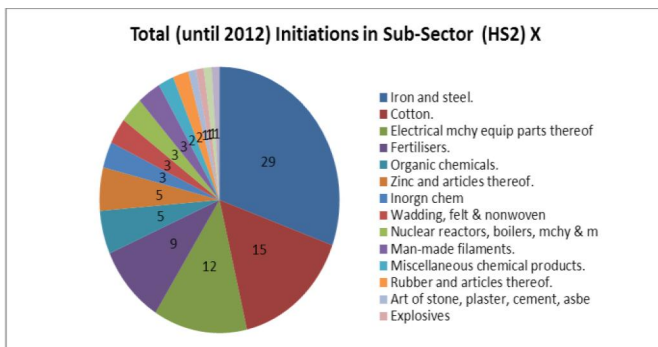
In relation to the supranationalization of **competences**, Belgium has in general been one of the strongest supporters of further EU integration in trade. When Treaties were being revised or when there were judicial disputes over trade competences, Belgium tended to side with the integrationist Commission. One of the few mentions of Belgium in the trade literature is related to such a dispute: when in the aftermath of the WTO's Uruguay Round, the European Commission and the member states disagreed about the scope of the supranational EU trade policy competences resulting in two landmark cases before the European Court of Justice (Opinions 1/94 and 2/92), Belgium was the only member state that completely and vocally supported the Commission's position (i.e. comprehensive interpretation of EU trade policy competences) (Young, 2000). As we argued in the paper, Belgium's position was often a middle ground between the protectionist and liberal camps, although it tended towards the liberal group. In relation to the substance of the deal, we also discerned a number of tendencies. In **agriculture**, Belgium has tended to support further liberalization (lowering tariffs, scrapping export subsidies), although it has acknowledged the 'special nature' of this sector, arguing that that the 'multi-functionality' of agriculture should be respected in international trade. Belgium has also supported the promotion of geographical indications. In **services**, Belgium has generally supported the liberalization of trade-related services, while also favoring exceptions for non-commercial (public) services. Belgium has been particularly vigilant when it comes to trade negotiations on public services such as education, public health and social services. It has also been one of the strongest opponents of the liberalization of audiovisual services, favouring an *exception culturelle* in this area. Finally, Belgium has consistently favoured the promotion of **social standards** through international trade agreements (Bollen et al., 2015).

#### *b. Trade defenses*

Belgian companies have participated (as claimants) in anti-dumping investigations with some regularity, although there was large period of inactivity between the turn of the century and the crisis of 2009.

The iron and steel sector has been the most active here, accounting for about a third of all cases, followed by the textile, electrical machinery and fertilizer industries (based on data from C. P. Bown, 2011). Of course this does not necessarily mean that Belgium also supported all of (or only) the cases where its firms had such a direct

stake. According to my interviewees<sup>329</sup>, the positioning of Belgium has shifted over the past decades. Before the mid-00s, Belgium tended to follow the Commissions advice, i.e. vote in favor of duties when they were proposed. This claim appears to be supported by (indirect) voting records (1996-2004) assembled by Evenett & Vermulst (2005) and Nordstrom (2011), which show that Belgium supported the Commission in about 80% of all cases. This changed during the so-called ‘Bra’ and ‘Shoe’ wars, after which Belgian realigned with the ‘Northern’ camp and started opposing duties far more often. This line was held until recently. For example, during the 2013 discussions of a legislative proposal to ‘modernize’ trade defenses, Belgium was opposed to the abolishment of the ‘lesser duty rule’<sup>330</sup> and in favor of the ‘shipping clause’<sup>331</sup>. Recently, however, Belgium has been moving ‘South’ again, a trend which is supposedly evident in its more ‘protectionist’ stance in dossiers such as China’s bid for ‘market economy status’ and the steel crisis (Interview - FOD Economie (3), 2016).

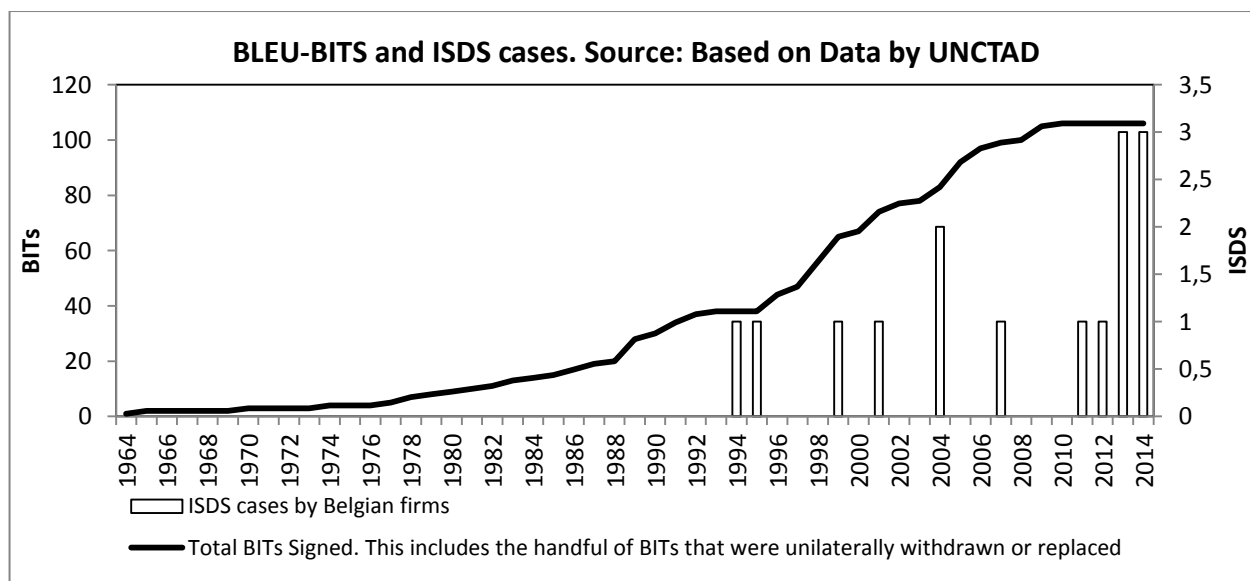


<sup>329</sup> At the FOD and with people who were involved at the EU level.

<sup>330</sup> The lesser duty rule ensures that the EU imposes dumping duties that can be no higher than is necessary for removing the damage caused by the dumping. I.e. the EU can't impose 'punitive' duties that are higher than the dumping margin. This makes the EU's contingent tariffs lower than those enforced by most other countries.

<sup>331</sup> This clause would have forced the Commission to warn foreign firms about an impending duty; currently it needs to do this only one day before imposing the tariff.

### c. Bilateral investment treaties



In 2010, Belgium had signed BITs with around 90 states, mostly with developing or emerging economies. Until the 1980s the majority of deals was with African and Asian countries, but especially since the nineties BITs were also concluded with Eastern Europe and Central and South America. All of these BITs were signed as part of the 'Belgian-Luxembourg Economic Union' (BLEU) that was created in the 1950s. So far, Belgium has only been targeted by an investor-state dispute settlement case once: the Ping-An case of 2012, when a Chinese investor used the BLEU BIT with China to litigate against the nationalization of Fortis during the financial crisis<sup>332</sup>. Firms made use of the BITs arbitration fourteen times. Five of these cases are still pending, two were settled, six were decided in favor of the state, and four in favor of the investor<sup>333</sup>.

There have not been many reports or analyses on the Belgian BITs. One exception is the 2011 study by the International Institute for Sustainable Development, which was commissioned by Oxfam Solidariteit. According to this analysis, the Belgian BITs are very similar to the investment agreements of other European states, and they have changed little in the past decades: *'they are short and without much detail; broadly define investments; prohibit host governments from discriminating against foreign investments in favor of domestic investments or investments from third states; require governments to provide foreign investments fair and equitable treatment; obligate host governments to allow foreign investors to transfer funds and repatriate capital; require prompt and adequate compensation for expropriation of foreign investors' property; and allow investors to seek relief for alleged harms by bringing direct claims against host states through international arbitration'* (Bernasconi-Osterwalder & Johnson, 2011, p. 5). In relation to the controversial investor-state dispute settlement system, the Belgian Model BIT's provisions *'do not provide contracting parties much of a buffer against investors' arbitration claims, nor inducements for investors to first pursue those claims in the host country. [...]* The Belgian Model BIT also fails to address other problems inherent to investor-state dispute settlement, such as issues relating to arbitrators' conflicts of interests and the absence of any

<sup>332</sup> At times these firms had multiple owners, including Belgian ones. Belgium won the case over procedural issues, not on substance.

<sup>333</sup> Source: <http://investmentpolicyhub.unctad.org/IIA/CountryBits/19>



*process fostering sound decision-making and predictability, such as an appeals mechanism'* (Bernasconi-Osterwalder & Johnson, 2011, pp. 8–9).

In 2002 its model BIT was somewhat altered to also include some language on the relationship between investment protection and environmental and labor standards. These provisions subsequently returned in some of the treaties concluded, such as the BITs with Madagascar (2005) and Korea (2006). However, these modifications were slight, and according to the IISD remained very weak. All in all *'the text still lacks many important revisions and refinements that are important for promoting sustainable development and reserving policy space'* (ibid, p. 3).

## 9.2.2. Decision-making

Here, I will no longer be making the distinction between foreign and trade policy. I will only discuss the specifics of trade.

### 9.2.2.1. Institutional developments and actors

Since the late eighties, a **series of constitutional reforms** have completely altered the way foreign- and trade-policies are formulated in Belgium. The Sint-Michiels'-accords of 1993 installed the principle of *'ius legationis, ius tractati'*, granting the regional governments the ability to sign international agreements in matters where they held the exclusive competence, and the right to maintain their own corps of foreign representatives. This process was furthered in **2001**, when the Flemish nationalist party (Volkswaard) successfully demanded the complete regionalization of export-policy, and the transformation of the 'Belgian Service for International Trade' into the 'interfederal' 'Agency for Foreign Trade', which was to operate at the service of the regional export-agencies that had been created in the 1990s. In 2014, the sixth state-reform further boosted the power of the regions on foreign affairs and trade; this has again been accompanied by Flemish demands for the transfer of means from the federal ministry of foreign affairs (Coolsaet, 2014).

Together, these reforms replaced the previous system, in which the ministry of foreign affairs had been in charge of most trade issues, with a non-hierarchical one in which the federal level was primarily in charge of coordinating the other levels<sup>334</sup>. Belgium could now no longer take any stance unless Wallonia, Brussels and Flanders (i.e. the regional governments) were able to reach an agreement. Without **internal consensus** Belgium would need to abstain. This led to an intense web of coordination mechanisms steered (and often represented internationally) by the federal level, that sought to maintain the coherence of Belgian foreign policy while maximizing regional autonomy (Coolsaet, 2014; Crielkens, 2010).

These reforms have not always been followed by smooth administrative transitions, and were often accompanied by **inter-institutional struggles**. Economic diplomacy and export-promotion have been the most important bones of contention; Flanders in particular has been suspicious of the federal level clawing back some of its lost

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<sup>334</sup> The reform was accompanied by seven 'cooperation agreements' which stipulate, inter alia, the way in which the Belgian entities are represented in the Council, e.g. whose civil servants can represent Belgium in what meetings, or how the interests of the regions need to be represented even if a dossier concerns mostly federal competences.

prerogatives (ibid). Many also fear that Belgian decision-making on foreign affairs has become too convoluted, with too many unclear and overlapping competences, endangering coherence and hampering the state's ability to be proactive (Coolsaet, 2015; Renard, 2015).

I will briefly sketch out the main institutional actors active in trade and foreign policy-making, before discussing the conduct of intra-Belgian coordination.

After successfully struggling with the ministry of economics in the post-war period, the **ministry of foreign affairs** became the dominant actor in the coordination of European (and thus, trade) policy. Over the course of the 1990s and the 2000s, it safeguarded this position from other federal actors (such as the prime minister and the ministry of economics) while simultaneously adapting to the devolution of its portfolio and its new role as inter-regional coordinator. This was accompanied by a series of internal reforms, that have further attempted to streamline the ministry's functioning (Coolsaet, Dujardin, & Roosens, 2014). Today, the ministry of foreign affairs is the central and *'largely unchallenged'* coordinative center of intra-Belgian decision-making on EU, trade and other foreign affairs. There are still occasional conflicts over competences (notably related to economic diplomacy), but the regional foreign policy & trade administrations consider the federal ministry as generally loyal and trustworthy (Criekemans, 2010; Interview - DiV(1), 2016; Interview - Former DiV (2), 2017; Renard, 2015).

However, Kersschot et al (2015; 2014) still point towards the very important and enduring role of the **FOD Economie** in trade affairs, more specifically in relation to the substance of the Belgian position. First of all, it is the ministry of economics which houses the largest number of civil servants (10-12) with technical expertise related to trade issues. In practice, economics is often present, and an influential voice, not just the Belgian coordination meetings but also in various council formations. Foreign affairs takes up the Belgian seat in the Trade Policy Committee at the full members' and deputies' levels, as well as in the committee on services and investment. But economics is present in all of the TPC meetings as well, and it's the FOD Economie which represents Belgium in the Committee on Anti-Dumping, in the committee on Steel, Textiles and other Industrial Sectors (TPC-STIS) and the Working Party on Trade Questions (WPTQ), as well as in the lower-level technical committees (Kersschot et al., 2014). Secondly, in practice economics also takes up part of the coordinating role, at the (national and regional) civil servants' level in the Interministerial Economic Committee, but also in other layers; as part of their expertise-building and sharing, they communicate with embassies, the permanent representation, the OECD, the EU Commission, the European Parliament, and others. Finally, they play an important role in data-driven analyses of the Belgian interest, and they are often the first line of contact for firms and business associations (see below) (Kersschot, 2015; Kersschot et al., 2014).

As their competences grew, the **sub-federal entities** have also created their own, regional foreign policy and trade administrations. In Flanders, the **'Departement Internationaal Vlaanderen'** acts as the region's ministry of foreign affairs and Trade. It resorts under the minister-president. In its current form, it was created in 2005 and

started work in 2006<sup>335</sup>. It cooperates with the region's trade and investment agency, Flanders Investment and Trade (FIT). Similarly, **Wallonia and the Francophone community** have long been building their own foreign-policy architecture; in the early eighties, both the community and the region had created their own foreign policy actor. The community and the region always cooperated intensely, and in 2009 they fused their departments into *'Wallonie-Bruxelles International'*. The **WBI** is now the main foreign policy administration, it serves under both the Walloon and the community cabinets. Wallonia's trade and investment agency is called *L'Agence Wallonne à l'Exportation et aux Investissements étrangers (AWEX)* (Criekemans & Catherine, 2011).

### 9.2.2.2. Decision-making in practice

#### *a. Permanent coordination*

European trade policy is **one of the most heavily 'coordinated' sections of EU-policy**. Although the continuous struggle over the *'samenwerkingsakkoord'* have left the institutional set-up vague and confusing, in practice this formal subdivision of representation is to a large extent symbolic<sup>336</sup> because this domain is characterized by intense amounts of coordination (Interview - Former DiV, 2016).

This **continuous coordination** is handled by DGE5, a small unit (six people in 2016) composed of generalist diplomats that is part of the foreign affairs administration. The E5 meetings, chaired by the Ministry of foreign affairs, bring together people from the cabinets and the administration from all the implicated governments. The exact composition depends on what policy 'sector' is being discussed. DGE5 communicates and meets (in various formations) much more frequently than in other policies, also through informal channels. This coordination is layered, mirroring the European set-up: every week on Thursday there is a meeting with experts from federal and sub-federal cabinets and departments in preparation of Friday's TPC, and there are separate meeting for the experts that take part in the more 'technical' committees (services, textiles, steel, trade, defense). DGE5 may also limit its coordination to a written procedure if the upcoming EU meetings is of limited importance (Interview - Former DiV, 2016). In some technical committees (especially in matters related to agriculture), it may also be the case that only civil servants from the regional governments attend, and that the federal government is later informed by them.

Apart from the foreign policy administrations, several other departments (federal or regional) take part in these meetings. The **agricultural departments<sup>337</sup> in particular follow the trade dossiers very actively**. The regional agricultural experts also coordinate bilaterally in order to come to a joint position, and seemed quite confident about their ability to have their voices heard at the coordination meetings (Interview - Agricultural Department Flanders, 2016; Interview - DGE5, 2016).

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<sup>335</sup> In 2017 it was renamed the Department of foreign affairs. I have held on to the previous nomenclature for this PhD.

<sup>336</sup> Rendering, for example, the idea of an exclusively federal competence in multilateral trade deals 'illusory' (Interview - Former DiV, 2016).

<sup>337</sup> The region's experts are always present at meetings with the Commission, and at times they are the sole Belgian attendees of technical meetings, only later briefing DGE5 and the rest of the actors.

The above system of coordination is somewhat different when it comes to **trade defenses**. Individual cases (e.g. anti-dumping files) are handled primarily by the *FOD Economie*, where four people are working mostly on trade-defensive issues - all civil servants. Only when a case is really very sensitive is there some communication with foreign affairs and other actors; in all other cases, the minister of economics makes the final decision based on the advice of his/her administration. Broader dossiers such as legislative files (e.g. trade defense modernization, market economy status) undergo the usual process of intra-Belgian coordination with the (sub-)federal administrations (Interview - FOD Economie (3), 2016). I discuss some more details of the decision making procedures in anti-dumping in my treatment of the solar panel case.

### ***b. Intra-regional coordination***

At the **Flemish level**, internal decision-making on trade issues is itself heavily coordinated. At the political level, the minister-president is in charge of foreign policy. Based on the declaration of government, he and his cabinet produce a 'policy letter' which is updated annually; this letter is not confined to foreign trade but deals with the broader policy-domain of '*international Flanders*', which includes tourism, development aid, etc. At the administrative level, the minister is supported by the '*Departement Internationaal Vlaanderen*' (**DiV**)<sup>338</sup>. Here two people (2013-interview) are in charge of trade-policy related work. This duo has divided the work amongst themselves along geographical and thematic (goods/services/...) lines. When, for example, the Commission proposes a negotiating mandate it is the DiV which will first draft a position (based on its own analyses and consultations with stakeholders and other departments). This position is then either (for less sensitive dossiers) approved after a written procedure (aimed at departments and cabinets), or in the (bi-)weekly meetings of the **Working group on EU Trade**<sup>339</sup>. This working group is a trade-specific phenomenon, it does not exist for other Flemish policy fields: it gathers administrative personnel from all departments that feel like they have a stake in the issue, as well as people from interested cabinets. This means that positions condoned by the working group have broad 'technical' as well as political backing, and can be used as Flanders' official stance in the DGE (or in other, bilateral or European forums) (Interview - DiV(1), 2016). Again some departments are more active than others, and once more **agriculture** is very much on top of this domain (Interview - Agricultural Department Flanders, 2016).

On the **Walloon side**, the internal coordination is organized by a single person in the foreign affairs administration, '*Wallonie-Bruxelles International*'. The WBI answers to both the community (the '*Wallonia-Brussels Federatio*', or FWB) and the region (Wallonia), which means that the WBI's trade representative has to work with two governments and under two minister-presidents -which like in Flanders are in charge of foreign affairs. Although the WBI resides under the same chief (and roof) as the francophone export agency, **AWEX**, their activities are not the same. AWEX's task is limited to export promotion, it works with the enterprises, makes

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<sup>338</sup> In 2017, this was renamed to Department of foreign affairs

<sup>339</sup> This working group has in 2017 been renamed to '*Werkgroep Europees Handels- en Investeringsbeschermingsbeleid*'.

prospections in the markets and abroad, while the WBI is more of a 'generalist' administration and thus in charge of trade politics.

The administration's role is to **coordinate the position of Wallonia** and the FWB ahead of the weekly intra-Belgian meetings. The trade officer receives the program of the TPC, and then consults systematically with three cabinets: the minister-presidents and the Walloon minister for external commerce. Although the latter is always consulted and informed, the final and formal responsibility rests with the minister-presidents. At the intra-Belgian trade meetings there is also always an expert of Wallonia's agricultural department present, so this administration and the minister of agriculture are consulted as well. The **balance between the ministers and the minister-presidents** depends on the issue. The promotion of commerce, and its strategies, is clearly the prerogative of the minister of commerce, which has been Jean-Claude Marcourt since 2005. Trade politics, however, is seen as a matter that is part of foreign affairs (like at the federal level), and so here it are the two MP's that have the competence and who take charge. In contrast to Flanders, this process is not institutionalized but remains more informal – there is no counterpart to the 'Working Party on EU Trade' (Interview - WBI, 2016).

When there is need for an analysis of Wallonia's commercial interests in a certain dossier, this is passed on to **AWEX**. For example, when the EU launches trade negotiations a note is produced by the federal administration of economics, and Wallonia, along with Flanders, contributes to this note their perspective on the interests at stake. In Wallonia, such an analysis would be performed by AWEX, which has the expertise and the networks (with firms and abroad) that allow it to analyze whether Wallonia has any specific interests at stake in the countries with which the EU is negotiating.

### ***c. Conflict and compromise in the Belgian system***

The Belgian system is complex. Throughout the interviews, it became clear that not all of its participants have a detailed view about the functioning (or personnel) of all the interlocking parts, or how counterparts from other levels decided on their intra-Belgian position. Still: most participants agreed that the consensus-oriented system has been largely successful, and that the cooperation between the various levels had mostly been satisfactory. **Intra-Belgian conflict** had most often been inter-(sub-) governmental, with the amount of strife often being lower if parties presided in both the federal and regional levels. Because of inter-governmental differences Belgium sometimes had to remain on the sideline of a certain dossier: without consensus, there is no Belgian stance. Most interviewees seemed to think such **blockage had been (extremely) rare**, however (Interview - Former DiV, 2016; see also interviews in Kersschot et al., 2014).

Judging from interviews performed by Kersschot et al, three factors contributed to this generally pacified picture (at least until CETA): (i) the trade interests of Flanders and Wallonia were largely complementary; although Flanders often had a more offensive, liberal orientation while Wallonia was more defensive, their respondents argued that in practice one region's preference was almost never harmful for the others'. As the authors noted, it was (even then) unsure to what extent this was sustainable. (ii) The federal ministries would yield to the regional positions on issues

where these held the competence, unless they failed to produce such a position. (iii) In mixed competences, where all levels have to reach a consensus, there was a disciplining threat of non-consensus: if disagreement persisted, Belgium would be unable to take a position and would effectively be side-lined at the EU stage; all participants considered this an extremely unappetizing outcome. (iv) Even on issues where the regions did not have a competence, they would still be able to give their input – which the federal level was unlikely to ignore, even if it was formally allowed to do so (Kersschot et al., 2014).

Finally, as was indicated before, there are also some remaining struggles over competence and approach at the federal level, between the ministries of economics, and foreign affairs. Foreign affairs, staffed by diplomats, is allegedly more inclined to strike deals at the European level, to bargain in order to avoid open conflict and isolation. economics' tends to take firmer stances on Belgium's defensive and offensive interests, and is less swayed by foreign affairs 'relational' approach (Interview - FOD Economie (2), 2016; Kersschot et al., 2014). The extent and substance of these struggles remains unclear however; I return to this dynamic in the case studies.

#### *d. Stakeholder consultations*

Finally, some words on the important issue of the way 'stakeholder input' is gathered. When new negotiations are proposed by the Commission, the usual procedure is as follows: foreign affairs requests info from the Belgian embassy in the partner country, who then does a study with the help of its economic attachés - so with the help of federal and regional staff. This study is sent to the FOD Economie, who then consults with the regional administrations to see if for example AWEX or FIT have further info. Then, the document is submitted with the sectoral federations, who have the possibility of suggesting amendments. In the final step, it's condoned politically (Interview - WBI (2), 2017). Again, there is a central role for the ministry of economics, which is in contact with the lobbying firms and economic interest groups, but in principle also for the regional trade administrations as well as their trade and investment agencies. As Kersschot et al have argued, this has at times led to an uncoordinated scramble for input from a limited set of firms and associations, leading to inefficiency and overload among both 'state' as well as 'society'. They also reported a lack of (or somewhat dysfunctional) intra-regional cooperation, for example between FIT and the DiV (Kersschot, 2015).

Non-Economic actors are also consulted, along with business, in a variety of federal and regional committees. At the federal level there is the **council for sustainable development (FDRO)**, which allows the employer federations, the unions and development NGOs (notably 11.11.11 and CNCD-11.11.11.) to discuss trade and investment (and a variety of other themes) with foreign affairs. In Flanders, together with NGOs, academics, firms and the employers, the unions used to be consulted in the 'SARIV' in Flanders, which was abolished in 2015, and replaced with the more ad-hoc 'stakeholder management'<sup>340</sup>. In Wallonia there is no similar institutionalization of these contacts. Further details are discussed in the cases.

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<sup>340</sup> 'Team belanghebbendenmanagement'

### 9.2.2.3. The parliaments, the public and the press

#### a. The parliament

As was mentioned in the introduction: the Belgian **parliaments** are weak and subjugated players in the Belgian system. This has also been true for trade, where the real decisions have been made in the administrations and at the ministerial level, while the parliaments could at most vote for non-binding resolutions. According to our sources, which include MPs as well as NGOs and trade officials, the parliaments have seldom attempted to play an **autonomous role** of much importance. Parliamentary *ratification*, for example, has almost always been a pro-forma procedure. One interviewee could recall only one instance (in his 27 years of (federal) parliamentary work) in which the federal parliament defied the government by refusing to rubberstamp a signed accord: the EU-Israel Association Agreement. Yet even here *De Kamer* eventually yielded to government pressure and ratified the deal. Moreover, parliamentary *attention* for trade policy has generally been very low. This has been true for all parliaments, not just the national one, and has made MPs dependent on the expertise (and agenda-setting) of outside players such as NGOs (Interview - MP (Groen-Flemish), 2016; Interview - MP (sp.a - Federal), 2016)

Our database of questions and interventions (collected and processed by me and **Niels Gheyle**, using the parliamentary websites) supports the above assessment. Using the search engines from the Walloon, Flemish and Federal parliaments<sup>341</sup>, we have constructed a database of all trade-related questions<sup>342</sup> (written and oral)<sup>343</sup>. While there was plenty of trade-related activity before 2009, it was focused on issues such as export promotion, trade performance of regional companies or weapons export – especially in the sub-federal parliaments. In the figures below, we exclude these topics and concentrate on activity related to ‘trade politics’ *strictu sensu*<sup>344</sup>. As can be seen from the chart, in all three parliaments the attention for this narrower category of trade-political issues has generally been low, but has increased enormously since 2013<sup>345</sup>.

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<sup>341</sup> I decided to focus on the three largest Parliaments in Belgium, excluding the Brussels and German-speaking parliaments. In general terms, it can be said that they have taken positions that are close to the one of the Walloon Parliament.

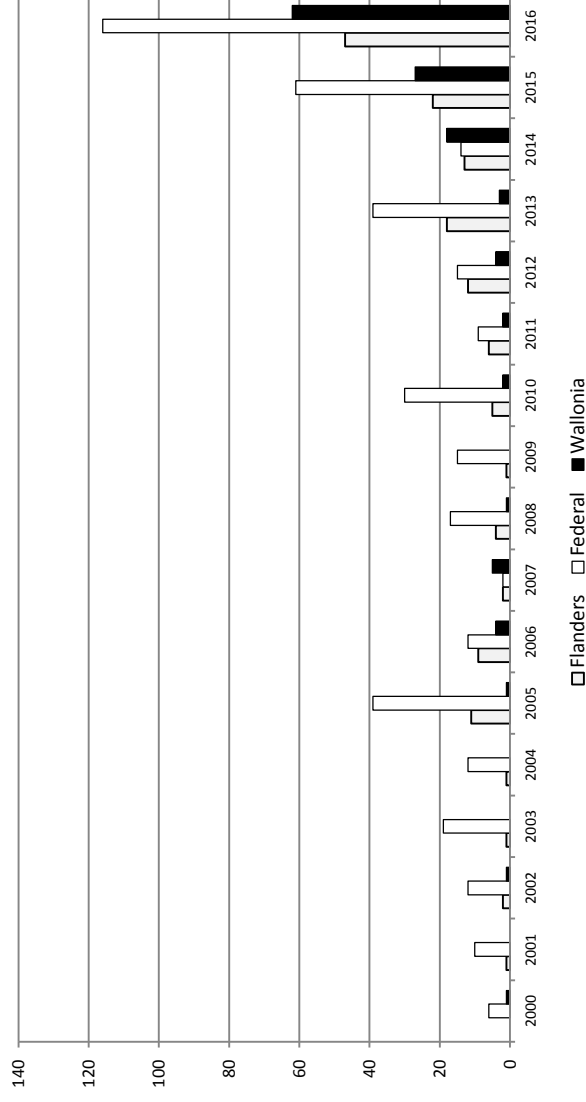
<sup>342</sup> Long lists of keywords have been used to search for questions or resolutions that deal with trade policy. For example, this is the list for the Flemish parliament: TTIP, CETA, ACTA, TISA, vrijhandel, handelsrelatie(s), handelsakkoord(en), WTO, vrijhandelsakkoord(en), economisch partnerschap EPA, vrijhandelszone(s), vrijhandelsovereenkomst(en), internationale handel tariefovereenkomst(en), handelspreferentie(s), bilaterale overeenkomst partnerschapsakkoord, vrijhandelsverdrag(en), handelsbetrekking(en), handelsbeleid, handelsovereenkomst(en), handelsverdrag(en), internationaal handelsverdrag, handelspolitiek, embargo, handelsbalans, buitenlandse handel, liberalisering van het handelsverkeer. The lists for the Walloon and federal parliaments are available on demand, as are the data.

<sup>343</sup> The number of interventions isn't strictly comparable, because of differences in the size of the Parliaments and the way the search engines function, but these differences should be limited, and they should be internally consistent.

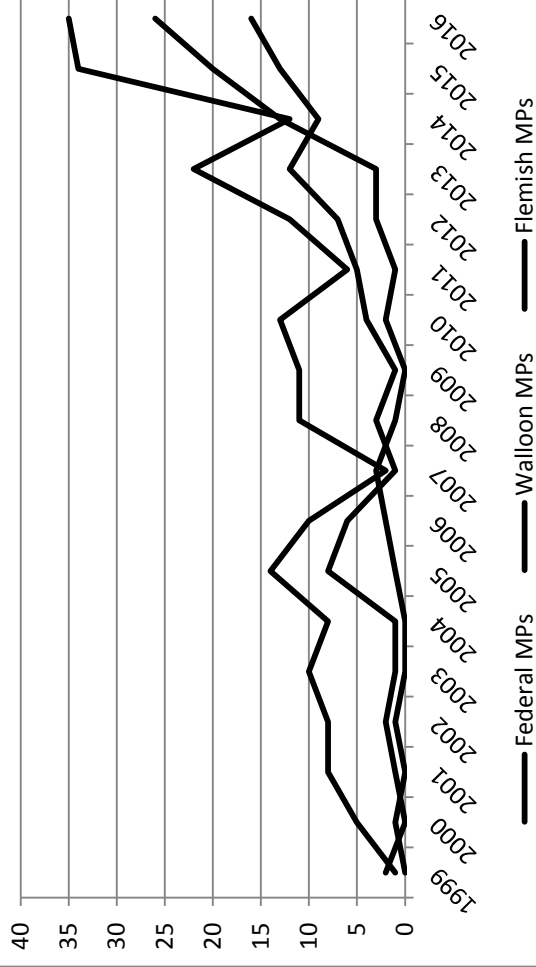
<sup>344</sup> This includes all questions related to anti-dumping, the WTO, FTAs, market-access issues, ‘trade ethics’ (e.g. fair trade), and the trade-development nexus (‘hand coded’). This excludes questions related strictly to investment, arms’ trade and economic diplomacy (export promotion, trade missions, general questions about the commercial performance or trade-promoting institutions of Belgium and the regions).

<sup>345</sup> Some of these data have been presented in a conference paper, Bollen, De Ville & Gheyle (2016)

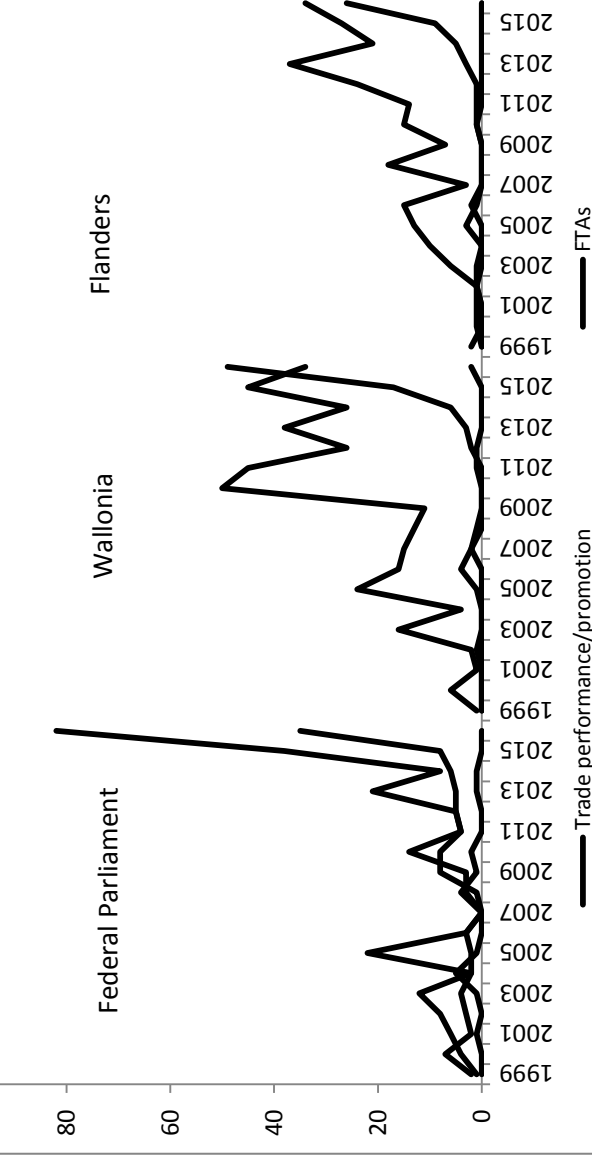
**Question related to trade (narrow) in the Belgian parliaments**



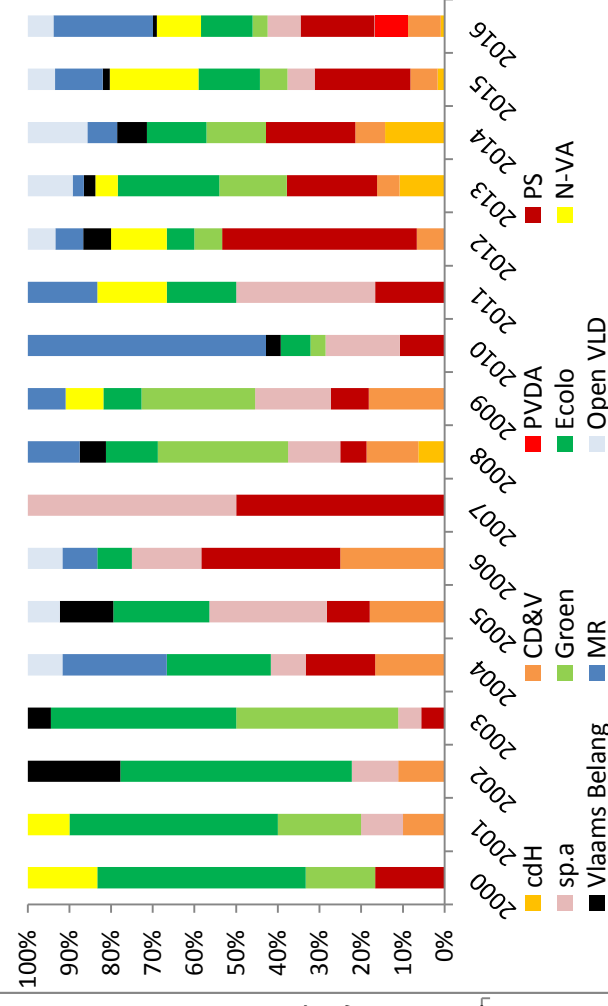
**MPs active in trade policy (asking at least one written/oral question, performing at least one recorded interpellation) - Narrow category of trade issues**



**Trade Activity - Thematic**



**Trade (narrow)- activity in the federal parliament - Parties**





The attention paid to trade issues had generally been low, with a (federal) peak in interventions in 2005 (related to textiles and the Doha round). After 2013, the amount of questions and interventions started increasing to unprecedented levels. This activity was focused on CETA and TTIP, and we will return to it in the chapter on Belgium and CETA.

In part, this lack of investment in trade issues is related to the way in which the parliaments are organized and relate to the government. Members of parliament have an overcrowded agenda, and cannot afford to spend many resources on a technical and often low-key issue such as trade policy. This has been reinforced by Government-parliament dynamics in foreign affairs in general. The Belgian Constitution stipulates that foreign policy is the prerogative of the executive branch: the Government negotiates and signs deals, the parliament ratifies. No formal procedures (for example specialized committees) assured that the parliament was regularly updated in some detail about ongoing negotiations. This combination of powerlessness and information-asymmetry arguably raised the bar for parliamentary involvement, as the follow-up of trade deals was entirely up to the initiative of the chambers, which then would have to 'sacrifice' time and resources allocated to other themes over which they perhaps had more immediate control. Finally, activity on these issues has been low because public interest was limited. If there is little interest in trade from local constituents, the press, civil society or business, the incentive for focusing on an issue will be small, and will then largely depend on specific interests (and resources) of particular MP's. Of course, this is in some ways a vicious circle, since lack of attention and expertise in turn lower the potential for the parliaments to pick up and politicize an issue (Interview - MP (sp.a - Federal), 2016).

In line with the 'particratic' dominance of the legislature by the executive, some of the MPs we interviewed **moreover did not believe that parliamentary debates on this topic had much effect on policy**. By the time these dossiers finally end up in the committee, the course and the policy positions of the parties have already been set: the government has decided on its position, negotiations have nearly been completed, if the issue drew civil society's attention then stakeholders and associated parties have staked out their position and have dug in their heels. Given the parliament's subservience to the governing coalition's policies and dynamics, any subsequent debate (no matter how fiery) is mostly for show. Especially for MP's from the governing parties, making use of informal channels to influence decision-making at an earlier stage was more likely to bear fruit. As one MP argued, this is especially true if the governing coalition is a strong supporter of the EU policy under discussion (as in Flanders), since the tendency will be to rubberstamp it without much ado. When the majority is more skeptical, like it was in Wallonia with CETA, parliamentary scrutiny is perhaps be more potent (Interview - MP (Groen-Flemish), 2016; Interview - MP (N-VA - Flemish), 2016).

In **anti-dumping**, all of the above has been true *a fortiori*. **Belgian MP's** do not usually inquire after individual AD-measures. Only in very rare, contentious cases (the solar-panel, shoes) have they lodged parliamentary questions, as well as in similarly politicized legislative dossiers like market economy status (Interview - FOD Economie (2), 2016).

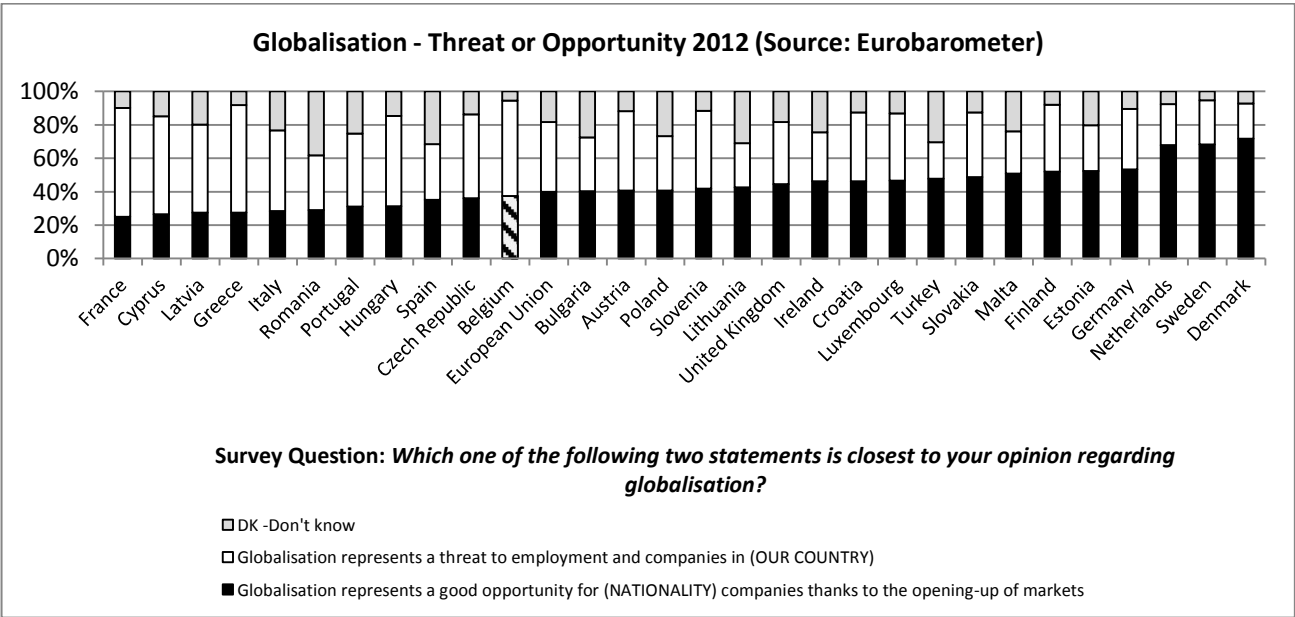
**b. The press and the public**

The general lack of parliamentary vigor already hints at the lack of attention from the **press** for trade issues. As in the Dutch case, I have constructed some simple metrics of press attention by using the GoPress archives for Le Soir and De Standaard. Although there were abundant articles that mentioned the WTO before 2006, these data again indicate that reporting has been very slim for a decade, and has certainly not often focused on trade agreements.

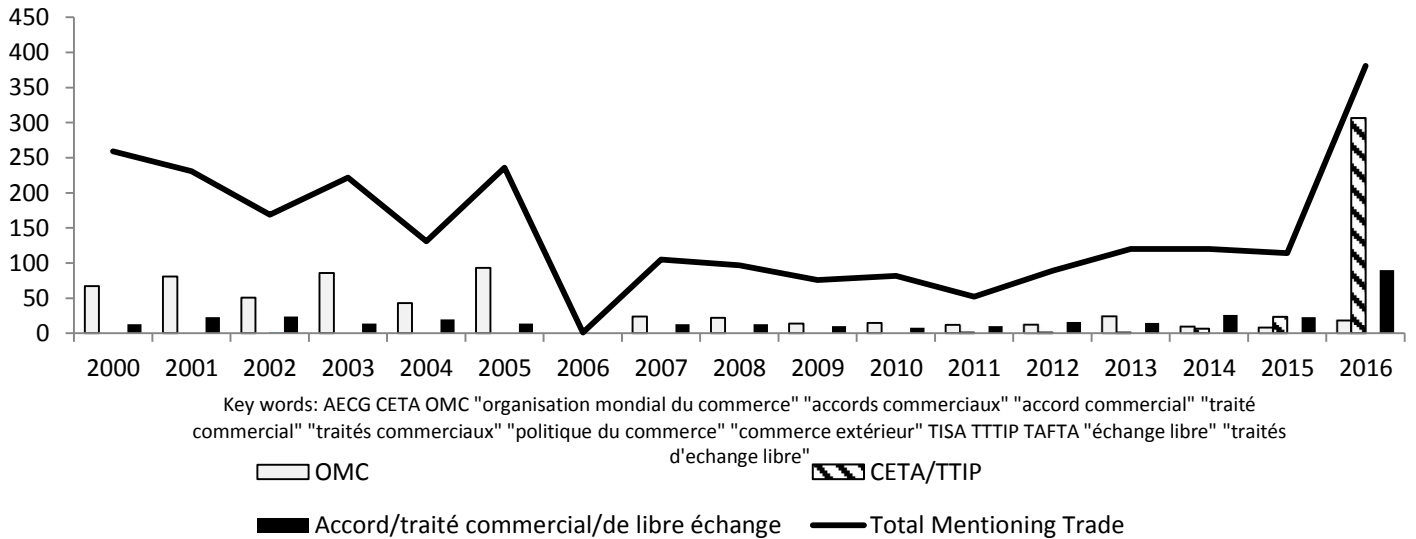
The recent CETA/TTIP episode is once more quite unprecedented, at least when it comes to FTAs. This corroborates the sense, shared by most of our parliamentary sources as well as the civil servants and many of the societal stakeholders that we spoke, that the press has tended to ignore EU trade politics. For the Belgian case, the comparative agendas project has moreover calculated the median attention for a wide range of issues in the TV news. Clearly, foreign trade has never been a point of great interest. However, as Crespy has shown, there have been occasional peaks in the press' attention (after 2000 and around 2005 for example, also visible in my data), correlating with CSO campaigning (Crespy, 2016).

Finally, although there is no data that can help us support this, there is a general notion among interviewees that the **public** has seldom been very interested in trade politics. This seems plausible, *a fortiori* given the lack of parliamentary and press attention. On the other hand, the limited survey data do show that the Belgian public has been more skeptical of globalization than the EU average, with 57% of surveyed Belgians in 2012 thinking globalization presented a threat - then the third highest score in the EU.

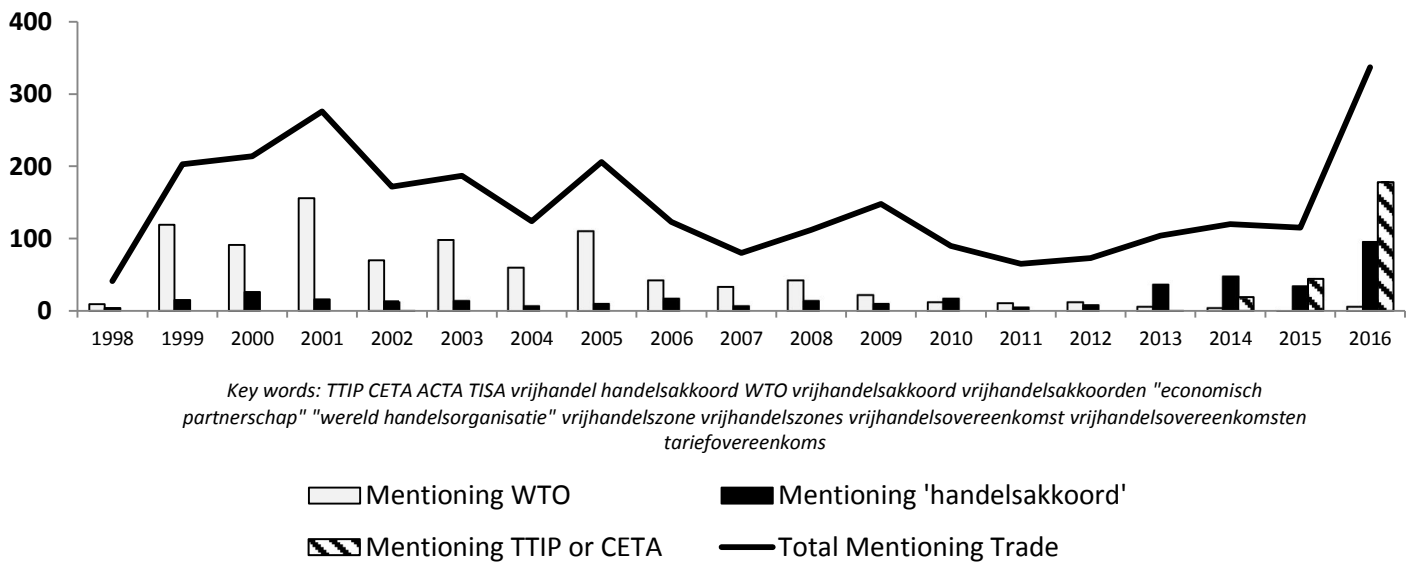
Moreover, as I will show in the next chapter, there have in fact been occasional peaks in the attention of the parliamentary, press and public attention for trade policy, almost always pushed Belgian trade unions and NGO's deliberate efforts to politicize these issues through 'outside' campaigns in combination with inside lobbying.



### GoPress extracts mentioning trade issues in articles from 'Le Soir'

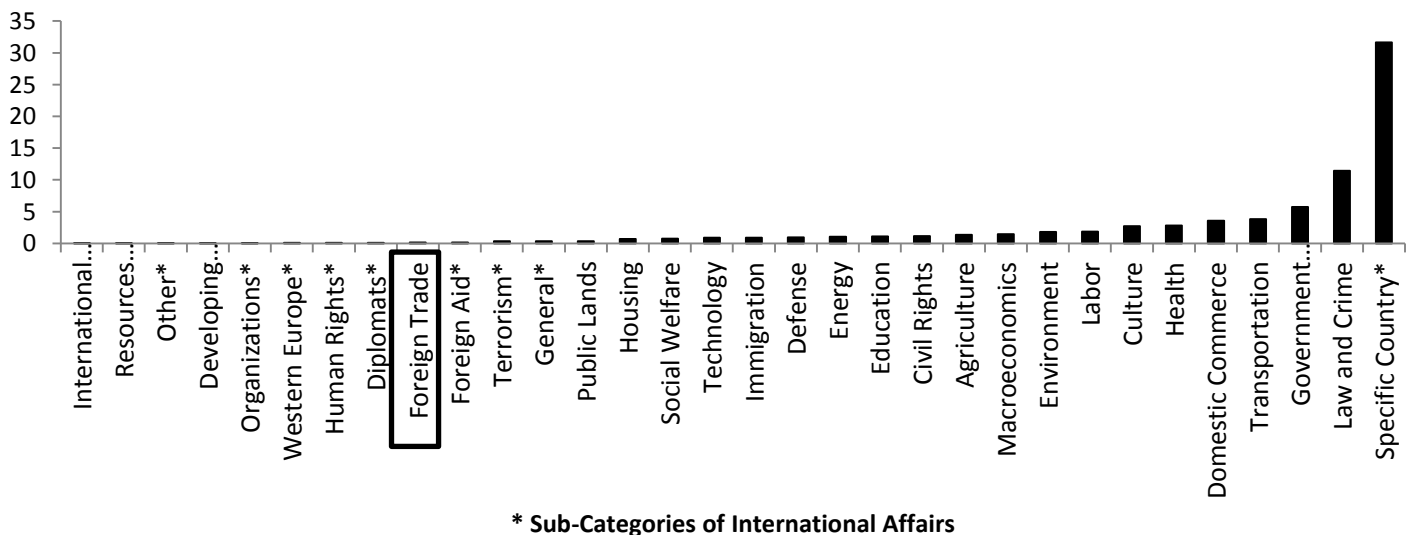


### GoPress extracts mentioning trade issues in articles from 'De Standaard'



### Attention in the Belgian TV news for selected topics. Median attention from 2000 until 2008.

Source: Calculations based on data from <http://www.comparativeagendas.net/tool/fRWkfk8T>



\* Sub-Categories of International Affairs

## 10. Belgium And CETA

I will again start with my explanandum, the Belgian position(s) on CETA. Unfortunately, I could not rely on the same wealth of material that was available in the Dutch cases. Instead, I have had to rely on comments made in parliamentary hearings, in the press, and, most importantly, interviews. Again, this outcome is complex and dynamic, something I have tried to incorporate in my account.

### 10.1. The 'outcome': the Belgian position on CETA

During the setting of the mandate and the negotiations themselves (2009-2014), the state's position was the one it has traditionally held in regards to FTAs – one that is largely shared by both regions. It generally supported the attempt at further opening EU and world markets, while formulating a series of specific demands.

Belgium specifically pleaded for an offensive opening of pharmaceutical markets and public procurement (notably public transport). It also called for the strengthening of intellectual property rights protections for pharmaceutical products. In agriculture it strived for lower tariffs on butter, pork and cheese, while trying to limit the increased import quotas for pork and beef. Imports of hormone-treated meat were rejected. Belgium supported the inclusion of geographical indications, but did not request the addition of any Belgian GIs (Bloem, C.R.I.C. N° 166). It also defended the precautionary principle<sup>346</sup>. Other sectors in which it appears that Belgium had offensive demands were automobiles, utilities, design and ICT.

In services and investment, its offensive interests were situated in dredging services, investment and mode 3<sup>347</sup>, professional services, transport services, and research. It also supported the mutual recognition of degrees and certificates, as well as increasing the possibilities for mode 4 services trade<sup>348</sup>, as long as it was temporary and restricted to professional services provided by highly-qualified personnel (personnel with university degrees and several years of work experience, such as engineers, architects)<sup>349</sup>.

Because dredging services were one of the 'absolute priorities', Belgium also pushed for an opening of procurement markets at the Canadian as well as the sub-federal (provincial) level (Interview - FOD Economie (1), 2017). It did not have any special requests related to financial services, and was not requesting its exclusion (or that of other sectors) from the dispute settlement system (Interview - FOD Economie (1), 2017).

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<sup>346</sup> I deduced his position from comments made by the ministry of foreign affairs in 2015 on Belgium's position in TTIP, where it strongly defended the precautionary principle 'as it always does'. Source: *Conseil Fédéral du Développement Durable : Table ronde sur le Commerce international du 19 février 2015 Réponses SPF Affaires étrangères*, minutes sent to me in a personal communication.

<sup>347</sup> Mode 3 service liberalization allows for the establishment of a commercial presence (i.e. not just temporary migration) in the partner country by a firm from the home country, with the purpose of providing services on location, and therefore some investment flows.

<sup>348</sup> Service provision on location by a provider that crosses the border.

<sup>349</sup> The mode 4 position is also taken from the Bloem comments, but is also deduced from a discussion in the federal council on durable development in 2011, in which the ministry of foreign affairs set out its general position for mode 4 liberalization, in a way that was supposed to apply for all deals being negotiated. It states that Belgium was aware of the sensitivities of mode 4, and supported commitments here as long as these were restricted in various ways. Its specific positions referred to the European Union's position on this issue, however. Source: *FRDO- 7 Februari 2011 - Questions & Réponses*. Sent to me via personal communication.

Belgium's defensive stake was in services as well. It opposed the use of 'negative lists' for services liberalization. After this position became untenable in the Council, it tried to shield a number of sensitive sectors by using reservations (both general EU reservations and its own), notably in public utilities, health and social services, cultural services, education services, security services, and energy services (Interview - FOD Economie (1), 2017)<sup>350</sup>.

After some hesitation, it supported the inclusion of an investment chapter in CETA, including a system of investor state dispute settlement; here, it pleaded for a system that was on par with the defenses offered by the Belgian BITs, but also one that included (like the Belgian model) environmental and social clauses, as well as a protection of the 'right to regulate in the public interest'<sup>351</sup>. There are no indications that it played a proactive role in the reform of ISDS to ICS. A response by minister Reynders to a question by NGOs in 2015 claimed that Belgium supported the '*already reformed and improved*' ISDS in CETA, balancing the right to regulate with investors' protections, but that it would work with the reform proposals in '*an active and constructive manner*'<sup>352</sup>.

It was supportive of the deal's non-mixity (i.e. acknowledging the EU's exclusive competence) (Interview - Cabinet Reynders 12-15, 2017), but when this became more contentious over the course of 2015-2016, Belgium refrained from taking in any position. Only after the Commission gave in to Council pressure and made the deal mixed, did Belgium also support mixity<sup>353</sup>.

Furthermore, Belgium defended an 'ambitious' chapter on sustainable development (Bloem, C.R.I.C. N° 166). If the Belgian position on this latter issue was in line with the stance it was defending in trade agreements more generally at the time and in the years before (and I have no reason to suspect otherwise), Belgium more specifically supported a chapter on sustainable development, with labor provisions based on ILO standards, without fines, but with monitoring and consultation procedures that included stakeholders (i.e. trade unions). For Belgium, the inclusion of such chapters was a 'red line'<sup>354</sup>.

In 2016, during the 'signing' phase of the deal, the Belgian position was modified. After the Walloon government heeded its parliaments' call to oppose signing the deal unless some new demands were met, the Belgian position called for (i) stronger safeguards for agriculture, (ii) more attention for SMEs, (iii) a reform of ICS, (iv) stronger language safeguarding states' right to regulate and on the exclusion of public services and social security from the liberalization commitments, and (v) the

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<sup>350</sup> See also: FRDO- 7 Februari 2011 – *Questions & Réponses*. Sent to me via personal communication. Here Belgium reiterates its general opposition to any commitments in public services, notably education and health care, in any bilateral or multilateral agreements, and its support for a broad, horizontal exclusion of public services.

<sup>351</sup> Source: '*Position paper*' van 11.11.11 en CNCD-11.11.11 over de 9de WTO Ministerconferentie in Bali, 3-6 december 2013, *Naar aanleiding van de Ronde Tafel FRDO-Kabinet Minister Reynders van 24 oktober 2013*. Sent to me in a personal communication. See also: FRDO- 7 Februari 2011 – *Questions & Réponses*. Sent to me via personal communication.

<sup>352</sup> Source: *Conseil Fédéral du Développement Durable : Table ronde sur le Commerce international du 19 février 2015 Réponses SPF Affaires étrangères*, minutes sent to me in a personal communication.

<sup>353</sup> Source: *Question d'Actualité de Mme Zrihen à ministre-président Magnette, 6 July 2016*, C.R.I. N° 21 (2015-2016).

<sup>354</sup> Sources: FRDO- 7 Februari 2011 – *Questions & Réponses*. Sent to me via personal communication ; *Conseil Fédéral du Développement Durable : Table ronde sur le Commerce international du 19 février 2015 Réponses SPF Affaires étrangères*. Minutes sent to me in a personal communication.

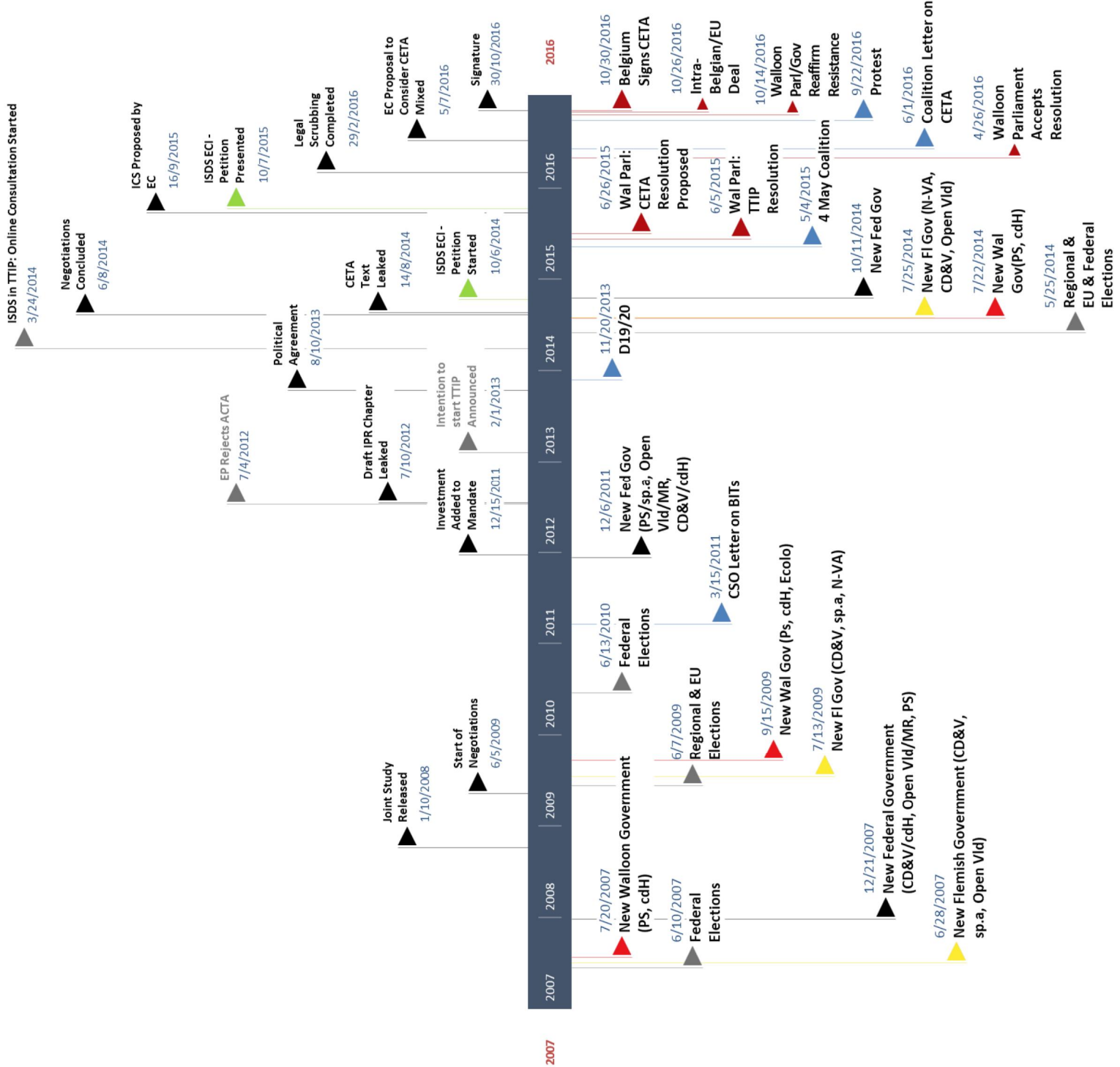
strengthening of the enforcement of the chapters on sustainable development (Magnette, 2017).

<b>ANNEX 1 Reservations</b>	
Annex 1 reservations enforce a 'stand-still': a country puts a downward but not an upward limit on its regulation of a sector. It cannot further <i>decrease</i> the level of access/discrimination with new regulations. All discriminatory restrictions not listed in the reservations are considered liberalized.	
SECTOR	SUB-SECTORS
<b>Mining</b>	<i>Other mining and quarrying</i>
<b>Business services</b>	<i>Legal services</i> <i>Auditing services</i> <i>Architectural services</i> <i>Placement services of personnel</i>
<b>Fishing, transport</b>	<i>All commercial marine activity undertaken from a seagoing ship, including fishing, aquaculture, and services incidental to fishing</i> <i>Transport services (passengers and freight) by seagoing vessels</i> <i>Pilotage and berthing services</i> <i>Vessel salvage and refloating services</i> <i>Other supporting services for water transport</i> <i>Construction for waterways, harbors, dams and other water works</i>
<b>Transport</b>	<i>Supporting services for air transport</i> <i>Air transport services</i> <i>Supporting services for air transport (ground handling)</i>

<b><u>ANNEX 2 RESERVATIONS</u></b>	
For the more sensitive sectors. With Annex 2 reservations, listed sectors are excluded from the agreement; governments can impose new restrictions.	
SECTOR	SUB-SECTORS (If Specified)
<b>Fishing</b>	<i>Aquaculture</i> <i>Services incidental to fishing</i>
<b>Business services</b>	<i>Security services</i>
<b>Distribution</b>	<i>Retail sales of pharmaceutical, medical and</i>

	<i>orthopedic goods</i>
<b>Health services</b>	<p><i>Ambulance services , Residential health services other than hospital services</i></p> <p><i>Health-related professional services: medical and dental services, midwife services, nursing services, physiotherapeutic and para-medical services, psychologist services, veterinary services</i></p>
<b>Social services</b>	
<b>Transport</b>	<p><i>Cargo handling services</i></p> <p><i>Road transport</i></p>
<b>Energy</b>	<p><i>Production of electricity</i></p> <p><i>Energy transmission services and bulk storage services of gas</i></p> <p><i>Energy distribution services and services incidental to energy distribution</i></p> <p><i>Transport via pipeline of fuel</i></p> <p><i>Wholesaling services of electricity and gas</i></p>

ISDS in TTIP: Online Consultation Started





## 10.2. Civil society pressure

Once more, the first explanation I will be probing is that of civil society pressure, the thesis that CSOs managed to alter or set the Belgian position by lobbying the executive(s) or campaigning through the press, the public or the parliament. After discussing the mechanism's prior probability, I dig into the case's empirics.

### 10.2.1. Civil society pressure – mechanism, evidence, 'prior probability'

#### 10.2.1.1. Evaluating the prior

In constructing the prior probability of this mechanism, my question here is the same as for the Netherlands: given what we know about the *usual* politics of Belgian (trade) decision-making, and the role of civil society in influencing it, how likely is it 'a priori' that they were influential in the CETA case, i.e. that they cared about the agreement, took part in some kind of inside/outside lobbying, and were able to reach and somehow affect policymakers' course of action? In contrast to the Netherlands, for Belgium we can rely on some of the work done by Crespy in tracing (inter alia) Belgian CSOs' role in the contestation of (services) trade. Our interviewees from the NGOs and trade unions had also been active in this field for a very long time, and could offer us a more historical perspective.

In the nineties, Belgian trade unions and development NGOs played an important role in the organization against the multilateral agreement on investment (MAI), here building the 'action repertoire' that would return in many later struggles: 'MAI-free zones', parliamentary resolutions, and a coordinated transnational effort that combined local and national politics with united campaigns at the international and European level (Crespy, 2016; Interview -11.11.11. (2), 2016). Another peak occurred around the WTO's Seattle summit, followed by sustained activism triggered by the re-negotiation (after 2000) of the general agreement on trade in services (GATS), and the related fight against the 'Bolkestein' regulation. According to Crespy (2016), Belgian CSOs were at the forefront of the fight against the liberalization of services, playing a pioneering role in the politicization of the marketization and liberalization of services of general interest through these international agreements (Crespy, 2016). Their politics here was always multi-level: on the one hand they played an important role in European organizing networks and organizations (S2B, the EU trade unions), on the other hand they made use of national and local channels. For instance, for their GATS campaign they were highly successful in fostering a peak in attention in the national press, and in eventually getting the Belgian parliament to pass two critical resolutions. They also had close ties to a number of governmental actors, notably the PS, which were not only receptive to CSO mobilization, but were also highly critical on their own account (Crespy, 2016).

Apart from the mobilization on public services, there have also been a number of campaigns on other issues, such as on the Belgian bilateral investment treaties, albeit with less success in garnering the attention from either the public or the parliament (Interview -11.11.11. (2), 2016). Yet here too, they seem to have been occasionally influential. For example, in 2010 the Decent Work coalition attacked the BIT with

Colombia because of lacking social provisions<sup>355</sup>. They launched a petition which was signed by 100 000 people, leading first the Flemish government and later Wallonia to reject the deal, blocking its ratification<sup>356</sup>.

Although the strong Belgian trade movement faded out after 2005 (Interview - 11.11.11. (2), 2016), this nonetheless means that there were plenty of CSOs that had both a potential stake in trade, the resources to make sure they knew about any new FTAs, and experience in the multi-level politics that were required to influence decision-making. The same organizations (and often even still the same people) that had been active in the mobilizations around 2000, were still members of a number of European clubs tracking these issues, including the European trade union federations and the Seattle to Brussels network (see below). It therefore seems highly likely that at least the trade and investment specialists within these organizations were aware of the treaty at an early stage. Given the booming European salience of the FTAs after 2014 and the tight (albeit to some extent regionally sectionalized) links between Belgian civil society organizations, we would have expected this awareness to have spread to a wider group of progressive CSOs over the course of 2014-2015.

As I already argued in the Dutch case, CETA also held the substantial elements to warrant an interest from Belgian CSOs, even though these threats were arguably less outspoken than they would have been with a larger and more threatening economy like the United States. Just like in the Netherlands, we may have expected that pay-offs from mobilizing on these highly technical issues were (judging from the usual 'outside' politics of trade in Belgium) probably low. However, looking at past peaks of successful mobilization, especially in relation to services liberalization, this pessimism should be qualified. Clearly, CSOs have occasionally been able to overcome the lackluster parliamentary and public interest in trade, and have been campaigning on trade and investment issues for decades.

## **Influence**

As the examples of the Colombia BIT and the services' mobilizations show, CSOs appear to have been at least occasionally successful at exerting influence on the Belgian stance. According to my source from the Christian trade union, Belgium has also been of the more progressive voices in the Council more generally - at least partially because of CSO lobbying. However, this rhetorical support for sustainable development has in practice often been trumped by offensive trade interests, fostered by business lobbying and the more limited receptivity of the liberal parties (Interview - ACV, 2016)<sup>357</sup>.

Would we have expected them to be influential in CETA? Why would we have expected them to succeed or fail?

First, they would have had to decide to perform some political activity on this dossier, preferably while the negotiations were still ongoing. Given the low public

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<sup>355</sup> Colombia had refused to include the chapter on social norms, proposed by the BLEU as part of their model BIT.

<sup>356</sup><http://www.11.be/component/zoo/item/vakbonden-en-ngo-s-zetten-waardig-werk-in-colombia-op-nationale-en-regionale-agenda>

<sup>357</sup> Apart from the CSOs' influence, he attributed this also to the non-negligible cross-party support for the human and social rights dimension of trade/investment.

'campaignability' of a trade deal with Canada, and the low interest of much of the CSOs' membership in these technical issues, we would not have expected them to launch a big 'outside' campaign. However, given the fact that they had dedicated personnel working on trade, and their prior experience with campaigning on these issues, an absence of more limited inside and outside lobbying would have been equally surprising.

Second, it seems extremely likely that they would have been able to access decision-makers. Given the multiplicity of executives, the variety of parties present in Belgium's many governments and parliaments, and the traditional links of several CSOs with these parties, numerous access points must have been available. Moreover, there was an array of institutionalized venues for discussing socio-economic and international affairs, which means that certainly the trade unions, but also many of the other CSOs dealing regularly with the government in committees and consultations, could have raised CETA if they were keen on doing so. However, parliamentary activity, press attention, and public awareness of trade have usually been quite limited. We would thus have expected easy inside access, but more limited mobilization of the outside channels (e.g. a number of parliamentary questions, but no sustained parliamentary activism).

That this access were to translate into influence appears less likely. First, given the generally low attention for (and interest in) trade issues among the membership of these organizations, and their concordant lack of mobilization power, I would expect their leverage to have remained fairly limited. Perhaps they could count on the larger receptivity of the center-left parties in government, but during the negotiations these were continuously constrained by coalitions with parties of the center-right. Center-left parties were also absent from the Flemish and federal governments after 2014. Of course, the 2014 elections offered an opportunity in this respect, because a large, welcoming party was now in the Walloon executive without being constrained by coalitions at the federal level.

However, influence over one governmental actor in Belgium does not always suffice; as Crespy notes in relation to the campaign on the Services Directive, where CSOs as well as the PS had been highly critical: *'In Belgium, while the liberals did not dare opposing the critics of 'Bolkestein' in the face of public mobilization, no agreement could be found between the socialists and the liberals within the federal coalition government and, ironically, Belgium eventually abstained during the vote in the Council'* (Crespy, 2016, p. 95). Given (i) the low salience of issues, and the dubious electoral gains to be reaped from investing in them politically, but also (ii) the expectation that the Flemish and federal governments would have been unreceptive veto-players, (iii) the modest success rate of CSOs in altering controversial issues like ISDS in the Belgian BITs or in mobilizing the Belgian public on these topics in spite of a series of past campaigns, and (iv) the fact that most of the deal had at this point already been negotiated, and that it would be extremely unusual for Belgium to abstain on, let alone sabotage an EU accord, I believe substantial skepticism about the prospects for CSO influence would have been warranted.

All in all, if we try and forget what we 'know' about the case and try to artificially connect theory with the background features of the case as described in the introductory sections (somehow making it devoid of CSO activity), CSO influence

seems a moderately implausible explanation for most of the Belgian positions, and I think we'd need some fairly strong evidence, i.e. the mechanism should not just survive falsification, but should also be able to generate pieces of confirmatory ('unique') fingerprints.

#### 10.2.1.2. Potential evidence

The presence of these various steps can be tested by looking for (*inter alia*) the following evidence:

**\*Sequence evidence:** positioning/'action' by CS before change in policymakers' position, no prior attempts of policymakers to alter/coordinate position of CS, no public discussion/mobilization before civil society action.

**\*Trace evidence:** policymakers 'ingesting' CS's material/pressure (e.g. media reports of mobilization, reports of contacts between policymakers and CS), changes in policymakers' positions (e.g. public statements, policy-notes, private remarks,...), attempts to change the Belgian position (e.g. policy-notes, government stances, resolutions, intra-party maneuvering, ...), a shift in the Belgian position (as communicated to/worked for on European level).

**\*Account evidence:** policymakers attributing their changing position to CS actions (*in private conversation, an interview, in the press, public statements*).

**\*Pattern evidence:** data on intensity of contacts, correlations between contacts and changes in position, comparisons with regions that had less/more activity, previous patterns of societal influence on decision-makers.

#### 10.2.2. Probing the role of civil society

Having established what evidence would support the unlikely notion that CSOs did influence the Belgian position on CETA, it is now time to discuss some of the actual movements and developments that occurred in Belgian civil society with regards to CETA, and to check if they fit the evidential criteria laid out. The structure of this empirical analysis follows the mechanism: (i) were they aware of CETA, and if so when, and how come?, (ii) did they take in a position, and (iii) did they develop any kind of inside or outside activity? For the ease of presentation, however, after (i) I first give a bird's eye, chronological overview of the activities that the CSOs developed on CETA (and TTIP), before moving on to their positioning and the details of their inside/outside work.

Finally, (iv) did this affect the Belgian position, turning it in the direction they desired?

##### 10.2.2.1. When, how did they become aware? Why did they get involved, come to a position?

We can roughly divide the civil society organizations into two groups: a group that had been monitoring trade deals, and that was thus aware of CETA (and TTIP) at a very early stage, and a group that only became active on the matter after the politicization of TTIP had already commenced – often because of the awareness-

raising pushed by the first group. Even among the former organizations, however, the intensity of their work on trade often only really took off after TTIP's negotiations commenced.

#### **a. CNCD, 11.11.11, and the trade unions**

As was discussed in the prior, the post-Seattle peak of societal mobilization on trade issues had receded after 2005. However, the Belgian 'Decent Work' coalition (set up in 2008) had nonetheless continued to meet on a regular basis, gathering CNCD, 11.11.11, the three big trade unions, FOS, Wereldsolidariteit and Oxfam-Solidariteit. The work of this coalition had expanded to trade and investment, driven in considerable part by the expertise of CNCD and 11.11.11. These latter (sister) organizations had been following the trade agenda closer than any other groups, and had built up considerable expertise in the matter (Interview -11.11.11. (2), 2016). Unsurprisingly, they also played an important part in the mobilization that would follow.

CNCD and 11.11.11 had been working on trade issues for over 20 years. They closely monitored the start of the Doha round, the negotiations of the EPAs, the FTAs with Colombia and Peru, and the association agreement with Central America. In the years before TTIP they also did some work on the DCFTAs with Tunisia, Morocco, Egypt and Jordan. Along with Oxfam, they had also done a lot of work on investment and the Belgian BITs, which meant that they had closely tracked the Lisbon treaty's transfer of competences and that they were aware of CETA as one of the FTA negotiations that included investments in the mandate. 11.11.11 and CNCD were the only Belgian members of the Seattle to Brussels ('S2B') network, which was also very important for the initial Belgian mobilization. These **S2B network** meetings were populated by five to ten people from four different countries in Europe. They had funding for one paid (half-time) coordinator, which was enough to keep the meetings going and to send out e-mails about the work of the network. The network was aware that the Lisbon Treaty had expanded the EU's trade competence to also include investment, and they had soon afterwards started laying the analytical groundwork for campaigns on future trade deals. **Because** the CETA mandate included an investment chapter from 2011 on, the negotiations with Canada were closely scrutinized. However, their campaign on this issue initially remained quite limited and did not succeed in attracting much attention. Still, it was thanks to S2B (and No Transat, see below) that CNCD and 11.11.11. were able to spot TTIP very early on, which eventually snowballed into an expanded campaign on CETA as well (see below) (Interview -11.11.11. (2), 2016; Interview - CNCD, 2017).

When in 2013 the negotiations with the United States commenced, they **came to see TTIP as an opportunity** to widen the scope of the public's and civil society involvement in trade: for the first time an FTA was threatening to change EU regulations instead of just affecting third (developing) countries. **CNCD and 11.11.11** started communicating to civil society (both within Belgium and through their European networks), to explain how TTIP was expanding trade to regulatory affairs, and why this called for environmental NGOs, consumer organizations and other sections of civil society to come together. When the TTIP campaign was started, they realized that the combined timing of CETA and TTIP was very opportune (see below), and CETA became an integral part of their campaign on TTIP from 2014 on.

Within Belgium, the first meetings that they organized in 2013 and 2014 were with the trade unions. Only in 2015 did they manage to widen this coalition with the environmental NGOs, the health funds and the human rights leagues (Interview - CNCD, 2017).

This narrative was **broadly confirmed by the unions**. According to the Christian trade union, the NGOs indeed possessed more expertise on trade issues, as well as the time and means to have people follow this domain full-time – although the labor unions had more political leverage and a stronger potential for mobilization (Interview - ACV, 2016). Within ACV there were three people working on trade issues at the peak level (to some extent<sup>358</sup>), and the sectors all had people in their ‘international’ departments that were also paying attention to this domain. However, on average it was difficult to steer the organization’s attention towards trade issues, especially at the lower levels. ABVV also acknowledged that they had been more quiet on trade prior to 2014, and that they had not spent much resources tracking the issue. This changed after the NGOs alerted them about TTIP and later CETA and TiSA: they acknowledged that this was a new generation of FTAs, with a clear (de)regulatory dimension and OECD-country partners instead of developing nations, warranting their attention. Someone from the research department was tasked to spend about a third of his time on the bilateral agreements (Interview - ABVV, 2016).

However, the unions were **not homogeneous** blocks. On average the sections from Wallonia had a more ideological and defensive view of trade, while the sections from Flanders were ‘*more pragmatic*’ and had a larger stake in free trade (*‘the ports are in Flanders’*)<sup>359</sup>. In CETA/TTIP, this translated into quite different patterns of monitoring and campaigning – mostly along **communitarian lines**. The unions’ involvement was much stronger in Wallonia, in terms of general awareness and coordination/participation, but also in terms of practical campaigning; as it was for example far harder to mobilize members for manifestations north of the language border. There were also differences among the **sectors**. The public service unions were far more active and more outspoken, while the industrial sectors were more careful, aware of their dependence on exports. Within the ACV, for example the CNE (the French-speaking wing of the sectoral union for private services ) had always paid more attention to trade politics, and they played an important role in the campaign on TTIP/CETA (Interview - ACV, 2016). The CNE was one of the unions’ sectors that joined the more radical D19-20 coalition (see below), along with ACOD/CGSP (the socialist public service union) and a string of local Christian union sections from Brussels, Namur and *Waals Brabant*.

As was mentioned, somewhat in parallel to the above developments, there was also the research and awareness-raising done by **No Transat**<sup>360</sup>, which played a role in the early Belgian (more specifically: Walloon) mobilization against TTIP and later CETA. By chance, two people from CEPAG (a research and education organization tied to

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<sup>358</sup> My interviewee told me he spent about a third of his time on trade issues, although this was more like one-fifth before their TTIP/CETA campaign kicked off.

<sup>359</sup> It is also more at the sectoral level that the rather ‘principled/developmental’ perspective on trade is joined by an analysis of **defensive/offensive interests**; however, this was seen as a very difficult exercise, considering the uncertain results of (cumbersome) impact studies. Neither had diverging positions on trade ever led to frictions between the sectors (Interview - ACV, 2016)

<sup>360</sup> The CEPAG (Centre d'Education Populaire André Genot) is an organization that provides various kinds of trainings and education. It is tied to the FGTB.

the FGTB) had in 2009 started investigating the EU's plans to create a transatlantic market. After some research, they came to believe that the EU was in fact moving towards negotiations with the US. They tried raising this issue within the FGTB, managed to publish a book on the issue<sup>361</sup>, and in 2011 they created 'No-Transat', a platform dedicated to monitoring and raising awareness about the dangers of these coming negotiations. This meant that, when the EU-US talks did in fact start in 2013, there was already a network of people that was well-informed (or who knew they could turn to No Transat for further info) (Interview - No Transat, 2017). However, No Transat barely paid any attention to CETA. This only changed after the CNCD alerted them about this very similar deal, which by then had already been concluded. Soon after this, they began to systematically include CETA alongside TTIP in all of their usual communications and arguments. Then, after the legal scrubbing phase commenced, they also started analyzing (with the coalition) CETA's drafts. From the fall of 2015 they organized meetings, presentations; and briefings using arguments that were based on and illustrated with explicit examples from CETA's texts (Interview - No Transat, 2017)

### ***b. Other organizations get involved***

Then, there was a group of other actors that were activated only after the TTIP negotiations got underway.

One of them was the Belgian consumer's organization, **Test-Aankoop/Test-Achats** (Test-Aankoop). Prior to 2014, this association had never spent much time on trade agreements. Trade negotiations mostly led to lowered tariffs, which a consumers' organization considered a good thing. In 2014, however, they were contacted by their European federation, the BEUC, which explained that this time the stakes were very different. TTIP, CETA and TiSA went beyond tariffs by including agreements on (inter alia) norms, safety standards, health risks and public services. At this time ('*by the time BEUC realized what was being discussed in TTIP*'), CETA had already been concluded. Test-Aankoop also believed this agreement was less problematic, because its provisions on regulatory cooperation were voluntary and because it concerned a smaller market. They nonetheless took part in the wider TTIP/CETA campaign (Interview - Test-Aankoop, 2016).

The second group of (very large) actors were the Socialist, Christian, Liberal, and neutral **health funds**. According to a source from the Christian health fund, these organizations hadn't done any earlier work on trade; they only became active on this issue with TTIP, in 2014. They largely came to their analysis autonomously, independent from the other CSOs or European organizations. In the inter-health fund college (*intermutualistisch college*), there were a series of working groups, one of which was focused on Europe. At the end of 2014, this working group decided to create a taskforce dedicated to TTIP. They held meetings every other month to study the negotiations and come to joint initiatives. Their analyses showed that TTIP would indeed be a threat. The biggest fear of the health funds was related to the liberalization of public services. They weren't afraid of American insurers entering the markets, but of private Belgian insurers doing so: they were scared the FTAs

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<sup>361</sup> Cherenti, R., Poncelet, B. (2011) *Le grand marché transatlantique: Les multinationales contre la démocratie*. Bruno Laprice : Paris

would be used to pry open the public sector, making room for privatizations. Apart from this, they also feared that an array of other domains of state intervention like prevention, drug pricing and health policy, would become endangered by ISDS and regulatory cooperation. It took them somewhat longer before they also started work on CETA. They eventually considered the deal at least as important as TTIP, as it was '*TTIP's backdoor*', but they only bumped into CETA because of TTIP (Interview - Christian Health Fund, 2016b). After the health funds put out their first mutual position paper on TTIP (the first political dossier that had ever been carried by all five health funds), the other members of the 4 May coalition (see below) rapidly asked them to join their campaign (ibid).

Thirdly, **Greenpeace** had in the past worked on trade policy, but this had in recent years been pushed to the background by other priorities. Within Greenpeace Belgium, the issue re-emerged from the bottom up when a local Stop-TTIP group was started by volunteers. Just like in almost all other organizations I surveyed, there was more buzz in their French-speaking sections. Later, at the EU level, a taskforce was set-up which decided that Belgium would be a 'mobilization' country, meaning that TTIP was not a main campaign for Belgium and that they did not really invest in lobbying or political work, they just supported the ongoing campaign with press statements, calls for protests, et cetera. In hindsight, my source acknowledged that this was a pity because a related dossier, CETA, turned out to be highly political. Still, they did join the campaign in 2015 (Interview - Greenpeace BE, 2016).

Finally, a **heterogeneous** group of other organizations got involved. Some of these are discussed below; but I did not think it would be worthwhile to study in detail the monitoring internal decision-making of all these groups in relation to CETA/TTIP, the above overview encompasses the principal players (both in CETA and in the general CSO-work related to trade). Several important ones currently still missing, such as the farmers' participation in the opposition to CETA, are further developed in the business-lobbying mechanism.

### **In summary**

I believe we can conclude that there was an early vanguard which had the necessary expertise and resources to be aware of CETA at quite an early stage, in part thanks to their membership in the European networks. They worked on the deal when the negotiations were still ongoing.

However, they were only able to expand this interest to a wider group of actors when the TTIP negotiations got started, supported by the somewhat idiosyncratic role of No Transat. In part these trade talks with the US were able to attract a variety of organizations' attention because of the substance of the negotiations (fears of deregulation, lowered norms, privatization, ...), but they were also considered 'good campaign material', i.e. an issue that organizations would be able to make work with the public or that was already stirring up their membership. Although some big players (Test-Aankoop, the health funds) arrived at a skeptical stance on TTIP independently from other Belgian actors, the 'vanguard's analytical groundwork as well as the dense network of CSOs' relations (especially the core disseminating role of CNCD-11.11.11 and the Decent Work coalition) helped spread the news. CNCD and 11.11.11 moreover played an important role in expanding this energy targeting



TTIP towards also including CETA – a treaty that was ignored by almost all of these organizations until it was stitched to TTIP. When the campaign got going after 2013-2014, more and more (smaller) organizations jumped on the bandwagon (see below). Note however, that this dynamic was far stronger and started earlier in the French-speaking parts of the country (in Brussels as well as Wallonia). In our interviews with the major members of this coalition, there was no indication (whatsoever) that Belgian policymakers played any role in shaping civil society's position before it started its campaign – although this proposition is of course 'uncertain' in the usual sense.

#### 10.2.2.2. Did they develop lobbying/campaigning efforts?

How did the lobby and campaign work of these organizations unfold? Before expanding on their substantive positioning on CETA, I will first give a bird's eye overview of the main developments. This is then unpacked in more detail in the section on their inside and outside access.

As was discussed above, civil society severely tuned down its trade-political work after the early 2000s, with the partial exception of the Decent Work Coalition. S2B continued its work, however. As part of the network, CNCD/11.11.11 also continued building expertise, even on issues that for other organizations were more difficult, like trade in services. When it became clear that international investment would become a EU competence with the Lisbon Treaty, they immediately started studying this domain. When TTIP came up in 2013, they had closely tracked European investment policy as it had developed. Through this monitoring work, they had also picked up on Canada, which they followed very closely from this perspective. They also did some campaign work on it, although this remained quite limited. Together with the Decent Work coalition they sent out letters about investment and investment protection to the Commission and to the Belgian government in 2011. Meeting reports show that they also raised this issue in the Federal Council on Sustainable Development (FRDO). Together with the unions, they also inquired about Belgium's position on sustainable development and services liberalization (including but not limited to the negotiations with Canada), as well the negative listing method in CETA<sup>362</sup>. 11.11.11. remarked that, at the time, Canadian unions and civil society organizations often came to Europe in search of allies in their fight against CETA; but that to their amazement, they seldom found anyone else working on the deal (Interview -11.11.11. (2), 2016).

When TTIP started being negotiated, 11.11.11 and CNCD had already done a lot of analyses, had built arguments on investment and ISDS. Together with S2B, they started spreading the word. This budding campaign was quickly picked up by a couple of groups; one of the organizations that was immediately plugged in was No Transat, (Interview -11.11.11. (2), 2016; Interview - CNCD, 2017). As described above, No Transat was aware of the earlier attempts at an EU-US FTA and had been developing its analyses and network for years. Although other NGOs had been skeptical of its alerts (there had been no clear signs of an upcoming EU-US trade deal at the time), it was now prepared to start campaigning with expertise, a newsletter, a 'constituency', and an active mobilizing role in Wallonia (Interview - CNCD, 2017).

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<sup>362</sup> Source: FRDO– 7 Februari 2011 – *Questions & Réponses*. Sent to me via personal communication.

The **mobilization** that followed around TTIP was unprecedented (Interview - 11.11.11. (2), 2016). Because of the preparedness described above, but also because of the US was such a huge and looming trade partner, they were able to develop their campaign at a very high pace – especially in the Francophone regions. It developed in two somewhat (the lines are often blurry) parallel coalitions. One was more activist and mobilization oriented, the other was a coalition of bigger, more ‘institutional’ players. CNCD played an important coordinating role in all of them.

The **activist group** was kick started by No Transat, which allied with Alter Europe (a group that had been protesting against EU austerity policies in French speaking Belgium) to create **D19-20** in 2013. This more radical ‘coalition of the willing’ assembled small sections of the trade unions together with some women’s movements and farmers’ organizations – in particular the milk producers. It expanded very rapidly, and by 2014 gathered about 60 members: sub-sections of the (Christian and socialist) trade unions, women’s movements, anti-poverty networks, peace movements, anti-austerity organizations, farmers’ groups, human rights leagues, climate activists, and a motley crew of other (small) left-wing organizations<sup>363</sup>. The alliance was called D19-20 because they had ‘surrounded’ (with protestors and tractors) the European summit of 19 and 20 November, 2013. Between 2013 and 2016, while the coalition of the big NGOs and unions was working more on research, awareness raising and lobbying, they kept focusing on mobilization. Most of this early energy was at the Francophone side of the country, and this remained true during the rest of the campaign (11.11.11. (2) - Interview, 2016; CNCD - Interview, n.d.; D19-20 - Interview, n.d.).

In parallel, there were attempts to build a bigger coalition between the bigger, more **institutionalized players**. The first step here was to unite the NGOs and the trade unions. At first this was difficult, because the unions were at first still in doubt about their position. Contrary to some of the far-left and alter-globalist movements participating in the campaign, the Belgian trade unions support free trade, as such (Interview - ABVV, 2016; Interview - ACV, 2016)<sup>364</sup>. The union’s focus was mostly on

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<sup>363</sup> In **2013**, their members included Association 21, Euro actiecomités, FMB-EMB, ACOD-LRB Brussel, Oxfam Solidariteit, Climaxi and Constituante.be. By July **2014**, this group had grown exponentially, and now included ACOD-CGSP, LRB-ALR, ACV jongeren brussel/CSC jeunes bxl, Agir pour la Paix, Alter Summit, Associations 21, Association Culturelle Joseph Jacquemotte (ACJJ), ATTAC Liège, ATTAC Wallonie-Bruxelles, BAPN (Réseau Belge de Lutte contre la Pauvreté – Belgisch Netwerk Armoedebestrijding), Barricade, BPA (Brussels Platform Armoede), CADTM, Le Centre Avec, Climaxi, Comités Action contre l’austérité en Europe, CNAPD, CNE-GNC, Collectif Artivist, Collectif Dites33 (BXL), Constituante.be, Corporate Europe Observatory, CSC Brabant Wallon, CSC BHV, CSC Namur-Dinant, Culture et développement, De Bouche à Oreille, De lege portemonees, Equipes populaires, Equipes Populaires Verviers, Fédération Luttes Solidarités Travail (LST), FERN Brussels, FIAN Belgium, Forum Social du Pays de Herve (FSPH), FMB-EMB, FUGEA, Initiative de solidarité avec la Grèce qui résiste, INTAL, La Casa Nicaragua de Liège-asbl Pierreuse & Ailleurs, La ligue des droits de l’homme, LEF-FGE, Mouvement Politique des Objecteurs de Croissance, Mouvement d’action paysanne, Organise ta colère !, Power Shift Belgium, Quinoa, Radio Air Libre, Radio Panik, Réseau de Consommateurs Responsables, RWLP (Réseau Wallon de Lutte contre la Pauvreté), Saw-b, SCI, TerreMaCulture, VaVeA Semeurs de Possibles, Victoria Deluxe, Vie féminine, Vrede VZW, Vredesactie, WERVEL . They were also ‘supported’ by COMAC, De V-SB, EGA-ALS (Etudiant de Gauche Actifs – Actifs Linkse Studenten), Jeunes Anticapitalistes, LCR/SAP, LCT-CWB, Mouvement des Jeunes Socialistes, Mouvement de gauche, Mouvement Vega, PSL-LSP, PTB-PVDA, Rassemblement R, Révolution . Source : <http://web.archive.org/web/20150805133554/http://www.d19-20.be/80/liste-des-organisations-signataires/>

<sup>364</sup> At least since the nineties, the **ACV** has mostly approached trade from the perspective of ‘Decent Work’ (an ‘agenda’ launched by the ILO in 1998): trade (and investment) policy should help spread European living standards, social protection, livable wages, ... i.e: their view work in this field undertaken from certain beliefs about the need for international cooperation and development. On a practical level, this means they have always

a series of institutional issues like ISDS, as well as on enforceable social clauses, protection of the right to regulate (especially on safety and health, but also in financial services), and the defense of public services (Interview - ABVV, 2016). Although there were more radical positions from the Walloon FGFBT or the CNE (of which some sections took part in D19-20), there was some hesitation at the central level. In part, this was due to the more moderate position of the Flemish sub-federations (Interview - No Transat, 2017). There were also differences among the unions; for example, ACV/CSC supported the European citizen's initiative, but ABVV/FGFBT did not.

This meant that there were **many discussion over how to join forces and how to formulate their common demands**, since they could not simply call to reject TTIP. Eventually they found a compromise in the 'red lines' approach, which meant that they did not oppose TTIP as such, but rather specific elements like ISDS or negative listing. This also allowed for some more offensive demands like binding social norms (Interview - CNCD, 2017). This approach to getting the unions involved was also successful because it conformed with the line pursued by the European trade union confederation (ETUC), which had taken a similar 'red lines' stance in relation to ISDS, transparency and enforceability of the social provisions (ibid, Interview - ACV, 2016). In May 2014, the Decent Work coalition sent out its first joint press statement, expressing their 'grave worries' about the negotiations with the United States<sup>365</sup>.

Throughout these discussions, **the link with CETA re-emerged**, in part because it helped to get the unions on board with the TTIP mobilization. One of the problems with TTIP was that the negotiations had only just started, which made debates on the issue a little abstract, and which gave supporters of the (potential) deal an opportunity to argue that its opponents had no textual evidence for their complaints. CETA's texts gave them more concrete ammunition in these debates, but it was also helpful in their attempts to get the unions on board; since the union's approach was first to 'wait and see' whether TTIP's final text crossed their 'red lines', they could point at CETA to say '*here you already have a text that crosses these lines, and it's going to be signed soon*'. Again, the position of the ETUC was helpful here as well: it had in 2014 already sent out a statement that CETA was not meeting its red lines, and that it therefore opposed CETA. So, CETA became an integral part of their campaign on TTIP quite early on, from 2014 (Interview - CNCD, 2017). As my interviewee from the Christian union acknowledged: it had indeed become clear that CETA was heading (at the time of the interview, spring 2016) towards a deal that did not conform to their red lines, as outlined by ETUC (for instance, the Canadians had actually requesting binding social clauses, which the EU rejected), so they had moved into '*action mode*' (Interview - ACV, 2016).

After the unions got on board, the campaigners reached out to a variety of other civil society organizations. In 2015, the '**4 May**' coalition was formed. It included several

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pleaded for a strengthening of the clauses on sustainable developments and social rights, for example by installing a system of sanctions. They do not oppose free trade as such and acknowledge the importance of exports for the Belgian economy, but they do not have a tradition of actively promoting the interests of 'their' firms (Interview - ACV, 2016). Incidentally, interviews with the German trade unions indicate that such specific interest-oriented lobbying by trade unions in trade affairs was less uncommon there, for example in steel anti-dumping or automobiles (Interview - IG Metall, n.d.).

<sup>365</sup> <http://www.11.be/artikels/item/coalitie-waardig-werk-zeer-bezorgd-over-vs-eu-handelsakkoord>

players which had before never or seldom gotten been involved in trade politics. Apart from a series of human rights and environmental groups (such as Bond Beter Leefmilieu and Inter Environnement Wallon), the most important of these new players included consumer organization Test-Aankoop and the health funds. These had made their own analyses and then autonomously decided to join the campaign. As the Christian health funds remarked: somewhat *'bizarrely'*, it was only then, after they joined the coalition, that they that started cooperating on the FTAs with their partners from the Christian pillar (CSC, beweging.net), not before (Interview - Christian Health Fund, 2016a). The core organizers, however, were still the members of the Decent Work coalition (Interview -11.11.11. (2), 2016; Interview - CNCD, 2017). Although there were still positional differences among these partners, with the development NGOs maintaining a harder position than the unions, the health funds and the consumer organizations, they eventually always managed to come to a joint position (Interview - Greenpeace BE, 2016; Interview - Test-Aankoop, 2016). The first common statement they published was on TTIP as well as CETA.

The 'activist' campaign led by D19-20 had in the meanwhile morphed into the more broad-based **STOP TTIP-CETA coalition**, which acted as the mobilization pillar of the campaign: planning actions or demonstrations, writing letters to ministers, press releases, et cetera. While the 4 May coalition was united around univocal positions, the bigger STOP TTIP-CETA group was more diverse and heterogeneous, there was less of a detailed position, and there were some more extreme voices included. Having these two movements was very useful. It allowed the more 'respectable' players to retain some distance from the smaller groups' arguments, protecting their credibility and keeping open channels to mainstream politicians. For example, the trade unions did not condone the narrative on chlorine chickens. They believed it was incorrect, and that repeating it would weaken their case (Interview - ACV, 2016).

Both groups sent out press releases, organized protests, met with M(E)Ps, ministerial cabinets, et cetera, as described in more detail in the next section. They also started working the local level, trying to get local communities to declare themselves opposed to the treaties. For example, FGTB sent out a letter to all the towns in Wallonia, presenting the treaties, telling them that they would be impacted directly, and asking them to come out against the FTAs (Interview - No Transat, 2017). However, all of our interviewees remarked that both among the general public and within their own organizations (Greenpeace, the unions, the health funds, the NGOs, ...), the French-speaking wings were more aware of the FTAs (at an earlier time), were more critical of them, and were easier to mobilize. There was also a different kind of tone of the campaign material in Flanders compared to Wallonia, in Wallonia It was lot fiercer and more inflammatory. In Flanders, they remained a lot more sedate (Interview - Greenpeace BE, 2016).

Eventually, these two pillars decided to work towards deeper coordination. Efforts to unite them bore fruit in 2016, with the creation of the **'Stop TTIP Alliance'**: a joining of both the big institutionalized NGOs and grassroots mobilization movements<sup>366</sup>.

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<sup>366</sup> The members, as of 2017, included : Liberale Mutualiteit, ACV/ CSC, BioForum Vlaanderen, Solidarité Socialiste, RWLP (Réseau Wallon de lutte contre la pauvreté), ABVV/FGTB, FOS-socialistische solidariteit, Fédération Inter-environnement Wallonie, Wereldvrouwen mars van België, Natagora, M3M, Masereelfonds, Esperanzah!, Greenpeace, Ligue des droits de l'Homme, Test-Aankoop/Test-Achats, Les Amis de la Terre, Manifiesta, Christelijke Mutualiteit, M.O.C. - Mouvement Ouvrier Chrétien, CEPAG (Centre d'Education

Again, this coalition had to find a compromise between more radical groups and the less 'rejectionist' approach of the bigger organizations (notably the unions), which wanted to suspend negotiations in order to alter the mandate. This compromise between 'reject' and 'suspend' was reflected in the name of this group: 'stop', which was less committal than 'no' or 'anti' (Interview - CNCD, 2017). Again, cooperation turned out to work quite well (Interview - Greenpeace BE, 2016). The only group that was somewhat of a mixed bag, for the wider coalition, were the farmers. Some of the smaller sections were very active and had a very clear position in opposition, for example the dairy farmers united in the MiG, or Fugea. They were very active, vocal and visible – if only because their attendance at rallies made a more lasting impression (they had big tractors) than a handful of protestors could have done. However, Wallonia's largest farmers' organization (the FWA), reacted very slowly and kept sending out mixed signals – according to the CNCD, they were never very clear and would sometimes shift their message in the same week. 'Luckily' for the opposition to the deals, during a hearing in Wallonia's parliament they said they opposed CETA (Interview - CNCD, 2017).

This campaigning was supported by an increase in the **resources** dedicated to trade policy. Before 2015 the Decent Work coalition gathered about three people from the NGOs and three from the unions. One of the last meetings in 2016 gathered about 5-6 people from the unions, but also people from the health funds, the consumer organizations and other groups – summing up to about 20 people (Interview - CNCD, 2017). Within CNCD, before 2013 there was only one person working (lobbying) on trade and decent work. In 2016, however, the full resources of the 'awareness team' were put on TTIP and CETA, which meant that for one year 15 people worked on this campaign full-time, organizing conferences, writing publications, et cetera<sup>367</sup>. However, the CNCD's shift of resources was quite exceptional; although there was a general increase in the amount of time spent on trade across organizations, this often still remained very modest. In Test-Aankoop, for example, the employee working on this still only spent about 5% of his time on trade issues in 2016 (Interview - Test-Aankoop, 2016). More importantly, although the trade unions' boards (and many of the members) eventually recognized the importance of the dossier, opposition to CETA and TTIP became a core part of the campaign they were undertaking against the government and its policies; there were only more targeted actions (Interview - ABVV, 2016). The protests that the Coalition launched were numerous but their scale remained very small, except for the last one in September 2016. Part of the reason was that the unions never really threw their full mobilization-weight into the campaign, they never formally called on their delegates to assemble the members. This would have allowed them to produce the crowds that usually mustered in support of big manifestations (Interview - No Transat, 2017).

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Populaire André Genot), Bond Beter Leefmilieu, CNCD-11.11.11, Liga voor mensenrechten, Fédération Unie de Groupements d'Éleveurs et d'Agriculteurs (FUGEA), Socialistische Mutualiteiten, ACLVB, Inter-Environnement Bruxelles, Landsbond van de Onafhankelijke Ziekenfondsen, Collectif Roosevelt, Mutualités neutres, 11.11.11, Landsbond van de Neutrale Ziekenfondsen, Entraide & Fraternité, Acteurs des temps présents, Hart boven Hard/ Tout Autre Chose, Climaxi | Beweging voor Klimaat en Sociale Rechtvaardigheid, Solidaris - Mutualité Socialiste, MPEVH, Climate Express, Pour | Pour écrire la liberté, CGSLB, No-Transat, Bruxelles Laïque, (all the members of) the d19-20 Alliantie Alliance Allianz, Coalition Climat / Klimaat Coalitie, Beweging.net, Flemish Milk Board, SAW-B Fédération d'économie sociale, Justice & Paix, MIG - Milcherzeuger Interessengemeinschaft. Source: <http://www.stopttip.be>

<sup>367</sup> However, in 2017 this reverted back to a single full-time person.

The campaign's culmination 'in the streets' was on 22 September, when they managed to assemble about 15 000 protestors in the streets of Brussels. After Magnette signed CETA, mobilization collapsed. *'Many people thought: the problem is solved, perhaps not totally gone but less bad than before, et donc on peut s'occuper d'autre chose'* (Interview - No Transat, 2017). As No Transat remarked: the force of the campaign really came from how broad the opposition was. The health funds, the trade unions, the NGOs, the farmers, all these other groups. Even if they at first didn't put a lot of people on the street, the width of resistance automatically raised political attention. And this was the first big victory of civil society: getting the political world, who did not question in any way this kind of treaties, to suddenly say *'tiens, oui, il y a quand même des questions à se poser'* (Interview - No Transat, 2017).

### **In summary**

After a limited amount of inside and outside work during the negotiations, the critical interest in FTAs elicited by the start of the TTIP negotiations was used by the 'vanguard' to also draw attention to CETA. Believing that these dossiers could be used to mobilize the public and the parliament, and seeing the opportunities offered by the asymmetric federal/regional governments, a combination of quiet and noisy tactics was developed to target policy-makers – especially in Wallonia. In the next section, I first discuss the positions these organizations put forward, before investigating the extent to which they were also successful in drawing the executives' attention.

#### **10.2.2.3. Did civil society take a position on CETA?**

Some years before the issue hit the public's radar, in March 2011, 11.11.11. and CNCD published a joint statement on their websites about the EU's investment policy. There were 94 EU signatories of this declaration, of which seven were Belgian: CNCD-11.11.11, Klimaat en Sociale Rechtvaardigheid, Protos, 't Uilekot, Wereldsolidariteit, Wervel and 11.11.11. This position was very critical about the investment dispute settlement system included in European BITs. They noted that the EU had gained the competence here since 2009, and that the Commission was now intending to add investment protection to all new trade agreements, including with *'India, Singapore, Malaysia, Morocco, Jordan, Canada, Japan and the US'*. They therefore called on the EU to include in its investment deals clear obligations for investors (related to human rights and **corporate social responsibility**), to include more precise and circumscribed rights for investors, to remove investor-state dispute settlement from the text, to add a clear social and ecological dimension, and to guarantee the protection of governmental policy space when the state's interventions necessitated indirect expropriation<sup>368</sup>.

A month later, they sent out a very similar joint statement with the **Decent Work** coalition (the three trade unions plus CNCD-11.11.11.), in support of the European parliament's call on the EU to include social and environmental clauses in European investment chapters<sup>369</sup>. In **2012**, after the (unsuccessful) campaign of Decent Work

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<sup>368</sup> <http://www.11.be/artikels/item/hoog-tijd-voor-een-ander-investeringsbeleid>

<sup>369</sup> Although they would have liked the EP to go even further. Source: <http://www.11.be/artikels/item/toekomstig-europees-investeringsbeleid-inperking-van-de-democratie>

against the Belgian BIT with Qatar<sup>370</sup>, and in response to the Ping An ISDS case against Belgium, 11.11.11 repeated this message, but now also included more targeted criticism of Belgium's position. According to 11.11.11, the Belgian government had in the three years of EU-level discussions of the investment chapter completely neglected to communicate with any of the parliaments, or to publish even a single discussion or policy note<sup>371</sup>.

Specifically in relation to CETA, reports of the Federal Council on Sustainable Development (FRDO) show that CNCD-11.11.11 was already asking critical questions about the inclusion of ISDS in Canada in 2011 (and later in 2013), wondering whether it was really necessary to include this sort of mechanism in an accord between partners with developed judicial systems, and whether Belgium was following up on its commitment to include an explicit protection of the right to regulate in the public interest. They questioned (not specifically for CETA but with regards to the Belgian position on the new EU investment agenda more generally) the Belgian efforts to include environmental and social clauses in this chapter, because these had been so weak in the Belgian model BITs, and called for a strengthening for the Belgian approach on indirect appropriation, the transparency of international arbitration, and the formulation of a number of protection-norms<sup>372</sup>. In that same meeting, the trade unions '*again emphasized*' (according to their statement in the FRDO document) that public services and services of general interest like education, health care and other basic services, should be '*excluded from GATS and other bilateral and regional trade agreements*'; while also enquiring about the Belgian position in the EU's ongoing negotiations. They also supported the inclusion of '*effective labor clauses in FTAs and investment treaties*'. Together with the NGOs, they also asked a question about the negative list approach being used, wondering to what extent this was a precedent for future deals, and how this would affect Belgium's red lines on cultural services, health care, education, and other public services.

Interviews (Interview - WBI (2), 2017) have shown that they were also in touch with the Walloon executive over the enforceability of the sustainable development chapters in CETA in 2012, arguably to plea in favor of strengthening this dimensions – as they had been doing for years. Considering the good access to decision-makers at all levels, the fact that they were raising these issues in the FRDO, and the apparent contentiousness of these issues, it seems very implausible that they did not also discuss the investment and services chapters with other ministers from the PS and Ecolo, either at the federal or the regional level. I have no direct evidence of this, however.

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<sup>370</sup> Which they attacked because it did not address the severe labor rights' violations taking place in Qatar. Although the Belgian BITs included some clauses on labor and environmental issues, there were no control or enforcement mechanisms included, rendering them toothless. The Coalition claimed that the 'highest political level' was helping Belgian firms take advantage of Qatar market. Source: <http://www.11.be/artikels/item/arbeidsrechten-buitenspel-in-investeringsakkoord-met-qatar>

<sup>371</sup> <http://www.11.be/artikels/item/waarom-de-belgische-belastingbetaler-wel-schrik-moet-hebben-van-ping-an>

<sup>372</sup> National treatment, most favoured nation, fair and equitable treatment, full protection and security. These requests/comments were in line with the ICSD report on the Belgian BITs that I discussed in the introduction, and which they referred to as well. Source: *FRDO- 7 Februari 2011 - Questions & Réponses*. Sent to me via personal communication.

**After 2013**, the CSO campaign started to issue several positions on the negotiated deal which went beyond the investment chapter, covering many other aspects as well. These positions were equally supported by a wider variety of actors. Although most of the partners of the CSOs' coalition also put out own positions, commentaries, et cetera, these largely overlap and their collective standpoint was the most relevant one. I will therefore limit myself to a discussion of the positions they took as a group, with the exception of the individual organizations that had done some work on this before 2015. In interviews, press statements, commentaries, reports and other media, these organizations reiterated the positions summarized below (with minor variations) throughout 2014, 2015 and 2016.

When the **4 May Coalition** was created, they published an **open letter** about CETA and TTIP, signed by all three trade unions, all four health funds, Bond Beter Leefmilieu and Inter Environnement Wallon, Greenpeace Belgium, Test-Aankoop, and CNCD/11.11.11. Most of the letter focused on TTIP, but TTIP '*and CETA*' were claimed to make the liberalization of certain services (social security, water provisions, public transport) irreversible. CETA would also allow American firms to launch expensive claims if their profits were hurt by public policy (for example because of wage increases, stronger tobacco regulations or a phase-out of nuclear energy). Both deals were also criticized for having been negotiated behind closed doors, with parliaments in a rubber-stamping role. They demanded a more thorough and inclusive debate on the FTAs in Belgium, including impact studies, but also '*first, [a] clear political signal: No to CETA*'. The treaty was not in line with their demands for TTIP, and formed an '*unacceptable threat to our rights*'. They therefore requested that the Belgian governments refrained from signing or ratifying the deal, that they resisted provisional application, and that they demanded making parliamentary approval necessary (i.e. mixity) (4 Mei Coalitie, 2015).

In **June 2016** this (now expanded) coalition produced six far more detailed positions specifically about CETA, each about a different aspect of the deal<sup>373</sup>. As is clear from the texts, investor-state dispute settlement remained the cornerstone of their critiques, and an important source of their worries in these other items.

One of the core arguments was that CETA would limit states' policy space to regulate in favor of sustainable development, because investor-state dispute settlement would lead to regulatory chill. The **reformed ICS**, did not mend any of the old system's fundamental flaws: it was still was unidirectional (firms attacking governments), judges still had a financial interest in firms' use of the system, and foreign multinationals were still given exceptional rights outside of domestic courts. ISDS/ICS also figured prominently in the sections financial services, on consumers' rights, labor rights, environmental regulation, food safety, and health; the CSOs argued that it could have important detrimental effects on all of these domains. Including ICS would create a '*dangerous precedent*' that would be used in TTIP and in FTAs with developing countries. Not scrapping it from CETA's provisional application, thereby temporarily sidestepping parliamentary ratification, was seen as highly undemocratic.

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<sup>373</sup> The policy notes were presented on June 15, 2016, they are still available on [www.stopCETA.be](http://www.stopCETA.be)



They were also critical about the effects of CETA on **public services**. Although the treaty included a protection of 'pure' governmental services, this did not suffice for other services such as social security, public education or the health funds. Because of the combination of negative listing, the standstill clause, and the ratchet clause, any liberalizations and privatizations could no longer be turned back. Moreover, the reservations on education and financial services were vague on crucial points, with the language on financial services leaving room for contestations of the health funds. They called for a general and broad reservation for public services and services of general interest.

Furthermore, although the **consumer** organizations were fine with the voluntary system of regulatory cooperation included in CETA (it might lead to information exchange about products' safety), they rejected the language on the need for 'science based arguments' in regulating biotechnology (e.g. GMOs). They argued that this threatened the EU's precautionary principle. On food safety and health (but not health services), the CSOs saw positive as well as negative aspects: in food, the prioritizing of protecting human health over trade facilitation was lauded, but they felt that the precautionary principle was still under threat; in relation to health, they welcomed new information sharing initiatives, but lamented the potential increases of Canadian drug prices. On privacy, they resisted the inclusion of privacy and data-protection in a trade deal, and expressed their worry about the included provisions - although Canadian laws on privacy and data regulations were seen as 'quite good'.

In the section on **food**, the CSOs noted that the treaty rejected any imports of Canadian GMOs, but argued that CETA nonetheless threatened EU practices in more subtle ways: CETA would block attempts to launch new or enhanced regulations of GMOS, would heighten the pressure to increase the minimally acceptable GMO-content of products, threatened existing practices of GMO notifications on products, and would undermine the European zero-tolerance rule more generally. Aside from this issue, they lamented the small number of European GIs included ('only 10%'), and the lack of any Belgian GIs - they argued this would lead to unfair competition for locally produced goods.

They furthermore criticized the lack of a chapter on **climate change**, and feared that negative listing would have a detrimental effect on environmental protection. The exclusion of the chapters on the environment and sustainable development from the usual dispute settlement system was also critiqued. Although it was non-binding, they argued that regulatory cooperation in CETA was not transparent enough, excluded many stakeholders, and would lead to business-oriented and lowest-common-denominator agreements

In regards to **financial services**, the CSOs rejected CETA's liberalization of capital markets, its bans on limiting financial institutions' balance sheets and transaction volumes, and its ban on including local value requirements. These elements would make the financial sector more international, less stable, and harder to regulate. They were also critical of financial investors' access to ISDS; the included 'prudential carve out'<sup>374</sup> did not suffice, they maintained. Finally, the lobbying power of the financial

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<sup>374</sup> Although they were positive about the prudential carve out, which entailed that, if there was no agreement on an invest-state dispute in a case that involved financial services, the case would be sent to the state-state level for

industry would be augmented by the treaty, because public actors were now forced to make public in advance any planned regulations of the section.

**Finally, on labor and employment,** ICS was again flagged as a potential threat, because it could be used to attack a strike or social conflict, if such actions threatened the security of an investment. They also noted the continued lingering uncertainty over whether collective bargaining agreements that are declared binding by law could be called into question via the system. ICS furthermore protected investors' rights without imposing any obligations, such as on labor rights. They argued that CETA's chapters on sustainable development should be made binding; the system for dealing with violations of the sustainable development chapter and labor issues was very soft and *'has never led to any progress in practice'*.

The far broader coalition, the **Stop TTIP-CETA coalition** (signed by the Flemish Milk Board, the Human Rights' League, the Masereelfonds, D19-20, Hart Boven Hard and all of the organizations that had supported the previous letter) published another position on the **5th of October, 2016**. They criticized the negotiations for being opaque and exclusive even though TTIP and CETA were no 'ordinary' trade deals: they were *'threatening thousands of jobs, might harm wages and working conditions, marketize health care and education, reduce the safety of products, threaten the viability of small-scale agriculture, affect our privacy and further corner developing countries'*. Moreover, the accords allowed business to have a say on regulations even before the parliaments and they offered investors the freedom to challenge public policy by using private tribunals; the interests of multinationals were thereby given priority over the public interest. The signatories demanded more time for an in-depth public debate of CETA, and in absence of this called on the Belgian governments to refrain from ratification. They also asked the governments to reject provisional application (4 Mei Coalitie, 2016). These same partners also believed that the **interpretative declaration**, leaked on the sixth of October, did not suffice. In a statement, they called this *'no more than communication'*, the declaration did not actually improve the deal in any way. Finally, several of the organizations sent out messages in support of the Walloon position throughout October<sup>375</sup>.

### **In summary**

The CSOs did indeed occupy a number of detailed critical positions, and formulated a number of demands to reform the treaty. The substantive position of this heterogeneous coalition was varied, but their core message was built around the dangers that investor-state arbitration, regulatory cooperation, and services' liberalization could pose for public services, democracy, consumers' and labor rights, environmental and food norms, financial sector regulations, and public health. CETA would tilt the balance of power further towards business interests. They also focused heavily on the process of the negotiations, lambasting them for their lack of transparency and democratic accountability, and demanding more time for a genuine debate in the domestic (parliamentary) arena.

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deliberations. However, if this state-state debate went nowhere, after a set period of time the case would be sent back to the ICS judged. The CSOs were very critical about this latter possibility.

<sup>375</sup> <http://www.11.be/artikels/item/handelsakkoord-cta-kan-nog-gestopt-worden>

Although many of the more CETA-specific claims were only formulated around 2015-2016, the fundamental critique related to the inclusion of investor-state dispute settlement was already voiced in 2011 (at the latest) by the Decent Work coalition.

#### 10.2.2.4. Did they succeed at gaining access?

Having painted the broad strokes of the CSOs' 'voice', I will now discuss whether they also managed to be heard: did they succeed at increasing parliamentary involvement, in pushing the public to march, in meeting with the executive actors that had direct control over the Belgian stance, et cetera? This will allow me to investigate the sequence of events, but also the extent to which they built up leverage, and at a more basic level whether we can assume that policy-makers were aware of their demands.

##### **a. Scope conditions**

Is it plausible that civil society got through to policy-makers, using either inside or outside channels? The answer is most certainly yes: as was described in the prior and the introductory chapter, Belgium cannot take any stance unless all of the communal/regional governments are in agreement, thereby offering plenty of potential access (but also veto) points. On the outside, the many parliaments are weak and dominated by the executive and party-discipline. However, its members are easily approachable and in need of societal input to steer their work. MPs from the governing coalition can also use informal party-channels to influence the executive. There had also been past peaks of parliamentary interest in these matters, seemingly pushed by CSO activity. Furthermore, the parties from the left as well as the greens and the Christian democrats presented relatively willing ears, during as well as after the negotiations. On the other hand, looking at the past decade of trade politics, overcoming the public and press' disinterest in these matters would have been a very costly matter – at least until 2013. Then, the start-up of negotiations with the US and the growing contestation of this deal in neighboring countries, offered CSOs a chance to garner more widespread attention for CETA as well. In brief: the Belgian context offered a more fertile soil for successful 'access', through outside politicization of FTAs as well by making use of the several receptive direct channels.

##### **b. Empirics**

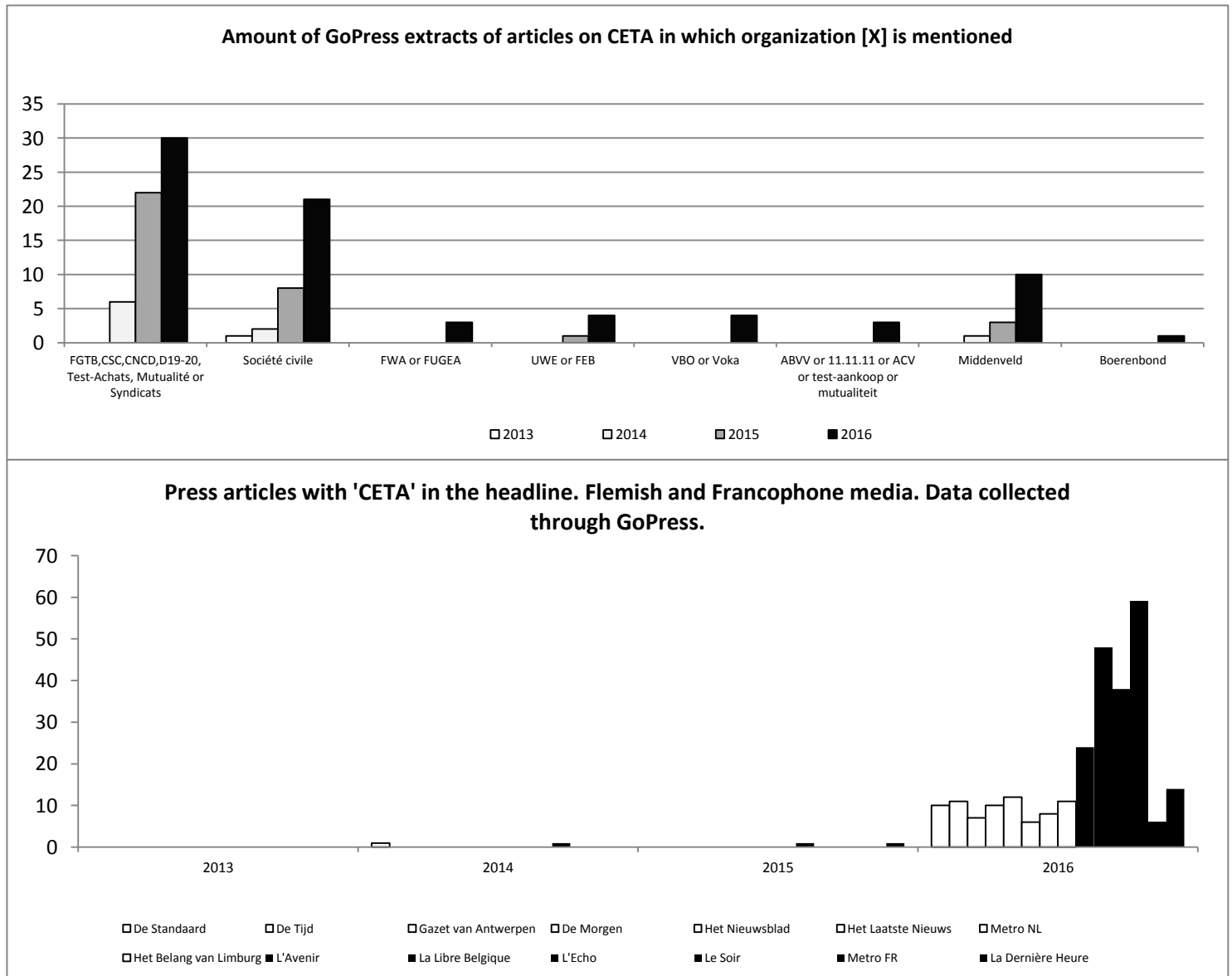
###### *b.a. Outside access point 1: the press*

Did CSOs manage to get their story through in the press? Did they manage to increase the issue's saliency, and to frame it in a way that would put pressure on decision makers to start supporting the CSOs demands?

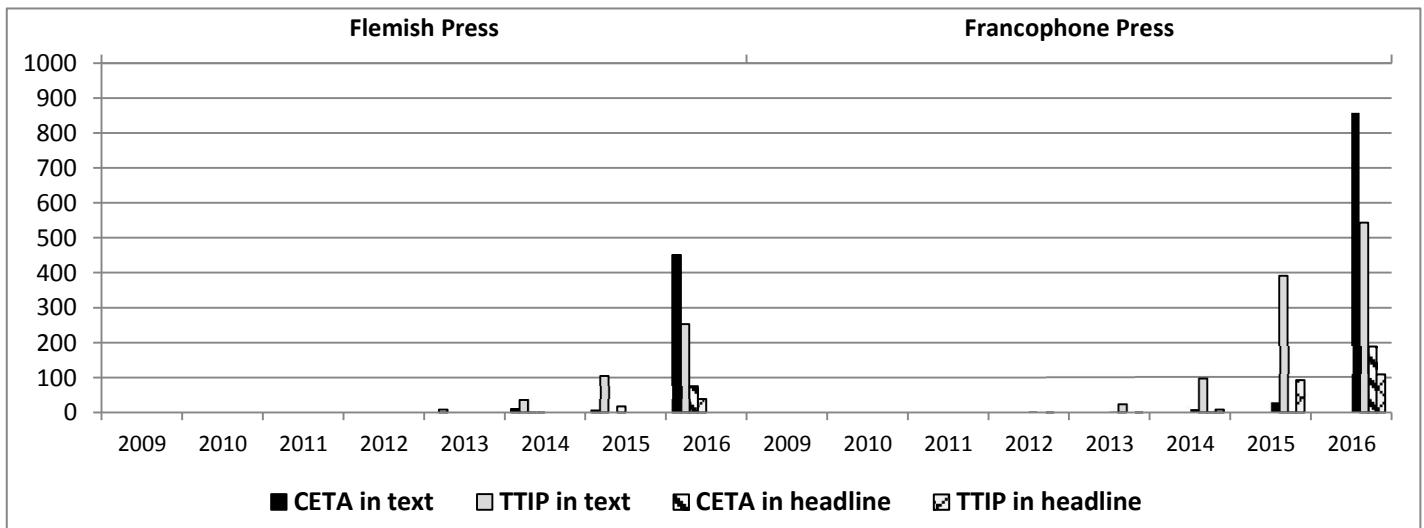
According to my (Flemish) source from Greenpeace Belgium, it was very difficult to get anything about the FTAs in the press. The coalition regularly sent out letters of all joint organizations which weren't posted or just ignored. Attention in the Flemish press in particular was very limited, even after the CETA eruption: '*De Morgen posted one picture about our big mobilization and a few lines of text, without even mentioning why we were there*'. In contrast, there was far more and more continuous focus on the

FTAs, and more details about their actual contest, in the Francophone press. (Interview - Greenpeace BE, 2016).

Just like in the Dutch case, I have combined a review of a selection of gazettes with some simple quantification of the press' attention, to further investigate their coverage of CETA<sup>376</sup>. As I will show, it seems that the CSOs were actually quite successful in drawing attention to their movement and their demands, but only in Wallonia.



<sup>376</sup> The data in the graphs were collected through GoPress. I looked up 'TTIP', 'CETA', 'AECG' in the GoPress database for all Belgian papers that were included, in combination with keywords like 'FGTB', 'mutualiteit', et cetera (so articles had to include at least one of the trade key words and then any of the organizational key words). I then downloaded the articles' extracts, generated by GoPress, into excel, where I conducted an automated search for these key words in the cells. The **included papers** were: *De Standaard*, *De Tijd*, *Gazet van Antwerpen*, *De Morgen*, *Het Nieuwsblad*, *Het Laatste Nieuws*, *Metro NL*, *Het Belang van Limburg*, *L'Avenir*, *La Libre Belgique*, *L'Echo*, *Le Soir*, *Metro FR*, and *La Dernière Heure*. The data are available on request.



### Flemish press

In the Flemish press, there was no attention for the deal before 2014, when CETA popped up in the margins of the debate on TTIP - *'the most important trade agreement ever'*- and ISDS. The papers reported about the Commission's ISDS consultation and the critical responses this elicited from civil society (Corporate Europe Observatory, BEUC) as well as on the difficulties getting the CETA, which was portrayed as a model for TTIP, ratified, but the focus was solely on the European dynamics, not on Belgium<sup>377</sup>.

In February 2015, the first commentary from Belgian actors was published in *De Tijd*, by the leaders of trade unions ACV and ABVV. They spoke about the reaction of the May Coalition and its resistance against the FTAs, although the focus was mostly on TTIP<sup>378</sup>. This stance was met with skepticism. *De Standaard*, for example, wondered what civil society could hope to achieve on TTIP *'since the negotiations have already been ongoing for two years, while their demands are too vague'*<sup>379</sup>. *De Tijd* itself also contradicted some claims being made by the coalition, saying CETA would not lower environmental, food, or social norms, while it might increase the EU's GDP by 12 billion. In the context of wider manifestations against TTIP, *De Standaard* briefly reported on Malmström's CETA-related visit to Brussels' parliament in October 2015, but there was no further follow-up<sup>380</sup>.

In March 2016, there was some reporting of the proposed improvements to the ISDS system, including analyses of why the Germans opposed TTIP even though they stood to benefit the most<sup>381</sup>. In April, there were some articles about Wallonia's and Brussels' resolution against CETA, including commentaries by Geert Bourgeois; he

<sup>377</sup> Ook vrijhandelsakkoord met Canada onder vuur, *De Tijd* - 27 Aug. 2014 - Page 10; 'Duitsland zal Ceta niet goedkeuren', *De Standaard* - 27 Sep. 2014 - Page 32; Raak niet aan Canada-akkoord', *De Standaard* - 30 Sep. 2014 - Page 19; Eten Europeanen straks hormonenbiefstuk uit VS?, *De Standaard* - 03 Feb. 2015 - Page 13; *De Standaard* - 07 Aug. 2014 - Page 17

<sup>378</sup> Geen gouden uitweg uit de stagnatie. *De Tijd* - 07 Feb. 2015 - Page 56

<sup>379</sup> 'Hier gaat iets gevaarlijk mis', *De Standaard* - 05 May. 2015 - Page 4; Vakbonden ook tegen handelsverdrag met Canada, *De Tijd* - 05 May. 2015 - Page 11

<sup>380</sup> 'TTIP is een zegen, geen vloek voor Europa', *De Standaard* - 16 Oct. 2015 - Page 22

<sup>381</sup> Systeem voor arbitrage verbeterd, *De Standaard* - 01 Mar. 2016 - Page 18

stated that CETA was important for the Flemish economy, that Wallonia was neglecting intra-Belgian agreements made in 2014, and that refusing to sign would have diplomatic consequences. Although the piece briefly mentioned the worries of the opponents, the tone was still skeptical, inter alia noting that the resistance of parliaments didn't carry any weight, since a qualified majority in the Council was all that was needed<sup>382</sup>. CD&V, N-VA, and Open VLD were all seen as supporting the deal. Both De Standaard and De Tijd relied on government sources to argue that CETA was of importance for Flemish business ('pears and dredging'), and published further criticisms by Bourgeois and employers' federations, while giving little space to claims by CSOs<sup>383</sup>.

In September 2016 there were at last some pieces that gave space to the critiques of trade unions and health funds, which claimed that only multinationals would benefit while employment would be harmed<sup>384</sup>. The papers also reported on the mobilization, in neutral terms, by a wide group of civil society organizations, and their support for the European protest day against TTIP<sup>385</sup>.

In the last weeks of September, the press reported on the last-ditch attempts at getting Wallonia and Brussels to agree with CETA through intra-Belgian negotiations – again in a tone that was not favorable to the opponents. Other states' reticence (e.g. Romania) was portrayed as flowing from concrete, specific issues that would eventually be resolved; only Wallonia was giving an outright 'no'. De Standaard claimed that the ISDS system had been 'completely overhauled', but that opponents had apparently not been not appeased by this. Allegedly, the US was already looking forward to CETA's failure, because it did not want the new ICS system to become the global standard<sup>386</sup>. When Malmström came to talk to the federal parliament, De Tijd asked her questions such as *'Is this debate still rational? It looks like it comes down to question such as 'Do you mistrust all multinationals?'* and *'Do you mistrust the Commission?'*<sup>387</sup>. Apart from this relatively negative press about CETA's opponents, September was also the month that Het Laatste Nieuws wrote its first article on CETA: about the traffic jams that would be caused by the protest in Brussels of the 20<sup>th</sup><sup>388</sup>.

After 11 October, when Wallonia sent out its parliamentary 'torpedo' against CETA, more highly critical reporting ensued. De Tijd saw CETA as a victim of the protests against TTIP; the paper parried critiques of ISDS, and noted that Wallonia's veto could potentially mean that Belgium would be responsible for burying a treaty that *'is expected to bring Flanders 400 million in export gains'*<sup>389</sup>. In a commentary, De Tijd argued that it believed that the worries of the opponents were *'as such legitimate'*, but

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<sup>382</sup> Waals verzet, De Standaard - 29 Apr. 2016 - Page 25; Wallonië heeft vragen bij CETA, De Standaard - 04 May. 2016 - Page 20

<sup>383</sup> 'Wallonië mag Vlaamse handel met Canada niet blokkeren', De Standaard - 20 Jul. 2016 - Page 16; Brussels Parlement tegen EU-handelsbeleid, De Tijd - 09 Jul. 2016 - Page 8

<sup>384</sup> Multinationals belangrijkste schietschijf, De Standaard - 17 Sep. 2016 - Page 6

<sup>385</sup> Protest is meer dan alleen symboliek, De Standaard - 17 Sep. 2016 - Page 6

<sup>386</sup> Waals verzet bedreigt Europees handelsverdrag met Canada De Standaard - 20 Sep. 2016 - Page 1

<sup>387</sup> 3 vragen aan Cecilia Malmström, De Tijd - 21 Sep. 2016 - Page 7; 'We doen dit omdat een job op de zes van export afhangt', De Tijd - 21 Sep. 2016 - Page 7

<sup>388</sup> Gevreesde verkeerschaos blijft uit, Het Laatste Nieuws - 21 Sep. 2016 - Page 17

<sup>389</sup> Franstalig België torpedeert handelsverdrag EU-Canada De Tijd - 11 Oct. 2016 - Page 9

that they were totally unfounded in the case of CETA; they lamented the Commission's decision to stamp the deal as mixed: *'Je kan te weinig democratie hebben. Maar soms ook te veel'*<sup>390</sup>. Het Laatste Nieuws (15 October) now also joined the fray: it claimed that the economic interests were *'huge'*, with 400 million in extra exports for Flanders at stake, and that there was going to be hefty reputational damage for Belgium; it quoted Bourgeois and the N-VA: the PS was taking Flanders and Europe hostage. They also published a very long, critical commentary from Karel De Gucht<sup>391</sup>. In the same tone, De Standaard claimed that the Francophone governments had not used their chance to adapt the interpretative declaration, and noted that the position of the PS was *'highly peculiar'* because it had been part of the government when the mandate was approved. If Belgium were to abstain, so it continued, it would kill CETA, and *'according to a supporter of CETA', 'the PS would be taking hostage, not only Flemish, but also Belgian and European firms'*<sup>392</sup>. It made no mention of civil society, but only of the negative EU and international responses, of the embarrassment for Belgium. One of its pieces was called *'Magnette's middle finger towards Europe'*<sup>393</sup>, and an editorial was very sharp: *'Als het erom gaat het Formule 1-circus naar Francorchamps te halen of wapens van FN te leveren aan bedenkelijke regimes overal ter wereld, wegen waarden doorgaans minder zwaar ten zuiden van de taalgrens. Dat wekt het vermoeden dat ze ook dit keer niet van doorslaggevend belang waren. De PS ligt onder vuur op haar linkerflank door de onstuitbare opgang van de PTB. Dit was een uitgelezen gelegenheid om voor de galerij eens flink met de rode vlag te zwaaien'*. De Tijd published a more neutral interview with Magnette<sup>394</sup>, but also pieces where the opponents of CETA only got a brief (and faceless) mention while there was abundant space for the employers' federations and Bourgeois<sup>395</sup>. In general, a lot of attention was spent on the (negative) international governmental and press' attention, the *'threats'* being voiced against Wallonia<sup>396</sup>, and of the *'loss of face'* being suffered by Reynders and Belgium in the EU councils<sup>397</sup>. The picture they paint is one of total isolation, *'even Greece, led by a communist prime minister, is prepared to sign the treaty'*. Another recurring argument focused on the reputational effects for the EU, claiming that this episode would seriously diminish the EU's capacity to strike deals in the future, because Canada was culturally, economically, and socially so close to the EU<sup>398</sup>.

Similar reporting ensued after the summit of 21 October, which set in motion a week of intra-Belgian and EU-Walloon negotiations. De Standaard and De Tijd framed the opposition to CETA as part of a larger wave of nationalism and populist protectionism, of post-truth politics<sup>399</sup>. De Tijd hoped for a *'return to reason'*<sup>400</sup>, and its

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<sup>390</sup> Schadelijk veto - De Tijd - 19 Oct. 2016 - Page 2

<sup>391</sup> KAREL DE GUCHT - Het Laatste Nieuws - 15 Oct. 2016 - Page 10

<sup>392</sup> 'PS gijzelt Europese bedrijven' De Standaard - 13 Oct. 2016 - Page 10

<sup>393</sup> Magnettes middel vinger naar Europa - De Standaard - 15 Oct. 2016 - Page 2; 'De reputatieschade is ontzettend groot' De Standaard - 15 Oct. 2016 - Page 2

<sup>394</sup> 'Het is belangrijk op te komen voor principes', De Tijd - 15 Oct. 2016 - Page 10;

<sup>395</sup> Stijgende druk op Wallonië in handelsgevecht - De Tijd - 15 Oct. 2016 - Page 10

<sup>396</sup> Magnette voelt zich afgedreigd in handelsgevecht Canada -De Tijd - 18 Oct. 2016 - Page 11; Magnette: "Wallonië wordt afgedreigd" - Het Laatste Nieuws - 18 Oct. 2016 - Page 15

<sup>397</sup> Reynders met lege handen naar Europese top over handel; De Standaard - 18 Oct. 2016 - Page 7; Gezichtsverlies en uitstel, De Standaard - 19 Oct. 2016 - Page 18

<sup>398</sup> Wallonië ondergraaft België en Europese Unie met verzet - De Tijd - 19 Oct. 2016 - Page 6

<sup>399</sup> Opstand der protectionisten, De Standaard - 22 Oct. 2016 - Page 8; Doordacht nationalisme, De Tijd - 22 Oct. 2016 - Page 57; De pro's van Ceta (en een contra), De Standaard - 24 Oct. 2016 - Page 30

<sup>400</sup> Hopen op terugkeer van rationaliteit en realiteit - De Tijd - 22 Oct. 2016 - Page 2

reporting focused on the criticism of Bourgeois, Wallonia's international isolation, and the hypocrisy of the PS, while dismissing the critiques of civil society, praising the many economic virtues of the deal for Flanders and the EU, and pointing out the insurmountable difficulties that would arise for the EU if it wasn't even able to strike a deal with Canada<sup>401</sup>. There was some mention of protests on Flemish sides, including a piece on the fears of the bakers of 'mattentaarten'<sup>402</sup>, a sympathetic letter from the Stichting tegen Kanker (foundation against cancer)<sup>403</sup> and brief bits on ISDS<sup>404</sup>, but the former was later countered with an opposing piece, and the latter noted that ICS, included in CETA, was a new and better system. Only on October 26 was there a piece in De Tijd, by the Christian trade union, about civil society's campaign against the treaties - lamenting the power of multinationals, the lack of sanctions in sustainability and labor, and arguing that the protests had shaken up the EU's business-as-usual on trade<sup>405</sup>. De Standaard's position was a little more sympathetic from a democratic perspective: they attacked the Commission's sharp response to Wallonia<sup>406</sup>, and they put up some pieces that gave equal voice to experts' views on the opposing sides<sup>407</sup>. However, they still published further CETA-favoring commentaries<sup>408</sup>, including a piece by co-chairman of Trans-Atlantic Business Council<sup>409</sup>, and they reiterated their critique that the PS had not raised its voice before or during 2014 or even in 2015. The PS' resistance was largely seen as opportunistic-calculating (driven to the left by the PTB). In a fact-checking article, the claims of the opponents were dismissed by quoting unnamed experts: '*[CETA] is a strong piece of diplomacy and a very nice accord*', they say in unison. '*A trade deal doesn't get much more balanced than this*'<sup>410</sup>. These remarks were echoed, in even starker terms, in quotes and commentaries by De Tijd and Het Laatste Nieuws<sup>411</sup>. Meanwhile, Wallonia's veto ignited discussion over the viability of Belgian decision-making in this domain, with some accusing N-VA and Open VLD of trying to deny Wallonia its autonomy and of trying to transgress the constitution by calling on the federal government to sign without sub-national consent<sup>412</sup>; the N-VA, however, underlined that they 'respected' Wallonia's constitutional right to a veto<sup>413</sup>.

In the final days of the blockage, both De Tijd and De Standaard mused about how, if nothing else, it was a good thing that the debate about trade and FTAs had now

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<sup>401</sup> Wallonië zegt 'non' tegen EU-leiders - De Tijd - 21 Oct. 2016 - Page 5; Waarom Paul Magnette overdrijft De Tijd - 21 Oct. 2016 - Page 4

<sup>402</sup> 'Vrees voor 'valse' mattentaarten' - Het Laatste Nieuws - 21 Oct. 2016 - Page 19

<sup>403</sup> Ceta en tabakspreventie - De Standaard - 22 Oct. 2016 - Page 32

<sup>404</sup> Arbitrage: conflicten oplossen zonder rechter - De Standaard - 21 Oct. 2016 - Page 9

<sup>405</sup> We moeten de Europese werkwijze voor handelsakkoorden in vraag stellen - De Tijd - 26 Oct. 2016 - Page 12

<sup>406</sup> Gekneld tussen te veel en te weinig democratie - De Standaard - 22 Oct. 2016 - Page 2

<sup>407</sup> Opstand der protectionisten - De Standaard - 22 Oct. 2016 - Page 8; Arbitrage: gevaarlijk of noodzakelijk? - De Standaard - 24 Oct. 2016 - Page 3

<sup>408</sup> De pro's van Ceta (en een contra) - De Standaard - 24 Oct. 2016 - Page 30

<sup>409</sup> 'Ik heb een zekere empathie voor de Waalse bezorgdheid' - De Standaard - 25 Oct. 2016 - Page 7

<sup>410</sup> Fabels en feiten over de 'nachtmerrie' van Magnette - De Standaard - 19 Oct. 2016 - Page 18; Wallonië blijft zich verzetten tegen handelsverdrag - Het Laatste Nieuws - 19 Oct. 2016 - Page 2

<sup>411</sup> 'Rien ne va plus' in België én Europa na Waals 'non' - De Tijd - 22 Oct. 2016 - Page 4; Tranen om MA-NJET - Het Laatste Nieuws - 22 Oct. 2016 - Page 2; Laatste dag voor Magnette om akkoord te redden - Het Laatste Nieuws - 24 Oct. 2016 - Page 4; "Afspringen CETA kan erger zijn dan Brexit" - Het Laatste Nieuws - 25 Oct. 2016 - Page 1

<sup>412</sup> 'Blokkade CETA is vechtfederalisme' - De Tijd - 19 Oct. 2016 - Page 6; Walen blokkeren continent? Naast de kwestie - De Standaard - 21 Oct. 2016 - Page 42

<sup>413</sup> Bakken kritiek maar goed gecoörd - De Standaard - 25 Oct. 2016 - Page 6



become more salient<sup>414</sup>. De Standaard's tone kept shifting somewhat. In an op-ed published on the 25<sup>th</sup> it said that it had slowly become apparent that there was 'something to' some of the criticisms being raised by Wallonia, and they condemned the Flemish debate for portraying the PS as a sort of boogeyman sabotaging the Flemish economy. Still, Mignette allegedly contributed to this by not choosing to coordinate beforehand, and by opting for such a confrontational approach<sup>415</sup>. There were now also some opinion pieces (by Beatrice Delvaux, by Marc Reynebeau) fiercely defending Mignette<sup>416</sup>. De Tijd and Het Laatste Nieuws remained very critical however, although the latter opened up a little bit to the possibility that some of the substantive criticism was justified - while still haranguing the PS' motivations<sup>417</sup>.

When a deal was struck on the 28<sup>th</sup>, there were negative assessments in De Tijd and Het Laatste Nieuws, which argued that nothing of substance had changed<sup>418</sup>; they repeated their critiques of the 'schizophrenia' and the opportunism of Wallonia/PS in trade negotiations; they also emphasized what an embarrassment and a diplomatic blow this was for Belgium<sup>419</sup>. In the days and weeks after CETA was signed, more developed pieces appeared which tried to shed light on the origins of the Walloon resistance<sup>420</sup>, some more critical commentaries<sup>421</sup>, and some space was given to Mignette for a bit of self-defense<sup>422</sup>.

## French Speaking Press

The first piece published on CETA was by l'Echo in October **2009**, a commentary by a north-south NGO 'un monde libre', which commented that the launch of negotiations had not drawn much interest, even though the 'AECG' could considerably raise the prosperity on both sides of the Atlantic. The piece lamented, however, that the perspective for substantial liberalization in agriculture seemed very limited: a pity for consumers, but also for impoverished farmers around the globe, who had always suffered from the protectionism and subsidizing of European and Canadian agriculture<sup>423</sup>.

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<sup>414</sup> Hygiëne -De Tijd - 27 Oct. 2016 - Page 2; 'Alleen dat er een debat was, is een goede zaak' - De Standaard - 27 Oct. 2016 - Page 7

<sup>415</sup> Mignette zet vergissing recht - De Standaard - 25 Oct. 2016 - Page 2

<sup>416</sup> Mignette, de held - De Standaard - 26 Oct. 2016 - Page 40; We falen om te leren - De Standaard - 27 Oct. 2016 - Page 39

<sup>417</sup> Canada koopt met grote EU-markt ook minder afhankelijkheid van VS - De Tijd - 26 Oct. 2016 - Page 6; Arbitrage grootste probleem - De Tijd - 26 Oct. 2016 - Page 6; Onze Opinie - Het Laatste Nieuws - 27 Oct. 2016 - Page 2

<sup>418</sup> De Alexis Tsipras van de Europese vrijhandel - De Tijd - 28 Oct. 2016 - Page 5; Handelsakkoord EU-Canada eindelijk over Belgische horde - De Tijd - 29 Oct. 2016 - Page 12; Finish in zicht, maar nog steeds geen akkoord over CETA - Het Laatste Nieuws - 27 Oct. 2016 - Page 2; Geen ultimatus arbitrage Landbouw - De Tijd - 27 Oct. 2016 - Page 3

<sup>419</sup> De schizofrenie in handelsrelaties - De Tijd - 29 Oct. 2016 - Page 2; ONZE OPINIE - Het Laatste Nieuws - 28 Oct. 2016 - Page 2

<sup>420</sup> 'We helpen ons systeem naar de knoppen', De Standaard - 29 Oct. 2016 - Page 16; De strijd om de linkse Waalse ziel - De Tijd - 29 Oct. 2016 - Page 46

<sup>421</sup> Het Waalse verzet is een brexit van links - De Tijd - 29 Oct. 2016 - Page 56; Vrijhandel in tijden van volkswoede, De Tijd - 29 Oct. 2016 - Page 13; Premier Mignette, De Standaard - 31 Oct. 2016 - Page 34; Ornelis, Het Laatste Nieuws - 31 Oct. 2016 - Page 4

<sup>422</sup> 'Het is omdat ik van Europa hou' - De Standaard - 29 Oct. 2016 - Page 14

<sup>423</sup> Un libre-échange de nouvelle génération - L'Echo - 27 Oct. 2009 - Page 14

It took three years for another piece to appear: in September **2012**, a quite critical article in *Le Soir* discussed how the protests against ACTA were also drawing attention to CETA. As *Le Soir* put it, the ‘announcement’ of CETA, for the MPs and citizen groups that had attacked ACTA, ‘avait des allures quelque peu cauchemardesques’. They referred in particular to the chapters on penal sentences for intellectual property rights and medical patents, quoting a critical MEP from the PS as well as a digital rights activist<sup>424</sup>.

A year later, October **2013**, *L’Echo* and *Le Soir* reported on the closure of the negotiations. Although they cited the Commission’s official estimates of the economic benefits of CETA, they also focused particularly on the worries being raised by farmers (related to dairy and meat). European producers of meat were afraid of having to compete with a massive influx of imports produced at lower costs, because of lower environmental and sanitary norms; there were also fears related to hormones, although De Gucht was quoted to appease these worries. *Le Soir* also discussed geographical indications (*‘one reason why the negotiations took so long’*), but did not mention the lack of Belgian GIs<sup>425</sup>.

Continuing this tradition of publishing something about CETA in either September or October, the next pieces appeared on September **2014**, on the occasion of the signing of the accord. *L’Echo* noted that the agreement was in danger of being ‘*blown to shreds*’ because of the growing criticism against its chapter on investment protection: since the issue had been raised in the context of TTIP, many critics in the EP and in certain member states (including Germany) had equally criticized this instrument as a danger to democracy. According to Marie Arena, an MEP of the PS seated in the European parliament’s trade committee (INTA), they had asked the Commission to forestall the closure of the negotiations to avoid ISDS torpedoing five years of negotiations<sup>426</sup>. This time there was some follow-up by *L’Echo* (with Arena as source) about ISDS in CETA and Malmström’s hearing in the EP<sup>427</sup>.

Reporting really took off in **2015**, with a series of critical analyses. In January, *Le Soir* published a long-ish piece about the dangers of letting in GMOs, hormone beef, and chlorine chickens through ‘*the transatlantic FTAs*’ TTIP and CETA<sup>428</sup>. In May they wrote critically about the absence of geographical indications from Belgium in CETA. According to the article this absence wasn’t in itself very problematic, Canada wasn’t a threat for these products, but it did not bode well for the deal with the US, where the economic stakes were higher. A member of the Walloon administration was quoted as claiming that they had passed on their demands to the Commission but that they had not made it in the negotiations, and that these protections were only a side deal for Walloon agriculture anyway; they had a much bigger stake in the liberalization of dairy and beef<sup>429</sup>. Meanwhile, *L’Echo* wrote about the Commission’s proposals to reform ISDS, which it portrayed as an attempt to ‘disarm’ TTIP’s critics;

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<sup>424</sup> Avec Ceta, le spectre d’Acta hante le Parlement européen - *Le Soir* - 29 Sep. 2012 - Page 19

<sup>425</sup> L’accord devrait accroître les échanges - *L’Echo* - 19 Oct. 2013 - Page 14 ; Europe et Canada commerceront librement ; *Le Soir* - 19 Oct. 2013 - Page 16

<sup>426</sup> L’accord commercial avec le Canada - *L’Echo* - 26 Sep. 2014 - Page 7

<sup>427</sup> Malmström évasive sur l’accord commercial - *L’Echo* - 30 Sep. 2014 - Page 10

<sup>428</sup> «Ni poulet au chlore ni bœuf aux hormones en Europe» - *Le Soir* - 31 Jan. 2015 - Page 26

<sup>429</sup> Les AOP belges recalées - *Le Soir* - 30 May. 2015 - Page 19

once more, Marie Arena from the PS offered some critical quotes<sup>430</sup>. In a follow-up piece, they (again) juxtaposed the Commission's discourse on this issue with remarks from Arena, but also with the mobilization in Europe and Belgium and quotes from the open letter sent to the Belgian governments by Test-Achats, the health funds, the unions, Inter Environnement, and CNCN-11.11.11. A 'warm-up' for the battle against TTIP, according to the paper<sup>431</sup>, which in June also published an opinion piece by MPs from Ecolo, which was very critical about the FTAs ('*TTIP should be stopped and the signature of CETA should be prevented*')<sup>432</sup>, and (in the fall) a commentary by CNCN-11.11.11., criticizing CETA, TTIP and the Panama agreement, which all included ISDS. The only piece really defending the deal was a commentary, published in L'Echo in May 2015, by the Canadian association of manufacturers and exporters, praising the treaty<sup>433</sup>. Meanwhile, there was also reporting on some of the smaller actions and debates organized by civil society against TTIP and CETA<sup>434</sup>, and on the growth of TTIP-free zones (which included CETA and TISA-free communities) at the request of citizen groups and with the support of local parties<sup>435</sup>. Le Soir also picked up on the French communal parliament's proposed resolution (PS-CDH), demanding that the federal government does not ratify CETA<sup>436</sup>.

In 2016, the press kept a close eye on the domestic and international developments. First of all, they closely tracked the parliamentary debates. Le Soir reported on Malmström's visit to discuss TTIP and '*its equivalent, CETA*' with the Walloon parliament, on the opposition by parties of the left and center, and on the large proportion of civil society protesting the deal. ISDS was seen as their main critique, which Le Soir met with sympathy: even though the Commission was reforming its proposals, the system was still in CETA, and would potentially allow American firms to sue the EU through their affiliates in Canada. In the context of the debate with Malmström, Magnette was cited as having '*set clear demands from which [he] will not stray*'<sup>437</sup>. Later, in April 2016, the papers reported on the committee on international affairs' support for a resolution (which asked the Walloon government not to ratify CETA unless certain demands were met)<sup>438</sup>, and on the subsequent debates and vote of the resolution. Both papers noted, however, that it was at that time not certain what effect a Belgian abstention might have, since the deal's mixity was still up for debate. Secondly, they paid attention to the societal and party-political debate that had intensified. An open letter of European trade unions about social Europe, including critical remarks about CETA, was published by Le Soir in May 2015<sup>439</sup>, as was reporting of opponents (party-political as well as from civil society) against the treaties, their protests (even small ones), and their arguments<sup>440</sup>. A long open letter against TTIP and CETA (which focused heavily on ISDS, but also on the negative effects on the environment, workers, farmers, consumers and the general interest;

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<sup>430</sup> Une cour d'appel pour désamorcer - L'Echo - 07 May. 2015 - Page

<sup>431</sup> L'accord avec le Canada perdu dans les limbes - L'Echo - 26 Sep. 2015 - Page 11

<sup>432</sup> Ces traités qui mettent le commerce au-dessus de l'humain - L'Echo - 11 Jun. 2015 - Page 12

<sup>433</sup> Jayson Myers "L'accord UE-Canada a une portée plus grande que le partenariat transatlantique" - L'Echo - 08 May. 2015 - Page 9

<sup>434</sup> Un collectif se bat contre le Traité transatlantique - Le Soir - 26 Nov. 2015 - Page 31

<sup>435</sup> Le TTIP ne passera pas par Boitsfort - Le Soir - 26 Feb. 2015 - Page 24

<sup>436</sup> Tactiques belges pour séduire le Canada - Le Soir - 30 Oct. 2015 - Page 6

<sup>437</sup> Malmström, commissaire rassurante - Le Soir - 30 Jan. 2016 - Page 16

<sup>438</sup> L'Elysette menace de bloquer Reynders sur l'accord avec le Canada - L'Echo - 14 Apr. 2016 - Page 7

<sup>439</sup> « Une nouvelle feuille de route pour l'Europe... » Sans le social ? - Le Soir - 12 May. 2016 - Page 23

<sup>440</sup> Du partenariat transatlantique au traité transatlantique - Le Soir - 23 Feb. 2016 - Page 29

also quoted a lowering of growth and employment) signed by all of the trade unions, all of the health funds, Test Achat, Tout Autre Chose, Fédération Inter-Environnement, No-Transat, Alliance D19-20, MIG, CNCD-11.11.11, Greenpeace, Ligue des droits de l'homme, and Réseau wallon de lutte contre la pauvreté was published in L'Echo in June<sup>441</sup>, as was as a similar piece with quotes from CNCD and UCM in Le Soir<sup>442</sup>, and a Brussels MP attacking the health effects of CETA<sup>443</sup>. When an MP from the MR warned about the dangers a Walloon veto posed to the international (and intra-Belgian) image of Wallonia and Belgium, this was juxtaposed with counter-arguments from critics<sup>444</sup>, while a letter from 'worried business' (FEB & UWE) produced only a tiny article<sup>445</sup>. In the articles covering the resolution's debate in the plenary, only the deals' critics (civil society and MPs from Ecolo, the PS or cdH) were given quotes<sup>446</sup>, and Magnette was given the opportunity to make his case in an interview: *'[CETA] menace les services publics, les normes sociales, environnementales, les labels protégeant les produits du terroir, il remplace les règles d'arbitrage publiques par une forme de privatisation de la justice internationale'* <sup>447</sup>. There was similar reporting about the debates in the Community parliament <sup>448</sup>. In the debate on mixity, there was again much room for the critics of the Commission. In Le Soir, Arena was quoted as calling non-mixity a *'declaration of war'*, while L'Echo reported about other European parliaments that had in recent months accepted CETA-critical resolutions<sup>449</sup>. It was often underlined that MR was the only Walloon party supporting the treaty<sup>450</sup>: they were quoted as lamenting the misinformation being spread, arguing that the negotiations had been transparent enough, and that if the EU didn't make agreements with the US and Canada, China would.

A huge amount of articles appeared in September and October, many of which continued to make room for civil society's mobilizations and arguments. In Le Soir, CETA's opponents were portrayed as *'the bulk'* of civil society<sup>451</sup>, including not only the NGOs, the unions, et cetera, but also Wallonia's SME federation (UCM). The paper quoted a joke: *'En fait, il ne manque que la FEB!'*. These groups were given ample space to present their concerns, their goals, and their membership<sup>452</sup>. For example, the continued articles about communities that had declared themselves hors-TTIP/CETA, like Liege and Brussels<sup>453</sup>, or the flurry of articles about the big mobilization called *'STOP TTIP & CETA DAY'* on the 20<sup>th</sup> of September, which got

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<sup>441</sup> Les traités de commerce transatlantiques de l'UE auront de lourdes conséquences - L'Echo - 25 Jun. 2016 - Page 47

<sup>442</sup> « Le libre-échange n'est pas la solution » - Le Soir - 24 Jun. 2016 - Page 16

<sup>443</sup> « Un risque de dérégulation dans l'aide aux personnes » - Le Soir - 14 Oct. 2016 - Page 7

<sup>444</sup> Fronde wallonne contre le Ceta - Le Soir - 14 Apr. 2016 - Page 13

<sup>445</sup> Les entreprises inquiètes - Le Soir - 15 Apr. 2016 - Page 15

<sup>446</sup> Vote mercredi au Parlement wallon - Le Soir - 26 Apr. 2016 - Page 12 ; La Wallonie défie le Canada avant les Etats-Unis - Le Soir - 27 Apr. 2016 - Page 4 ; La Wallonie lance un pavé dans l'Atlantique - L'Echo - 28 Apr. 2016 - Page 8

<sup>447</sup> « La Wallonie, nouvelle Madame Non » - Le Soir - 30 Apr. 2016 - Page 2

<sup>448</sup> FWB Débat sur « l'autre accord » - Le Soir - 03 May. 2016 - Page 3

<sup>449</sup> L'Europe prépare le passage en force du traité UE-Canada - L'Echo - 09 Jun. 2016 - Page 8 ; Duel à l'horizon pour entériner l'accord avec Ottawa - Le Soir - 11 Jun. 2016 - Page 14

<sup>450</sup> Le MR, seul parti francophone à soutenir l'accord - Le Soir - 24 Jun. 2016 - Page 16

<sup>451</sup> Qu'est-ce que le TTIP ? - Le Soir - 13 Aug. 2016 - Page 13

« Un nivellement par le bas des conditions de vie » - Le Soir - 21 Sep. 2016 - Page 12

<sup>452</sup> Un « STOP TTIP » très bien organisé Le Soir - 20 Sep. 2016 - Page 14 ; Entre 10.000 et 15.000 manifestants attendus à Bruxelles - Le Soir - 20 Sep. 2016 - Page 14

<sup>453</sup> Bruxelles hors Ceta - Le Soir - 28 Jun. 2016 - Page 13 ; Liège « hors zone Ceta » - Le Soir - 28 Sep. 2016 - Page 31 ; Liège se prononce contre le CETA - L'Echo - 28 Sep. 2016 - Page 7

attention in several pieces even before it took place: about the 'thousands' expected to take part, about why certain organizations were taking part and what their motivation was <sup>454</sup>. In September 2016, commentaries also linked the closure of **Caterpillar** to these groups' discourse on TTIP/CETA. The FGBT was the first to make this connection in interviews with *Le Soir*, but it was later taken up by MPs and Magnette. Workers from Caterpillar also marched in the anti-TTIP/CETA march of 20 September<sup>455</sup>.

Secondly, the papers closely followed the intra-Belgian and international politics of the case. The day-to day reporting was quite detailed; not just about the politics but also about the substance of what was being discussed, about the deals they were trying to strike, and about how this related to the demands formulated by the Walloon parliament. For example, *L'Echo* had several pieces investigating the pro and contra of the criticisms, and both papers discussed the various proposals and negotiations. Through commentaries too, there was continued debate about the merits of the agreements and their critics<sup>456</sup>. A central element in a lot of the debates was Wallonia's intra-Belgian and **international isolation**. For a long time, even in September, articles emphasized that Wallonia was not alone, that there were also doubts in other countries (notably Austria and Germany but also Romania and Bulgaria)<sup>457</sup>. Midway through October, however, there was a general awareness of the isolation of Wallonia and the international pressure being exerted by Canada, the Commission and other member states<sup>458</sup>. Both *L'Echo* and *Le Soir* painted a picture of Belgium standing very isolated at the EU level (seen as mostly painful for Charles Michel and Reynders), which threatened good relations with Canada and Quebec<sup>459</sup>.

The papers reported on the (non-)evolution of the Walloon parliaments' and governmental position<sup>460</sup>, and the skepticism with which they (i.e. almost all Walloon parties, and civil society) took note of the first interpretative declaration<sup>461</sup>. In the crisis that followed, *Le Soir* remained very supportive of Wallonia's position, and its

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<sup>454</sup> 1.500 tonnes de terre sur un bateau - *Le Soir* - 13 Sep. 2016 - Page 33 ; Le TTIP et le Ceta, toujours plus fragiles - *Le Soir* - 19 Sep. 2016 - Page 1 ; Les mutuelles ( 1 ) : un risque pour le système des soins de santé - *Le Soir* - 19 Sep. 2016 - Page 12 ; La coalition Climat ( 1 ) : un encouragement à la surconsommation - *Le Soir* - 19 Sep. 2016 - Page 12

<sup>455</sup> « Repenser le modèle européen, ou aller vers la désintégration » ; - *Le Soir* - 21 Sep. 2016 ; « Un nivellement par le bas des conditions de vie » - Page 12 *Le Soir* - 06 Sep. 2016 - Page 16 ; syndicats La FGTB wallonne veut un décret « appropriation » - *Le Soir* - 16 Sep. 2016 - Page 6 ; Le Ceta, ce clash annoncé entre la Wallonie et l'Europe - *L'Echo* - 20 Sep. 2016 - Page 5

<sup>456</sup> Ceta : la Wallonie tient tête à l'Europe *Le Soir* - 21 Oct. 2016 - Page 1 ; Des garanties pour les services d'intérêt général ; *Le Soir* - 21 Oct. 2016 - Page 2 ; Le « cheval de Troie » du TTIP ; *Le Soir* - 21 Oct. 2016 - Page 3 ; Du boeuf aux hormones dans nos assiettes? ; *L'Echo* - 22 Oct. 2016 - Page 9 ; Une sévère menace pour nos services publics? ; *L'Echo* - 22 Oct. 2016 - Page 9 ; Va-t-il tuer l'emploi? ; *L'Echo* - 22 Oct. 2016 - Page 8 ; Protège-t-on les investisseurs au détriment de l'Etat de droit? - *L'Echo* - 22 Oct. 2016 - Page 8 ; Pas de protection pour les produits wallons? - *L'Echo* - 22 Oct. 2016 - Page 9 ; Nouveau comité de concertation mercredi matin - *Le Soir* - 26 Oct. 2016 - Page 5 ; La Wallonie a-t-elle raison de refuser les tribunaux d'arbitrage ? - *Le Soir* - 26 Oct. 2016 - Page 4

<sup>457</sup> Le TTIP et le Ceta, toujours plus fragiles - *Le Soir* - 19 Sep. 2016 - Page 1 ; TTIP et Ceta : contestés, loin d'être signés - *Le Soir* - 19 Sep. 2016 - Page 12 ; La Commission tente de rassurer les Wallons sur le Ceta - *L'Echo* - 24 Sep. 2016 - Page 10 ; L'Europe se raccroche à l'ultime pow-pow belgo-belge - *Le Soir* - 14 Oct. 2016 - Page 6

<sup>458</sup> Les Wallons seuls contre tous sur le Ceta - *L'Echo* - 18 Oct. 2016 - Page 7 ; La saga du Ceta au cœur du réünion d'octobre des chefs d'Etat - *Le Soir* - 20 Oct. 2016 - Page 14 ; Magnette veut maintenir le veto wallon au Ceta - *L'Echo* - 21 Oct. 2016 - Page 9

<sup>459</sup> Charles Michel face à l'incompréhension de ses pairs - *Le Soir* - 22 Oct. 2016 - Page 3

<sup>460</sup> Magnette intraitable avec le traité Ceta... - *Le Soir* - 06 Oct. 2016 - Page 13

<sup>461</sup> Ceta : comment amadouer les Wallons ? - *Le Soir* - 07 Oct. 2016 - Page 12 ; La Commission échoue à faire plier les Wallons sur le Ceta - *L'Echo* - 07 Oct. 2016 - Page 8

politics, while L'Echo became far more critical.

**Le Soir** frequently praised the work of the parliament (and the trade committee's chairman, André Antoine, and defended Wallonia's democratic right to come to its own position in the Belgian federation, while speaking dismissively about the threats and ultimatums sent out by EU actors<sup>462</sup>. In a reconstruction of the run-up to the '*CETA saga*', Le Soir also argued that the Commission must have been '*deaf*' not to have heard the Walloon complaints before October 2016. It showed that Wallonia had been very clear about its doubts and even its intention to veto the accord (unless changes were made) for a very long time, and that it had tried to communicate this to the Commission and the federal level<sup>463</sup>. On the substance they remained more neutral, although they offered ample space for critics; they also qualified the economic stake for Wallonia ('*0,31 % of all Walloon exports!*') and the EU in several articles, for example calling into doubt the Commission's claim that the FTAs would lift Europe out of the crisis; a piece with quotes from AWEX and the UWE about the benefits for specific firms was headlined '*Le commerce continuera... plus ou moins facilement*'<sup>464</sup>.

**Le Soir's portraits of Mignette** and his motivations were also very positive (and their treatment of the MR more negative)<sup>465</sup>, as well as their overall treatment of the Walloon blockage: '*Paul Mignette n'a pas fait mystère des pressions et même « des menaces à peine voilées » auxquelles la Wallonie est soumise. Mais c'est au nom des principes que la Région s'avère intransigeante : la démocratie mise à l'honneur au cours de nombreuses heures de débats parlementaires et le respect des attentes de la société civile dans un monde où la rupture entre les citoyens et la politique est largement consommée*'<sup>466</sup>. Their portrayal of cdH focused on its defense of agriculture and SMEs, but also on how it had been sliding in the polls and clearly needed a fight like CETA to raise its profile<sup>467</sup>. However, in a later editorial Le Soir repeated explicitly that they did not believe that cdH and the PS would have entered this fight just to scrape off a few percentage points from the PTB in the polls. Their doubts were seen as, while perhaps not necessarily '*correct*', but fundamentally '*sincere*'<sup>468</sup>. This sympathetic assessment included Ecolo, which was given space to discuss its reasons for opposing CETA and whose understated role in raising the issue was praised; an Ecolo MP was called '*le Cyrano de Bergerac de CETA*'.

**In contrast, from September on L'Echo became more skeptical of the Walloon position.** Calling the Walloon veto a '*poison*' in an editorial, it argued that CETA

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<sup>462</sup>Une question, une leçon, un dilemme - Le Soir - 15 Oct. 2016 - Page 1 ; « Démocrate engagé et optimiste lucide » - Le Soir - 25 Jul. 2016 - Page 6; Traité Ceta : une certaine logique fédérale - Le Soir - 14 Oct. 2016 - Page 1 ; Une question, une leçon, un dilemme - Le Soir - 15 Oct. 2016 - Page 1

<sup>463</sup> L'Europe devait être sourde pour ne pas entendre les alertes lancées par les Wallons - Le Soir - 25 Oct. 2016 - Page 2

<sup>464</sup> Le commerce continuera... plus ou moins facilement ; Le Soir - 15 Oct. 2016 - Page 4 ; « La Terre continue de tourner ! » ; Le Soir - 25 Oct. 2016 - Page 4 ; A propos du Ceta : commerce international et croissance - Le Soir - 25 Oct. 2016 - Page

<sup>465</sup> Paul Mignette, enfin taille patron - Le Soir - 18 Oct. 2016 - Page 8 ; « Du temps pour un accord démocratique de qualité » - Le Soir - 19 Oct. 2016 - Page 12

<sup>466</sup> Didier Reynders peut ranger son stylo - Le Soir - 19 Oct. 2016 - Page 1 ; Ceta« Au fond, il y va de la souveraineté nationale »

<sup>467</sup> Voilà le CDH à la pointe du combat anti-Ceta - Le Soir - 22 Oct. 2016 - Page 4

<sup>468</sup> Un doute sincère - Le Soir - 22 Oct. 2016 - Page 5

wasn't the caricature its opponents made it out to be; it presented real benefits for the EU economy and a reformed system of investment-state arbitrage ('the result of civil society pressure'). Wallonia was about to be isolated profoundly in Belgium and the EU, they maintained. In later pieces they remained critical, for example about Wallonia's 'nonsensical' demand for including Belgian GIs<sup>469</sup>. **They gave** space to civil society to respond, but also to 'exasperated' business (such as the UWE: '*L'attitude de la Région est incompréhensible. La Wallonie a absolument besoin d'exporter pour se maintenir*'<sup>470</sup>), to sources from the Commission which defended the treaty and the way it was negotiated<sup>471</sup>, and to other proponents of CETA, whose arguments were usually centered on the damage being caused to Belgium's international standing and on the damage to European potency in negotiating trade deals, as well as on the general benefits of trade<sup>472</sup>.

Furthermore, L'Echo was more wary of the politics of the Walloon government: it portrayed the veto as a shrewd move by the PS, an act of self-defense against the rise of the PTB with the added benefit of sabotaging the federal government, but also as a dangerous manoeuvre that would scare away investors<sup>473</sup>. They were also more critical about how democratic the decision was ('*moins d'un centième de la population de l'Union*')<sup>474</sup>.

Of course, not everything they published was partisan and most of their articles were neutral reports of events. Both papers also allowed for commentary with a view contradicting theirs. L'Echo published a letter by a group of MEPs titled '*why CETA is a bad deal for Europe*'<sup>475</sup>, and Le Soir made space for a commentary that called for the rapid conclusions of the FTAs with Canada, the US and Japan (otherwise other powers would determine the global economic system), as well as an interview with Reynders in which he spoke about Belgium's isolation and the lack of understanding by its European partners, and an interview with a political scientist which called the Walloon a 'symptom' of a larger extremist, anti-globalization movement, and which said the FTAs were necessary because else China would be setting the global stage<sup>476</sup>.

This detailed reporting by the papers continued during the final two weeks of the 'CETA saga'. A lot of attention went to the international pressure and bargaining, but also to the intra-Belgian coordination<sup>477</sup> and the peculiar stretching of the constitutional bounds of the Belgian system when Wallonia actually started negotiating directly with the Commission and Canada<sup>478</sup>. Both papers wrote in a very

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<sup>469</sup> Et le fromage de Herve? - L'Echo - 14 Oct. 2016 - Page 2

<sup>470</sup> "Le PS fait du mal à la Wallonie" - L'Echo - 30 Sep. 2016 - Page 7 ; L'UWE fustige les positions extrêmes du monde politique - L'Echo - 05 Oct. 2016 - Page 6

<sup>471</sup> "Les négociations du Ceta auraient pu être plus transparentes" - L'Echo - 21 Sep. 2016 - Page 8

<sup>472</sup> Rejeter le Ceta revient à miner notre prospérité - L'Echo - 19 Oct. 2016 - Page 12 ; Johan Van Overtveldt (N-VA) "Nous n'avons pas besoin d'une taxe symbolique de plus" - L'Echo - 22 Oct. 2016 - Page 4

<sup>473</sup> La Wallonie confirme son veto au Ceta mais laisse la porte entrouverte - L'Echo - 15 Oct. 2016 - Page 6 ; Quand le PS wallon "déclare la guerre" à l'ordre économique mondial - L'Echo - 15 Oct. 2016 - Page 6

<sup>474</sup> Le traité bloqué dans les méandres du fédéralisme belge - L'Echo - 15 Oct. 2016 - Page 6

<sup>475</sup> Pourquoi le Ceta n'est pas un bon accord pour l'Europe - L'Echo - 15 Oct. 2016 - Page 21

<sup>476</sup> Il faut conclure rapidement les négociations commerciales - Le Soir - 17 Oct. 2016 - Page 14 ; UE Reynders : « La plupart de mes collègues ne comprennent pas » - Le Soir - 19 Oct. 2016 - Page 12 ; « Plus il y a de régulation, plus il faut de légitimité démocratique » - Le Soir - 20 Oct. 2016 - Page 14

<sup>477</sup> Crise de nerfs en attendant les Wallons - Le Soir - 21 Oct. 2016 - Page 2

<sup>478</sup> Magnette-Freeland : qui a invité qui ? - Le Soir - 22 Oct. 2016 - Page

critical tone about the Flemish liberal's (and VOKA's) plea that the federal level should ratify *'anyway'*, unconstitutionally ignoring the Walloon position (a move that was not supported by the Flemish liberals' partners or the MR)<sup>479</sup>. *Le Soir* discussed the parliament's fears that Magnette would give in too easily, and how the parliament was trying to put pressure on him so that he would present his result to them before agreeing: *'André Antoine (CDH) n'a jamais cessé de veiller au grain : « J'ai fait passer un message clair au ministre-président, expliquait-il en fin de journée. Il n'y a pas de décision possible sans l'aval du parlement'*<sup>480</sup>. More generally, they emphasized the important role played by cdH in pushing Magnette towards holding his line<sup>481</sup>, which were supported by Ecolo<sup>482</sup> and civil society's continued pressure through various actions and mobilizations<sup>483</sup>.

The papers' more or less explicit positions on the ordeal remained unchanged, while the debate between pro-and opponents continued in commentaries, daily reporting, and editorials. *Le Soir* continued to praised the analytical work that had been invested by the parliament, and often pointed out the vast contingent of civil society that was opposed to the treaty<sup>484</sup>. It regularly emphasized the MR's isolation in Wallonia, and the difficulties this was creating for the party<sup>485</sup>, while publishing new critical commentaries<sup>486</sup> as well as a long piece about the 'forgotten' deficit of CETA in the protection of cultural services<sup>487</sup>. *L'Echo* on the other hand, collected comments from entrepreneurs, and published a piece by the prime ministers's cabinet's chief of economics (which repeated the same criticisms: isolation was bad for the image of Wallonia, if not a deal with Canada then with who?, CETA is a good progressive agreement, the PS is just riled up by the polls). On Wallonia's 'democratic right' to have a veto it commented that: *'Si le veto wallon est légitime, ce droit ne naît que de l'absurde architecture institutionnelle belge [...] Bref, légal mais pas nécessairement des plus "démocratiques"'*; its view of the PS' motivations remained dim and opportunistic<sup>488</sup>. Wallonia's apparent belief that renegotiating CETA was possible was called *'false'*, and their overall position met with snark: *'L'hypothèse est d'autant plus improbable que les francophones belges sont isolés sur cette question et que leurs demandes sont parfois fantaisistes'*<sup>489</sup>. However, again this picture was not black and white: *L'Echo's* fact-checking analyses of the claims of the critics were quite nuanced, and they also published pieces by critics such as the UCM.

When a deal was finally struck, *Le Soir's* positive evaluation of the whole episode and of the final accord was positive: *'les Wallons peuvent se vanter d'avoir changé l'Histoire. Ils ont défendu des normes et des standards internationaux qui feront jurisprudence. La victoire s'appréciera dans l'évolution des rapports avec l'Europe et dans*

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<sup>479</sup> La majorité flamande se déchaîne, le VLD veut passer en force au Sénat - *Le Soir* - 22 Oct. 2016 - Page 3

<sup>480</sup> La Wallonie au bout de sa logique : le Ceta ne passe pas - *Le Soir* - 21 Oct. 2016 - Page 2

<sup>481</sup> La semaine où est né "Monsieur Non" - *L'Echo* - 22 Oct. 2016 - Page 10

<sup>482</sup> Dupriez à Magnette : « Ne cédon pas ! » - *Le Soir* - 24 Oct. 2016 - Page 4

<sup>483</sup> Soutien anti-Ceta pour le Parlement wallon - *Le Soir* - 25 Oct. 2016 - Page 23 ; Le soutien citoyen se manifeste - *Le Soir* - 25 Oct. 2016 - Page 2 ; Rassemblement ou apéro ? - *Le Soir* - 27 Oct. 2016 - Page 3

<sup>484</sup> La Commission échoue à faire plier les Wallons sur le Ceta - *L'Echo* - 07 Oct. 2016 - Page 8

<sup>485</sup> Le MR, plus isolé que jamais sur la scène francophone - *Le Soir* - 26 Oct. 2016 - Page 4

<sup>486</sup> Les accords commerciaux peuvent nuire à la santé - *Le Soir* - 26 Oct. 2016 - Page 23

<sup>487</sup> L'exception culturelle zappée par le Ceta - *Le Soir* - 27 Oct. 2016 - Page 35

<sup>488</sup> Une victoire aux confins de la démocratie - *L'Echo* - 22 Oct. 2016 - Page 2

<sup>489</sup> Les démons wallons du Ceta démontés - *L'Echo* - 13 Oct. 2016 - Page 7



*l'impact du Ceta sur les traités à venir [...] <sup>490</sup>... L'Echo was more skeptical: 'finalement, avec quelque recul, cette affaire a davantage des airs de "much ado about nothing", avec retards en prime, que de grande victoire démocratique'<sup>491</sup>.*

### **In summary**

In the **Belgian Francophone press**, reporting about CETA became more and more intense from 2015 on; there were many pieces about the contents of the FTAs as well as their day-to-day politics, and numerous interviews with the main executive actors (notably Maignette). Initially, the tone about the critics of CETA was neutral or positive in both papers. By October 2016, *Le Soir's* reporting became more openly supportive for Maignette while *L'Echo* turned far more critical. In general, although there was a lot of reporting about the internal politics of Wallonia's resistance, there was (compared to Flanders) less criticism of how the PS had supposedly ignored the deal for years before suddenly rejecting it, less (or at least more nuanced) allegations of electoral opportunism, and more emphasis on the work that the parliament had invested in analyzing the treaty. Apart from plenty of politicians (initially particularly an INTA MEP from the PS), there was a large amount of attention for civil society, which was also given much space to publish their own commentaries and quotes. Business was relatively absent, although they were more present in October 2016- especially in *L'Echo*. However, here too the dissenting voice of the UCM was given plenty of attention.

The coverage by the **Flemish press** started later (mostly in 2016, even later in case of *Het Laatste Nieuws*), was less detailed about the politics as well as the substance of the deal, and was considerably more negative about both the critics of CETA as well as Wallonia's blockage. The deal was portrayed as promising strong economic benefits for the Flemish economy through boosted exports, and as having important geostrategic repercussions because it would fortify the North-Atlantic links in face of a rising China - setting 'global standards'. The quoted actors were mostly government voices, notably minister-president Bourgeois from the N-VA and the employers' federations. Civil society was far less present in the day-to-day reporting and commentaries, and their arguments were always countered with opposing views (which was not true vice versa). Wallonia's demands were portrayed as unreasonable, as threatening not only the direct (Flemish) gains of the deal but also irrecoverable damage to Belgium's and the EU's international reputation. The papers argued that it was motivated largely by electoral calculation: the PS was being haunted by a soaring PTB. Only *De Standaard* shifted tone somewhat in the final weeks of October, becoming more sympathetic to the arguments (though not necessarily the motivations) of the critics.

### *b.b. Outside access point 2: the public*

The third 'channel' through which the campaign could communicate with policy-makers was by mobilizing the public and altering (or catalyzing) public opinion.

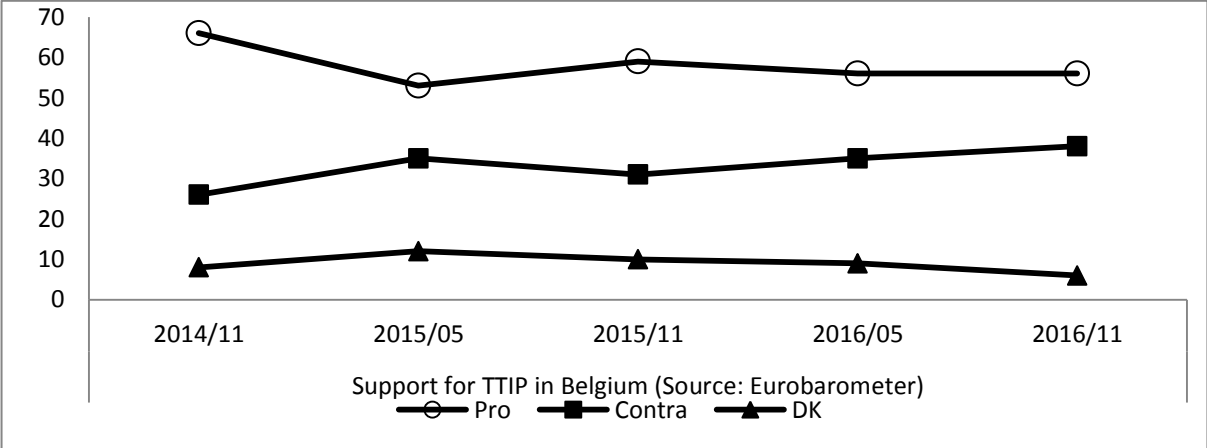
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<sup>490</sup> Un avant et un après-Ceta - *Le Soir* - 28 Oct. 2016 - Page 1 ; Evaluation - *Le Soir* - 28 Oct. 2016 - Page 2 ; *Le Ceta est intact, mais le combat wallon n'a pas été vain* - *Le Soir* - 28 Oct. 2016 - Page 2

<sup>491</sup> *Saint-Paul de Charleroi* - *L'Echo* - 28 Oct. 2016 - Page 2 ; Maignette, super-héros tant attendu par le parti socialiste - *L'Echo* - 28 Oct. 2016 - Page 2

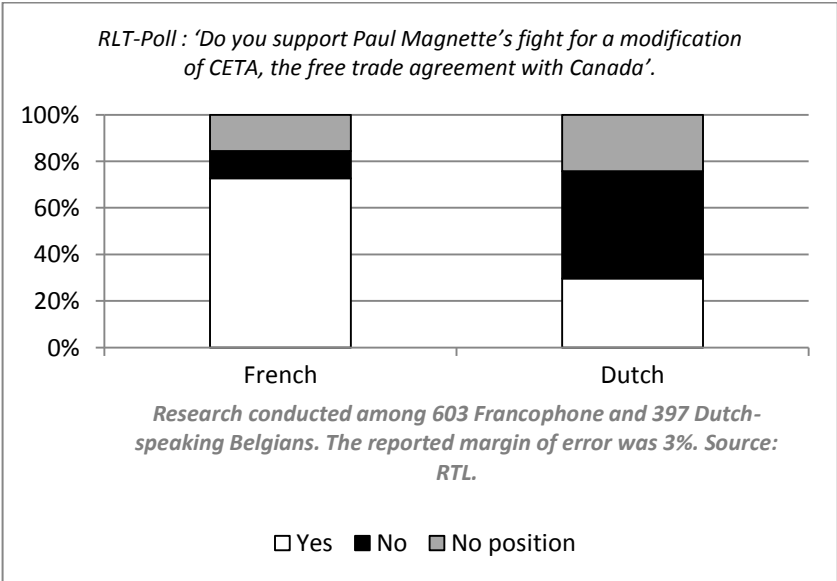
Of course, data on this subject is scarce, even more so when it comes to CETA. One source we can use are the Eurobarometer surveys on TTIP, conducted by the European Commission. These have their drawbacks, however, as they don't distinguish between Flanders and Wallonia for example, and TTIP may not be a perfect proxy for CETA, but they're the only time series available, and I would be surprised to find that these dossiers were not intimately linked in the public's eye.

The data show that support for TTIP fell by over 10 percentage points between 2014 and 2015, after which it stabilized around 55%. The opposition increased throughout 2014 and 2015, reaching a peak of 40% in November 2016.

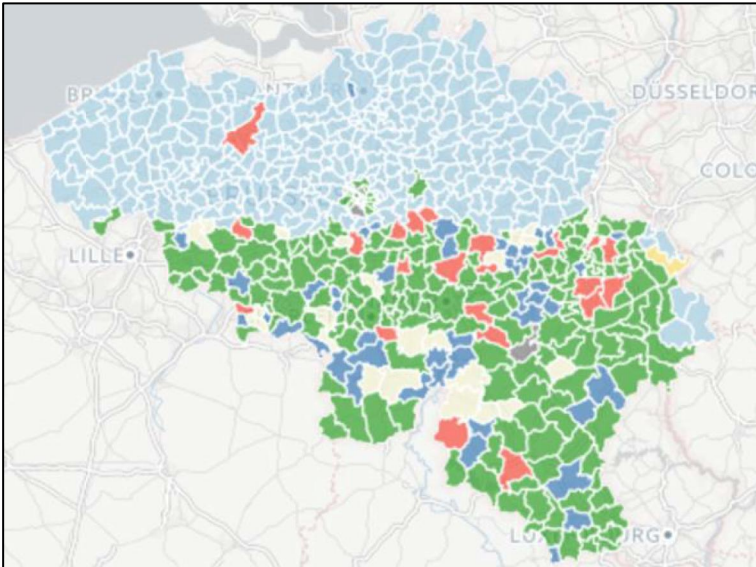


According to a poll ordered by RTL (Wallonia's commercial TV news) and conducted by iVOX in October 2016, 72% of French speaking Belgians, but only 30% of Flemish respondents, answered 'yes' to the following question: 'Do you support Paul Magnette's fight for a modification of CETA, the free trade agreement with Canada'.

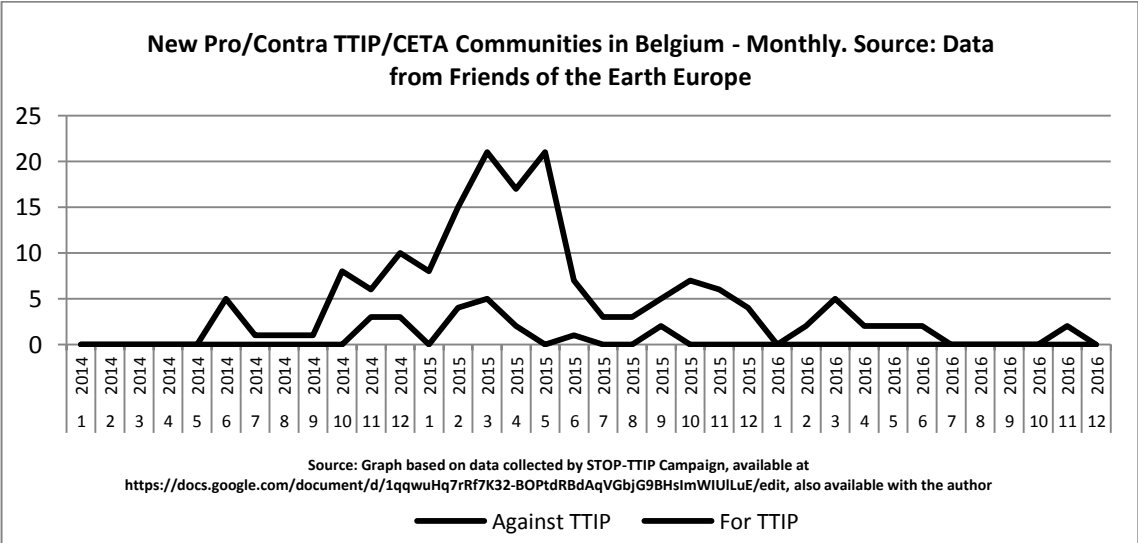
Although I have in this research no way to decisively attribute these developing survey data to the CSO campaign, it seems quit sensible that they were indeed linked. In any case, they demonstrate that public support for modifying CETA (although RLT's question does not tell us how far this went) was quite substantial in the southern part of the country, while it remained lackluster in the north. Opposition to Magnette was only at 11% in Wallonia, but at 46% in Flanders.



Another indication of the political efficacy of CS's activity is the mushrooming of municipalities that declared themselves 'TTIP/CETA-free'. According to data collected by the Stop-TTIP Campaign, by November 2016, 183 communities had accepted motions against TTIP and 57 had declared themselves 'hors TTIP'. This accounted for 70% (183/262) of all Walloon communities, which together covered 32% of the Belgian population. 23 communities had expressly supported TTIP, or had taken in an official position that was not clearly against the treaty (like Ghent). Both pro and contra TTIP communities were almost completely absent in Flanders, however. In 2016, the situation looked as follows:



The communities in green show the 183 communities that had either agreed on resolutions opposing TTIP, or that had declared themselves TTIP/CETA-free (57) in November 2016. The red communities (23) agreed on resolutions that declared themselves either pro TTIP, or that announced that they were not going to take in any clear position (such as Ghent's declaration on the matter). The dark blue communities were still assessing the matter, the white and light blue communities had not touched on the subject yet, or had not brought out any info<sup>492</sup>.



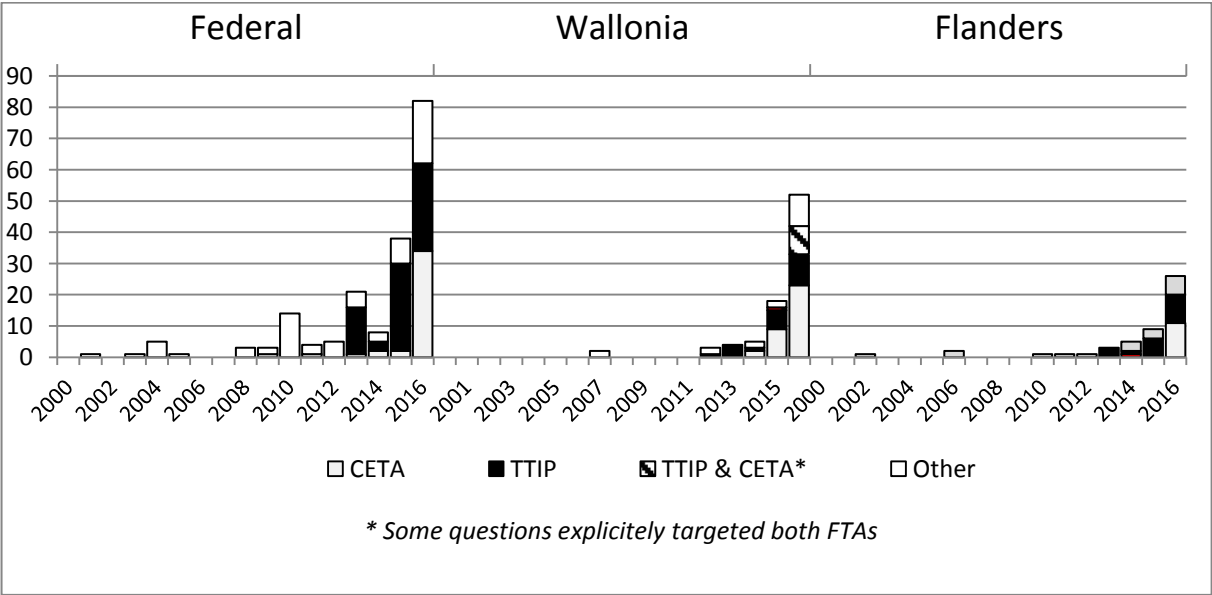
<sup>492</sup> Source: Map created by the STOP-TTIP Campaign, available at <https://docs.google.com/document/d/1qqwuHq7rRf7K32-BOPtdRBdAqVGbjG9BHsimWIULuE/edit>

Finally, some other indicators include the success of surveys, newsletters and protests. According to Bruno Poncelet from No Transat during a parliamentary hearing, their platform had gather 3000 signatories between 2011 and 2014. By 2016, this had increased to over 53 000. Another example were the Belgian contributions to the TTIP/CETA ECI that was launched in October 2014; as in a couple of other countries, Belgium overshoot its quorum (needed for the ECI to make it) by 4 times garnering 62732 signatures (instead of the necessary 15750) in one year<sup>493</sup>. Finally, as was acknowledged by some of the campaigners, the street protests were quite visible (e.g. the use of the Trojan Horse) but still remained modest. The biggest march gathered about 15000 people in Brussels, on September 22, 2016.

Finally, the amount of civil society groups involved in the campaign, especially in Wallonia, was in itself a proxy for the public’s mobilization on the issue. As Poncelet argued, they had gathered so many societal forces that ‘it was very, very, very difficult for the political apparatus to not, at the minimum, hear out what we had to say’. According to him, this eventually led to a start-up of parliamentary debates, and to increasingly critical positions within the political parties (Interview - No Transat, 2017).

*b.c. Outside access point 3: the parliament*

In the introductory chapter, I demonstrated that the attention for trade issues in the Belgian parliaments has generally remained very modest. In this section, I investigated to what extent the CSOs were able to turn this around, and to what extent they were able to use Belgium’s chambers as bullhorns for their demands.

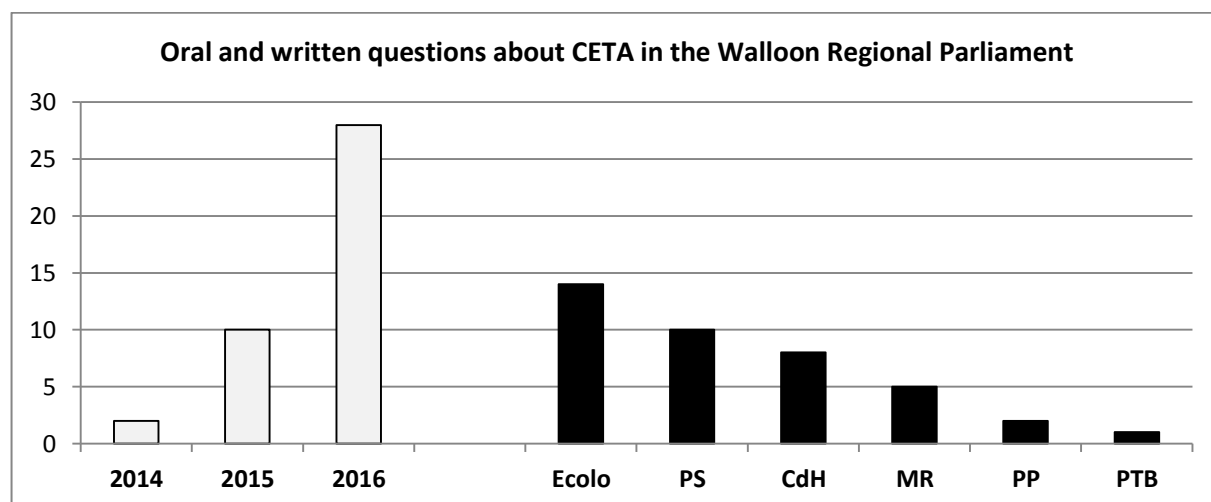


I have analyzed and summarized the federal, Flemish and Walloon parliamentary debates on CETA. However, because this is simply too much text to include here, I will only present the summaries of each chamber’s discussions, before analyzing the role of CSO campaigning in each parliamentary arena. The full parliamentary analyses can be found in the annex to this mechanism.

<sup>493</sup> In fact, according to the website of 11.11.11., in January 2015 the Belgian quorum had not yet been met- the NGO called on Belgium to catch up with the rest. So another 50 000 autographs were added in about 6 months. Source: <http://www.11.be/component/zoo/item/burgerinitiatief-tegen-omstreden-handelsakkoorden-met-vs-en-canada-bezorg-belgie-het-vereiste-quorum>

## Wallonia's Regional Parliament

In Wallonia, after a near-total lack of attention for the treaty throughout the negotiations, an intense parliamentary process kicked off after 2014. First as an issue that was trailing TTIP, but especially from 2015 on increasingly also as a stand-alone dossier. CETA underwent a highly unusual amount of parliamentary attention: dozens of hearings with experts and civil society, a string of committee and plenary debates, and ultimately two (at least seemingly) influential resolutions. The debates were heavily dominated by the opponents of the deal (cdH, Ecolo, the PS), with the MR as the treaty's sole supporter. It must be noted however that cdH became a fiercer opponent of CETA in 2016, while before it had tried to qualify the mixing of CETA with TTIP. The PS was quite critical very early on in the process, but postponed (along with cdH) a resolution calling for the government's open opposition to the treaty (see below) in 2015. However, even in 2015, both of these parties' MPs had expressed the position that CETA would be unacceptable as long as it included ISDS. By 2016 the last traces of reticence had dissolved, and they supported the highly critical resolution of April 2016, which called on the government to use its intra-Belgian veto.



It's clear that there was a lot of overlap between the parliamentary criticisms of CETA, and the claims made by the deal's societal opponents - the UCM and the farmers, but especially the trade unions, the health funds and the CNCD. These were also well represented in the committee's hearings, and their role was praised almost as a mantra: again and again, the progressive MPs referred to, quoted from, and rejoiced about the CSOs' campaign. At least rhetorically, it appeared as if these MPs were driven by the near-univocal pressure of their citizenry. In terms of substance, the MPs' arguments focused on the dangers of ISDS for democracy and the right to regulate (notably through its role as a 'Trojan Horse' for US multinationals), on the threat posed to public services by negative listing, on the effects for European agriculture, and on the lack of truly enforceable sustainable development (labor, environment) provisions. There was also occasional criticism of CETA's effects on growth and employment, and its detrimental influence on health and food standards.

Can we attribute this sudden and strong shift in parliamentary attention, and the seemingly domineering presence of civil society's campaign to the CSO campaign?

First of all, the general lack of Walloon parliamentary attention for trade (excluding export promotion) before TTIP and CETA was confirmed both by interviews and by the quantitative data we collected. According to No Transat, in 2013, the PS was generally in favor of TTIP (although there was more and growing opposition among its members), as were the cdH and certainly the MR. Ecolo was a little vague on its positioning (but became a fervent opponent over the course of 2013), while the PTB was clearly against TTIP (Interview - No Transat, 2017). We can safely assume that this also summarizes the positions the parties would have taken on CETA, if pressed.

The organizers of the campaign were confident that they had played an important role in changing this state of affairs (Interview -11.11.11. (2), 2016; Interview - CNCD, 2017).

With regional, European, and Belgian **elections coming up in 2014**, CNCD included TTIP in its usual pre-election work: they sent around questionnaires as well as memoranda with lists of demands for the elections to all the political parties, and (together with D19-20 and the other actors associated with the campaign at this early stage) they organized events for politicians and the public at the local level where they questioned candidates on a variety of topics; in which they always included questions and remarks about TTIP, CETA and ISDS. This eventually turned it into a topic that just kept on turning up for the politicians, and their efforts were successful. They were invited at the PS to discuss with them some wording in the program related to trade, and the PS' election program finally did indeed include some quite strong language related to investment arbitration, which referred explicitly to the transatlantic treaty (Interview - CNCD, 2017)<sup>494</sup>.

**After the election**, they calculated that the political winds were in their favor: when it became clear that the PS and cdH would be in the regional but not the federal government, pushing Wallonia to reject CETA seemed like it had become a feasible objective. While the negotiations for the government declaration were ongoing, CNCD got in touch with some of the people they knew were around the table. Using the language from the programs as leverage (as well as some of the already critical trade-related (but not TTIP or CETA related) points from the 2009 government declaration), they managed to get a lot of their desired, critical language through (Interview - CNCD, 2017). According to CNCD, this government declaration (see the decision-makers' mechanism for a discussion), then also helped with kick starting the **parliamentary work on the FTAs**: the parliament launched a series of hearings on the dossiers, which eventually led to a resolution on TTIP in May 2015. Soon after, so the CNCD claims, they successfully pushed the parliament to now focus its attention on CETA, by taking the red lines they themselves had outlined in the TTIP resolution, and then showing how CETA was incompatible with them (Interview - CNCD, 2017).

Interviewees (and MPs in the parliamentary debates and in the press) acknowledged the role played by civil society in kick starting this process. An MP from Ecolo, for example, claims that it was civil society organizing which had led them to ask the

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<sup>494</sup> They speculated that the salience of trade during the campaign may have also played a role in the choice of Marie Arena, elected MEP for the PS, for the EP's parliamentary committee on trade affairs, INTA. As we saw in the press review, Arena was an important source of TTIP and CETA related information for the press; it appears she was also an important source for the MPs from her own party.

Walloon committee on European affairs to investigate TTIP in September 2014. Shortly thereafter, in December 2014, No Transat (and probably other civil society organizations, our source had just met No Transat) warned Ecolo that they were forgetting about CETA. So they helped guide this work of auditions, questions, resolutions towards this treaty as well. *'Donc un processus, très, très participatif, très démocratique, il y avait beaucoup, beaucoup d'auditions et une analyse du dossier'* (Interview - MP (Ecolo-Wallonia), 2016)<sup>495</sup>

**On 26 May 2015** the Walloon parliament proposed a resolution in concern to CETA. The draft resolution's wording was strong, calling CETA a *'Trojan horse'* and opposing the deal as it stood, language which became even sharper and more detailed in the final version. It explicitly mentioned the May 4<sup>th</sup> Coalition in its *'background'* section, and the authors underlined their agreement with the coalition's stance: *'Le 4 mai 2015, une coalition unique d'organisations syndicales, mutualités, organisation de consommateurs, associations de défense de l'environnement et ONG de solidarité internationale s'est mobilisée à ce sujet en demandant un geste politique clair marquant une opposition nette à l'AECC'*<sup>496</sup>.

According to CNCD, after this resolution, they continued to put pressure on the parliament. Around the beginning of 2016, the struggle was to further sharpen the resolution, so that it would include an explicit line stating that *'the parliament asks the Walloon government to refuse the delegation of power to sign CETA'*. According to CNCD, for a long while the PS-in-parliament was barred by Maignette's cabinet to let this sentence through. Then at one point this embargo was lifted, which they believe was due to new discussions inside the PS's top (not because of any autonomous initiatives by the parliament) and a highly critical resolution was adopted (Interview - CNCD, 2017). This of course raises the question to which extent we can really analyze the process in the parliament as separate from the executive inside lobbying.

It nonetheless appears that the parliament had also taken on a dynamic of its own. According to an MP from the PS, the debate in Wallonia was remarkable because MPs really took charge in the debate, bolstered by the amount of public attention, and that the parliament was therefore able to also enter into a dialogue with the Walloon government, which could then present their demands to the federal level (Interview - MP (PS - Federal), 2016). There must have also been a certain amount of path dependency at place here, and the government had no control over the party that drove the debate with very critical positions and the biggest proportion of the interventions: Ecolo.

In any case, eventually this led to the **Walloon resolution on CETA on April 26<sup>th</sup> 2016**<sup>497</sup>. This text called on the Walloon government to do several things. First, it needed to demand that Belgium requested a legal advice from the CJEU, in regards to

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<sup>495</sup> In the parliament of the FWB, the same process took place but a little slower and later, and somewhat less intensive (Interview - MP (Ecolo-Wallonia), 2016).

<sup>496</sup> The resolution demanded that the Walloon government relayed three things to the federal government : (i) it needed to warn the federal level of the dangers of ISDS in CETA; (ii) the federal government needed to demand, at the EU level, that the agreement would be treated as *'mixed'*; (iii) that the federal government resisted the provisional application of the treaty, until all national parliamentary procedures had been completed. 212 (2014-2015) – N° 1 - PROPOSITION DE RÉOLUTION - sur l'Accord économique et commercial global (AECC) - 26 Mai 2015.

<sup>497</sup> RES 212 (2014-2015) – N° 5 - RÉOLUTION sur l'Accord économique et commercial global (AECC)

CETA's compatibility with European law. Secondly, Belgium needed to support CETA's 'mixity' in the Council, had to oppose provisional application, and needed to give priority to state-state dispute settlement. Thirdly, the Walloon executive was asked to deny the federal government the power to sign the agreement. Finally, the government was asked to work with the European institutions, in order to ensure that all trade agreements provided for the following elements: the inclusion and strengthening of social/environmental/human rights' norms, the use of 'positive listing', the explicit exclusion of public services, a clause enforcing UNESCO's convention on cultural diversity, a chapter dedicated to SMEs, and a strong 'agricultural exception' allowing for agricultural safeguard measures. It also called for opening up treaties to other participants, so that they may one day become part of the WTO. As in many other parliamentary and government declarations on the subject, the document was also keen on stipulating that Wallonia was not opposed to free trade or investment - as long as certain red lines were not crossed.

In the parliamentary debate preceding the resolution's adoption (44 votes in favor, 22 against), minister-president Magnette supported its substance and also hailed the intensity and quality of the parliaments' deliberations. Like many of the resolution's supporters before him, he also mentioned the important role played by a broad set of societal opponents to the deal, including consumer organizations, NGOs, SMEs' representatives, trade unions, farmers, and others. The region was now officially opposed to the deal's ratification unless substantial changes were made.

On **14 October 2016**, the Walloon parliament again confirmed its resistance against CETA. The parties' arguments largely echoed the language from April's resolution, and were again met by Magnette's approval. The interpretative declaration did not suffice, and according to their own analysis was not legally binding. Magnette promised not to sign the deal unless the parliament's demands were met. Responding to fears that Wallonia was isolating itself on the European stage, he orated *'Être isolés de sa propre population, être isolés de ses propres citoyens, à une époque, au début du XXI<sup>e</sup> siècle, où la démocratie est déjà tellement profondément en crise, ce serait au moins aussi grave que d'être diplomatiquement isolés'*.

This triggered an (already looming) intra-Belgian as well as a European crisis, since it meant that Belgium would not be able to sign the treaty. The subsequent tug-of-war is further discussed in the mechanism on decision-makers' preferences.

## **Federal Parliament**

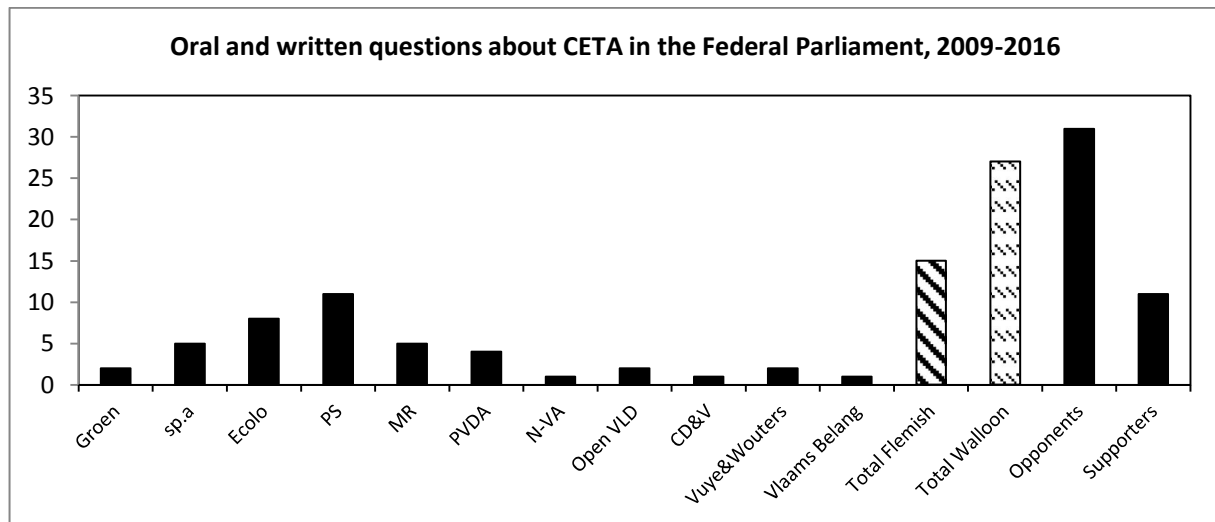
In De Kamer, there was very little attention for CETA during the negotiations. Again, this increased throughout 2015 and 2016<sup>498</sup>. However, all in all, the amount of MPs (and parties) asking questions and participating in the debates remained limited to a handful. There were no auditions or approved resolutions, nor full plenary sessions

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<sup>498</sup> Asked for the percentage of their time spent on trade (in 2016, so after TTIP and CETA became relatively big issues), some of the interviewed MPs also estimated this was still at most 5%, although it had been even less in the past. Moreover, they had very little institutional support (for example research desks, assistants), making them dependent on the expertise (and agenda-setting) of outside players such as NGOs (Interview - MP (Groen-Federal), 2016; Interview - MP (sp.a - Federal), 2016), or international institutions like the OECD (Interview - MP (MR-Federal), 2016)



devoted to the issue. Most activity was initiated by Ecolo and the PS<sup>499</sup>, MPs from the majority seldom intervened or responded until late 2016<sup>500</sup>. The opponents of CETA used arguments that were very similar to the ones made in the Walloon parliament (and, thus, to the issues raised by civil society), underscoring in particular CETA's threats to democracy, public services, policy space, public health and food safety. ISDS/ICS seems to have been the most controversial element of the accord.



The MP that was most active on trade in the federal Chamber, Gwenaëlle Grovonius from the PS, claimed that she had been pointed towards the FTAs, a little before and during the election campaign of 2014, by organizations and citizens - often from the trade unions. This continued after the elections, with more and more meetings and debates to which she was invited featuring TTIP and ISDS; more and more people from civil society got involved, sending mailings to MPs with demands about the topic. They did not speak about CETA at the time, this came later. She expressed surprise at the amount of public attention and the intensity of the campaign on this technical issue (Interview - MP (PS - Federal), 2016). Two Flemish federal MPs, from Groen and sp.a, also indicated that they had very good links with 11.11.11. Although Groen emphasized that they had analyzed the deals before civil society entered the fray, this was qualified by some of their other statements (and their colleague in the Flemish parliament). The MR's most active MP (on TTIP and CETA), Kattrin Jadin, was also surprised at the societal as well as political attention for the deals, although her assessment was more negative: why were they suddenly making a problem out of a seven year old deal with Canada (a democratic, stable country), while FTAs with a country like Ukraine passed without trouble? The debate was often irrational, emotional, built around symbolic struggles rather than substance, she claimed. She had not been contacted by any of the NGOs, just once by the Christian trade union, something she lamented: it showed how the debate was very one-sided; there wasn't a real, substantial discussion, just symbolic politics. The NGOs probably assumed they couldn't convince her anyway (Interview - MP (MR-Federal), 2016).

As I show in my parliamentary review (see the annex after the final conclusions), the opponents of CETA on countless occasions hailed civil society's work in mobilizing

<sup>499</sup> Although Flemish parties sent out about half the amount of questions compared to Walloon parties, this still underestimates the dominance of the latter in the actual debates. Most of them occurred wholly in French.

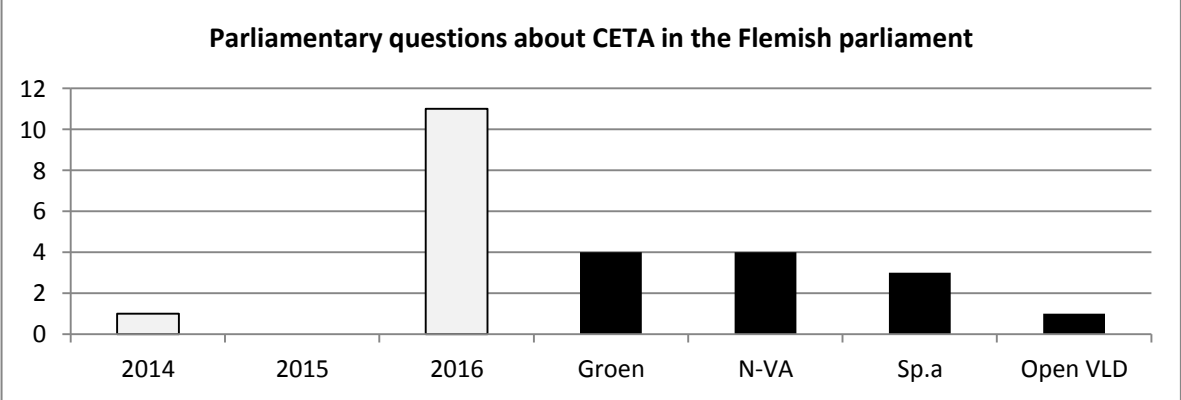
<sup>500</sup> Of course, they were always represented by minister of foreign affairs Reynders, who always responded to (and pushed back against) the questions and criticisms of CETA's opponents.

attention, and relied on arguments that were very similar to those of the campaign. The proponents never cited business' statements, instead they stuck to general comments about the necessity of free trade, the good relations with like-minded-Canada, and the embarrassment of isolation on the international stage. At least superficially then, at the level of discourse, civil society was well represented in De Kamer.

The MP from the MR as well as the PS discussed the FTAs from time to time with their EU and Walloon colleagues, but not very systematically. The same goes for their connections with their Dutch party family members. Their view of the debate in the parliament was, in the end, quite static: there were debates and questions, but everyone more or less stayed in their positions - the responses from the minister were systematically the same as well.

**Flemish Parliament**

Finally, in the **Flemish parliament** Our interviewees again confirmed that the recent attention for trade deals had been quite unusual, and the debate was now far more ideologically charged than before. In the past, discussion had often been limited to the economic missions undertaken by Belgium and the regions; occasionally, someone pointed out some specific sectoral interest that needed more attention in ongoing talks. With the exception of arms' trade, there was seldom any discussions of larger debates in trade (or foreign) policy, which also reflected the lack of real, politically salient cleavages among the parties (Interview - MP (Open Vld - Flemish), 2016).



TTIP and CETA have altered this (lack of) dynamic. TTIP, in particular, has received an above-average amount of attention from the committee: few other dossiers have been discussed not only in multiple debates but also during hearings with academics, stakeholders and EU/US diplomats and politicians. Even MP's from the (left-wing) opposition were pleased (and a little surprised) with the amount of time and space allotted to these deals<sup>501</sup>. Moreover, the debate has become far more high-tempered. Our respondents from the center-right echoed *the Economist's* observation that old left-right cleavages had been cross-cut by an open-closed divide. Substantively, they argued, the Greens and Socialists were now allied with the extreme-right. Our respondents of the left, on the other hand, rejoiced that the 'TINA' doctrine had now been challenged, even though the right-wing majority still tended to unreflexively

<sup>501</sup> Here, the role of committee chair Rik Daems (Open VLD) was hailed: he played an active role in reinvigorated the committee, and in making space for in-depth discussions about trade affairs.

support any proposed trade deal (Interview - MP (Groen-Flemish), 2016; Interview - MP (Open Vld - Flemish), 2016).

An important trigger of this transformation of the debate, all my respondents seemed to agree, had been the growing public awareness of, and mobilization against, the talks with the USA. A broad set of NGOs, consumer organizations, and trade unions had launched an active campaign against TTIP and (to a lesser extent, certainly initially) CETA. They had mobilized in the public sphere, but also reached out to MPs through personal contacts or via e-mail campaigns. Simultaneously, the press had also increased its coverage of the trade deals. This had successfully drawn the parliament's attention. In October 2016 the topic's salience further skyrocketed when a more overt party-political dimension was added to the mix, as Wallonia's PS-led resistance against CETA led to very heated debates in the press and the parliaments. Wallonia's move also meant that CETA now entered the limelight, whereas before most Flemish parliamentary energy had been spent on TTIP. This deal was perceived as the more important (and potentially more menacing) of the two, mirroring the focus on TTIP by civil society's campaigns.

Of course, the predominantly right-wing Flemish parliament was not obliged to be responsive to these (in Flanders all in all modest) actions by civil society. In fact, as in the federal parliament, the MP's indicated that although they had indeed met with several **stakeholders**, these contacts were often rather one-sided: the left-wing parties had spoken more regularly with the various groups mobilizing against the deal, while the latter had spent far less resources on trying to convince business-minded parties like the N-VA or Open VLD.

The MP's themselves cited two additional reasons for the amount of parliamentary action. One is intrinsic to the deals: the nature of these economic treaties has changed. Not only have they moved beyond traditional tariffs, our negotiating partners are now far more powerful players than before. Even proponents of TTIP and CETA acknowledged that their economic effects could hardly be compared with the old deals with developing countries, and their economically and politically insignificant counterweights vis-à-vis the EU's dominance, and that there was now more cause for vigilance (Interview - MP (N-VA - Flemish), 2016). Another reason that these debates have received ample attention in the Flemish parliament has to do with an intra-parliamentary development: the rejuvenation of the **commission for EU affairs** under chairman Rik Daems, and the latter's willingness (even eagerness, since the topics interested him as well) to make room for in-depth debates on foreign economic policy. This allowed the committee members to build the requisite expertise, which in turn stimulated discussions (Interview - MP (Groen-Flemish), 2016).

However, somewhat contrary to the claims of the MPs (which were perhaps more focused on TTIP than CETA), my analysis of the questions and debates (see the annex) shows that there was not that much debate of CETA in the Flemish parliament, and what debate there was, was often brief, arguably shallow, and remained in the shadow of TTIP, which was discussed more at length. In fact, there was no activity in the Flemish parliament in regards to CETA until 2014, when there was one written question (about ISDS) and one brief Q&A (about the deal's trade opportunities) in the external affairs committee. Even when the debate got going in

2015, the dynamic was mostly that of a Q&A oriented at minister-president Bourgeois; there were very little lengthy interventions or discussions.

The ruling parties leaned heavily on economic arguments (also referring to letters sent by the employers), and often attacked the deal's opponents for being emotional and irrational. They repeatedly argued that the negotiations had already been closed and that blocking the treaty (in October 2016) would have been an embarrassment for Belgium and Flanders. On the opposing side, there was a recycling of the arguments used by civil society (and by Walloon MPs), with a brief *communautarian* twist when they attacked the majority for denying Wallonia its regional autonomy.

#### *b.d. Inside Channel: the ministries and cabinets*

As was discussed above, the CSOs' early inside work on CETA was quite limited but not non-existent.

First of all, they did discuss CETA within the federal consultative institutions. Meeting documents of the federal council on sustainable development (FRDO) show that the Decent Work coalition (more specifically: CNCD, 11.11.11, and the unions) was debating ISDS and negative lists in 2011, and ISDS (in more detail) in 2013, during the FRDO meetings with trade unions, NGOs, employers and the foreign affairs minister<sup>502</sup>. More informally, they met with foreign affairs in 2011 about the investment mandates that were on the table for Canada, Singapore, and India (Interview - CNCD, 2017). As indicated in the section on their positions, a source from the WBI as well as circumstantial evidence suggested that there had also been meetings with the regions and the ministers of the parties of the left.

However, the campaign of CNCD only really kicked off when TTIP's mandate was being discussed, and their discussions with the region eventually spread to CETA as well (Interview - WBI (2), 2017). A source from a federal ministerial cabinet claims that they didn't have any contacts with any of the CSOs, including the trade unions, during the negotiations (Interview - Cabinet Reynders 12-15, 2017).

When the TTIP negotiations were started in 2013, CNCD re-started their usual lobby work, meeting with the prime minister (then still Di Rupo (PS)) and the vice prime ministers (Interview - CNCD, 2017). During the Di Rupo government, the Decent Work coalition more generally had strong ties with the government through their connections via ABVV and CNCD, which had good access to sp.a and the PS (Interview - ACV, 2016). The NGOs were also received, and '*carefully listened to*', by Wallonia's political authorities. They had meetings about specific problems of the treaties, such as negative lists, public services, ISDS/ICS, and the non-binding sustainable development chapter; their gatherings were always on very specific points, not just about the FTAs in general (Interview - WBI (2), 2017). In 2015, this lobbying was reinforced by the creation of the 4 May coalition. In September 2015, the coalition did a tour of the Belgian governments, meeting with the minister-presidents of Wallonia, Flanders and Brussels, and with the federal minister of economics, Kris Peeters (Interview - CNCD, 2017). Apart from the general mobilization of civil society, there was also more direct pressure from the FGTB and

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<sup>502</sup> Source: FRDO- 7 Februari 2011 - *Questions & Réponses* and FRDO-Kabinet Minister Reynders van 24 oktober 2013. Sent to me in a personal communication.

the socialist health funds, as well as meetings and calls from the Christian trade unions and health funds with ministerial cabinets at all levels. For example, at the federal level the ACV had good relations with the cabinet of Kris Peeters through various networks of the Christian workers' movement (Interview - ABVV, 2016; Interview - ACV, 2016; Interview - Christian Health Fund, 2016b; Interview - No Transat, 2017). For their lobbying, the federalization of the policy '*came in handy: they had six chances [i.e. one for each competent executive] of influencing policy*'. Wallonia would not have been able to vote its resolution and wield influence if decision-making had been more centralized (Interview - ACV, 2016). Test-Aankoop was less involved in this kind of lobbying. At that moment, they had had little contacts at the governmental level, except for one meeting with Bourgeois and Peeters. The health funds and unions had much better contacts with CD&V, PS and sp.a, so Test-Aankoop was less involved in this kind of lobbying (Test-Aankoop -Interview, 2016).

There were also more formal consultations. According to the ABVV, the CSOs met with the minister of foreign affairs about 1-2 times a year, but this was more an exchange of information and not really a substantive discussion. Their relation with foreign affairs was not perfect, as they felt there was no culture of deliberating with the unions; the civil service was used to dealing solely with the employers (Interview - ABVV, 2016). At least once, in the February 2015 meeting in the FRDO, CNCD-11.11.11 and the trade unions brought up the room for 'technical changes' during the legal scrubbing, requesting changes to the investor-state dispute settlement system and questioning its necessity with Canada. They also pointed out the increasing mobilization in the EU and in Belgium, as well as the flood of negative responses to the Commission's consultation on ISDS<sup>503</sup>. A larger 'stakeholder meeting' was also held in Flanders, albeit at a far later stage. On 26 September 2016, the Flemish department of international affairs organized a gathering which included, alongside contributions by academics and business, a presentation of the coalition's standpoint (presented by ACV) (DiV, 2016). I have found no records of any such meetings in Wallonia, but the informal contacts were obviously far more intense at a far earlier stage<sup>504</sup>.

#### *b.e. In summary*

In terms of generating attention, the coalition was successful in mobilizing their membership and parts of the public. They raised the salience of the issue by staging protests, public statements, media campaigns, et cetera, and a review of the press indicates that they were quite successful in getting their message across. Polls moreover showed that their campaign was successful in influencing public opinion, and the coalition of opponents became very broad and encompassing. These outside

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<sup>503</sup> Source: Conseil Fédéral du Développement Durable : Table ronde sur le Commerce international du 19 février 2015. Réponses SPF Affaires étrangères. Sent to me via personal communication.

<sup>504</sup> At the **European level**, dealing directly with the Commission was left to ETUC while they focused on the ('crucial') Council as well as the EP, where they have good and frequent contacts with several (mostly Belgian) members. Though the work in ETUC was sometimes cumbersome (because of the national divides on trade policy), it was still seen as very useful; because of the weight coordinated lobbying carries, but also because it allowed them to pool resources (e.g. it only took one member of their network to become aware of, and analyze, a certain European initiative, in order for them to also become aware and pitch in with lobbying targeting their own, national/EP contacts) (Interview - ACV, 2016). In the consumers' organization, lobbying was somewhat coordinated with BEUC. Test-Aankoop lobbied the Belgian MPs, sometimes alongside BEUC, sometimes alone. They had easy access to the greens, Ecolo, sp.a and the PS, and to the cdH. They had still been trying to meet N-VA and CD&V when we spoke to Test-Aankoop (Interview - Test-Aankoop, 2016).

pressures were put to work to lobby the parliaments, which appears to have been very successful at increasing both the parliamentary awareness of the FTAs, as well as in getting their message to dominate the discussions. However, all of the above only applies to the Francophone press, public and parliament. In Flanders the mobilization remained tepid, and the press coverage as well as parliamentary interest were weaker and generally more opposed to the CSOs' campaign.

The outside strategy was coupled with a continuous, but especially after 2013 very active lobbying campaign, which focused on the Christian democratic and socialist parties and ministers. This campaign mostly took place in Wallonia, but to some extent also at the federal level, and to an even lesser extent in Flanders. Access to the latter two entities was better before the elections of 2014, but across the board the CSOs' access to Belgian decision-making was very good.

#### 10.2.2.5. Did they succeed at influencing policy-makers' positions?

In this final step, I will assess whether the CSOs were influential. Can we plausibly link their positioning, lobbying and campaigning to any of the (shifts in the) Belgian position on CETA?

##### *a. Scope conditions*

Before and during the negotiations, a small group of experts from the development NGOs and the trade unions were working on the FTAs. Although their outside work on CETA remained limited, they launched a successful campaign in a related dossier (the Colombia BIT). Moreover, they had very good inside access, and receptive parties were present in all executives and parliaments (although less CSO-minded parties were part of the coalitions everywhere but in Wallonia). The conditions for influence, therefore, seem to have been moderately good.

From 2013 on they started stepping up both their outside as well as their inside work. They seem to have been very successful at mobilizing the public as well as the press and the parliament. They gathered an increasingly eclectic band of associations, uniting development NGOs, human rights leagues, health funds, farmers, SMEs, et cetera. They garnered both considerable inside as well as outside leverage, while the elections of 2014, and their asymmetric aftermath, offered them a party-political window of opportunity: the PS and cdH formed a regional government without being part of the federal constellation. Especially because the proponents of the treaty, including business, were caught off guard and divided. However, receptive parties were largely lacking at the Flemish as well as the federal levels, meaning the Belgium system was rigged with veto-players. The mobilization also remained far weaker in Flanders. Moreover, the negotiations had already been concluded in the fall of 2014. Therefore, although the conditions were highly favorable for influence over the position of the Francophone executives, this was true to considerably lesser extent when we consider Belgium as a whole.

##### *b. Empirics*

First, let's assess the congruence between their demands and the Belgian positions. For an overview, see the table included after the 'synthesis' of this chapter.

On a wide number of issues, there was either no position (or only one at a far later time) from the CSOs, or one which was dissimilar to that of Belgium. As far as I can tell, their wishes about privacy and data-sharing did not make it into the Belgian position at any time, nor did it call for the removal of ISDS (later ICS), a system whose inclusion Belgium had first supported. It also appears that Belgium did not take in any strong stance regarding IPR in pharmaceuticals. Belgium also didn't request the inclusion of any GIs during the negotiations. I did not find any evidence about the Belgian stance on financial services' liberalization either, but Belgium did not demand an exclusion of financial services from ISDS. The CSOs did not take in any positions, as far as I could tell, concerning a wide host of other issues such as non-agricultural liberalization, IPR, rules of origin, offensive services' interests, and others.

Over the course of the negotiations, Belgium also took a number of positions that were similar to the CSOs' wishes: it tried to fend off negative listing, called for reservations on public, audiovisual, and cultural services, demanded the inclusion of sustainable development and labor provisions, and there are indications that it opted for a more careful position on investment protection and ISDS which was also in line (to some extent) with the demands of the CSOs. Its (deduced) positions on food safety and the precautionary principle were also similar. Then, in October 2016, Belgium (and to some extent Wallonia directly) entered into negotiations with the Commission (and Canada) over the details of the interpretative declaration. Here it seems that there is a strong overlap between the CSOs and the Belgian/Walloon desiderata: both demanded a removal of ISDS, stronger agricultural safeguards and GIs, stronger protections for public services, financial services, and non-ratification.

As I argued before, there are good reasons to suspect that an alternative theory can explain some of these positions, notably the preferences of the decision-makers themselves. As such, here I would like to inspect to what extent we can link this congruence to the CSOs' lobbying and campaigning. Have I gathered any reasons to make the jump from correlation to causation plausible?

During (and before) **the negotiations**, I showed that only the unions and CNCD/11.11.11 were paying attention to CETA. Their critique seems to have focused mostly on sustainable development, investment and services, I did not find traces of any positioning on other aspects of the deal.

On **services**, although my direct evidence of their pressure in regards to negative listing is not very elaborate (FRDO meeting documents), I think it is sufficiently substantial to argue that they also raised this issue in the regular contacts they had with the executive, especially in Wallonia, considering also their long history of struggling against public services' liberalization. However, the level of detail of their input seems to have remained limited<sup>505</sup>. Still, summing it up, there was congruence in that they rejected the new methodology for liberalization, we can assume that they communicated this resistance around the time the issue was raised in the negotiations, and we have reason to believe that at least some of the executive actors were receptive to the message of these significant societal actors, on such a sensitive issue. It is therefore reasonable to argue that CSOs were influential in steering the

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<sup>505</sup> Based on their questions in the FRDO, which remained quite general.

Belgian position towards a rejection of the new methodology and then later towards (as a second best option, when Belgium's isolation in the Council forced it to abandon its resistance<sup>506</sup>) taking up a number of sensitive sectors in the reservations. In the decision makers' mechanism, I discuss another plausible narrative: that the Belgian executive had already (or would have) taken this stance, independent from any lobbying or consultations.

On **investment**, they raised the issue of ISDS and sustainable development in the same forums, but here it appears that their efforts were less successful. In response to their comments in the FRDO in 2011, minister Reynders indicated that Belgium had defended uploading the Belgian BITs model (which the CSOs had been criticizing for many years) for the European approach, and the inclusion of investment and ISDS in CETA seems not to have been a major political concern within Belgium (as I show in the decision makers' mechanism).

What about the campaign from **2013-2016**? Was this effort influential?

First, the CNCD itself, in an appraisal of what they 'got' from the accord of October was mixed about the final deal<sup>507</sup>, but they praised the attempt of the Walloon executive to change the deal along the lines of the CSO campaign, and were pleased with the intra-Belgian accord: the affirming of the sub-national right to veto the deal, the engagement to bring ICS to the ECJ, and the commitment of Wallonia, the Francophone and German speaking communities and the Brussels' region that they would not ratify the treaty unless steps were taken to make ICS multilateral. Similarly, the health funds believed that their combined political weight had indeed made the campaign influential (Interview - Christian Health Fund, 2016a). Other accounts tend to side with this story; for example, Magnette (2017) in his book-length account of the CETA episode, underlines the role of civil society in raising critical attention of the accords. Of course, such assessments may be to some extent self-serving.

Secondly, I believe I have shown that we can reasonably link the increase in parliamentary and public pressure, transmitted by the press, to actions of the CSOs. These channels in turn put pressure on policy-makers. Although this remained quite feeble in Flanders, in Wallonia local communities, the parliament and the press, a large number of organizations and, judging from surveys, the general public, all got involved in the TTIP/CETA campaign.

The influence of civil society also emerged when analyzing **parliamentary texts and discussions**. In Wallonia's debates and resolutions, the deals' opponents often hailed the work of the NGOs in raising awareness, or mentioned the greatly increased democratic stakes now that such a substantial part of civil society (and the general public) had become involved. In interviews, MPs confirmed the important role of how they raised awareness and influenced the debate. The mechanism passes a

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<sup>506</sup> I show this is a plausible explanation of this switch in the decision makers' mechanism

<sup>507</sup> They welcomed a number of additions to the interpretative declaration: a stronger safeguard for agriculture, the promise to work towards multilateralizing ICS, the more precise language on the commitments in public services, and the exclusion of social security and the health funds. However, they also believed that the treaty remained imbalanced, lacking enforceable sustainable development clauses while granting disproportional rights to multinationals. Moreover, to really safeguard services and to get rid of negative listing, the treaty should have been re-negotiated.



'hoop test' in this phase: as shown in the analysis of the parliamentary debate, the arguments used by MPs as well as the Walloon government (in response to parliamentary debates, in the press) echo the core remarks of civil society.

There is also some confirmatory evidence. The CSOs as well as some of the MPs themselves claim that the parliament's work on CETA was driven at least to some extent by the pressure from civil society. Although it seems like this was also 'allowed' by the government, it was at least in part an autonomous process, which after a while probably led to lock-in: the parliamentary work and rhetoric that had built up by 2016 could not just be swept aside, especially given the continued pressure by CSOs and the growing attention from the press. Even if the parliamentary dynamic eventually forced them to veto the deal, this *non* would have led to little more than a bit of EU-level embarrassment for foreign affairs, because of a Belgian abstention. Of course this changed in the late spring, and by then path-dependency had set a course for intra-Belgian and EU-level conflict. In any case, the precise balance or chronology of the executive and parliamentary powers is not central to the mechanism, because there was simultaneous pressure at the executive as well; based on accounts from civil society, but also on the pattern of Belgian trade decision-making in the past I think it's sensible to conclude that CSO influence is a very plausible explanation for the actions of the Walloon government (and thus the Belgian position) over the course of 2014-2016.

We can definitely establish a conspicuous correlation between the rise of a strong and broad, and on many accounts successful campaign by civil society, and the shift in Wallonia's and eventually also Belgium's position on CETA. Note that this narrative does not exclude the role of party-political motives. Both the PS and cdH had been part of the federal government (2007-2014, in differing configurations), and Ecolo was part of the Walloon government (2009-2014) when CETA's mandate was concluded, when an investment chapter containing ISDS was added in 2011, and when the negotiations were largely concluded. While the PS vaguely supported CETA in the Walloon parliament in 2011 (see next mechanism), this party would throughout 2014-15 become far more critical of the deal, eventually supporting a resolution that called for its dismissal unless certain red lines were respected, which was partially followed by a minister-president that had before not said much about trade. As some of the CSOs themselves argued: the asymmetric government in combination with the large role of the regions in Belgian trade policy-making offered them an opportunity to turn this into a successful campaign. And as our source from No Transat remarked: *'je suis convaincu que la position du Parlement Wallon n'aurait pas été la même si le PTB n'avait pas eu autant le vent en poupe'* (Interview - No Transat, 2017). Considered through the lens of this mechanism, these were all just very fortuitous contextual conditions, that helped make their campaign a success – rather than indications that Wallonia would have taken identical positions even if civil society had remained mute. Further counterfactual ruminations are discussed in the 'synthesis', after all three mechanisms have been concluded.

Especially in the 'political' phase, this mechanism seems to have travelled mostly through the Francophone channel. In Flanders and at the Federal level, although, as documented above, there was certainly mobilization, this never managed to really engage the public, the press, or the parliament. Receptivity was moreover very low, so in combination with their lack of leverage it seems extremely unlikely that these

groups were influential in ways that I failed to spot. I think we can conclude that the Flemish link of the mechanism breaks around this step. No one with actual policy-making leverage changed position in favour of civil society's position, and there is little reason to think we just haven't found the evidence yet.

### 10.2.2.6. Conclusion

I conclude that there's enough evidence of civil society's influence on the (current) outcome, but only on a limited amount of issues. Their mobilization cannot explain the bulk of Belgium's stance between 2009 and 2014, and it's clear that there were other determinants pushing for the executives' positioning throughout 2016 as well. This is true not in the least because the civil society mechanism can only plausibly account for influence through Wallonia (and Brussels), which then had to bargain with Flanders and the federal government, where the mechanism offers a far less plausible explanation of the outcome. We're still missing some steps between a changed position among some policy-makers (a regional government) and positional-change at the Belgian level (e.g. power balance, bargaining, ...). Finally, even in Wallonia some of the evidence is also in line with other plausible explanations: party politics, ministerial ideology, business interests, et cetera. So although leaving out civil society would make it hard to account for the outcome, it does not in itself 'suffice', and we need to investigate and integrate other plausible determinants. In the next two sections, I will therefore discuss the roles of business lobbying and decision-makers' preferences.

Causal hypothesis: CSO lobbying or campaigning influenced the Belgian position on CETA Prior probability: moderately low		
	Propositions	Evidence-Assessment <i>(source)(characteristics of evidence in relation to proposition: high/low - uniqueness, certainty)</i>
1	CSOs were aware of the negotiations/treaty	<p>Pattern - Most CSOs do not track low-saliency topic of trade policy (literature review, interviews) (lc, hu)</p> <p>Account evidence - Multiple CSOs aware during negotiations, growing in number after 2014 (interviews) (hc, hu)</p> <p>Trace evidence - CSO positioning on CETA during and after negotiations concluded (press, positions, parliaments, ...) (lc, hu)</p> <p>Trace - Press coverage of CETA increasing formidably after 2015 (data) (lc, hu) (assumption: leads to awareness)</p> <p>Account and trace evidence - earlier and more widespread awareness and activity in Wallonia (interviews, press, other) (lc, hu)</p>
2	They had a preference	Trace & Account - CSO positioning & campaigning on CETA during and after negotiations (Public/press statements, interviews, meeting reports) (hc, hu)
<b>Strong confirmation of CSO monitoring and preference</b>		
3	They successfully communicated this preference to Belgian decision makers	
3.a	They had inside access	<p>Pattern - Dense DM-CSO networks (interviews, literature) (lc, hu)</p> <p>Account - meetings of CSOs with executive at all levels (hc, hu)</p> <p>Trace - CETA-related meetings at federal level (FDRO reports) (lc, hu)</p> <p>Trace - Some executive DM taking positions similar to those of CSOs (press, parliament)(lc, hu)</p> <p>Trace - Wallonia's 2014 government declaration in line with CSO position (declaration text) (lc, hu)</p> <p>Account - CSOs meeting with PS after 2014 elections to discuss government declaration (interview) (lc, hu)</p> <p>Account - DM claim they met with CSOs (interviews) (hc, hu)</p>
3.b	They had outside access	<p style="text-align: center;"><b>Press</b></p> <p>Account -CSOs complaining about difficulties with getting pieces in Flemish press, easier in Francophone press (interview) (lc, hu)</p> <p>Trace - Large (compared to other actors) amount of CSO mentions in Francophone press (data)(lc, hu)</p> <p>Trace - Generally favorable and numerous discussions of and quotes from CSO positions on CETA (press review) (hc, hu)</p> <p>Trace - Relatively few mentions of CSOs or opposition to CETA in Flemish press (press review, data) (hc, hu)</p> <p>Pattern - From general minor treatment of trade issues in press towards regular and detailed reporting in Wallonia, later and more limited also in Flemish press (data) (hc, hu)</p> <p style="text-align: center;"><b>Parliament</b></p> <p>Account - MPs claiming that they were contacted, would not have started work on CETA without CSOs (interviews, parliament, press)(lc, hu)</p> <p>Account - CSOs claiming same (hc, hu)</p> <p>Trace - Widespread use of arguments similar to CSOs' in Walloon and (to a lesser extent) Flemish and federal</p>

		<p>parliaments (parliamentary review)(hc, lu)</p> <p>Pattern - Shift from general lackadaisical treatment of trade issues towards highly active treatment in Wallonia and later also federal and Flemish parliaments (data)(lc,hu,hr)</p> <p>Sequence - Shift towards more critical tone &amp; heightened activity in Walloon parliament after CSO lobbying (re-)commenced (sequence)(hc, lu)</p> <p><b>Public</b></p> <p>Pattern - Increasingly more critical and less neutral/uninformed positions about TTIP (survey) (assumption: TTIP is a proxy for CETA) (hc, lu)</p> <p>Trace - Strong support for Wallonia's position in September 2016 among Wallonia's public (survey) (lc, lu)</p> <p>Trace - Street protests organized by CSOs (press review) (lc, hu)</p> <p>Trace/Pattern - Increasingly high number of TTIP-free zones in Wallonia as campaign progressed (data) (lc, lu)</p> <p>Account - CSOs and politicians claiming public was highly mobilized in Wallonia (interviews, press, parliaments)(hc, lu)</p> <p>Trace - Successful collection of autographs for ECI (hc, hu)</p> <p>Trace - Large and heterogeneous group of CSO groups involved (varia) (lc, hu)</p> <p>Account/pattern/trace - All of the above not or barely applicable to Flanders (hc, hu)</p> <p>Pattern - Shift (in Wallonia) from previously minor attention/mobilization of the public on trade issues (interviews, above evidence) (hc, hu)</p>
		<b>Strong confirmation of inside and outside access.</b>
4.	They influenced the Belgian position	<p style="text-align: center;"><b>Before/during negotiations</b></p> <p>Trace- Belgium (after Wallonia and to lesser extent Flanders) taking position similar to that of CSOs (interviews) (hc, lu)</p> <p>Account - Influence according to some CSOs (interviews) (lc, hu)</p> <p>Account - No CSO lobbying on most aspects of the deal (interviews, minutes of FDRO) (hc, hu)</p> <p style="text-align: center;"><b>Political phase</b></p> <p>Trace - Similarity between CSO demands and Belgian demands in 2016 (interviews, press, documents) (hc, lu)</p> <p>Sequence - Campaign got started before shift in Wallonia's position (sequence) (hc, lu)</p> <p>Account - Influence of parliamentary positions/resolutions on Wallonia's executive (book Magnette, parliamentary hearings,</p> <p>Account - Influence of public mobilization on Wallonia's positioning (book Magnette, parliamentary hearings) (lc, hu)</p> <p>Account - CSO influence on Wallonia's &amp; Belgian positioning (interviews) (hc, hu)</p> <p>Trace/account - Lack of the above in Flanders/Federal (hc, hu)</p> <p>Trace - Flemish m-p taking side against CETA opposition (parliament, press) (lc, hu)</p>
		<b>Moderate confirmation of CSO influence during negotiations, strong confirmation of CSO influence in final phase.</b>

## 10.3. Business lobbying

The second mechanism I will be probing is that of business influence. The structure of the text is the same from before: I first discuss the prior probability of this explanation for the Belgian stance, then I discuss the evidence I've collected to determine whether the requisite steps took place, and whether the mechanism went from the proverbial X to Y.

### 10.3.1. Prior probability – potential evidence

#### 10.3.1.1. Evaluating the prior

##### Preferences

Would we have expected any business actors to care about the contents of the treaty?

Just like in the Netherlands, the most basic economic theories of trade politics expect that Belgian business would have been supportive of trade opening: capital is abundant, the trade dependency of Belgian production and exports is very high (as demonstrated in the introductory chapter). Widespread resistance against a deal with Canada would have been extremely surprising, the basic stance of 'business' was most likely in favor of any FTA, including CETA.

However, this is not necessarily true across sectors (or firms), and is less helpful when we're interested in their more specific support (or resistance against) for particular aspects of a deal with Canada. It's also less helpful when we need to assess the importance of this FTA, in light of the large costs associated with following and influencing trade policy – especially for more complex, globally integrated sectors.

To assess the potential importance of CETA for a variety of sectors, I have followed the usual modus operandi of the literature by looking at some indicators of the relative weight of Canada, and at the competitive pressures it may exert.

	<i>Trade Complementarity (Source: UNCTAD)</i>		<i>Trade Correlation Index (Source: UNCTAD)</i>
	<i>Belgium (X) and Canada (M)</i>	<i>Canada (X) and Belgium (M)</i>	
<b>2005</b>	0,606928	0,578088	-0,084
<b>2011</b>	0,605666	0,595222	-0,166

First, in terms of the deal's overall significance, the complementarity index shows that the trade (in goods) profile of Canada and Belgium was floating around an extremely average 0,6, meaning that neither exported goods that the other was exceptionally keen on importing, while the trade correlation index was about zero, meaning they weren't competitors on world markets either. In the aggregate, we therefore wouldn't expect Belgian industry to care either way: opportunities as well as risks seemed to be very modest<sup>508</sup>.

<sup>508</sup> Of course, these indices may be hiding important (sub-)sectoral variation.

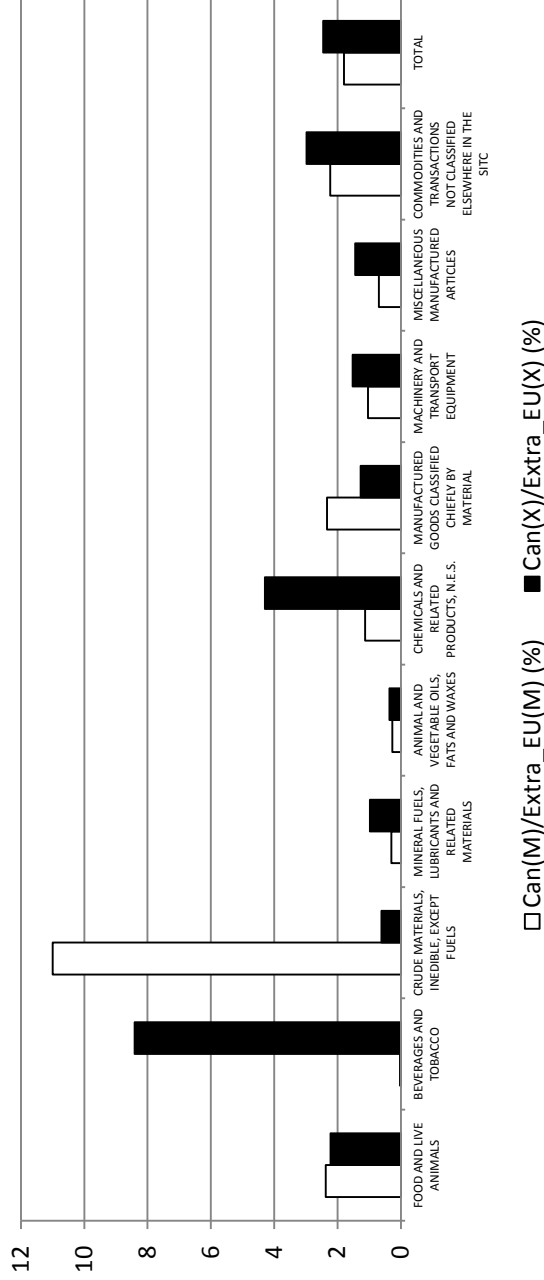
This expectation is further strengthened by the low overall importance of Canada as a **trading partner**. In 2010, only about 2% of all Belgian extra-EU goods exports went to Canada, and only 1,5% of all extra-EU services exports. Within the sectors there were some exceptions: in beverages and tobacco about 8% of non-EU trade went to Canada, and in chemicals this was 4%. Canada was also an important source of imports in crude materials. More detailed data show that about 10% of all Belgian beverages exported out of the EU are sent to Canada, as well as 10% of live animals, 8% of medicinal and pharmaceutical products and 5% of fertilizers. These sectors may have a stronger stake in further improving market access to Canada. In services, none of the services seems to have had more substantial ties. In terms of **investment** flows, insofar as these decisions are still made in Belgian headquarters, it seems that Canada only took up a very marginal share of Belgian FDI. This may have also reduced firms' interest in an investment deal (e.g. with investment protection, which in any case was less poignant in a deal with Canada), although perhaps they were barred from investing by hindrances that an FTA/BIT could remove.

As a rough heuristic, these figures tell us that the stakes for Belgian business were not very high. However, they may have hidden interdependencies and, more importantly, market opportunities, which data on past trade flows cannot grasp by definition. This requires more data and modeling, for which I turn to the Commission's Joint Impact Assessment. Although these data are not country-specific, they may still point towards specific sectoral threats and opportunities.

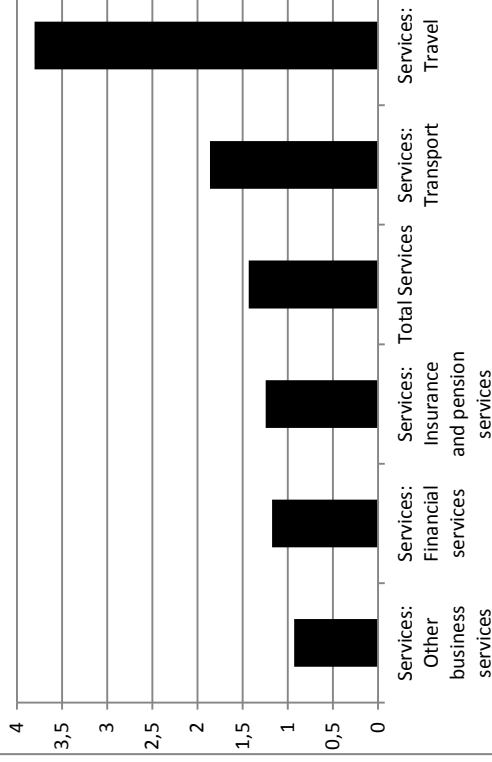
Let me repeat the paragraph that summarized its findings in the Dutch business mechanism: the sustainable impact assessment estimated (based on several modeling scenario's) that a deal would have (in the EU) the most **negative effects** on EU producers of **beef** and (particularly) **pork**, while the EU stood to **gain** particularly from better **access in dairy** - in particular from the removal of NTBs in the production of **cheeses**. There were also large potential benefits (depending on the kind of liberalization) in **beverages and prepared foods**. In industrial goods, there were potential benefits for the **automotive industries** (depending on the rules of origin) and for the **textiles industries** ('in the long term'). The biggest gains were expected in **services** however, especially for **maritime transport services** and **feeder services**. It did not expect substantial effects for the **financial sector**, but positive increases in output and trade for **non-financial business services**. It also saw large potential benefits from opening up the Canadian procurement markets, especially if the provincial markets were included as well. The SIA found no evidence that **ISDS** would bring any particular economic benefits compared to other (e.g. state-state) systems of dispute settlement (European Commission, 2011).

In combination with the introductory overview and the Belgian-Canadian data, I think the impact assessment allows us to formulate the following expectation: Belgian business was probably generally supportive of and FTA with Canada, but only the food and beverages' sectors (meat and dairy in particular) are expected to have formulated very specific preferences. Perhaps also pharmaceuticals, automotives, textiles and maritime services. Because of the large interests in maritime services and procurement, we would also expect Belgium's world-leading **dredging** firms, Jan de Nul and DEME, to have analyzed a deal's potential, and to have come to some sort of preferred outcome.

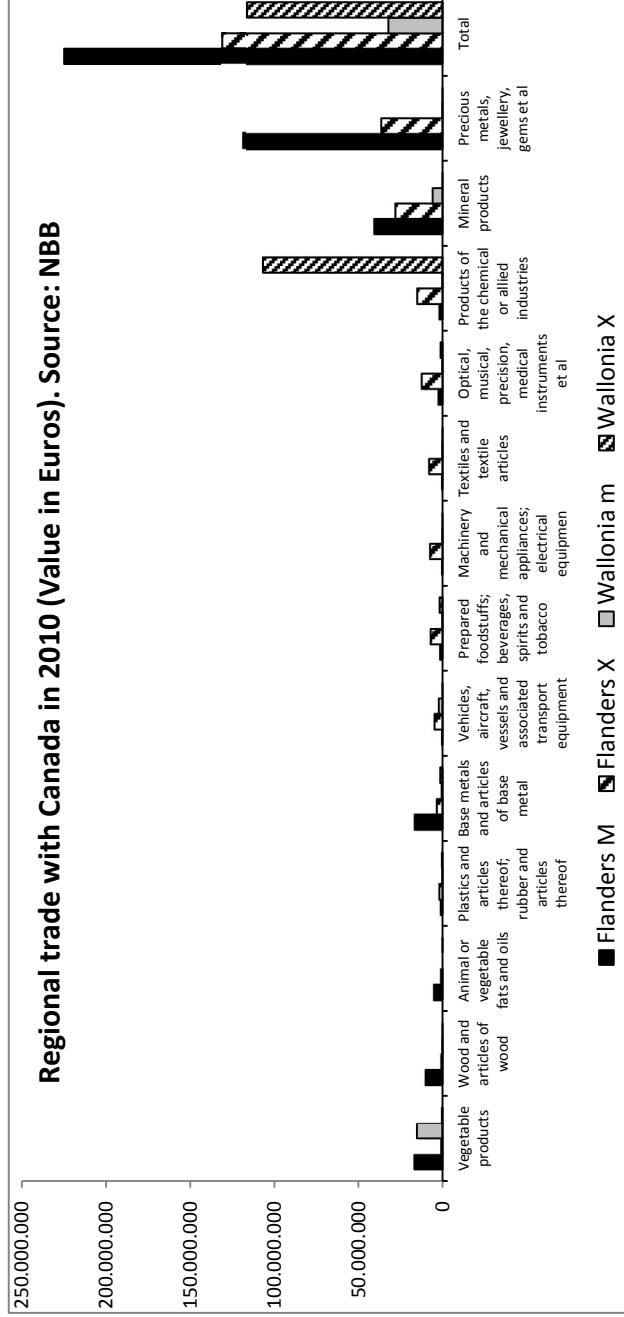
**Belgian trade with Canada as a percentage of Extra-EU trade, in 2010. Source: NBB**



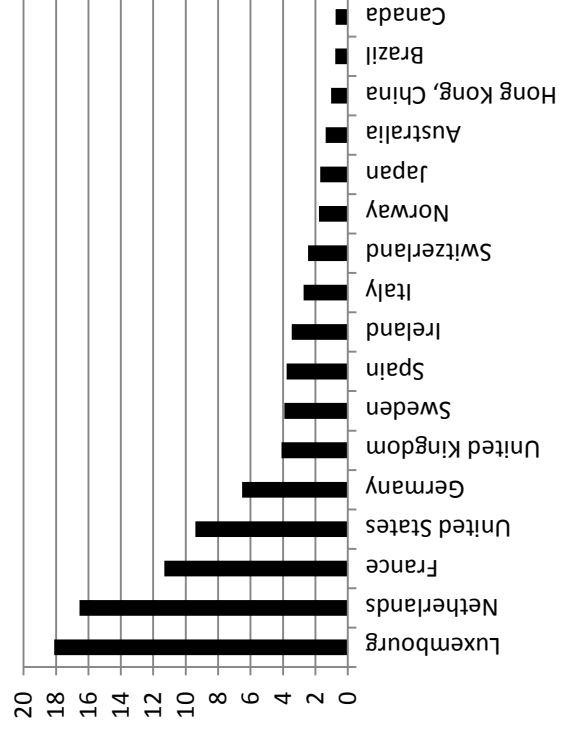
**Services Exports to Canada in 2010 (% of Extra-EU28 Exports). Source: Eurostat**



**Regional trade with Canada in 2010 (Value in Euros). Source: NBB**



**Percentage of total Belgian outgoing FDI Stock in 2010. Source: UNCTAD**



## Influence

If Belgian business did decide to try and influence the outcomes, would we have expected them to do so through the Belgian channel, would we have expected them to gain access, and would we have expected them to be successful?

As was shown in the introductory section, the access points for Belgian business are excellent. They are well-organized, consulted regularly and have plenty of ad-hoc points to reach the many executive actors that deal with these affairs across the federation. Belgian and regional foreign policy also appears to be strongly focused on economic goals, more particularly on boosting exports and investment. We also have reason to suspect that the associations and firms would make use of these Belgian channels. As I showed in the introductory chapter, on EU issues in general there is still national lobbying, by business as well as labor and NGOs, mostly at the executive level. In contrast to the Dutch case, there has also been some trade-specific literature on Belgian firms' venue choice: Kersschot (2015) has performed a qualitative survey of the trade-lobbying of a number of major Flemish firms and sectors, and her research shows that even large firms from concentrated sectors lobby the European as well as the national level (the regional level is seldom prioritized).

However, her research also clearly indicates that lobbying is perceived as costly, and that many firms (especially those in small or less concentrated sectors) remain 'latent' interests: they did not participate in lobbying whatsoever, and were often very unknowledgeable about trade issues and negotiations. Moreover, even if they were aware of trade barriers, they were not always inclined to focus their lobbying on removing these barriers; they just tended to adapt their business operations to deal with or circumvent the barriers, were not aware of how trade negotiations can help them here, and were sometimes mistrustful of sharing information with governments (Kersschot, 2015).

This again sheds doubt on the willingness of firms and associations to spend resources on a deal with such modest economic significance, unless they had very clear stakes. Again, the dredgers and the food industry come to mind, and we would expect these large firms<sup>509</sup> and this substantial exporting interest to have had considerable leverage with, and access to, policy-makers. It seems unlikely that the Belgian stance on services (other than dredging) was the result of sectoral lobbying, their stake was too small. If any of the 'losers' (i.e. the meat industry) did choose to confront the negotiations through an outside strategy, it is hard to imagine how this could have been successful, given the general lack of attention for trade issues among the public.

In the 'political phase', we would expect business to generally support the deal, but the 'noisiness' of Belgian trade politics, especially in Wallonia, must have strongly reduced both the incentive to get involved as well as the leverage of business to steer public and governmental opinions. Again, especially in the light of CETA's seemingly modest significance.

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<sup>509</sup> Jan de Nul is the largest dredging enterprise in the world (after a Chinese group, but the Chinese market is closed), DEME is in the top four. These are big firms. In 2012, Jan de Nul had a net profit of 117 million euros, 70% of which were realized outside of Europe. DEME had two billion euros worth of sales, 51% outside of Europe. According to their 2016 CSR reports, Jan de Nul employed about 7300 people while, in 2015, DEME employed around 4500 Belgians; this certainly makes them two of Belgium's largest employers.

I will now investigate how this all played out in practice. In doing so, I looked for the same kinds of **evidence** as in the CSO mechanism.

### 10.3.2. Probing the role of business

My empirical trace once more follows the mechanism: (i) was business aware of CETA, and if so when, and how come?; (ii) did they take a position, and (iii) did they develop any kind of inside or outside activity? Finally, (iv) did this affect the Belgian position?

#### 10.3.2.1. Were firms and their representatives aware of CETA?

##### Cross-sectoral

Was business paying attention to CETA? Which sectors were tracking FTAs, in what detail? Did any firms or associations do any analytical work? When did they become aware of the negotiations, its potential contents, and its potential ramifications for their own sectors?

According to the **VBO, the ‘federal’ confederation** did not put much effort into tracking CETA (Interview - VBO (1), 2016; Interview - VBO (2), 2017). They explained that trade agreements are really not a priority for firms, even if they are sometimes aware that there are ongoing negotiations. Not because it’s not important for them, they do support FTAs in principle, but it’s far from a daily priority. They count on their sectoral organization to do this for them, which track trade in cooperation with the VBO and their European federations; this was definitely also the case when the negotiations for CETA were opened in 2008-2009. An informational session that was organized by the VBO and one of the sectors, about the ongoing CETA negotiations, had to be cancelled because there was a total lack of interest. The VBO, in turn, alters its own priorities to meet the wishes of its members. Because its resources (one and a half FTE on international issues) are limited, this means it mostly focuses on the most urgent short-term issues. Finally, the general mood surrounding trade deals at the time wasn’t as negative as it later became.

Because **CETA wasn’t a very pressing topic** among its members, the VBO’s day-to-day attention for the negotiations was very limited. Not because of Canada’s importance as a trade partner, but because other matters were more urgent. It (and, as far as it could tell, most of the sectors) followed the dossier from a distance, through updates from their European federations. They knew Business Europe was in touch with the Commission when the scoping exercise took place, and the VBO occasionally received a debriefing. All in all, this was the usual way of working on FTAs, it’s not that there was *less* attention for CETA than for other trade agreements (for example South-Korea). The low amount of activity on CETA within the VBO’s trade working group was also confirmed by Fedustria, which participated in this process at the time (Interview - Fedustria (2), 2017).

It was only **after it became clear that getting the deal ratified would become more difficult** than expected, in the EU and in Belgium, that the VBO realized that it needed to increase its work on CETA. Especially after the first, very negative communications by the STOP TTIP/CETA campaign and all the negative publicity



they spread about ISDS, but eventually of course particularly because of the tensions within Belgium before and after the summer of 2016.

In the Flemish **regional confederation, VOKA**, trade is followed by one person (within the research department) who is in charge of European dossiers as well as international commerce. He consults with the regional sections, which in turn consult with the firms (Interview - VOKA, 2016). According to the then-policy officer of DiV, they met with this research center two or three times, but their input was always very abstract: their center itself had not succeeded at gathering input from the regional chambers or member firms, so they did not deliver any specific input (Interview - Former DiV (2), 2017). VOKA's Francophone counterpart, the **UWE**, claimed that it had never really followed trade politics, this was something that was left to the VBO (Interview - UWE, 2016). In the political phase, however, they inevitably became aware of the issue when they were invited to comment on CETA and TTIP in the Walloon parliament in 2015-2016. Again, Fedustria confirmed that none of the regional confederations, VOKA nor the UWE, had really been monitoring/discussing of CETA in the pre-politicized stages of the deal. They did not play a role here, it was mostly left to the VBO (Interview - Fedustria (2), 2017).

### **SME Federations**

According to the WBI, the **Union Des Classess Moyennes (UCM)** had never monitored trade; TTIP was the first FTA in which it raised its voice (Interview - WBI, 2016). This was confirmed by the UCM. They had one person working on 'political economy', but exports and trade deals weren't usually their preoccupation, very few of their members trade internationally; such firms are usually members of the UWE. CETA and TTIP only turned up on their radar when Ecolo invited them to discuss their position on TTIP, and they had to admit that they did not have a position. Only then did they start developing a stance (Interview - UCM, 2017). I was unable to interview anyone from **UNIZO**<sup>510</sup>, so I could not gauge the extent or channels of their trade monitoring, but according to my other business and governmental sources their role was limited as well.

### **Agriculture**

According to the **Boerenbond**, the negotiations with Canada and the US led to increased attention for bilateral FTAs within Belgium's farmers' organizations. Before, the bilateral deals were seen as mostly unimportant since they were negotiated with economically small players that posed little threat to European agriculture. With these bigger, more developed economies the stakes were raised and they had far more to lose, so they also paid more attention the FTAs (Interview - Boerenbond, 2016). Although it was not entirely clear when the Boerenbond 'noticed' CETA or how much resources it put into monitoring trade, it can be deduced from their other comments (they were very well informed about the past fifteen years of developments in trade policy) that the Boerenbond was probably tracking the issue at a very early stage. Unfortunately, I was not able to speak to anyone from their Walloon colleagues, the **FWA**.

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<sup>510</sup> Due to miscommunication, postponed meetings and eventually losing contact with the person I was supposed to discuss this with, not because UNIZO refused to speak to me.

Based on some of their comments made in the following sections, it seems that a number of **smaller farmers' organizations** were also aware of the negotiations quite early on, and certainly after 2013. I did not investigate these channels any further, but I will discuss these groups' positions and lobbying.

### **At the (sub-)sectoral level**

The VBO thought that their trajectory on monitoring CETA, from low-key salience to a more active role, was representative for the situation in most of the other sectors: no one paid all that much attention throughout the negotiations. Interviews with some of the major federations tend to confirm this picture.

Belgium's biggest sectoral federation was **Agoria**, which gathered firms (including large multinationals) from the technological and manufacturing industries. Even here, the resources spent on monitoring EU trade policy were limited. One person (part of the *'Regulation & Standards Expertise Center' and the EU team*) was in charge of international trade affairs, but most of his time was spent on performing services for individual firms (e.g. helping them with customs regulations). He estimated that, combined, he had spent less than a month working on FTAs in 2016. He did receive some additional support/input by colleagues with (sub-)sectoral expertise, who sometimes also worked on parts of FTAs (e.g. automobiles in EU-Mexico) (Interview - Agoria, 2017).

According to Agoria, their Belgian members did not pay much attention the FTAs<sup>511</sup> and in general it was very difficult to get their input on these matters<sup>512</sup>. In their monitoring and positioning they sometimes had very little to go on, apart from publicly available data (exports, etc.), surveys with very spotty respond rates, and individual cases. This in turn meant that their input for the VBO or the government was very limited; sometimes they refrained from any positioning at all because their members did not supply them with any info. For **CETA**, they did not launch any sort of formal consultation of their members. No one was paying all that much attention to the substance of this deal because of Canada's low economic/trading weight. Canada was at the level of Togo in terms of trade flows, and all in all less than 150 Belgian firms were active on the Canadian market. Only when the deal became more politicized did the need arise (at the request of the VBO and the federal government) to gather some concrete examples of firms having difficulties with the Canadian market (which again proved hard to do), so that CETA could be defended (e.g. in hearings of the Walloon parliament) (Interview - Agoria, 2017).

Another federation, **Fedustria** (textiles, clothing, wood, furniture), is one of the industrial sectors that most actively follows the trade agenda, but they did not spend much time on CETA either. They had one dedicated employee for these dossiers, in addition to their representation at the VBO (which gives them briefings on the evolution of certain dossiers, and tries to collect a single viewpoint to be communicated towards the federal level) and in VOKA and the UWE (although trade was and is still a mostly federal topic), as well as the monitoring by their European federation, Eurotex, which always follows FTAs to check whether the

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<sup>511</sup> Some of their big multinational members might have, but there was no real coordination about trade issues with these firms.

<sup>512</sup> A general problem, not only related to trade.

textile sector isn't being used as a bargaining chip. However, their activity on CETA remained limited, because they only saw (very) modest offensive opportunities for a limited amount of firms (for example in tapestry); the Canadian market was not very large and therefore of very limited importance. This stood in contrast to, for example, TTIP or the deal with Vietnam, which they had traced very closely because the offensive and defensive stakes, respectively, were much larger (Interview - Fedustria (2), 2017).

Thirdly, in FEVIA (the sectoral federation for the (processed) food industry, gathering 28 sub-federations), the monitoring/thinking/lobbying on trade policy was still undeveloped, even in 2016. This was the case even though extra-EU exports had become increasingly important. Their expertise in other areas, such as social issues or food safety, was far greater; only in 2017 did they start developing an export strategy. Because the subject was still relatively new for them, they tended to survey trade mostly through the VBO and its committees, as well as by working with Food Drink Europe and by keeping in touch with the FOD Economie. However, they felt that they lacked the expertise and the means to scrutinize this dossier in much detail – especially when compared to larger federations like Agoria. Among FEVIA's **28 sub-sectors**, my interviewee acknowledged that there may be specific sectors that spent more time on trade issues, notably the larger ones and especially those that were affected by the phytosanitary aspects of trade: dairy, meat, vegetables and fruit. They might have the personnel to follow these issues. Still, even these larger sub-sectors probably focus far more on market-access through certification and food-safety, rather than trade deals. Although my interviewee was not present when CETA was negotiated, she believed it was unlikely that the sector dealt with these issues more intensively back then<sup>513</sup>. For the sectors gathered by FEVIA, Canada was the fifth most important extra-EU export destination. Although for FEVIA this meant that Canada was certainly of some importance (they also participated in an economic diplomatic mission to Canada in 2015), they noted that most of their member firms remained mostly 'lukewarm' in regard to the accord. They were not really following the deal nor did they expect much export gains from the lowered tariffs, and of course for some sectors like poultry the market remained unchanged. Most firms were much more interested in expanding to China.

Although I was not able to perform a totally exhaustive study, the responses of the other (sub)sectoral federations that I contacted corroborated this general picture. For example, FEBIAC, the association of car & motorcycle importers & distributors, remarked that trade policy was a dossier that had to be followed up by the VBO, and that is followed more closely, and lobbied on directly at the EU level, by their member firms (or rather the producers from which their members import/whose products they distribute) themselves. They did not seem especially aware of CETA (Interview - FEBIAC, 2016). Others rejected interview requests because they claimed to have little to say: the **dairy industry (BCZ/CBL)** the **meat industry (Febev)** and the federation of the **Belgian brewers** claimed that they did not do any monitoring of their own, they left this to their European federations (E-Mail - BCZ, 2017; E-Mail - Belgian Brewers, 2017; E-Mail - FEBEV, 2017). Brewers of Europe also claimed that there had been no activity of its Belgian members on CETA (or other FTAs) at the

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<sup>513</sup> Which is why she did not refer me to her colleague, which had been there during the CETA negotiations, but which according to her would not have had any more info to offer.

European level whatsoever (Brewers of Europe – E-mail). In **dairy** and **meat**, however, it's possible that they had relied on the tracking of the Boerenbond. In Belgium, the processing industries and the farmers cooperate in the 'Ketenoverleg', wherein these groups coordinate about a wide range of issues that touches on the agricultural value chain – including trade policy. This group would later publish a number of letters, and it seems unlikely that they were not aware of the deal during the negotiations. According to a participant at the VBO meetings, the representatives of the Belgian financial sector, **Febelfin**, also weren't active on trade issues, at least not within the VBO. Finally, **Essencia**, representing the sizeable and important chemical and pharmaceutical sector, claimed that they followed these dossiers with one person, but not very closely. They did not believe (there had been a change of staff in 2016) that they had done much work on CETA (E-Mail - Essencia, 2017).

**What about individual firms?** Kersschot (2015) showed that (Flemish) firms, even major multinationals in concentrated sectors, prefer to lobby through (or in parallel with) associations rather than individually, because a sectoral organization is perceived as more legitimate, has more leverage and better access to networks and information. This is why I have focused on the associations, first at the peak level, then a couple which, as I knew from previous interviews, were very well up to date with trade politics, and then in a number of major sectors and the industries that I believed might have had an interest in CETA (e.g. brewers, chemistry, food, meat, dairy). I got in touch with many of these associations, and most responded at least briefly. In these contacts, I always enquired whether they knew if, or suspected that, individual firms had done any lobbying of their own (in Belgium). They mostly indicated that they believed this had not been the case, and in combination with Kersschot's interviews (performed during the time in which CETA was nearing the end of negotiations or had just been concluded) with some of these firms, I think it's safe to conclude that most firms, even large ones, did not come out with positions separate from their associations.

There was one exception (that I know of): the **dredgers**, DEME in particular, were actively in touch with the Flemish government. However, as I discuss in the section on 'inside access', this was only after the Flemish government made contact with them, and after the Flemish government was itself solicited by the European Dredgers's Associations EuDA. Given the size, multinationality and concentration of these firms, their involvement in the EuDA, and the fact that the openness of procurement markets in Canada was a much-debated problem (see the case introduction) as well as a clear interest for these actors, it is unlikely that they were not aware of the CETA negotiations at a pretty early stage. They surely had the requisite monitoring capacity, for example in the form of 'area experts' and business development units<sup>514</sup>.

### **In summary**

Although I could not do a fully comprehensive analysis of all potential sectors and firms, I do believe that the organizations I consulted were able to give me a relatively good account of the other sectors as well (notably the VBO, but also long-time and active observers like Fedustria). Judging from their (non-)responses, it seems that

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<sup>514</sup> I was in touch with DEME for a while, but for some reason this was then disrupted and I was unable to properly speak with them.

Belgian business was aware of CETA at an early stage, but not very interested – either in the deal itself or in giving specific input to Belgian decision-makers. This also includes sectors that stood out in my ‘prior’ analysis: automobiles and pharmaceuticals, the brewers and the food sector, notably meats and dairy. This latter group may have been tagging along with the stronger monitoring of the farmers’ groups, however, which clearly did have their eyes on the ball at an early stage. The sectors’ lack of monitoring seems to have been caused in part by their lack of interest in a deal with Canada and in part by their reliance on European federations to keep an eye on these dossiers, but it was to a considerable extent also caused by their lack of resources and the fractured nature of Belgian business: limited personnel to spend time on this issue, which was almost never a priority for the small and medium-sized firms they represented. An important remaining lacuna is the extent of firms’ autonomous involvement with the government: perhaps big companies in particular just skipped their sectoral federations to consult with the ministry directly? I argued that this was unlikely given the general pattern of business lobbying in Belgium, but I further discuss this in the conclusions.

### 10.3.2.2. Did they take a position on CETA? Why?

#### **Cross-sectoral**

According to most interviews, in business the key actor was the **VBO**. It’s still somewhat unclear to what extent they were involved in the early stages of CETA, before and during the negotiations. However, judging from their remarks about the amount of monitoring they did, and the lack of input and interest from their sectors and firms (see also below), they probably did little more than offer a general thumbs up for the start of negotiations.

The VBO’s earliest public document dates from October 2014, in which it reported on the deal’s conclusion and gave a brief, positive assessment of its contents: trade and investment will be given a boost and this will benefit Belgian firms (VBO, 2014). A somewhat more detailed **analysis** followed on the occasion of Belgium’s trade mission to Canada in October 2015: lowered tariffs would boost Belgian exports and market entry, especially in the pharmaceutical industry, wines and distilled beverages, processed agricultural products, cosmetics and textiles and clothing. The further opening of procurement markets would also be beneficial, as well as the stronger protection of IPR (especially for producers of pharmaceuticals). They also underscored the ‘geostrategic dimension’ of the deal, since CETA would allow EU firms to compete with American businesses, which would now lose NAFTA’s competitive edge (VBO, 2016c).

In October 2015, the VBO for the first time attacked the burgeoning anti-TTIP/CETA campaign. The defense of the FTAs they offered here was quite general and perhaps somewhat formulaic: the theory of Ricardian comparative advantage had proven, and the experiences with previous FTAs had demonstrated, the benefits of free trade; liberalization had lifted millions from poverty, and most global growth was set to occur outside of the EU; the Belgian economy was dependent on further market opening (not only through lower tariffs but also by concluding deals with regulatory cooperation and investment protection, and TTIP/CETA offered the best way for ‘us’ (and not other ‘global powers’) to set global standards on food, consumer and

environmental protections (VBO, 2015). Later positions (VBO, 2016a, 2016b; VBO et al., 2016) fiercely criticized Brussels' and Wallonia's threats to block CETA, arguing that this would damage Belgium's and the EU's global standing (and Belgium's stature within the EU) and endanger other ongoing trade and investment talks (US, Japan, China).

According to the VBO, at no stage of the negotiations did it develop a strong position (or give much input) about two of the most controversial aspects of the negotiations: **investor state dispute settlement** and **negative listing**.

Although they always supported a strong **investment** chapter, they were not particularly concerned with the debate about *'what to do in case there's a problem'* – especially among OECD countries. They paid more attention to the agreed rules themselves, for example about expropriation, equal treatment or market access, rather than the dispute settlement body. The issue was a lot less sensitive during the negotiations, and they did not track it very closely. The VBO felt that it was very paradoxical that over three quarters of all the debates on CETA and TTIP they had to wage revolved around ICS/ISDS, while this instrument had not been a priority for them at all: it's sensible to have this kind of instrument in some (non-OECD) countries, but making use of the procedures is expensive and takes a very long time; in CETA, it was very low on their list (Interview - VBO (2), 2017).

The same was true for **negative listing**. The VBO was certain that if it did a survey not a single business owner would know what a negative or positive list entailed. The issue never came up in their conversations with the government, and was certainly not a clear demand from their side. They again emphasized that they have a very small team, without sufficient resources to investigate these kinds of things in details. The input they get from firms often stops at *'it's not an unimportant market, so more access would be welcome'*, these businesses don't have any input about technical matters like positive lists or ISDS, and don't have time to feed their sectors or the VBO with much details more generally. This can be problematic, because it means that the Belgian governments are often not well prepared in terms of defensive or offensive interests (Interview - VBO (2), 2017).

As was mentioned before, the **regional federations UWE and VOKA** weren't very involved in the setting of the mandate or negotiating the deal. They did play a role in the public debate in 2016, however.

In 2016, **VOKA** supported the joint letter discussed above, for the following reasons. Being a trans-sectoral organization, VOKA's positioning is never based on any sector-specific impact analysis; they look at the overall impact, which 'almost always leads to a position that is in favor': Flanders is heavily dependent on exports and removing tariffs as well as non-tariff barriers therefore benefits the Flemish economy. VOKA therefore *'almost always supports new trade agreements'*. **CETA** was no different: VOKA 'strongly supported the treaty, and repeatedly explained the benefits of CETA in Flemish as well as Francophone media' (E-Mail - Voka, 2017). In October 2016, VOKA called on the federal government to sign the CETA deal anyway, without Wallonia's support. This would probably have been a violation of the constitution)<sup>515</sup>

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<sup>515</sup> Politieke spanning rond Waalse CETA-blokkade stijgt- De Morgen - 20 Oct. 2016, Page 3

Similarly, the **UWE** co-signed the VBO's joint statements, but there was no trace of any early positions (or remarks), and they claimed that they mostly left these kinds of matters to the VBO (Interview - UWE, 2016). Their first statements in the press date from April 2016. They also defended the deal during a hearing in the Walloon parliament, but this was only in October 2016. Here, they argued that firms had great interest in CETA, they were in need of new markets to export to, also indirectly as intermediates through other European exports, in order to escape the tattered EU economy; the opening of the market in combination with the IPR protections were especially interesting for Wallonia's booming bio-tech firms. They saw no threats for social or environmental norms, or for public services.

## **SMEs**

The SME federations were not involved during the early stages, but in 2016 they took up diverging positions in Wallonia and Flanders.

On the whole, **UNIZO** was not very active in the dossier. During the negotiations, they were always present during meetings with the sectors, but never contributed a position of their own (Interview - Former DiV (2), 2017). In 2016 they did support the employers' joint letter, but according to other business sources<sup>516</sup> this probably did not imply that UNIZO had developed any sort of distinct position apart from defending the deal.

The **UCM** was equally uninvolved during the early stages, but they eventually did play a role which, as we saw in the section on civil society, was quite important in the discourse of civil society's campaign. As was discussed in the previous section, they only developed a position after they were asked to do so by political interlocutors. Although FTAs were usually a matter for the more export-oriented UWE, this time was different: because the European Commission was always emphasizing that it was negotiating these deals for SMEs, they felt obliged to respond because it was speaking 'in their name'. They came to believe that the Commission's position was hypocritical, and that the deal was quite obviously being negotiated to serve the interests of large firms and multinationals; it was only using SMEs as an alibi, and this led them to reject TTIP (although they did not principally oppose FTAs). This subsequently led to an awareness of **CETA**, with which they had two fundamental problems: (i) there were no Belgian geographical indications included in the deal, which threatened to increase competition for local producers from Canadian firms, and American firms through Canada. (ii) ISDS. This court would allow large firms to challenge regulations, while it remained unavailable for SMEs; clear evidence that the deal only supported big business (Interview - UCM, 2017). They were the **only employers' federation that did not sign the employers' joint letter** sent out in support of CETA on October 25<sup>th</sup>, 2016. In a subsequent interview with L'Echo, they developed the position as summarized above. Although they hoped the blockage would eventually be resolved, they chose to support the position of Wallonia's parliament.

There were **no consultations with their members** on this issue (in fact, my impression is that the chief of the UCM, Duplae, decided on this by himself), although they did discuss it with members they met, on debates etc. According to

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<sup>516</sup> Who did not want to be quoted on this.

Duplae, a lot of the members were a bit surprised that the UCM was opposing the FTA, the only employers' federation to do so, but he claimed that they mostly supported his position after he laid out his arguments (Interview - UCM, 2017). According to L'Echo, although some within the organization feared the economic effects of Wallonia's isolation, most of the UCM's membership did not export across the Atlantic - so the costs related to blockage were low<sup>517</sup>. In the end, the UCM did not oppose FTA's as such and they were **pleased with what Magnette got out of the negotiations** (additional protections, and the promise to ask the European Court of Justice a question about ISDS), so they supported ratification after this (Interview - UCM, 2017).

## Agriculture

In the agricultural and food sector, the '**Ketenoverleg**' (a group of representatives from farmers and processed food industries) published a joint position on CETA in October 2016. This position was signed by the major farmers' organizations (Boerenbond, FWA and the 'Algemeen Boerensynidcaat'), by the animal feed federation (Bemef) as well as FEVIA, UNIZO and Comeos. In this position, they state that exports are very important for the Belgian agrofood sector, although '*they are were also aware of the dangers of unbalanced competition and volatility*'. They believed that CETA should give sufficient guarantees for the protection of sensitive sectors and for Europe's societal choices in regards to agriculture and food. All in all, however, they saw CETA as '*mostly offer[ing] export opportunities while not exacerbating the current difficulties*<sup>518</sup>', and therefore called on Belgian policymakers to ratify the deal. Only the Walloon SME's federation, UCM, did not agree to sign.

The individual position of the **Boerenbond** was clearly in line with this. Its support of CETA was built on what they called their '**basic position**', which emphasized the need for 'fair competition'. For the past decades, the position of the Boerenbond has been shifting: from a strongly defensive, protectionist position, towards a view that mixes the emphasis on the basic need for protectionism and self-sufficiency, with an acknowledgement of the offensive opportunities offered by international trade and bilateral deals. Since the EU's regulation of the agricultural and food industries is very demanding, they cannot accept unfair competition from less stringent countries. A good bilateral deal therefore either exports the EU's regulatory standards, or demands continued protection of our defensive sub-sectors. Their analysis of defensive/offensive sectors had also remained largely the same in recent years, not just at the Belgian but also at the European level within their EU federation COPA: the Belgian (and EU) basic, 'bulk', production is vulnerable, especially the production of animal goods (beef, pork, poultry) because of regulatory and wage costs, and problems of scale<sup>519</sup>. Their offensive interests are primarily in fresh fruit and vegetables as well as processed foods such as specialty cheeses. This position did not emerge after complex impact analyses, although COPA performed these occasionally, but from their own day-to-day knowledge about producing and the markets, and this analysis has remained roughly stable (Interview - Boerenbond, 2016).

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<sup>517</sup> Pour l'UCM, le combat mené par les Wallons est utile - L'Echo - 27 Oct. 2016, Page 3

<sup>518</sup> Especially in the primary sector.

<sup>519</sup> Belgian production is located in SMEs, whereas foreign producers often operate 'megastructures' - especially in cattle farms.



Based on the considerations of this ‘basic position’, the Boerenbond judged that CETA was a well-balanced deal. It offered extra exporting opportunities for Flemish offensive sectors (processed foods, fruit and vegetables), while allowing both sides to protect some of their defensive interests<sup>520</sup>. Contrary to, for example, the potential deal with Mercosur<sup>521</sup>, CETA (or TTIP, for that matter) was not considered very worrisome. There had been no big trade-offs between non-agricultural and agricultural market opening (Interview - Boerenbond, 2016). In addition, the Boerenbond was skeptical of the attempts to further increase the transparency of the talks, and believed that the efforts already made by the Commission over the course of 2015-2016 may have already gone too far. Although it was necessary to exert some surveillance of the Commissions actions, to make sure that it was not straying from its mandate, they believed that the negotiating game demanded limits to transparency, especially if the EU’s partner was not reciprocally transparent. (Interview - Boerenbond, 2016).

They reiterated these positions in September and October 2016: although they recognized that the beef and (more importantly, for Flanders) pork sectors were defensive players in the agreement and potentially stood to lose from CETA, they strongly downplayed this danger: Canada’s production was tiny compared to EU consumption, and even before the deal had sometimes barely filled up existing quota. Moreover, they hailed the agreement as preserving European standards, and for keeping out hormone beef and racto-pamine pork, while dairy markets were opened and poultry/egg markets remained closed; most importantly, the ‘*new generation*’ deal offered new opportunities for Flanders’ export-oriented agriculture (Boerenbond, 2016a, 2016b).

The **early** (during/before the negotiations) position of the Boerenbond’s Walloon counterpart, **the FWA**, is unknown to me. According to the Boerenbond, **Flemish and Walloon agricultural organizations did** have their differences, which largely mirrored the broader dynamic within Belgium. The Boerenbond had become increasingly willing to also focus on the ‘offensive’ opportunities offered by trade deals, while the FWA still tended to worry, first and foremost, about the dangers these posed. However, according to my interviewee this had until then (the interview took place in April 2016) never kept them from reaching a common position, and (as far as the interviewee could recall) the Belgian government had never had to abstain because of regionally differing views on agricultural trade (Interview - Boerenbond, 2016). Civil servants also confirmed that they could not recall any intra-Belgian conflicts (at least not among the peak organizations) over the farmers’ interests in trade, these had always been very complementary (Interview - Boerenbond, 2016; Interview - Former DiV (2), 2017). And yet, in the **political phase**, the FWA’s position was far more ambiguous, something that was clear from their remarks in the press, and from various interviews with other organizations as well as MPs and decision-makers (see below).

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<sup>520</sup> EU defenses in pork/beef were kept high, meaning a limited contingent of racto-pamine/hormone-free meats was allowed, while Canada kept its poultry/egg markets closed.

<sup>521</sup> The fear for MERCOSUR was much higher, especially because of the presence of agricultural giant Brazil (especially its large scale production in animal products, such as beef); not just because of the comparative advantage of Brazil in agriculture, also because of the scope for NAMA trade-offs that would tempt European negotiators to offer up some defensive agricultural sectors. **EU-Japan**, on the other hand, offered purely offensive interests and no defensive dangers

Although the FWA signed the letter of the agricultural chain, it sent quite a different position to the Walloon parliament before the debate and vote of 13 October. In this **second document**, they started off by rejecting any sort of ideological protectionism, expressing their support for free trade in general. However, they also stated that trade should be fair and balanced, and that **CETA** failed this test on four counts: (i) agriculture had been made the bargaining chip of the negotiations, (ii) borrowing from the NGO's lexicon, they feared that CETA would prove to be a 'Trojan horse' for TTIP, more specifically in regards the opening of beef markets; the concessions made on beef quota in CETA risked further increasing American demands here, (iii) they resisted attempts at regulatory harmonization, seeing this as incompatible with attempts to safeguard European norms and (iv) they criticized the deal for not including a single Walloon geographical indication. In sum, this led to a position they themselves described as '*no, unless*' – calling for a modification of the texts in order to remedy these imbalances. This text was published on their website on the 21th of October, while the press release for the *ketenoverleg*'s position was sent out the day after. I was unable to speak to the FWA itself, but according to an MP from Ecolo, the FWA's position was confused because it was internally disputed. Its membership was opposed to the deal and at first this stance was shared by the top, but then the leadership was handed to someone who did support the deal. The FWA then co-signed the letter of the *ketenoverleg*, which led to tensions because many members argued that they had not had a mandate for this move (Interview - MP (Ecolo-Wallonia), 2016).

Finally, there were **several smaller farmers'** movements that were unambiguously against CETA. According to one of the coordinators of D19-20, the farmers' protest dated back from 2011, when cattle farmers started protesting against the EU and the market opening agreed upon at the WTO. The deal proposed in CETA was to trade market opening in dairy for more opening in meat. Canada was more competitive than the EU in meat, the EU was stronger in dairy. They did not believe that the EU would be able to completely prevent hormone beef from entering<sup>522</sup>, and they resisted the further opening of markets: dairy farmers were actually trying to promote the kind of market-regulating system for milk that was operating in Canada, which the EU was trying to disassemble through CETA. More generally, they resisted the drive to forever increase exports; they believed locally produced and distributed production was a more viable trajectory. So they resisted the deal at a relatively early stage (D19-20 - Interview, n.d.). In Flanders, the '**Algemeen Boerensyndicaat**' as well as the **Flemish Milk Board** were against, as were the **organic farmers** (BioForum Vlaanderen). In Wallonia there was **FUGEA**, the **Mouvement d'Action Paysanne**, and (organizing the Francophone and German speaking dairy farmers) the **Milcherzeuger Interessengemeinschaft (MIG)**. As was discussed above, D19-20 united the European Milk Board with some of these forces and other progressive movements. It's plausible that some of the FWA's members also took part in this mobilization.

### The (sub-)sectoral level

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<sup>522</sup> According to Verbeke: it's only possible to test for the presence of hormones by analyzing milk or feces, not carcasses. So when the latter enter the European markets, there's no way to check whether they were produced using hormones.

As was mentioned in the previous section, the big industrial/technological federation, **Agoria** had not deemed CETA to be economically significant. It's not clear to what extent they gave much input in the early phase. However, the deal did possess, especially after it became increasingly political, a more '*strategic*' worth for them: it contained aspects that went beyond tariffs, such as a form of regulatory cooperation, and thus functioned as a sort of testing ground for future negotiations: '*if we can't make this kind of deal with the Canadians...*'. By the end of 2016 there was also the additional fear that Wallonia's resistance would taint Belgium's image abroad. Still, even this angle remained limited. Agoria's support for the infamous ISDS clause, for instance, was ambiguous at most: it was seen as a more cross-sectoral issue, an issue that could potentially derail the treaty while offering benefits in only very specific circumstances. And even the biggest other upcoming FTA, TTIP, for which CETA might reasonably have been seen as a stepping stone, was not deemed important enough by most Belgian firms to make them promote CETA at all costs; a sense of urgency was therefore lacking for both FTAs (Interview - Agoria, 2017).

All in all, however, Agoria did support CETA (and FTAs in general), albeit more on this '*strategic*' than an '*economic*' level (Interview - Agoria, 2017). In a blog published on their website in July 2016, Agoria criticized the attempts to block CETA's ratification, arguing this would taint the EU's and Belgium's image abroad without offering any alternatives, while potentially crippling the EU's ability to negotiate FTAs. This would harm export-dependent Belgium, and would make it far harder for the EU to set global standards '*instead of China*' (Agoria, 2016b). In November, they then published a positive evaluation of the final accord, hailing the lowering of tariffs, the simplification of customs' procedures, the opening of procurement markets, the greater ease of temporary service-related migration, the stronger protection of IPR, and the attempts at regulatory cooperation. As I said, there was no earlier public position on CETA, and it's unclear what input they gave on these issues apart from a general thumbs up in the earlier phase (Agoria, 2016a).

As I discussed before, for **Fedustria** (textiles, clothing, wood, furniture), the deal in its early stages was not very salient - the Canadian market was small (Belgian firms' annual export value was no more than 8-10 million euros) and their stake was offensive. There was little chance of the textiles' industry being used as a bargaining chip in the negotiations (as happened, for example, in the deal with Vietnam), because the level of economic development of both partners was very comparable, and the risk of imports through trade diversion coming from other textiles' exporters had been dealt with through the use of rules of origin. So, they supported the deal but did not take any specific positions other than welcoming lower tariffs in their sectors (Interview - Fedustria (2), 2017).

In the '**politicized**' stage, Fedustria did take a strong stance in favor of the deal. They posted messages on their website in September and November 2016, in which the federation attacked Wallonia and the '*protectionists*', claiming that although Fedustria itself had also often been very critical of globalization, they did not support the blockage of CETA. This FTA would bring jobs and growth to the EU and Belgium, also among Belgian SMEs, and blocking it (for opportunistic reasons, using arguments that had been debunked) would only serve to destroy Belgium's image abroad, scaring away investors (Fedustria, 2016a, 2016b). According to Fedustria,

they believed this intervention was necessary from a political perspective: they shared the fear of the VBO and other federations that CETA's blockage, or the inclusion of overly restrictive amendments, would impede the negotiation of future FTAs. On ISDS for example, they wanted the essentials of the system to be retained, they did not resist some more safeguards being built in; but it was not a reason to sink the entire deal. They mostly feared that the political resistance from Wallonia would prevent the deal from being signed, and that this would set a dangerous precedent for future agreements – this is why they worked together with the VBO to increase the public pressure in favor of the deal (Interview - Fedustria (2), 2017).

Finally, the food industry, **FEVIA**, had also supported the letter of the Ketenoverleg. This was the only time they had ever come out with such a clear (if shallow) position on any trade deal. Although they had not developed much expertise in this field, and although most of its members did not care that much about CETA, FEVIA still supported and to some extent advocated for free trade in general, and therefore tried to support the deal (Interview - FEVIA, 2017).

Again, it is possible that other sectors took up positions during earlier stages, or behind the screens during the 'political' phase (I am quite confident that I haven't missed any other sectors or firms that launched public statements). **FEBIAC** did not take any particular position on this, although maybe its multinational member firms did, **Essencia** also claimed they did not do any follow-up of CETA. According to participants at the VBO meetings **Febelfin** also wasn't very active<sup>523</sup>. Finally, civil servants and an MP have told me that there was no lobbying (and, thus, no communicated position) from the **audiovisual sector** whatsoever – so the Belgian position here did not derive from any sectoral pressure (Interview - MP (N-VA - Flemish), 2016; Interview - WBI (2), 2017).

Finally, as in the Dutch case, I do not know what exactly the **Belgian dredgers'** position was on CETA. Judging from the interviews with the Dutch water-construction sector quoted in the Dutch case, as well as the fact that first contact was initiated by their mutual European federation, it seems highly likely that they shared the common position voiced by EuDA, as summarized in the Dutch business mechanism: they were interested in an opening of procurement markets, also at the provincial level, and of Canada's Coasting Trade Act, and supported the negotiated deal.

## Summary

It's clear that non-agricultural Belgian business (with the exception of the UCM) supported the negotiated deal with Canada in 2015-2016, albeit mostly for 'strategic' rather than very specific sectoral reasons. The extent to which firms and sectors also had more specific positions remains unclear – even in some industries that were highlighted in the prior. Many of my sources indicated that their association was not involved in any great detail, but they weren't always around at the time, and it's been a long while. It's also possible that the larger firms performed some autonomous lobbying. However, considering the lack of business' analytical resources and the lack of big existing stakes being threatened (or very clear opportunities being created) by the deal (both factors that I also emphasized in the

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<sup>523</sup> One of my business interviewees was the source for this information, but they did not wish to be quoted.

meso-theoretical chapter), it's plausible that the amount of input remained limited. I further discuss this in the conclusions.

As I showed, the stake of the farmers' organizations was clearer, although Wallonia's FWA's position became somewhat confusing and eventually opposed to the deal in 2016. There was also a set of small farmers' organizations that opposed the deal, especially in Wallonia. Somewhat surprisingly, given the alleged benefits the deal would bring for the dairy industry, the latter were organized especially strongly among the dairy farmers.

### 10.3.2.3. Did they communicate/lobby for this position?

Whatever communication there was in the early phases, it was 'quiet': there were little to no public statements about CETA before the negotiations were concluded. Things became noisier after 2015, first among a group of farmers that allied with the NGOs in opposition to CETA, later in 2016 (especially during and after the summer) also among some of the CETA-supporting sectoral and peak representatives. Apart from meeting with the ministries, all of these groups put out press statements, spoke to MPs, gave interviews, appeared in parliamentary hearings, et cetera, some also protested.

I won't expand on this general overview of business' involvement in various inside/outside strategies here, instead I will discuss the details of this involvement in the next step.

### 10.3.2.4. Did they gain access?

#### *a. Scope conditions*

My general expectations in regards to the scope conditions for this section, as I developed them in the CSO mechanism, hold true for business *a fortiori*: (very) good inside access across the executives, poor outside access.

#### *b. Empirics*

##### *b.a. Outside channels: press, parliament, public*

**According to the VBO**, their work on TTIP/CETA very much had to play on the defensive. *'The rejection of ACTA should have been a stronger warning signal'*: they still weren't equipped to stand their ground in a public fight over trade deals, they didn't have the resources and they weren't used to working that way. They did not have the means, in contrast to the NGOs, to start a real campaign about CETA. They sent out some letters and met with cabinets and administrations, with some MPs, but this remained limited. Also in terms of arguments, their rational, classic arguments were often no match of the NGOs' scaremongering rhetoric. To illustrate how poorly armed they were for this kind of campaigning, they gave the example of how, after the crisis of October, they took very little actions to influence the outcome in the European parliament; later, they heard that the NGOs waged a very intense campaign to get the Francophone Belgian MEPs to vote against the deal- and were partially successful. The VBO had (*'naïvely'*) assumed that the parties would just vote

in accordance with their favorable resolution in the Walloon parliament (Interview - VBO (1), 2016; Interview - VBO (2), 2017).

Another problem was that 'business' was not able to present itself as a **unified actor** – at least not in Wallonia. The position of the **FWA** was very unclear, and several of the smaller (yet vocal) farmers' groups were strongly opposed to the deal. Even more importantly, the **UCM** remained vague about CETA for a long while (while already opposing TTIP), and eventually supported the opposition. Although they did not really participate directly in the opponents' public campaign (they took issue with some of their positions on social clauses, so they did not fully support their open letter in October and did not co-sign it), the UCM was in touch with the NGO's (through CNCD), and they did send almost the same letter to Walloon and EU MPs. *'Donc on s'est associés de manière indirecte à cette campagne-là'*. They also spoke to MEPs, participated in a lot of debates in Wallonia and Brussels, gave interviews, and got in touch with (the cabinets of) Magnette, Marcourt and Lutgen (Interview - UCM, 2017).

To what extent did they attempt to gain access to policymakers through the variety of channels?

First of all, the VBO felt that **the press** was barely interested in their side of the story, and that it was very hard for them to be heard through this channel; they believed their arguments weren't considered 'exciting' enough, they *'didn't have a Trojan horse'* and they had too few people following the dossiers (Interview - VBO (1), 2016). Promoting the deal was further made difficult because it was so cumbersome to get input from members: they tried to collect stories from firms about the importance of the deal, and they wanted to compile a list of all sectors and firms prepared to talk about this to the press, but they found almost no one who wanted to communicate openly and in a positive way. Perhaps firms still weren't paying attention, but they may have also been afraid of pressure from the unions. (Interview - VBO (2), 2017).

As was shown in the previous mechanism, my reading of the press as well as a simple count of mentions seems to corroborate the VBO's gut feeling. Especially in the Francophone press, business was far less present (both in terms of being referred to as well as in substance) in the print media, although they were given more space in the (less widely read) L'Echo. In Flanders the difference was less outspoken, and their arguments were echoed (or were very similar) to what many of the Dutch papers were writing throughout 2016. In **Wallonia**, the general business federation (UWE), supported both deals, but mustered little in terms of actual opposition. Their earliest public remarks about CETA date from April 2016, and in an interview they acknowledged that they were not putting much effort in turning the tide (Interview - UWE, 2016).

Secondly, as was also discussed before, roughly the same pattern returned in the **parliaments**. Looking at the debates in the Walloon **parliament**, as was shown above, the employers were present far less (and only much later) than the NGOs, while in the Flemish parliament the positioning of the employers was regularly referred to and cited by the parties of the majority. It is unclear to what extent the VBO or other business actors **met with MPs**. As I discussed above, the VBO, Fedustria and the UCM all claimed to have met with MPs, but they did not share many details. The MPs that I interviewed from the socialist and green parties were most open about

their contacts with a variety of groups, but it seems they did not meet with business' representatives. Ecolo was in touch with the UCM, but they did not have any contact with the UWE or the FEB, outside of their auditions. (Interview - MP (Ecolo-Wallonia), 2016). Similarly, my parliamentary contacts from the (federal) PS, Groen nor the sp.a had been in touch with them. Only N-VA (I did not speak to any MPs from the Christian democrats) clearly indicated they had also met with the employers. It's possible that business only spoke to more willing ears, but perhaps they also just met with MPs after I interviewed them, which was mostly in the spring of 2016. Of course they also sent out their joint letter, and the UWE and VBO were also present in the exceptional parliamentary hearings organized by the Brussels and Walloon parliaments (see the section on their positioning). In brief: the MPs were directly kept up to date with business' position, but only in Flanders did this pay off in directly discernible echoes from MPs.

Finally, I already demonstrated in the previous mechanism that pro-CETA business probably lost the fight for the **public's** favor in Wallonia, but not in Flanders.

### *b.b. Inside channels*

The above channels were largely irrelevant before 2013. Before and during the negotiations, when the debate was barely politicized (or even publicized), only inside channels were being utilized.

According to the **VBO**, the role of formal consultations in trade has been very limited when compared to the institutionalized bi/tripartite coordination on many other socio-economic issues. Still, there is regular access: the FOD Economie holds regular sessions with the sectors and there is a yearly consultation by the ministry of foreign affairs. They are also consulted informally by the various governments which sometimes even leads to a consultation-overload (especially for SMEs) (Interview - VBO (1), 2016).

However, the FOD Economie did not try to involve them very intensively at the time. The VBO was involved in its scoping exercise but there was no systematic, regular briefing of the negotiations<sup>524</sup>. As far as my interviewee knew, none of the other federations had spent much attention on CETA either, although he assumed that they had been contacted by the FOD Economy in relation to Belgium's scoping exercise, so everyone probably sent them their data on the offensive and defensive interests (Interview - VBO (2), 2017).

As was discussed in the sections on positioning and monitoring, many sectors indicated that their involvement remained very limited: financial services, chemistry and pharmaceuticals, general manufacturing, textiles clothing and wood, and the food industry. Take the example of Fedustria: they had had contacts with the FOD Economie, through the VBO but also by themselves, but CETA was not a priority so these links were not very intensive. Only in certain niches (tapestries) did they explicitly indicate that lower barriers would be a good thing. Other than this, their member firms had not provided the federation with responses they could relay to decision-makers (Interview - Fedustria (2), 2017). The dossier was left to their 'European and international coordinator', and did not require any interventions by

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<sup>524</sup> It's possible that VBO didn't request this, either, the context was different then.

the secretary-general (i.e. it was not very sensitive). They thought it was unlikely that some of their (larger) member firms had done any lobbying on this issue either – at least they had not been aware of any such activity. Even their larger members do not have the capacity to do this kind of individual lobbying, and are dependent on Fedustria for following these deals and making them aware of potential threats/opportunities. Only the big multinationals (Japanese, German, American firms...) have developed such capacity (Interview - Fedustria (2), 2017).

It therefore seems plausible that many Belgian **sectors** did not engage much with the negotiations after responding to the general call for inputs from the FOD Economie. I have no paper traces of their response rate (or the substance of the replies), but the Flemish civil servant that was in charge of this dossier at the time stated that concrete, detailed input was lacking both at the Flemish as well as the federal level – forcing them to rely on their own limited statistics and analyses (Interview - Former DiV (2), 2017). This is further discussed in the section on decision-makers.

For some sectors, they indicated explicitly that there was no lobbying. In audiovisual services, for example, the Belgian position was allegedly not due to any large-scale lobbying (*‘or if so, I haven’t met any of [their lobbyists], dixit one MP*), but derived from the belief that cultural services are not simply economic goods (Interview - MP (N-VA - Flemish), 2016; Interview - Stakeholder management - Flanders, 2016). Sources at the Federal level confirmed that there had been no lobbying on this issue at all in CETA (Interview - Cabinet Reynders 12-15, 2017). There had also been no lobbying from the financial sector (Interview - FOD Economie (1), 2017).

I also have evidence that there was no lobbying on some of CETA’s more controversial aspects. According to the FOD Economie, there was no interest in **negative listing** from business. The same was true for **ISDS/ICS**. They organized a presentation on the negotiations with Canada which included a section on ISDS, but there were no reactions at the time– even though the FOD was itself in demand for companies’ positions. Only when the parliamentary auditions started did some business actors voice some worries, but the FOD did not hear much from them during the negotiations (Interview - FOD Economie (1), 2017). This was also confirmed by the Flemish representative at the time (Interview - Former DiV (2), 2017): there was no interest whatsoever in ISDS, for example no one ever responded to this part of the questionnaires they sent to stakeholders. He believed this was hardly surprising, since there were few Belgian firms that ever made use of the system. One of the dredgers had litigated through ISDS with a Belgian BIT, but even they did not come forward with a position on this issue.

**Agriculture** was again an exception. First of all, they too enjoyed good access, generally. At the Belgian level, the Boerenbond had regular (two to three times a year) contacts with the ministry of foreign affairs. At the Flemish level, they exerted influence through the (Flemish) department of Agriculture, which made sure that their interests were also communicated to the DiV. They did not see the DiV itself as being capable of consulting stakeholders in a very organized manner, although the Boerenbond acknowledged that the administration was increasing its capacity to do this (Interview - Boerenbond, 2016). The department of agriculture itself was also explicit about always being in demand for more input from the producers themselves. They also indicated that they had met regularly with the Boerenbond,



but had had very little contact with FEVIA (Interview - Agricultural Department Flanders, 2016). However, although the Boerenbond held regular meetings with foreign affairs, this mostly involved rehashing their well-known (to the ministry) position in regards to certain trade talks; this position did not tend to shift much over the course of the years it took to negotiate these deals.

There was also active contact of the Flemish government with one of the **dredgers**, DEME. However, according to my sources from the Flemish administration, first contact was not made by any of the Belgian firms, but by their European federation (the European Dredging Association, EuDA)<sup>525</sup>. After meeting with EuDA, the Flemish government moved to meet with the Belgian (multinational) DEME, which at the time had one public affairs person that was very well versed in the Canadian situation. (Interview - Former DiV (2), 2017)

In the work of Kersschot (2015), which was conducted at the time the CETA negotiations were still ongoing, the Belgian financial and pharmaceutical sector associations report that they did not have any expertise on trade policy. So if there was activity from these sectors in the negotiations, it must have come from individual firms. However, even this appears doubtful. The lack of lobbying from the chemical and pharmaceutical sector can be gleaned from an internal report on Belgian trade interests drafted by the FOD Economie in 2011, where the FOD notices that Belgian trade in chemicals with Canada has taken a dive recently, which the FOD speculatively attributes to a large multinational having abandoned some activities in Belgium. Together, this indicates that there were no intensive contacts between the government and either the associations or the large pharmaceutical and chemical firms in relation to CETA.

In the **political phase**, it has remained unclear to me to what extent business representatives met with executive actors. However, considering the issue's politicization in combination with the plentiful and welcoming access points of the Belgian system, it seems highly unlikely that there were no direct meetings of at least federal and regional peak organizations (VOKA/UWE/VBO) with the levels they most focused on: the minister-presidents, the ministries of foreign affairs and economics, and perhaps any other ministers they were well networked with. Arguably, the Boerenbond and the FWA were also received numerous times by their usual points of entry, and we can assume that the mobilization also opened some doors for the smaller farmers' groups, especially to the ministerial cabinets of the cdH. To the extent that the letter sent around by the VBO and Boerenbond can also be considered 'inside lobbying', since it was also sent directly to decision-makers, it seems to have been highly effective at least in Flanders. It got referred to by Bourgeois on at least four different occasions in the parliament; this is further discussed in the section on decision-makers. Finally, in his book about the CETA episode, Magnette (2017) himself claimed that he was faced with increasing business pressure in the fall of 2016; however, he offers few specifics.

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<sup>525</sup> According to the then policy officer from DiV, this was also the only time they were contacted by any of the European federations.

### *b.c. Summary*

There was little ‘inside’ activity related to CETA during the negotiations. The wish-lists the associations gave to the ministries were either shallow or absent, even though the civil service was clearly in demand for such input from the sectors and the firms. This was not only due to the limited interest in CETA from the associations’ (based on their own analyses), but also due to problems at lower levels: their members weren’t paying very close attention to the trade agenda, Canada was not perceived as an important market, and it was very hard to get their input. This also means that business were not very active in some of the other, more ‘technical’ dossiers such as ISDS or negative listing. Their input seems to have remained largely limited to cheering on the further freeing of trade flows. There were two exceptions: agriculture had a very clear idea of the defensive and offensive interests at stake in CETA, and signaled this to policy makers at the regional and federal levels. Secondly, the dredgers worked actively with the Flemish government to shape the position on maritime services and procurement. In the political phase, it appears that there were active contacts across all executives, mostly with the ministerial cabinets, oriented at safeguarding the deal’s survival.

On the ‘outside’, business was sidelined by civil society. They had not seen the contestation coming, and were ill prepared for a public debate on these matters. They again struggled with difficulties in getting their members involved, weakening the rhetorical force of their arguments. In Wallonia, they were moreover struck by internal divisions: the main agricultural federation’s position was confusing and contradictory, and a number of farmers’ groups as well as the SME federation were opposed – raptures that were actively used in the discourse of the CSOs. Business’ pro-CETA narrative was more dominant in the Flemish press and parliament, however, and they also managed to regain a bit of terrain in the Francophone press by the end of 2016.

#### 10.3.2.5. Was their input influential?

##### *a. Scope conditions*

In the previous sections, I demonstrated that several sections of business were aware of the deal, formulated a position, and got in touch with policymakers to communicate their preferences during the negotiations. In the political phase, organized business, with the exception of some farmers’ groups and Wallonia’s SME federation, also publicly put its shoulders under the FTA.

In the prior my expectation was that these economic interests, if they had chosen to get involved, would have been easily able to get their preferences taken up by the Belgian government. Our scope conditions further strengthen this expectation. During most of the negotiations, decision-making was very ‘quiet’, and policy-makers (as I demonstrate in the next mechanism) were highly receptive to business input. Only in services and on investment did they encounter CSO activity. In most other domains of the negotiations, business was faced with a lack of opponents and a civil service that was in dire need of sector-level input to help them shape their positions and fill up the informational gaps they encountered (see next mechanism). Based on the literature review, we would expect that organized business could also

count on considerable leverage in these kinds of economic/regulatory discussions – they’re the ones who should be best able to tell decision-makers what would be good and bad for commerce and sectors’ economic well-being. In sum, the door was wide open for considerable influence from the business side.

As has been described in the CSO-mechanism and in the preceding sections, this changed after 2013, and business was pushed into the defensive. However, they retained access to decision-makers across the executives, and their leverage in Flanders and at the federal level was maintained. Moreover, firms and their representatives remained the foremost voice in regards to Belgium’s economic well-being. Business was also aided by the fact that by now the negotiations had already been concluded, raising the costs of re-negotiations, while the costs of outright rejecting the deal were immense. Their scope for ‘negative’ influence, i.e. for blocking the initiatives coming from the CSOs was therefore considerable. In contrast, the chances of success for the groups pushing new demands was arguably low. Although the critical farmers’ groups waged a successful campaign, latching on to the CSO mobilization, their weight in the Belgium system as a whole remained limited.

### ***b. Empirics***

Have I collected any evidence that supports or weakens the proposition that business was influential?

In contrast to the CSOs (and to business in the Netherlands), I have collected few direct accounts of the influence that business did or didn’t exert. Many of the CSOs and a former civil servant seemed to believe that, in general, business was the driving force behind the Belgian positions, especially at the federal level (Interview - 11.11.11. (2), 2016; Interview - ABVV, 2016; Interview - ACV, 2016; Interview - Former DiV, 2016). I must add that not all of them believed this was improper or unjust. Some believed that it was only natural that business interests dominated the input for these economic treaties. On the other hand, the VBO itself mostly seemed to emphasize how small their capacity was to give meaningful input here, thereby also qualifying the scope of their influence on the Belgian position. Most other interests I consulted also emphasized how limited their contribution was. In accordance with this were the frustrations of the civil servants, discussed in more detail in the next mechanism, over their difficulties in getting business involved in the negotiations, and their lack of detailed sector-level and firm-level demands – forcing them to rely on their own, somewhat superficial analyses instead. These two views are complementary: business may tend to get what it wants, but may at the same time be unable or uninterested in developing any requests.

What about the trace evidence? Business’ influence is most visible (is easiest not to falsify) in the case of **agriculture and dredging**. In agriculture, there is clear congruence between their preference and the Belgian position: offensive demands in dairy and vegetables, defensive demands in pork and beef. However, this may have also been the result of state preferences as I show in the next section, and the proposition is thus not very unique. In regards to dredging, the civil service explicitly claimed that the dredgers’ input ‘*helped them progress rapidly*’, i.e. influenced the position of Flanders and thus Belgium. However, as we will see in the section on

decision-makers' interests, it's unclear in what way or to what extent; the general demand in favor of more procurement openness was already part of the Belgian position, but since this was a complicated subject (e.g. the large amount of variation across Canada's provincial regulations), the dredgers probably supplied the technical expertise required to fine-tune said position. Even more brittle is the link between the business position on investment protection and ISDS: it seems that the VBO did support the inclusion of these aspects (during as well as after the negotiations were concluded), but there are also indications (discussed above) that they barely gave any concrete input here, and were not interested in the specifics. Saying they were influential here thus feels like a stretch.

On a number of other issues, I have both failed to find 'fingerprints' in support for business lobbying, as well as disconfirming elements. In 2015-2016, a number of business federations supported the inclusion of ISDS in CETA, and lauded the potentials for mode 4 migration, customs simplification, the opening of pharmaceutical markets and the inclusion of IPR protections, but these statements appeared after Belgium had already set its position, and the other evidence I've collected (and presented in the section on business positioning and lobbying) suggests that these were mostly reasons business was using to defend the deal, rather than proof that they also pushed for these items during the negotiations. In other words: I have collected evidence of absence, rather than just being confronted with absent evidence, and when summing up the evidence I can conclude that there was no direct business influence on the Belgian position here.

Was the business' general pro-CETA campaign influential in the **political phase**? In Flanders we see Bourgeois reproducing the statements made by the business groups, but the Flemish government was already in favor of the agreement, and there was not much societal mobilization that needed counter-pressure. In Wallonia, Magnette claims to have been very aware of the rising business pressure in the fall of 2016, but there was parallel external pressure which was perhaps more intense. Especially because in Wallonia business was also divided, something that was used by MPs and NGOs to attack CETA. However, there is in the end a basic congruence between the positions of business and Belgium: the treaty was signed.

As we saw in the parliamentary and press review, Wallonia's farmers' interests were highly successful at getting their demands taken up in the public sphere. According to a source from the federal government, these were also taken up by Wallonia's executive level in the last weeks of October (especially by cdH), and ended up in the Belgian negotiating position (Interview - Federal Government, 2017). It's not wholly clear what the specifics of this position were, but looking at the remarks made in parliament and by Magnette in his book, and the evaluations of the CETA deal, they certainly included attempts to include Belgian GIs, calls for a safeguard mechanism, and a demand for stronger assurances on food norms and the precautionary principle. This indicates that the farmers waged a successful campaign. Finally, the UCM was influential in the sense that its opposition was widely used in the discourse of other opponents, and the interests of SMEs were taken up by Wallonia in October 2016 and in the Belgian demands for the interpretative declaration. So there was some apparent influence for the groups that had attached themselves to the wider CSO mobilization.

### 10.3.2.6. Conclusion

The business mechanisms performed all of the ‘requisite’ steps. Although my evidence is always low on certainty (there are reasons why we may not find what we seek), business lobbying does resist falsification on a number of issues. However, I can also disconfirm it quite strongly on a number of other issues (see previous section). Moreover, even where I do find stronger evidence in favor of the lobbying narrative, there are reasons to suspect that an alternative theory (decision-makers’ preferences) would be able to do a fine explanatory job as well. This evidence is therefore lacking uniqueness. I reflect on the relative merits of the various mechanisms in the concluding ‘synthesis’, after I discuss the role of decision makers’ autonomous preferences.

<b>Causal hypothesis:</b> Business lobbying or campaigning influenced the Belgian position on CETA Prior probability: High	
<b>Propositions</b> <i>(high/low - certainty, uniqueness)</i>	<b>Evidence- Assessment</b> <i>(source)(characteristics of evidence in relation to proposition: high/low - uniqueness, certainty)</i>
1  Business organizations and/or firms were aware of the negotiations/treaty	<p>Account – various business associations argued they were following trade policy and/or eventually became aware of CETA (interviews) (hc, hu)</p> <p>Trace – business associations and firms with resources to track trade (websites, literature review) (hc, lu)</p> <p>Account – business association’s resources for tracking trade were very circumscribed (interviews) (lc, hu)</p> <p>Trace – press coverage of CETA increasing formidably after 2015 (data) (lc, lu) (assumption: leads to awareness)</p> <p>Trace/account – business associations taking in positions on CETA on the inside/outside (interviews, documentation, parliamentary hearings, ...) (lc,hu,hr)</p> <p>Account– some large firms were monitoring CETA (interviews) (lc, hu)</p> <p>Pattern – most firms, especially SMEs, do not track trade policy (literature review, interviews) (lc, lu)</p> <p>Account – most firms were not aware of CETA until after the negotiations (interviews) (lc, hu)</p> <p>Account – some associations referred me to their European federations (interviews, mails) (lc, lu)</p>
2  They had a preference	<p>Account and trace evidence – various cross-sectoral and sectoral business associations and one major firm took in positions about the (potential) deal, before and after the negotiation (interviews, press statements, parliamentary hearings) (lc, hu)</p> <p>Account and trace evidence – one SME federation and several farmers’ groups took position against the deal, after the negotiations (interviews, press statements, online) (lc, hu)</p> <p>Account and trace evidence – one farmers’ organization took an erratic stance on CETA after the negotiations (interviews, press statements, press review) (lc, hu)</p> <p>Account/trace - Several sectoral associations did not take in any positions during or after the negotiations (interviews, websites, press) (lc, hu)</p>
<b>Strong confirmation of post-negotiation awareness and preference of several business groups, mixed (weak to strong) confirmation of awareness and preference of several business groups before and during the negotiations, mixed (weak to moderate) disconfirmation of awareness and preference of several other business groups (and firms).</b>	
3	They successfully communicated this preference to Belgian decision makers (lc, hu)
3 . a	<p style="text-align: center;"><b>First phase</b></p> <p>Account evidence – peak-level meetings with decision makers (interviews) (lc, hu)</p> <p>Account evidence – very limited to no inside lobbying of several sectors (interviews)(lc, hu)</p> <p>Account evidence – lack of detailed position hampering preference formation &amp; inside input (lc, hu)</p> <p>Account/pattern evidence – no lobbying, even by major firms, outside of associations (interview, literature) (lc, hu)</p> <p>Account evidence – active meetings between dredgers and DM (interview) (lc, hu)</p> <p style="text-align: center;"><b>‘Political’ phase</b></p> <p>Account evidence – lobbying of peak-organizations (including agri) with executives (lc, hu)</p> <p>Trace evidence – Flemish m-p referring to/quoting business (lc, lu)</p> <p>Account evidence – Magonette attributing ‘rising pressure’ to business’ threats (lc, lu)</p>
3 . b	<p style="text-align: center;"><b>General</b></p> <p>Account evidence –business associations spoke to MPs (interviews) (lc, hu)</p> <p>Account evidence – business complaints about press coverage/campaigning ability (interviews) (lc, lc)</p> <p style="text-align: center;"><b>Flanders</b></p> <p>Trace evidence – business arguments well represented in press (press review) (lc, hu,hr)</p> <p>Trace evidence – business arguments well represented/quoted in parliament (parliamentary debates) (lc, hu)</p>

		Trace/Pattern evidence – public opinion not unfavorable to CETA, no TTIP-free zones (lc, lu) <b>Wallonia</b> Trace evidence – business spoke to MPs in person and in the hearings (interviews, parliamentary hearings) (lc, hu) Trace – Small (compared to other actors) amount of business actors’ mentions in Francophone press (data)(lc, lu) Trace evidence – Business positions were present but rather marginal in the press (interviews, press review) (lc, hu) Account evidence – the UWE was not putting much effort into the outside campaign (interview) (lc, lu) Trace evidence – positions of or similar to those of business seldom used in Wallonia’s parliament (analysis of hearings) (lc, lu)
		<b>First phase: Moderate confirmation of lobbying on certain issues, mixed (weak to moderate) disconfirmation of lobbying on other issues/in certain sectors, moderate disconfirmation of firm-level lobbying (except in dredging). Second phase: strong confirmation of (limited) lobbying/campaigning in favor (Belgium), mixed (moderate to strong) confirmation of (limited) lobbying/campaigning in favor and against CETA (Wallonia)</b>
4	They influenced the Belgian position	Trace – Congruence between business position & Belgian position in some areas (dredging, agriculture & food, signing CETA) (hc, lu) Account – No lobbying on certain issues (negative listing, ISDS) (interviews) (lc, hu) Account – No lobbying on certain issues (food, beverages, pharmaceuticals & chemicals, ) (interviews) (lc, hu) Account – DM lamenting lack of business input on these issues (interviews)(lc, hu) Trace – No evidence of lobbying on many issues (lack of evidence) (lc, lu, n/a) Trace – Flemish m-p taking over business’ position (parl hearings) (lc, lu) Account – Magnette claiming he felt under pressure from business (his book) (lc, hu) Sequence – Wallonia becoming more critical (also on agriculture) before UCM/FWA positions (hc, lu) Sequence – Flanders in favor of the deal before business’ campaign (interviews, parliaments, press) (hc, lu) Account – CdH shifted towards strongly in favor of farmers’ interests (interview) (lc, lu)
		<b>Moderate disconfirmation of influence on some issues, weak confirmation of influence on other aspects of position – see text</b>

## 10.4. Decision-makers’ preferences

Politicians and civil servants expressed a preference for certain positions during various stages of the deal. I will investigate what these were, what the sources of their preferences were, and to what extent they worked to turn these preferences into the Belgian position on (various facets of) CETA. One of the complexities of the Belgian system in this regard was that there were several governments working on this issue in parallel, and that they did not necessarily have the same position on everything. So I will to some extent discuss the stance of, and coordination among, the three major entities: Flanders, Wallonia (including the Francophone community), and the federal level.

Of course in principle, all positions of Belgium are essentially taken by the policy-makers themselves, and therefore to some extent potentially evidence of their own ‘preference’. The point of this mechanism, however, is to investigate to what extent the Belgian stance was determined by ‘autonomous’ decision-makers’ preferences, i.e. positions that were not the result of the lobbying from civil society or business, the two mechanisms I scrutinized in the previous chapters.

### 10.4.1. Prior probability – potential evidence

#### 10.4.1.1. Evaluating the prior

In this section, I will again evaluate the existing literature on Belgian trade politics and on trade politics more generally, as well as some other academic or empirical footholds that may help me formulate an expectation in regards to the question this chapter tries to answer: would we expect policy-makers to have had preferences

about this policy domain, that they then turned into Belgium's official position? This exercise is more complex than in the Netherlands because there is more than one executive we need to investigate.

## Preferences

I will go over the same, theoretically informed sources that I discussed in the Dutch prior.

First, political-electoral calculation: politicians may be inclined to pay attention to trade because of electoral or party-political reasons. Much like in the Dutch case, the public, parliamentary and press attention for trade issues had been very limited, MPs explicitly indicated that there were little electoral gains to be expected from building expertise here. Therefore, developing special positions or spending a lot of time on carving out a special trade-focused profile would have been an odd move for most politicians, career-wise. Contrary to the Netherlands, there was no outspoken liberal preference in the populace, and perhaps (at least in Wallonia) a reasonable bit of skepticism about economic globalization. This means that we would not have expected median-voter seeking politicians to have a clear liberal profile either. Just like in the Netherlands, the political agenda was arguably dominated by a number of other issues, such as the 'constitutional' crises between 2007 and 2011, the outbreak of the great recession, budgetary problems, and austerity. This low political salience of trade issues may have also created more leeway for the civil service.

Secondly, the Belgian executives may have believed that there were important interests at stake for Belgium or their region. The literature pointed notably at economic, regulatory and foreign policy interests. As I discussed in the previous mechanism, aggregate economic gains must have been modest for Belgian policy-makers because Canada was only a minor destination for trade and investment; even more so for Wallonia, which in aggregate traded about half of Flanders' share (even more if we ignore the chemical sector). Taking into account the general trade dependency of Belgium, we would still have expected policy-makers to support any EU FTAs, with perhaps a limited number of sectoral positions, for example defensive positions on public services (especially in Wallonia), offensive positions in inter alia procurement (especially in Flanders) and pharmaceuticals.

Thirdly, the 'systemic' features of Belgian political institutions may have contributed to a lack of strong 'Belgian' preferences. Politicians are elected in their own regions and communities, which as we have seen had quite different economic/political landscapes, perhaps driving executives to clearly delineated preferences about their 'local' interests. However, federal as well as sub-national governments have all always been coalitions, and all these executives have had to come together to produce joint positions. This high veto-density should lead us to expect Belgium to either abstain or (given its Europhile reputation and the low salience of trade) follow the Commission. Judging from the (alleged) lack of Belgian abstentions in the past, however, it may also be that Flemish and Walloon interests have been more complementary than one would expect; as we saw in the introduction, there are indications that the Belgian position has in fact been a combination of more defensive and 'progressive' reservations, together with a series of offensive demands.

We may have also expected this fragmentation to have affected state capacity. How many people were actually studying these dossiers, producing analyses, ... ? The more resources, the more we might expect a member state to investigate its preferences across a wide host of trade policy dossiers, the more we might expect it to intervene with home-grown positions in a variety of (technical) issues. In Belgium, we saw that there were several people looking at these issues in various ministries, but, because of the fragmentation of competences, total resources may be less than their sum. A single person in Flanders and one in Wallonia, supported to some extent by their trade and investment agencies, would have needed to follow these dossiers on a daily basis, coordinating with each other and the federal staff to come to a position. Note that CETA's 'deep trade' negotiations would have exacerbated this problem, because the regulatory context differs across regions and communities (e.g. education policy is different). This may easily lead to overload, it's hard to see how such limited staff could have had a firm grip on such a hugely wide arrange of issues in much detail; even if other ministries chipped in, this may have only increased the amount of input that needed coordinating. So two plus two may have been three: we can assume a lot of double work was performed, because each entity had to discuss every part of the negotiations, and even if they had specific interests, these would not necessarily have overlapped. This is another reason why: (i) we may have expected Belgium's position to have been non-specific and reactive, supportive but from a distance, and/or (ii) we may have expected decision-makers' preference to be heavily influenced by positions their executive had previously defended (i.e. path dependency), or we may have expected them to be soft targets for societal demands (i.e. 'expertise').

What would those 'path dependent' preferences have looked like? In general, we would have expected Flanders to be a little more offensive on private services and Wallonia a little more defensive in general, while both shared a somewhat defensive position in agriculture and defensive positions on public services and services of general interest, as well as mutual support for the inclusion of provisions on labor and sustainable development. We also saw that the Belgian state had concluded a lot of very broad BITs with very 'lenient' investor-state dispute settlement, although its model had been reformed somewhat to also include some language on sustainable development. We may therefore have expected support for an investment chapter that included ISDS. More generally, we would have expected support from all Belgian executives for any treaties that served their export-oriented mercantilism, and more generally for any EU-level treaties. Nothing about Canada would have led us to expect this to be any different for CETA

Finally, a variety of normative and ideological considerations may have played a role. Again, this is *a priori* largely a known-unknown, since there has barely been research about this. As was pointed out in the introductory chapter and in the CSO mechanism's prior, however, we can here point towards the strong resistance in the (Walloon) socialist parties' against opening up public services, and the cross-party support for including social and human rights in the trade system. The review of the executives' foreign policies also pointed towards the significance of promoting French culture in the international policies of the Francophone community; this may have formed a basis for the (seemingly lobby-free) positioning on audiovisual and cultural services.



## Constraints

The next question is whether we would have expected policy-makers to have been able to turn whatever preferences they might have had into the Belgian position.

As we saw in the previous mechanisms, during the negotiations the leeway for decision-makers to enact their preferences was arguably quite big, especially in more technical/complex or non-economic aspects of the negotiations, because business was not involved very intensively, while the leverage of the CSOs remained modest. This neocorporatist and access-point ridden state was generally 'soft' however, leading me to expect a big *potential* role, i.e. openness to, 'quiet lobbying' in the less politicized earlier phases of the negotiations. As we saw, from 2013 on public pressure started increasing, but this was far stronger in Wallonia than in Flanders or at the federal level. A priori, it seems very plausible that this was the source of Wallonia's (apparent) position shift after 2014, eventually leading to some changes in the Belgian position as well, because it seems unlikely that Walloon government would have had a sudden 'autonomous' change of heart that suddenly pushed for a rejection of CETA. Even in 2016, when parliamentary and public attention were at their highest, the Walloon executive would have formally been able to ignore its parliament, although I think around this time the public pressure was arguably too high to be able to just ignore it. In Flanders and at the federal level, this would have been far less pronounced, and constraints would have remained minor.

Because of Belgium's small size, we would not have expected it to be very powerful within the Council, and external constraints may have been quite strong, leading it to abandon certain positions in favor of more feasible options. Especially in the politicized phase, Belgian leverage, and thus the number of viable positions it could take (i.e. the extent to which policy-makers could turn their preferences into the Belgian position) would have been very limited.

## In summary

Judging from the above, I believe we can expect that policy makers' would have preferred, independent from any direct societal input, for Belgium to proclaim a defensive position on sensitive services (public services, audiovisual and cultural services), and an offensive position on non-agricultural market access and a series of business services and procurement. We would have also expected them to defend the inclusion of a non-binding chapter on labor and environmental norms, and to defend the EU's precautionary principle. However, we would have expected the state to have been very 'soft' in regards to its commercial interests, yielding to (or eagerly supporting) business demands. Given investment protection's limited political saliency, the state's modest capacity and the high veto-density of the Belgian system, we would have expected it to have a preference for following the Commission in this regard. More generally, this expectation holds for other topics as well: it would not be surprising if Belgium refrained from any controversial positions, and mostly tried to support the Commission's lead. The sudden shift after 2014 is hard to understand from this perspective. What could the 'autonomous' source of this movement have been? The only plausible answer, again judging from within this mechanism, would either be (i) party-political, with the change of governments freeing up (or stoking up) parties of the left that had previously been 'constrained' by their coalitions with

centrists and liberals, or (ii) the increase of societal and/or external pressures, forcing the executives to abandon (or alter) their previous positions.

As usual, these priors are turned into more detailed, step-specific scope conditions in the analysis that follows, in which the empirics from previous steps of this and the other mechanisms is also taken up.

#### 10.4.1.2. Potential evidence

The presence of these various steps can be tested by looking for (*inter alia*) the following evidence:

**\*Sequence evidence:** Belgium taking a stance on issues before receiving any input from stakeholders; lack of change of policymakers' positions even after contact with stakeholders.

**\*Trace evidence:** attempts of policy-makers to influence positions/activity of stakeholders; policymakers arguing with stakeholders; policymakers' performing analyses; policymakers debating amongst themselves about aspects of the FTA; policymakers taking a stance on aspects of the FTA; low intensity of contacts with stakeholders; lack of change in positioning over time.

**\*Account evidence:** policymakers/stakeholders attributing Belgium's position to policymakers' own analyses/ideology/..., stakeholders claiming they had little influence/access (*in private conversation, an interview, in the press, public statements*).

**\*Pattern evidence:** correlation between contacts and changes in position, previous patterns of (lacking) societal influence on decision-makers ... .

#### 10.4.2. Probing the role of policy-makers

For this final mechanism to make sense, empirically, we need to find evidence of its various iterations. We first need to see executive actors acknowledging the existence of CETA, somehow showing that this was indeed something that they needed to position themselves on. Then, we need them to demonstrate a preference regarding CETA. Since I'm interested in 'autonomous' preferences, I will also investigate their sources: did they perform studies? Consult with stakeholders? Or did they just copy Belgium's previous positions? Did they have some party-political or ideological foundations underpinning their choice? Next, they would need to do some kind of 'work' to turn this preference into the position: if there is pressure from external actors or civil society, then they would need to counter or circumvent this in some way, and they might need to negotiate or deliberate with other Belgian actors as well. Inevitable, in the final stage, they set the Belgian position.

##### 10.4.2.1. Did they have a preference?

Is there evidence that decision-makers had a preference for certain positions? I.e.: do we see them taking a stance on (certain dimensions of) CETA, either in public or internally?

I will organize my discussion of the preferences and positions in two rough 'periods': before the politicization of CETA/TTIP that started around 2014, i.e. before and during the negotiations, and after.

### **a. During and before the negotiations**

As I demonstrated in the previous mechanisms, there was very little public debate about CETA before 2014-2015. This also means that there were very few public remarks by politicians or the civil service about the negotiation, and there was little mention of CETA in public documents, parliamentary debates or public policy notes. At the sub-federal level, the only exception was Wallonia's previous minister president Demotte, who in 2011 presented a brief but positive assessment of the deal to his parliament (see below).

This means that I have had to depend heavily on interviews with the civil servants that worked on these files at the time<sup>526</sup>. One benefits of the Belgian system is that speaking with the three main entities also allows for some cross-checking. What these interviews made clear is that the Flanders and Wallonia had somewhat diverging, but never irreconcilable positions on various aspects of the agreement.

First of all, there do not seem to have been any divergences when it came to **offensive demands**, although these were mostly driven by Flanders. Flanders prioritized in particular the interests of the dredging sector, by trying to eliminate Canada's protectionist Coasting Trade Act and by pushing for an opening of procurement markets at Canada's federal as well as the provincial level (Interview - Former DiV (2), 2017)<sup>527</sup>.

Secondly, even though the regions were also largely in agreement on **defensive interests**, it is here that there were some important differences in emphasis - notably in relation to services liberalization and investment protection.

#### **(i) Services liberalization**

The most major issue was the change in the way services liberalization was handled: the use of **negative lists**. According to sources at the FOD Economie and in Wallonia, **Flanders** was not a priori in favor of this system, but they wanted to consider it case by case in function of the advantages they would get in return. In CETA, they were willing to accept negative lists if this was the cost for stronger opening in procurement markets at the central and provincial level (Interview - FOD Economie

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<sup>526</sup> I spoke to: two civil servants from Wallonia (someone working on CETA between 2008-2015, another one working on it 2015-2016), four civil servants in Flanders (together covering 2007-2017, and someone that had been working on the agricultural dimensions for decades), and two ministerial cabinet officials as well as two civil servants at the federal level (the former head of DGE5, which retired in 2016, and the person that had worked on investment and services in CETA throughout and after the negotiations). I'm still missing some more 'political' sources, an agricultural expert from Wallonia and perhaps some other sectoral analysts from the federal level, but I believe these people, in combination with the wide variety of documents that I've analyzed, should allow me to come to a reasonably crisp picture of what happened.

<sup>527</sup> I am still somewhat unclear about the defensive and offensive interests in agriculture, however. It seems clear that Belgium felt like pork and beef were sensitive but also offensive sectors (see later remarks by Bloem and Reynders about the TRQs being negotiated here being 'not disproportionate'). Curiously, in his response to a question by MP van Besien in October 2014, one of the major benefits of CETA that was underlined by Bourgeois (in fact, the only specific offensive goal mentioned) was that the deal had greatly helped in the discussions on market access for Flemish pears. I checked the data, but could not find any increase in pear exports after 2009.

(1), 2017; Interview - WBI (2), 2017). **Wallonia** and the FWB were more skeptical: very early on, they indicated that they did not subscribe to such an approach, that they preferred the use of positive lists. They believed this could deliver the same result as a negative list, while being clearer and more transparent, as well as easier to defend vis-à-vis the general public. The **federal level's** input in this process focused on researching the commitments Belgium had made in previous agreements, setting the margins within Belgium could operate in CETA, without going further on sensitive sectors.

There were some specific **sensitive sectors** the regions wanted to defend, for which they demanded reservations once it became clear that the use of a negative list became unavoidable (see next sections). There was a particular worry in relation to public services. During the negotiations, the Commission had proposed to modify its usual way of dealing with public services, proposing to move from a horizontal reservation to sectoral reservations (even though the Commission would in the 'political' phase often tout the horizontal reservation), which would have forced all member states to produce a list of what counted as public services. Wallonia and the FWB rejected this (Interview - WBI (2), 2017), but the sensitivity seems to have been shared by both sides.

The regions were also outspoken about their desire to exclude audiovisual services – although it would again appear that Wallonia led the way. The **position of Wallonia** was very clear: audiovisual and cultural services had to be kept out of the negotiations. According to some of my sources, **Flanders** was somewhat less anxious to bar talks altogether, it did not believe these sectors should be kept out of the mandate and believed there were options for including them in a negative list, and also saw some offensive opportunities in some sub-sectors. Essentially, its core position was similarly defensive though: they did not support liberalization even though it could be included in the mandate (Interview - DiV(2), 2017; Interview - WBI, 2016). However, the civil servant that was working on the dossier at the time argued that Flanders' position was not this clearly defined at the time, and that they mostly followed Wallonia.

## **(ii) Investment Protection**

In 2011, the Commission proposed to include a chapter on investment, including sections on investment protection and investor-state dispute settlement.

This chapter became especially controversial after 2014, but the intra-Belgian debate about investment protection during the negotiations did not include many of the elements that later popped up in the political phase: there was no talk of empowering multinationals or endangering democracy.

The debate instead centered around the inclusion of labor and environmental clauses. **Flanders** did not have any problem with including the investment chapter in CETA, because CETA respected social and environmental norms, and they did not feel like the investment chapter also needed to include specific clauses on these items since these were already covered by the sustainable development chapter. The most important element for them was that the height of investment protection was similar to that in Belgium's BITs, for example that the kinds of expropriation covered by these BITs were also included in CETA (Interview - Former DiV (2), 2017). In an

answer to a parliamentary question, minister president Bourgeois later acknowledged that Flanders had not taken any specific position on ISDS<sup>528</sup>. The **Francophone** side was again more reluctant, they felt such provisions were unnecessary with an OECD country but, more importantly, they did support the inclusion of social and environmental norms in the investment chapter (Interview - WBI (2), 2017). Overall, however, the inclusion of an investment chapter did not pose many problems before 2014 (Interview - DiV(2), 2017; Interview - FOD Economie (1), 2017; Interview - Former DiV (2), 2017). Belgium also did not demand any carve-outs of the financial sector or the audiovisual and cultural sectors, in line with its lack of such exceptions in its own BITs (Interview - FOD Economie (1), 2017)

### (iii) Some Missing Positions

Investment and services, but negative listing in particular, seem to have dominated most of the intra-Belgian debates. An issue that later became highly controversial, especially in Wallonia, was completely missing: **Geographical Indications**. It was the regional administrations' task to formulate demands related to Geographical Indications, but none of their services raised any such demands during the negotiations (even though, as we will see, the issue was investigated at the technical level). Only in the second phase did this become an issue (Interview - DGE5, 2016; Interview - Former DiV (2), 2017; Interview - WBI (2), 2017).

Finally, a word on the role of the **federal level** in this early process. According to my regional sources, DGE5, the department within foreign affairs dealing with these issues, was largely neutral on questions of substance; they did not really take firms positions when it came to the intra-Belgian position, although they did of course have to aggregate the Belgian position across dossiers and represent Belgium in the TPC. Their main concern here was Belgium's position in the Council (i.e. trying to prevent isolation) and their intra-Belgian input would largely focus on outlining the EU playing field, including occasional warnings that some positions would be considered less appetizing. At the **political level** there were more outspoken preferences, but even here the position was not really built around Belgium's defensive or offensive interests. It was more like a '*call to reason*' when there were persistently diverging positions within Belgium or when Belgium (and the minister) was being put under pressure in the Council: a plea for the regional administrations to put their differences aside and to 'look at the bigger picture' (Interview - Former DiV (2), 2017; Interview - WBI, 2016). Sources from his cabinet confirm that CETA was very low on the list of political priorities for Reynders, who never intervened on the 'technical matters', but only when the deal became increasingly politicized (Interview - Cabinet Reynders 12-15, 2017).

This brings me to a final question for this phase, where there were few public positions, is **who was leading this process**: to what extent were politicians controlling what the 'technical' level was doing? According to an interview with a then-cabinet official, the Belgian position on CETA before 2015, before and during the negotiations, was largely a matter of the civil service (Interview - Cabinet Reynders 12-15, 2017). This is contradicted to some extent by the then policy officer for the DiV. Although he acknowledged that CETA was largely a-political, he claims

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<sup>528</sup> ANTWOORD op vraag nr. 38 van 3 oktober 2014 van Wouter Vanbesien.

(as was shown above) that there were some important exceptions related to public services and negative listing, about which there were many debates. On the Francophone side, the positions in these debates were all decided on by the cabinets, not civil servants. As mentioned above, there was also active steering by the federal minister, but largely unrelated to Belgium's defensive or offensive interests (Interview - Former DiV (2), 2017). Interviews with the Francophone administration rather confirm the latter picture. Even at the start of the negotiations with Canada, there had been political attention, because it was an unprecedented and far-reaching agreement. The international cells of the cabinets of Demotte (foreign affairs, Wallonia and later FWB), Magnette (foreign affairs Wallonia) and Marcourt (trade, Wallonia) worked very hard on CETA. *'Il y a eu des points d'attention dès le départ de la négociation, ces points, on les a retrouvés tout au long de la négociation et on les a retrouvés dans la phase finale, donc la Wallonie n'a clairement pas découvert le CETA en juillet 2016'* (Interview - WBI (2), 2017).

### **b. From 2014**

The politics of CETA were a lot noisier after 2014. This included public positioning by civil servants as well as ministers.

#### **Civil service**

First of all, there was a more explicit role for the **federal civil service**, which now started explicitly defending the deal during a variety of parliamentary debates. When invited to a hearing on CETA in June 2015, the then-head of **DGE5 defended CETA** in a way that I shall here summarize, because it was also the line of defense offered by her chief, minister of foreign affairs Reynders, throughout the federal parliamentary debates.

(i) She argued CETA was *'an extremely ambitious agreement'*: it sought to strengthen the economic ties with a country that shared the same values as the EU, that was an important market, and an important source and destination for investment. The deal's purpose was to increase growth and employment 'in a time of economic uncertainty'. Citing the Commission's projections, she claimed that the FTA would add 12bn euros to the EU's GDP annually. She praised the lowering of tariffs and the opening of procurement markets, also at the provincial level (offering better market access than NAFTA), as well as the new possibilities for temporary economic migration related services trade (for engineers, architects, ...), the increase in intellectual property right protections (also for pharmaceuticals and food and agriculture), and the lowering of administrative costs by recognizing conformity tests.

(ii) **For Belgium** specifically, she was pleased with the opportunities for public transport, with the strengthening of intellectual property rights for pharmaceuticals and the 'unprecedented' opening of procurement markets. The maintenance of the reservation on public services and the inclusion of an ambitious chapter on sustainable development were also accomplished. In agriculture, Belgium was happy with the lowering of tariffs on butter, pork and cheese; she argued that CETA was *'proof that a commercial deal can be concluded without any party having to sacrifice their interests in this domain'*: the increased imports for beef and pork were *'not disproportional'*, and the EU obtained protections of its geographical indications. If

there were now complaints in regards the latter matter, they could still see whether more Belgian products could be included - after the agreement was signed.

(iii) The **investment chapter** was also welcomed, also for Belgium. The Commission has put in place guarantees to safeguard the right to regulate, and investors' rights to sue states are very circumscribed. The system therefore offers investors the level of protection that they require, while guaranteeing state's protection from abuse.

(iv) On **transparency**: the Commission had been transparent enough, all the documents had been published, and the NGOs had been able to make themselves heard.

(v) Finally, she estimated that the **room for manoeuvre** still remaining was extremely limited, and that the negotiations with CETA could be seen as a test of the EU's capacity to conclude deals. Failing here could severely hamper the EU's potential to close future FTAs (Source: C.R.I.C. N° 166).

Bloem later commented that she had her doubts about the debates being waged in the parliaments. The answers she gave to the MPs' questions did not seem to sincerely interest them all that much: she believed the MPs were afraid, lacked confidence in the institutions, and did not comprehend the complex subject matter (Interview - DGE5, 2016). Again, I take this as evidence that the federal level was working hard to get CETA ratified.

The **regional administrations were far less visible**, they did not speak at hearings nor did they come forward in the press. The only exception was the head of Wallonia's export and investment agency (**AWEX**), Pascal Delcominette, who took a public position in favor of CETA. In an interview with *l'Echo* published on October 12 2016, she stated that she thought blocking CETA would be a mistake: it was politicians' task to look at the general societal effects of policy, but hers to guard the commercial perspective, and she believed that Walloon firms had a commercial stake at the further opening of the Canadian market. According to her, this market was already important (for pharmaceuticals and military exports) but still held more promises for other sectors and in public procurement. She stated that she was in favor of lifting trade barriers with Canada, and of free-trade in general, and that although lifting trade barriers would '*not be a disaster*' it would still be a pity, and Wallonia was going to endure '*negative effects*'<sup>529</sup>.

### **Political level**

Of course, in the political phase, politicians came to the fore, in particular the various ministers of foreign affairs (in the regions, these are the minister-presidents).

At the **federal level**, this task was in the hands of minister Reynders. In his (brief) discussion of CETA in the Federal Council on Sustainable Development (FRDO)<sup>530</sup> in February 2015, he praised the result of the negotiations on commercial grounds, echoing Bloem's remarks. In response to questions about ISDS from civil society, he defended the system and argued that it would not be good for the EU to revisit

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<sup>529</sup> "La Wallonie a un intérêt commercial à signer le Ceta" - *L'Echo* - 12 Oct. 2016, Page 3.

<sup>530</sup> In this council, the federal government discusses a variety of issues, including trade and development, with civil society and business.

issues that had already been agreed upon (although there was room for 'technical' modifications). He remained a staunch defender of CETA throughout 2014-2016, repeating variations of these arguments during the parliamentary debates, occasionally also in the press.

In **Flanders**, the first political response to CETA came on January 14, 2014, by then minister-president **Peeters**. He praised the deal, because it offered 'many opportunities' on a new market. The flip side of this coin was increased competition, but Europe's geographical indications would be protected, and the import of hormone-treated beef and pork would not be allowed (C95 – BUI3 (2013-2014)).

His successor, **Bourgeois**, gave a similarly positive appraisal in October 2014 (when he defended the inclusion of ISDS, and the general importance of the deal), and throughout the parliamentary debates that followed in 2015 and especially 2016. His arguments can be summarized as follows, (i) Flanders is wholly dependent on exports, further boosting openness will benefit the Flemish economy, closing off may cripple it, (ii) CETA and TTIP would help guard the EU against unfair competition: the EU shared important principles and norms with these countries, not found in many emerging economies, (iii) the negotiations had been concluded in 2014, raising new demands now or blocking the deal would mean a huge loss of face for the EU (e.g. PLEN 321 (2015-2016); C223 (2015-2016); C97 (2014-2015)). He was very critical of Wallonia, and of his opponents in the Flemish parliament. He accused the latter of spreading disinformation, of opportunistically switching their criticism to new aspects of the deal when their other arguments got debunked (moving from hormone beef and social/environmental norms to ISDS and policy space) (PLEN 321 (2015-2016)). In October 2016, he vowed that he would do everything in his power to make the deal come into force, praising CETA because it was important for vegetable and fruit growers and for dredgers and maritime services. However, he did offer vague support for the modifications Belgium was then requesting of the interpretative declaration, although he emphasized that this in no way entailed a renegotiation of the deal; it was merely a clarification of what was already in there C223 (2015-2016). Throughout these hearings, he repeatedly referred to and cited from **letters sent around by business**; for example their claim that CETA included the highest standards on sustainable development of any FTA.

On **ISDS and ICS**, his position was a somewhat confusing one. In January 2015, in response to critical questions about ISDS, he downplayed the response to the Commission's public consultation about the system<sup>531</sup>. Nonetheless, *'the Commission had understood that civil society was worried about ISDS'*, and had proposed four points to improve the system to further refine the system, which he believed was a positive thing. The position of Flanders, however, was that *'after analyzing the ISDS text included in CETA'*, they believed that it offered enough guarantees for a fair trial, and that it was better than systems included in older FTAs. *'ISDS 2.0, as we may call it, offers more transparency and legal certainty'*. He argued that it was not possible to take it out of the investment chapter without making the entire chapter 'unworkable' and necessitating re-negotiations (C97 (2014-2015)). In May 2016, however, he claimed

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<sup>531</sup> According to Bourgeois, although 150 000 was *'a lot in absolute numbers'*, 97% came from just seven member states and 97% from collective organizations. The amount of individual answers, only 3%, was quite low with only 3500 responses.



that he had called the proposal of ICS ‘a *breakthrough in international investment law*’ in 2015, that he had congratulated Malmström with the move (C223 (2015-2016)). Then in October he went further, on 26 October he claimed that not only had he supported ICS, but that he was ‘*one of the first*’ to plead, in 2015, in favor of an international court (C223 (2015-2016)).

In **Wallonia**, in 2011 the treaty first popped up in the response of then (regional and community) minister-president for the PS, Rudi Demotte. In response to a question by Fourny (cdH)<sup>532</sup>, Demotte discussed, in relatively neutral terms, the broad outlines of this ‘new type’ of agreement. He mentioned the inclusion of negative listing, which would allow them to demand more from Canada than ‘NAFTA-parity’ on other issues, such as the inclusion of the provinces in Canada’s commitments. The item he spent most time on (in his all in all brief reply), however, was the mutual recognition of degrees and qualifications, and the increased possibilities for work-related migration that a deal would provide (C.R.I.C. N° 11 (2011-2012), **11/10**). Somewhat later, in response to a question by an MP from the MR, Demotte replied<sup>533</sup> that creating their negative list had been a humongous labor, but that they could now focus on strengthening the mutual-recognition chapter in the agreement; they were working on a picture of the commercial interests at stake there for Wallonia, trying to figure out which sectors’ market access was being hindered by non-recognition of certain qualifications. The MP was pleased with this answer, and closed the debate with the following: ‘*Je retiens une chose. Vous réaffirmez tout l'intérêt de cet accord global*’.

As far as I can tell, this was followed by two years of radio silence. Then, as is shown in the next section, very critical remarks related to the FTAs were taken up in the declaration of government of 2014. Not long after, in 2015, minister-president Magnette became the front of Wallonia’s resistance<sup>534</sup>. His core position was that he claimed to be following the resolutions from his parliament<sup>535</sup>, which in practice of course meant that he often repeated many of the arguments and criticisms that were voiced by MPs (and civil society). As I discussed in the civil society chapter, there are indications that Wallonia’s position shifted over time, becoming more willing to let PS and cdH include critical language in parliament’s resolution. According to various sources, cdH focused especially on the interests of farmers (Interview - Federal Government, 2017). However, it seems that already in 2014 Wallonia’s position indicated that they would not sign the deal unless a set of demands was met, notably related to investor state dispute settlement, services liberalization, and agriculture.

## **In Summary**

Decision-makers clearly took in some positions, in the TPC as well as in the domestic arena. Highlights include dredging, negative listing, investment protection, lack of a

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<sup>532</sup> About the strengthening of the ties with Quebec, and the mutual recognition of qualifications (in the context of service-related migration) between Belgium and Québec.

<sup>533</sup> In response to a question by Coster-Bauchau (MR), described in the parliamentary review (see the annex).

<sup>534</sup> His minister of commerce, Marcourt, remained largely silent on the issue, although Magnette claimed in his book that Marcourt supported him (Magnette, 2017).

<sup>535</sup> In his book, he claims that he first contacted Malmström to inform her of their doubts after being pushed to do so by civil society and his parliament. He claims that, in 2016, the parliament’s resolution on CETA became his ‘bible’ (Magnette, 2017).

position on GIs. After 2014: there were clear positions from Flanders and the federal administration in favor of CETA, while in Wallonia, the executive's demands were highly similar to the concerns raised by its parliament and the CSOs. For a more complete overview, see the table included at the end of this chapter).

#### 10.4.2.2. Was this preference autonomous from societal lobbying?

In order to investigate to what extent the positions described above were autonomous from immediate societal pressure, I will now delve deeper into the sources of these preferences. The goal is to better understand the position-formation process, and to better control for the influence of civil society and business in this process.

To investigate this, I have again combined interviews with whatever documents I could get my hands on. This included: (i) the policy documents that were drafted by the various governments before, after and during the conclusion of CETA in 2014. These outlined the governments' views on FTAs in general, and allow me to demonstrate some 'stickiness' in their positioning; (ii) analyses that were produced specifically for CETA. These were documents meant for internal usage, that I obtained *via-via*; (iii) remarks made in the press, the parliaments or, in the case of Magnette, his book on the episode.

##### ***a. Strategic documents, foreign policy notes, government declarations***

###### ***a.a. Flanders***

In 2007, the Flemish government produced an **internal strategic note** on trade policy<sup>536</sup>. The government made an analysis of the international economic/political environment, of new developments in the common commercial policy (bilaterally as well as in the WTO), and of the Flemish interests that needed to be defended in the common commercial policy. It also discussed how these latter goals could be attained. Many of these interests returned in the CETA negotiations, which started not long after this document was accepted.

The analysis of the Flemish stake in EUTP was put explicitly in terms of **offensive and defensive interests**. Flanders' offensive interests were situated in services and industrial exports, as well as further liberalization in areas related to the 'Singapore issues'. On the other hand, agriculture as well as audiovisual, cultural, educational and health-related services were '*clear defensive*' interests.

The document listed **ten policy-goals**:

*(i) Improving market access for **agricultural** goods; (ii) The further lowering/removal of tariffs on **industrial** goods, and the improvement of non-agricultural market access; (iii) a strong ('doorgedreven') liberalization of trade in **services** in extra-EU markets, particularly: business services, financial services, telecommunication, construction services, dredging, distribution, transport and logistical services, environmental services, tourism and recreation; (iv) The elimination of all sorts of 'new generation' trade barriers (**NBTs**, **TBTs**, **SPS**, etc) in order to ease and simplify trade in general; (v) the exception of so called **sensitive service***

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<sup>536</sup> Nota aan de Vlaamse Regering - VR/2007/2007/DOC.0783

sectors, i.e. audiovisual, cultural, educational and health-related services, that need appropriate protection; (vi) The anchoring of the convention on the protection and promotion of cultural diversity (UNESCO)<sup>537</sup> in international trade law; (vii) increasing the access of highly qualified staff from third countries to the EU's services markets; (viii) The possibility to use trade as a tool at the service of economic and social development of **developing countries**<sup>538</sup>; (ix) special and differentiated treatment of developing countries and, in particular, LDCs; (x) the elimination of barriers to Flemish **investment** in extra-EU markets'.

It further supported new bilateral negotiations, although preferring the multilateral level, emphasized that trade agreements should primarily be oriented towards the fight against poverty and for a just distribution of the benefits of globalization, and supported the addition of a chapter on **sustainable development** (on fundamental labor rights and environmental norms). When further opening industrial markets especial attention should be paid to the needs of **SMEs**. It 'accepted' that sensitive sectors cannot be excluded altogether ('*a priori*'), but should be closely scrutinized.

The note also supported the attainment of results in the domains of **intellectual property rights**, the removal of all kinds of '**new generation**' trade barriers, the simplification of trade, the elimination of barriers hindering investment, the opening of extra-EU **procurement markets**, with specific attention for SMEs.

In sum: in 2007, Flanders seems to have situated itself on the more 'offensive' side of the European spectrum, albeit with some specific nuances related to sustainable development, SMEs, agriculture and 'sensitive' services. It self-identified as an open, globally oriented region, with an economy that was above-averagely dependent on international developments.

According to various interviews, the basic tenets of this position have changed very little over time (Interview - DiV(2), 2017; Interview - Former DiV, 2016). Further proof for this claim is offered by an analysis of the 'policy statements' that the ministers of foreign affairs have put out. In 2009, largely the same analysis is reproduced in the foreign policy note of minister president Peeters<sup>539</sup> and again by Bourgeois in 2014<sup>540</sup>. There is somewhat of a shift towards an ever more assertive pro-trade stance, however.

#### *a.b. Wallonia*

The Francophone nor the Walloon executives had created any strategic report similar to that of the Flemish document from 2007 (Interview - WBI, 2016). But here too, government declarations and foreign policy notes spend time discussing trade and investment issues.

In the 2009 government declaration, the defense of a '*just, humane and sustainable*' globalisation were put at the forefront, as well as the '*attractivity and development*' of

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<sup>537</sup> By (a.o.) including a chapter on cultural cooperation in future FTAs and other agreements.

<sup>538</sup> In particular the ACP-countries with which the EU has traditionally had close connections, and with special attention for the so-called Least Developed Countries.

<sup>539</sup> Beleidsnota internationaal ondernemen 2009-2014

<sup>540</sup> Beleidsnota internationaal ondernemen 2014-2019

Wallonia and Brussels<sup>541</sup>: *‘La Région wallonne a un besoin vital d’ouverture sur l’extérieur pour son propre développement’* (p. 227). . The document emphasized the (economic/promotional) importance of cultural and audiovisual services, and there is also a plea for social/environmental clauses and mechanisms to check for their implementation: *“the government pleads for the promotion, in an ‘incentivizing, positive and non-protectionist’ perspective, of social and environmental dimension in international trade through the use of for trade restricting measures [...]* (p. 226). Both documents heavily emphasize development-friendly positions, and the government declaration also included a defensive agricultural positions<sup>542</sup>. Although there is a list of ‘poles of competition’<sup>543</sup>, there is far less attention for specific offensive interests than in the Flemish documents.

Compared to Flanders, the shift between 2009 and 2014 is more substantial. Not necessarily in terms of the general goals, but definitely related to the details and the tone. The declaration of government of 2014 still emphasized the importance of exports and investment<sup>544</sup>, but also a number of more detailed elements in relation to *‘all bilateral (trade and investment) deals’*. It listed eight demands in regards to all ‘current and future’ trade negotiations (2014, p. 21, my translation):

(i) *The exclusion of all negotiations on **audiovisual services**, (ii) The absence of any new attempts to further open **cultural services** compared to what was agreed in the 1994 accord on trade in services, (iii) the resolute protection of **public services** or services of general interest, (iv) respect for the principle of sustainable development through **binding social and environmental norms**, (v) the **protection of agricultural products**, (vi) a **rejection of investor state dispute settlement mechanisms** in agreements with countries that have a functioning judicial system, (vii) working with **positive lists** for domains that are open to liberalization, (viii) the **rejection of regulatory cooperation** that strives for legislative harmonization to the bottom and/or threatens the power of states to regulate in the future.*

In sum, although Wallonia emphasized the need for exports and was not opposed to free trade as such, it had a less well-defined view of its offensive interests. It had a clearer sense of its defensive interests, which largely seemed to overlap with those of Flanders. Both regions also emphasized the need for fair and sustainable globalization, with special attention for developing countries.

However, Wallonia diverged from Flanders’ general strategy when it foregrounded far more prominently its defensive demands in 2014. As was discussed in the chapter

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<sup>541</sup> Interestingly, however, in 2009 there was **barely any specific attention dedicated to trade negotiations in the foreign policy note**. There is no separate title for these deals, nor is there the kind of wish-list like the one in the 14-19 document. Such a list is available in the declaration of government, as summarized in the text.

<sup>542</sup> In Wallonia’s 2009 declaration of government, the governments supported reorienting the EU’s **agricultural policies** towards *‘respecting to the right to food sovereignty’*. Moreover, the government found that the ‘unbridled’ liberalisation of international markets threatened the European agricultural model and the principle of Community preference (p. 144). It therefore vows to protect these principles at the EU and international level. It also vowed to push for the inclusions, at the WTO, of des *‘préoccupations non commerciales (bien-être animal, traçabilité, environnement, sécurité sanitaire)’*. More explicitly, it called for the maintenance of safeguards for **beef and sugar**, and strongly resisted the spread of GMOs.

<sup>543</sup> Using Wallonia’s economic recovery program, Marshall 2.0, as a basis, there needed to be specific attention for some ‘pôles de compétition’: *‘aéronautique et espace, sciences du vivant, logistique, génie mécanique et agro-alimentaire’* (FWBW, 2009, p. 12).

<sup>544</sup> *‘Aujourd’hui, dans un climat de compétition intense, la Wallonie doit renforcer son attractivité pour les investissements étrangers ainsi qu’augmenter sensiblement les exportations wallonnes par un meilleur accompagnement de nos PME.’* (p. 29). It calls for a new plan to raise the volume and value of Wallonia’s exportations to ‘Europe and the world’, focusing particularly on emerging economies and SMEs.

on civil society lobbying, there is evidence that this much harsher (and more well-defined) defensive language was at least in part the product of early campaigning and lobbying by Walloon organizations.

### **b. CETA-specific analyses**

In addition to these general analyses, a number of CETA-specific reports was produced in order to come to a picture of Belgium's **offensive and defensive commercial interests** before and during the negotiations.

According to the FOD Economie, however, the production of such studies has in recent years become much more systematic than at the time of CETA (Interview - FOD Economie (1), 2017). There had not been any kind of real 'impact analysis' for CETA (then head of DGE5, C.R.I.C. N° 166 (2015-2016)), and according to the DiV, especially for the offensive interests the studies that were performed remained quite general. Based on trade data at the HS02 level, FOD Economie listed Belgium's exports to Canada to see which sectors were performing well, and this formed the basis for Belgium's offensive stake. If for example 'automobiles and parts' were near the top they would conclude that Belgium had an offensive stake there. So the basis for these positions remained quite shallow, especially because they did not succeed at complementing the macro figures with input from the sectoral federations or firms (Interview - Former DiV (2), 2017)<sup>545</sup>.

An **internal Flemish report** offers an example of the kind of analyses that was produced. This '*background note on the negotiations of an FTA between the EU and Canada*', which was in part based on the scoping exercise of FOD Economie<sup>546</sup>, foregrounded the opportunities for 'traditional Flemish sectors' like pharmaceuticals, automobiles, and diamonds, along with a variety of smaller (sub)sectors<sup>547</sup>. But these statements were indeed mostly based on a general **analysis of export data** (these sectors had performed best in the years before), rather than a detailed exercise matching Belgian and Canadian firms and markets. It also looked at Canada's **trade and investment barriers** (tariffs, quotas, SPS, NTBs) in various sectors, based on a variety of sources (mostly the WTO trade policy review of Canada), but again this was **never linked to specific Flemish or Belgian interests**<sup>548</sup>. The only exception seems to have been public procurement, where the report noted that '*there had already been concrete problems in an important Flemish sector*', dredging; Canadian policy here was a big barrier to entry for foreign firms<sup>549</sup>.

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<sup>545</sup> Which was also a complaint of the employers' federation VBO: they believed that Belgium was not very well prepared in terms of knowing its offensive and defensive interests, also when compared to other countries analysis. They attributed this both to institutional complexity as well as lacking firm/sectoral input (Interview - VBO (1), 2016). At the time, FIT's performance was still sub-par, there were many difficulties in gathering info from business, or performing analyses (Interview - Former DiV (2), 2017).

<sup>546</sup> 'Achtergrondnota met het oog op de onderhandeling van een vrijhandelsakkoord tussen de Europese Unie en Canada'. Departement Internationaal Vlaanderen, 30 July 2009. Received via e-mail.

<sup>547</sup> Biotech, organic food and 'functional' food, utilities (renewable services, water and waste management), design, ICT, healthcare, air travel and mining

<sup>548</sup> Sources mentioned are the scoping exercise of the FOD, the European Market Access Database, the Joint Study, a 2008 CEPS report, the OECD FDI Restrictiveness Index and the WTO Trade Policy Review of Canada of 2007

<sup>549</sup> Again, though, it did not become much more specific than this, at the time.

Note that these were also the offensive sectors that were emphasized by Bloem, Reynders, Peeters and Bourgeois. As was discussed in the previous section, these did not elicit any controversy within Belgium.

The biggest analytical work was put into **defensive interests**, particularly **services liberalization**. At first, the Belgian position was to resist negative lists all-together. This eventually became untenable in the Council (Belgium became isolated in this dossier), and Belgium conceded – although it did so on a number of conditions: (i) the Canadian provinces had to make commitments on services and procurement, (ii) the inclusion of negative listing in CETA would not be a precedent for other accords, (iii) it would be limited to modes 1,2,3 (Interview - FOD Economie (1), 2017). After it became apparent that **negative listing** would be inevitable and that Belgium was going to have to go along with this, they started composing their reservations. This necessitated an in-depth screening of Belgian legislation across all levels.

FOD Economie took charge in this cumbersome analysis, later followed by the regional administrations<sup>550</sup>. They started by looking at the engagements of Belgium in GATS and CARIFORUM. Although these deals were negotiated on the basis of positive lists, EU commitments in both GATS and Cariforum covered the majority of economic activities in the tertiary sector. Belgium therefore started from this base to launch the screening exercise of the regulations necessary to draw up the negative lists for the CETA. This meant that the 'red lines' in sensitive sectors remained within the margins of the GATS commitments. For healthcare, for example, Belgium had not closed off the sector entirely in GATS, and this obliged them respect their multilateral commitments by still allowing for some opening in CETA as well<sup>551</sup>. The regional administration then contributed their own comments, which resulted from a screening of their own regulations. All sensitive sectors ("public utilities", health and social services, cultural services, education services, security services, energy services, etc.) were identified by the relevant administrations. As was already mentioned, and which also clearly emerged from the strategic documents outlined above, both **regions** supported special attention for sensitive sectors, but Flanders was less defensive. For some sectors Flanders was willing to consolidate the current level of liberalization (i.e. put them in Annex 1), while for Wallonia this wasn't acceptable because the sectors were too sensitive, and because they wanted to preserve their future policy space (Interview - WBI (2), 2017)<sup>552</sup>.

It has remained somewhat hard to gauge how intensive the debates about this were. The FOD claimed that there was not that much fuss about this at the political level: these screenings were **combined**, into an agreement at the technical level, which was

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<sup>550</sup> Also coordination with other ministries at the federal (and probably regional) level(s). One of the most difficult dossiers between the ministries, at the technical level of the civil service, was with the ministry of health, about health services. They were far more distrustful of this than Economics, and they strongly questioned the negative list approach. However, this attention was highly bound to one person, and since he left the Ministry they have completely dropped out of this process. For example, in the EU-Japan FTA they did not deliver any input at all (Interview - FOD Economie (1), 2017).

<sup>551</sup> According to FOD Economie, the entire health sector is still listed in appendix 2, for CETA, but it's not a big overlapping reservation; although there was some opening, the reservations installed important safeguards (Interview - FOD Economie (1), 2017).

<sup>552</sup> The difficulties of the negative list were very clear for instance in concern to the health funds, about whether or not they were covered or not. Every time, they needed to check in the reservations, and there was always room for doubt, while when they would have opted for a positive list they knew for sure, immediately, that there was no danger for the health funds (Interview - FOD Economie (1), 2017).

then sent to the political level in DGE5; when they proposed the negative list the DGE5 everything went smoothly, there were no real changes anymore. The only sector that demanded further analysis was energy<sup>553</sup> (Interview - FOD Economie (1), 2017). My regional sources, however, spoke of 'long months of negotiations'<sup>554</sup> after which a sort of intra-Belgian '*gentlemen's agreement*' was found (somewhere in 2010-2011): all of the sectors for which one of the Belgian entities found a difficulty, were automatically placed in annex 2 (which would maintain their regulatory room for maneuver)<sup>555</sup>. Wallonia also claims that it had succeeded at pushing for a stronger Belgian position on public services: Belgium took charge of a movement (*'a pris la tête'*) among the member states to try and return to a traditional (horizontal) approach (Interview - WBI (2), 2017)<sup>556</sup>. Perhaps some confusion is due to various interpretations of what it means that some discussions were 'technical' rather than 'political'; a plausible interpretation is that there were long discussions at the technical level, with input from political actors in the regions (especially Wallonia), which meant that the final, formal approval in DGE5 was mere rubberstamping.

When comparing the reservations compiled by Belgium to those of (for example) Germany, we see that the latter country has a far more expanded list, especially in the field of health services and social security. Given the sensitivity of these sectors in Belgium, this is somewhat surprising. According to the FOD, these differences resulted from differing interpretation, among the member states, of the proposed definitions, of which the Belgian decision-makers were not immediately aware. The FOD did not have a view of the reservations that were demanded by the other member states until very late in the process, because they were mostly focused on their own domestic regulatory screening. This took up all of their capacity. They therefore did not know that Germany believed that the general exception on health care was insufficient, and had therefore requested additional reservations. Then, when Belgium asked for clarifications about the German stance from the Commission, the latter argued that Germany was mistaken in its interpretation; the general reservation would suffice. In combination with the previous remarks about the quality of the analyses, this can be seen as a neat indication of how (lacking) **capacity** can help determine the stance of countries even on issues that were seen as highly important, but it might also serve as an example of how Commission-member state dynamics played a role –which in my work has perhaps not been sufficiently highlighted.

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<sup>553</sup> There was a separate political coordination for this sector, which resulted in the entire sector being put into annex 2 because it was so sensitive (Interview - FOD Economie (1), 2017). Time did not permit for me to further delve into the politics of this specific reservation.

<sup>554</sup> According to my Flemish source this at first was mostly a discussion over audiovisual services, in which the Belgian market was actually very liberal, but they wanted to maintain policy space to potentially close it up in the future. Secondly, there were many conversations about education, but here it was quite clear what they wanted to do with this. Finally, there was everything related to public utilities, where it was hard to define what was covered by this (Water? Waste collection? ...?). Here there was again a slight difference between Flanders and the Francophone entities. Flanders was more pragmatic and liberal, while the Francophone side wanted to close off the market as much as possible. They pushed for an annex 2 reservation on public utilities. So that was the focus: services, modes 1, 2 and 3 (mode 4 wasn't much of an issue, contrary for example to the FTA with India) (Interview - Former DiV (2), 2017).

<sup>555</sup> There was no written agreement on this. According to the FOD Economie this complicated the task afterwards, because they couldn't say: voila, this is what we agreed to, we can't revisit this now (Interview - FOD Economie (1), 2017).

<sup>556</sup> And noted that even this traditional approach had led to a lot of tensions.

The second sensitive issue (especially *after* the negotiations, though) was **investment protection**. This was one of the first times that the EU was including an investment chapter in an FTA, which meant that DGE5 was now in charge of coordinating this issue. Before, BITs had been dealt with by B3, which according to one source had not built up that much expertise. This meant that that, at first, coming to a Belgian position here was very difficult, and they had to go through a lot of research and deliberations. However, this energy at the technical level did not translate into a lot of political attention for this issue, or any specific positions. Flanders had always been in favor of BITs, which it primarily saw as an economic instrument, and the political level was never very concerned about this. Including investment in FTAs was seen as a positive thing, as long as there was attention for environmental and social standards. But this wasn't considered a problem with Canada (Interview - Former DiV (2), 2017). I have less information about the Francophone process, but as I noted before: before 2014 at the political level there was little trace of the ISDS-critical discourse that later emerged (Interview - Former DiV (2), 2017).

Finally, the source of the Flemish and Walloon positions on the sensitivity of public services was probably the result of the '**cumulative**' **contestation** by certain civil society actors. CSO activity was perhaps very modest in regards to CETA, but as Crespy (2016) has shown, the trade unions and CNCD/11.11.11 had campaigned on these issues for years, and had at the time (1999-2005) clearly allied with the parties of the left - notably the PS. Even if civil society had remained wholly quiet on this issue, I would have expected Wallonia's socialists to be very skeptical of any 'innovations' in relation to services trade. This was reflected in the comments from Wallonia's civil servants quoted above: they did not just criticize negative listing from a technical viewpoint, but were moreover afraid that this method would be hard to explain and defend vis-à-vis the public. This anticipatory reflex also applied to their position on the investment chapter. Here too, CSOs had not been campaigning very intensively on CETA, but had in recent years been active on BITs and ISDS in general. There had therefore already been many discussions over investment with stakeholders like CNCD-11.11.11, although not related to CETA (Interview - Former DiV (2), 2017), and civil society's successful contestation against the BIT with Colombia had attracted a lot of political attention in Flanders as well as Wallonia. The Belgian defense of linking the investment chapter with sustainable development can therefore be linked to this earlier and parallel lobbying, but also to a fear *triggering* public outrage.

### ***c. Ideology, idiosyncrasy and stickiness***

Taking a step back from the details of the preferences, what did we learn so far about their sources? Apart from the CETA-specific analyses, it seems clear that they were also built on previous, more general positions.

In services, it were apparently the GATS commitments that formed the basis of the Belgian position, as well as existing sub-federal legislation and pre-existing commitments to keep restricting openness in certain sectors - or to maintain the policy space to do so in the future. The sources of these positions can to some extent be traced back to some prior strategic documents (like in Flanders), but what formed the basis for these earlier positions remains unclear, and was perhaps not always clear for the policy-makers that had to build on them. The FOD Economie, for



example, explicitly remarked that they of course didn't know why the Belgian negotiators had in the 1990s chosen to open up some sectors (and not others) in the GATS. This was just taken as a given, a constraint that Belgium had to adhere to if it wanted to remain in accordance with its multilateral commitments.

This stickiness was also apparent in other issues. The concern with **audiovisual and cultural services**, for example, is interesting in this regard: it is a long-standing Belgian demand for which there has, as far as I can tell, never been any industry lobbying<sup>557</sup>. Instead, the source of this position is the concern, cultivated from the early years of sub-federal foreign policy in the 1980s and 1990s, for '*cultural diversity*' by Flanders as well as the Francophone entities: a desire to retain the space to support in various ways the home-grown films, music, etc, and to put some brakes on the dominance of other (particularly, especially in Wallonia, Anglophone) cultural producers (Criekemans, 2010; Interview - DiV(2), 2017; Interview - Stakeholder management - Flanders, 2016)<sup>558</sup>. Similarly, the responses of the minister of foreign affairs to CSO questions in the FRDO, as well as interviews with policy-makers, indicate that the Belgian position on the need to include (non-sanctioning) chapters on sustainable development, as well as its positions on the precautionary principle, but certainly also the defensive position on public services, were considered standard parts of the 'basic' Belgian position: these had been important issues for Belgium throughout the past twenty-thirty years of trade negotiations (multilateral as well as bilateral), and they thus became the standard Belgian position here as well (Interview - DGE5, 2016; Interview - Former DiV, 2016)<sup>559</sup>.

Ideology, incrementalism and economic-interest also seemed to mix in the case of the Flemish position on trade and **agriculture**. According to the Boerenbond, on fundamental principles their narrative was shared by most decision-makers in Flanders (and the EU): everyone recognized the need to safeguard a basic potential for self-sufficiency (Interview - Boerenbond, 2016). Interviews with the Flemish department for agriculture and environment supported this observation: they were '*only open to a policy that does not capsize Flemish agriculture, that defends our standards and does not open up without considering the (economic) viability of our producers*' - while also noting that in Flanders this viability was dependent on exports, here repeating the Boerenbond's view of Flanders' dependence on high-quality niches and brands (Interview - Agricultural Department Flanders, 2016)<sup>560</sup>. Although there were certainly contacts with the Boerenbond during the negotiations, it seems the general tenet of the Flemish position would have remained the same irregardless. This was also acknowledged by the Boerenbond, which said that most of its contacts with the department consisted of rehashing its well-known position (Interview - Boerenbond, 2016).

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<sup>557</sup> Until TTIP, when there was a coordinated campaign somewhere over the course of 2015-2016

<sup>558</sup> Nonetheless, according to the civil servant that had worked on this at the time, Flanders in the run up to CETA also suffered from a lack of clear analyses and policy vision on this issue. They mostly decided to follow their Francophone colleagues, whose basic line they supported (Interview - Former DiV (2), 2017).

<sup>559</sup> Additional sources: FRDO- 7 Februari 2011 - Questions & Réponses; Conseil Fédéral du Développement Durable : Table ronde sur le Commerce international du 19 février 2015 Réponses SPF Affaires étrangères. Both sent to me in a personal communication.

<sup>560</sup> They also made clear that the agricultural department's input determined the Flemish stance in this sector: there were no tensions over this with other departments (that e.g. tended to favor NAMA)

This brings us to the curious case of Belgium's missing **geographical indications (GIs)**. As we saw Wallonia nor Flanders formulated any demands on GIs, even though this later became highly controversial (even among parties that were in government during the negotiations). How did this come about? In **Flanders**, my interviewee claimed that the DiV had for years asked the agricultural department whether they needed to push for the inclusion of Flemish GIs in CETA, but they never got a response - even though the DiV had already checked which Flemish products were protected, and even though such a request would have probably succeeded (no Canadian firms produced these Flemish products) (Interview - Former DiV (2), 2017). On the **Walloon** side, it remained unclear why Wallonia did not request this, they wondered whether Wallonia had perhaps not been sufficiently careful during the negotiations. Of course, later this changed, and it became an important political complaint in 2016. The WBI attributed this shift in part to a changed economic and strategic outlook<sup>561</sup>. My former DiV interviewee offered another perspective: Wallonia's agricultural expert was very proficient, and it was unlikely that they did not signal this to the cabinets. Either there was an error at the political level (if it was indeed an interest), or they didn't really consider it very important at the time. My investigation of Belgian GIs in other FTAs shows that Belgium in fact didn't include GIs in most of the other FTAs negotiated around the same time, except for the DCFTA with Ukraine, supporting the interpretation that Wallonia hadn't been interested<sup>562</sup>.

Finally, two elements lead me to suspect that Belgium had to pick its fights, and could not (nor wanted to) take in many highly detailed or controversial positions inside the Council - apart from a few highly sensitive issues, which sucked up all available analytical and political resources.

First, as was indicated a number of times above, the capacity for detailed follow up from the regions must have been limited, considering the small amount of people involved in tracking these issues. This was also acknowledged by my source within the post-2014 federal government, who argued that the role of the ministerial cabinets (which had been limited) had to be greatly boosted after CETA became more and more sensitive: there was now more need for a detailed follow-up of this dossier, a task for which the administrative support in Flanders and Wallonia was too 'thin'.

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<sup>561</sup> Between 2009 and 2016 there was a proliferation of bilateral FTAs, from which there was a cumulative effect of opening in agriculture. Together, this had started adding up, while in the meantime the agricultural sector had been going through a crisis. Together, this meant that they came up with the demand of a stronger safeguard mechanism for agriculture. Today they systematically demand the inclusion of GIs, which also reflects a shift in Wallonia's strategy. They now put more emphasis on territorial products and local production (Interview - WBI (2), 2017).

<sup>562</sup> I checked Singapore (negotiated since 2010, concluded in 2015), South-Korea (negotiations started on 2010, in force since 2015), Vietnam (started in 2012, negotiated since 2014, concluded in 2015), South-Africa (started on 1999, in force since 2004) and Ukraine (started in 2008, initialed in 2012, applied since 2016). In Vietnam and South-Korea there is one Belgian GI included 'Korn', but this was also requested by Germany and several other member states. There were none in any of the other FTAs, except for the DCFTA with Ukraine: here there were many, Flemish as well as Walloon. This list was negotiated over the course of 2014. The protected GIs were the following: Côtes de Sambre et Meuse, Hagelandse wijn Haspengouwse Wijn Heuvellandse Wijn Vlaamse mousserende kwaliteitswijn, Cremant de Wallonie Vin mousseux de qualite de Wallonie Vin de pays des Jardins de Wallonie, Vlaamse landwijn, Balegemse Jenever, Hasseltse jenever, Oost-Vlaamse Graanjenever, Pekêt, Jonge jenever, Oude jenever, Graanjenever, Vruchtenjenever, Jenever, Jambon d'Ardenne, Fromage de Herve, Beurre d'Ardenne, Brussels grondwitloof, Brabantse Tafeldruif, Pâté gaumais Geraardsbergse Mattentaart. Source: Official Journal of the European Union, ASSOCIATION AGREEMENT between the European Union and its Member States, of the one part, and Ukraine, of the other part.

There were too few people in charge of too many issues, a gap that was plugged by the cabinets and the permreps (Interview - Federal Government, 2017). Secondly, something that came back in several interviews was the **preference of foreign affairs to follow the Commission**, and to at all times avoid isolation at the EU level (Interview - ex-DG Trade, 2016; Interview - Former DiV, 2016). Although foreign affairs was well adapted to its role as an honest broker within Belgium, doing its best to come to a synthesis of the offensive and defensive interests voiced by the various players, after setting the internal position the federal ministry *also* had a habit of *'playing the European game'*, and more specifically detested being bereft of allies at the EU level; they had a strong preference for moving in conjunction with other member states and would always be looking to strike deals that avoided isolation (Interview - WBI, 2016)<sup>563</sup>.

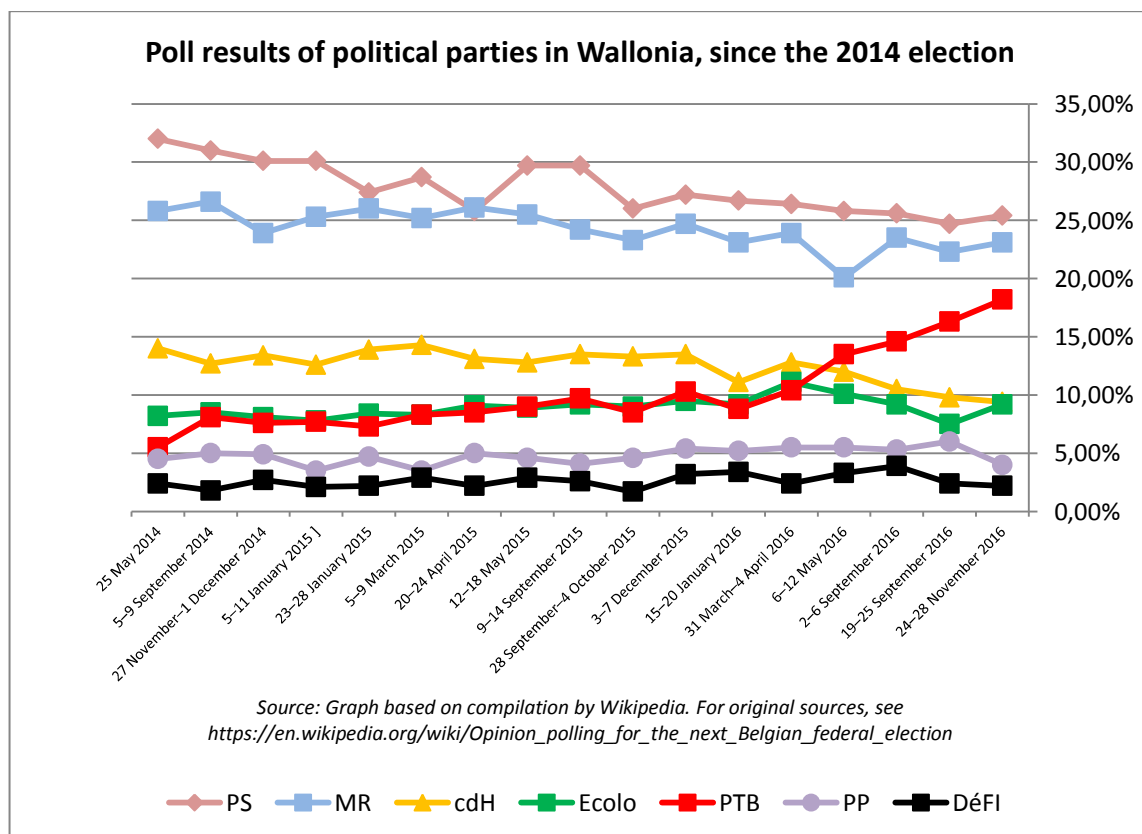
#### **d. Party politics and asymmetric government**

Wallonia (& Community)	PS, cdH	2008-2009
	PS, Ecolo, cdH	2009-2014
	PS, cdH	2014-...
Flanders	CD&V, sp.a, Open Vld	2007-2009
	CD&V, sp.a, N-VA	2009-2014
	N-VA, CD&V, Open Vld	2014-2019
Federal	CD&V/cdH, Open Vld/MR, PS	21/12/2007 - 20/03/2008
	CD&V/cdH, Open Vld/MR, PS	20/03/2008 - 30/12/2008
	CD&V/cdH, Open Vld/MR, PS	30/12/2008 - 25/11/2009
	CD&V/cdH, Open Vld/MR, PS	25/11/2009 - 6/12/2011
	PS/sp.a, Open Vld/MR, CD&V/cdH	6/12/2011 - 11/10/2014
	MR/Open Vld, N-VA, CD&V	11/10/2014 -

Finally, we must take into account the Belgian institutional and party-political setting. To what extent did the political make-up of the governments play a role in the dossiers discussed above?

<sup>563</sup> An interesting **demonstration** of this can be found in the FRDO report of 2015. In response to a question about negative listing (in the context of TiSA), the response of the ministry of foreign affairs noted that Belgium had remained the only country in the Council to continue its demand for **positive listing**. The Ministry complained that Belgium was totally isolated on this matter, they were *'the only country bringing this point forward'*, and they *'often lack convincing arguments to justify this position. A negative list can be used just as well to protect our concerns, such as the protection of public services or safeguarding policy space for future interventions'*. Source: Conseil Fédéral du Développement Durable : Table ronde sur le Commerce international du 19 février 2015 - Réponses SPF Affaires étrangères. Sent to me via personal communication.

As I indicated in the press overview, many observers (especially on the Flemish side) believed that party-politics were the root cause of Wallonia's shift towards opposing the deal after 2014. They argued that the PS' removal from the federal government was seen an important factor in this party's activism on the trade front. Magette's refusal to sign CETA was perceived as a way to both sabotage the federal government (in which the liberal MR was the only Walloon party), while simultaneously strengthening its profile vis-à-vis the communist PTB that had been searing in the polls. Had the PS been present in the federal government, the party's stance would have been less confrontational, and this would have also severely dampened the enthusiasm of its MPs.



### How to assess this narrative empirically?

As I already discussed in my discussion of Wallonia's parliamentary developments, the CSOs had clearly seen the change of governments of 2014 as an opportunity. Not only the asymmetric government played a role in facilitating their influence over Wallonia, so they believed, but also the rise of the PTB. Furthermore, even within Wallonia's executive, coalition-dynamics remained important. According to an MP from Ecolo, the party that actually shifted most in its position was the cdH. If they hadn't been persuaded, the MP from Ecolo believed that there would have been less movement. And cdH was especially interested in clawing back support from the farmers, which had traditionally supported cdH but which had been moving to the MR (Interview - MP (Ecolo-Wallonia), 2016)<sup>564</sup>.

<sup>564</sup> Although it drew less attention, Ecolo's very active and militant part in the politicization of CETA and TTIP was obviously also affected by its 'role' in the opposition. Ecolo had been in the regional government when they

Neither narrative necessarily tells us that these parties *instigated* the resistance against CETA. The PS and cdH may have also just become far more receptive to the CSOs' campaign. It is clear that both parties had been in some electoral distress<sup>565</sup>, but judging from poll data, it seems as if this only really started kicking in after the spring of 2016: that's when the PTB began its stellar rise. However, at that time there had already been a very critical governmental declaration, dozens of critical speeches, and a harshly formulated resolution. In the fall of 2014, the Walloon government had already relayed its criticism of ISDS in CETA to the Belgian and EU meetings.

Based on the evidence I have collected, I believe that the pure party-political narrative is not convincing: had they remained silent, we would not have seen this kind of politicization of trade issues<sup>566</sup>. Evidence that would overturn this assessment would need to show that they coordinated with civil society's vanguard (the trade unions, CNCN) to mobilize on this issue; however, I do not think this fits with the narrative I constructed in the CSO mechanism, nor the story told by the federal MP of the PS (Interview - MP (PS - Federal), 2016).

I therefore did not further try and open up the internal kitchens of the parties. This would have taken me too far, and I felt that the narrative that this dimension largely functioned as a very fertile scope condition for the CSO dynamic was sufficiently plausible. However, I further reflect on this interplay in the conclusion.

### **In Summary**

There was a wide variety of potential autonomous sources for the positions that decision-makers put forward, including economic analyses, ideological predispositions, fear of potential societal responses, and long-standing negotiating position. On a number of issues, lacking state capacity also seems to have played a role, and at times Belgium mostly had a preference to follow the Commission. For a more complete overview, see the table included at the end of this chapter.

#### **10.4.2.3. Did this preference become 'operational'? Did it influence the final position?**

Next, did they 'work' to turn these preferences into policy? I already discussed this to some extent in the previous section, but will now delve a little deeper into this step of the mechanism. The final question is whether they succeeded at turning these preferences into the Belgian position. I combine these steps into one analysis.

Contrary to the previous steps, here I do have some theoretically derived 'scope conditions': the extent to which policy-makers will be able to transform their own preferences into policy is believed to be conditioned by three factors – the force and

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approved CETA's mandate, in 2009. According to an MP, Ecolo had not been in favor of these negotiations, but they let it slip past because they were constrained by their coalition (Interview - MP (Ecolo-Wallonia), 2016). After the party was left out of the regional government in 2014, it could openly return to its highly skeptical stance on trade issues.

<sup>565</sup> See also cdH's recent maneuvers, in the fall of 2017

<sup>566</sup> Had Wallonia's NGOs, trade unions, SMEs and farmers risen up against the DCFTA with Ukraine instead, CETA would have remained a minor issue while we would have seen intra-Belgian and European conflict over Ukraine

homogeneity of societal preferences, the susceptibility of policy-makers to this pressure and the amount of pressure exerted by foreign states or entities (e.g. the Commission).

### ***a. Scope conditions***

As I show in the previous chapters, there was a clear distinction here between two phases. There was limited pressure from either business or civil society during the first phase, meaning there was ample space for autonomous preferences to play a role. In the second phase, there was a huge amount of pressure by civil society on Walloon decision-makers, starting and then increasing from 2013. This was far less so in Flanders. Business remained dormant, but eventually joined forces to increase the pressure across all entities after the summer of 2016. Only in Wallonia was there some disunity, because the federation of SMEs turned against CETA, while the farmers' organization remained vague. From 2014, in Wallonia, there was a left wing government at the helm, whose leading parties did not perform very well in the polls. In Flanders, a center-right and economically liberal government was led by a party that had recently gone through enormous electoral growth and then consolidation; it had built an antagonistic relationship with the unions and other social movements, while its relationship to the regional business administration had been very cozy. At the federal level, a center-right government was trying to push an economically liberal program, but the only Walloon party participating (and leading) this team was vulnerable to criticism that it was not serving Wallonia's interests. In brief, I believe it would have been plausible for us to expect Flanders not to care too much even if societal resistance had been much fiercer, while Wallonia was a far softer target in 2014. It is currently hard to gauge the amount of pressure that was exerted on Belgium during the negotiations. Of course, in the final phase in October 2016 there was immense pressure on Belgium and Wallonia. I further discuss this dimension (and so the scope conditions) in the text below.

### ***b. Empirics***

#### ***b.a. Before 2014***

I already described how the various sub-federal and federal entities worked to turn their own positions into the Belgian stance in the TPC. Although there were some differences, almost everyone seemed to agree that things went very smoothly intra-Belgian. In the whole CETA dossier there were no big intra-Belgian conflicts, even compared to other FTAs like the one with South-Korea. This was also true for some of the fields that I did not discuss before. For example, there were never any conflicts on the agricultural dimension of the deal. The civil servants working on this on both sides cooperated very well, and the interests were complementary (Interview - Former DiV (2), 2017).

Since there was not much lobbying or campaigning, not even on some of the issues that were most controversial, there was also no need to defend their positions that much. Although all policy-makers seemed to have been in demand for more input from business to help them determine Belgium's specific commercial interests, the response remained lukewarm and they had to rely (to some extent, there were exceptions such as in dredging) on their spreadsheets.

Finally, within the EU, my respondents claimed that the Commission had generally been very open for any offensive or defensive interests. Belgium was generally able to perform quite well, especially on offensive interests. Of course on some issues, Belgium eventually bit the dust, such as in **negative listing** where it gradually lost all of its supporters until Belgium was the only country still rejecting negative listing, causing it to back down. As was detailed before, this forced them to draw up reservations for the negative list. On **investment** the position of Belgium was at first not to support a chapter on investment, but here the Commission succeeded at convincing them<sup>567</sup>: it claimed that Canada was strongly demanding the inclusions of ISDS, and that some of the newest EU member states had unfavorable BITs with Canada; an EU investment chapter would allow them to improve their situation. Finally, the Commission presented it as a package deal, also proposing investment chapters in the FTAs for Singapore and India, in which many of the countries (including Belgium) did support its inclusions (Interview - FOD Economie (1), 2017)<sup>568</sup>. A last example was the inclusion of binding and enforceable social and environmental clauses, a request from Wallonia, which was opposed by Flanders but also by a large majority in the TPC. Even though Canada itself wanted to include binding social norms, Wallonia therefore did not succeed at making this the Belgian position (Interview - WBI (2), 2017).

#### *b.b. After 2014*

Investigating this dimension was somewhat troublesome, because of the sensitivity of this politicized topic at the time of my analysis. However, apart from the other sources I have already been building my narrative on, here I also had access to one somewhat peculiar and arguably tendentious source: the book which Paul Magnette himself wrote, while still in office, about the CETA episode: *Quand L'Europe Déraile*. I will use his summary of events, in combination with other sources from the Walloon, Flemish and federal executives, to perform my analysis.

According to sources in the Flemish ministry of foreign affairs, at the 'technical level' it started becoming apparent that the Walloon stance was shifting throughout 2015. By the beginning of 2016, it was clear that a conflict was brewing. After a long and fruitless series of attempts to 'clarify' the issue at the technical/administrative level, it became clear that it needed a political resolution (Interview - DiV(2), 2017). According to Walloon sources, they had in fact made their reticence known even earlier: during a DGE coordination, before the conclusion of the political accord of CETA at the EU-Canada summit in Ottawa (September 2014), Wallonia clearly expressed that ISDS was not acceptable. According to them the Belgian representative then also relayed in the subsequent TPC meeting that some of the Belgian entities were having difficulties with the inclusion of this system (Interview -

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<sup>567</sup> My sources vary a little on what argument was most convincing

<sup>568</sup> On investment screening: Canada had such a system. My source believed the Commission thought that Canada would in the end make an exception for EU investments in its system, so it didn't really come up during the negotiations, only at the very end, when it became clear Canada would not be changing its position and would maintain screening for EU investment. The commission's solution was then to counterbalance Canada's position by including a mirror clause with the possibility for the EU to also screen Canadian investment. Belgium didn't really have a position on any of this, it was the Netherlands and Sweden that were very worried (Interview - FOD Economie (1), 2017)

WBI (2), 2017). It's also certain that in 2015 Magnette met with Malmström<sup>569</sup>, and that he claims that he told her Wallonia would not ratify unless their demands were met. Later that year (in July) he also spoke with Quebec, again communicating their worries (Magnette, 2017).

Meanwhile, by 2016 the debate was no longer just being fought within the web of administrations and coordinative committees, but also included 'work' towards the parliament, public opinion and civil society. As was already discussed above; the head of DGE5 appeared in hearings in all the Belgian parliaments, defending the FTA (although they obviously felt this was not very successful) as did the head of AWEX and of course numerous politicians<sup>570</sup>.

Magnette continued to repeat his objections in nine intra-Belgian coordination meetings between July and October 2016, leading to nine TPC meetings where Belgian permreps communicated Wallonia's resistance. Brussels, Wallonia and the FBW also sent letters explaining their position to the federal level in July 2016 (Magnette, 2017)<sup>571</sup>. However, according to sources from the federal government, Wallonia just repeated its stance, without indicating any willingness to budge. They also ignored a call for a direct dialogue with Reynders' cabinet in halfway the summer. This was seen as an indication that the Walloon government was trying to escalate the issue (Interview - Federal Government, 2017).

When in October 2016 the Walloon parliament again confirmed its resistance against CETA, and the regional government concluded that it could therefore not sign the deal, this triggered an intra-Belgian as well as a European crisis because this meant that Belgium would not be able to sign the treaty. Since the Commission had just months before decided that it would treat CETA like a 'mixed' agreement, necessitating unanimous member state approval, this threatened to sink the accord.

The pressure exerted on Belgium then quickly increased. In September, Belgium's permrep had already alerted Magnette that Belgium was in danger of ending up in '*splendid isolation*' at the EU level, while in a bilateral meeting (19 September) the Canadian embassy had threatened '*dire consequences for Wallonia-Canada relations*'. According to Magnette, it took until October 4 for Malmström to arrange a meeting however, in which Wallonia was reassured that there would be an interpretative declaration that would take away their worries. When Wallonia objected that the agreed declaration was insufficient, they grew increasingly isolated. Especially irksome for Magnette was the lack of support from other social democratic leaders across Europe, especially after Germany and Austria saw some of their concerns taken away by the interpretative declaration; after mid-October, such governments actually started exerting direct pressure on the PS. Although Hollande helped them

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<sup>569</sup> He claims that he felt obliged to do this because of the criticisms being raised by civil society and the parliament

<sup>570</sup> I did not receive any indications that they also started shutting off institutional access for societal interests (as the ministry of foreign affairs did in the Netherlands), however: civil society as well as business seems to have been able to get in touch with policy-makers across all entities if they really wanted to, this did not become more difficult after 2014. Flanders, for example, ran a stakeholder event that included the trade unions in the fall of 2016.

<sup>571</sup> According to Magnette, during a brief meeting on July 21st there were indications that the federal level thought the problem was solved because ICS would be taken out of provisional application.



mediate this minefield, France wasn't of direct support either. As Magnette put it: they were *'bel et biens dans une situation de 'splendid isolation''* (Magnette, 2017).

However, sources from within the federal government argue that Wallonia was itself also responsible for further escalating the conflict, because they did not indicate any willingness to engage in any real dialogue (i.e. also demonstrating some flexibility, creating an opening for a negotiated solution) until halfway October; attempts to find a solution by the federal level and the Commission in September and early October met with an unresponsive Walloon executive (Interview - Federal Government, 2017).

Eventually however, there was an intensification of the intra-Belgian discussions in October. They started at the 'technical' level: trying to get a good view of what the problems were, explaining those in charge how certain aspects of the deal worked. With the help of the Commission, they then started drafting new texts (Interview - DiV(2), 2017) while, stretching Belgium's constitutional limits, Wallonia also started meeting directly with Canada and the Commission. Ten days of intensive negotiations followed after 19 October (the twists and turns are described in the book), fighting off ultimatums<sup>572</sup>, and thinly veiled threats<sup>573</sup> followed, but by the end of October resolution was in sight. On 26 October there were negotiations with the prime minister, the federal minister of foreign affairs, the permanent representatives, the regional administrations and the Commission. The issues at stake were primarily dispute settlement, agriculture and social security, as well as intra-Belgian negotiations about whether the state would need to ask the European Court of Justice a question about ICS, and about the installation of a permanent evaluation mechanism. Wallonia also had more specific demands: they wanted parliamentary approval (for the issues that were their competence) of any sort of regulatory cooperation. Flanders was very hostile to this procedure, but finally accepted it in a *'constructive gesture appreciated by everyone'* (according to Magnette, 2017). On the 27nd, intra-Belgian and negotiations and European pressure finally produced a document that altered the interpretative declaration, and which stipulated a set of conditions that needed to be met before Belgium could ratify. This sufficed for a majority in the Walloon parliament (Ecolo and the PTB remained opposed), which on 28 October agreed to Belgium's signing of CETA.

The real difficulty in the last weeks of October was the cdH, which took a very strong position on agriculture. The PS was mostly concerned about the investment chapter, and did not intend (or hope) to really re-open the treaty for negotiations. They were willing to come to an agreement, and were well aware of the constraints imposed by the negotiated deal and the EU context. It was the harsh stance of the cdH which made the talks drag on (Interview - Federal Government, 2017). Of course, Magnette does not agree with this perspective in his book; he maintains that they had a broad package of concerns, which were adequately addressed in the intra-Belgian and EU-Canada deal that was eventually found.

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<sup>572</sup> Formulated by (amongst others) European Council president Tusk.

<sup>573</sup> In the week of the 26th, *'a member state'* had threatened to withdraw a big investment unless Wallonia submitted. The Commission had also threatened them that dossiers like anti-dumping, social dumping and the cohesion funds would become more difficult because of their attitude (Magnette, 2017).

### 10.4.3. Conclusion

I have shown that policy-makers had autonomous preferences, not related to any discernible societal lobbying, on some of major issues that popped up in the negotiations: the approach to services liberalization, and investment protection. They also came to autonomous positions on other parts of the deal, including offensive and defensive commercial interests, without receiving much input from firms or sectors – even though they themselves were actually in demand for such input. This forced them to rely on earlier, general strategies and coarse analyses. There was little societal push-back, except a little bit on investment by the unions and NGOs, but it's unclear to what extent this altered the Belgian position – it seems to have remained vague yet supportive of investment and investor-state dispute settlement. The main 'game' being played was between the Belgian entities, and within the Council. Although CETA was on the whole not a very controversial issue within Belgium, there were differences over services liberalization in which it seems like Wallonia was most able to push the Belgian position towards its more defensive preference. However, counter-pressure from the EU level forced Belgium to back down here. I think it's debatable whether this was in fact a change in the Belgian position: it was still opposed to negative listing, and still wanted to protect the same sensitive sectors. Lack of a majority in the EU also contributed to Wallonia's failed attempt at including enforceable social and environmental clauses in the Belgian stance.

After the negotiations were concluded, there was a change of heart in Wallonia, which eventually led to a different Belgian position. I have shown in the previous chapters how we might relate this to civil society campaigning and lobbying. In this chapter, I have now demonstrated that (i) Wallonia had had doubts about some of the elements of the deal that were also part of the controversy in this second doubts, (ii) these doubts seem nonetheless have become far more pronounced, and far more politically charged, after the 2014 elections – even though largely the same parties were in power (Ecolo left the government, and actually went on to lead the fight against the FTAs in the parliament). It's also dubious that there was any new information that changed policy-makers' (which, also within the civil service, were still largely the same people) views; in Flanders there was no positional shift, even though they had largely agreed on most aspects of the accord just the year before.

Did the PS stir up this conflict just to perform better in the polls and sabotage the center-right federal government? I think this top-down view should be rejected, even though governmental preferences still played a role. Electoral pressure from the left, and the fact that it did not have to worry about preserving a federal coalition, likely made the PS more receptive to pressure from civil society. But I do not think it would have triggered the same kind of intense political crisis over trade policy, an issue that had in the past almost never enjoyed much attention from either politicians or the public, without being pushed to do so (or: without enjoying the rhetorical cover of being pushed by) civil society. Something else that sheds a little doubt on this narrative are the poll data. If you look at the surveys, it's true that the PTB performed about 3pp better (from 5 to 8%) in the first poll after the elections (as did Ecolo), and that the PS kept slowly slipping, but this then remained largely stable until the late spring of 2016. This may of course have been perceived as a serious threat by the PS, but the real surge in the polls for the Belgian communists only came after the Walloon parliament had affirmed its resistance against CETA, after parliamentary

debates in which the PTB had not been very active. The cdH meanwhile kept hovering around its result from 2014. We can perhaps assess the counterfactual. Had the PS been in the federal government, we would probably not have seen the kind of tightrope politics that we now witnessed in October 2016. The conflict would have been resolved within the coalition, unless the PS was willing to threaten the cabinet's survival over trade. However, it seems plausible that the difference would have been one of degrees and not kind. The parliaments and eventually the government could not have turned a blind eye to the strong and persistent campaigning by a (very) broad set of societal groups, many of which had intimate ties with constituencies that the PS and cdH held dear. But the immediate political fallout may have been different.

As soon as the PS had staked out its position, however, it could not back out so easily, and the change to a 'mixed' agreement meant that this eventually led to more than a Belgian abstention. Wallonia was threatening to sink CETA, and after some delay this led to new intra-Belgian and EU negotiations; although Wallonia was mostly forced to back down, the Belgian position was nonetheless altered (as described in 'outcome').

Causal hypothesis: Autonomous decision makers' preferences influenced the Belgian position on CETA. Prior probability: high		
	Propositions	Evidence- Assessment <i>(source)(characteristics of evidence in relation to proposition: high/low - uniqueness, certainty)</i>
1	Did they have a position	<p>Pre-2014</p> <p>Trace evidence – generally positive assessment of (some aspects) of CETA by m-p of Wallonia in 2011 (parliamentary review) (lc, lu)</p> <p>Post-2014</p> <p>Account evidence –positions by executive actors on some issues (investment arbitration, services liberalization) (interview See also 2.b</p> <p>Trace- ministerial positions about CETA throughout and after negotiations (parliamentary hearings, press review, internal memos) (hc, hu)</p> <p>Account – civil service had preference about Belgian position on CETA (debates, press, interviews) (lc, hu)</p> <p>Trace – civil service had opinion about CSO campaign (interviews, twitter, press) (lc, hu)</p>
1.a	Did they have an autonomous preference?	
1.a.a	Was a societal/ external position absent?	<p>On some issues: yes</p> <p>On others: no</p> <p>(see evidence presented in those mechanisms)</p>
1.a.b	Did they rely on autonomous sources for position?	<p><b>Pre-2014</b></p> <p>Account evidence – discussions between executive actors determined Belgian position on many subjects (interviews)(lc, hu)</p> <p>Account evidence – federal ministry sometimes intervening to prevent Belgian isolation (interviews)(lc, hu)</p> <p>Account evidence – CETA very low on political agenda (interview)(lc, lu)</p> <p>Account evidence – some issues within CETA followed actively by political level (interviews) (lc, lu)</p> <p>Account evidence – Belgium had to remain within GATS and BITs (lack of) commitments (interview) (lc, hu)</p> <p>Account evidence – no position on GIs and other issues (interviews) (lc, lu)</p> <p>Pattern evidence – no GIs demanded in other FTAs at the time, except for Ukraine (agreement texts)(lc,lu)</p> <p>Trace evidence – detailed internal/ public Flemish DM policy notes (2007, 2009, 2014) on state interests in trade policy (documents)(lc, lu)</p> <p>Trace evidence – Flemish position in line with its internal policy notes from 2007 (notes, declarations)(lc, hu)</p> <p>Trace evidence - idem ditto, but less detailed for Wallonia (notes, declarations) (lc, hu)</p> <p>Trace evidence - more detailed government declaration in 2014 (declaration) (lc, lu)</p> <p>Account evidence – Flemish DM saw lack of business input as problematic (lc, hu)</p> <p>Account/trace evidence – Reliance on broad macroeconomic studies, with lacking firm/sector-level input (lc, hu)</p> <p>Trace evidence – similarity of Flemish/Belgian position with these studies (hc, lu)</p> <p>Account evidence – much effort put into screening Fl/Wl/Be laws to draft Belgian position on services liberalization (interviews) (lc, lu)</p> <p>Account evidence – Belgian position on services was limited by GATS commitments (interviews) (lc, hu)</p> <p>Account evidence – Belgian position on negative listing resulted from agreement between regions and federal level (interviews) (lc, hu)</p> <p>Account evidence – No business lobbying on services liberalization or ISDS (interviews) (lc, lu)</p> <p>Account evidence – lack of analytical capacity co-determined Belgian position on services and investment (interviews) (lc, hu)</p> <p>Account evidence – generally positive attitude towards investment treaties, as long as they included some</p>

		<p>sustainability elements (interviews, meeting docs) (lc, lu)</p> <p>Account evidence -investment chapter low on political agenda, uncontested before 2014 (interviews) (lc, lu)</p> <p>Account evidence – generally smooth intra-Belgian politics of CETA before 2014 (interviews) (lc, lu)</p> <p>Account evidence - sensitivity of audiovisual and cultural sectors rooted in ideology and history (literature, interviews) (lc, hu)</p> <p>Account evidence – no demand for GIs despite requests from DMs (interviews) (lc, lu)</p> <p>Account evidence – ideological kinship between DM in agri and farmers associations (interviews) (lc, lu)</p> <p>Trace – PS and cdH sloping downward in polls (lc, lu)</p> <p><b>From 2014 on</b></p> <p>Trace – DM MFA did not hold MP/CSO arguments in very high regard (interview)(lc, lu)</p>
<b>Strong confirmation of autonomous sources for DM preferences in most areas of Belgian positions</b>		
2.		Did they 'work' towards putting this preference into the position?
2.a	Was there external/societal pressure	<p>Societal: Yes – See other mechanisms</p> <p>EU-level, International:</p> <p>Account evidence – Multiple sources claiming Belgium was put under pressure post-2014 (interviews, M book, parl hearings, press review) (lc, hu)</p>
2.b	Did they resist this pressure?	<p><b>From 2014 on</b></p> <p>(&gt;&lt; CSOs)(=Business)</p> <p>Trace- DM MFA publicly resisting criticism by CSOs, MPs (parliamentary hearings) (hc, hu)</p> <p>Trace – AWEX Chief speaking out in favor of the treaty (press review)(lc, hu)</p> <p>Trace – MFA minister &amp; Flemish M-P defending CETA, arguing against CSO/MP criticisms (parliamentary reviews, meeting documents) (hc, hu)</p> <p>(&gt;&lt; CSOs) Trace – Flemish m-p defending CETA, arguing against CSO/MP/Wal criticisms (parliamentary review, press review) (hc, lu)</p> <p>Trace – Flemish m-p using similar arguments as/quoting from business letters (parliamentary review, press review) (lc, lu)</p> <p>(=CSOs)(&gt;&lt;Business)</p> <p>Trace – Walloon m-p using arguments similar to those of CSOs/quoting hem (parliamentary review, press review, M book) (hc, lu)</p> <p>Account – Walloon m-p claiming his position was at least in part driven by CSO campaign (M book, parl review, press review) (lc, hu)</p> <p>Account evidence – Flanders working with dredgers after being contacted by EuDA, but taking initiative to contact Belgian firms (lc, hu)</p> <p>Account evidence – Belgium resisted negative listing but remained isolated and eventually caved in (interviews) (lc, hu)</p> <p>Account evidence – Commission convinced Belgium to change its position towards support for investment chapter (lc, hu)</p> <p>Account/trace evidence – high pressure on Wallonia in fall 2016 (lc, lu)</p>
<b>Strong confirmation of DM influence on most positions.</b>		

## 10.5. Synthesis

In the previous mechanistic analyses, I have tried to assess what the explanatory contribution of each of the three actors' actions might have been. In this section, I try to bring this all together into one synthesis, combining the findings from my process traces with counterfactuals to produce an overarching explanatory narrative: why did Belgium take the positions I outlined in the first CETA-section?

When the Commission proposed opening negotiations with Canada, Belgium was supportive. In this first period, business was consulted but remained very lukewarm; the structural difficulties that decision-makers had more generally encountered in getting input from firms and sectors on trade issues, was exacerbated by the low economic weight of Canada, the limited stakes for most and the high technicality of some of the issues at stake such as negative listing and investment protection. Business input was therefore mostly limited to cheering on the start of new negotiations. The only major exception were the farmers' peak organizations, which did formulate a clear position on their defensive and offensive interests, based not only on their capacity to follow these issues and the resulting expertise in their own sectoral trade issues, but also their somewhat greater interest in the Canadian market (and the threat from Canadian meat products).

This mediocre business interest notwithstanding, the Belgian executives still sought to formulate a number of offensive and defensive interests. They did so based on a

number of trade-data analyses, but also based on previously drafted strategies about their interests in trade. On a number of other issues, such as their support for the EU's insistence on labor clauses or the precautionary principle, they built on the traditional points held by Belgium and the regions/communities, in part simply because there was no reason to divert from these positions with Canada, but arguably also because there was political support for these points: Christian-democratic and social-democratic parties were part of the governments in Flanders as well as Wallonia (where Ecolo was also in power) and the federal government (even though the political situation here was very messy until 2011), although in the latter two the liberal parties and in Flanders the economically liberal N-VA were present as well. Government declarations had outlined their support for the Belgian mix of export-boosting market opening in combination with 'sustainable' trade and 'decent work'.

Decision-makers also knew that civil society was looking over their shoulder. During the negotiations, a small clique of civil society actors kept an eye on the developments at the EU level as well as the Belgian position. These were the same organizations that had been campaigning on trade and investment since the 1990s: CNCD, 11.11.11, and the trade unions (united since 2008 in the Decent Work coalition), which had remained active in (at the time somewhat slumbering) European networks such as Seattle to Brussels and the European trade union federations. During the negotiations, these groups' trade experts signaled their vigilance on sustainable development, services and investment protection. Their work on these issues, especially the amount of attention dedicated specifically to CETA, remained modest, and never developed into a full blown campaign. I would argue that it nonetheless played a part in the Belgian position.

The issue that sparked most controversy within Belgium was services liberalization, more specifically the Canadian proposal to switch to negative listing. This triggered a very skeptical stance, not only from the civil servants (for which this was a new approach, whose effects on long-standing sensitive sectors was unclear), but especially among the Francophone parties also for the political level. This appears to have been one of the few issues in which ministerial cabinets were actively involved during the negotiations. This is far from surprising given the PS' previous part in the protests against the GATS and Bolkestein, and the continued scrutiny of the issue by the trade unions and NGOs. They especially feared that the ratchet-clause would automatically lock-in current and future levels of liberalization and privatization. Although Flanders and the federal ministry of foreign affairs seem to have had far less issues with this new method, the internal coordination still produced a position that remained opposed to negative listing. Ultimately, however, Belgium faced total isolation in the Council on this issue, and it had to forego its resistance. The second-best option was to insist that this would not be a precedent for future deals, and to try and shield sensitive sectors through reservations in the annexes. Surprisingly enough, Belgium's reservations were subsequently not the most encompassing, not even in sensitive areas such as health care. This, so it seems, can be attributed in part to a lack of time and personnel, as well as a certain trust in DG Trade's legal angle (as well as dependency on its information): Belgium believed that the EU-level exceptions would be mostly sufficient. It was not aware that another major member state, Germany, had been more skeptical, and had demanded stronger national

reservations. This may have also played a role in the lack of much campaign activity by civil society on this issue. As far as I was able to tell, they were following this up, but never tried to put any pressure on decision-makers through public messages (e.g. on their websites). This was somewhat different in another domain: investment protection.

The chapter that would attract the fiercest criticisms after the deal became 'political' in the wake of TTIP was the one on investment, more specifically its provisions on investment-state dispute settlement. However, this was very far from apparent during the CETA negotiations, and until the deal's conclusion it remained a largely uncontroversial topic in Belgium as well.

Like most other member states, Belgium had been concluding BITs for decades. Its model included very wide investors' protections, although these had (around 2000) been modified to also introduce some symbolic language on sustainable development. Since the 1990s, these BITs had incorporated highly accessible (but seldom used) ISDS provisions. When the Commission proposed the addition of an investment chapter in 2011, Belgium supported this operationalizing of the Lisbon Treaty. The political interest in this issue seems to have been very low, however, and Belgium had not been prepared (analytically) to be very proactive in this dossier. It would therefore appear that they mostly followed and supported the Commission's proposals, more specifically the inclusion (besides ISDS and investment protections) of some language on labor and the environment, and a general protection of the right to regulate in the public interest; later defending them from the hawkish position of the Netherlands.

Again, the Belgian position here (supporting sustainable development and the 'right to regulate') was probably driven at least in part by the vigilant role of civil society, which had in 2010 also succeeded at getting the regions (starting with Flanders) to drop the BIT with Colombia because of its insufficient labor clauses., and which in 2011 supported EU-level campaigns on the EU model BIT. However, this should not be overestimated: their campaign/lobbying activity related to the EU investment treaties was limited, and only focused on CETA in the margins. They had been unsuccessfully pushing for a change in the Belgian BITs for decades, and forcing Belgium to both deviate from its traditional stance while also taking in a more difficult and isolated position in the Council, would arguably have required this dossier to be far more politicized than it was (at the time).

On the whole, the agreement was generally low-conflict, even though there were many internal discussions on negative listing.

Over the course of 2013, the start-up of the TTIP negotiations changed this quiet context. The NGOs that had long been dissatisfied with the EU's trade and investment agenda saw a chance to put this issue far more firmly on the political agenda. In contrast (so it seems) to the campaign in the surrounding countries, they were also determined to immediately spread this to CETA. A variety of factors made this strategy viable: they had not only built up the necessary expertise on some of the more controversial but technical aspects of the FTA, but (thanks also to the work of No Transat) also a network of people that had been expecting this issue to pop up, and that was available to be 'put to work'. Moreover, the political wind was in their

favor, first with federal and regional elections coming up, and with the creation of asymmetric government in 2014. A very active campaign during the elections in combination with this fortuitous political outcome led to early successes in lobbying the Walloon parties and later its government(s), but also to a strong willingness to engage with this topic from Ecolo, which was now unleashed from its federal constraints. Together with the rise of the PTB, which was at first not active in the trade debates but which was pushing the PS to the left, this immediately led to a flurry of parliamentary activity on TTIP. Meanwhile the CSO campaign kept snowballing. Aided by the critical initiatives from some European networks, the CNCd and 11.11.11 succeeded at officially bringing in the peak-level unions (parts of which had already been organizing on the issue) into a unified campaign, while also supporting the more activist group D19-20, which had a more grassroots profile and included a number of small but very vocal farmers' organizations. These coalitions kept swelling and eventually included some of the largest pillars of Belgian civil society: a uniquely unified front of the health funds, the consumers' organization, the trade unions, development NGOs, farmers' groups, SMEs, human rights organizations, and just about all of Wallonia's progressive civil society. It succeeded at garnering an increasing amount of favorable public and press attention, while continuously deliberating with Wallonia's executive and progressive parties in all parliaments – including also the PS' MEP in INTA, Marie Arena. In Flanders, however, the campaign remained lackluster.

Counterfactually, it would have been very hard for the PS and cdH to ignore this pressure, although it might have played out very differently if they had been in the federal government and if they had felt more secure of their electoral fortunes. But in the context as it was, opposing CETA using the arguments from civil society (and civil society as an argument) was politically opportune for Maignette's government: it allowed them to sharpen their left flank (or, in the case of cdH, their appeal with the farmers), was in line with their ideological predispositions, and did not threaten the governing coalition in Wallonia or federally. Moreover, even the threat of an EU-level conflict seemed minor at the time, because the deal was still non-mixed.

This inevitably led to a conflict with the federal and Flemish governments, which had not experienced the same kind of contestation, and were far from inclined to give in to forces that some of the parties in government considered their political adversaries anyway. Internal Belgian coordination started faltering over the course of 2016, and when the treaty was designated mixed it was clear that there would be a sort of showdown: the PS could hardly back down, but the scope for agreement on the demands set out by its parliament was extremely limited both within Belgium but, perhaps even more so, inside the EU and with Canada. Assisted by the attempts of the federal ministry of foreign affairs to avoid a conflict and to come to some kind of negotiated agreement that would prevent a Belgian veto, but fired on by the harsh rhetoric of Flanders, business, the Commission and most other member states, a deal was eventually struck which allowed the PS and cdH to save face without re-opening or sinking the deal.

Business had been caught off guard by this whole episode, and throughout 2015 and 2016 scrambled to come up with a response. This was not an easy task. Although CETA's value for Belgian firms was as such limited, several sectoral and peak associations feared that CETA's demise would severely hamper the conclusion of

other, future FTAs. Yet they struggled to engage their member firms (which were often not interested or had no taste for a public skirmish), were not prepared to handle this kind of public campaign (for instance, they failed to engage the press), and they suffered from disunity in Wallonia. Near the summer of 2016 they managed to regain their footing somewhat; their lobbying seems to have carried some weight (at least rhetorically) in Flanders and in putting additional pressure on Magnette in October.



**Comparison of Belgian position with that of mechanisms' actors**

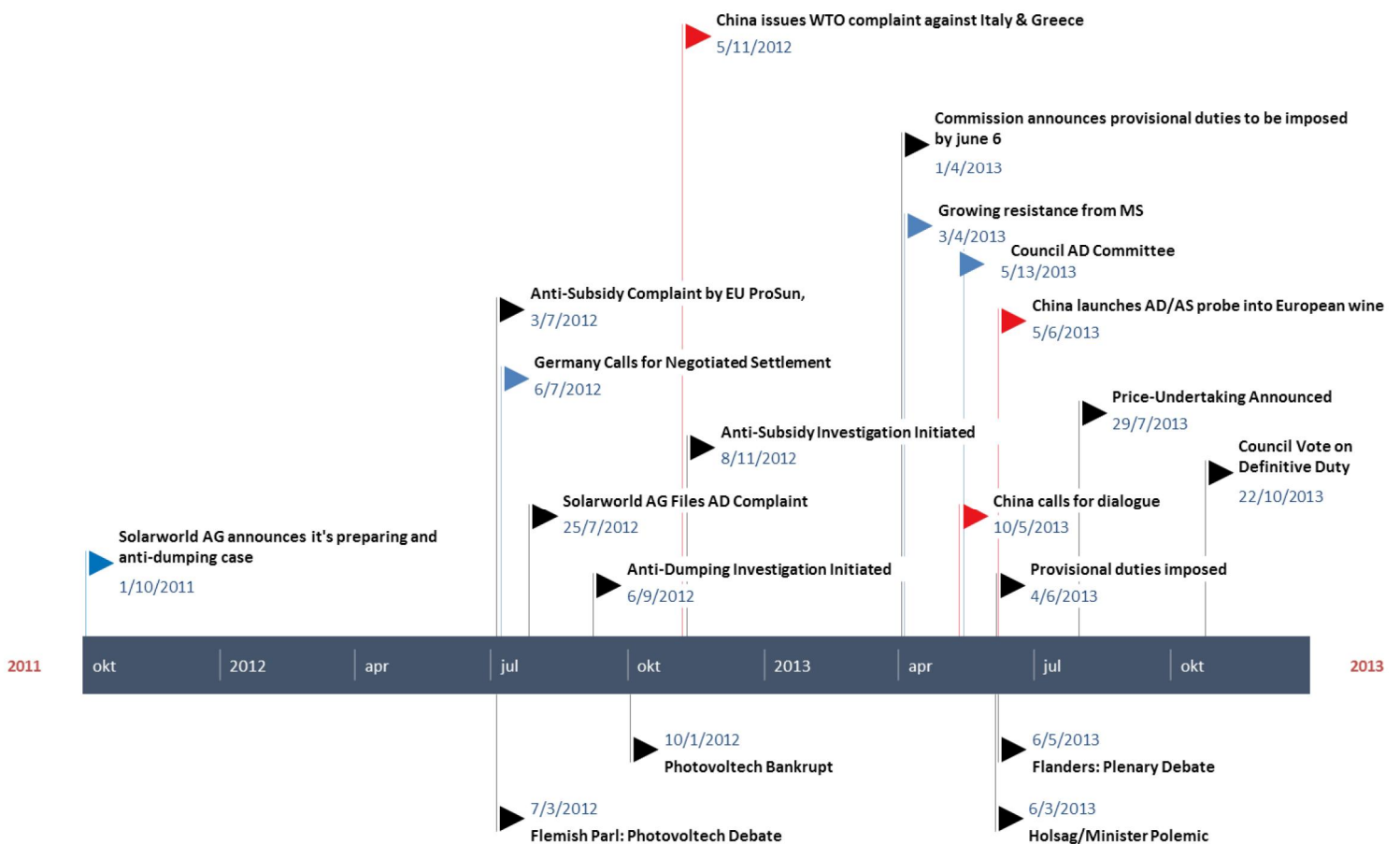
<b>Government positions</b>	<b>CSOs</b>	<b>Sectors</b>	<b>Peak Federations</b>	<b>'Autonomous' Sources</b>
<p align="center"><b>Goods</b></p> <p><b>Goods offensive</b> Dairy (butter) Pharmaceuticals Diamonds Beverages</p> <p><b>Goods defensive:</b> Meat (Beef and pork) Additional safeguard clause on agriculture (interpretative declaration, 2016)</p>	<p>Stronger involvement of non-business stakeholders in voluntary regulatory cooperation</p> <p>Prioritize food safety over trade facilitation</p>	<p>Agri: offensive in dairy, processed foods, vegetables, defensive in meat</p> <p>Defense of European food standards, ractopamine, hormones</p> <p>Some offensive interests in carpets</p> <p>Critical farmers movements: No opening in milk nor dairy (defense of Canadian milk market management), need for safeguards</p>	<p>In 2016: Pro regulatory cooperation Pro opening of pharmaceutical markets Pro lowering of tariffs Pro customs simplifications</p>	<p>Offensive &amp; defensive: Policy notes, Government declarations, Strategic notes, 'macro' analyses</p> <p>'Standard' position</p> <p>[+ Internal Belgian coordination/negotiation]</p>
<p align="center"><b>CETA</b></p> <p>Would sign if there was a renegotiation of interpretative declaration (October 2016)</p>	<p>Demanded stop to CETA ratification /rejection of CETA</p>	<p>Supportive of FTA signing</p> <p>FWA: ambiguous, both</p> <p>Farmers: Against</p>	<p>Support</p> <p>UCM: opposed, but content with 28 Oct deal</p>	<p>Party politics</p> <p>Standard position</p> <p>Preference to follow Commission/avoid isolation (Fed)</p> <p>[+ Internal Belgian coordination/negotiation]</p>
<p align="center"><b>Services</b></p> <p><b>Services method</b> Opposed to negative lists</p> <p><b>Services offensive:</b> Dredging Mode 4 (w/ restrictions: temporary, high qualified) Transport services Research Professional services</p> <p><b>Services defensive:</b> Public services Audiovisual and Cultural services</p> <p><b>Reservations:</b> [A1] Mining Business services Fishing, maritime transport Air transport services [A2] Fishing Security Services Distribution of pharmaceutical &amp; medical goods Social services Road transport &amp; cargo handling Energy distribution, production and storage</p>	<p>Rejection of negative lists Call for exclusion of public services</p> <p>Rejection of financial services' liberalization</p> <p>A general and broad exclusion of public services</p>	<p>Dredgers: support (Canada coasting trade act)</p>	<p>Not: negative listing</p> <p>Support mode 4 openings</p>	<p>Analyses of domestic regulations</p> <p>Defensive (listing, public services): Standard position + Fear of contestation (?) (public services) Multilateral commitments Ideological (audiovisual, public services)</p> <p>On Neg L: Preference to follow Commission/avoid isolation (Fed)</p> <p>Offensive: Strategy/policy notes/Econ analysis</p> <p>[+ Internal Belgian coordination/negotiation]</p>
<p align="center"><b>IPR</b></p> <p>Supported GIs No Belgian GIs</p> <p>[? Pharmaceuticals?]</p>	<p>Removal of clauses on privacy/data-sharing Inclusion of more, and Belgian, GIs</p>	<p>Farmers movements: More EU GIs, Belgian GIs needed to be included in the deal</p>	<p>UCM: Demand for more GIs</p>	<p>GIs: analyses of FI/WI GIs that could be included Lack of interest (?) GIs after 2014: strategic shift to more emphasis on local production (WI) [+ Internal Belgian coordination/negotiation] Pharmaceuticals: Strategic notes (FI), 'macro' analyses</p>

<p><b><u>Investment</u></b></p> <p>In favor of investment chapter that includes provisions on sustainable development and a provision on the 'right to regulate'</p> <p>In favor of ISDS</p> <p>Supported ICS</p> <p>No position on investment screening</p>	<p>In 2011: questioning inclusion of ISDS in CETA (OECD country), questioning sufficiency of Belgian model (&amp; demands) on sustainable development in investment protection</p> <p>2013-2016: More limited investors' protection, inclusion of investors' obligations related to sustainable development</p> <p>Financial sector carve-out from ISDS</p> <p>Removal of ISDS</p> <p>Rejection of ICS</p>		<p>Not: ISDS</p> <p>In favor of strong investment protection</p> <p>UCM: opposed to negative listing</p>	<p>Belgian BITs (standard position): support for ISDS, broad investment protection, sustainable development</p> <p>[+ Internal Belgian coordination/negotiation]</p>
<p><b><u>Procurement</u></b></p> <p>In favor of opening - also inclusion of provinces</p>		<p>Dredgers: support</p>	<p>Support</p>	<p>Standard position</p> <p>Strategy/policy notes/Econ analysis</p> <p>[+ Internal Belgian coordination/negotiation]</p>
<p><b><u>Sustainability</u></b></p> <p>Inclusion of chapter on sustainable development, based on ILO standards, without fines but with monitoring and consultation procedures that include stakeholders</p> <p>Supporter of precautionary principle</p>	<p>Far stronger, more explicit protection of the precautionary principle</p> <p>Rejection of the need for 'scientific based arguments' in biotech restrictions</p> <p>Stronger language directed against GMOs</p> <p>Inclusion of enforceable chapters on climate change and sustainable development/the environment, bringing these under normal dispute settlement system</p>		<p>VBO: support for non-enforceable sustainable development chapters</p>	<p>Standard position in favor of labor/SD, anti-GMO/Hormones,</p> <p>[+ Internal Belgian coordination/negotiation]</p>
<p><b><u>Process</u></b></p> <p>Supportive of non-mixity</p> <p>By 2016 at the latest: switch to call for mixity</p> <p>Limits on <b>provisional application</b> (2016): excluding investment protection</p> <p>Supporting the right for member states to suspend provisional application (interpr decl Oct28)</p> <p>Legally binding <b>interpretative declaration</b> including:</p> <p>Right for activation of agricultural safeguard by member state or competent sub-states</p> <p>Binding rules on the environment and labor</p>	<p>Demanded parliamentary approval (mixity)</p> <p>Rejection of provisional application</p>			<p>Standard position: support for supranationalism</p> <p>Government declaration (W, 2014)</p>

# 11. Belgium – The Solar Panel Case

## 11.1. Outcome

Belgium used its vote to oppose provisional measures, and opposed measures in the Council. In final the vote on the EU-China deal, however, Belgium chose to abstain.



## 11.2. Interest group lobbying

### 11.2.1. Prior probability – potential evidence

#### 11.2.1.1. Prior

Given what we know about the determinants of states' and Belgian positioning on anti-dumping measures, and the influence of interest groups in this process, how likely is it 'a priori' that interest groups determined the Belgian position in the solar panel case?

There is no literature available about anti-dumping (or trade) lobbying in Belgium, so I have looked at the pattern of previous cases in combination with interviews. As I discussed in the introductory section on Belgian positioning, Chad Bown's data show that Belgian companies have participated (as claimants) in anti-dumping investigations with some regularity, but Belgium has neither always supported nor opposed measures.

According to the FOD Economie, the parties involved in anti-dumping lobbying have mostly been firms (either individually or in group) and sectoral federations<sup>574</sup>. According to my interviewees, the **dominant groups** have been those representing (concentrated) producer interests – in particular from the steel and chemical industries. These are very well organized at the European level, and have the means and personnel to prepare, request and keep track of anti-dumping measures. They will get in touch with the Commission first, 'activating' their national lobby-efforts (e.g through Belgian firms or affiliates) only after the investigation has been launched. 'Diffuse' interests have a harder time launching cases and doing the necessary lobby-work (Interview - FOD Economie (2), 2016). All of this is in accordance with the traditional political economy literature reviewed in the meso-theoretical chapter, including the fact that global sourcing has been a disrupting factor here. For example, according to Fedustria, during the 'textiles wars' the leverage of the Belgian textiles industry remained limited because of differing trade-dependencies across the sector (Interview - Fedustria (2), 2017)<sup>575</sup>.

So it appears that there was no very outspoken pattern in anti-dumping positioning by Belgium (at least not when compared to the Netherlands), but that it was often pushed by actors whose characteristics were in line with the typical profile of successful anti-dumping petitioners: large, concentrated industries facing a difficult economic context. In combination with the emphasis that the anti-dumping literature generally places on the role of lobbying in determining member states' position (Nordström, 2011; Young & Peterson, 2014), I would **therefore expect** that the position of Belgium was open to the demands of societal actors, especially those of the more well-organized defensive sectors.

What did the **Belgian** photovoltaic sector look like at the time?

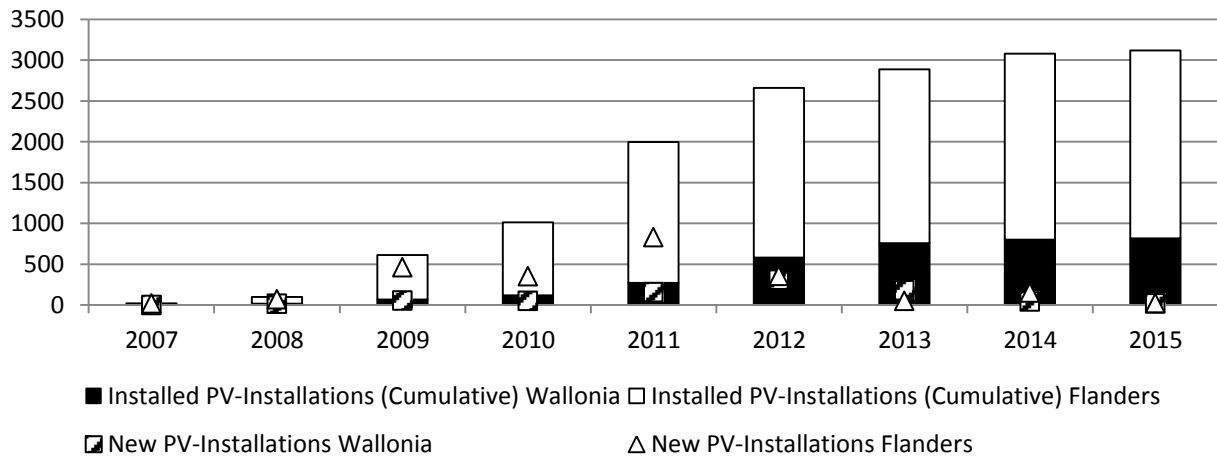
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<sup>574</sup> This was confirmed by the Belgian cross-sectoral employers' association: individual AD cases are not taken up by them, but by their sectoral membership.

<sup>575</sup> Although the VBO tried to defend Febeltext' interests to some (subtle) extent, its hands were tied by the fact that, for example, the federation of distributors (FEDIS) was also part of the VBO. As an intersectoral federation, the VBO could not simply pick sides (Interview - Fedustria (1), 2016).

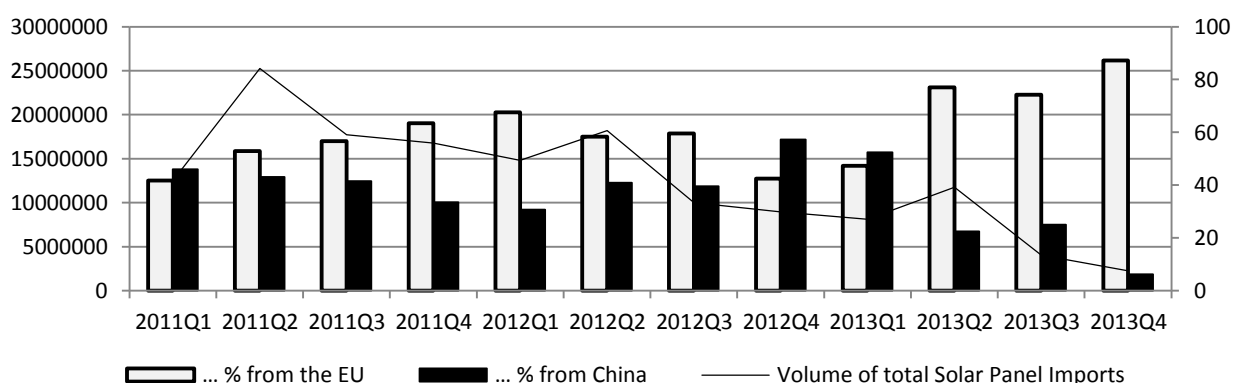
Most **PV installations** and firms are situated in Flanders, which in 2011 accounted for 88% of Belgian solar capacity. Subsidies were responsible for increasing the amount of residential PV installations in Flanders from zero in 2000 to 60000 in 2009 and 200000 in 2012. This means 2,5% of Flemish families had installed solar panels by 2009, and 8,5% in 2012, one of the highest PV/capita worldwide. This massive growth declined to almost zero as soon as the support program was abandoned in 2013 (Les, Groote, Pepermans, & Verboven, 2016).

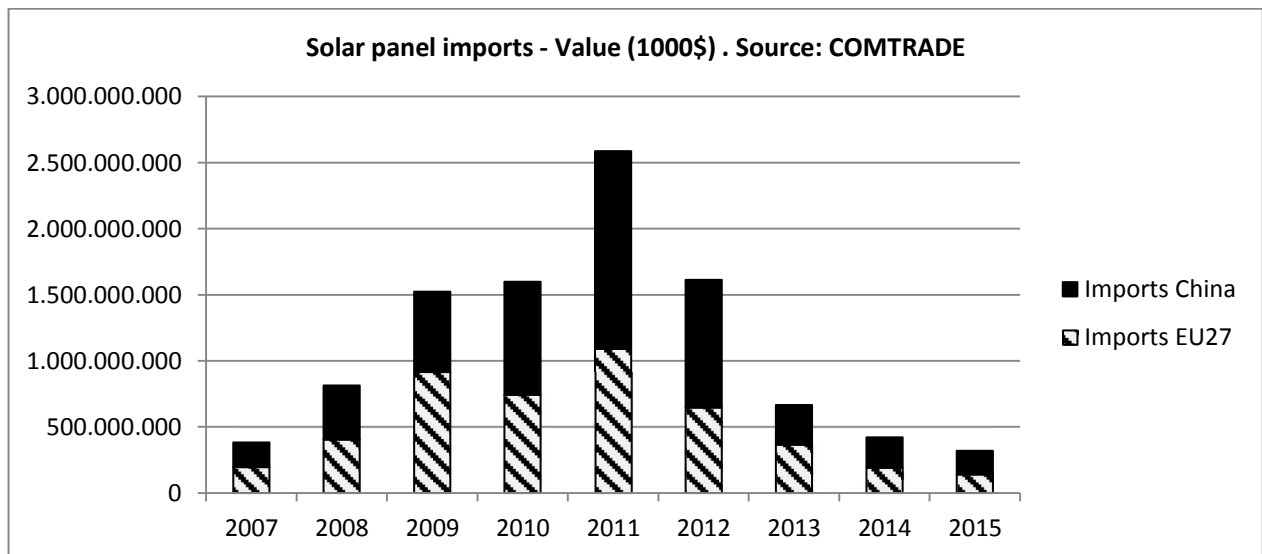
**PV-Installations in Belgium.**  
**Source: Graph based on data from 'Our Energy Future 2016'**



A report by the International Energy Agency estimated that there were about 960 direct and 2112 indirect jobs in Belgian PV in 015 2015 (International Energy Agency, 2015). Another report came up with higher figures, estimating about 4000 jobs in installing renewables (mostly PV) in 2009 (so before the second PV-boom), and about 400 jobs in PV manufacturing in 2007 (IDEA Consult, 2010). All jobs in **PV-manufacturing** had however, according to sources at the ministry (and reports in the press), disappeared by 2012 (Interview - FOD Economie (2), 2016). There were still some upstream (raw materials, R&D) firms active in the solar value chain in Belgium, however; this included large chemical firms like Solvay, Down Corning and Umicore, tech manufacturers like 3M and Agfa-Gevaert, and the solar glass producer Ducatt. There were also some firms providing special PV systems integrated into building materials (International Energy Agency, 2015).

**Solar panel imports - Amount (National Concept, Data from NBB)**





Clearly, **imports from the EU as well as China** had vastly increased since 2007<sup>576</sup>. Judging from import data (which exclude mere transit trade), solar seems to have become increasingly dependent on China in the period 2011Q1-2013Q1, at least 30-50% of panels were imported from China by 2013. However, these data can still be misleading, because panels may have already passed through other European countries, thereby misrepresenting the percentage of EU-sourcing. All in all, it seems safe to conclude that the imported value of solar panels had more than quintupled in the space of four years (even as prices fell) while Belgian domestic manufacturing disappeared, and that Chinese products took up a substantial part of this trade. I.e. Belgian importers and users (installers, consumers) of solar-panels arguably had a stake in safeguarding this inflow.

Over the course of the dispute, **China launched a number of anti-dumping actions to retaliate** against the European measures: against fitted steel tubes, solar silicon, wine and a certain chemical used in washing products. As a rough indicator of to what extent these actions had the potential to harm Belgian firms, I checked the relative importance of exports to China. It appears that none of these sectors' trade with China were very important in Belgium. The only firm that was perhaps touched directly was the chemical multinational Solvay, whose French subsidiary was targeted (i.e. it was explicitly taken up in the Chinese AD-tariff) by the measure against tetrachloroethylene. The aggregate exports to China were also just 2% of total exports in 2013, although the importance of the Chinese market had doubled since 2007.

Judging from these figures I believe we should **not have expected to see protectionist lobbying**, because of the apparent absence of Belgian producers. On the **contra-duties** front, the picture is **more ambiguous**. Just like in the Netherlands this sector is largely populated by small and tiny firms, and there was no reason to expect they would be able to easily overcome the usual collective action problems. However, they did have a sectoral branch organization **PV Vlaanderen**, which may

<sup>576</sup> The value data from Comtrade do not exclude transit trade, but it was my only source for data from 2007. The data from the national bank do exclude such trade, and are therefore a better measure of the exports/imports actually entering the Belgian market in a way that is economically meaningful for actors besides the ports.

have lobbied on their behalf. Moreover, the measures posed a clear and arguably defensive threat for their companies, since they were going to affect one of their main inputs in a predictable and negative way. If they did manage to lobby in unison, it's likely that they possessed considerable leverage as representatives of thousands of directly affected jobs.

**Secondly, non-business actors** (NGOs, consumer organizations, ...) have been almost completely absent from anti-dumping politics. The only partial exception have been the trade unions. Although they have never tried to interfere with a specific case, they have at times published statements concerning larger dossiers; for example on China's market economy status or the textile 'wars'. But this work has mostly been left to their European federations, and they had never been in touch with the Ministry directly (Interview - FOD Economie (3), 2016). Again, there is of course the possibility that solar was different because of the case's substantial effects on consumers and because of the environmental dimension.

I looked for the same kinds of **evidence** as in the CETA mechanisms.

## 11.2.2. Probing the role of CSO and business lobbying

### 11.2.2.1. Were interest groups aware of the case?

On the business side, in accordance with the usual pattern, monitoring was taken up by sectoral federations and individual firms. The cross-sectoral VBO was not involved with this dossier, since it doesn't concern itself with individual anti-dumping cases (Interview - VBO (1), 2016).

The branch organization for Belgian PV was the Flemish group '**PV Vlaanderen**' (there was no Walloon equivalent). It put a message on its website in March 2013 that the Commission was thinking about measures, and that the first step of this was the compulsory registration of solar panels imported from China after 6 March. The then head of PV Vlaanderen could no longer recall how they had first become aware of the dumping-case, but they did receive word of it before it was discussed in the media; they were also contacted by the cabinet of then EU commissioner for trade De Gucht to speak about the case (Interview - PV Vlaanderen, 2017).

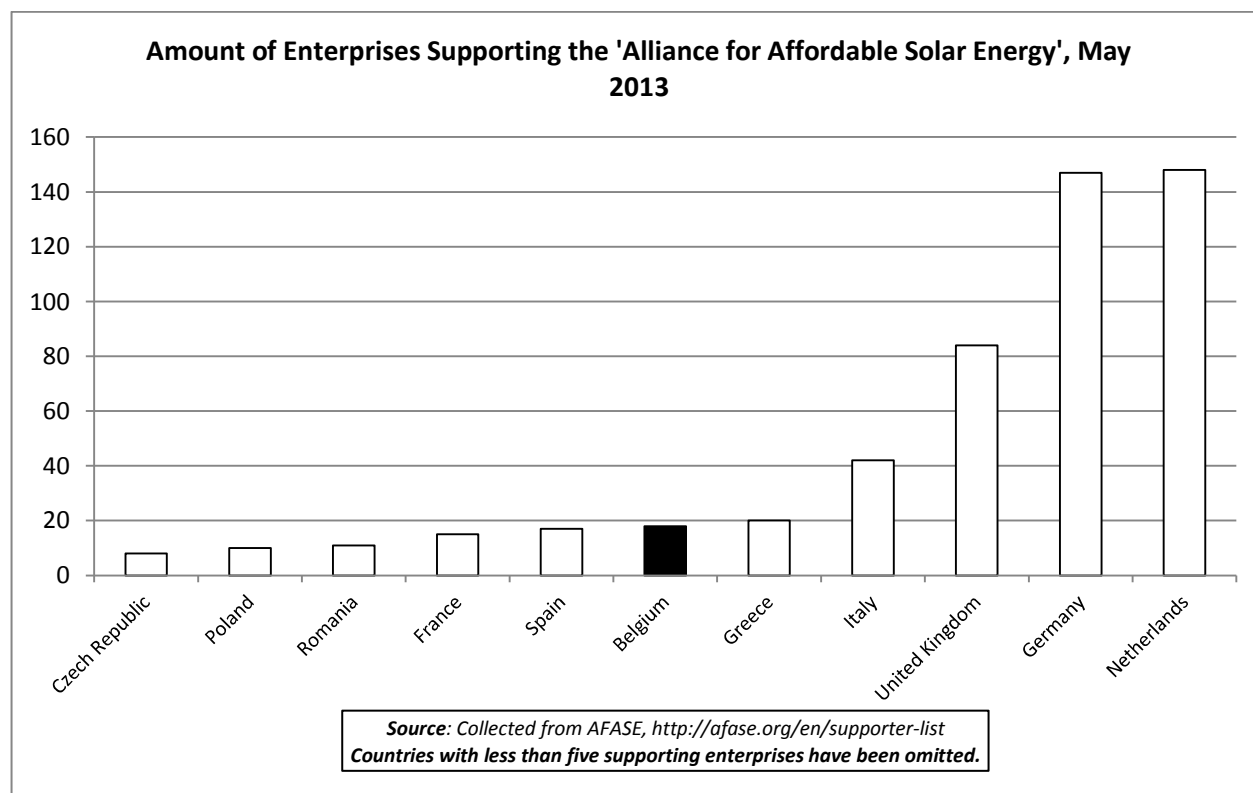
The Belgian technological/industrial federation **Agoria** also got involved in the dispute. They kept close track of EU anti-dumping policy, and had in the past been involved in supporting both members that were requesting anti-dumping cases as well as members fighting them. They made a case-by-case decision whether to get involved or not. In solar panels, they could not fully recall how they first became aware of the dispute, although it became mediatized very rapidly, and their involvement remained limited to a 'principled' stance because they did not have very specific ('technical') interests to defend in this case; Belgium's remaining PV producers were active in niche-markets<sup>577</sup>. Therefore, they did not perform any real research of the sector to see what effects measures would have, or whether it was

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<sup>577</sup> However, he also indicated that this could change in the future. They had recently spoken to one of the producers that modified imported Chinese panels, and they made clear that they wanted the association to raise this issue next time they spoke to the FOD.

suffering from dumping, and their contacts with the associated firms thus remained informal (Interview - Agoria (2), 2017)<sup>578</sup>.

Finally, no Belgian firms participated directly in the complaint. However, as will become evident in the following sections, they did start lobbying in favor and against the duties after they were announced. The installers, for example, also became part of the European contra-duty alliance, although not in numbers comparable to those of the Netherlands. I was unable to find out how these firms were kept up to date about the anti-dumping case, but it seems likely that they were informed by their branch organization at a quite early stage.



Among the **civil society organizations**, it seems that Bond Beter Leefmilieu (a Flemish environmental NGO) was tracking the case a little, since it put up a small news update about the case on its website in 2013. It did so without any commentary however, and there was nothing to be found on the websites of Test-Aankoop, Greenpeace or the Vlaamse Woonraad<sup>579</sup>. An interview with one trade union confirmed that they had seldom worked on individual cases, they did not have the expertise or the means to do so. The only exceptions were the big sensitive dossiers like steel and MES (Interview - ACV, 2016). Because the civil service (and minister Vande Lanotte in parliament, see below) claimed that they had not heard from any NGO, trade union or consumers' organization, I think it is safe to conclude that the mechanism falls short either at this stage or the next (coming to a position, communicating this position): no one was paying attention to dumping in solar, or believed they needed/were able to influence the Belgian position here.

<sup>578</sup> They do perform this kind of research at times. For example in the case of Korean transformers, they did detailed research to see whether there was dumping (Interview - Agoria (2), 2017).

<sup>579</sup> Nor had there been any messages on their European partners' websites, for that matter: Friends of the Earth Europe, the BEUC, Greenpeace and ETUC.



### 11.2.2.2. Did they have a position? Why?

Within **PV Vlaanderen**, there were internal discussions about the merits of AD tariffs. Among the distributors, there were a few members that were mostly offering European panels, while others also sold Chinese panels; the first group supported measures while the latter opposed them. They did not represent any real producers, except for Photovoltech, and they pleaded heavily in favor of AD; also within PV Vlaanderen. However, when Photovoltech disappeared (October 2012), so did the biggest proponent of measures. There were also some Belgian producers that were active in certain niches (building integrated PV) that tended to oppose the cheap imports of classic panels, because this would increase the price difference between classic solar installations and their building-integrated product. So they also tended to support AD. This was debated in some internal meetings, and eventually they decided not to take in an explicit position because they were unable to reach a consensus: 60% of the members was against measures, the rest was in favor. PV Vlaanderen therefore tried to sidestep this dispute and did not take a formal position. They claimed that they always tried to take in a nuanced position in their public positions (Interview - PV Vlaanderen, 2017).

However, this seems in contradiction with their actual statements in the Flemish press.

**For instance**, in *De Tijd* and *Gazet van Antwerpen*, they were quoted as being unhappy with the Commission's provisional duty imposed in June 2013; Chinese solar panels accounted for 80% of the market, and they **feared that an import tariff would further increase prices**<sup>580</sup>: *'We're counting on a price hike of 5%. If the tariff of 49% is imposed, the price increase for consumers will be over 15%. The last few months, many Belgian installers have already raised their price, out of precaution for the coming import levy. We think the tariff is a bad idea.'*<sup>581</sup> In an accompanying statement (sent out to the press and published on their website), they argued that the support mechanisms in Flanders (green current certificates) were based on lower estimates of Chinese prices; if a tariff of 47,5% was raised, this would be a real problem for installers. Since the beginning of 2013, the Flemish PV market had moreover ground to a halt, many installers had had to downsize or had gone bankrupt. The insecurity related to possibility of tariffs was very damaging, and was leading to a postponement or annulation of investments. The tariffs were moreover not just damaging installers and distributors,, but also the ports and logistical firms. They therefore called on the Flemish and federal governments to safeguard solar energy, which was not only producing economic gains, but also a key sector for attaining Belgian renewable energy goals (PV Vlaanderen, 2013). They were **pleased with the price-undertaking**, however. They believed that the accord negotiated with China in July would end the quarrel with China, which had been harming investment by further increasing insecurity on the solar market. Moreover, the deal was unlikely to have any effect on prices: distributors had anticipated increased costs of imports by already increasing their own price. PV Vlaanderen did not expect the rates to further increase (nor drop). PV Vlaanderen's stance was joined by **SolarAccess**, one of the larger solar installation firms, which was also not expecting an effect on prices: the

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<sup>580</sup> De Gucht belast Chinese zonnepanelen - *De Tijd* - Wed. 05 Jun. 2013 - Page 9.

<sup>581</sup> De Gucht pakt China aan wegens dumping zonnepanelen *Het Nieuwsblad* - Wed. 05 Jun. 2013 - Page 33 ;"Europa moet niet bang zijn voor de Chinezen" - *Gazet van Antwerpen* - 06 Jun. 2013 - Page 35.

agreed minimum was equal to the price they had already been charging, and they were happy this source of uncertainty (which had been harming their business) would now vanish. *'In onze sector is nood aan zekerheid en stabiliteit. We zouden graag eens werken zonder politieke inmenging'*<sup>582</sup>.

After I presented my source with these statements, he acknowledged that it did appear that PV Vlaanderen had in fact taken a clear position on the measures. He added that the texts dated from a moment when it was already too late for the producers of PV in Flanders (E-Mail - PV Vlaanderen, 2017).

According to the ministry, there was also lobbying by **groups of importers and installers**. If this was not performed by PV Vlaanderen (as they claim, see above), then these firms must have acted either individually or in group, in any case outside of the scope of their sectoral association. As I showed, about twenty such firms were part of AFASE – this group may have sent its local representatives to the Belgian government as well. The **position** of the individual firms as well as the association that contacted the ministry went as follows: they argued that the duties would increase their costs at a very inopportune time, since the phase-out of solar subsidies had recently depressed the photovoltaic market, especially in Flanders. Duties would impose an additional burden on these struggling firms and lead to job losses. Moreover, the importers argued that European solar-cells were not only too expensive, their supply was also too scarce to meet current demand. They claimed that if imports from China were hampered, they would not switch to European producers but to suppliers from countries such as Taiwan or Japan. So the measures were damaging to Belgian firms while doing nothing for EU producers (Interview - FOD Economie (2), 2016; Interview - FOD Economie (3), 2016).

The only other federation that took a public position (in the Flemish as well as French-speaking press) was **Agoria**, which was **in favor of the measures**. Although it did not perform much analytical work on the case, Agoria nonetheless chose to intervene, because it felt that the debate was too one-sided; it wanted to make clear that there were also producers' interests aside from the installers' interests (Interview - Agoria (2), 2017). In June 2013, they argued that the tariff was *"good for those Belgian firms that are working on the development of new solar panel technology"*; they also suspected the Chinese were dumping in other sectors, and hoped the Commission would investigate other parts of the solar chain as well<sup>583</sup>. L'Echo published their press release, which argued that the dumping of Chinese solar panels was skewing competition and harming innovation. They believed that there was potential for the development of a Belgian PV-production, but that the firms that were at the time developing new photovoltaic technology, for example in the integration of PV in building materials (Umicore, Issol, Reynaers Aluminum, Wienerberger en IlVIEC), would not be able to flourish if the prices of solar panels were dominated by dumping. They would be outcompeted by low-end bulk products, sold at artificially low prices. The argument (also used by the minister of economics) that anti-dumping measures would harm installers has not been proven, and should take into consideration the employment at (high-tech) producers – it is these producers that are under duress. Anti-dumping measures are not protectionism; if there is proof of

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<sup>582</sup> De Gucht beslecht grootste handelconflict ooit - De Tijd - 30 Jul. 2013 - Page 3

<sup>583</sup> "Europa moet niet bang zijn voor de Chinezen" - Gazet van Antwerpen - 06 Jun. 2013 - Page 35

dumping, we would actually be violating international trade rules by not imposing measures, *'while everyone agrees we need to normalize trade relations with China and other emerging markets, to foster balanced global growth'*. La Libre Belgique also published an interview with Frank Vandemarliere, the director of energy at Agoria, in which he added that they believed Germany's protests were 'political', produced by fear of China, and that the country was harming its local production and disarming the Commission. It seems they did not respond to the price deal<sup>584</sup>.

**Why did Agoria take this position?** According to my source, they wanted to take a principled stance in defense of producers' interests, notably in relation to China. In the technological industries, policy-makers needed to make sure that China wasn't systematically outcompeting them and overtaking sector after sector. This was especially necessary in sectors that were still in full development such as the PV market. It was vital that Europe maintained its own production of solar panels, because this was the only way to also remain part of the technological cutting edge, to also produce Europe-grown innovation: without an industrial backbone to produce solar panels, no firms would be able to innovate in this production either. However, Agoria presented this more like a general warning for decision-makers, rather than a specific interest of their membership (Interview - Agoria (2), 2017).

I was unable to find any trace of **NGOs', consumer organizations' or trade unions'** positioning. In accordance with the usual pattern of anti-dumping policy-making and the remarks made by the civil service as well as the minister (see prior) about the absence of these players, I believe we can conclude that they either did not come to a position, or did not communicate it to any of the relevant channels.

### 11.2.2.3. Did they communicate this position? Did they gain access?

#### **a. Scope condition**

I only discussed the Belgian decision-making procedures in anti-dumping very briefly in the introduction. To gauge the plausibility of groups gaining access to the ministry, I will here develop this a little further.

In Belgium, individual anti-dumping cases are handled by the ministry of economics. Although there might be some communication with foreign affairs if a case is extremely sensitive<sup>585</sup>, the Belgian position is generally decided on by the minister of economics. His ministry handles individual cases as follows (Interview - FOD Economie (2), 2016; Interview - FOD Economie (3), 2016).

Within the ministry (i.e. at the administrative level), there is a section called the 'General Department for Economic Analysis and International Economics'. There are three sub-sections, namely 'economic environment', 'sectoral environment' and 'trade policy'. Within this latter group there is a unit which is dedicated to trade defenses, manned by four civil servants.

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<sup>584</sup> UE-Chine: ce n'est pas (encore) la guerre L'Echo - Do. 06 Jun. Page 11 ; Trois questions à Frank Vandemarlier - La Libre Belgique - 06 Jun. 2013 - Page 29

<sup>585</sup> Or if discussions concern any laws/regulations related to anti-dumping or trade defenses in general. In those cases (for example, in the 'trade defense modernization' dossier), the usual coordinative mechanism apply.

After being notified by the Commission that a new investigation is being set up, this anti-dumping unit will start composing its own, preliminary report: does Belgium have a stake in the investigated sectors, are any Belgian firms involved, will the Commission propose duties? This report is needed because Belgium will be given only two weeks to analyze the Commission's proposal after DG Trade completes its investigation. This would not be enough time to do any kind of adequate analysis/consultation, so they prepare it in advance. Immediately, an automatic notification of this new investigation is sent around via a newsletter<sup>586</sup>. Secondly, the 'sectoral cell' is contacted, which produces the necessary economic background: which Belgian firms might be touched by the potential duty, which sectors are to gain and which to lose? Although the unit will not itself take the initiative to get in touch with potentially interested parties, there is always an '*open invitation*' for stakeholders to reach out to the ministry and present their case pro or contra the duties<sup>587</sup>. This 'societal' input is almost always provided *after* the Commission has started its investigation. It is very rare for firms to reach out to the Belgian unit before a complaint has been lodged. These analyses and input, as well as the Commission's findings<sup>588</sup>, are then used by the trade-defensive cell to draft a Belgian position. This is then sent to the minister of economics, whose cabinet may get in touch with his administration to request further info, but who might also arrange for some of his own meetings with interested parties. The final decision is a political one, taken by the minister. I.e: there is no obligation to follow the administration's advice, and there is room for a 'ministerial line'. Of course, the minister and his cabinet may have contacts of their own with stakeholders.

In sum: 'inside' access in general should be good, although it is more narrow than in FTAs because decision-making is encapsulated in the federal Ministry of economics.

'Outside' access through the parliament and the press was less plausible, given the general lack of interest in this matter. In general, the **press and the wider public** have (until recently) seldom paid much attention to trade politics in general, let alone one of its specific and perhaps more 'technical' sub-sections. Perhaps unsurprisingly then, **parliamentary oversight** of the way these cases are handled tends to be very low as well. By my count, about ten written questions (at the federal level) have in some way touched upon this topic since 1995. What little attention there is, seems to be reactive, responding to cases that have caught the public's eye because they are stirring up international tensions and may have important repercussions for the Belgian economy. There seems to be little follow-up. Interviews at the FOD support these observations (Interview - FOD Economie (2), 2016). Of course, the solar panel case may have therefore been more fertile material than other trade defensive cases, because of the tense international politics surrounding the case - this may have given interest groups a chance to get their voice across 'through' MPs and the press.

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<sup>586</sup> To which anyone can subscribe on the ministry's website

<sup>587</sup> However, in some cases the sectoral cell supporting of the unit's work will try to get in touch with industry federations because these possess useful info about their membership

<sup>588</sup> The unit only receives a summary of the detailed technical report of the investigation. Although this document is available for consultation at DG Trade, this rarely occurs for lack of time.

## **b. Empirics**

### *b.a. Inside channels – the ministry*

**Agoria's** expert that had worked on the case at the time did not believe they had done much lobbying; perhaps they had sent a letter to the minister, but this would not have been a detailed/technical one (e.g. talking about affected employment, production, ...). This was in contrast to some other cases, where they did intervene at the ministry on the sector's behalf, carrying data on employment, production, et cetera, of the affected industries (Interview - Agoria (2), 2017)<sup>589</sup>.

According to the then head of **PV Vlaanderen**, they did not get in touch with the ministry either. They did suspect that Photovoltech had lobbied the ministry, independent from the sectoral organization, but this of course ended when the firm disappeared in October 2012 – before the Belgian government had to vote on the measures. However, he also believed that the installers or distributors had not lobbied the FOD. He posited that it may have been Walloon firms that performed such lobbying (Interview - PV Vlaanderen, 2017). This is contradicted by my interviews with the civil service.

The **defensive cell** itself claims that it was lobbied actively by the importers, while countervailing pressure remained absent. The solar-panel case was uncharacteristic because representatives from **downstream industries** (for example the many solar-installers), which made use of cheap imported solar panels as inputs in their own operations, were the dominant players lobbying the government. A lot of importers and installers contacted the FOD with comments; some did so individually, but there was also a coordinated approach in which one law firm represented the interests of several firms (Interview - FOD Economie (3), 2016). This is supported by the (somewhat speculative) account of Agoria. My source here also believed that the sector's installers had responded very rapidly to the measures; PV had already started facing some hard times because it had in this period become clear that the pace of expansion was non-sustainable, and that the subsidies pushing this growth would be gradually removed. The ministry (civil servants as well as the minister's cabinet) was already in direct contact with some of the sector's firms about renewable energy and some of these problems, so PV Vlaanderen would not necessarily have known about or coordinated all communications on the related issue of Chinese dumping (Interview - Agoria (2), 2017).

**Producers were absent**, which the civil servants hardly thought was remarkable considering that the last Belgian photovoltaic factory (Photovoltech, based in Tienen) closed shop in 2012. The only remaining producers in the PV sector was located in a niche market that would not be touched by the measures. This meant that there were '*no producers trying to prevent them from rejecting the measures*' (Interview - FOD Economie (2), 2016).

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<sup>589</sup> For example, in a case on fiber optics, they argued against the use of anti-dumping measures with arguments that were based on in-depth economic analyses (employment effects, market shares, ...), of the effects that an AD duty would have on the Belgian users of these Chinese inputs.

## *b.b. Parliament*

Although my interviews gave me no indication that any of the affected parties contacted the parliament, I still analyzed the (few) debates related to the solar case in Flanders, Wallonia and the Kamer. This allowed me to further check for societal influence (perhaps the NGOs had just remained under the radar, feeding the parliamentary debate), but it was mostly valuable because it allowed me to gauge the political saliency of the issue, as well as the ministers' responses. These latter aspects are relevant in the next mechanism.

In the **Flemish parliament**, trade dumping in PV (not the solar panel case) was first mentioned during a parliamentary Q&A in the **plenary in 2012**, triggered by the demise of Photovoltech (C285 - ECO35 (2011-2012) - 3 July 2012). MPs from Groen and Sp.a lamented the firm's inevitable bankruptcy, which they tied to overcapacity on world markets, price-thumping competition from China, and lackluster Flemish industrial policy. According to Logist (sp.a) Belgian firms were '*not fighting with equal weapons*', since Asian firms had to meet far lower environmental and social standards and were heavily subsidized<sup>590</sup>. Watteeuw (Groen) feared that Flemish policy had focused too much on installation and too little on production, and hoped the government would try to salvage and protect the know-how that Flanders was in threat of losing with the disappearance of solar manufacturing. However, neither made any explicit links to trade policy; their focus was on domestic support. There was (as far as I can tell) no follow-up afterwards. It took a year for the issue to pop up again, during a plenary question time on the fifth of **June, 2013**. Hermes Sanctorum-Vandevoorde (Groen) raised the issue of the EU-China solar panel case, which he saw as coming too late for Flemish producers (Photovoltech), while it would increase the price of panels. Bart Martens (Sp.a) made largely the same comments; measures would either increase the costs for consumers, through higher costs of subsidizing the sector, or for installers, if support measures were altered too late, causing job losses. He called on the minister to warn the Commission that its measures would be fruitless. Robrecht Bothuyne (CD&V) hoped that threat of AD measures would be used as leverage to come to a negotiated solution, to bring an end to the dumping while safeguarding the support system. There were no other debates or questions about this issue after June.

In the **federal parliament**, there was only one instance of activity: in July 2013 a **written question** was sent by Schilz (Open VLD) to minister of economics Vande Lanotte. Referring to the minister's exchange with Holslag (see below), he asked whether Vande Lanotte would support the phased-in duties proposed by the Commission<sup>591</sup>.

Attention was scant in **Wallonia's parliament** as well. In **2010**, a question had been asked about whether it was 'really impossible' (as some had claimed) to develop a PV industry in Wallonia <sup>592</sup>

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<sup>590</sup> Logist was at that time mayor in Tienen, the city where Photovoltech had been based.

<sup>591</sup> He also wondered whether there would, in the future, be more room for parliaments, business and trade unions in this decision-making. As far as I can tell, there were no follow-up questions for the MP himself, however.

<sup>592</sup> *Question écrite N°: 126 (2009-2010) du 22/03/2010*

The only written questions directly linked to the dispute was posed after the facts: in 2014, Stoffels (PS) asked whether the trade dispute with China had done any damage to Belgian or Wallonian firms, and whether solar panels produced in Wallonia had benefited from the measures<sup>593</sup>. There were no oral debates of the issue, in the committee nor in the plenary.

**In sum:** as far as a parliamentary debate was waged on this issue, it occurred in the Flemish parliament. During the 2012 committee debate in the Flemish parliament about the problems in the PV-market, neither the questions of the green or social-democratic members of parliament, nor the reply of the Flemish minister-president were protectionist or even all that trade-oriented. The vagaries of global market forces were accepted rather than problematized. They also took comfort in the good performance of the rest of the photovoltaic production-cycle, which was believed to be doing fine in Flanders. It was mentioned that SolarWorld had requested anti-dumping action in the United States, but no one tied this to the situation in Flanders. During the 2013 plenary debate, there did seem to be some sympathy for the tariffs, but almost all participants in the end leaned towards the interests of the installers and consumers – especially since there were no more Flemish producers.

All in all, the issue does not seem to have been very high on the political agenda. The parliamentary positions remained ambiguous, but tended towards rejecting the measures.

#### *b.c. Press*

The solar-panel debate was peculiar in another way: it attracted relatively substantial interest by the press; including some opinion pieces. This led to parliamentary scrutiny and forced the ministry to defend its position in public. Just like in the parliamentary section, I have analyzed the press to investigate interest groups' positioning as well as political saliency and the general media discourse revolving around this case<sup>594</sup>.

#### **Flemish press**

Even before the start of the dumping dispute there had been some public attention for the state of the solar sector and the growing competition from Asia. The Flemish press had paid some attention to Chinese solar panels already in 2010 and 2011. A few articles discussed how cheap panels were flooding market, and how this was leading to increasing problems for producers - but also new opportunities for installers and consumers<sup>595</sup>. The demise of Photovoltech in particular attracted considerable press in the years leading up to the closure of the plant in 2012 (when most of the firm had already been dismantled)<sup>596</sup>, and remained a point of reference during later debates. However, although the difficulties of Photovoltech were

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<sup>593</sup> *Question écrite N°: 127 (2013-2014) du 06/01/2014*

<sup>594</sup> My analysis of the Flemish press is based on about 120 news articles, although many of these were variations of the same press agency report/press release. The Francophone text is based on the 31 articles found in the GoPress archives.

<sup>595</sup> 'Zonnepanelen zullen fors goedkoper worden'- Het Nieuwsblad/Brugge-Oostkust - Thu. 07 Jul. 2011tlb, - Page 53; Politiek verliest strijd tegen CO<sub>2</sub> - De Standaard - Sat. 27 Nov. 2010 pse, - Page 38; Chinese triomftocht, beproefd scenario - De Tijd - Wed. 14 Sep. 2011

<sup>596</sup> This firm got into trouble in the late 2000's, and eventually had to close down in 2012 - firing all of its 230+ employees

partially attributed to foreign competition (from China in particular), this was never framed in terms of 'dumping'. Nor did it seem to trigger any calls for higher tariffs.

Coverage continued in 2012, with a small amount of pieces on the growing hardships of the solar industry. Plummeting prices in solar were linked to Chinese overcapacity; the press again connected this to the closure of Photovoltech, but also to troubles faced by Bekaert – a firm that made sawing-wires used in the production solar panels, which was forced to shed 600 jobs mid-2012. However, there was still no talk of Chinese dumping; the press tied the sector's woes to Chinese competition, but also to wider problems of global overcapacity and the end of subsidies. The anti-dumping case launched by the US against Chinese solar was mentioned only in passing<sup>597</sup>.

When the Commission decided to start up its investigation, nearly all Flemish papers paid attention to this (not just the more business/economics oriented *De Tijd*). The move 'by *Karel De Gucht*' was presented as threatening trade war with China over dumping in solar panels – although many of these articles were brief modifications of press agencies' reporting<sup>598</sup>. This antagonistic frame would remain dominant, and was continued with the reporting on further dumping cases against Chinese telecommunication and bicycles in September, the launch of the subsidy investigations against Chinese PV, and China's 'retaliatory' investigation against European Italian and Greek solar<sup>599</sup>. It seems this only got through to the more specialized press, however.

Shortly thereafter, *de Tijd* published an opinion piece by Sylvain Plasschaert, a retired economics' professor, which argued that the crisis in the solar sector was largely due to a general problem of overproduction, technological innovations, and the decrease in subsidies. High 'infant mortality' in this young sector was to be expected. Moreover, using protectionist measures would damage other parts of the value chain, would lead to retaliation by China, and would be circumvented through trade diversion. Another critical commentary would follow some months later, in April 2013, when a regional paper (*Krant van West-Vlaanderen*) published a piece by Cleantech, a Flemish firm, which lambasted the anti-dumping measures because of Belgium's dependency on Chinese imports (which, the author argued, were not of inferior quality), and because most value added was produced in the installing country – meaning a lot of firms and jobs were now being hurt<sup>600</sup>.

In May and June, the press tracked the Commission's trajectory towards proposing duties<sup>601</sup>, reporting also about the pushback it was receiving from several member

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<sup>597</sup> VS en China voeren stellingenoorlog om zonnepanelen - *De Tijd* - Sat. 19 May 2012 - Page 23 ; Ook Chinezen happen naar adem - *De Tijd* - Fri. 01 Jun. 2012 - Page 15; China ontsnapt niet aan zonne-energiecrisis - *Het Nieuwsblad* - 21 Mar. 2013 - Page 33

<sup>598</sup> Handelstwisten tussen Europa en China lopen uit de hand - *De Tijd* - Wed. 25 Jul. 2012 - Page 9; De Europese Commissie heeft een antidumpingprocedure ... - *Metro NL* - Fri. 07 Sep. 2012 - Page 10; EU: onderzoek naar dumpen Chinese zonnepanelen - *Het Belang van Limburg* - Fri. 07 Sep. 2012 - Page 10

<sup>599</sup> Europa viseert Chinese fietsenbouwers - *De Tijd* - Thu. 27 Sep. 2012, - Page 10; Wen kwam, zag en waarschuwde - *De Tijd* - Fri. 21 Sep. 2012 - Page 8; China opent nieuw front in zonnepanelenoorlog - *De Tijd* - Fri. 02 Nov. 2012, - Page 11; Europa doet nieuwe stap in strijd om de zon - *De Tijd* - Fri. 09 Nov. 2012 - Page 9

<sup>600</sup> Protectionistisch geruzie biedt geen soelaas - *De Tijd* - Wed. 12 Sep. 2012 - Page 10; "Import uit China is goede zaak" - *Krant van West-Vlaanderen/Kortrijk's Handelsblad* - Fri. 12 Apr. 2013 - Page 8

<sup>601</sup> Heffing op Chinese zonnepanelen De Standaard - Wed. 08 May 2013(belga), - Page 27; Importheffing op Chinese zonnepanelen *Het Belang van Limburg* - Wed. 08 May 2013MW, - Page 21 *De Gucht Roept Chinezen een halt toe De Standaard* - Fri. 10 May 2013(reuters), - Page 20 ; Europa beboet Chinese zonnepanelen ... *Het*



states, China's retaliatory actions and the dangers of this escalating into a trade-war, and the search for a negotiated deal<sup>602</sup>. There was (mostly in June) quite some coverage of China's retaliatory actions, and the ways in which it was (according to the press) playing out the member states against each other. Most of this concerned China's (threat of) actions against European wines and automobiles, and the articles often included statements from German/French/EU (SolarPower) business representatives. There was very little attention to the consequences of this for Belgium however; the only exception was a single (brief) piece in May that claimed China was targeting European chemical firms, including Belgian multinational Solvay<sup>603</sup>. However, there was no follow-up on this latter issue<sup>604</sup>. When China destroyed a batch of Belgian chocolate in June, the press emphasized that this probably had nothing to do with the solar spat<sup>605</sup>. On the other hand, there *was* some reporting in the Flemish press (not in the Francophone papers) about the lack of solar producers in Belgium, and of the losses that installers might incur if duties were imposed<sup>606</sup>.

Meanwhile, the Flemish press wrote about Belgium's refusal to support the imposition of duties, and granted some space to De Gucht's criticism of said refusal. This Belgian position also stirred up a brief domestic polemic. A commentary by international relations scholar Jonathan Holslag accused the government of yielding to Chinese threats and of selling out Belgian industry. He had learnt of the Belgian opposition against duties and claimed this was a result of Chinese pressure. Minister Vande Lanotte replied the day after; his comments are discussed in the section on decision-makers' preferences<sup>607</sup>.

There was again plenty of attention for the imposition of duties in 'the biggest case ever', with lots of space dedicated to quotes from De Gucht in which the Commissioner claimed that it was not a protectionist move, and that China's dumping was threatening 25 000 jobs – claims that were usually juxtaposed with reference to a looming trade war. These articles included comments from PV Vlaanderen and Agoria, with the latter defending and the former protecting the tariff (see 11.2.2.2.). Belgium's resistance against the duty was interpreted as having been caused by (i) the lack of Belgian solar producers (since Photovoltech's bankruptcy in

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Nieuwsblad - Fri. 10 May 2013(blg), - Page 24. These are mostly brief <100 word pieces taken from Belgia, Reuters, etc. There was little to no original reporting.

<sup>602</sup> De Gucht wijkt niet voor China en Duitsland - Gazet van Antwerpen - Wed. 29 May 2013B, - Page 27; Duitsland wil geen Europese heffing op Chinese zonnepanelen - Het Belang van Limburg - Tue. 28 May 2013(afp), - Page 10; China wil praten over heffing op zonnepanelen - Het Laatste Nieuws - Mon. 27 May 2013 - Page 10

<sup>603</sup> According to Bown's anti-dumping data, however, the Chinese anti-dumping action against European chlorine only targeted 'Solvay Benvic Europe-France S.A.S.', which is based in France.

<sup>604</sup> China speelt verdeel en heers - De Standaard - Thu. 06 Jun. 2012 - Page 2; De Gucht ontketent handelsoorlog met China Het Laatste Nieuws - Thu. 06 Jun. 2013 - Page 16; China straft zonnepanelenheffing af met dumpingonderzoek naar Europese wijn De Tijd - Thu. 06 Jun. 2012 - Page 12; China straft wijnboeren Het Belang van Limburg - Thu. 06 Jun. 2013MW - Page 15; Zijn de zonnepanelen een handelsoorlog met China waard? De Standaard - Thu. 06 Jun. 2013 - Page 48; Chinezen viseren Solvay - Het Laatste Nieuws - Tue. 28 May 2013 - Page 43

<sup>605</sup> Chinezen vernietigen Belgische chocolade - Het Laatste Nieuws - Wed. 12 Jun. 2013 - Page 7; Onzekerheid over giftige chocolade in China - De Tijd - Wed. 12 Jun. 2012 - Page 18

<sup>606</sup> 'Dit is geen wijze beslissing van België' - Het Nieuwsblad - Wed. 05 Jun. 2013 - Page 33 ; 'Dit is geen wijze beslissing van België' - De Standaard - Wed. 05 Jun. 2013(bar) - Page 26; De Gucht pakt China aan wegens dumping zonnepanelen - De Standaard - Wed. 05 Jun. 2012 - Page 26

<sup>607</sup> Vande Lanotte plat op de buik voor China De Morgen - Mon. 03 Jun. 2012, Page 17; Johan Vande Lanotte: Plat op de buik voor China? Ik dacht het niet - De Morgen - Tue. 04 Jun. 2012 - Page 19

2012), (ii) the installers' fear of losing access to cheap Chinese panels and (iii) fears of an escalating trade-war with an increasingly important market<sup>608</sup>.

In general, the tone seems to have been somewhat critical of De Gucht, which is usually quoted 'in his defense', although there were exceptions. An editorial in *de Tijd*, for example, defended the duty using the Commission's arguments: 25 000 jobs would be lost in a high-tech industry, because of dumping and bullying by China<sup>609</sup>.

Note that there were never remarks from politicians other than De Gucht, except for the single piece by Vande Lanotte mentioned above.

Finally, there was wide reporting about the attempts at, and eventually success of the negotiations with China. The reporting seems to have been even-handed, including both the Commission's narrative as well as ProSun's criticism of the agreed price undertaking. PV Vlaanderen and a large installer (SolarAccess) were quoted as being pleased with the deal, while Holslag remained ambiguous but supportive. Agoria did not intervene<sup>610</sup>. In general, very few analyses evaluated the consequences of the deal for Belgium. The ones that did (in *De Tijd en het Belang Van Limburg*) focused on the effects on consumers, and argued that the effects on the Belgian market would be very limited: the agreed minimum prices were situated around the market rate at the time, while over 4/5ths of the price of a solar installation was determined by labor and equipment costs – not the panels<sup>611</sup>.

### French Speaking Press

There was a lot less attention for this case in the **French-speaking press**, and most of it appeared in business paper *L'Echo*.

The press reported very briefly on the initiation of the investigation, and the somber outlook for global solar, in 2012<sup>612</sup>. In May 2013, two articles in *L'Echo* discussed the imposition of a 'very heavy tariff' and the threats of Chinese retaliation (including the alleged measures against Solvay, although *L'Echo* notes that their source itself doesn't quote sources for this factoid)<sup>613</sup>. A few other papers started paying attention when the Commission proposed its measures, in brief articles that focused on the dangers of a trade war, the countermeasures in wine, and member states' protests

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<sup>608</sup> Invoerreffing op Chinese zonnepanelen - *Het Belang van Limburg* - Wed. 05 Jun. 2013(ap) - Page 10 ; *De Gucht belast Chinese zonnepanelen* - *De Tijd* - Wed. 05 Jun. 2012 - Page 9 ; *De Gucht pakt China aan wegens dumping zonnepanelen* *Het Nieuwsblad* - Wed. 05 Jun. 2012 - Page 33 ; "Europa moet niet bang zijn voor de Chinezen" - *Gazet van Antwerpen* - 06 Jun. 2013 - Page 33

<sup>609</sup> *Met alle Chinezen, maar niet* - *De Tijd* - Wed. 05 Jun. 2012 - Page 9; *China dreigt met heffing op Europese luxewagens* - *De Morgen* - Sat. 08 Jun. 2013 - Page 52; "Europa moet niet bang zijn voor de Chinezen" *Gazet van Antwerpen* - Thu. 06 Jun. 2013 - Page 35

<sup>610</sup> *De Gucht en Chinezen steken koppen bijeen* *De Tijd* - Wed. 19 Jun. 2012 - Page 10; *De Gucht ontmiijnt oorlog om Chinese zonnepanelen* - *Het Laatste Nieuws* - Sat. 22 Jun. 2013 - Page 2; *De Gucht beslecht grootste handelsconflict ooit* - *De Tijd* - 30 Jul. 2013 - Page 3; *Sectororganisatie zonnepanelen vecht akkoord EU-China aan* *Het Belang van Limburg* - Mon. 29 Jul. 2013B - Page 9; *'Niet gezwicht voor China'* *Het Nieuwsblad* - Tue. 30 Jul. 2013 - Page 8

<sup>611</sup> *Belgische zonnepanelen worden niet duurder* *De Morgen* - Wed. 31 Jul. 2013HM - Page 3; *Chinese zonnepanelen duurder* - *Het Belang van Limburg* - Tue. 03 Dec. 2013 - Page 13

<sup>612</sup> *Les menaces européennes de taxer les* - *L'Echo* - Vr. 14 Sep. 2012 Page 4; *Les panneaux solaires chinois inquiètent les acteurs européens* *Metro FR* - Vr. 09 Nov. 2012metro - Page 11

<sup>613</sup> *L'Europe va taxer les panneaux solaires chinois* - *L'Echo* - Vr. 10 Mei 2013 - Page 16 *Parfum de guerre commerciale entre la Chine et l'UE* - *L'Echo* - Za. 11 Mei 2013 - Page 20 ; *Deux bêtes blessées* - *L'Echo* - Di. 28 Mei 2013 - Page 3

(although one expert-interview heavily downplayed the dangers for wine or of a general trade war). The reporting seems to have been either neutral or somewhat positive, with L’Echo taking over the Commission’s line that this was “**Une bouffée d’oxygène pour un secteur mis à mal par le dumping chinois.**” Both ProSun and Afase are mentioned, and there is an ‘interview’ (in favor of the measures, largely cut-and-paste from a press release) with Agoria but no opposing piece from (e.g.) PV-Vlaanderen<sup>614</sup>.

The EU-China deal was also able to draw some attention, with articles looking at how China was able to divide and conquer the EU. Most of this was put in rather ‘neutral’ terms, it mostly took over press statements from the Commissions, which were then confronted with ProSun’s position. There is very little mention of the Belgian situation or stake, there are no references to Photovoltech (or Bekaert) nor to the polemic between Vande Lanotte and Holslag, and none of the articles included a response from Agoria or PV Vlaanderen<sup>615</sup>.

**In sum.** After the launch of the investigation and the escalation of the dispute, the debate became somewhat more heated in Belgium as well. First of all, the press followed the case quite closely, giving regular updates about impending ‘trade wars’. Some of this reporting was oriented on the Belgian situation and Belgian interests, especially in Flanders, but most of it consisted of general reporting about the EU/China developments in largely neutral terms. Many of the pieces were brief texts based on press releases. Both Agoria as well as PV Vlaanderen (and some Flemish firms) got easy access to the press in this dossier, every statement they put out was taken up – although Agoria (i.e. the voice supporting measures) was the only one appearing in the Flemish as well as the French speaking press. The issue was also debated by a number of academics - mostly with anti-protectionist pieces, but also in the noteworthy polemic between Holslag (defending measures) and minister of economics Vande Lanotte. This was one of the few times that a minister has commented on an anti-dumping case in the press.

#### *b.d. The public*

Just like in the Dutch case, there are no data available on the public’s opinion of solar panel dumping, anti-dumping, or (trade) relations with China. Nor was there any trace of protests, petitions or other manifestations of the ‘public’s’ voice.

### 11.2.2.4. Was their input influential?

#### *a. Scope conditions*

Lobbying on the protectionist side was very weak. Although a branch organization defended them, there were no producers immediately affected. Agoria’s stance was picked up in the Francophone press and to some extent in Flanders, but this did not

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<sup>614</sup> L’actu monde cette semaine La Dernière Heure/Dimanche - Zo. 02 Jun. 2013 Page 21 ; L’Europe va taxer le solaire chinois L’Avenir - Wo. 05 Jun. 2013 Page 13 ; UE-Chine: ce n’est pas (encore) la guerre L’Echo - Do. 06 Jun. 2013 - Page 11 ; Par peur des représailles de la Chine, l’Allemagne change d’avis La Libre Belgique/édition nationale - Do. 06 Jun. 2013 - Page 29

<sup>615</sup> Solaire: Chine et Europe proches d’un accord - L’Echo - Za. 06 Jul. 2013 - Page 17 ; De Gucht désamorce sa bombe commerciale contre le solaire chinois - L’Echo - Di. 30 Jul. 2013 - Page 8 ; L’Europe divisée à la merci de la Chine et des Etats-Unis - La Libre Belgique/édition nationale - Wo. 07 Aug. 2013 - Page 49

lead to any supportive parliamentary activity. They also did not combine this with any inside lobbying. The group that opposed duties, on the other hand, was well coordinated, was supported by the general tone of the press' and parliamentary treatment, and represented thousands of jobs in a booming new industry. As I show in the next mechanism, the civil services' receptiveness for protectionist demands (especially in internationally integrated sectors) seems to have been more hesitant as well, although the state was generally receptive to business' preferences. Influence for the pro-AD camp therefore seems highly implausible, while the contra groups did have the necessary leverage.

### ***b. Empirics***

The previous steps made sure that there was indeed contra-duty lobbying, on the inside as well as through the press, as well as a limited amount of outside commentary in support of anti-dumping. Can we tie this activity to the Belgian positions?

In the provisional phase, the civil service advised against duties, and the minister followed this advice. Belgium therefore voiced its opposition against imposing a provisional anti-dumping tariff against imported solar panels from China. At least superficially, this indicates that the contra-duty group was influential. Judging from my interviews with the civil service, I believe that this position was at least partially influenced by the input they received from Belgian firms and associations. Although Belgium would probably have resisted measures anyway, these groups helped tilt the balance in their favor (see next mechanism).

In the second phase, the civil service again advised against measures, but the minister decided not to follow their lead by changing the Belgian position to an abstention – which signaled the country's resistance while institutionally supporting the measure. I believe it was very unlikely that this was due to protectionist lobbying: only Agoria took a principled stance in favor of measures, but it did not represent any Belgian firms (or employment, production, ...) since they had all gone bankrupt. Rather, as I show in the next section, I believe we can attribute this shift to external reasons (an EU-level logic, supporting a lesser evil).

In summary, I believe we can conclude that it's plausible to claim that the contra-duty groups were influential. This narrative was inherently persuasive (high prior probability), I cannot falsify it based on the gathered data, and there's some confirmatory evidence. The shift towards an abstention, on the other hand, was not engineered by pro-AD firms or associations.

### **11.2.2.5. Conclusion**

Working my way through the mechanism, just like in the Dutch case we cannot falsify the role played by contra-AD lobbying: these groups were present, they had leverage, their arguments were picked up by the press and the parliament, and the final position is in accordance with their preference. Yet again the confirmatory value of my evidence is limited: the liberal outcome can also be attributed to decision makers' preferences. On the other hand, it does seem clear that protectionist lobbying did not pay off. Although here too there were firms and an association aware of the case, and although here too they performed a bit of lobbying, this was

too limited, and is unlikely to have swayed Belgian policy makers. To better weigh the importance of interest group lobbying in the earlier phase, I will now turn to the policy-makers' mechanism.

<b>Causal hypothesis:</b> Societal lobbying or campaigning influenced the Belgian position on solar dumping. Prior probability: moderately high		
	<b>Propositions</b>	<b>Evidence- Assessment</b> <i>(source)(characteristics of evidence in relation to proposition: high/low - uniqueness, certainty)</i>
1	Business organizations, firms and/or CSOs were aware of the case	Account evidence - Associations and firms were monitoring trade (lc, lu) Trace evidence - Business took in position in press, on website, in meetings (lc, hu) Account evidence - Business knew about the case (lc, hu) Trace evidence - Policy makers sent out e-mail about the case to business associations (lc, hu) --- Account evidence - CSOs were monitoring trade (lc, lu) Account evidence - some CSOs (unions) claimed they were not involved in the solar case (lc, hu) Pattern evidence - CSOs (almost) never get involved in anti-dumping cases (lc, lu) Trace & account evidence - CSOs were not involved according to business/policy makers, little trace of positions/analyses (lc, hu)
2	They had a preference	Account & trace evidence - Agoria had a preference pro-AD (press, interview, website) (lc, hu) Account evidence - firms from within PV-Vlaanderen had a preference - both contra and pro AD (interview) (lc, hu) Account evidence - PV-V did not have a preference either way (interview) (lc, hu) Account/trace evidence - PV-V did have a preference contra-AD (press, website, e-mail) (lc, hu) Account evidence - An association of firms had a preference contra-AD (interview with DM) (lc, hu) --- Trace/pattern evidence - CSOs did not have a preference (based on usual pattern of CSO-absence, lack of evidence for monitoring, disconfirmation of communication) (lc, lu)
<b>Strong confirmation of anti-AD preference, strong confirmation of pro-AD preference, moderate disconfirmation of CSO preference</b>		
3		They successfully communicated this preference to Belgian decision makers
3.a	They had inside access	Account evidence - a representative of firms opposing the measures spoke to DM (lc, hu) Account evidence - DM did not meet with business actors supporting the measures (lc, hu) Account evidence - PV Vlaanderen did not meet with DM (lc, hu) Account evidence - Agoria did not meet with DM (lc, hu) Account evidence - letter was sent to DM by Agoria (lc, hu) Account evidence - CSOs did not contact DM (lc, hu)
3.b	They had outside access	Account evidence - the PV association did not communicate a position (interview) (hc, hu) Trace evidence - they did communicate a position (press, website, e-mail) (hc, hu) Account & Trade evidence - Agoria communicated a position (lc, hu) And: DM is aware of press/website communications by business (assumed true) --- Trace evidence - No position by CSOs in press, no indication that they communicated with parliament (hc, lu,hr)
<b>Strong confirmation of anti-AD lobbying, moderate confirmation of pro-AD lobbying, moderate disconfirmation of CSO lobbying</b>		
4.	They influenced the Belgian position	Trace evidence - influence of contra-AD group: Belgian position in line with the position of groups lobbying against AD (hc, lu) Trace evidence - influence of pro-AD group: Belgian position altered to abstention (hc, lu) Sequence evidence: Inside & outside access of business before Belgian position was set/altered (hc, lu) Pattern evidence: No clear pattern in Belgian positioning according to DM account, literature argues in favor of business-influence pattern (lc, ly) --- Based on above: Sequence/account/trace evidence: no CSO lobbying before Belgian position was set (hc, hu)
<b>Moderate confirmation of anti-AD influence, weak confirmation of pro-AD influence, strong disconfirmation of CSO influence</b>		

## 11.3. Decision-makers' preferences

### 11.3.1. Prior probability – potential evidence

#### 11.3.1.1. Prior

Is there reason to believe that autonomous decision maker preferences played a role in the Belgian position on solar dumping?

#### **Preferences**

As I showed in the prior of the previous mechanism, there was not one constant line in the Belgian position, but rather a series of shifts (at least after 2005, before the Belgians seems to have supported measures most of the times). At least according to the civil service, this has had to do (to some extent) with **ministerial preferences**. According to my interviewees, there have been some marked tendencies in the ministerial 'line' over the years. Until 2005, the then-head of the trade-defense unit had both significant autonomy, and an outspoken preference for following the Commission's advice. This changed after the textiles disputes, when his advice to support the Commission in imposing duties was overruled by his minister - a Flemish liberal. Thereafter, there was a period where Belgium realigned with the 'Northern' camp, tending to oppose duties far more often. This line was held by both of his liberal successors, as well as by social-democrat Vande Lanotte. Recently, however, under Kris Peeters, Belgium has supposedly been moving 'South' again (Interview – FOD Economie (2), 2016). However, I must note that the comments of my interviewees on this matter were at times somewhat contradictory – for instance, they also indicated that there were very few to no interventions under Vande Lanotte, a view that was shared (on trade in general) by another unit. An alternative view from the decision-makers' theory may thus be that not the minister, but the administration became more skeptical in regards to anti-dumping, producing opposition against duties unless a ministerial intervention switched this towards supporting tariffs.

For the mechanism as such it does not matter, and I believe that the general pattern is too unclear to distill any clear expectation about the case-specific handling of this case. I also have little other a priori (ideological, electoral) reasons to expect Vande Lanotte, his civil service or their sub-federal colleagues to hold any specific preferences in regards to anti-dumping, with one important exception: as I demonstrated in the previous prior, the immediate economic interest of Belgium seems to have been situated in keeping open trade in solar panels (and with China), while there were no domestic producers being threatened. Considering the analytical resources (enough dedicated personnel, data, etc) of the FOD Economie, I can assume that the civil service and/or minister were aware of this at an early stage; this may have led them to swing towards the import-promoting side - regardless of lobbying.

The usual pattern may have been further made noisy by sub-regional involvement. As I discussed in the introductory chapter on Belgium, their role in anti-dumping is extremely circumscribed, but this dossier fell largely on Flanders' economic plate; this may have triggered some kind of intervention from the Flemish government

(then led by Kris Peeters, who has in his recent, federal years apparently favored a more ‘Southern’ approach to dumping). To what extent this alters the calculation remains unclear, but I believe it merits including the regional executives as well (just like I included the sub-federal legislatures in the previous mechanism).

## **Influence**

As we saw in the previous mechanism, the issue did become somewhat salient in the press and the parliament. Although there were conflicting voices in this public sphere, there was a homogenous and vocal lobby in favor of duties on the ‘inside’. This may have constrained the executive if it did harbor a preference in favor of anti-dumping. On the other hand, the issue became heavily politicized in the Council and between China and the EU. I have no reason to assume that Belgium would normally fall in any of the two camps (e.g. would choose Germany over France), and it was at no point targeted directly by the Chinese measures, but the rising tensions may still have constrained it either way.

So, the theoretical literature is of little help and the patterns of Belgian decision-making do not add much clarity. But all in all, I believe the clear economic interest in combination with a vaguely discernible tendency to oppose measures in this period, may suffice for us to expect that the Belgian executive(s) developed an autonomous preference for resisting the measures. Since there was barely lobbying by protectionist groups, it seems arguable to then attribute the state’s shift towards abstaining (in July) to rising external pressures.

I looked for the same kinds of **evidence** as in the CETA mechanisms.

### **11.3.2. Probing the role of decision-makers’ preferences**

#### **11.3.2.1. Did they have a preference?**

The **federal administration argued** (in its advice drafted for the minister) that Belgium should vote against both the preliminary as well as the final measures (the PU) proposed by the Commission. I have no information about the regional administrations or other ministries, based on available sources, I believe I can conclude they did not voice any positions on this matter.

At the political level, a variety of players had their say about the case.

Although I have no record of (then **Flemish minister-president**) Peeters ever responding directly to the solar panel case, we can tell from his reply to the Flemish parliament (discussed in the next section) in 2012 that it’s unlikely that he would have supported such measures, and that in any case he was not calling for them. There were **no statements from Wallonia’s** minister-president, only brief remarks (see next section) by regional trade minister Marcourt. Again, nothing suggests that he supported measures, while some of his remarks hinted in the opposite direction. During the dispute **Flemish minister of energy** and environment Freya van den Bossche did respond more directly to the case. In her reply to the Flemish parliament on 5 June 2013, she agreed with some of the MPs’ AD-critical comments, but added that it was *‘not unimportant that there was a eurocommissioner that wants to make sure that the EU still retains some manufacturing, especially in the face of unfair practices’*. She stated

that unfair competition could not be allowed, and praised the EU for trying to do something about it. Although she acknowledged that this would mean that solar panels would become more expensive, she claimed that this would not harm Flemish consumers, because the regional government would still ensure a return on investment of 5%; if prices went up, absolute support would increase.

The most important political actor was federal minister **Vande Lanotte**. He first (in May 2013) condoned his administration's advice to oppose preliminary measures, but later (July 2013) somewhat changed course, when he deviated from the civil service's advice to remain in the 'no' camp and instead told them to abstain (which in practice supported the Commission). In his reply to Schiltz' question in the federal parliament, he also supported a phased-in imposition of any duty over immediately installing it at full force: this was better than an immediate duty, because it gave firms the time to adapt, and the Commission time to find a negotiated solution which might have still prevented the use of any AD measure whatsoever<sup>616</sup>.

### 11.3.2.2. Autonomous?

Where did their preferences come from?

The FOD Economie saw its own approach as 'technical', based on a principled stand and an investigation of Belgian economic interests. They contrasted this with the approach allegedly used by foreign affairs; they believed foreign affairs had a more pronounced tendency to approach anti-dumping in a 'relational', diplomatic way, as an issue which was open to (cross-issue) bargaining among member states (Interview - FOD Economie (2), 2016).

In the solar case, their assessment of the economics of the case was handled in the usual way, as described in the section on societal access points. After receiving the notification by the Commission, they started working on their advice, procuring economic data, figuring out what sectors and firms were involved and hearing out interested stakeholders. In their advice, they concluded that Belgian economic interests would not be served by a duty (Interview - FOD Economie (3), 2016). Apart from the solar-specific analysis, the civil service seems to have been skeptical about the merits of anti-dumping action. The 'FOD Economie' was especially wary of supporting duties on inputs that were used and processed by Belgian firms; firms that in turn then exported these processed inputs on international markets. They believed the solar panel case had been an illustration of this tension: it showed how complex it was for national governments to, in a world of global value chains, assess whether they weren't *'shooting themselves in the foot'* by imposing anti-dumping measures. It was characteristic of the photovoltaic sector that, although the production of solar panels had mostly been transferred to China, 60 to 70 percent of the added value (and the employment) was located in the rest of the value chain. The production of the raw materials or the equipment used in solar panels, or the installation and the maintenance of solar installations, occurred mostly within the EU (Interview - FOD Economie (2), 2016)<sup>617</sup>.

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<sup>616</sup> Bulletin nr : B130 - Schriftelijke vraag en antwoord nr : 0389 - Zittingsperiode : 53

<sup>617</sup> See also Vande Lanotte's response to a question by Schiltz (Open Vld) - *Bulletin nr : B130 - Schriftelijke vraag en antwoord nr : 0389 - Zittingsperiode : 53 - 18/07/2013*.



At the political level, similar musings returned. When supporting his case against AD-measures in his reply to Schilz and Holslag, **Vande Lanotte** focused on the economic harms a duty would impose on other parts of the photovoltaic value chain in Belgium. He argued that the European production of solar panels had indeed decreased, and *'competition from Asian countries certainly didn't help'*, but over half of value added and most of employment was being created within the EU, and this employment had increased markedly in the past ten years. Employment was being created by imports, distribution, project development, installation and maintenance of solar panels, including Chinese panels. High anti-dumping tariffs would drive up the price of these panels, diminishing demand and therefore employment. A price increase because of tariffs would lower demand, and would risk losing these other activities as well. Safeguarding employment and purchasing power were the two *'decisive factors'* in making his decision, which had *'not been taken lightly'* but after an investigation by the FOD Economie, specialists whose *'univocal'* advice he *'potentially'* followed.

Similar remarks were made by **Peeters in 2012**, who argued that the consolidation in PV was mostly happening in the production of solar cells and modules, and that there were still plenty of opportunities for Flanders in other parts of the value chain. Plenty of upstream or downstream firms in materials, R&D and system-design were active in Flanders: firms like Ducatt, Umicore, Solvay, Dow Dorning, Agfa-Gevaert and 3M, together with Flemish universities. **Marcourt** made roughly the same analysis, downplaying the economic stake faced by Wallonia in the solar panel case (and Chinese retaliation). In response to a parliamentary question in 2014, he pointed out that Wallonia did not export wine to China, nor did it have any solar panel producers. There was just one firm left that assembled solar panels, in a niche market of integrated solar systems. The panels used in Wallonia were mostly imported from China and Germany<sup>618</sup>. Earlier, in response to a question about the potential for developing PV manufacturing in Wallonia, Marcourt had also mentioned this sole assembly firm, and had noted that this was a very difficult sector to enter, with rapidly shrinking margins. There were, however, other parts in the value chain in which Walloon firms could play a role<sup>619</sup>. As was mentioned before, neither Peeters nor Marcourt directly linked these analyses to a stance on solar panel dumping.

### **Ideology/theory**

Sources from the trade defensive cell of DG Trade (now working elsewhere) claimed that the Belgian administration used to always follow the Commission, but that in recent years they had been surprised (in fact: disappointed) by the very **liberal outlook** of the Belgian civil servants working on anti-dumping (including solar panels). This mattered, so they claimed, because the civil service's perspective on these dossiers was influential; under Vande Lanotte, the Belgian attitude to anti-dumping was very negative (Interview - ex-DG Trade, 2016).

This generally skeptical attitude towards anti-dumping also returned in comments made by Vande Lanotte and his administration. According to the minister (in his reply to Schilz) anti-dumping measures were often meant to protect a small group of well-organized producers, while a large but diffuse, and therefore poorly organized

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<sup>618</sup> Question écrite N°: 127 (2013-2014) du 06/01/2014

<sup>619</sup> Question écrite N°: 126 (2009-2010) du 22/03/2010

group of importers, processing firms and consumers were forced to pay duties. He noted that there was usually a demand for 'European solidarity' for obsolete, non-competitive industries at the expense of more innovative processing industries and/or consumers, while arguing that in the long run anti-dumping measures may also be detrimental for the producers: *'Using trade defensive measures does not necessarily strengthen the competitiveness of the defended sector'*. This ties in with what you could call the somewhat 'Schumpeterian' undercurrent of the remarks made by the other ministers. In his response to the parliamentary debate on Photovoltech in 2012, Peeters argued that there are *'stronger and weaker companies, even in difficult sectors'*, that it was *'always a pity when firms close and need to lay-off workers'* but that it was very hard for Flanders to do anything about the causes of such closures, *'like competition from China'*. Flanders' environmental department's (EWI) analysis was that solar panel producers were encountering stagnation due to overproduction and plummeting prices, a period of consolidation that was expected to last for two years. There was not much the Flemish government could do: it's dangerous to subsidize unprofitable firms.

On the other hand, my interviews with the federal civil servants themselves seem to qualify this assessment somewhat. Their remarks were often more ambiguous. Although towards the usual use of anti-dumping instruments was skeptical (they seemed to think that AD was mostly used to protect defensive but well-organized big industries), there was little trace of the same, ingrained and decisively liberal attitude that characterized their Dutch counterparts. Note also that although the same civil servants were present in 2016, sources that had been active in DG Trade claimed that under Peeters the Belgian position had shifted towards being more supportive of anti-dumping. These former officials felt that decision-making had become 'more objective': the Commission's investigation and Belgian economic interests were given more weight, and Belgium voted in favor of duties more often (Interview - ex-DG Trade, 2016).

Finally, the minister claimed (in his reply to Holslag) that he defended a **'healthy and fair' international trade**, according to internationally binding rules, but that these were currently very limited: intervention was only allowed in case of dumping or subsidies. In solar, the Commission had not yet ruled on the issue of subsidies, but it had according to the minister been unable to convincingly show that there had been dumping. He was not happy with this state of affairs, however: he believed low prices from non-European countries were often linked to dumping nor subsidies, but rather to violations of labor rights, low wages and environmental degradation. In the long term, he supported also assessing the fairness of trade flows, which he believed should be judged on social and environmental norms. However, it's pretty likely that this was mere rhetoric: there are no indications that Belgium was in fact working to broaden the rules of trade defenses<sup>620</sup>, and other parts of his administration remarked that Vande Lanotte was (in general) actually not so active in following these dossiers (Interview - FOD Economie (1), 2017).

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<sup>620</sup> At least, it was never mentioned in the service's responses to my questions about trade defense modernization, even though this reform process had already been started in 2013 (Interview - FOD Economie (3), 2016).

## **In summary**

The civil service had a skeptical view of the economic sensibility of applying anti-dumping, but in specific cases seems to have been most influenced by its economic analysis, and the input given by affected firms. The minister's thinking went along the same lines (a generally pro trade stance, claiming he was constrained by international trade rules, arguing that installers' jobs were at stake). Therefore, although the initial vote against measures was to some extent part of a kind of 'basic position' in combination with the results of their impact analysis, it was clearly co-produced by inputs given by the stakeholder. Nonetheless, this is sufficient to conclude that there were indeed autonomous sources available. I will try to disentangle them further in the 'synthesis'. This is not the case, however, for the switch to an abstention. I have no indication that this resulted from any kind of novel analyses or a sudden change of heart. Rather, as I show below, it seems to have resulted from a combination of external 'pressure', the voting rules, and a preference for the least trade-constraining option available.

### **11.3.2.3. Did this preference become operational?**

#### ***a. Scope conditions***

Societal pressure was very lop-sided: it seems the civil service only got to hear firms protesting against the measures. Agoria had supported the Commission in the press, but this remained very limited, and the arguments of the anti-AD groups were more dominant. This was a rare anti-dumping case in which diffuse interests were very focused and well-coordinated, presenting the executive with a clear, societal front against measures. As was demonstrated in the previous mechanism, among the population of anti-dumping cases the solar panel was also an outlier in terms of 'noisiness': it attracted quite some press, there was a bit of parliamentary attention, and Belgium's position was publicly criticized, forcing the responsible minister to defend himself. However, the extent of public debate over the position that Belgium had to take on this issue still remained very modest, as was the pressure to oppose duties.

In regards to **external pressure**, the civil service insisted that the 'intergovernmental' dimension of their work remained limited. As was mentioned above, they saw their work as 'economic-technical' rather than diplomatic – supposedly in contrast to foreign affairs. Although it has occurred (in the past ten years) that the ministry of foreign affairs asked them to vote a certain way for 'relational' rather than economic reasons, this happened very rarely and never at the instigation of the ministry of economics. I.e: Belgium never asked for other countries to support their position, and did not offer package deals in other policy areas to get its desired outcome. In a similar vein, Belgium has almost never gone beyond the 'technical' staff of DG Trade in individual cases, for example by getting in touch with the Commissioner. In relation to the broader, extra-EU stage, my sources have remained vague. It's clear that ambassadors of targeted nations have gotten in touch with the Belgian government in a number of cases (textiles and solar panels, both involving China), but the regularity or importance of such contacts was unclear (Interview - FOD Economie (2), 2016; Interview - FOD Economie (3), 2016). The 'smallness' of Belgium means that it is often the weaker party both within and outside of the EU. On the

other hand, its role as a 'swing state' in anti-dumping disappeared after the 2004 enlargements. It is therefore probably not considered a core actor/target either. It also appears that China did not put pressure on Belgium the same way it did with Spain, Italy or France (Belgian firms were not singled out in any of China's anti-dumping (or anti-subsidy) activity during the 2012-2014 period, nor were any of the targeted goods particularly important export products). Still, Belgium may have been sensitive to the threat of a more general trade-war between the EU and China. Moreover, it must have been clear to all member states that supporting duties could trigger a backlash from China. I try to further untangle this in the empirical discussion.

### ***b. Empirics***

**Who got to have a say?** In the above sections, I discussed the views of the federal as well as the regional levels, while allowing for the possibility that other ministries had had a say as well. It has emerged from my interviews quite clearly, however, that this matter was dealt with almost **exclusively by the federal Ministry of economics**. The Flemish administration was at the time aware of the dispute, but they weren't really following it closely. Anti-dumping was the prerogative of economics, and DiV felt like they were doing a good job. None of the sub-national administrations played a role in individual cases. The solar panel case also never became a significant issue on the political agenda more generally (Interview - DiV(1), 2016; Interview - FOD Economie (2), 2016; Interview - Former DiV (2), 2017; Interview - WBI, 2016). Foreign affairs was also shut out of decision-making, economics 'made clear' that they considered the case their prerogative, and foreign affairs did not play a role of importance (except for the organization of a coordination meeting) (Interview - DGE5, 2016; Interview - FOD Economie (2), 2016). **Between the minister and the civil service**, the only difference popped up when the cabinet told the anti-dumping unit that Belgium was going to change its position from 'no' (on the preliminary duties) to an abstention (on the final duty). As far as I can tell, this was not preceded by any real discussions between the administration and their chief; there does not seem to have been any kind of 'struggle' in either phase: the final decision is just up to the minister, and the civil servants were to a certain extent left in the dark as to the ministerial line of thought (Interview - FOD Economie (2), 2016).

So the main actors were the minister of economics and his trade administration.

**Did they try to turn their preference into policy?** The civil service's 'effort' in this regard was limited to presenting its advice to the minister. In terms of trying to create space for his preference domestically, neither they nor the minister ever participated in any of the parliamentary debates nor did they intervene in the press (except once), although they did spell out their reasoning in response to Schiltz' question. The only exception was Vande Lanotte's response to Holslag, in which he defended his choice to oppose measures. He did not deliver any further comments before or after this. This wasn't necessary either: there was no further criticism of his decision in the press, and the federal parliament did not spend any time on the dossier. I do not think that domestic pressure constrained him or his civil service, at least not through these channels.

One of the allegations that Vande Lanotte had to respond to was that he had been lobbied (and threatened) extensively by Chinese diplomats. In the paper, he replied he had only met the Chinese ambassador once to discuss this file, *after* the Belgian position (on provisional measures) had already been set by the administration and confirmed by him. In my interviews, the civil service did acknowledge that there had been several meetings<sup>621</sup> of the administration with representatives from the Chinese embassy, who made the case against duties and insisted that Belgium voted against measures. The Chinese also made clear that their own measures in wine were meant to retaliate against France and Italy (Interview - FOD Economie (2), 2016).

I have no indication (nor evidence to the contrary) that Belgium played an important role in driving the debate in the Council, for example by attempting to attract more support for resisting the imposition of measures. Based on the comments of the civil servants that they resisted a 'relational' approach to these issues, their view of most member states as being similarly motivated by a 'principled stance' in combination with national economics (i.e. not available for bargaining anyway), and their blockage of foreign affairs' attempts to play a role in this dossier, in combination with low domestic electoral stakes and the solar dispute's very low rank on the domestic political agenda, I would argue that it's improbable that Belgium spent a lot of energy on molding the European balance of power.

The extent of **intra-Council pressure** on Belgium remains unclear, but the civil servants claimed that it was absent, as usual. This appears unlikely given the politicization of the case in the Council and, in the end, **external dynamics do seem to have been decisive**. According to the civil service, the cabinet's arguments for ignoring its advice on the final duties (and thus abstaining on rather than rejecting measures) was the following. It preferred a solution with a negotiated minimum-price over a take-it-or-leave-it duty imposed by the Commission: a price undertaking is shaped by negotiations with the target country, while otherwise a tariff of over 30% might have been installed without any such deliberations<sup>622</sup>. An abstention helped the Commission achieve the required majority without actually condoning the imposition of a duty, thereby maintaining some 'symbolic' opposition. This compromise was agreeable to the cabinet (Interview - FOD Economie (2), 2016). During a later phase of the measures (during the review), Belgium (now under Peeters) was again planning on voting against a renewal of the measures. According to a source from the federal government, this was again changed into an abstention after calls to the minister from Germany's Angela Merkel and DG Trade. Although this is only indirect evidence, I believe it gives us a decent hunch that the 2013 switch to an abstention was also driven by direct contact, from the Commission and other member states, with the cabinet of minister Vande Lanotte (Interview - Federal Government, 2017).

### 11.3.3. Conclusion

There is evidence that policy-makers, especially within the civil service, had their own, autonomous preferences about the need for anti-dumping in solar. This

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<sup>621</sup> The civil service and the minister do not necessarily contradict each other. These further meetings probably took place after the imposition of preliminary measures.

<sup>622</sup> And considering the voting rules and the state of play in the Council in June 2013, the opponents probably wouldn't have been able to muster the qualified majority needed to sink any duties proposed by the Commission.

preference was based on economic analyses as well as the civil servants' ideas about the utility of anti-dumping, and its dangers in internationally integrated sectors. There is also sufficient evidence to prove that they put this preference to 'work', although it seems that they abandoned this pressure for the final vote, after external pressure. However, in the previous mechanism I discussed, and could not falsify, the equally plausible theory that the position was determined by business lobbying. Clearly the evidence suggests that both occurred, and played some explanatory role.

In the next, final section I still attempt to disentangle their explanatory merit.

<b>Causal hypothesis:</b> Autonomous decision-makers' preferences influenced the Belgian position on solar dumping. <b>Prior probability:</b> moderately in favor		
	<b>Propositions</b> <i>(high/low - certainty, uniqueness)</i>	<b>Evidence- Assessment</b> <i>(source)(characteristics of evidence in relation to proposition: high/low - uniqueness, certainty)</i>
<b>1</b>	Did they have a preference	Account evidence - Federal civil service opposed duties (interviews)(lc, hu) Trace/account evidence - Federal minister first opposed duties, then favored abstention (press, reponse to parliamentary questions, interviews) (lc, hu) Trace evidence - Flemish minister ambiguous on duties (parliamentary debate) (lc, hu) Trace evidence - Arguments indicating opposition to duties from Flemish m-p, Walloon trade minister (parliamentary debates, questions) (lc, lu)
<b>1.a</b>	Was this an autonomous preference?	
<b>1.a.a</b>	Was a societal position absent?	No - see evidence presented in previous mechanism
<b>1.a.b</b>	Were there alternative, 'autonomous' sources?	Trace evidence: skepticism of regional ministers in regards to future of PV production (in contrast to installation, R&D) in Belgium, based on PV-market-related arguments (parl) (lc, lu) Account evidence: federal minister claiming judgment against AD was based on analysis of PV-value chain (parl) (lc, lu) Account evidence: civil service made analysis of Belgian PV market and concluded AD would damage Belgian economy (interview) (lc, hu) Pattern evidence (account): minister claiming that civil service was always skeptical of AD on inputs used by Belgian firms (parl) (lc, hu) Pattern (account) evidence: no clear overall line/preference of political level on trade issues (interview) (lc, lu) Pattern (account) evidence: clear overall preference of civil service against AD in general (lc, hu) Account evidence: preference of main civil servants for 'technical' over 'relational' approach (lc, lu)
<b>1.a.c</b>	Did they rely on societal and/or autonomous sources?	Account evidence (both): civil service based its position on its own economic analysis, but also made use of input from business (interview) (lc, hu) Account evidence (societal): ministerial cabinets may have had own meetings with business (interview) (lc, lu)
<b>Moderate confirmation of autonomous DM preferences</b>		
<b>2.</b>	Did they put this preference to work?	
<b>2.a</b>	Was there external/societal pressure	Societal: Yes - See previous mechanism Account evidence - meetings with EU and Chinese actors (interviews) (lc, lu) Account/trace evidence - highly politicized case, pressure on other countries (press reports) (lc, lu) Trace evidence - no evidence of Chinese retaliatory actions against Belgium (AD data, press) (lc, lu) Account evidence - calls from Germany and DG Trade to ministerial cabinet in later phase (interview) (lc, lu) Trace/account evidence - no evidence of pressure from Council/DG Trade on ministerial cabinet (lack of evidence) (lc, hu)
<b>2.b</b>	Did they resist this pressure?	Account evidence - no extern pressure/deal-making (interview) (lc, hu) Trace evidence - minister defending his preference contra-AD in press (press) (lc, hu) Account evidence - civil service drafting advice for ministerial approval, twice contra AD (lc, lu) Account evidence - minister deviating from advice in second phase (interview)(lc, lu) (u/c depends on perspective: v-a-v which group?)
<b>3.</b>	Did DM preferences influence the Belgian position?	Account & trace evidence: see 2.b Pattern evidence (account, trace) : Belgium yielding to strong business interests in other cases (interviews) (lc, lu) Pattern evidence (account, trace) - no shifts in ideology across ministers (lc, lu)
<b>Moderately weak confirmation that autonomous preferences determined initial position against duties, moderately strong disconfirmation that autonomous preferences drove shift to abstention</b>		

## 11.4. Synthesis

I have not been able to falsify either of the two competing mechanisms. If we put all of the evidence and our prior expectations together, does this help us make a 'choice'? Or can counterfactual/comparative reasoning help tease out which factor

was most relevant? And what does this episode teach us about Belgian anti-dumping policy more generally, historically and looking forward?

I believe that, based on the evidence of the case and the patterns of Belgian decision-making that I have discerned while studying it, Belgium would have gone for a 'no' vote even in the absence of any lobbying. The civil service had a negative disposition towards the use of AD in these integrated sectors, and had assessed that there were no remaining producers but still plenty of users and importers. Had it hesitated, the danger of a looming trade war with China (and the bilateral contacts with the Chinese embassy) would have tilted the balance towards opposing measures. Contrary to my assessment in the Netherlands, I do not however think Belgium would have opposed duties if there had been a more clearly defensive interest (for example if there had been big producer interests), especially not if these had started lobbying. Sectors' preferences play an important role in the FOD's assessment, and although there is some doubt about the purpose of AD, it seems that concentrated producer lobbying is able to overcome it. This counterfactual possibility was acknowledged by the civil service itself (Interview - FOD Economie (2), 2016), but also by my research on the 'historical' record of Belgian decision-making and voting.

Let's look again at the pattern of Belgian decision-making. I analyzed a number of responses of ministers to the handful of parliamentary questions on anti-dumping in the past, as well as some of their remarks in the press, and this offers little indication of them opposing anti-dumping on ideological grounds. Neither in the 2005 textiles' dispute, when the liberal Verwilghen was minister, nor during the solar panel case, when a social-democrat was at the helm of the ministry of economics, did these politicians take any principled stance in favor of free trade to support their opposition to duties. Their reasoning can in fact be more easily classified as mercantilist, perhaps coupled with a certain defeatism in the face of international competition. Most ministers have so far tended to adhere to a similar, economically-oriented interpretation of anti-dumping's purpose. It is therefore tempting to attribute Belgium's 'shifts' on AD to the correlation with economic interests. Although the shift in 2005 (from following the Commission to opposing more often) was set in by the liberal parties, it was also in line with Belgian interests in the textiles-cases: most price-competing textiles-production had ceased in the preceding years, leaving only niche players and large importers (such as Nike) that opposed the imposition of duties (Interview - Fedustria (1), 2016). Similarly, although Belgium was never supportive of duties in the solar-panel case under Vande Lanotte, this was again in accordance with Belgian economic interests. Belgium has allegedly been moving 'South' again since the arrival of Peeters, a trend which is evident in its more 'protectionist' stance in dossiers such as China's bid for 'market economy status' and the steel crisis. Again, the recent shift in favor of defensive measures is arguably linked to the enduring economic importance (and political leverage) of Belgian steel manufacturers. In the steel dossier, there are several very large players that have been lobbying the civil service as well as the minister. In the solar panel dossier there was little left to be 'salvaged' in Belgium, but in steel there is still a lot of production. The case is also more sensitive because there are factories in Wallonia as well as Flanders. The lobbying is also very strong and one-sided: EUROFER, the producers' group, has only five Belgian members. It's easy to coordinate amongst these, and the concentration of resources makes it easier to pay for e.g. lawyers to assist in bringing

the case. In contrast, the many SMEs that use steel as an input (or for example, in construction) are far more divided and lack the time and resources to counter-lobby (Interview - FOD Economie (2), 2016).

The Belgian politics of anti-dumping therefore resembles, far more strongly than the Dutch example, the usual, producer-oriented politics that has been discerned by the literature on trade defense decision-making.



## 12. Conclusions

In the preceding chapters, I have done three things: I have argued that we need to look at the domestic politics of trade, I have demonstrated how the current methodological and theoretical literature may help us in doing so, and I have performed two case studies in two countries. I have utilized my own adaptation of mechanistic process tracing, making use of a wide variety of data: interviews, parliamentary debates, data of parliamentary activity, surveys, press data and texts, economic data, reports, declassified internal documents, and others.

In this conclusion, I will not retrace the country-case conclusions I have drawn at the end of each chapter. Instead, I will use this space to reflect on some broader lessons that we may draw about the politics of trade in Belgium and the Netherlands, about the added value (in hindsight) of domestic policy analyses, and about the lessons of my empirical investigation for the mid-range theories that I used to inform my explanatory research. I will also discuss the benefits and drawbacks of the methodology I've applied.

In other words: until now I have been dealing with my country-case studies as explanatory analyses in their own right: 'how can we understand the genesis of these outcomes?'. In this conclusion, I will try to move beyond this by instead discussing my country-cases:

(i) As case studies of Belgian and Dutch (trade) politics, (ii) as pilot studies of domestic trade politics analyses, (iii) as tests of the mid-range theories that have hitherto been used only as explanatory crutches, (iv) as attempts to operationalize the methodological scriptures of mechanistic process tracing.

I will begin with the latter.

### 12.1. The added value of mechanistic process tracing

One of the contributions of the PhD has been to interpret and operationalize the methodological literature, especially the work by Beach and Pedersen, so that I could apply it in practice. I offer one of the first attempts at doing mechanistic process tracing 'by the book'.

Let me briefly rephrase what it is that I attempted to do: I tried to explain four outcomes by picking a number of prima-facie reasonable (but competing) theories for why we observed this outcome, I cut these theories into a series of empirical steps, and then I checked whether the evidence we would expect these theories to produce was in fact available. Theoretically informed background (scope) conditions and the probative value of the (lack of) evidence were used to evaluate the explanatory power of the theories, which were then confronted with one another to see if, together, they offered a plausible narrative for how we arrived (within certain bounds) at the outcome. Because evidence was sometimes lacking or (more importantly) because there was evidence for multiple theories at once, I also introduced a number of counterfactuals to try and decide on the most plausible narrative.

A background assumption was that the social world is complex enough to necessitate detailed empirical studies of this sort (we, at least occasionally, need to do within-case analyses to understand an outcome), but stable enough to make them worthwhile: studying one case is helpful in understanding other cases as well. This means that I assume that there are patterns we can study, even though these may sometimes (but not always) be hard (and perhaps impossible) to quantify, i.e. that there are ways of doing things, ways of thinking about certain issues, which are to some extent 'invariant' across trade policy dossiers.

There are some clear drawbacks to this approach. First, it leans heavily on a wide variety of evidence, and is thus quite time and data-demanding. This may not always be feasible due to a lack of (easily accessible) data, and perhaps it is not always necessary either. It is also difficult for researchers to decide when enough is enough, and it is easy to get stuck with an overly detailed mess. This is mainly problematic for the presentation of the research (less so for conducting it): which pieces of evidence need to be taken up in the text? How to structure a test of various competing theories if these, to some extent, rely on the same evidence? How detailed does the discussion of the empirical material need to be, how much interpretative labor needs to happen in the body of the text? There is a tendency to get too 'wordy', and the marginal *Verstehen*-value of evidence can become negative; as Ylikoski (2011) already noted in the methodological section, at some point adding further details may decrease total understanding. A closely related problem is that the detailed mechanisms are fine conceptually, but can be quite difficult to structure textually. The stylized steps are rarely neatly distinguishable, and evidence for one part of the mechanism is often equally valuable in other sections. This can make it awkward to subdivide the narrative of the case, creating too many 'dramatic pauses' (stay tuned) as well as repetition and loops.

I have tried to deal with this problem by presenting my evidence not only in text but also in graphs, tables, and timelines, by distilling after each step the core points of the study-so-far, and by attempting to end each chapter with an over-arching synthesis that to some extent cuts through the details: 'what did we learn'? Of course, such an approach would be impossible for article-based research, where we would either have to demand of the reader to make a leap of faith ('a detailed process trace shows that...') or where we would have to depend on bloated attachments that must, because of the intertwined and heavily contextualized nature of the evidence, inevitably take the form of long, investigative narratives in their own right. This kind of problem is far from unique to process tracing, but it's a little more cumbersome here than in, say, quantitative research, where data and statistical methods can often be adequately discussed in a couple of paragraphs.

Some of the conceptual vagueness and criticisms of this kind of analysis have already been taken up in chapter three. How should we actually construct the priors, how should we deal with the scope conditions? I have tried to solve some of these problems myself, seeing the priors and scope conditions as artificial crutches that can help us overcome lack of evidence, interpret ambiguous evidence, and construct counterfactuals. For instance, when assessing if business was influential in a certain industry, the leverage of this sector played a role in judging whether this was plausible or not (apart from the congruence between the industry's position and that of the government, accounts of the industry being influential, etc...). This was one of

the ways in which the existing theoretical literature was explicitly woven through the research.

All in all, after conducting my research I still subscribe to many of the benefits of mechanistic process tracing that I discussed in the methodological section. One of its main virtues is in enforcing transparency, and in avoiding clichéd, circular or self-serving conclusions, forcing researchers to ask themselves whether the evidence 'really' allows them to conclude 'X': have I demonstrated this, do I have data to back this up, is there some other reason why X would be plausible? Of course, this may perhaps also lead to more complex or drawn-out, but equally biased conclusions. A related benefit is that mechanistic process tracing asks us to be more demanding of our theories: what would the concrete, empirical manifestations be of our (often vague) theoretical ideas? What does determinant X actually look like, how do we know it's not Z? It wants us to check whether a bunch of detailed X's also occurred in practice, not (just) out of descriptive curiosity but because this matters when evaluating whether any of the contending theories make sense. As I argued in the methodological section, the hope is that all these details, cross-checks and headaches lead to a better understanding of the wider phenomenon, meaning we can say something reasonable about what 'would (have) happen(ed) if A' – even if coming to strong conclusions in an individual case may turn out to be impossible. In other words, its epistemic value supposedly goes beyond its direct academic output: researchers (and their public) with a more fine-grained knowledge of both theories and empirics.

## 12.2. Researching trade politics in Belgium and the Netherlands

In connection to the above, I would like to make a number of practical observations related more specifically to the study of member states' trade politics. One of the 'pilot-study' dimensions of my work has been to test the practical limits of analyzing trade policy at the member state level. Although the volume of the PhD may suggest otherwise, I believe my work shows that such analyses are certainly feasible. It took me about a year and a half to study four cases in two countries, one of them a complex FTA which spanned eight years. There remain severe limitations to my results, but I believe these could have been overcome had I had more time, or more previous work to build on.

Some of the complexity (and size) of my text related not to the domestic level of analysis, but to the nature of CETA, which encapsulated so many issues and actors all at once. These difficulties would have also popped up if we had limited our study to an EU-level analysis of the positions on this FTA. By comparison, my analyses of the far more limited domains of anti-dumping were far less cumbersome, if only because the 'outcome' was much simpler. A more important problem that I faced, and a major source of textual inflation, was the lack of existing studies which, in combination with my holistic method, necessitated a lot of auxiliary work on my part - even though I focused on just two cases in two countries. Untangling the multicollinear web of determinants would have been easier if there had been more existing literature on Council dynamics in CETA, on the parliamentary and press' attention for trade issues, on domestic business lobbying related to trade issues, et

cetera. A large amount of preparatory work needed to be done before I could get started with the more focused explanatory investigation of my country-case combinations. As I argued in chapter two, however, my hope is that this problem will be alleviated as more comparative and historical research is performed on member states' trade politics, facilitating more focused and elegantly sized future studies. I hope that my eclectic theoretical framework and the broad range of my empirical work can inspire similar, perhaps more narrow studies of other countries or cases.

Next, some ruminations about studying trade policy in Belgium and the Netherlands.

I did underestimate the extent to which investigating Belgium actually implies doing several simultaneous studies: the politics of Flanders, of Wallonia (and the Francophone community), and of Belgium – which of course still ignores the German-speaking and Brussels' entities. This multiplied not only the amount of NGOs, trade unions, civil servants, parliaments, public spheres and politicians (et cetera) that I needed to scrutinize, but also the amount of intra/inter-actor politics, networks, coordination (et cetera) that determined their positions, actions, influence (et cetera). There is always coordination at the regional levels as well as the federal level, and employers federations as well as the entire spectrum of civil society organizations are divided across confessional and language barriers, but also along thematic and sectoral lines.

This also means that the sheer amount of work that needs to be done to get a comprehensive (even just descriptive) account of 'how decision-making works' in Belgium, at the executive level but a fortiori if you include the legislative and societal layers, is far greater than in the Netherlands. There is a multitude of government declarations to check, party manifestos, positions to read, coalitions to investigate, hearings to review, and, most importantly perhaps, people to speak to. Although even in Belgium the amount of actors engaged with trade policy is usually still relatively limited, even in 'quiet' times this means that it takes far longer before one, as a researcher, gets a sense of 'saturation', i.e. the notion that you have just about exhausted the amount of people/documents/et cetera. that have something meaningful to say - that adding another organization won't provide any new insights. When the deal became 'political', this problem was exacerbated exponentially. To give just one example: The Belgian trade unions are not only divided across the pillars, but also at the sectoral and regional levels (although this varies across the unions), and neither CETA nor anti-dumping was dealt with uniformly across all these layers, which created coordinative problems even within the unions, making it harder to tell who was doing what for which reason and to what effect. What would it have told us if someone from the 'international department' of Wallonia's Christian public services' union had been present during a number of early consultations about the treaty? Who would they have represented, what position, what kind of leverage? These questions remained difficult throughout the research, also on a more conceptual level: when was an actor 'successful'? If it managed to change the position of the Flemish executive? Or only if this Flemish position then made it through the Belgian coordinative blender? It seemed impossible to simply ignore these problems without producing inadequate explanations, and I have tried to face them head-on in the empirical chapters.

Studying the Netherlands was comparatively easy. This can also be gleaned from the amount of interviews I have had to perform. Although there were still a variety of actors involved (including multiple ministries, for example), this 'saturation point' was reached much faster; here, key actors knew what happened in the Netherlands in their specific part of a process or organization, and diving further into local details often did not seem like a valuable (or even possible, since there was no one there to speak to) strategy.

However, perhaps it's better to say that although studying Belgium requires more processing power, it is also comparatively easier to procure information. The large amount of 'access points' for societal actors are also available to academics: there's always someone who's willing to say something about some things. This was also true at the technical level, civil servants were eager to discuss the details of the cases. Although it takes a long while to map the networks and actors involved, this map can then be used to steer around a lot of informational roadblocks that in the Dutch case would more difficult to surmount. To give just one example: in the Netherlands, I was refused an interview by the ministry of economics on their interest-generating process in FTAs. This was far more difficult to overcome than it would have been in the Belgian case, where a number of other actors (and networks) were participating as well, and where sensitivities, office politics, and transparency-guidelines differed across the levels. Furthermore, there were more people available in Belgium who had had their governmental or societal seat for a longer period, sometimes for decades, which offered me a stronger historical perspective, while in the Netherlands my sources were often fairly new – either to trade politics or to their specific position in the decision-making structure.

This being said, the Dutch government is far more transparent and accessible in a day-to-day manner: it is far more open to its parliament, which it keeps up to date about any negotiations as well as the Dutch position, and CSOs and journalists have been using the WOB-tool to enforce some declassification of the state's internal process. The 'WOB files' have been of great importance in my research, even though it was not always clear what and how much was missing – and why. In Belgium, the transparency vis-à-vis the parliaments is quite low, and the executives are far less proactive in this regard – the MPs need to ask questions, the minister responds (or evades). I launched my own WOB request at the federal ministry of foreign affairs, but this was a novelty, and they are still processing my case. A big hurdle was also posed by the ministerial cabinets that Belgian ministers assemble, forming an opaque and less accessible layer between politics and civil servants. Although I was able to speak to some cabinet sources, this level was less accessible and more fluid than that of the civil servants, and it has remained somewhat of a blank spot in my research. Although I must again add that this could probably have been filled up to some extent if I had had more time.

## 12.3. The politics of trade in the Netherlands, Belgium and the member states

### 12.3.1. Their positioning

Let me begin with the states' stance on trade policy. In chapter two, I criticized the lack of information about member states' positions across trade issues, and the tendency to assume that these positions were at their core invariant. As part of my background research on Belgium and the Netherlands, I tried to compose a picture of their policy stance based on the existing literature. Furthermore, throughout my explanatory case studies I have not just investigated their stance in CETA and solar, but also how these related to their more general positioning on FTAs and anti-dumping.

Taking the limitations of my research into account (i.e. limited in time, strongly based on interviews and policy notes), I believe I can confirm the overall picture of the Netherlands as a liberal state with generally offensive positions – certainly in anti-dumping but also in FTAs. However, this requires some qualifications: the Netherlands has taken in defensive positions as well, notably in agriculture: on cut flowers (South-Africa), in meat (Canada), on eggs and poultry (Ukraine), but also in its support of and request for geographical indications (in numerous FTAs but especially Ukraine); it's clear that at least some agricultural interests and decision makers see animal welfare provisions as a useful non-tariff barrier (and as a bargaining chip) that protects their own industries. There were indications that it has also had some more defensive industrial interests, but I have not been able to properly track these down. Recently, in the steel-dossiers in anti-dumping, lobbying by the steel industry has succeeded at raising Dutch support as well. So there is some fluidity in its position, and it's an interesting question how the Netherlands will respond in negotiations where it has some strong defensive stakes, such as in the FTA with New Zealand where it has sensitive dairy interests. Still, I believe we would need to see some strong shifts in either the Dutch political landscape or in the structure of its economy before the Netherlands turns away from open markets – although the contemporary politics of the Netherlands should not strengthen our hope that international integration necessarily fosters internationalism.

Belgium, by comparison, has been less inclined to pose as a champion of free trade, although all of the executives (including Wallonia) have continued to emphasize their trade dependency and the necessity of boosting exports and investment. In many ways its positions seem comparable to those of the Netherlands, with offensive interests in industrial goods and services, and increasingly in agriculture, but with stronger defensive reflexes – especially in relation to a series of sensitive services (public utilities, audiovisual and cultural services), but also in regards to agriculture. In trade defenses, its position has been less stable, and there is a less pronounced inclination towards rejecting anti-dumping measures. Going forward, it is far less clear how the Belgian position will evolve across trade issues, now that the majority of Francophone parties (and a number of left-wing and green parties in Flanders) has taken such strong and salient positions on trade. Given the increasing gap between the preferences of Wallonia and Flanders, which has increasingly emphasized its

offensive goals and has demonstrated a far greater willingness to negotiate over Belgium's traditional sensitivities, it would seem that Belgium has mostly become more prone to abstentions.

Another difference between the two states was situated in their positions on services liberalization. Belgium was strongly suspicious of negative listing in CETA, and while the Netherlands quickly overcame its initial reticence, Belgium remained opposed (even though they yielded to the majority in the Council). The Netherlands also expressed far less reservations, and more generally seems to have been less worried over liberalization in a number of sectors that were off limits for Belgium, such as education and health services or audiovisual and cultural services. I would have needed to perform an analysis of the Dutch offers in other treaties to see how illustrative this more lenient stance was, but in Belgium it seems to have been the state's position at least since the nineties (with the GATS).

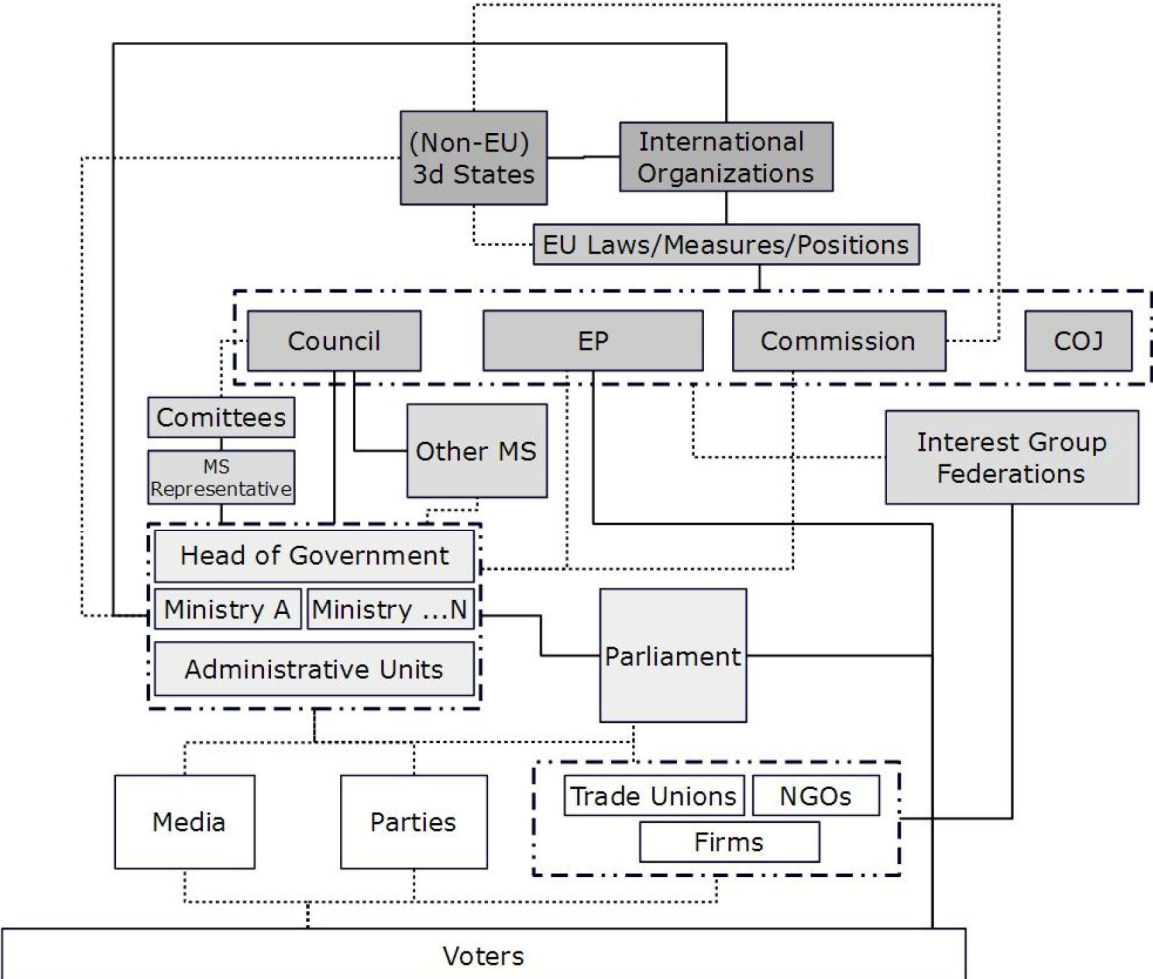
A further aspect that deserves a highlight is their shared support for the inclusion of chapters on sustainable development, the environment and labor. Again it would be interesting to trace the genesis of this position, when they started bringing this up and why, but by the time CETA was negotiated it seems to have already become an ossified part of their 'usual' position. We may wonder how 'strong' this position actually is, of course, and it seems to have remained within the bounds of symbolic politics: neither has demanded strong enforcement of these chapters; in fact, the Netherlands opposed the Canadian proposal to link them to fines, and the Belgian model BITs' provisions on sustainable development and investor obligations were allegedly weak and non-committal. In the somewhat related field of food and product safety, their positions have been more strict on hormones, GMOs and the precautionary principle, in line with usual EU position on the issues, but also with the preference of their farmers and food industries.

In brief, I have shown that we are not doing states' positions justice by reducing them to an invariant 'camp'. Not only are they (to some extent) fluid across issue areas and over time, they are also produced by an ongoing politics of trade.

In both cases, there is certainly room for a more detailed diachronic study of their positions, an endeavor which I am sure is feasible. Although performing this study was in the end impossible within my own timeframe, I believe it would be especially easy to produce in the Netherlands - notably because of the ministerial letters which allow us to get a look at the Dutch position over the past fifteen years. In Belgium, we would again need more interviews, or a number of archival requests directed at the ministries of foreign affairs and economics. Given the current contestation of this domain, more scrutiny seems warranted in particular of their stance on investment protection. Whereas Belgium seems to have somewhat 'stumbled' upon its positions on investment protection and ISDS through path-dependency and foreign policy considerations rather than economic strategizing or firms' lobbying, the Dutch have been ardent supporters of strong and investor-friendly BITs and investment chapters. As I discussed in the Dutch introductory chapter, this stance appears to be closely intertwined with the Netherlands' role as a haven for letterbox-companies and its efforts at being a 'competitive' tax regime internationally, and the civil service has itself claimed that the BITs were designed in close cooperation with business. However, as a recent book on the politics of international investment treaties has

argued: we know very little about the politics of BITs in the developed world (Bonnitcha, Poulsen, & Waibel, 2017). My own contribution here has been more modest than I would have liked, although I have hopefully contributed to an understanding of why there was a shift in the Dutch position between 2011 and 2016.

Finally, one of the benefits of domestic analyses that I foresaw was that they would elucidate the entwinement of trade with non-trade policy domains. Although I have not emphasized this to any great extent inside my case work, I did pick up such linkages. For example, the Belgian and Dutch politics of solar dumping were clearly connected with domestic environmental politics, and with the systems for subsidizing renewables that had been put in place. This affected both the cost-benefit calculations of the private sector as well as the reasoning of policy makers. The tax-investment nexus of the Dutch politics of ISDS is another example, as were the Belgian worries (at the state as well as societal level) over services liberalization: there were fears that commitments in the trade sphere would spill over to the internal (European and domestic) market and the regulatory sphere - external liberalization was seen as (re-) opening the door to privatization. Fiscal concerns (e.g. the costs of enforcement) played a role in the Dutch position on anti-dumping, while in agriculture, the reforms of the common agricultural policy had also pushed shifting views (within the ministries as well as the sectors) on the costs/benefits of international trade; positions in the latter domain were also tied to the politics of (industrial) animal welfare, as well as competition-policies (which reduced the scope for 'compensating' the Dutch pig farmers in 2016). These and other examples show that it may be useful to not only study trade politics over time, but also transversally.





In the remainder of this conclusion, I will be mixing goals (i) to (iii) in one text, working my way through the diagram that I introduced in chapter two. What have I learned about this web of actors and links in Belgium and the Netherlands, to what extent can we extrapolate these findings to other countries, and, in retrospect, which of the venues for further research that I outlined seem more fruitful than others?

I will present this in the form of propositions supported by my country-case-level findings, starting with the role of civil society.

### 12.3.2. Civil society and the politicization of trade

**A core group of CSOs has been monitoring trade issues for years, and they have played a central role in every round of trade contestation since the turn of the century.**

One of the three actors that I have looked at was civil society, which in my work included a variety of organizations: development NGOs, consumers' watchdogs, trade unions, and others.

I have shown that in both Belgium and the Netherlands, there have been organizations which have been monitoring trade policy for a long time, have built up considerable expertise and which have been active members of the EU-level networks working in this domain. In Belgium this clique was somewhat larger however, including in particular also the trade unions. Since about 2005, after the protests against the GATS and Bolkestein faded away, the work of these groups revolved mostly around the development dimension of trade and investment: criticizing instruments like ISDS, BITs and FTAs, but almost always from the perspective of developing countries. This may have contributed to the generally low interest from the trade unions, for whom trade had become part of 'international affairs', too remote from their daily struggles. The Dutch unions seem to have tuned out completely, while in Belgium they continued to track these affairs from the angle of 'international solidarity'; it was something that their staff from the research units at the peak or sectoral levels were involved with, without much support or feedback into the wider organization. Nonetheless, this still meant that they continued to build up expertise, maintaining also networks and coalitions with the NGOs for whom trade issues remained central. As I showed, the expertise of these groups, the fact that they had already prepared many of their analyses and arguments on issues such as ISDS and services liberalization, played an important role in their ability to mobilize so quickly on a number of highly technical issues when TTIP presented them a political window of opportunity.

The 'technical' capacity of CSOs to track trade policy, and the domestic and European networks that helped maintain, build and spread this expertise, as well as their capacity to politicize trade issues, and the coalitions and frames they have constructed over the years to do so, would provide a very interesting guide for further research; not only in countries where there has been more trade activism in recent years (Germany, Austria), but also in countries where it has been lacking, such as in Sweden, Poland or Spain. Was civil society just not interested, were they unaware of the trade agenda, or did attempts at constructing coalitions and mobilizing the public fail?

**CETA and TTIP are probably unique in terms of scale, but they build on highly similar previous episodes. The CSOs campaigning on CETA were heterogeneous: their reasons for participating in the campaign, their leverage and their frames varied. However, they still managed to present a largely coherent block.**

My research warns against the recent tendency to see the politicization of CETA and TTIP as something totally new. Although the scale of the mobilization was certainly novel, spanning several countries and a heterogeneous set of actors, many of the characteristics of the mobilization had already been present in the contestation of the MAI and the GATS (Crespy, 2016). Not only were these struggles waged by many of the same actors using the same tools (e.g. MAI/GATS/TTIP free zones), they also concerned a number of the same deep trade issues that have motivated the recent upheaval: investment, public services, the right to regulate in the public interest. Moreover, we have for at least the past fifteen years had persistent criticisms of the BITs, although this was rarely picked up by the press or policy-makers, and right before CETA/TTIP we witnessed the successful contestation of ACTA.

However, most of the contestation between roughly 2006 and 2013 focused on development issues, and the 'deep trade' agenda has only recently affected the EU's domestic arena. After 2013, a wider variety of groups became intensely involved in this domain. This return to trade activism was not a mechanical effect of the shifts in the trade agenda itself. This is clear from the fact that there was a lack of attention for CETA until after the deal's conclusion. In Belgium as well as the Netherlands, strategic action by the core group of CSOs was crucial in lighting the kindle of the deep trade agenda. The 'vanguard' recognized TTIP as an opportunity to boost the salience of the topics they had been working on for years. Not only towards the general public or the political level, but also to many other organizations whose interest in trade had withered. Their early activism was not just directed at the executive, but at getting these (often far larger) organizations' interest: they needed to make clear that these FTAs were not just something that could directly affect the interests of their members, but that it was something that could be used to construct a viable campaign. Especially in relation to the unions but also the consumer organizations and the health funds, a further struggle was to come up with frames that managed to legitimize this break from the past while retaining the respectability of these institutional players vis-à-vis the executives, with which these associations were engaging in a multitude of other forums. This meant that there was also a 'politics of the campaign', as NGOs, trade unions, and other organizations negotiated what frames they would use, which tactics they would employ, and what demands they would put forward. In the Netherlands as well as in Belgium, they needed to be especially careful that they did not end up with a protectionist stamp, and they converged on a 'red lines' approach: FTAs as such were seldom attacked, but they opposed the ratification of these treaties as long as a series of vital demands was not respected.

In Belgium as well as the Netherlands, the larger organizations were often careful to put some distance between their stance and that of the more activist NGOs, and they did not want to be associated with the 'chlorine chicken' discourse or with any of the anti-trade movements. In the Netherlands, building trust took longer than in Belgium (where these sensitivities were arguably well-known, and where parts of the

unions had participated in the earliest mobilizations), but in both countries they were eventually able to overcome these differences to construct a workable campaign.

### **CSO trade politics is multilevel politics, but the national arena is crucial.**

Next, trade politics was multilevel politics. The European (and to a lesser extent international) networks and organizations were of great importance for CSOs' monitoring, analyses and campaigning, not only at the EU level but also at the domestic level: the more countries joined in and the bigger the resonance at the EU level, the bigger the feedback for national groups, because they could feel they were, and portray themselves as, part of a bigger movement. This was relevant at a very basic rhetorical level, for example: every single group could point at the amount of autographs collected for the ECI, or to the number of responses to the Commission's consultation on TTIP. However, vice versa, these EU efforts depended heavily on national-level dynamics: the pivotal Seattle to Brussels Network as well as many of the other EU-level associations (such as the European trade unions), depended on resources and more importantly participation from national groups. The domestic groups had to gather the autographs, to lobby parliaments, to get people to protest, and to put pressure on 'their' MEPs as well as the Council. In doing so, they needed to work with national media, publics and parties. Although the participation of organizations like BEUC and ETUC played a role in the decision of their national members to join in, this should not be overestimated either: the considerations of most groups were oriented at the domestic level. National (or regional) networks and estimations of the local 'campaignability' of the FTAs, and assessments of organization's own substantive interests were of greater importance than the reports or positions produced by their EU partners. Nonetheless, the European networks were crucial in disseminating information (for example, the consumers' organizations were informed by the BEUC rather than national NGOs, and there are many similarities in the arguments and references used by the Belgian and Dutch CSOs) and in coordinating the European with the national campaigns.

However, the multilevel nature of trade policy-making in itself was clearly a factor that limited the extent of societal engagement with this issue, because the chain between domestic action and policy had become so long. A complaint that was shared by trade unionists and NGOs in the Netherlands was that the growing role of the EU in trade meant that, in their domestic discussions with the parliament and the ministry, they were increasingly speaking to a sort of intermediate layer, which then had to transfer societal demands to the much less accessible (for them at least) EU levels.

Building on this and the previous proposition, further research may focus on how this campaign was coordinated at the EU level, and then mediated in the variety of domestic arenas. How did local groups present the FTAs? How did this fit in with the constraints and opportunities of the domestic context (their allies and adversaries, the public and political discourse, et cetera)? This should also help us further understand how unique these coalitions were, how likely it is that they will be reconstructed on other issues, and how these national dynamics will then in turn feed back into the EU-level networks and associations.

**CSOs have been more influential in Belgium than in the Netherlands. We can attribute this in part to the continued involvement of the trade unions.**

There were some differences between Belgium and the Netherlands, which may guide our research in other countries as well (but which fit with some of the research that was mentioned in chapter four). As I mentioned, it seems that the role of civil society and the trade unions has been stronger and more continuous in Belgium than in the Netherlands. In the Netherlands, a number of research-oriented organizations (SOMO, TNI) followed trade and investment, mostly from a critical North-South perspective, scrutinizing for example the effects of BITs on developing countries. However, the trade unions seem to have been fully on board with (or supportively neglecting) the trade agenda, and other NGOs were either coopted (like Oxfam) or absent. In contrast, in Belgium the Decent Work coalition has gathered both the trade unions as well as Oxfam and CNCD/11.11.11. Whereas FNV has only in 2016 hired someone to track trade policy, the Belgian unions have had some staff following these dossiers for several years, while CNCD/11.11.11 have gone beyond producing expertise and have also functioned as campaign coordinators. Even though these issues have seldom been very high on the unions' agendas, together with the NGOs they have sustained their expertise and have maintained their networks in the civil service, the parliament and the parties.

The Belgian organizations themselves seem to think that their success had been very modest before the CETA saga, but my work indicates there is some consolation for these groups. Although the longitudinal aspect of my work was limited, the CSO chapter showed that there had been previous periods where parliamentary and political attention was more elevated, and these correlated strongly with the episodes in which civil society was organizing and acting against global trade developments (including developments in the single market), notably the MAI and the GATS. Civil society clearly does have an (multilevel) action repertoire at its disposal, it is not powerless. My work shows that their continued vigilance has contributed to Belgium's stronger stance on sustainable development, investment and services. In CETA, I showed that they were able to 'access' the executives throughout the negotiations, albeit it with limited success, and in the course of 2013 they succeeded at assembling a heterogeneous and active coalition, which grew until it encapsulated most of Wallonia's civil society, including farmers and SMEs. The Dutch campaign, by comparison, started later, and they had to work more through the parliament rather than directly with the executive. During the negotiations, they did not really engage with the government on this topic.

I would like to suggest that these successes are in part due to the enduring role and activism of the trade unions, who still combine resources, personnel and the ability to mobilize not just their members but also their networks across the political landscape.

In my research, I have lumped the trade unions together with other groups in my analytically useful category of 'civil society organizations', implying that it was one among many non-economic actors. However, this categorization does not always make sense. Their resistance against services liberalization for example was out of a clear economic interest, apart from more non-economic motivations. My interviews also made clear that there were differences across the sectors. Echoing the work of

Bieler and others, I found that the distinction between import-defensive and export-competitive labor unions remains relevant, although in trade policy this did not lead to intra-union conflict but rather to varying levels of awareness and activity. In CETA, the public service unions in the Netherlands as well as in Belgium were far more active at an earlier time, and it were also these sectors that were (in Belgium) part of the more activist D19-20 campaign while the peak-federations hesitated. Note that these differences were reproduced at the European level, where the European federation of public service unions (EPSU) has played a far more active role in the CETA/TTIP/TiSA debates than most other federations, including the manufacturing unions' IndustriAll. However, in anti-dumping we have seen the reverse: here it have been the manufacturing federations that tracked this more closely, in Belgium and the Netherlands (although my work on this was limited) as well as at the EU level. This was visible, for example, in IndustriAll's support for AD measures in steel, and its cooperation with business in its protests against China's market economy status in 2016. From my pilot interviews with the German unions, it emerged that similar differences were present in Germany as well.

Still, setting aside these differences, based on my study of the Belgian case I believe we can conclude that the stronger participation of organized labor in trade, even before 2013, strengthened the leverage of the CSOs, and in particular augmented their access to executive actors from the center-left and the Christian democrats.

However, as I discussed in the introductory chapters, it has also been argued that Belgian and Dutch labor movements have internalized the discourse of competitiveness. It remains to be seen to what extent this re-engagement of the unions in trade politics will endure, or whether this agenda will gradually slip from their list of priorities, and yet again become a 'mere' North-South topic. Once more, further research in other member states as well as in the European federations could teach us to what extent we can expect labor to play a role in the future of trade policy, and to what extent it will continue to engage in the transnational as well as domestic networks that facilitated their role in the CETA/TTIP campaigns. As I argue in the next point, this should not be separated from analyses of their relationships with party-political and governmental actors, particularly their 'natural allies' from the left.

### **Party-politics, the electoral balance of power, and the composition of the governing majority play an important role in determining CSOs' influence.**

Apart from the organizational strength and expertise of the CSOs themselves, the political climate in which they were operating was crucial. In Flanders, before 2014 the CSOs could wield influence, illustrated by the rejection of the Colombia BIT in 2010, but after the sp.a left the executive, and with the N-VA at the helm of foreign and trade policies, this relations became mostly antagonistic. On the Francophone side, close relationships were maintained with the PS, and this was one of the main venues for influence throughout the negotiations. When this party was ousted from the federal government, cut loose from the constraints of its coalitions with the economic center-right, while simultaneously being prodded by the PTB's contestation on its left flank, this provided a highly fruitful window of opportunity for progressive movements to steer the party by way of mass action and targeted lobbying.

The correlation of countries' positioning with the party-political make-up of its executive(s), and the intensity and durability of the links between these parties and social movements (or business interests) is another lens through which it would be interesting to investigate other member states as well.

**The role of civil society in anti-dumping is limited, but there are indications that the trade unions have occasionally played a bigger role.**

Unsurprisingly, I found that civil society seldom plays a role in anti-dumping. This was an issue which for most organizations just went beyond their capacity to monitor, and for which most did not have any particular interest. Individual cases, in particular, were not seen as an area of interest for civil society, although there was a limited amount of campaigning on solar panels by groups that recognized the case's effects on climate (and housing) policies. However, it appears that the trade unions were tracking the broader legislative files (such as trade defense modernization or China's market economy status) more closely. Given that these dossiers have also attracted attention from the European trade union federations (notably IndustriAll), it would be interesting to further investigate their work on these issues, and the ways in which they have here often been bedfellows of EU industrial interests such as the steel sector. Some of the preliminary interviews that I performed with the German unions, for instance, indicated that within IG Metall there was an active follow-up and lobbying on anti-dumping cases as well as MES and modernization.

**There are indications that the politicization of trade will endure. But it has withered before, and there is reason to expect that it will do so once more.**

There are some indications that the recent years of trade activism have led to some structural changes, potentially facilitating a more influential role for the CSOs going forward. For instance, the trade unions have been (re-)engaged, as have big organizations like the health funds or the consumer organizations, and knowledge of the trade agenda has been spread more widely across the membership of a variety of associations as well as the general public. This increase in expertise as well as the fact that these organizations have positioned themselves on trade, and have participated in a number of domestic and European networks which may to some extent endure, may lead to a bigger involvement in trade issues for some time to come.

However, this will depend on the extent to which these organizations are prepared to spend resources on influencing trade policy while the public interest diminishes, or in reinvigorating this attention for the coming FTAs and plurilaterals. Given the fact that trade issues have usually returned to the background after previous rounds of contestation, with the same agenda often moving to a new venue, there may be cause for pessimism here, an outlook that was shared by many of the CSOs I interviewed. Unless they found a way to reboot their campaign, and to again find a number of focal points for the heterogeneous coalition to unite on, many feared that the campaign would wither. In the Netherlands, the gains that the CSOs made in altering the process of trade politics seem important in this regard, but it remains to be seen how the new minister will continue with the reforms set in by Ploumen. As was discussed before and below, party politics have also not changed in their favor. On the other hand, especially in Belgium, I would expect that TiSA in particular, might provide the necessary kindle to reignite a campaign from the trade unions, CNC/11.11.11., and perhaps also the health funds and a number of other

organizations. More than any of the current bilaterals, TiSA should also be able to poke up the interest in the Belgian parliaments.

Going forward, beyond analyzing the sources and successes of the politicized period which is now almost behind us, researchers should investigate to which this episode has altered CSOs' capacities and willingness to engage with trade policies at a more structural level, beyond the tactics of the campaign. Judging from the past fifteen years, it would be especially fruitful to see whether there was now dedicated personnel for trade in new organizations, and whether these actors became involved in any enduring domestic or European networks. It would also be interesting to see whether the engagement of CSOs has shown the same start-stop pattern as in Belgium and the Netherlands.

### 12.3.3. The role of business interests

**Business benefits from high access and receptivity, but its role in driving states' positions should be qualified.**

In the Netherlands, organized business had deep and continuous ties with the government: there weren't just strong indications of revolving doors, the ministry of economics was actually present in some of the peak employers' federations meetings. Organized business (rather than individual firms or CSOs) has been the main interlocutor of the government in its international trade and investment policy. Even though business' direct interventions in CETA remained limited, this was in part because they could rest assured that the government was informed about, and supportive of their interests. In Belgium, it was also clear that the door was wide open for business input. Particularly in relation to economic and regulatory interests, decision-makers looked to domestic business for guidance on the positions that they needed to take. This was true across the executives and in a wide variety of dossiers: certainly in trade-defenses, but also on tariffs and market access, economic diplomacy, and regulatory issues. Access to civil servants as well as ministerial cabinets was effortless, as was the deference to firms as the main source of knowledge of the nation's foreign economic interest. This access was mostly secured through rather informal or direct channels, and to much lesser extent in any of the traditional neocorporatist bi/tripartite venues.

However, in FTAs as well as anti-dumping, we should not take for granted that direct business lobbying was driving the positions of the member states, for reasons that are partly situated within business itself. Organized business struggles with a lack of a capacity (missing expertise or personnel), as well as a pervasive lack of interest from member firms, two issues that are closely intertwined. This problem was most pronounced in Belgium, where several of my respondents indicated that they had in the past been unable to weigh in on trade topics, because they had not developed the necessary expertise, or because member firms did not want them to spend too much time on such issues while there were so many other, far more pressing matters.

Many of their member firms were entirely occupied with their own daily enterprise, while the means for the associations to track trade remained limited. This reduced the amount of issues that business could comment on as well as the technicality of

their contribution, and thus lowered their influence on the states' positioning: often, there simply was no position from firms or the sectors. This mattered in the 'quiet' phase of the FTAs, when decision-makers in Belgium were frustrated about the lack of firm and sector-level input, which forced them to rely on aggregate data-sets (which the Commission itself could also assemble), and which limited the details and thus EU-level relevance of their position. But it also mattered in the 'noisy' phase, when civil servants from Belgium as well as the Netherlands lamented the lack of detailed, firm-level examples of CETA's potential benefits, something which hampered their attempts to argue in favor of the deal.

In general, my findings on the sources of this capacity echo those of the literature I reviewed in chapter four. Monitoring and lobbying are perceived as very costly, and the benefits from acting on trade policy are often perceived as too distant and uncertain. Moreover, many offensive sectors can assume that 'their' government will be taking up their interests anyway. Some of the 'deep' trade issues were moreover seen as too complex and too remote from everyday business interests. For instance, Belgian firms and sectors were not at all involved in the discussions over ISDS (at least not until this issue became politicized), nor were they able to give any input about negative listing; the peak federation simply did not have any meaningful contribution to make here, and their member firms were not even aware that this debate was being waged (during the negotiations).

However, there were several exceptions. First of all, a number of sectors certainly were scanning for offensive interests, often aided by their European federations, for example the Dutch dairy and meat industries, or Belgian carpets and dredgers. Other industries such as the steel industry, the shipbuilders, the textile industry or the manufacturing and chemical industries were not very involved in CETA, but this was more out of disinterest for this specific accord than for lacking overall capacity, and for example on MES, TTIP or Brexit they were involved far more intensely. Secondly, many sectors did have a close eye on preserving their existing interests. This was clear from my study of anti-dumping, where all of the associated sectors were well aware when a case was being handled that might affect them: not only the defensive sectors that would benefit from measures, but also the sectors that were benefitting from cheap imports.

In general, the issues of capacity and attention were smaller in the Netherlands. Perhaps this may be attributed to the fact that Belgium is mostly an exporter of intermediates to the EU, making firms' stake in extra-EU trade more indirect. On the other hand, the Netherlands also has a far higher number of home-grown multinationals. Assuming that these play a dominant role in sectoral decision-making and lobbying, this may also account for the more offensive role of Dutch associations. Perhaps just as importantly, the Dutch peak business federation had developed a greater capacity for following EU and trade issues, inter alia by developing a Brussels office with dedicated trade personnel, and could depend on more structured input from the sectors. There was thus more room for independent monitoring by the federations, which in turn led to more information flowing towards the sectors, and arguably to a more intensive feedback loop between the state and societal levels.



As I already noted, the involvement of domestic business organizations depended also on the nature of the trade issue. Clearly, business interests were sometimes aware but simply not very interested in certain aspects of the negotiations, even if these later became contentious. According to some of my sources among business and the civil service, Brexit has been far higher on the agenda than either CETA or TTIP, and here there are many Flemish firms that are asking questions and pushing decision-makers to inform them and to act (although it is unclear to me what their demands are). Finally, my research hints that the monitoring and 'input' capacity of organized business is correlated with that of the state in which it is embedded. In Belgium, business complained that it was being overburdened by requests for input from several levels at once, often on the same subject, and the relations between the ministries and the federations seems to have been more ad hoc. Business also complained that Belgium was often very late in coming up with its own set of preferences, because the intra-Belgian procedures took so long. This may have also hampered the flow of information from the executive to the sectors, and in general the relation seems to have been less symbiotic than in the Netherlands.

This capacity for monitoring trade policy, and developing and communicating preferences, to me appears to be one of the most promising venues for further research. We should not assume that national business is always up to date with the trade agenda, and it seems unlikely that the problems of getting firms' input and of developing positions on the often highly technical policies are restricted to Belgium and the Netherlands, two highly trade-dependent countries with close links to Brussels. To the extent that the EU business federations depend on the input given by their national sectoral and peak federations, these questions are highly relevant for the EU-level scholarship as well.

**Business interests are heterogeneous to some extent, but conflict is seldom fought out in the open. Heterogeneity may nonetheless be harming business' capacity to influence trade policy.**

Another dimension of this is intra-business heterogeneity. Although I have often spoken about 'business' interests and capacity, it is of course clear that neither the trade preferences nor the ability to track trade are equal across sectors, and my case studies have exposed a number of conflicts. In CETA as well as anti-dumping, conflicting domestic business interests struggled over the state's position, leading to paralysis of even their sub-sectoral associations. This happened in steel, textiles, and solar panels, but also in the food sector and in agriculture. After the CETA negotiations we saw some groups break off from their sectors to make coalitions with a number of strange bedfellows. In trade defenses, trade unions have joined forces with 'their' firms in demanding protection from Chinese competition during the 2005 textiles' disputes, and again in 2016 over the crisis in steel. More generally, the role of the peak federations seems to have remained limited to a, as they describe it, 'political' role: thinking in more abstract terms about 'the' business interest, and representing the united voice of their sectoral members vis-à-vis the public and politicians.

Although this is somewhat speculative considering the limited time dimension of my work, I think it's plausible to claim that the capacity as well as the representativeness of peak-level and sectoral associations have been sloping downwards in recent years.

This appears to be linked to the bilateralization as well as the increasingly technical nature of the negotiations, but also to the ongoing dis-organization of business. One of the enduring themes in the literature on the varieties of capitalism has been the organizational strength and unity of the associations of business and labor. It is often argued that these have been undergoing decentralization, and have been hollowed out, because their membership is becoming more heterogeneous and harder to control – putting pressure on the leverages of power of these organizations as well as their democratic legitimacy (who do they represent?), especially at the peak level (e.g. Braun, 2016; Marginson, 2014; Traxler & Huemer, 2007). Studying trade at the domestic level has shed light on these developments, and in turn suggests that it may be relevant for our study of trade. I have shown that it is sometimes difficult to speak of a uniform, capital B business interest in the Netherlands and Belgium. On the one hand, there is a strong drive to support FTAs ‘in the end’, both in non-agricultural business as well as agricultural business, although the latter group has only recently shed some of its (previously far more) defensive positions. Even though there were several conflicts during the negotiations, these were never fought out in the open, and in the end almost all sectors loyally supported the peak’s position. On the other hand, during the negotiations, something more akin to a ‘free-for-all’ was accepted, by the sectors (of their sub-sectors, but also of their member firms) but also by the peaks: specific groups were allowed to defend their own defensive and offensive interests, the peaks defended a more general stance in favor of free trade and whatever issues the entire membership could agree on. Again the situation in agriculture deviated to some extent: here, the peak federations seem to have still been in charge of actually aggregating the interests of their sub-units, even when some of these conflicted.

Based in part on remarks made by my respondents, we may speculate that these tensions are linked to the bilateral turn in trade politics. The big, encompassing multilateral negotiations may have lent themselves far better to a role for big peak federations. Analogous to the program-setting capacity that is often ascribed to cross-sectoral bargaining in the domestic sphere, it may also be easier to think in terms of a ‘big agenda’, such as ‘increasing free trade’, but also to enforce it. When there is a big package that entails clear trade-offs, all sectors will have a stake, and the peak’s task will be to aggregate, and help decide between, the interests of the winners and losers. However, in bilateral deals, some sectors may tune out because they have no specific interest in a certain country, and the legitimacy (and feasibility) of aggregating interests across sectors and FTAs will be eroded.

Again, the potential of sectoral and peak-level associations to aggregate lower-level interests and to legitimately represent them vis-à-vis decision makers would be a fruitful venue for further research. Again, there are not just indirect EU-level ramifications. A question that may be more directly interesting for EU-level scholarship is: whose interests do the EU-level peak federations represent? For whom does BusinessEurope speak, how detailed is the input it can give, how legitimate is its claim to speak for all of business? To what extent are there also struggles among the sectors? ‘Business versus CSOs’ is not always the most interesting framework, especially not during the negotiations. The functioning and legitimacy of the European system of interest representation, where business associations and multinational firms reside in European federations, rests in part on the assumption

that these represent somewhat homogenous interests. The more examples to the contrary and the bigger the heterogeneity, the more difficult it will be for them to credibly speak with one voice, diminishing also their value for the Commission.

**Increasing trade dependency has increased the support for trade openness, or has at least reduced the opposition.**

Global integration has created its own supporters. This was most visible in anti-dumping: firms have adapted their business models to imports and exports, and previously defensive sectors have been fractured because of increasing trade-dependency among some of its sub-sectors.

For example in the textiles/clothing wars of 2005-2007, when the Belgian import-intensive fashion industry fought for influence with Fedustria, or in PV-dumping where domestic production had already been swept away by Chinese competition by the time duties were proposed, or in steel, where domestic users were (after initially being outgunned by the big steel producers) starting to get organized in a counter-lobby that opposed the AD measures against China. These developments were all visible in Belgium as well as the Netherlands, and their outcomes were determined by struggles within the sectors, as well as in the parliaments and the executive. Similarly, in agriculture, the farmers that have survived increasing competition are also increasingly trade dependent, and have become more eager to export. Decision-makers have picked up on this trade dependency, which is also apparent in more aggregate data, and they have integrated it into their mental models of the national interest. Again, this was most apparent in anti-dumping but also in trade and investment policy more generally, where the growth of exports and imports was used to argue that further opening trade was a necessity.

This further confirms the relevance of a value-chain perspective on trade politics, also at the member state level, and it's clear that many of the struggles that played out at the EU have also been present within countries and sectors. Further research may develop analyses of the intra-sectoral politics of trade, but for example also accounts of how value-chain integration has altered firms' as well as decision-makers' views of their interests-in-trade over time.

**Agriculture has consistently punched above its weight, and should be taken up in any domestic analyses of states' positioning.**

In Belgium as well as the Netherlands, agricultural interests have been able to maintain not only significant expertise on trade issues, but also considerable leverage, despite the fact that their share of total employment and value added has continued to shrink.

My work suggests several explanations for this phenomenon. First of all, the representatives from the agricultural federations that I spoke to were often very well informed about what was at stake in the negotiations, and they possessed detailed knowledge of the dossiers that could affect their interests. They also had a very clear picture of their (long-term) offensive and defensive interests, and a strong awareness of the strings they could pull at the national as well as European level. Secondly, they used this expertise to actively lobby not only their national governments, but also the Commission, the EP, and other member states, in cooperation with their European

federations. Thirdly, agriculture has continued to be seen as a 'special' sector, whose interests are seen as sensitive by policy-makers. In Belgium as well as the Netherlands, it appears that the ongoing liberalization of the global agricultural markets (and the removal of European protections) has forced the farmers' associations to become more proactive, and that this has driven them to become far more export-minded and less defensive, but they have simultaneously maintained a narrative of the necessity of 'fair trade' and a 'level playing field' which seems to be shared by the executive actors defending their interests. This special status has also allowed them to create (implicit) coalitions with CSOs, whose concern for issues like food safety, animal welfare and environmental standards has strengthened the appeals of farmers for special treatment. In Belgium, for example, the Boerenbond noted that they could (in TTIP and CETA) focus almost entirely on their offensive interests, because the CSOs already had most of their defensive interests (e.g. on hormones, GMOs) covered. However, some sections have nonetheless been left behind (for example the dairy farmers), and these sub-sectors played a role in the recent politicization of the FTAs, as I will discuss in the next point.

The trade-off between industrial, services' and agricultural interests, and the special status of farmers in global trade therefore remains relevant, and tracing how it has developed over time and across countries, and why this weakened class has been able to retain so much influence, appear to be important questions with EU-level ramifications.

**Business trade politics is mostly inside politics. But they have engaged in successful outside strategies as well.**

I have shown that business politics in the domestic arena is almost always quiet politics. There has seldom been a need for them to engage in public campaigning, because trade is rarely contested, and because their role in steering government actions in this domain has remained largely unquestioned. Moreover, they have benefitted from easy access to the executive, and even intra-business conflicts have mostly been handled without taking this to the press. There have been exceptions to this rule however. First, a number of salient deviations from this pattern occurred in Wallonia, where the SME federation sided against TTIP and CETA, although they remained wary of really joining the CSO campaign in full. Secondly, in response to the campaign being waged by the CSOs, business started defending CETA and TTIP in public letters, hearings, press commentaries, et cetera, over the course of 2015 and 2016. However, this campaign was largely reactive and business itself felt that they were unsuccessful at fighting the CSOs on their own terrain.

More interesting examples have been offered by the CETA/TTIP campaigns of the farmers. They offer an instance of a successful attempt at expanding the scope of conflict: groups like the Dutch pig farmers, who seem to have been motivated by old-fashioned protectionism, were able to tie their campaign to bigger dossiers of food safety, fair trade and even animal welfare. In the Netherlands, this even led a party like the Party for Animals (PvdD) to essentially protect the interests of industrial cattle and pig farmers and 'processors'. This was arguably the only way for the pig farmers to make themselves heard. They were caught between a peak organization which had decided to favor CETA, based on the aggregate gains of the treaty for agriculture, and the narrowness of their own interests; a sectional call to defend the

Dutch meat industry would not have been able to catch the public and parliamentary imaginations in the same way as the Landbouwcoalitie did. The CSO campaign allowed them to broaden the legitimacy of their claims, to mix in their traditional defensive interests with other, non-economic demands. In turn, the CSOs could claim that they were defending the interests of farmers and locally produced foods, and not just the preferences of the 'usual suspects'. This was a very unlikely and unstable alliance, however, at least in the Netherlands; pig farmers did also have big exporting interests in a number of linked dossiers, and they eventually abandoned the CSOs to return to the wings of LTO.

All of these instances illustrate that business can participate in outside politics, but that their success is just as dependent on the interplay of domestic and EU-level frames and developments as the CSOs' campaigns.

**Business trade politics is (often) multilevel politics, but the national arena is not neglected.**

In the diagram that I reproduced in the beginning of this section, I linked national business and EU-level interest group federations. However, it's clear from my research that national business can also be tied directly to the Commission as well as to the European parliament, the Council and third states.

It has sometimes been argued that CSOs need to combine local as well as national and international layers in order to be successful, and that business can far more easily focus just on the supranational levels. However, most of the Belgian and Dutch sectors that were active on trade issues, even big multinationals like the dredgers, still spent time on lobbying the ministries of small states such as Belgium and the Netherlands, in parallel with their unilateral contacts with the Commission and their work through the European business federations. Even in a domain that's as Commission-dominated as anti-dumping, European coalitions (such as AFASE) as well as national firms and associations turned to 'their' national governments in the hope of altering the European outcome. A related aspect, which I failed to adequately include because of my national focus, was that even representatives of national interests can engage in transnational lobbying. For instance, one of the sectors that I spent some more time on, the Dutch meat industry, was very actively lobbying not only the Commission but also several member states - not just their own governments, but also (together with their European allies) Council members that they believed were potentially able to support their cause. The same was probably true of the dredgers, as well as multinationals with multiple European bases. Another example was offered by solar dumping, where part of the Dutch firm-level pressure in favor of measures came from firms that were affiliates of (or dedicated distributors of the products from) European producers.

Certainly, most of the sectors certainly also worked through their European business federations. These were important sources of analyses and information, and the EU-level deliberations with sectoral colleagues helped shape national groups' preferences. Here, it also seems that the lower capacity of Belgian business correlated with their higher reliance (at the peak as well as sectoral levels) on the European secretariats like BusinessEurope, EuDA, Food and Drink Europe, et cetera. Something that I did not fully develop in the case studies but which emerged in my

interviews, is that these federations are themselves political arenas: different countries bring different kinds of interests to Brussels, there is a struggle for defining the European sector's voice. Studying these intra-federation politics, which I believe should be quite feasible, may be an especially expedient way of procuring information on the positions of business across Europe on EU-level topics, as well as information on which business federations have the capacity to travel to Brussels in order to participate in this arena. The same should be true of the internal politics of ETUC and the trade union federations.

A number of (Dutch) business organizations (particularly in agriculture) still perceived the EU as just one of the potential venues for boosting market access, and they appeared to believe that they exercised some control over whether their interests would be furthered through bilateral contacts initiated by their state or by the EU acting in unison. More generally, my business sources often emphasized the importance of hands-on export promotion over more abstract trade barriers; their biggest problem in penetrating a market was often not situated in tariffs or even regulatory barriers, but in a lack of local contacts, affiliates, markets, etc. Without investments on-site or local business contacts, lower barriers in themselves would not generate any kind of revenue. In foreign investment and export-promotion more generally, firms and governments are still competing with their European colleagues, and much of business organizations' day-to-day work on trade was actually more oriented on these issues rather than towards the EU-level policies.

Further research focusing on the nexus of economic diplomacy, EU trade policy and business interests would be very interesting, because it appears that this plays an important role in how actual trade flows (rather than policies) are generated. In addition, studying the networks and tactics of business across member states and EU institutions, and their internal, EU-level sectoral politics, would strengthen our understanding of countries' positioning, and also offer a more adequate assessment of the influence of business organizations on EU-level developments.

**Business politics is also multi-issue politics. The position of business on a trade dossier is not mechanically linked to the specific dossier; business can think strategically across cases.**

Finally, my work on business has illustrated the importance of the sectoral and peak-associations: these are more than aggregators of firms' interests, they are necessary for making trade-offs and thinking strategically about the developing sectoral and economy-wide interests of business.

For example, in solar dumping, Agoria defended a more abstract economic interest, arguing that Belgium needed to support anti-dumping measures in order to safeguard the technological and industrial foundations of Western-Europe, even though the federation did not have any specific member firms' interests to defend. The secretariat of Holland Solar had the same perspective, building on a strategic vision of the future developments of the PV market, but they refrained from advocating this vision because of internal divisions fueled by more immediate, firm-level pressures. In the FTAs, several sectoral and peak organizations decided to defend CETA, even though in some cases it would actually harm their immediate interests, for 'strategic' rather than very specific Canada-related reasons. Although

they had not been very interested in the deal throughout the negotiations, and in some cases despite the fact that CETA might actually harm their immediate interests, federations in Belgium and the Netherlands tried to defend the deal from its opponents over the course of 2016. Not because their intrinsic interest in a commercial agreement with Canada had suddenly altered, but because of more long-term strategic reasons: they feared that a blockage of Canada would cripple the EU's ability to negotiate FTAs, or that the absence of ISDS here would make it more difficult to also include this instrument in negotiations where its use was greater, such as in the investment deal with China. At the domestic level, they were also concerned with the international reputation of their nations and regions.

This issue-linkage was again most visible in agriculture and the food industry, which clearly did not approach the FTA with Canada in isolation, but as part of a broader package of ongoing and future negotiations. Their assessment of the opportunities and threats posed by CETA was part of a bigger evaluation of the trade-offs that they could lobby for across these different dossiers, and of the cumulative trade-opening that would result from this. They also linked EU trade issues to (regulatory) market-access dossiers as well as to other domestic instruments, but I did not further develop this dimension.

**Looking forward, we may expect more intensive follow-up of trade issues, and more proactive outside politics. The national arena may gain in importance**

Based on some of the tendencies I have seen in Belgium and the Netherlands, there is reason to expect that the national arena will gain in importance in the coming years. First, we have seen that the employers were generally unhappy with not just the way the debate played out, but also with their lack of control over it. In Belgium as well as the Netherlands, the peak federations were gearing up to play a more proactive role in steering the public debate. Of course, it remains to be seen to what extent they can deliver on these plans, at the time of writing they had not been further developed. Secondly, this episode may have strengthened the hand of some defensive sectors, notably a number of agricultural interest. These successfully foregrounded their own defensive interests by tying their cause to that of the CSOs, capturing lots of parliamentary and press attention, as well as the support of a number of political parties (some of which are now in power in the Netherlands and Belgium). Although their gains in CETA were limited and although they eventually abandoned the CSO campaign (at least in the Netherlands), it is plausible that this has increased the sensitivity of their domestic executives for their interests in other, ongoing FTAs. They have been handed a number of rhetorical frames that they can use to 'broaden the scope of conflict', and policy makers may be more inclined to consult with them, especially because they have shown that they are willing to break from their peak organization's discipline. Thirdly, more speculatively, we see that the Commission has increasingly been forced to take initiatives on transparency, has been forced to be more open about with whom they consult, and has been forced to talk to a wider range of interests. Perhaps this may lead to venue shifting for some business interests, not just at the European level but also towards the domestic layer: the Council and individual member states are often far more opaque than the EU structures. It may become more appealing for firms to lobby 'their' member state(s), in coordination with their EU federations.

#### 12.3.4. The role of decision-makers' preferences and capacity

The last set of actors that I took up in my research were the civil servants and ministers in charge of trade issues inside the national executives. One of the contributions of my PhD has been to take seriously the potential role of state-level actors, and to wrestle empirically with the endogeneity of bottom-up and top-down determinants – thereby breaking the linearity (bottom to top) that is assumed by much of the OEP literature. I believe my research has clearly shown the explanatory relevance of this move.

#### **Decision-makers' preferences matter, but they can be hard to disentangle from societal demands.**

Based on my study of Belgian and Dutch decision-making, I believe there is an argument to be made that autonomous decision-makers' preferences play an even more important role inside EU-member states than in other states. Not just because of the greater distance between societal positions and the eventual policy (with the EU-level box in between), but also because in the EU member states will to a greater extent have to respond to issues that were tabled without their input. For instance, because of targeted business lobbying at the Commission level or in other member states, states may have to position themselves on dossiers about which their own societal interests had not deliberated. And yet they will need to decide whether the initiative would serve their national interest, whether it would weaken them in any upcoming elections, whether defending it would cohere with their views about trade policy or positions they were taking in other dossiers. To give just one example, Belgian business was not in big demand for an FTA with Canada, nor did they oppose it, yet decision-makers wanted to know whether such a deal posed any opportunities or threats, and in want of firm-level input they set out to perform their own analyses.

A related finding, then, is that Belgian and Dutch decision-makers themselves (certainly) did not seem to believe that their task was limited to scrutinizing the Commission. They saw their role as actively investigating their national/regional interests, and making sure that these were taken account of at the EU level. They were sensitive to the voice of domestic societal interests (in particular those of business), but there was also a role for their own analyses, beliefs and *politicking*.

In my country-case studies, I have found empirical support for a number of 'autonomous' sources for policy-makers' preferences.

First, Dutch and Belgian positions derived in part from a source that may be described as normative: the positions of Belgium on audiovisual and cultural services was driven by a long-standing belief that the state should retain the policy space to regulate in favor of domestic culture and languages (and by a desire to promote *Francophonie*), its positions on sustainable development were at least in part driven by cross-party support for an ideal of fair and sustainable trade. In the Netherlands, it was clear that there was a strong trust in the power of the markets and free trade, woven through many of their analyses and positions. Another example was the



support for animal welfare, which at least some parts of the civil service saw as more than just an NTB.

In Belgium as well as the Netherlands, however, the prevailing approach to trade policy can perhaps best be put under the denominator of economic-nationalism: policy-makers were (in most domains) most interested in increasing the wealth of the nation, with a mercantile tinge: boosting exports, hindering imports unless these were part of domestic inputs. However, as I demonstrated in regards to CETA, they cannot always rely on detailed input from business, and at times the interests of sectors clash. This forces them to decide in favor of the interests that would most boost aggregate welfare, and to produce and rely on their own analyses of the domestic national interest.

Here, the structural characteristics of the economy play an important role, perhaps even more than FTA-specific opportunities and threats: decision makers develop ideas of the national (or regional) interest, based in part on their studies of the economy and its interests in trade and investment. For example, the strongly offensive Dutch and Flemish interests in boosting services trade was based on analyses that their services' firms were highly competitive internationally, while their resistance against solar dumping was built (apart from sectoral input) on a screening of their country's position in the solar value chain. This means we can expect states' positions to follow developments in their domestic political-economy, without necessitating any business lobbying to bring this about. For example, one could argue (but would require further, diachronic research) that the Dutch position on services was driven by its more far-reaching internal liberalization and privatization of services, see for example its offensive positions on postal services, health services and education. In Belgium, the complex semi-competitive but heavily regulated markets in these sectors were part of what drove decision-maker's resistance against external liberalization: they feared that it would threaten privatization and deregulation at home. Here, I also noted that a general position such as 'defend public services' requires more detailed legal analyses, which the civil society itself seldom provides. When Belgium had to compose its negative list, it relied on a legal interpretation of the proposed EU-level reservations, and on screenings of domestic regulations, to see which sectors needed to be put in the annex. Here, we may wonder to what extent a state is also capable, has the expertise and staff, to transform its abstract preferences into concrete and goal-effective positions. This dimension of 'capacity' is further taken up below.

A related source that was relevant in my empirics was the importance of 'stickiness': the positions of Belgium and the Netherlands in CETA and anti-dumping could often be traced to similar positions they had taken up many years before, and decision-makers themselves argued that these previous postures played an important part in determining the state's stance on new (but similar) dossiers. My study of policy notes and government declarations highlighted the continuity of these documents over the years, although there were certainly also changes: Flanders increasingly emphasized its offensive interests over the course of 2007-2014, Wallonia became far more defensive in 2014, and the Netherlands changed its long-standing position on investment protection (to some extent) in 2014-2015. It will be interesting to see to what extent these shifts survive the recent elections and shifts in coalitions. All in all,

this confirms that there is some merit to the idea that we can study states' 'core' positions, assuming that it is unlikely to go through considerable changes in short time periods, but it also warns us that this stability is sensitive to changing economic contexts, societal mobilization, and electoral outcomes.

Finally, closely related to the above, and in a somewhat muddy but nonetheless relevant distinction with societal lobbying, there was the role of decision makers' *anticipation* of the *potential* societal response to certain positions. I demonstrated how the Netherlands pleaded in favor of taking out the ACTA-like IPR provisions from CETA because they feared this might spark public outrage, and how Wallonia's civil service was afraid that negative lists would be hard to defend with the public, but also how the Dutch civil service expressed surprise, in 2013, that there had been so little public fuss over hormone beef and GMOs in relation to the CETA negotiations. This complex interplay between stickiness, anticipation and societal pressure was difficult to dissect, but I think its relevance in determining states' course of action is hard to dispute.

One of the most interesting, but also most demanding, ventures would be to map the 'minds' of trade policy-makers across the EU, and to see how these developed over time or across issues. Mapping and understanding decision-makers' preferences is also important if we want to understand the role played by business (and CSO) lobbying, because it was clear that these two mechanisms were often highly entangled, and that only looking at the business side may give us a skewed understanding of what produces states' positioning. I expect there to be significant differences across the EU.

**The level of inter-ministerial (and inter-departmental) conflict has been negligible.**

A factor that was far less salient than I had expected it to be was inter-ministerial conflict. I had anticipated more pronounced differences between the views of foreign affairs and the ministries of agriculture and economics (expecting also to see the traditional struggle between industrial and agricultural interests to play out at the domestic level) , and perhaps also a larger involvement from ministries such as those of labor or environmental affairs. In Belgium as well as the Netherlands, the extent of conflict between ministries seems to have remained very limited. In Belgian anti-dumping there was some low-intensity strife between foreign affairs and economics, but the positions of economics were never really disputed. Another example was the active follow-up and the skepticism of the ministry of health in regards to the effects of CETA's financial services chapter on the Belgian health funds and social security, but this vanished after the person in charge of these dossiers was replaced. Less ad hoc was the role of the Dutch ministry of finance, which opposed anti-dumping measures because this brought about difficult and costly enforcement issues for the customs offices. On the whole however, my respondents from Flanders, Wallonia, the federal level nor the Netherlands could recall much, if any, other inter-departmental struggles, and I do not believe that this was solely due to socially desirable responses.

However, I consider this result to be surprising enough to warrant further research, and this should certainly be a factor to be taken up in future studies of domestic decision-making. Especially because there were indications that there were indeed differences in approaches across ministries, and that the current lack of conflict in part flowed from such struggles having been pacified by the time I started analyzing them.

### **The role played by decision-makers is constrained by their (shrinking?) capacity**

As I already noted above, my empirical work has confirmed the role of state capacity. The capability of the ministries to perform their own analyses or to otherwise develop their own views of the state's interest in trade policy, is important not only in determining their autonomy from societal influences, but also their autonomy from the Commission and other external pressures.

The analytical capacity of the Belgian state in particular seems to be restricted in many ways. Unsurprisingly, this is linked to both the lack of resources and the splintering of competences. Although in total there were perhaps just as many people working on trade policy in Belgium as in the Netherlands, they were spread out across executives that were interested in developing a regional position on all of the salient trade dossiers. These civil servants were clearly being overloaded: they not only had to track numerous FTAs and plurilateral agreements, but also the legislative dossiers, anti-dumping, et cetera, which they then had to present and coordinate not only at the EU level, but also within their own regions as well as the Belgian federation. There were returning doubts among many of my interviewees from society and parties about the fragmentation and inefficiency of the Belgian system and whether it was time to turn back the institutional clock. On the other hand, this capacity was endogenous: it depended on the sensitivity of the issues. In Belgium, the ministerial cabinets filled in the resource gaps that confronted the ministries and departments when CETA became more hotly contested, so my estimate of the Belgian resources may be skewed by my focus on the civil service: it appears that there is a well of staff and expertise at the ministerial cabinets (across the executives), which is brought to bear on subjects that are deemed sufficiently sensitive to warrant a political intervention.

My case studies offered a few examples of how the state's resources can also play a role in its the capacity to control the Commission and to know and defend its own interest. For instance, in Belgium, the civil service was too occupied by their analyses of domestic regulations when it had to compose its 'negative list', to also scrutinize the efforts being made in other countries. It also had to depend on the Commission's legal interpretation of text it had proposed on public services. Only in a late stage did they realize that Germany had disagreed with the Commission, and had requested far more detailed reservations in services that were equally sensitive for Belgium. In anti-dumping, we can see both states trying to cope with their reliance on the Commission (which produces a very detailed investigation of the dumping complaint, of which only a summary is sent to the member states - at very short notice), by conducting an investigation of their own. They perform economic analyses, see what actors are involved and may be affected, try to take into account the effects across value chains, and meet with any interested stakeholders. Here it's interesting to note that, of the two, the Netherlands is the one with the far more

skeptical attitude on these issues, but also the one with the least amount of personnel dedicated to anti-dumping dossiers. Perhaps this is an indication that the Netherlands usually does not need/want to spend too much time/resources mulling over whether it's going to reject the measures this time as well. But this does not necessarily mean that their scrutiny of the Commission was more limited. They resisted the Commission's position, not only in individual cases but also on market economy status and trade defense modernization, and my interviewees did not give the impression that they were being outgunned by DG Trade. Belgium has had a more ambiguous, more changing position, and it's here that we find a somewhat bigger (3-4) team working on trade defenses (in cooperation with the sectoral analysts, with rare interventions by the ministerial cabinets). We may perhaps relate this to the need to analyze these issues more in depth before deciding on a position. In both cases, however, it would appear that the civil service was sidelined by the Commission (and perhaps other Council members), when it took the initiative to discuss the case directly with the minister, who was in both cases apparently more open to making deals.

Further charting the capability of the member states to know and defend their own interests, not only vis-à-vis societal interests but also when dealing with the Commission and other Council members, offers us one of the most direct ways towards tying together studies of domestic decision-making and principle-agent analyses at the EU-level.

### **The state's autonomy from societal interests fluctuates across topics.**

My answer to the question of the state's autonomy is a very fluid one. It seemed to shift strongly from case to case, and was highly dependent on the public salience of the issue as well the intensity and homogeneity of societal interests, but also on the parties in power and the personal preferences of the civil service. My case-level work showed that it was in practice often difficult to disentangle decision-makers' preferences from societal lobbying, when both mechanisms were at work at the same time and appeared equally plausible based on the case-specific evidence. I showed that the broader pattern of decision-making could then be used to assess the primacy of one causal explanation over the other. Although I often judged in favor of decision-makers' interests here, it appeared clear that this conclusion only held in the isolated cases; over the longer run, shifts in business interests (and occasionally CSO interests) were more important, although more research over time would be necessary to bolster this claim.

Still, it was also clear that governments were not just on the passive, receiving end of societal pressure: they actively tried to depoliticize (or in the case of Wallonia, contributed to the politicization) certain trade issues, restricted access to unwelcome voices (either at the executive level or by regulating the parliamentary dynamic) and anticipated public responses by promoting options at the EU level which they believed would be less contentious domestically. Belgium as well as the Netherlands moreover engaged in reverse-lobbying. In CETA, executives were in high demand for sectoral input during the negotiations, and they tried to educate (through workshops) business on issues such as investment protection and negative listing, again in the hopes of eliciting their response. In the political phase, they pushed business to become more active on the treaties, and to help them defend them in the

press and vis-à-vis the public and the CSOs. In anti-dumping, the Dutch civil service actively sought for trade-dependent steel interests that could counter producers' lobbying, while both Belgium and the Netherlands tried their best to inform their industries about new investigations. This raises the question whether domestic business interests are playing multi-level 'games' with the commission as well, and whether some states (especially the larger ones) to some extent control not only the support, but also the demands of their industries for anti-dumping.

### **Party politics and elections matter.**

An aspect that emerged very clearly the case studies is the finding that elections and (party) politics matter for trade policy. As I have shown in my work, and as Crespy (2016) argued in relation the GATS, support from (party) political agents has been crucial in the success of the CSOs in pushing Belgium to take on a number of positions. Belgium would/could not have played its role in resisting the GATS or negative listing, or in supporting labor and environmental clauses, without the resilience of Wallonia's left-wing parties. Of course, I have shown that there is an irresolvable chicken/egg dilemma here (arguably support for progressive CSOs correlates with support for left-wing parties), but in a given dossier it's easier to distinguish them, and access to receptive decision makers played an important role in the politics of CETA as well as the wider politics of trade and investment.

Compare Belgium with the Dutch case, which has been governed by an economically liberal party for years, where the party-landscape has been increasingly fractured, and which has seen the rise of a Eurosceptic and anti-globalist ethno-nationalist party which has exerted a lot of influence on the traditional parties of the center-right but also the center-left. It is hardly surprising that Dutch foreign policies have become increasingly mercantile, emphasizing for example the business opportunities of development cooperation, and this has constrained and arguably will continue to constrain the strength of groups from the left – even though its results for the trade agenda are very uncertain (the PVV is Eurosceptic and opposed to all sorts of multilateral institutions, hardly a recipe for more liberalization; this was clearly illustrated by the Ukraine episode). In Belgium, although Flemish politics has tended to the right in a similar fashion, progressive groups have been able to count on the more willing ear of Wallonia's leftist parties, which have remained strong and had been in power for decades until the scandal-driven crises of 2017. Belgium's federal system has therefore allowed them continued access and influence, arguably contributing to the Belgian tendency to fall along the left of the EU's average position. The remnants of neocorporatism (formal consultations of representative organizations, some respect for the voice of peak organizations) and pillarization (enduring links with the still-central Christian democratic party) have ensured trade unions and CSOs some access to the Flemish executive, but this too has become even more ad hoc in recent years, again at the instigation of the center-right. Proportional voting, fragmented party landscapes, and coalition governments have constrained the extent of the shifts in the Netherlands, but also the effects of the

Flemish/Walloon divergences; however, CETA and Ukraine may be indications that this pacification is now faltering<sup>623</sup>.

Recent event again underlined that politics can sometimes get the best of structural developments and hard-won gains from societal pressure. The minister-president that led the fight against CETA is now the mayor of Charleroi, and the fate of Wallonia's resolutions and the intra-Belgian deal appear unsure now that the regional government has been toppled by cdH. Meanwhile, in the Netherlands the new coalition has announced that it will be scrapping the consultative referendum – thereby sinking the main focal point of the enduring CSO campaign against CETA, while the minister for trade now hails from the party (D66) that had vehemently supported the FTAs in the Tweede Kamer. In both cases, the prospects for successful CSO action seems to have been diminished.

This interrelation between party-politics and trade (or, more broadly, international economic) policies seems like an interesting venue for further research, not only across states but also within countries. It could be tied to wider studies linking electoral politics to foreign and economic policies.

### 12.3.5. The role of the press, the parliament and the public

**The national parliaments are often weak and poorly informed. However, they remain important venues for CSO action, and have tried to structurally upgrade their involvement in recent years.**

Based on my research, I do not think that the parliamentary arena has been the place where states' positions have been wrought, although they have served as important canaries in the coal mine for societal contestation, which has often (but not always) been visible in some kind of parliamentary attention. Spikes in parliamentary attention have occurred over the MAI, over the GATS, over Seattle, over the textile wars, in relation to steel dumping and China's market economy status, on Belgium's contested BIT with Colombia (and the related disbandment of the SARIV), and again on TTIP and CETA. As I have shown in my research, and has been acknowledged by many of the MPs I spoke with, societal activism was perhaps not a necessary but almost always a sufficient factor to generate (at least) parliamentary questions. This again shows that the deepening of the trade agenda was not in itself driving the increase parliamentary scrutiny.

However, at the same time it is clear that the parliament has lacked levers to actually do much about the state's position, and it has often been behind the curve.

It has also been interesting to look at the conduct of the debates. In the Belgian parliaments, the parliament mostly operates in a 'Q&A' fashion: MPs ask questions, the minister responds. There was seldom much debate between the MPs themselves, often only very briefly, the core dynamic was built around the response of the minister (or in the regions: minister-presidents). A general sense of lacking real control was evident from both the debates as well as the interviews with MPs.

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<sup>623</sup> It may therefore be far from surprising that the extremely heterogeneous coalition that will now attempt to lead the Dutch government has decided to scrap the consultative referendum.

The debates were on the whole somewhat shallow, with MPs rehashing the same positions in every meeting. Again, lack of capacity played an important role here: MPs just did not have the time to focus on an issue that was mostly ignored by the public, and even when it became a hot item they did not have the expertise (or the staff to develop this expertise for them) that would have allowed them to meaningfully intervene. The big exception was Wallonia's parliament, where we did see a far more in-depth process. Here, through a process of hearings and debates, they did spend time to really delve into the details of the agreement, producing more detailed discussions and a set of strong resolutions. I have argued that this was to some extent controlled by the executive arms of the PS and the cdH, but that we may nonetheless see it as a process that was at least partly autonomous, driven by a desire to strengthen the parliamentary committee on EU affairs as well as a wish to respond to the societal buzz surrounding the deals.

In the Netherlands there was more actual debate among the MPs, and more assertiveness. For instance, there were also critical questions from the PvdA, even though it was their minister who had to defend the deal. However, even here the quality of the debate was often not very high, with lots of repetition, also on procedural issues like provisional application or ratification procedure (even after the minister had explained these issues numerous times). Still, internal memos showed that the ministry was always keeping an eye on what was brewing in the parliament, showing that this was not something they could control at wish, and the parliamentary motions were really able to steer the Dutch position as well as the domestic process: parliamentary pressure (instigated, I argued, by CSO campaigning) drove Ploumen's 'reset' or trade policy and the resulting 'handelsberaad'. The relationships between the Tweede Kamer and the government were on a more equal footing than in Belgium (even compared to Wallonia, where there is lingering doubt about the parties' autonomy), arguably a reflection of the more balanced relationship between the Dutch executive and its parliament overall.

Again, this presents us with a venue for further research: studying the dynamics in the parliamentary involvement in trade, and trying to explain cross-country differences. In line with some of the existing literature, I suggest looking at the legislature's resources (personnel, research and legal services, ...) as well as the party-system and the more general balance of power between the powers, but also at the daily practices of control and debate, and the legislature's ties to societal organizations that can provide them not only with expertise, but also with leverage when they choose to support a group's pressure vis-à-vis the executive. More generally, while parliamentary activity seems like a good proxy for the societal politicization of trade, all in all I believe it is unlikely that legislatures have often put their stamp on trade-policy dossiers. This should also guide future assessments of the democratic legitimacy of trade policy: the amount of public and parliamentary oversight and input, and the accountability of the executive, vary across countries and time.

Finally, I have paid much attention to the treatment that trade issues received in the press and among the general public. In regards to the latter, I must note that this has been a difficult exercise, because the data that are available are highly imperfect and limited over time. I was surprised to find that there was very little longitudinal cross-

national research on trade attitudes in Europe, although some of the datasets simply did not include Belgium and the Netherlands. Apart from the handful of surveys that appeared in relation to TTIP and CETA, I tried to proxy for this by using data on protests, petitions, newsletter subscriptions and a few other ad-hoc metrics.

In the press, I constructed some of my own (simple) data-sets, which I combined with a review of a selection of newspapers (i.e. I read and summarized the articles they published on CETA and solar). I found that a roughly similar pattern in the press' attention for trade over time emerged in the Netherlands and Belgium. It peaked around 2000, slumped downwards, then peaked once more around 2005, and then fell down until 2014. These cycles appear to be linked both with the political sensitivity of trade as well as with CSO campaigning. In the cases, the press' attention was linked closely to the politicization of the issue: there was quite a bit of reporting on solar dumping, but this mostly focused on the spat between the Commission and China (and some member states), and to a lesser extent on the domestic politics and economics of the case. On CETA, the coverage of the Belgian Francophone press seems to have been most detailed: there were many pieces about the contents of the FTAs as well as their day-to-day politics, and numerous interviews with the main executive actors (notably Magnette). There was a very large amount of attention for civil society's criticisms, and in general the coverage was supportive of the blockage (although the business press became more critical near the fall of 2016). Coverage by the Flemish press started later (mostly in 2016, even later in case of *Het Laatste Nieuws*), was less detailed about the politics as well as the substance of the deal, and was considerably more negative about both the critics of CETA as well as Wallonia's blockage. Wallonia's demands were portrayed as unreasonable, as threatening not only the direct (Flemish) gains of the deal but also irrecoverable damage to Belgium's and the EU's international reputation. In the Netherlands, there was considerable attention for the criticisms being voiced by CSOs and opposing parties, while there was relatively little space for the supporters of CETA, although the latter group managed to become more prominent in the fall of 2016. There is therefore a correlation between the intensity of the societal and parliamentary scrutiny and contestation of the agreements and the attention they received in the press.

Although the 'basic' attention for these issues seems to be low - there was barely any coverage of CETA before 2015- this may now have changed: a number of journalists worked on these issues for years (many of the pieces were written by the same handful of people), building up expertise and networks. But whether coverage will continue will likely depend on the extent to which the treaties remain high on the societal and political agendas.

### **12.3.6. Final remarks**

For scholars that are primarily interested in the grand trajectory of EU trade policy, the preceding, somewhat speculative conclusions may seem too remote from their own work. I can only acknowledge that most of the lessons that my PhD has to offer, at least in this regard, are indirect: I hope my work can help us interpret the dynamics in similar countries, and furthermore hint at the kinds of research we may want to develop in and across other member states and dossiers. The argument that I



made in chapter two, about the necessity of bringing in domestic politics, did not imply that there was a single knock-down study that we could perform to fulfill (or test) the promises of this research agenda. Rather, my argument was cumulative in nature: I was selling a program rather than a hypothesis. Of course, the limitations of my own work (in regards to understanding EU-level developments) were also inherent in my choice of cases and method. My focus on Belgium and the Netherlands was too limited to yield much direct explanatory gains about the supranational level, in the sense that we would need to do additional work on a greater number, and perhaps more crucial, countries before such research starts producing easily delineated conclusions about the effects of domestic politics on EU trade. However, of course the Belgian and Dutch politics of CETA have in themselves been able to alter the course of this and other FTAs, and many of the same actors and determinants will return in other countries and cases. I hope to have thereby contributed in a direct way to answering questions about the direction of EU trade policy.

In retrospect, I could have strengthened my 'direct' contribution to this literature by more explicitly taking up the EU-level dynamics as a determinant of domestic politics. This emerges as one of the major lacuna in my work, not in the least because taking it up more explicitly would have strengthened my understanding of the domestic politics of trade. This would have allowed me to more strongly contrast domestic explanations with the European dynamic as an explanatory factor, making it easier to weigh the value of unpacking the domestic process. Of course I did not entirely ignore this dimension, I included it as a scope condition in the decision-makers' mechanism and I paid attention to societal groups' cooperation with EU-level groups. Still, my work would have benefitted if I had spent more time on investigating the balance between the domestic and EU-level activities and determinants of my three actors.

However, I nonetheless hope that my findings, and the venues for further research that I have outlined, illustrate the sorts of insights that domestic analyses can produce for our EU-level understanding of the developments in the trade sphere. I also hope that I have shown how the existing theories of trade policy can be fruitfully used to perform explanatory studies of domestic trade politics in the EU, although not all future research should opt for a similarly holistic approach. Secondly, I do believe I have shown that, at least in the Netherlands and Belgium, there are important domestic sources for their positions, and there is no indication that this will diminish in the foreseeable future - especially not after the last round of politicization. More fundamentally, I would like to stand by my claim that scholars of EU politics, in trade policy or otherwise, need to develop a better and more holistic understanding of the supranational as well as the domestic drivers of our European polis. The point of this PhD has not been to argue that EU-level dynamics do not matter. They clearly do. But our understanding of the trajectory of this domain will become far more profound if we include these lower levels in our analyses.



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# Annex: Review of the Belgian parliamentary debates on CETA

## The federal parliament (De Kamer)

The negotiations with Canada attracted very little attention in the Federal parliament. In **2009** there was one written question about CETA, by Groen (Wouter de Vriendt), a very general inquiry about the purpose of the negotiations (whether they would also include trade liberalization), and what the Belgian position would be<sup>624</sup>. There were no debates. There was zero activity related to CETA the year after, and only one written question in 2011. It was a more skeptical one, by the sp.a (Dirk van der Maelen), about the Commission's proposal to include ISDS in CETA – he referred to 'growing criticism' that this mechanism was unpredictable, may undermine the policy space of governments and can lead to large compensatory fines, while the judicial system of Canada and the EU adequately protected foreign investors; the MP inquired about the Belgian position<sup>625</sup>. There seems to have been very little follow-up, however: there were no further oral debates nor written questions that year or in 2012, and only a single written question in 2013: Ecolo inquired about the nearly completed negotiations, and wondered why the EU rejected Canada's request for binding (with fines) labor norms. The MP asked what the Belgian position was, and wondered whether the Belgian parliaments shouldn't be consulted about such matters<sup>626</sup>. No debates followed.

After the negotiations were concluded, the amount of activity slowly started swelling, almost solely due to questions by Ecolo and the PS. In **2014** Hellings (Ecolo), sent a written question about ISDS in CETA (and the Belgian position)<sup>627</sup>. For the first time, there was also some activity in the federal committee on external affairs (FCEA): Grovonius from the PS asked a general, informative question about CETA, and in the brief debate with minister Reynders stated that we should be careful that these treaties do not undermine our environmental, social and other norms, or our public services. She also called for more transparency and more debates about the FTAs. In the same session, Hellings (Ecolo) regretted the '*fait accompli*' of CETA's 1600 pages. In **2015** there were written questions about healthcare in CETA (and TISA, TTIP, by Di Rupo from the PS)<sup>628</sup>, about the lack of healthcare-reservations requested by Belgium (Hellings, Ecolo)<sup>629</sup>, and about the lack of Belgian geographical indications in the EU's list (Clarival, MR, specifically mentioning Ardeense ham and butter, paté from Gaume, and Brussels' chicory)<sup>630</sup>. Although there were no oral questions about the accord this year, it did pop up more often in 'TTIP and CETA' debates. At first, this was just in passing, in the margins of other discussions<sup>631</sup>. The

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<sup>624</sup> Bulletin nr : B079 - Schriftelijke vraag en antwoord nr : 0010 - Zittingsperiode : 52

<sup>625</sup> Bulletin nr : B040 - Schriftelijke vraag en antwoord nr : 0172 - Zittingsperiode : 53

<sup>626</sup> Bulletin nr : B119 - Schriftelijke vraag en - antwoord nr : 0492 - Zittingsperiode : 53

<sup>627</sup> Bulletin nr B002 - Schriftelijke vraag en antwoord nr : 0006 - Zittingsperiode : 54

<sup>628</sup> Bulletin nr : B018 - Schriftelijke vraag en antwoord nr : 0158 - Zittingsperiode : 54

<sup>629</sup> Bulletin nr : B057 - Schriftelijke vraag en antwoord nr : 0356 - Zittingsperiode : 54

<sup>630</sup> Bulletin nr : B018 - Schriftelijke vraag en antwoord nr : 253 - Zittingsperiode : 54

<sup>631</sup> In January Grovonius (PS) asked the PM whether he brought up TTIP and CETA in a meeting with Angela Merkel (01/15, CRIV 54 COM 051), in June Blanchart (PS) asked Maggie de Block (Health) about the dangers of TTIP, TISA, CETA and other FTAs for health services (CRIV 54 COM 187, 06/15), and Grovonius (PS) asked about

first more substantial mention is made in a committee meeting in July, when Grovonijs (PS) pointed at civil society's mobilization against TTIP and CETA, and called for 'a clear 'no'' against CETA's ratification, as a political signal in the negotiations over TTIP (CRIV 54 COM 221). More specific critical remarks were also made in December, when Hellings (Ecolo) warned about the US' extraction of shale gas and Canada's extraction of tar sand oils; in combination with the inherent increase in pollution from boosting transatlantic trade, this would further harm the environment (CRIV 54 COM 298).

In **2016**, the volume of attention paid to CETA increased tremendously. Because all of the written questions recurred in the oral debates, I will not discuss them separately. During the year's first committee debate, in March, the PS (Onkelinx) stated clearly that Wallonia and Brussels intended to reject CETA unless it was altered. The PS, along with the Greens and the PvdA, repeated the usual criticisms: CETA did not safeguard public services, threatened European norms and health, and included a system of investment arbitration that would empower multinational firms over governments (ICS was not seen as substantially different from ISDS), and that would potentially open the door for hormone beef and GMOs<sup>632</sup>. Apart from some brief remarks by Kattrin Jadin (MR)(pointing out the mandate had been approved by the PS), the other parties remained quiet (CRIV 54 PLEN 100, **03/16**). In that same session two CETA-resolutions were proposed, one by the PvdA and another by Ecolo and Groen, but both were rejected. In April there was the first plenary sessions that also debated CETA, '*TTIP's Trojan Horse*' (Ecolo, CRIV 54 PLEN 108, **04/16**)<sup>633</sup>. The MPs discussed the Walloon resolution, adopted the day before, in which Walloon parliament asked its government not to ratify CETA. This finally elicited some more response by the majority: the MR (Miller) criticized the PS for '*apparently changing its mind*' after approving the mandate in 2009, underscored the amount of exports to Canada, and inquired about the intra-Belgian coordination efforts. The NVA (Luykx) further added that not signing the deal would hurt Belgium's image abroad, and that the economic damage would fall disproportionately on the more export-oriented Flanders. He believed CETA's blockage illustrated the dysfunctional state of the Belgian system. The opponents' arguments echoed those of previous debates: Ecolo and the PS pointed out civil society's strong mobilization, called CETA a Trojan Horse for TTIP, and focused on the critiques that were summarized above.

These debates were waged along roughly similar lines in the months that followed<sup>634</sup>, until they peaked after the summer. October's two plenary debate drew in all parties,

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the potential damage for SMEs from market opening in EU-Japan 'while CETA and TTIP are also being negotiated' (CRIV 54 COM 203, **06/15**). Similarly, Blanchart (PS) expressed his fears in the plenary that the Mercosur FTA would further limit the state's ability to govern 'just like in TTIP and CETA', while in that same debate the Raoul Hedebouw (PvdA) rejected this FTA because 'we can see that these agreements, like NAFTA, CETA or our agreement with South-Korea, cost thousands of jobs' (CRIV 54 PLEN 050, **06/15**). Similar remarks made by the PS and Ecolo in October 2015.

<sup>632</sup> I must admit that it was often hard to tell whether MPs were still discussing CETA or whether they had shifted back to TTIP. The arguments were, at least on a rhetorical level, very hard to disentangle.

<sup>633</sup> There were no plenary sessions devoted entirely to CETA, something that was lamented by van der Maelen (Sp.a)

<sup>634</sup> There were recurring questions about the nature of liberalization in public services, notably related to health services (by the PS, CRIV 54 COM 396, **04/16**), CETA also played a part in more general plenary debates about Europe, with debates between the PS, sp.a and ecolo and the MR, in which some of these parties' heavy hitters took part (Di Rupo, Hellings, PM Michel); there were also several questions about conflicting studies and impact assessments (CRIV 54 PLEN 118, **06/16**), questions about mixity and intra-Belgian procedures/problems (and

and offer a good overview of parties' positions. On the 13<sup>th</sup> (CRIV 54 PLEN 130), Hellings (Ecolo) again argued that CETA was a 'trojan horse' for US multinationals, and together with Van Hees (PvdA) and Grovonijs (PS) claimed that the interpretative declaration added little. Van der Maelen (sp.a) added that these debates were preparing the ground for the future, politicized and ideologically charged, debates on TTIP; he also criticized ICS and negative listing. In the first intervention by the Flemish Christian democrats, Claerhout (CD&V) argued that the 2009 mandate had been approved by the PS, and that lowering tariffs and opening procurement markets would be good for trade-dependent Belgium. She added that it had been '*justified*' for so many CSOs to criticize the FTAs, but that their '*important work*' had already been successful: ISDS had been changed to ICS and Canada has ratified the remaining ILO provisions. Now however, Wallonia's '*radical stance against free trade*' was threatening to hurt EU trade policy and Belgium's credibility. These remarks were echoed by Vandput (Open VLD), who argued that his Walloon opponents were '*worse than Syriza*', and were embarrassing Belgium. Grovonijs (PS) closed the debate with a call for her opponents to descend from their ivory towers, and to finally take up '*toutes les réticences que nous entendons depuis des mois; réticences de la population, de la société civile, des mutuelles, des syndicats, des agriculteurs, face à ce rouleau compresseur du néolibéralisme sur notre tissu socioéconomique et notre modèle de vie, dont nous savons qu'ils seront les principales victimes de ce traité.*'

Another plenary debate (27/10) followed after Wallonia had ultimately decided to sign the agreement. The PvdA criticized the prime minister for the way he had put pressure on Wallonia, and the for EU putting pressure on the prime minister. They compared this to past referenda on EU treaties, '*in which 'no' was also forbidden*'. They were, together with Ecolo, also disappointed by this result, which (in Hellings' words) poured a '*cold shower*' over the mobilizations by civil society and the public. The final deal did not deliver on Wallonia's parliament's resolution, because the resolution had rejected ratification as long as ICS was included, and because CETA was still lacking enforceable labor and environmental clauses<sup>635636</sup>. Their colleagues from Flanders were much more positive. Van der Maelen (Sp.a) and De Vriendt (Groen) praised Magnette for opening the debate on globalization and the FTAs, which before had passed through parliament without any fuss, and praised the broad mobilization that had occurred. On the opposing side, the MR (Miller) expressed relief at the ratification of CETA, which he believed would bring much economic benefits to Belgium and the EU, and because this avoided Belgium becoming a 'black sheep' at the international level. De Wael (Open VLD) agreed, further attacking the 'protectionist' attitude of parties like the PvdA (comparing them with Trump) and the hypocrisy of those claiming there was a democratic deficit in the procedures<sup>637</sup> (CRIV 54 PLEN 137, 27/10).

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ISDS/ICS) by the PS (CRIV 54 COM 469, 07/16) and questions about provisional application - with critical remarks about how this would allow (US) firms to sue through Canada for at least three years even if the parliaments rejected the deal (sp.a), and about the position defended by Belgium in the EU in regards to the mixity of CETA (Ecolo, PS) (CRIV 54 COM 447, 07/16).

<sup>635</sup> The PvdA added that CETA was ('like NAFTA') a 'disaster' for Belgian employment and agriculture.

<sup>636</sup> They were joined by an uneasy bedfellow, when extreme-right Vlaams Belang (Jan Penris) intervened for the very first time: they '*had come to understand*' that CETA might undermine local employment, social and environmental laws, and the state's ability to govern.

<sup>637</sup> Because the mandate had been approved by all governments in 2009.

in November and December, there were some final questions (by the PvdA, sp.a, PS and Ecolo) about how and when Belgium was going to go about asking the ECJ whether ICS conformed to EU treaties. These parties again hailed the work done by civil society in politicizing the FTAs, which they believed had at least ensured more intense scrutiny of future FTAs (CRIV 54 COM 523, **11/16**; CRIV 54 PLEN 141, **11/16**; CRIV 54 PLEN 142, **12/16**).

In summary

There was very little attention during the negotiations, somewhat more in 2015 and 2016. All in all, the amount of MPs (and parties) asking questions and participating in the debates remained limited to a handful. There were no auditions or approved resolutions, nor full plenary sessions devoted to the issue. Most activity was initiated by Ecolo and the PS<sup>638</sup>, MPs from the majority seldom intervened or responded until late 2016<sup>639</sup>. The opponents of CETA used arguments that were very similar to the ones made in the Walloon parliament (and, thus, to the issues raised by civil society), underscoring notably CETA's dangers for democracy, public services, policy space, public health and food safety. ISDS/ICS seems to have been the most controversial element of the accord. In their interventions, the opponents of CETA almost always referred to (and praised) civil society's work in mobilizing attention. The proponents never cited from business' statements, instead they stuck to general comments about the necessity of free trade, the good relations with like-minded-Canada, and the embarrassment of isolation on the international stage.

### Flemish parliament

There was no activity in the Flemish parliament in regards to CETA until 2014, when there was one written question and one brief Q&A in the external affairs committee<sup>640</sup>. In the former, Vanbesien (Groen) wanted to know the position of the Flemish government on ISDS in CETA; he called ISDS a danger for the public interest and questioned the need for such arbitration among countries with developed legal systems<sup>641</sup>. During the latter, Verfaillie from the Christian democrats (CD&V) argued that CETA (*'of which we've heard about in the press'*) will *'again offer some export opportunities to European agriculture, as well as a little more competition'*; he complained that these FTAs were making trade too complicated, and argued that the Flemish government should prioritize a broad, multilateral trade agreement in the WTO (C95 – BUI3, **01/14**). De heer Jan Verfaillie commented: *'I'm surprised there are so many free trade agreements'*. *'Een kat vindt er ongetwijfeld haar jongen niet in terug'*. In **2015** there were no written questions, and the treaty was debated only once in the external affairs Commission (C97, **01/15**), although this was during an interpellation about TTIP. Türan (sp.a) remarked that the inclusion of ISDS in CETA indicated that the EU was prepared to take up such a mechanism in TTIP as well, and inquired whether the Flemish government had taken a position on ISDS. Van Besien (Groen) shared Türan's worries, and argued that CETA illustrated how ISDS would broaden the leeway for contesting governmental measures. The rest of the debate was centered on

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<sup>638</sup> Although Flemish parties sent out about half the amount of questions compared to Walloon parties, this still underestimates the dominance of the latter in the actual debates. Most of them occurred wholly in French.

<sup>639</sup> Of course, they were always represented by minister of foreign affairs Reynders, who always responded to (and pushed back against) the questions and criticisms of CETA's opponents.

<sup>640</sup> SCHRIFTELIJKE VRAAG - nr. 38 - van WOUTER VANBESIEN - datum: 3 oktober 2014

<sup>641</sup> He referred to controversial ISDS cases in Uruguay and Australia and the tribunals' conflicts of interests



TTIP and FTAs in general: Kennes (CD&V) remarked that his party wanted to safeguard European norms, social rights, consumer protection, cultures and languages. He also noted that civil society had been stirring the pot. N-VA (Hendrickx) countered that most of the arguments against TTIP were scaremongering, although he agreed with the concern for a cultural exception.

In 2016 there were no written questions, but several debates took place. In March (03/16), CETA was discussed in the plenary. Vanlouwe (N-VA) emphasized that Flanders is an open economy, and argued that CETA would be important for Flemish firms that wanted to enter the Canadian market and participate in public procurement; it was especially important that Flemish dredging firms would now be able to be active on the Canadian market *'just like they can on the US market'*<sup>642</sup>. He also defended ISDS, calling the system's critics scaremongers; he argued it was a *'good system, although ICS is perhaps even better...'*. Sp.a and Groen responded along the same lines as in previous discussion<sup>643</sup>. In May (05/16), there was a plenary debate about Wallonia's parliamentary resolution on CETA. Vanlouwe (N-VA), Kennes (CD&V) and Daems (Open VLD) all attacked Wallonia's resolution, alleging that this move came *'out of the blue'* after seven years of negotiations. They feared that blocking the deal would damage the Flemish economy, Belgium's image abroad, and the EU's international standing. Daems and Vanlouwe argued that Wallonia's reticence was part of a wider, *'almost emotional'*, debate on TTIP, *'with protests and the launch of myths and lies'* (Vanlouwe), a sort of *'left-populist opportunism'* (Daems). A debate (between these parties and Groen) then ensued about the legitimacy of Wallonia's veto-power<sup>644</sup>. The day after, in the external affairs' commission (C223, 05/16), Daems stated that the debate on the FTAs was now about whether people were for/against TTIP/CETA, for/against protections; in this debate, facts were worth less than sentiment. Türan (sp.a) asked questions about the mixity of the deal, and whether it was democratic that the deal would enter in force provisionally without parliamentary approval. This would offer investors a three year period in which they could use investment arbitration even if the deal got voted away; she believed this was especially threatening because American firms would be able to use their Canadian daughter-firms to use CETA's arbitration mechanisms, *'thereby already putting parts of TTIP in place'*. During a later debate in that same session, Vanlouwe (N-VA) again came to the defense of ICS. He criticized Türan (and the

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<sup>642</sup> [sic]

<sup>643</sup> In addition, Vanbesien (Groen) argued that the replacement of ISDS by ICS was a good thing, because it was being enacted by people who had before been staunch defenders of ISDS: these now had to admit they had been mistaken. In response, Vanlouwe (N-VA) claimed that Bourgeois had been one of the first to call for a reform of the ISDS system (*'which is in itself not a bad system, because it is included in 1600 agreements, and it was in the past defended by left wing governments'*). I have found no support for this claim.

<sup>644</sup> Vanbesien (Groen) criticized the N-VA for denying Wallonia its institutional autonomy to reject CETA. Vanlouwe (N-VA) responded that he respected Wallonia's autonomy, but not with a veto that not only blocked itself but also the rest of the regions, while even Wallonia's industry was calling for CETA's ratification (he referred to a letter sent by employer federations to the parliament). Other countries like Romania or Bulgaria also took issue with some parts of the deal, but here they were trying to reap certain specific gains, while Wallonia seemed to protest only out of a sort of *'dogmatism'*.

Walloon parliament) for attacking CETA years after the mandate was approved, and years after the negotiations were concluded<sup>645</sup>.

A Flemish parliamentary resolution was submitted (and accepted) on the **13<sup>th</sup> of October**<sup>646</sup>, by N-VA, CD&V and Open VLD, which called on the Flemish government to *'further follow up on the ratification of, and to promote the Flemish government's supportive position on, CETA'*, taking into consideration *'the good relations that Canada and Flanders have cultivated for over twenty years, the importance of trade with Canada (especially for food, chemicals and pharmaceuticals), [...] the fact that Canada has been an important economic, political and cultural ally of the EU for over 60 years, [...] the large benefits that have been reaped by opening markets after the second world war, [...] the lowering [in CETA] of tariffs and the removal of trade barriers in goods and services at the national as well as provincial levels, [while] the precautionary principle remains untouched and cultural, audiovisual and public services remain excluded, [and the] many opportunities for frozen vegetables, processed potatoes, pork and fruit, [and] the inclusion of ICS which would serve as a precedent and example for future FTAs and might pave the way for a multilateral investment court, [as well as] for the first time the inclusion of a large chapter on sustainable development that protects our standards and creates a Civil Society Forum to monitor this chapter, [...] therefore that CETA is in accordance with all expectations related to offensive and defensive interests, [...] while non-ratification will inevitably lead to diplomatic loss of face, while threatening Flemish economic welfare.'*

On the **26<sup>th</sup>**, there was a final debate in the plenary. Vanbesien (Groen) thanked Paul Magnette on behalf of all Flemish citizens and SMEs, and attacked the minister-president for putting aside the parliaments in favor of multinationals. Türan argued that the public support for CETA had declined as the debates about it had become more thorough, referring to a poll that showed that one in three Flemish *'could understand'* Wallonia's resistance. Daems (Open VLD) countered that Canada resembled most closely one of the Scandinavian countries, that Vancouver was the greenest city in the world, and that it was therefore incomprehensible that Belgium couldn't agree on a deal that removed a few trade barriers. He compared the critics of CETA to Trump and other *'protectionist populists'*. Diependaele (N-VA) added that they did not dispute Wallonia's right to contest the deal, they were *'just wondering'* why they're resisting the deal only now, suddenly, if not for internal electoral gains in Wallonia. Van den Heuvel (CD&V) agreed to these remarks, and expressed his party's strong support for the deal. Vanbesien (Groen) then criticized the minister-president for first supporting ISDS in 2014 and then switching sides to supporting ICS once the international arena tilted this way. When this led to a sharp response by the minister-president, after which Tobback (sp.a) was denied an opportunity to intervene, sp.a and Groen left the chamber.

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<sup>645</sup> Another brief Q&A followed in October, in the committee for agriculture, fisheries and the countryside (C248, **10/16**), when Caron (Groen) asked minister Schauvliege why CETA did not protect Flanders' regional products (*mattentaarten, kasteelbier*, etc) even though other countries' products did get such protection in CETA. No one else participated in the debate, and Caron was *'put at ease'* by the minister's response that the list of GI's could still be expanded if necessary.

<sup>646</sup> CETA had also popped up in a debate in the external affairs' Commission (**10/16**), where Türan pointed out the large scale mobilization by a wide variety of CSOs (unions, consumer organizations, Greenpeace, the health funds, etc...) on TTIP, whose criticism also applied to CETA.

## In summary

There was not that much debate of CETA in the Flemish parliament, and the debate that did occur appeared brief and shallow. It remained in the shadow of TTIP, which was discussed more at length. The parties of the ruling coalition leaned heavily on economic arguments (also referring to letters sent by the employers), and lambasted the deal's opponents for being emotional and irrational. They often repeated that the negotiations had already been closed and that blocking the treaty now would be an embarrassment for Belgium and Flanders. On the opposing side, we can see a recycling of the arguments used by civil society (and by Walloon MPs). Much like at federal level, the dynamic was mostly that of a Q&A oriented at minister-president Bourgeois; there were very little lengthy interventions or discussions.

### Wallonia's regional parliament

The first questions about CETA in the Walloon parliament were asked in **2011**. The accord popped up in the response of then minister-president for the PS, Rudi Demotte, who discussed it in his response to a question by Fourny (cdH) about the strengthening of the ties with Quebec, and the mutual recognition of qualifications (in the context of service-related migration) between Belgium and Québec. Demotte's response is discussed in the section on decision-makers' preferences. The same debate recurred later that year (C.R.I.C. N° 11 (2011-2012), **11/11**), when de Coster-Bauchau (MR) said that, in the light of the long-standing relationship with Canada, a global economic agreement would be a logical step. The mutual recognition of qualifications, in particular, would be a big opportunity for Wallonia and Brussels, offering Walloons mobility to a growing economy in demand of workers. He inquired about Wallonia's and Belgium's initiatives to do this bilaterally, and the steps already taken in the context of CETA (the acronym was not used).

As far as I can tell, this was followed by two years of radio silence.

In the **fall of 2014**, a series of hearings was organized on TTIP. In November the parliament heard out Demarty (DG Trade) and minister-president Magnette, in December they met with Defraigne (Sciences Po), Lebeau (CNE) and Poncelet (FGTB). However, in the sideline of this process, CETA also popped up. 6 October Hazée (Ecolo) argued that CETA actually posed many of the same problems as TTIP, in particular ISDS but also a number of other dimensions at the level of social and environmental dumping. CETA was being used to introduce investor-state arbitration to EU trade deals, as a kind of Trojan horse precedent for future deals. Following an alert launched by the CNCD about the conclusion of the treaty, Ecolo had already written a concerned letter to the minister-president. Now they again wanted to know what Wallonia's position had been in the recent intra-Belgian meetings, which prepared the Belgian position on the conclusion of the accord (C.R.I.C. N° 9 (2014-2015)). CETA was discussed a second time in **December 2014** (C.R.I.C. N° 56 (2014-2015)), during one of the hearings that the parliament had begun organizing on TTIP. It was brought up by the speaker from the Walloon **Christian public services' union**, which put TTIP in line of a wider group of new-generation agreements, like TTIP, CETA and TiSA. In response to his exposé (and that of Pierre Defraigne and Bruno Poncelet), Hazée (Ecolo) underscored that he now understood that the debate was not just about free trade, but about the nature of our

democracy. However, it was not clear for him what had been concluded in CETA, or what exactly was said in the texts. His colleagues, **Ryckmans** (Ecolo), **Waroux** (cdH) and **Zrihen** (PS) mostly discussed TTIP, but all three also referred to the growing protest movement among citizens against the treaties (more generally), and discussed some of the FTAs' faults in more general terms: *'the transatlantic treaties'*.

The real debate about CETA got going in **2015**. Most of the in-depth work occurred in the EU affairs committee. In February 2015, there was a hearing on TTIP with Marie Arena (MEP, PS), which included a discussion of CETA (C.R.I.C. N° 87 (2014-2015), EU-2-15). In April, CETA was also mentioned in the margins of a hearing on TiSA with Demarty (DG Trade) and Lieben (socialist public services' union). In June, there was a hearing dedicated to CETA and TiSA, although most of the debate focused on this latter negotiation; the expert guests were Bloem (foreign affairs, Belgium) and Kerneis (European Services Forum). Later that month, another hearing invited the same guests; this time a more substantial discussion of CETA unfolded. Also in July, there was a hearing on the same two treaties, but this time only with Cermak from the CNCD. This was repeated in September, now with prof. Defraigne (Science Po) and Kunsch from the Christian Labor Movement. In November, a special hearing with prof. Matray (Liege University) zoomed in on investor-state dispute settlement, December's gathering with Clarke (EPSU) again went back to TiSA and CETA. This process was continued in **2016**. In January the EU affairs committee met with Commissioner Malmström (C.R.I.C. N° 96 (2015-2016)), followed by an audition with prof. De Ville in April (C.R.I.C. N° 134 (2015-2016)). In March, the parliament voted in its pivotal resolution, yet this did not mean the hearings now ended. In October the committee still met with Lametti (parliamentary secretary of the Canadian minister of international trade, Chrystia Freeland), Kohler (UN economist), Lepiece (lawyer, CMS DeBackerà), Paquot (UWE), again with Cermak (CNCDà 11.11.11) and finally with Duvivier and Delogne (FUGEA) ((C.R.I.C. N° 10 (2016-2017)). There were lengthy plenary discussions of the treaty in March, May and October.

I will not cover all of this parliamentary discourse in detail. In part because there is simply far too much of it (the parliament really did take this task seriously, so it seems), but also because most of the debates and arguments actually change very little over time. So I will limit myself to a brief summary of a selected handful of discussions, to demonstrate this continuity.

During a **plenary in May 2015** (C.R.I.C N° 16 (2014-2015) - **Mercredi 6 mai**), there was a debate about the parliament's resolution on TTIP, in which CETA was discussed as well. Zrihen (PS) argued that a big and unique group of trade unions, NGOs, environmental organizations, health funds and others had risen against the treaties. She stated that *'the CNCD [had] told them'* that these treaties were a menace for workers' rights, health, the environment, and perhaps most worryingly, for the democratic process. These organizations were demanding a clear political signal: a dismissal of CETA, because this deal would function as a *'Trojan Horse'* once in place, allowing US firms to use investment arbitration through Canada. Opposing ISDS in TTIP would be pointless if CETA got through. She announced that: *'au nom du groupe socialiste, je peux affirmer aujourd'hui que le CETA en l'état, s'il devait être ratifié devant le Parlement wallon, serait refusé par le groupe PS'* – unless a set of demands was met. **Ryckmans (Ecolo) offered a similar discussion of TTIP and CETA, and then proposed another demand to be added to the parliamentary resolution: that the**

government needed to reject CETA, and should not allow Belgium to sign '*TTIP's Trojan Horse*' unless it was strongly revised. **Antoine** (cdH), joined these previous speakers in thanking the communities, the UCM, the health funds, the trade unions, et cetera, for taking position on this topic. However, he argued that Ryckman's proposal on CETA should not be added to the resolution on TTIP, because they had not performed the same amount of serious work on this treaty. Although they would not support a CETA that included investor-state arbitration, the treaties still needed to be scrutinized one at a time; TTIP and CETA were in many ways very different. Ryckman's amended resolution was not adopted, the PS and cdH abstained '*in the interest of coherence*', because they wanted to do more work and have a good clear picture of the accord first, even though they claimed to have supported its '*spirit*' (C.R.I.C N° 17 (2014-2015)).

During the committee hearing with Kunsch **in the fall of 2015**, Sampaoli (PS) claimed that their party supported balanced trade deals, and trade as such, but that trade preferences should never take precedence over social and environmental rights. She again called CETA a '*Trojan Horse*', but now also underscored the agricultural dimension as '*crucial*', critiques that were echoed by Simonet (cdH) – who also linked the FTAs to tax avoidance. Similarly, Ryckmans (Ecolo) made clear that they supported multilateral trade agreements, but were highly critical of ISDS, negative listing (especially in relation to public services), and regulatory cooperation. Like before, Antoine (cdH) was at this stage far more sedate: he emphasized that TTIP and CETA were very different accords, with the exception of ISDS, and that the relations with Canada, a culturally very similar country, were good. Finally, the sole clear ally of CETA, Bouchez (MR), expressed his doubts over the economic analyses of the Christian movement, and was highly critical of Kunsch' discourse. He parried the democratic criticism, saying that the mandate had been given by democratic representatives, and called the response to ISDS '*exaggerated*': it would not replace our legal system, and there were already so many of these mechanisms in place worldwide.

This debate was repeated along the same general lines throughout 2015 and 2016. For instance, during the **plenary session of April 2016**, Zrihen once more praised the large mobilization of the citizenry, and criticized CETA because it would be harmful to European values and identities, and would endanger the European social model through its inclusion of negative listing and ISDS/ICS. Although they were '*not anti-atlantic nor anti-commercial*', they therefore supported the resolution, which asked Wallonia's executive to not grant to the federal level the competence to sign the treaty. Similarly, Simonet (cdH) argued that although trade deals were good for peace, development and growth, there '*need[ed] to be clear limits*'; her critique, too, focused on ISDS and CETA's potential role as a litigation highway for US multinationals. She also spent some time discussing the dangers for SMEs and agriculture, referring to the resistance of the UCM. Ryckmans and Hazée (Ecolo) built on similar arguments to support the resolution: ISDS/ICS, negative listing, regulatory cooperation, and the very broad mobilization in Wallonia and the EU. Drang-Firket (MR) acknowledged that there were many actors against CETA, but argued that there were also many in favor of the deal. He called on the parliament to slow down its process, and to first hear AWEX in the hearings and to consult better with Flanders. The MR saw CETA as a balanced accord, which took account of

standards and norms of the EU, while ISDS was nothing new. It claimed that studies of the FEB and UWE had proven that CETA would also be beneficial for SMEs.

Finally, consider the plenary debate **on CETA and the interpretative declaration of 14 October 2016**<sup>647</sup>. Here, Zrihen (PS) argued that they had been working on this deal for two years now, and that troubles remained irregardless of the interpretative declarations that were being being released 'drop by drop'. She listed the following defects: regulatory cooperation, the inclusion of ICS, the favoring of multinationals over SMEs, the dangers for food safety, the precautionary principle and agriculture. She expressed strong doubts about the contents of the interpretative declaration, and whether it would be legally binding. Simonet (cdH) furthermore denied that Wallonia was isolated, and claimed that Canada was in fact trying to get Wallonia on board by altering the interpretative declaration. Because CETA was a mixed agreement and a model for future deals, it had been (and remained) their duty to properly investigate it. However, the interpretative declaration did not seem to alter the deal, and there was still no safeguard for agriculture. She furthermore feared for job losses. Ecolo largely echoed these critiques, and joined the previous speakers in more praising civil society's politicizing work. In this session there was also an intervention by the PTB, as Gillot lambasted the interpretative declaration as a mere communication trick, denounced ICS, and cheered on the contestation of CETA as an important victory for social movements. The isolated MR, on the other hand, argued that the entire showdown was very bad for Belgian-Canadian relations, for Belgium's international standing, and for Wallonia's economy: blocking the treaty would inflict direct harm, since many of Wallonia's firms produced intermediates that were used for exports elsewhere in the EU. If they had criticisms of the treaty, the PS, cdH and Ecolo should have raised them while the negotiations were still on-going - over two years ago.

### **In summary**

After a near-total lack of attention for the treaty throughout the negotiations an intense parliamentary process kicked off after 2014. First as an issue that was trailing TTIP, but especially from 2015 on increasingly also as a stand-alone dossier. CETA underwent a highly unusual amount of parliamentary attention: dozens of hearings with experts and civil society, a string of committee and plenary debates, and ultimately two (at least seemingly) influential resolutions. The debates were heavily dominated by the opponents of the deal (cdH, Ecolo, the PS), with the MR as the

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<sup>647</sup> There were also two debates in the **agricultural committee**. In June 2015, Desquesnes (cdH) expressed his worry over the lack of geographical indications in CETA (*'only 10% of the total protected in the EU'*), and the total lack of Walloon indications. However, at this time, the response of minister Collin (agriculture, cdH), that the protections within the EU stayed the same and that more products could be added in CETA, soothed him<sup>647</sup> (C.R.I.C. N° 161 (2014-2015) - **Lundi 15 juin 2015**). Later, in a hearing about 'the milk crisis', Ryckmans (Ecolo) argued that the resistance against the FTAs by the farmers demonstrated the risks of further opening agricultural markets to competition from North-America (C.R.I.C. N° 188 (2014-2015) - **Jeudi 3 septembre 2015**).

In the **committee on economy and innovation**, there was a single question about CETA directed at Jean-Claude Marcourt (minister for external commerce, PS) by Bouchez (MR). The MP enquired as to the interests of Walloon firms in CETA/Canada, and what efforts to develop economic relations with Canada had been undertaken. Marcourt refused to answer questions about CETA (referring him to Maignette). He only gave an overview of the companies and sectors active in Canada, and the economic-diplomacy missions/activities that had been organized (C.R.I.C. N° 54, **12/15**).

treaty's sole supporter. It must be noted however that cdH became a fiercer opponent of CETA in 2016, while before it had tried to qualify the mixing of CETA with TTIP. The PS was quite critical very early on in the process, but postponed (along with cdH) a resolution calling for the government's open opposition to the treaty. By 2016 this reticence had dissolved, and they supported the highly critical resolution of April 2016.

It's clear that there was a lot of overlap between the parliamentary criticisms of CETA, and the claims made by the deal's societal opponents - the UCM and the farmers, but especially the trade unions, the health funds and the CNCD. These were also well represented in the committee's hearings, and their role was praised almost as a mantra: again and again, the progressive MPs referred to, quoted from, and rejoiced about the CSOs' campaign. At least rhetorically, it appeared as if these MPs were driven by the near-univocal pressure of their citizenry. In terms of substance, the MPs' arguments focused on the dangers of ISDS for democracy and the right to regulate (notably through its role as a 'Trojan Horse' for US multinationals), on the threat posed to public services by negative listing, on the effects for European agriculture, and on the lack of truly enforceable sustainable development (labor, environment) provisions. There was also occasional criticism of CETA's effects on growth and employment, and its detrimental influence on health and food standards.

## **Interviews**

1. 11.11.11 (2) - 21/03/2016.
2. ABC - 21/04/2017.
3. ABVV - 23/05/2016.
4. ACV - 12/05/2016.
5. AD-Unit NLD (retired) - 31/08/2017.
6. AD Unit NLD - 13/12/2016.
7. Agoria - 08/06/2017.
8. Agoria (2) - 24/08/2017.
9. Agricultural Department Flanders - 11/05/2016.
10. Boerenbond - 27/04/2016.
11. Cabinet Reynders 12-15 - 21/04/2017.
12. Christian Health Fund - 21/04/2016.
13. CNCDD - 22/02/2017.
14. COV - 21/03/2017.
15. CSO Coordinator NLD - 25/08/2017.
16. D19-20 - 17/11/2016\*.
17. DGE5 - 25/05/2016.
18. DiV (1) - 27/04/2016.
19. DiV (2) - 31/03/2017.
20. ex-DG Trade - 08/04/2016.
21. ex-Holland Solar - 08/08/2017.
22. FEBIAC - 06/07/2016.
23. Federal Government - Anonymous - 2017.
24. Fedustria (1) - 09/11/2016.
25. Fedustria (2) - 28/06/2017.
26. FEVIA - 01/06/2017.
27. FME - 12/06/2017.
28. FME Food & Agri - 08/08/2017.
29. FNV - 01/02/2017.
30. FOD Economie (1) - 24/07/2017.
31. FOD Economie (2) - 26/06/2016.
32. FOD Economie (3) - 24/04/2016.
33. Follow the Money - 21/02/2017.
34. Foodwatch - 27/01/2017.
35. Former DiV - 05/04/2016.
36. Former DiV (2) - 27/06/2017.
37. Greenpeace BE - 22/11/2016\*.
38. Greenpeace NL - 31/07/2017.
39. Head of IMH - 04/05/2017.
40. IG Metall - IGM Brussels Office - 2016.
41. LTO Nederland - 10/03/2017.
42. MFA - 08/02/2017.
43. Milieudefensie - 20/01/2017.
44. Ministry of Economics - 24/02/2017.
45. MP (Ecolo-Wallonia) - 12/12/2016.
46. MP (Groen-Federal) - 19/09/2016.



47. MP (Groen-Flemish) - 10/11/2016.
  48. MP (MR-Federal) - 27/10/2016.
  49. MP (N-VA - Flemish) - 16/11/2016.
  50. MP (Open Vld - Flemish) - 25/10/2016.
  51. MP (PS - Federal) - 14/12/2016.
  52. MP (sp.a - Federal) - 14/07/2016.
  53. Netherlands Maritime Technology - 24/02/2017.
  54. No Transat - 20/06/2017.
  55. NZO - 02/10/2017.
  56. PV Vlaanderen - 23/08/2017.
  57. SER Secretariat - 14/02/2017.
  58. Stakeholder management - Flanders - 23/06/2016.
  59. Test-Aankoop - 19/04/2016.
  60. TNI 1 - 14/04/2017.
  61. TNI 2 - 14/04/2017.
  62. UCM - 17/07/2017.
  63. UNETO-VNI - 7/08/2017.
  64. UWE - 24/06/2016.
  65. VBO (1) - 25/06/2016.
  66. VBO (2) - 30/06/2017.
  67. VNO-NCW - 31/08/2017.
  68. VNO-NCW BXL - 31/03/2017.
  69. VNW - 26/04/2017.
  70. VOKA - 14/07/2016.
  71. WBI - 23/06/2016.
  72. WBI (2) - 14/07/2017.
  73. E-Mail - BCZ - 08/06/2017.
  74. E-Mail - Belgian Brewers - 12/06/2017.
  75. E-Mail - Consumentenbond - 14/08/2017.
  76. E-Mail - Essencia - 12/06/2017.
  77. E-Mail - FEBEV - 07/06/2017.
  78. E-Mail - FNLI - 30/05/2017.
  79. E-Mail - PV Vlaanderen - 23/08/2017.
  80. E-Mail - Voka - 12/12/2017.
- \* Interviews (two) with an asterix were not performed by me, but by my colleague Niels Gheyle.

## References

- 4 Mei Coalitie. (2015). Trans-Atlantische handelsakkoorden: Het Belgische middenveld slaat de handen in mekaar tegen deze ondemocratische dereguleringsakkoorden. Retrieved from <https://www.participer.stop-ttip.be/groups/17/files/177/download>
- 4 Mei Coalitie. (2016). Open brief aan de Belgische regeringen en parlementen. Retrieved from <https://www.acv-online.be/Images/Open-brief-Belgische-regeringen-en-parlementen-CETA-TTIP-Oktober-2016-tcm183-395446.pdf>
- Abdelal, R., & Meunier, S. (2010). Managed globalization: doctrine, practice and promise. *Journal of European Public Policy*, 17(3), 350–367. <http://doi.org/10.1080/13501761003662040>
- Adriaensen, J. (2014). *Politics without Principals : National Trade Administrations and EU Trade Policy*. Leuven: LINES.
- Agence Europe. (1998). Council admits that the new transatlantic marketplace cannot be discussed at the Euro-American summit -closer ties must be based on the transatlantic agenda.
- Agence Europe. (2009). CETA negotiations planned to begin in October.
- Agence Europe. (2010a). Economy and climate on agenda of annual bilateral summit.
- Agence Europe. (2010b). Reaffirmation of free trade commitment.
- Agence Europe. (2011, June 8). Canada - challenges of free-trade agreement.
- Agence Europe. (2012a). Canada - free trade agreement possible in 2012.
- Agence Europe. (2012b). Disagreements remain on free trade negotiations.
- Agence Europe. (2012c). Encouraging even playing field in international procurement.
- Agence Europe. (2012d). Free-trade negotiations on home straight.
- Agence Europe. (2012e). Merkel wants to settle matter of Chinese solar panels.
- Agence Europe. (2013a). Announcement on free trade agreement apparently imminent.
- Agence Europe. (2013b). Barnier and Harper reach initial free trade agreement.
- Agence Europe. (2013c). CETA - row over settlement of investor/state disputes.
- Agence Europe. (2013d). Chinese solar glass comes under anti-subsidy investigation.
- Agence Europe. (2013e). Commission caught in Council crossfire.
- Agence Europe. (2013f). De Gucht wants more free trade concessions from Ottawa.

Agence Europe. (2013g). Difficulties on agriculture in free trade negotiations.

Agence Europe. (2013h). EU hopes to seal free-trade agreement by summer.

Agence Europe. (2013i). France wants negotiated settlement for solar panels.

Agence Europe. (2013j). Free trade - difficult talks on agriculture.

Agence Europe. (2013k). Ottawa wants exemption on financial services.

Agence Europe. (2013l). Slim chance of free trade agreement before G8.

Agence Europe. (2014a). Citizens' initiative to stop TTIP negotiations.

Agence Europe. (2014b). Delay in starting off free trade agreement.

Agence Europe. (2014c). Environmental NGOs warn of tar sand oil threat in CETA and TTIP.

Agence Europe. (2014d). European industry feels abandoned over chinese solar panels.

Agence Europe. (2014e). Free-trade agreement - ISDS is an issue.

Agence Europe. (2014f). Free-trade agreement could be thrown out by European Parliament.

Agence Europe. (2014g). Malmström tries to placate Germany on TTIP/CETA and ISDS.

Agence Europe. (2014h). Ottawa summit seals conclusion of trade agreement.

Agence Europe. (2015a). Germany and France want to review ISDS clause in CETA.

Agence Europe. (2015b). Malmström reveals her ideas of ISDS.

Agence Europe. (2015c). Support in Council for Malmström's ISDS ideas.

Agence Europe. (2015d). TTIP and ISDS reform on EU ministers' agenda.

Agence Europe. (2016a). Agreement on new approach for protecting investments in CETA.

Agence Europe. (2016b). Battle to convince Wallonia to allow Belgium to agree to signing of CETA.

Agence Europe. (2016c). Call for CETA signing and ratification and continuation of TTIP talks.

Agence Europe. (2016d). Christian Kern reiterates Austria's reservations about CETA.

Agence Europe. (2016e). Commission proposes signature of CETA as mixed agreement.

Agence Europe. (2016f). Council satisfied CETA respects criteria of transparency and

balanced agreement.

Agence Europe. (2016g). EU's signature of CETA threatened by Walloon veto.

Agence Europe. (2016h). EU28 use interpretative declaration to secure signature of CETA.

Agence Europe. (2016i). EU and Canada sign CETA free-trade agreement.

Agence Europe. (2016j). European Council wants TTIP talks to continue and majority wants CETA mixity.

Agence Europe. (2016k). Germany now able to approve EU signing CETA but Belgium still nowhere near this.

Agence Europe. (2016l). More time for talks with Belgium with a view to signing CETA on 27 October.

Agence Europe. (2016m). Protection for Greek feta.

Agence Europe. (2016n). Romania threatens to block signature of CETA.

Agence Europe. (2016o). Uncertainty about next stage in getting CETA signed.

Agence Europe. (2016p). Walloon government wants guarantees before Belgium signs CETA.

Agence Europe. (2016q). Walloon parliament refuses to allow Belgian government to sign CETA.

Agence Europe. (2017). European Parliament ratifies CETA and opens door for provisional implementation from 1 April.

Agoria. (2016a). CETA: volgende stappen en voordelen voor bedrijven. Retrieved from <https://www.agoria.be/nl/CETA-volgende-stappen-en-voordelen-voor-bedrijven>

Agoria. (2016b). Worden de Belgen de "Brexiteers" van het Europees handelsbeleid? Retrieved from <https://www.agoria.be/nl/Worden-de-Belgen-de-Brexiteers-van-het-Europees-handelsbeleid>

Ahmad, N. (2013). Estimating trade in value-added: why and how? In D. Elms & P. Low (Eds.), *Global value chains in a changing world* (pp. 85–133). Geneva: WTO Publications.

Algemene Onderwijsbond. (2014). WOB - Document 23 - Brief aan minister Ploumen.

Alons, G. (2010). *Against the grain. French and German Preference Formation on Agricultural Trade during the GATT Uruguay Round*. Nijmegen: RU Radboud Universiteit Nijmegen.

Alons, G. (2011). *Explaining Trade Preferences in the European Union. Paper prepared for the ECPR Standing Group on the EU, 12-16 April*.

Alons, G. (2013). European external trade policy: the role of ideas in German

- preference formation. *Journal of Contemporary European Research*, 9(4), 501–520.
- Arto, I., Rueda-cantuche, J. M., Amores, A. F., & Dietzenbacher, E. (2015). *EU Exports to the World: Effects on employment and income*. Luxembourg: Publications Office of the European Union. <http://doi.org/10.2791/63383>
- Asbeek Brusse, W. (1997). *Tariffs, Trade and European Integration*. London: Macmillian Press LTD.
- Bailey, D., & Bossuyt, F. (2013). The European union as a conveniently-conflicted counterhegemon through trade. *Journal of Contemporary European Research*, 9(4), 560–577.
- Baldwin, M. (2006). EU trade politics – heaven or hell? *Journal of European Public Policy*, 13(6), 926–942. <http://doi.org/10.1080/13501760600838698>
- Bauer, M. (2015). Campaign-triggered mass collaboration in the EU's online consultations: the ISDS-in-TTIP case. *European View*, 14(1), 121–129. <http://doi.org/10.1007/s12290-015-0346-6>
- Beach, D., & Pedersen, R. B. (2013). *Process-Tracing Methods: Foundations and Guidelines*. Ann Arbor: The University of Michigan Press.
- Beach, D., & Pedersen, R. B. (2016). *Causal case study methods. Foundations and guidelines for comparing, matching and tracing*. Michigan: University of Michigan Press.
- Belderbos, R., Roggeman, T., Sleuwaegen, L., & Van Hove, J. (2013). Internationale handel in diensten en de positie van Vlaanderen. *Steunpunt IV Working Paper, Nr. 7*. Retrieved from <https://lirias.kuleuven.be/handle/123456789/446810>
- Bengtsson, B., & Hertting, N. (2013). Generalization by Mechanism: Thin Rationality and Ideal-type Analysis in Case Study Research. *Philosophy of the Social Sciences*, 44(6), 707–732. <http://doi.org/10.1177/0048393113506495>
- Bennett, A. (2015). Disciplining our conjectures: systematizing process tracing with Bayesian analysis. In A. Bennett & J. T. Checkel (Eds.), *Process Tracing: From Metaphor to Analytic Tool*. Cambridge: Cambridge University Press.
- Bennett, A., & Checkel, J. T. (2015). Process tracing: from philosophical roots to best practices. In A. Bennett & J. T. Checkel (Eds.), *Process Tracing: From Metaphor to Analytic Tool*. Cambridge: Cambridge University Press.
- Bernasconi-Osterwalder, N., & Johnson, L. (2011). *Belgium's Model Bilateral Investment Treaty: A review*. Winnipeg: International Institute for Sustainable Development. Retrieved from <http://www.iisd.org/library/belgiums-model-bilateral-investment-treaty-review>
- Beyers, J. (2004). Voice and Access - Political Practices of European Interest Associations. *European Union Politics*, 5(2), 211–240. <http://doi.org/10.1177/1465116504042442>
- Beyers, J., Braun, C., & Haverland, M. (2015). Plus ça change, plus c'est pareil:

- European integration and interest group politics in the Low Countries. In H. Vollaard, J. Beyers, & P. Dumont (Eds.), *European Integration and Consensus Politics in the Low Countries* (pp. 134–154). London: Routledge.
- Beyers, J., & Kerremans, B. (2012). Domestic Embeddedness and the Dynamics of Multilevel Venue Shopping in Four EU Member States. *Governance*, 25(2), 263–290. <http://doi.org/10.1111/j.1468-0491.2011.01551.x>
- Bieler, A. (2005). European Integration and the Transnational Restructuring of Social Relations: The Emergence of Labour as a Regional Actor? *Journal of Common Market Studies*, 43(3), 461–484. <http://doi.org/10.1111/j.0021-9886.2005.00565.x>
- Bierbrauer, E. (2014). Negotiations on the EU-Canada Comprehensive Economic and Trade Agreement ( CETA ) concluded. *DG EXPO Paper*. Retrieved from [http://www.europarl.europa.eu/RegData/Fetudes/FIDAN/F2014/F536410/FEXPO\\_IDA%25282014%2529536410\\_EN.pdf&usg=AOvVaw2nOaMf2EiptpTCq56q8dkb](http://www.europarl.europa.eu/RegData/Fetudes/FIDAN/F2014/F536410/FEXPO_IDA%25282014%2529536410_EN.pdf&usg=AOvVaw2nOaMf2EiptpTCq56q8dkb)
- Boerenbond. (2016a). CETA, doodsteek voor de Vlaamse veehouderij? Retrieved from <https://www.boerenbond.be/actualiteit/ceta-doodsteekhttps://www.boerenbond.be/actualiteit/ceta-doodsteek-voor-de-vlaamse-veehouderijk-voor-de-vlaamse-veehouderij>
- Boerenbond. (2016b). De agro-foodsector en CETA. *Presentation for VLEVA - 28 September 2016*, (september).
- Bollen, Y., & De Ville, F. (2016). Economy of Belgium. In Europa Publications (Ed.), *Western Europe 2017*. London: Routledge.
- Bollen, Y., De Ville, F., & Gheyle, N. (2016). From nada to Namur: national parliaments' involvement in trade politics, the case of Belgium. *Paper Prepared for the State of the Federation Conference, Ghent University, 20 December 2016*.
- Bollen, Y., De Ville, F., & Orbie, J. (2016). EU trade policy : Persistent liberalisation , contentious protectionism. *Journal of European Intergration, Forthcoming*.
- Bollen, Y., Deraus, M., De Ville, F., Gheyle, N., Orbie, J., & Van den Putte, L. (2015). Belgium's role in EU Trade Policy. *Studia Diplomatica*, 68(2), 73–90.
- Bourdet, Y., & Persson, M. (2012). Completing the European Union Customs Union: The Effects of Trade Procedure Harmonization. *Journal of Common Market Studies*, 50(2), 300–314. <http://doi.org/10.1111/j.1468-5965.2011.02203.x>
- Bouwen, P. (2002). Corporate lobbying in the European Union: the logic of access. *Journal of European Public Policy*, 9(3), 365–390. <http://doi.org/10.1080/13501760210138796>
- Bouwens, B. (2015). Competition and Varieties of Coordination. In K. Sluyterman (Ed.), *Varieties of Capitalism and Business History - The Dutch Case*. New York: Routledge.
- Bown, C., & Crowley, M. (2013). Import protection, business cycles, and exchange rates: Evidence from the Great Recession. *Journal of International Economics*, 90(1),

- Bown, C. P. (2011). Taking Stock of Antidumping, Safeguards and Countervailing Duties, 1990-2009. *The World Economy*, 34(12), 1955-1998. <http://doi.org/10.1111/j.1467-9701.2011.01388.x>
- Braun, C. (2016). Het Nederlandse poldermodel langs de democratische meetlat. In M. Keune (Ed.), *Nog steeds een mirakel? De legitimiteit van het poldermodel in de eenentwintigste eeuw*. Amsterdam: Amsterdam University Press.
- Broz, L., & Werfel, S. (2014). Exchange Rates and Industry Demands for Trade Protection. *International Organization*, 68(2), 393-416.
- Burgoon, B. (2010). Betwixt and between? The European Union's redistributive management of globalization. *Journal of European Public Policy*, 17(3), 433-448. <http://doi.org/10.1080/13501761003661893>
- CBS. (2012). *Hernieuwbare energie in Nederland 2011*. The Hague: Centraal Bureau voor de Statistiek.
- CBS. (2014). *Internationaliseringsmonitor 2014 - Vierde kwartaal*. The Hague: Centraal Bureau voor de Statistiek.
- CBS. (2015a). *Internationaliseringsmonitor 2015 - Derde kwartaal - Multinationals*. The Hague: Centraal Bureau voor de Statistiek.
- CBS. (2015b). *Internationaliseringsmonitor 2015 - Eerste kwartaal*. The Hague: Centraal Bureau voor de Statistiek.
- CBS. (2016). *Internationaliseringsmonitor 2016-II-Agribusiness*. The Hague: Centraal Bureau voor de Statistiek.
- Clift, B., & Woll, C. (2012). Economic patriotism: reinventing control over open markets. *Journal of European Public Policy*, 19(3), 37-41. <http://doi.org/10.1080/13501763.2011.638117>
- Comino, A. (2007). A Dragon in Cheap Clothing: What Lessons can be Learned from the EU-China Textile Dispute? *European Law Journal*, 13(6), 818-838. <http://doi.org/10.1111/j.1468-0386.2007.00392.x>
- Consumentenbond. (2013). Zonnepanelen ondanks heffing nog steeds aantrekkelijk. Retrieved from <https://www.consumentenbond.nl/energie-vergelijken/zonnepanelen-ondanks-heffing-nog-steeds-aantrekkelijk#no1>
- Coolsaet, R. (2011). Ontslagnemend Belgisch Buitenlands Beleid. *Internationale Spectator*, 65(5), 243-245.
- Coolsaet, R. (2014). *Belgie en zijn buitenlandse politiek: 1830-2015*. Leuven: Van Halewyck.
- Coolsaet, R. (2015). The quest for vital interests and objectives in the foreign policy of Belgium. *Studia Diplomatica*, 68(2), 9-24.
- Coolsaet, R., Dujardin, V., & Roosens, C. (2014). *Buitenlandse zaken in België*. Brussels:

Lannoo.

- Crespy, A. (2014). A Dialogue of the Deaf? Conflicting Discourses over the EU and Services Liberalisation in the WTO. *The British Journal of Politics & International Relations*, 16(1), 168–187. <http://doi.org/10.1111/1467-856X.12018>
- Crespy, A. (2016). *Welfare Markets in Europe - The Democratic Challenge of European Integration*. London: Palgrave Macmillan.
- Criekemans, D. (2010). *Foreign Policy and Diplomacy of the Belgian Regions : Flanders and Wallonia*. The Hague: Clingendael.
- Criekemans, D., & Catherine, E. N. (2011). De buitenlandse betrekkingen van Gemeenschap , het Waals Gewest en het Brussels Hoofdstedelijk Gewest. In M. Van den Wijngaert (Ed.), *Van een unitair naar een federaal België* (pp. 201–220). Brussels: Vlaams Parlement.
- Culpepper, D. (2011). *Quiet Politics and Business Power: Corporate Control in Europe and Japan*. Cambridge: Cambridge Studies in Comparative Politics.
- Curran, L. (2015). The impact of trade policy on global production networks: the solar panel case. *Review of International Political Economy*, 22(5), 1025–1054. <http://doi.org/10.1080/09692290.2015.1014927>
- da Conceição-Heldt, E. (2011a). *Negotiating Trade Liberalization at the WTO*. New York: Palgrave Macmillan.
- da Conceição-Heldt, E. (2011b). Variation in EU member states' preferences and the Commission's discretion in the Doha Round. *Journal of European Public Policy*, 18(3), 403–419. <http://doi.org/10.1080/13501763.2011.551078>
- da Conceição-Heldt, E. (2013). Do Agents "Run Amok"? A Comparison of Agency Slack in the EU and US Trade Policy in the Doha Round. *Journal of Comparative Policy Analysis: Research and Practice*, 15(1), 21–36. <http://doi.org/10.1080/13876988.2012.754152>
- Damro, C. (2006). The new trade politics and EU competition policy: shopping for convergence and co-operation. *Journal of European Public Policy*, 13(6), 867–886. <http://doi.org/10.1080/13501760600838565>
- de Beer, P. (2016). Afbrokkelende legitimiteit van het poldermodel. In M. Keune (Ed.), *Nog steeds een mirakel? De legitimiteit van het poldermodel in de eenentwintigste eeuw*. Amsterdam: Amsterdam University Press.
- De Bièvre, D., & Poletti, A. (2013). The EU in trade policy : From regime shaper to status quo power. In G. Falkner & P. Müller (Eds.), *EU Policies in a Global Perspective: Shaping or taking international regimes?* (pp. 20–37). London: Routledge.
- De Ville, F. (2013). The promise of Critical Historical Institutionalism for EU Trade Policy Analysis. *Journal of Contemporary European Research*, 9(4), 618–632.
- De Ville, F., & Orbie, J. (2014). The European commission's neoliberal trade discourse



- since the crisis: Legitimizing continuity through subtle discursive change. *British Journal of Politics and International Relations*, 16(1), 149–167. <http://doi.org/10.1111/1467-856X.12022>
- De Ville, F., & Vermeiren, M. (2016). *Rising Powers and Economic Crisis in the Euro Area*. London: Palgrave.
- Della Sala, V. (2015). Understanding the Crisis: Did EU Studies Get It Wrong? *Draft*.
- Destrooper, T. (2017). Belgium. In A. Bitonti & P. Harris (Eds.), *Lobbying in Europe* (pp. 59–68). London: Palgrave Macmillan.
- Devos, C., Bouteica, N., Ossenblok, K., & Moens, P. (2016). *Belgisch Federalisme*. Ghent: Academia Press.
- Devos, C., & Humblet, P. (2011). De toekomst van het sociaal overleg. In C. Devos, M. Mus, & P. Humblet (Eds.), *De toekomst van het sociaal overleg* (pp. vii–xi). Ghent: Academia Press.
- Devos, C., Lannoo, S., Ossenblok, K., Rommel, J., & Van Liefferinge, H. (2012). *Inleiding in de politieke besluitvormingstheorie*. Gent: Academia Press.
- Devuyt, Y. (2013). European union law and practice in the negotiation and conclusion of international trade agreements. *Journal of International Business & Law*.
- Dhyne, E., & Duprez, C. (2013). Structural dynamics of Belgium ' s foreign trade. *National Bank of Belgium - Economic Review*, (June 2013), 27–38.
- DiV. (2016). Informatievergadering Vrij- handelsakkoord EU-Canada en de Vlaamse prioriteiten in het EU-handelsbeleid, (september).
- Drache, D., & Trew, S. (2011). The politics and pitfalls of the Canda-EU Comprehensive Economic and Trade Agreement. In K. Hübner (Ed.), *Europe, Canada and the Comprehensive Economic and Trade Agreement* (pp. 77–78). New York: Routledge.
- Dreher, A., Gaston, N., & Martons, P. (2014). *Measuring Globalisation - Gauging its consequences*. New York: Springer. Retrieved from <http://globalization.kof.ethz.ch/>
- Drezner, D. (2014). *The System Worked - How The World Stopped Another Great Depression*. Oxford: Oxford University Press.
- Duprez, C., & Van Nieuwenhuyze, C. (2016). Belgium ' s inward and outward foreign direct investment. *National Bank of Belgium - Economic Review*, September 2016, 45–62.
- Dür, A. (2007a). Economic Interests and EU Trade Policy-Making. *Paper Presented at the Tenth Biennial Conference of the European Union Studies Association, Montreal, 17-19 May 2007*.
- Dür, A. (2007b). EU Trade Policy as Protection for Exporters: The Agreements with Mexico and Chile. *JCMS: Journal of Common Market Studies*, 45(4), 833–855.

<http://doi.org/10.1111/j.1468-5965.2007.00750.x>

- Dür, A. (2008). Measuring Interest Group Influence in the EU: A Note on Methodology. *European Union Politics*, 9(4), 559–576. <http://doi.org/10.1177/1465116508095151>
- Dür, A., & De Bièvre, D. (2007). Inclusion without Influence? NGOs in European Trade Policy. *Journal of Public Policy*, 27(1), 79–101. <http://doi.org/10.1017/S0143814X0700061X>
- Dür, A., & Elsig, M. (2011). Principals, agents, and the European Union's foreign economic policies. *Journal of European Public Policy*, 18(3), 323–338. <http://doi.org/10.1080/13501763.2011.551066>
- Dür, A., & Mateo, G. (2012). Who lobbies the European Union? National interest groups in a multilevel polity. *Journal of European Public Policy*, 19(7), 969–987. <http://doi.org/10.1080/13501763.2012.672103>
- Dür, A., & Mateo, G. (2013). Gaining access or going public? Interest group strategies in five European countries. *European Journal of Political Research*, 52(5), 660–686. <http://doi.org/10.1111/1475-6765.12012>
- Dür, A., & Mateo, G. (2014). Public opinion and interest group influence: how citizen groups derailed the Anti-Counterfeiting Trade Agreement. *Journal of European Public Policy*, 21(8), 1199–1217. <http://doi.org/10.1080/13501763.2014.900893>
- Dür, A., & Zimmerman, H. (2007). Introduction: The EU in International Trade Negotiations. *JCMS: Journal of Common Market Studies*, 45(4), 771–787. <http://doi.org/10.1111/j.1468-5965.2007.00747.x>
- Eberhardt, P., Feodoroff, T., Lui, E., Olivet, C., & Trew, S. (2013). *The right to say no : EU - Canada trade agreement threatens fracking bans EU - Canada trade agreement threatens fracking bans*. Brussels/Amsterdam: CEO, TNI and the Council of Canadians.
- Eberhardt, P., & Olivet, C. (2012). *Profiting from injustice*. Brussels/Amsterdam: CEO and TNI. Retrieved from <https://www.tni.org/files/download/profitfrominjustice.pdf>
- Eckhardt, J. (2010). The Evolution of EU Trade Policy towards China: The Case of Textiles and Clothing. In J. Men & G. Balducci (Eds.), *Prospects and Challenges for EU-China Relations in the 21st Century - The Partnership and Cooperation Agreement* (pp. 151–172). Brussels: Peter Lang.
- Eckhardt, J. (2011). Firm lobbying and EU trade policymaking: Reflections on the anti-dumping case against Chinese and Vietnamese shoes (2005–2011). *Journal of World Trade*, 45(5), 965–991.
- Eckhardt, J. (2013). EU Unilateral Trade Policy-Making: What Role for Import-Dependent Firms? *JCMS: Journal of Common Market Studies*, 51(6), 989–1005. <http://doi.org/10.1111/jcms.12059>
- Eckhardt, J., & Poletti, A. (2016). The politics of global value chains: import-

- dependent firms and EU-Asia trade agreements. *Journal of European Public Policy*, 23(10), 1543-1562. <http://doi.org/10.1080/13501763.2015.1085073>
- Egan, M., & Guimarães, H. (2017). Sub-national markets and trade policymaking in Canada and the US. *Paper Prepared for Presentation at the Nordic Political Science Association (NOPSA), University of Southern Denmark, Odense, August 8-11, 2017.*
- Ehrlich, S. (2009). How Common is the Common External Tariff?: Domestic Influences on European Union Trade Policy. *European Union Politics*, 10(1), 115-141. <http://doi.org/10.1177/1465116508099763>
- Eliasson, L. J. (2015). The Transatlantic Trade and Investment Partnership: Interest groups and public opinion. *Paper Presented at the 14th Biennial Meeting of the European Union Studies Association, Boston, March 5-7.*
- Elsig, M. (2010). European Union trade policy after enlargement: larger crowds, shifting priorities and informal decision-making. *Journal of European Public Policy*, 17(6), 781-798. <http://doi.org/10.1080/13501763.2010.486975>
- Elsig, M., & Dupont, C. (2012). European Union Meets South Korea: Bureaucratic Interests, Exporter Discrimination and the Negotiations of Trade Agreements. *JCMS: Journal of Common Market Studies*, 50(3), 492-507. <http://doi.org/10.1111/j.1468-5965.2011.02243.x>
- Engelen, E. (2016). De keerzijde van het polderwonder. In M. Keune (Ed.), *Nog steeds een mirakel? De legitimiteit van het poldermodel in de eenentwintigste eeuw.* Amsterdam: Amsterdam University Press.
- Ethier, W. (2006). Selling "Protection for Sale." *PIER Working Paper*, (06-014). Retrieved from <http://ssrn.com/abstract=907077>
- Ethier, W. (2011). The political economy of protection. In D. Bernhofen, R. Falvey, D. Greenaway, & U. Kreickemeier (Eds.), *Palgrave Handbook of International Trade* (pp. 295-320). Houndmills: Palgrave Macmillan.
- EuDA. (2013). ANNUAL REPORT 2013 - European dredging , a maritime success story. Retrieved from [https://www.european-dredging.eu/pdf/EuDA\\_13.pdf](https://www.european-dredging.eu/pdf/EuDA_13.pdf)
- EuDA. (2015). ANNUAL REPORT 2015- A global puzzle of government interventions. Retrieved from [https://www.european-dredging.eu/pdf/EuDA\\_15.pdf](https://www.european-dredging.eu/pdf/EuDA_15.pdf)
- European Commission. (2011). *A trade SIA Relating to the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada.* Retrieved from [www.eucanada-sia.org](http://www.eucanada-sia.org)
- Evenett, S. J., & Vermulst, E. (2005). The Politicisation of EC Anti-dumping Policy: Member States, Their Votes and the European Commission. *The World Economy*, 28(5), 701-717. <http://doi.org/10.1111/j.1467-9701.2005.00701.x>
- Fairbrother, M. (2010). Trade policymaking in the real world: Elites' conflicting worldviews and North American integration. *Review of International Political Economy*, 17(2), 319-347. <http://doi.org/10.1080/09692290903208040>

- Falke, A. (2005). German Trade Policy: The Decline of Liberal Leadership. In M. Hanns (Ed.), *Germany's Uncertain Power*. London: Palgrave.
- Fedustria. (2016a). Protectionisme betekent verarming, 1-2.
- Fedustria. (2016b). TTIP en CETA opgeven is het verkeerde antwoord, 1-2.
- Financial Times. (2014). Karel De Gucht : Frustrated and outflanked.
- FNV. (2015). Brief aan de voorzitter en de leden van de vaste commissie voor Buitenlandse Handel en Ontwikkelingssamenwerking in de Tweede Kamer.
- FNV. (2016). Brief aan AC BHO Tweede Kamer.
- FNV, SOMO, TNI, Foodwatch, Greenpeace, & Milieudefensie. (2016). Joint letter to the Commission of Foreign Affairs and Trade of the Tweede Kamer.
- Foodwatch. (2015). Gelekt: Omstreden investeringsbescherming als eis van de EU in handelsverdrag opgenomen. Retrieved from <http://www.foodwatch.org/nl/pers/persberichten/persberichten-detail/gelekt-omstreden-investeringsbescherming-als-eis-van-de-eu-in-handelsverdrag-opgenomen/>
- Foodwatch. (2016). 8 Redenen tegen CETA. Retrieved from <http://www.foodwatch.org/nl/onze-campagnes/onderwerpen/standpunt-ttip/meer-info/8-redenen-tegen-ceta/>
- Ford, L. (2013). EU trade governance and policy: a critical perspective. *Journal of Contemporary European Research*, 9(4), 578-596.
- Fraussen, B., Beyers, J., & Donas, T. (2015). The Expanding Core and Varying Degrees of Insiderness: Institutionalised Interest Group Access to Advisory Councils. *Political Studies*, 63(3), 569-588. <http://doi.org/10.1111/1467-9248.12112>
- Fritz, T. (2015). *Public services under attack*. Brussels: Association Internationale de Techniciens, Experts et Chercheurs (AITEC), Corporate Europe Observatory (CEO), European Federation of Public Services Unions (EPSU), Instytut Globalnej Odpowiedzialności (IGO), Transnational Institute (TNI), Vienna Chamber o.
- FWBW. (2009). Note de politique internationale 2009-2014.
- FWBW. (2014). Note de politique internationale 2014 - 2019.
- Garcia, M. (2010). Fears and Strategies : The European Union , China and their Free Trade Agreements in East Asia. *Journal of Contemporary European Research*, 6(4), 496-513.
- Garcia Molyneux, C. T. (2001). *Domestic Structure and International Trade - The Unfair Trade Instruments of the United States and EU*. Portland: Hart Publishing.
- Gastinger, M. (2016). The tables have turned on the European Commission: the changing nature of the pre-negotiation phase in EU bilateral trade agreements. *Journal of European Public Policy*, 23(9), 1367-1385.

<http://doi.org/10.1080/13501763.2015.1079233>

- Gawande, K., & Krishna, P. (2003). The Political Economy of Trade Policy: empirical approaches. In K. Choi & J. Harrigan (Eds.), *Handbook of international trade* (pp. 213–251). Oxford: Blackwell Publishing Ltd.
- Gerlach, C. (2006). Does Business Really Run EU Trade Policy? Observations about EU Trade Policy Lobbying. *POLITICS*, 26(3), 176–183.
- Gerring, J. (2010). Causal Mechanisms: Yes, But... *Comparative Political Studies*, 43(11), 1499–1526. <http://doi.org/10.1177/0010414010376911>
- Geurts, G. (2016). *Achtergrondrapport manifest "Houd de boerderij" TTIP-vrij*. Online Report: TTIP en Landbouw-Campagne. Retrieved from <https://milieudefensie.nl/publicaties/rapporten/achtergrondrapport-manifest-houd-de-boerderij-ttip-vrij/view>
- Gheyle, N., & De Ville, F. (2017). Outside Lobbying and the Politicization of the Transatlantic Trade and Investment Partnership. In D. Dialer & M. Richter (Eds.), *Lobbying in the European Union: Successful Strategies and Techniques* (p. Forthcoming 2017). Springer.
- Gilbert, M. (2008). Narrating the Process: Questioning the Progressive Story of European Integration. *Journal of Common Market Studies*, 46(3), 641–662. <http://doi.org/10.1111/j.1468-5965.2008.00795.x>
- Gilbert, M. (2011). The EU crisis in Historical Perspective. In J. E. Fossum & J. A. Menendez (Eds.), *The European Union in Crises or the European Union as Crises?* (pp. 187–210). Oslo: ARENA.
- Gourevitch, P. (1986). *Politics in Hard Times*. New York: Cornell University Press.
- Groenewout, Y. V. J., Harryvan, A. G., & van der Harst, J. (2016). Hoe de Nederlandse keuken te klein werd: belangenbehartiging in Europa. In H. Vollaard, J. van der Harst, & G. Voerman (Eds.), *Van Aanvallen! naar verdedigen? De opstelling van Nederland ten aanzien van Europese integratie, 1945-2015*. Amsterdam: Boom Uitgevers.
- Grossman, G., & Helpman, E. (1994). Protection for Sale. *The American Economic Review*, 84(4), 833–850.
- Habraken, R., Meijs, L., Schulpen, L., Temmink, C., Habraken, R., Meijs, L., & Schulpen, L. (2013). Dutch civil society at crossroads. *Development in Practice*, 23(5–6), 742–754.
- Hammersley, M. (2014a). Methodological Paradigms in Social Research. *Blog Post*. Retrieved from <https://www.bera.ac.uk/wpcontent/uploads/2014/03/Methodological-Paradigms.pdf>
- Hammersley, M. (2014b). *The limits of social science*. London: Sage Publishing.
- Hanegraaff, M., Beyers, J., & Braun, C. (2011). Open the Door to More of the Same?

- The Development of Interest Group Representation at the WTO. *World Trade Review*, 10(4), 447–472. <http://doi.org/10.1017/S1474745611000310>
- Hanessian, G., & Kloes, M. (2011). How Dutch Bilateral Investment Treaties Offer Protection From International Tax. *Bloomberg BNA*, Published Online. Retrieved from <https://www.bna.com/dutch-bilateral-investment-n85>
- Hanson, B. T. (2003). What Happened to Fortress Europe? External Trade Policy Liberalization in the European Union. *International Organization*, 52(1), 55–85. <http://doi.org/10.1162/002081898550554>
- Hayes, J. P. (1993). *Making Trade Policy in the European Community*. London: Macmillian Press LTD.
- Hedström, P., & Bearman, P. (2009). What is Analytical Sociology All About? An Introductory Essay. In P. Hedström & P. Bearman (Eds.), *The Oxford Handbook Of Analytical Sociology* (pp. 3–25). Oxford: Oxford University Press.
- Hedström, P., & Udehn, L. (2009). Analytical Sociology and Theories of the Middle Range. In P. Hedström & P. Bearman (Eds.), *Oxford Handbook of Analytical Sociology* (pp. 25–50). Oxford: Oxford University Press.
- Hedström, P., & Ylikoski, P. (2010). Causal Mechanisms in the Social Sciences. *Annual Review of Sociology*, 36(1), 49–67. <http://doi.org/10.1146/annurev.soc.012809.102632>
- Hellema, D. (2014). *Nederland in de Wereld - De Buitenlandse Politiek van Nederland*. Houten: Uitgeverij Spectrum.
- Henisz, W., & Mansfield, E. (2006). Votes and Vetoes: The Political Determinants of Commercial Openness. *International Studies Quarterly*, 50, 189–211.
- Heron, T. (2007). European trade diplomacy and the politics of global development: Reflections on the EU-China “bra wars” dispute. *Government and Opposition*, 42(2), 190–214. <http://doi.org/10.1111/j.1477-7053.2007.00218.x>
- Heron, T. (2012). *The Global Political Economy of Trade Protectionism and Liberalization in Textiles and Clothing*. London: Routledge.
- Heydon, K. (2012). The political economy of international trade. In K. Heydon & S. Woolcock (Eds.), *The Ashgate research companion to international trade policy* (pp. 29–46). Surrey: Ashgate Publishing.
- Heywood, A. (2013). *Politics*. London: Palgrave Macmillan.
- Hiscox, M. (2002a). Commerce , Coalitions , and Factor Mobility : Evidence from Congressional Votes on Trade Legislation. *American Political Science Review*, 96(3), 1–16.
- Hiscox, M. (2002b). *International trade & political conflict. Commerce, Coalitions and Mobility*. Princeton: Princeton University Press.
- Hopewell, K. (2015). Multilateral trade governance as social field: Global civil society and the WTO. *Review of International Political Economy*, 22(6), 1128–1158.

<http://doi.org/10.1080/09692290.2015.1066696>

- Hübner, K., Balik, T., & Deman, A.-S. (2016). CETA: the Making of the Comprehensive Economic and Trade Agreement Between Canada and the EU. *Notes de l'Ifri, April 2016*.
- IDEA Consult. (2010). *Green Jobs - Final report*. Brussels: Idea Consult nv.
- IMF. (2013). *Trade Interconnectedness: The World With Global Value Chains*. IMF Policy Paper. Washington D.C. Retrieved from <http://www.imf.org/external/np/pp/eng/2013/082613.pdf>
- International Energy Agency. (2015). National Survey Report of PV Power Applications in Belgium 2015. *Online Report*. Retrieved from National Survey Report of %0APV Power Applications in %0ABelgium %0A2015
- Irwin, D. (1998). *Against the Tide: An Intellectual History of Free Trade*. Princeton, NJ: Princeton University Press.
- Jackson, P. T. (2011). *The Conduct of Inquiry in International Relations*. New York: Routledge.
- Jallab, M. S. (2006). Antidumping Procedures and Macroeconomic Factors: A Comparison between the United States and the European Union. *Global Economy Journal, 6*(3), 1-20.
- Jarman, H. (2008). The Other Side of the Coin: Knowledge, NGOs and EU Trade Policy. *Politics, 28*(1), 26-32. <http://doi.org/10.1111/j.1467-9256.2007.00307.x>
- Jessen, E. (2017). The Political Economy of CETA: Negotiating under Normative Constraints? *Prepared for the Nordic Political Science Congress 2017, University of Southern Denmark, 8-11 August 2017*.
- Karmakar, S. (2013). *The protectionist dog that didn ' t bark*. Retrieved from <http://www.bruegel.org/nc/blog/detail/article/1203-the-protectionist-dog-that-didnt-bark/>
- Keller, E. (2016). Noisy business politics: lobbying strategies and business influence after the financial crisis. *Journal of European Public Policy*, Published Online. <http://doi.org/10.1080/13501763.2016.1249013>
- Kersschot, M. (2015). Targeted lobbying on trade negotiations: firms, levels, strategies. *Steunpunt IV Working Paper, 2015*(26).
- Kersschot, M., Kerremans, B., & De Bièvre, D. (2014). Flanders' and Catalonia's capacity to exert control over EU PTA negotiations. *Steunpunt IV Working Paper, 2014*(17).
- Keune, M. (2016). Inleiding - De legitimiteit van het poldermodel in de eenentwintigste eeuw. In *Het Poldermodel - Nog Steeds een Mirakel?* Amsterdam: Amsterdam University Press.
- Klüver, H. (2013). *Lobbying in the European Union - Interest Groups, Lobbying Coalitions, and Policy Change*. Oxford: Oxford University Press.

- Klüver, H., Braun, C., & Beyers, J. (2015). Legislative lobbying in context: towards a conceptual framework of interest group lobbying in the European Union. *Journal of European Public Policy*, 22(4), 447–461. <http://doi.org/10.1080/13501763.2015.1008792>
- Knetter, M., & Prusa, T. (2003). Macroeconomic Factors and Antidumping Filings: Evidence from Four Countries. *NBER Working Paper*, 61(8010), 1–17. Retrieved from <http://www.nber.org/papers/w8010>
- Kockelmans, F. (2015). *De Nederlandse politiek sinds de nacht van Schmelzer - Van verzuiling tot versplintering*. Rotterdam: A.D. Donker.
- Kono, D. Y. (2009). Market structure, electoral institutions, and Trade Policy. *International Studies Quarterly*, 53(4), 885–906.
- Krajewski, M. (2012). The Reform of the Common Commercial Policy. In A. Bioni & P. Eeckhout (Eds.), *European Union Law after the Treaty of Lisbon*. Oxford: Oxford University Press.
- Krajewski, M. (2016). *Model clauses for the exclusion of public services from trade and investment agreements*. Vienna: Study commissioned by the Chamber of Labour Vienna and the European Federation of Public Service Unions. Retrieved from [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2892522](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2892522)
- Lake, D. (2009). Open economy politics: A critical review. *The Review of International Organizations*, 4(3), 219–244. <http://doi.org/10.1007/s11558-009-9060-y>
- Lang, A. (2009). Legal regimes and regimes of knowledge: governing global services trade. *LSE Law, Society and Economy Working Papers 15/2009*. Retrieved from <http://ssrn.com/abstract=1423538>
- Langan, M. (2009). ACP–EU Normative Concessions from Stabex to Private Sector Development: Why the European Union’s Moralised Pursuit of a “Deep” Trade Agenda is Nothing “New” in ACP–EU Relations. *Perspectives on European Politics and Society*, 10(3), 416–440. <http://doi.org/10.1080/15705850903105835>
- Langan, M. (2015). The moral economy of EU relations with North African states: DCFTAs under the European Neighbourhood Policy. *Third World Quarterly*, 36(10), 1827–1844. <http://doi.org/10.1080/01436597.2015.1071660>
- Larsén, M. F. (2007). Trade Negotiations between the EU and South Africa: A Three-Level Game. *JCMS: Journal of Common Market Studies*, 45(4), 857–881. <http://doi.org/10.1111/j.1468-5965.2007.00751.x>
- Les, S., Groote, O., Pepermans, G., & Verboven, F. (2016). Het Vlaamse subsidiebeleid voor zonnepanelen. *Leuvense Economische Standpunten*, 2016(160).
- Lieberman, E. S. (2005). Nested Analysis as a Mixed-Method Strategy for Comparative Research. *American Political Science Review*, 99(3), 435–452. <http://doi.org/10.2307/30038950>
- Little, D. (2010). *New Contributions to the Philosophy of History*. London: Springer.



- Louwerse, T. (2014). *Peilingwijzer 2012-2017*. Harvard Dataverse. <http://doi.org/doi:10.7910/DVN/25641>
- Luyten, D. (2011). Het Nationale/Federale Overleg in België: Een Historiek in Vogelvlucht. In C. Devos, M. Mus, & P. Humblet (Eds.), *De toekomst van het sociaal overleg* (pp. 1-12). Ghent: Academia Press.
- Magnette, P. (2017). *Quand l'Europe Déraile*. Waterloo: Éditions Luc Pire.
- Marin, D., Schymik, J., & Tscheke, J. (2015). Europe's export superstars. *Breugel Working Paper*, 2015(5). Retrieved from <http://bruegel.org/2015/07/europes-exports-superstar-its-the-organisation/>
- Mathieu, J. F., & Weinblum, S. (2013). The Battle Against Unfair Trade in the EU Trade Policy: A Discourse Analysis of Trade Protection. *Perspectives on European Politics and Society*, 14(2), 185-202. <http://doi.org/10.1080/15705854.2013.785263>
- McGuire, S. (2006). No more Euro-Champions? The interaction of EU industrial and trade policies. *Journal of European Public Policy*, 13(6), 37-41. <http://doi.org/10.1080/13501760600838573>
- Messerlin, P. (2001). *Measuring the Costs of Protection in Europe - European Commercial Policy in the 2000S*. Washington D.C.: Institute for International Economics.
- Meunier, S. (2000). What Single Voice? European Institutions and EU-U.S. Trade Negotiations. *International Organization*, 54, 103-135. <http://doi.org/10.1162/002081800551136>
- Meunier, S. (2005). *Trading Voices: The European Union in International Commercial Negotiations*. Princeton: Princeton University Press.
- Meunier, S., & Nicolaïdis, K. (1999). Who Speaks for Europe? The Delegation of Trade Authority in the EU. *JCMS: Journal of Common Market Studies*, 37(3), 477-501. <http://doi.org/10.1111/1468-5965.00174>
- Milieudefensie. (2014). WOB - Document 24 - Brief aan minister Ploumen.
- Milieudefensie. (2016a). Milieudefensie roep minister Ploumen op om motie CETA met kracht uit te voeren. Retrieved from <https://milieudefensie.nl/nieuws/pers/berichten/milieudefensie-roept-minister-ploumen-op-om-motie-ceta-met-kracht-uit-te-voeren>
- Milieudefensie. (2016b). Vijf dingen die je moet weten over CETA. Retrieved from <https://milieudefensie.nl/ceta/nieuws/vijf-dingen-die-je-moet-weten-over-ceta>
- Milner, H. (1988). *Resisting protectionism: Global industries and the politics of international trade*. Princeton: Princeton University Press.
- Milner, H. (2013). International trade. In W. Carlsnaes, T. Risse, & B. Simmons (Eds.), *Handbook of International relations* (pp. 720-745). London: Sage Publishing.
- NBB. (2013). *Jaarverslag 2012*. Brussels: Nationale Bank van België.
- Nelson, D. (2006). The political economy of antidumping: A survey. *European Journal*

- of *Political Economy*, 22(3), 554–590. <http://doi.org/10.1016/j.ejpoleco.2005.12.002>
- Niemann, A. (2004). Between communicative action and strategic action: the Article 113 Committee and the negotiations on the WTO Basic Telecommunications Services Agreement. *Journal of European Public Policy*, 11(3), 379–407. <http://doi.org/10.1080/13501760410001694237>
- Niemann, A. (2013). EU external trade and the treaty of lisbon: a revised neofunctionalist approach. *Journal of Contemporary European Research*, 9(4), 633–658.
- Nordström, H. (2011). The Political Economy of EU Anti-dumping Policy : Decoding Member States Votes. Unpublished draft.
- Oatley, T. (2010). Real Exchange Rates and Trade Protectionism. *Business and Politics*, 12(2), 1–17. Retrieved from [http://www.unc.edu/~toatley/REER\\_AIS.pdf](http://www.unc.edu/~toatley/REER_AIS.pdf)
- OECD. (2015). *OECD Economic Surveys - BELGIUM*. OECD Publishing. Retrieved from <http://www.oecd.org/eco/surveys/economic-survey-norway.htm>
- Orbie, J., & De Ville, F. (2014). A Boost to our Economies that Doesn't cost a cent': EU trade Policy Discourse since the crisis. In C. Carta & J.-F. Morin (Eds.), *EU Foreign Policy Through the Lense of Foreign Policy* (pp. 95–110). Farnham: Ashgate Publishing, Ltd.
- Orbie, J., & Kerremans, B. (2013). Theorizing European union trade politics: Contending or complementary paradigms? *Journal of Contemporary European Research*, 9(4), 493–500.
- Otjes, S. (2016). Stabiliteit en welvaart ter discussie. De posities van Nederlandse politieke partijen over het associatieakkoord met Oekraïne. In H. Aalt Willem (Ed.), *Het eerste raadgevend referendum - het EU-Oekraïne Associatieakkoord* (pp. 129–144). Den Haag: Montesquieu Instituut.
- Pianta, M. (2014). Slowing Trade: Global Activism Against Trade Liberalization. *Global Policy*, 5(2), 214–221. <http://doi.org/10.1111/1758-5899.12116>
- Plasschaert, S. (2016). Assessing the Solar Energy Dispute between the European Union and the People ' s Republic of China. *ECIPE Working Paper*, (1), 1–42. Retrieved from <https://www.tni.org/en/publication/making-sense-of-ceta-2nd-edition>
- Platteau, J., Van Gijsegem, D., & Van Bogaert, T. (2014). *Landbouwrapport 2014*. Brussel: Departement Landbouw en Visserij.
- Ploumen, L. (2016). Reset handelspolitiek: afscheid van wilde globalisering. *Internationale Spectator*, 70(5), 1–3.
- Poletti, A. (2012). *The European Union and Multilateral Trade Governance*. London: Routledge.
- Pomfret, R. (2008). *Lecture notes on International Trade Theory and Policy*. Hackensack, NJ: World Scientific Pub. Co.

- Poncelet, B., & Cherenti, R. (2011). *Le grand marché transatlantique: Les multinationales contre la démocratie*. Paris: Bruno Laprice.
- Posthumus, H., den Ridder, J., & de Hart, J. (2014). *Verenigd in verandering - Grote maatschappelijke organisaties en ontwikkelingen in de Nederlandse civil society*. The Hague: Sociaal en Cultureel Planbureau. Retrieved from [https://www.scp.nl/Publicaties/Alle\\_publicaties/Publicaties\\_2014/Verenigd\\_in\\_verandering](https://www.scp.nl/Publicaties/Alle_publicaties/Publicaties_2014/Verenigd_in_verandering)
- Powershift et al. (2016). *Making sense of CETA - 2nd edition*. Berlin: PowerShift and the Canadian Centre for Policy Alternatives. [http://doi.org/10.1016/S0277-5395\(00\)00081-9](http://doi.org/10.1016/S0277-5395(00)00081-9)
- Puccio, L. (2016). *A guide to EU procedures for the conclusion of international trade agreements*. European Parliamentary Research Service (Vol. PE593489). Brussels.
- PV Vlaanderen. (2013). Importheffing Chinese zonnepanelen: mogelijk ernstige gevolgen voor Vlaamse PV-sector. Retrieved from <https://www.ode.be/ode/publicaties/nieuwsbrief/11-zonnestroom3/1199-importheffing-chinese-zonnepanelen-mogelijk-ernstige-gevolgen-voor-vlaamse-pv-sector%0ADe>
- Quirk, J., & Vigneswaran, D. (2005). The construction of an edifice: the story of a First Great Debate. *Review of International Studies*, 31(1), 89–107. <http://doi.org/10.1017/S0260210505006315>
- Raza, W. (2016). Politics of scale and strategic selectivity in the liberalisation of public services – the role of trade in services. *New Political Economy*, 21(2), 204–219. <http://doi.org/10.1080/13563467.2015.1079172>
- Renard, T. (2015). A fragmented external policy? *Studia Diplomatica*, 68(2), 3–8.
- Ringer, F. (1997). *Max Weber's Methodology: The Unification of the Cultural and Social Sciences*. *Contemporary Sociology*. London: Harvard University Press. <http://doi.org/10.2307/2654307>
- Ringer, F. (2004). *Max Weber: An Intellectual Biography*. London: The University of Chicago Press.
- Rodrik, D. (2014). When Ideas Trump Interests : Preferences, Worldviews and Policy Innovations. *Journal of Economic Perspectives*, 28(1), 189–208.
- Rosamond, B. (2012). Supranational governance as economic patriotism? The European Union, legitimacy and the reconstruction of state space. *Journal of European Public Policy*, 19(3), 324–341. <http://doi.org/10.1080/13501763.2011.638119>
- Rosema, M., Kanne, P., & Klein Kranenburg, L. (2016). het “Oekraïne-referendum” in de ogen van kiezers. In H. Aalt Willem (Ed.), *Het eerste raadgevend referendum - het EU-Oekraïne Associatieakkoord* (pp. 101–128). Den Haag: Montesquieu Instituut.
- Rovegno, L., & Vandenbussche, H. (2011). A comparative analysis of EU

- Antidumping rules and application. *Institute for Economic and Social Research Discussion Paper, KUL, (2011-23)*. Retrieved from <http://sites.uclouvain.be/econ/DP/IRES/2011023.pdf>
- Schneider, C. Q., & Rohlfing, I. (2013). Combining QCA and Process Tracing in Set-Theoretic Multi-Method Research. *Sociological Methods & Research, 42*(4), 559–597. <http://doi.org/10.1177/0049124113481341>
- Schonhardt-Bailey, C. (2006). *From the Corn Laws to Free Trade*. London: MIT Press.
- SER. (2016). *TTIP - Advisory report 16/04E*. The Hague: SER.
- Siles-Brügge, G. (n.d.). Transatlantic Investor Protection as a Threat to Democracy: The Potency and Limits of an Emotive Frame. *Cambridge Review of International Affairs*, Forthcoming.
- Siles-Brügge, G. (2011). Resisting Protectionism after the Crisis : Strategic Economic Discourse and the EU - Korea Free Trade Agreement. *New Political Economy, 16*(5), 627–653.
- Siles-Brügge, G. (2013). The power of economic ideas: a constructivist political economy of EU trade policy. *Journal of Contemporary European Research, 9*(4), 597–617.
- Sluyterman, K. (2015). Dutch Changing Capitalism in International Perspective. In K. Sluyterman (Ed.), *Varieties of Capitalism and Business History - The Dutch Case* (pp. 201–220). New York: Routledge.
- Sluyterman, K., & Wubs, B. (2015). Multinationals as Agents of Change. In K. Sluyterman (Ed.), *Varieties of Capitalism and Business History - The Dutch Case* (pp. 157–182). New York: Routledge.
- Smith, M. (2014). EU-China relations and the limits of economic diplomacy. *Asia Europe Journal, 12*, 35–48. <http://doi.org/10.1007/s10308-014-0374-x>
- Solar Magazine. (2013). Aedes krijgt reactie op bezwaarbrief. Retrieved from <https://solarmagazine.nl/nieuws-zonne-energie/i737/aedes-krijgt-reactie-op-bezwaarbrief-importhedding-eu-stelt-heffing-te-handhaven>
- Teffer, P. (2017). Netherlands ratifies EU-Ukraine treaty. *EUObserver, May*, 5–9. Retrieved from <https://euobserver.com/foreign/138060>
- Timmer, M., Los, B., Stehrer, R., & de Vries, G. (2013). Fragmentation, incomes and jobs: an analysis of European competitiveness. *ECB Working Paper, 28*(1615). Retrieved from <http://ssrn.com/abstract=2354250>
- TNI, & SOMO. (2014). WOB - Document 26 - Brief aan Minister en Tweede Kamer.
- Touwen, J. (2014). *Coordination in Transition: The Netherlands and the world economy*. Leiden: Brill.
- TTIP-Alarm Coalitie. (2016). Open Brief aan de Tweede Kamer. Retrieved from <https://ttipalarm.nl/ttip-en-ceta/open-brief-ceta-aan-tweede-kamer/>

- Van Den Putte, L., De Ville, F., & Orbie, J. (2015). The EP as an international actor in trade: Making its power felt. In S. Stavridis & D. Irrera (Eds.), *The European Parliament and its International Relations* (pp. 52–69). New York: Routledge.
- Van Evera. (1997). *Guide to Methods for Students of Political Science*. New York: Cornell University Press.
- van Keulen, M., & Vollaard, H. (2016). Het Europees functioneren van het Nederlandse parlement. In H. Vollaard, J. van der Harst, & G. Voerman (Eds.), *Van Aanvallen! naar verdedigen? De opstelling van Nederland ten aanzien van Europese integratie, 1945-2015*. Amsterdam: Boom Uitgevers.
- van Keulen, P. (2017). The Netherlands. In A. Bitonti & P. Harris (Eds.), *Lobbying in Europe* (pp. 255–262). London: Palgrave Macmillan.
- van Os, R., & Knottnerus, R. (2011). *Dutch Bilateral Investment Treaties*. Amsterdam: SOMO. Retrieved from <https://www.somo.nl/nl/dutch-bilateral-investment-treaties/>
- Vancoppenolle, D., van der Steen, M., Noordegraaf, M., & van Twist, M. (2010). Politieke advisering in beweging. Een verkennende analyse van de positie- en rolverschillen tussen Vlaamse kabinetsmedewerkers en Nederlandse politiek assistenten. *Paper Prepare for Politicologenetmaal, May 2010, Leuven*. Retrieved from <https://soc.kuleuven.be/web/files/11/72/W1A-134.pdf>
- Vandaele, K., & Faniel, J. (2012). Geen grenzen aan de groei: de Belgische syndicalisatiegraad in de jaren 2000. *OVER.WERK, 2012(4)*, 124–132.
- Vandenbussche, H., & Viegelnahn, C. (2011). No Protectionist Surprises: EU Antidumping Policy Before and During the Great Recession No Protectionist Surprises: EU Antidumping Policy Before and During the Great Recession. *Institute for Economic and Social Research Discussion Paper, KUL, 2011–21*.
- VBO. (2014). EU en Canada sluiten handelsakkoord, (september 2014), 2014. Retrieved from [http://www.vbo-feb.be/actiedomeinen/internationaal/internationale-handel/eu-en-canada-sluiten-handelsakkoord\\_2014-10-08/](http://www.vbo-feb.be/actiedomeinen/internationaal/internationale-handel/eu-en-canada-sluiten-handelsakkoord_2014-10-08/)
- VBO. (2015). Zonder vrijhandel doen we niet meer mee. Retrieved from [http://www.vbo-feb.be/actiedomeinen/internationaal/internationale-handel/zonder-vrijhandel-doen-we-niet-meer-mee\\_2015-10-27/](http://www.vbo-feb.be/actiedomeinen/internationaal/internationale-handel/zonder-vrijhandel-doen-we-niet-meer-mee_2015-10-27/)
- VBO. (2016a). CETA: Wallonië maakt de juiste keuze. Retrieved from <http://www.vbo-feb.be/actiedomeinen/internationaal/internationale-handel/ceta-wallonie-maakt-de-juiste-keuze/>
- VBO. (2016b). Steun aan Vrijhandelsakkoord EU - Canada ( CETA ). Retrieved from [http://www.vbo-feb.be/actiedomeinen/internationaal/internationale-handel/steun-aan-vrijhandelsakkoord-eu-canada-ceta\\_2016-04-13/](http://www.vbo-feb.be/actiedomeinen/internationaal/internationale-handel/steun-aan-vrijhandelsakkoord-eu-canada-ceta_2016-04-13/)
- VBO. (2016c). Vrijhandelsakkoord centraal bij economische missie in Canada, (november), 2–3. Retrieved from <http://www.vbo-feb.be/actiedomeinen/internationaal/internationale->

handel/vrijhandelsakkoord-centraal-bij-economische-missie-in-canada-\_2015-11-10/

- VBO, Unizo, Boerenbond, AVED, VOKA, BECI, & UWE. (2016). CETA-Akkoord blokkeren uitgesloten voor Bedrijfswereld. Retrieved from [http://www.beci.be/nl/press\\_corner/hotnews/persberichten\\_van\\_beci/ceta\\_akkoord\\_blokkeren\\_uitgesloten\\_voor\\_bedrijfswereld/](http://www.beci.be/nl/press_corner/hotnews/persberichten_van_beci/ceta_akkoord_blokkeren_uitgesloten_voor_bedrijfswereld/)
- Verleden, F. (2016). De parlementaire cohesie van de regering- Michel. *Sampol*, 81(8), 72-81.
- Visser, J. (2016). Past de overlegeconomie nog in de wereld van globalisering en Europese integratie? In M. Keune (Ed.), *Nog steeds een mirakel? De legitimiteit van het poldermodel in de eenentwintigste eeuw*. Amsterdam: Amsterdam University Press.
- Walter, A. (2001). NGOs, business, and international investment: The multilateral agreement on investment, seattle, and beyond. *Global Governance*, 7(1), 51-73.
- Weber, E. (2007). Social Mechanisms, Causal Inference, and the Policy Relevance of Social Science. *Philosophy of the Social Sciences*, 37(3), 348-359. <http://doi.org/10.1177/0048393107303814>
- Winslett, G. (2016). How regulations became the crux of trade politics. *Journal of World Trade*, 50(1), 47-70.
- Woll, C. (2008). *Firm Interests - How Governments Shape Business Lobbying on Global Trade*. London: Cornell University Press.
- Woll, C. (2011). Who scripts European trade policies? Business-government relations in the EU-Canada partnership negotiations. In K. Hübner (Ed.), *Europe, Canada and the Comprehensive Economic and Trade Agreement* (pp. 41-58). New York: Routledge.
- Woll, C., & Artigas, A. (2007). When trade liberalization turns into regulatory reform: The impact on business-government relations in international trade politics. *Regulation & Governance*, 1(2), 121-138. <http://doi.org/10.1111/j.1748-5991.2007.00010.x>
- Woolcock, S. (2011). European Union trade policy: the Canada -EU Comprehensive Economic and Trade Agreement (CETA) towards a new generation of FTAs? In K. Hübner (Ed.), *Europe, Canada and the Comprehensive Economic and Trade Agreement* (pp. 21-40). New York: Routledge.
- World Bank. (2013). *Doing Business 2013*. Retrieved from <http://www.doingbusiness.org>
- Ylikoski, P. (2011). Social mechanisms and explanatory theory. In P. Demeulenaere (Ed.), *Analytical Sociology and Social Mechanisms* (pp. 154-172). Cambridge: Cambridge Studies in Comparative Politics. <http://doi.org/10.1017/CBO9780511488801.003>
- Ylikoski, P. (2015). Process-Tracing Methods: Foundations and Guidelines - Review.

*Contemporary Sociology*, 111(2), 634–635.

- Young, A. (2000). The Adaptation of European Foreign Economic Policy: from Rome to Seattle. *JCMS: Journal of Common Market Studies*, 38(1), 93–116. <http://doi.org/10.1111/1468-5965.00210>
- Young, A. (2007a). Trade Politics Ain't What it Used to Be: The Challenges for EU Policy and Analysis. *Paper Prepared for the EUSA Tenth Biennial International Conference, 17-19 May 2007, Montreal.*
- Young, A. (2007b). Trade Politics Ain't What it Used to Be: The European Union in the Doha Round. *Journal of Common Market Studies*, 45(4), 789–811. <http://doi.org/10.1111/j.1468-5965.2007.00748.x>
- Young, A. (2015). Liberalizing trade, not exporting rules: the limits to regulatory co-ordination in the EU's "new generation" preferential trade agreements. *Journal of European Public Policy*, 22(9), 1253–1275. <http://doi.org/10.1080/13501763.2015.1046900>
- Young, A., & Peterson, J. (2014). *Parochial Global Europe*. Oxford: Oxford University Press.
- Zimmermann, H. (2007). Realist power Europe? The EU in the negotiations about China's and Russia's WTO accession. *Journal of Common Market Studies*, 45(4), 813–832. <http://doi.org/10.1111/j.1468-5965.2007.00749.x>