

# **From nada to Namur: national parliaments' involvement in trade politics, the case of Belgium**

Yelter Bollen, Ferdi De Ville and Niels Gheyle  
Centre for EU-Studies, Ghent University

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## ***Abstract***

*In the past years we have seen a somewhat paradoxical evolution in EU trade politics. While the Lisbon Treaty was meant to facilitate the adoption of trade agreements by bolstering the exclusive supranational competence of the European Union, (sub-)national Parliaments have now become more involved in trade policy than ever before. We investigate this shift in involvement across the Belgian parliaments. In the past fifteen years, both the Federal, Flemish and Walloon parliament paid little attention to EU trade policy. This has changed since 2014, especially in Wallonia but also in the other assemblies. Combining a variety of sources, we conclude that several interacting factors have fuelled this increase in Parliamentary involvement. First, TTIP and CETA contain 'deep trade' provisions that have alerted MPs. Second, TTIP has generated an unseen amount of mobilisation and contestation, and this has led politicians (especially on the left and in the opposition) to join the fray as well. Finally, the asymmetry between the Walloon and federal governing coalitions have favoured a more activist opposition by Wallonia, while Flanders' centre-right coalition has remained supportive.*

## Introduction - EU trade policy-making after Lisbon

Although trade policy has been a supranational competence from the outset of European integration, there have always been political and judicial struggles over the exact scope of this competence and the division of labour among EU and national institutions (Young, 2000; Billiet, 2005). At its core, much of this debate has revolved around the trade-off between efficiency (by increasing supranational authority and Commission autonomy) and legitimacy: how can the EU negotiate and conclude ambitious agreements while at the same time safeguarding (sub)national interests and involvement (Meunier 2005)?

The Lisbon Treaty attempted to resolve this trade-off by transcending it (cfr. Woolcock 2010; Kleimann 2011; Devuyt 2013). On the one hand, the 'efficiency' dimensions was strengthened by expanding the scope of supranational competences (which now also cover services, intellectual property rights and foreign direct investment), thereby limiting the need for national (often: parliamentary) ratification. This change was necessary, it was argued, to make the EU a more reliable and efficient negotiating partner. On the other hand, the 'legitimacy' of the EU's trade policies was to be bolstered by expanding the role of the European Parliament (EP)<sup>1</sup>.

To some extent these reforms meant that democratic control over trade was being transferred from national assemblies to the European Parliament (Krajewski 2013)<sup>2</sup>. This move was not universally welcomed. For instance, some scholars pointed out that giving the European Parliament more power in trade may be welcomed from a *European* legitimacy/effectiveness point of view, but that (sub)national parliaments remain the most appropriate forum to discuss and decide on social objectives and (re)distributive consequences of trade agreements. Since the EU's new competences went well beyond classic 'at-the-border' instruments such as tariffs, expanding into the 'deep trade' zone of regulatory and normative issues (see Young, 2006), 'subsidiarity' did not clearly favour further Europeanization (Bossuyt, 2012; De Ville, 2012). Seen from this angle, the Lisbon Treaty changes did not overcome the fundamental trade governance question: how can we reconcile the benefits of (institutionalized) open trade, with the right of (sub)national authorities to pursue legitimate domestic policy goals? (De Ville, 2012; see also Rodrik, 2007; Howse & Nicolaïdis, 2003)

It is perhaps somewhat of a paradox, then, that the post-Lisbon decade has witnessed some of the most vocal and demanding interventions by national parliaments in EU trade politics to date. Whereas parliaments used to have formal power over the ratification phase, their interest and weight in trade decision making was in practice extremely limited. Yet now that their formal role has diminished, assemblies in Germany, Austria, Belgium and other countries have debated this policy to an extent seldom seen in the preceding decades. If anything, the post-Lisbon trade agenda seems

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<sup>1</sup> The EP was given co-decision powers in trade policy legislation. With respect to free trade agreements, the Treaty stipulated that the European Parliament has to be kept continuously informed by the European Commission about the state and progress of trade negotiations (in contrast to the Council, it does not have to give the Commission the authority to open negotiations) and that its consent (by a simple majority of its members) is required for an agreement to enter into force.

<sup>2</sup> A third reform of the Lisbon Treaty, bringing trade policy under the foreign policy umbrella of the treaty (without, however, making the European External Action Service responsible for the policy domain), is of less importance for this paper.

to have (re)invigorated the interest in, and potentially influence over, EU trade deals by national Parliaments.

In this paper, we seek to shed some light on this (apparent) paradox by looking at the Belgian case. Not only because of this country's immediate political significance, in light of Wallonia's manoeuvres to block the EU-Canada (CETA) deal in the autumn of 2016, but also because the difference between years of parliamentary neglect and the recent outburst of attention and contestation seems to be especially pronounced here. Our text is structured as follows. In the next section, we discuss the involvement of the Belgian parliaments in trade over the years, based on desk research and about fifteen interviews with decision-makers and stakeholders in Belgium. In the following section, we offer a number of explanations for the recent politicisation of European trade policy in Belgium. We conclude with some reflections about the implications of these developments for the future of EU trade policy.

## **National Parliamentary involvement in EU trade policy: the case of Belgium**

### ***Trade-Policy Making in Belgium***

Since the late 1980s, a series of constitutional reforms have completely altered the way that foreign- and trade policies are formulated in Belgium. The "Sint-Michiels Agreement" of 1993 granted the sub-national governments the ability to sign international agreements in matters where they held the exclusive competence. A non-hierarchical system was set in place, in which the federal level was primarily in charge of coordinating the other levels. Belgium could now no longer take any stance unless Wallonia, Brussels and Flanders (i.e. the communal/regional governments) were able to reach an agreement. Without consensus, Belgium would need to abstain. In 2001 and 2016, the remaining chunks of export policy were regionalized, along with federal funds and personnel.<sup>3</sup> These transitions were not always very smooth, and were often accompanied by inter-institutional struggles (Coolsaet, 2015).<sup>4</sup>

This devolution has led to (or has been accompanied by) the construction of regional trade administrations and export agencies, as well as the growth of an intensive process of coordination between the federal and sub-national levels, organized by the ministry of Foreign Affairs. This coordinative webbing has also spread to the sub-national levels, where various parties and departments now have to come to a *regional* (or communal) position as well. Flanders has dealt with this by creating institutions similar to those at the Federal level: with the support of his administration ('Department International Flanders') the Flemish minister of foreign trade<sup>5</sup> organizes (bi-)weekly consultations in

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<sup>3</sup> For example, the 'Belgian Service for International Trade' was transformed into the 'interfederal' 'Agency for Foreign Trade', and was to operate 'at the service' of the regional export-agencies that had been created in the 1990s.

<sup>4</sup> 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 prerogatives (Coolsaet, 2015). Moreover, there have been persistent concerns that the fragmentation of international trade policy is hampering the coherence as well as the pursuit of Belgian and sub-national trade interests. For example, minister of development Alexander De Croo recently launched a proposal to reverse some of this devolution in a variety of policy areas, including trade and development.

<sup>5</sup> This has almost always been the Flemish head of government, or 'minister-president'.

a 'Working group on EU Trade'; here, cabinet-members and technical personnel from all interested departments discuss policy positions drafted by 'International Flanders'. Wallonia's internal decision-making is less institutionalized, and relies on informal contacts between (the administration of) the Minister of Commerce, the regional and communal Heads of Government (in charge of foreign affairs), and the joint international affairs' administration of the Francophone Community and the Walloon Region, 'Wallonia-Brussels International'.

### ***Parliamentary Involvement***

The Belgian Parliaments are weak and subjugated players in the Belgian system, which is dominated by the parties in government. The real decisions are made in the administrations and at the inter-ministerial level, coordinating across the Belgian strata. There is little reasons to expect trade policy to be any different, especially since the 'formal' role of the Parliaments was always rather limited here (see *infra*). Apart from ratifying treaties, they could at most vote for non-binding resolutions.

Yet their lack of clear avenues for a strong *formal* role in the Belgian trade policy system does not necessarily exclude Parliamentary influence through other means. Non-binding resolutions, Parliamentary questions and hearings, as well as reports and interviews in public media can all put pressure on government policies. Individual members of Parliament can also build up expertise and a network of their own, for example within the cabinets or through influential stakeholders, that allows them to exert some control over the Belgian position. The Parliament can also serve as a 'bullhorn' or intermediary for societal (or interest group) demands.

On the basis of interviews with MPs as well as NGOs and trade officials, it seems that the Parliament has seldom attempted to play an autonomous role of much importance. As we will show, this has become less true in recent years.

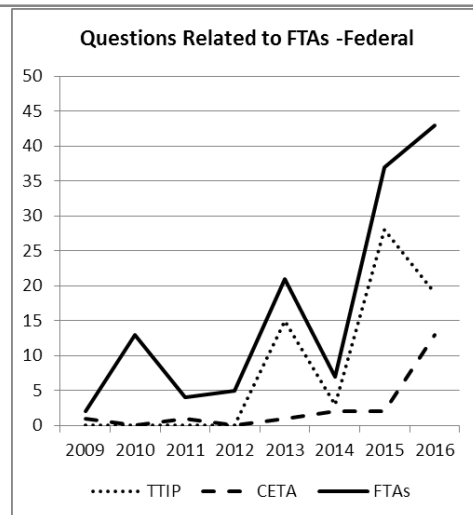
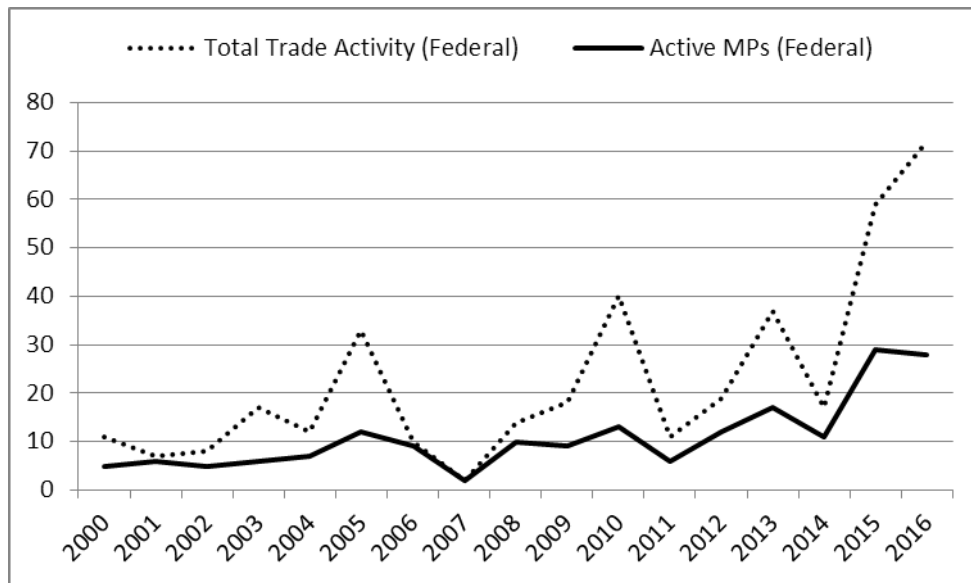
#### *Some Data: Parliamentary Scrutiny of Trade Issues*

Using the search engines from the Walloon, Flemish and Federal parliaments<sup>6</sup>, we have constructed a database of all trade-related questions (written and oral)<sup>7</sup>. As can be seen from the graphs, in all three the attention for trade issues has generally been low but has recently exploded.

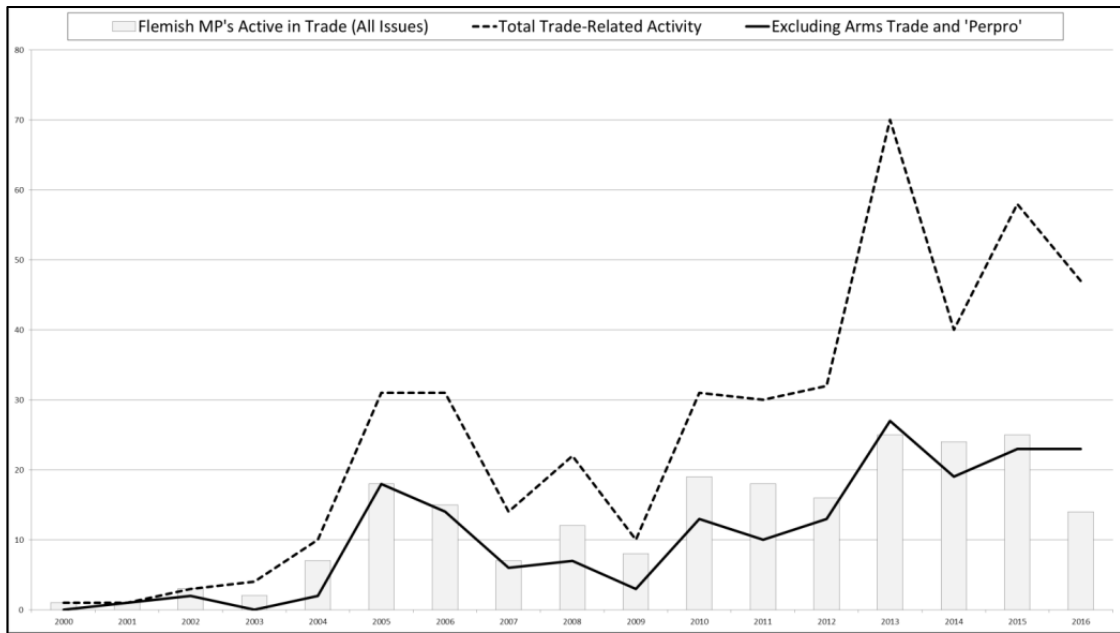
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<sup>6</sup> Long lists of keywords have been used to search for questions or resolutions that deal with trade policy. The list is available on demand.

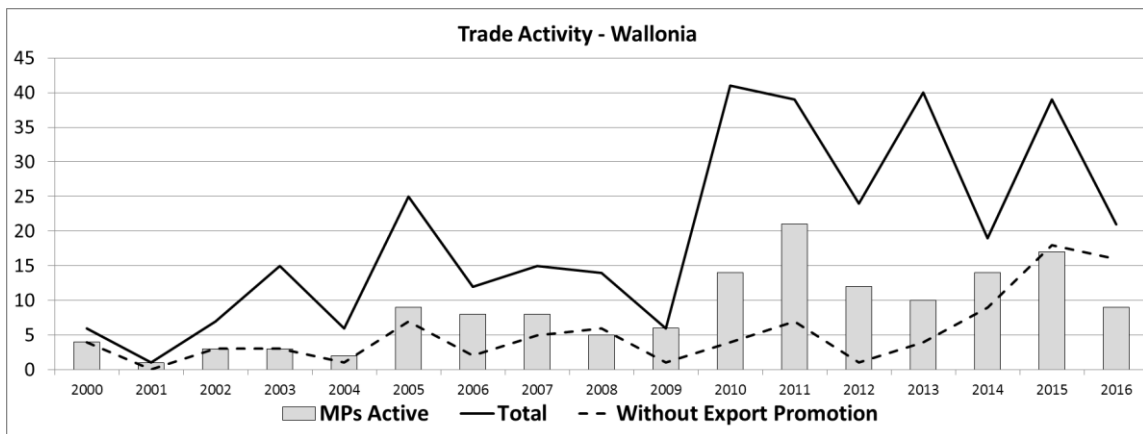
<sup>7</sup> The number of interventions isn't strictly comparable, because of differences in the size of the parliaments and the way the search engines function, but the changes should be marginal.

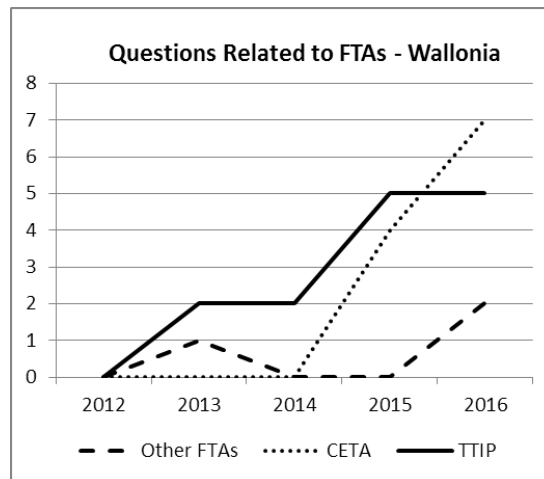


In the **federal parliament**, the attention paid to trade issues has generally been low, with peaks in interventions in 2005 (related to textiles and the Doha round), after 2009 (related to a wide variety of issues) and since 2012. The spike since 2014 is unprecedented. This dynamic is not wholly attributable to the increasing zeal of particular MP's (although some of the trends are driven by large batches of questions launched by individual representatives). As can be seen in the graph, it is also driven by an increase in the amount of MP's that are active in this theme.

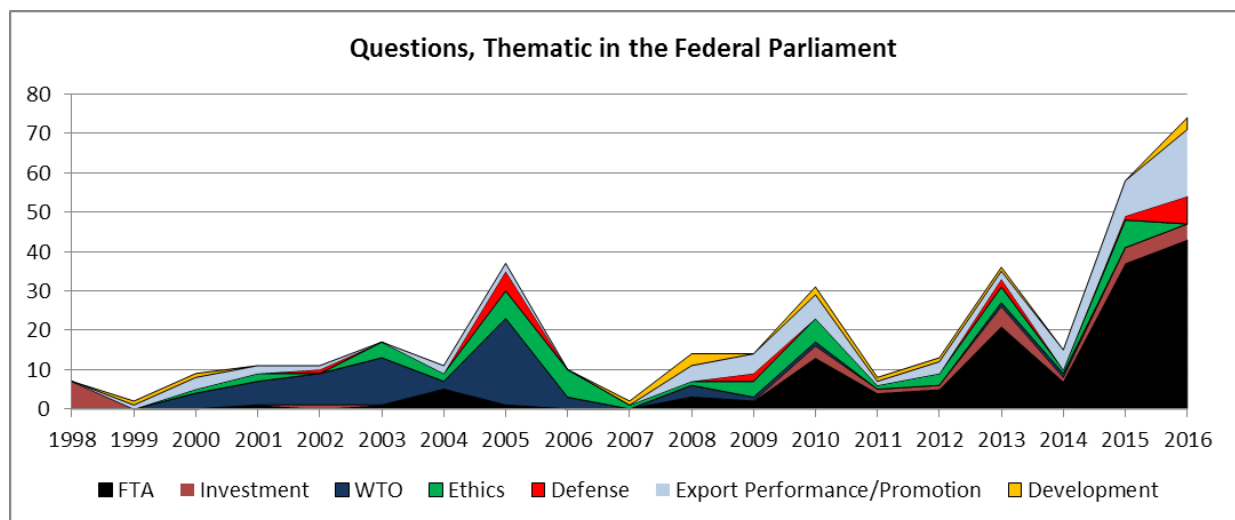


In the **Flemish parliament**, activity related to trade issues has been slowly increasing after 2009. A previous peak of activity had built up around 2005, but activity has matched or exceeded the 2005 count since 2010. Just like at the federal level, this activity is partly related to the growth of active MPs. We expect 2016 to be another peak year, since our count was finalized in September –before Wallonia’s temporary, yet passionately debated, refusal to sign CETA. If we included questions revolving around ‘Brexit’ it would already be outpacing 2015. However, only a minor part of this attention is directed at ‘EU’ trade policy directly. Most of the questions, furthermore, have almost always been about economic diplomacy, and the export performance of Flanders and Flemish business. We have thrown these into one category of ‘performance/promotion’. Excluding this, we can see the same basic trends but the difference compared to 2005 is less pronounced.

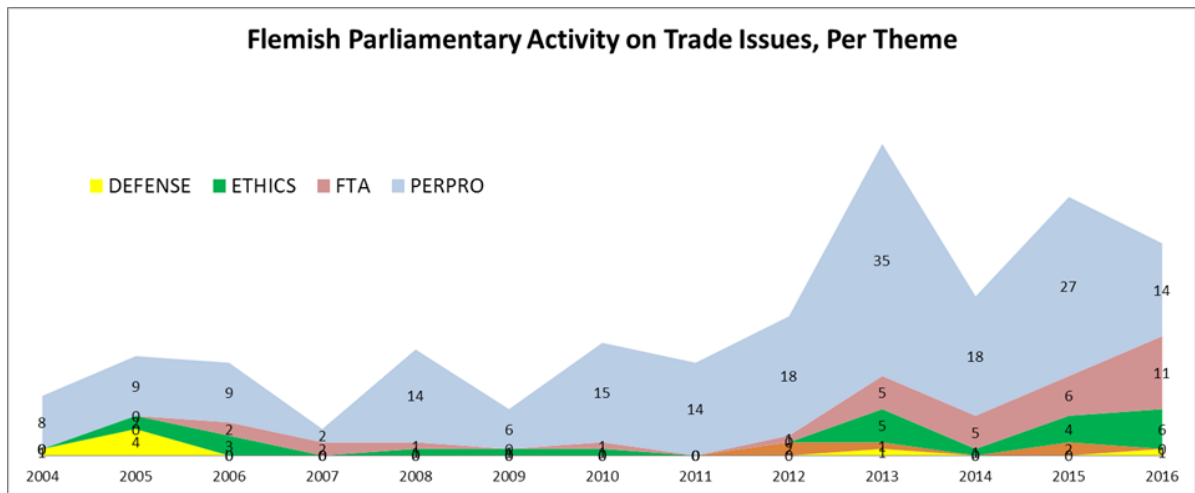




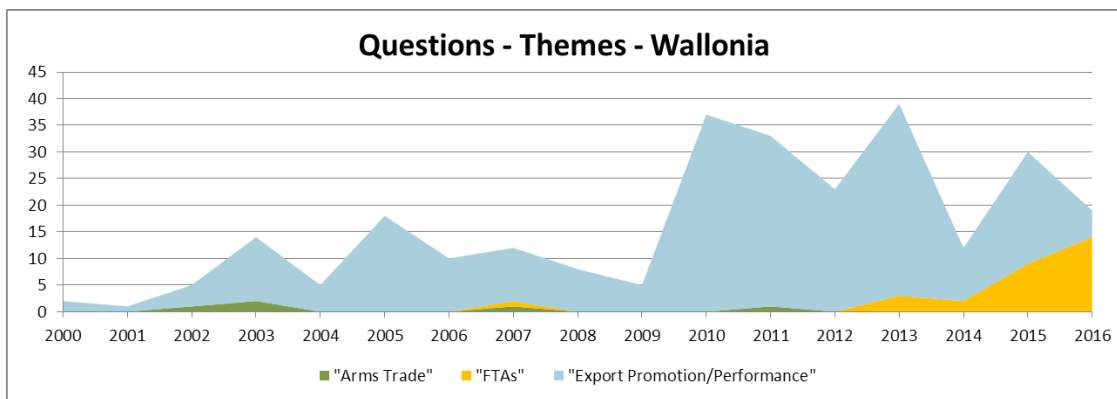
In the **Walloon parliament**, as in the other ones, there was a steady increase in attention after 2009, although this mostly disappears if we remove the export promotion/performance dimension. Non 'performance-related' (i.e. FTAs...) topics, however, have steadily grown in importance since 2012. Again this has been accompanied by a rise in the amount of active MPs, although the trend since 2012 is less pronounced.



Turning our attention to the substance of this activity, some thematic trends emerge. First of all: whereas the bulk of activity at the **Federal level** used to be (before 2006) oriented at the WTO, this shifted towards FTAs after the general trough in trade-related questions between 2006 and 2009. Secondly: peaks in activity seem to be accompanied by an increase in the concern for the 'ethical' dimension of trade. Thirdly: there has been constant attention for trade performance/promotion (including economic diplomacy), although not to the extent seen in the regional parliaments (see below). The interest in trade-related development issues (for example the EPA's) and trade defenses (anti-dumping, anti-subsidy, etc) has been more 'incidental'. Again, the graphs above show quite clearly how unprecedented the attention for TTIP is, and how CETA has followed in its footsteps.



Decomposing the data at the **Flemish level**, we can see that the latest increase is due to an uptick in the performance-related attention, but also due to an increase in the amount of questions about ‘FTAs’. We can also discern the 2005 peak, caused to some extent by the ‘textiles’ wars’ after the ‘Multi Fiber Agreement’ was phased out. Trade defenses have not attracted much attention in any other year, we counted only two further questions<sup>8</sup>. The recent attention for FTAs has been driven by TTIP and CETA. In line with the chronology of the politicization of these negotiations, TTIP started attracting attention before the older CETA deal, which thereafter followed in its slipstream. As can also be seen in the graphs, there has been a low but constant attention for what we have categorized as being ‘ethical’ concerns. These have also been elevated in recent years. This includes several questions related to the textiles industry, some general questions about ‘fair and sustainable trade’, and a handful of other subjects such as GMOs and child labour<sup>9</sup>.

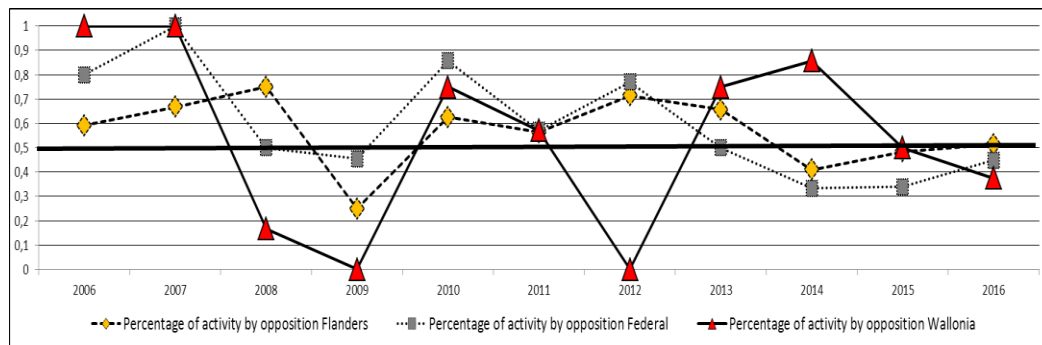


In **Wallonia**, the most dominant subject that has been discussed is the region’s export performance, and the various missions, meetings, campaigns etcetera organized to

<sup>8</sup> One related to the light-bulb dispute with China, the other related to China’s bid for ‘Market Economy Status (in 2016).

<sup>9</sup> A possible reason for the small number of questions on these ethical dimensions, is that we coded every question according to its main category, while the question itself could have included several sub-questions. For example, several inquiries concerned export promotion missions, but also (as a side question) include demands for information on human rights in the relevant country.

promote Walloon industry abroad<sup>10</sup>. This category also encapsulates the discussions over the internal institutions (i.e. AWEX) and the intra-Belgian cooperation dedicated to economic diplomacy. Clearly, the interest in this topic exploded after 2009. A series of other issues have at times caught the parliament's eye as well, but to a much more limited extent. After 2012 this has started changing, with the increasing scrutiny of TTIP and CETA. Here, once more the same picture emerges: growing attention for TTIP, followed and eventually surpassed by increasing scrutiny of CETA. Other FTAs have never attracted the same amount of attention.



Finally, in all parliaments, more (non 'promotion' related) activity has (usually) been initiated by the **opposition parties** than the governing parties, although this has leveled out in recent years. In Wallonia's case the reverse has been true since 2015, as the governing parties (PS, cdH) have raised more questions than the MR. Of course, government/opposition dynamics are complicated in the Belgian setting, because the federal and regional coalitions are not necessarily symmetric. The MR, for example, is currently part of the federal but not the Walloon government.

### Interviews

Next to composing these general figures on the rough 'quantitative' trends in parliamentary scrutiny, we have also conducted a series of interviews with Flemish, Walloon and Federal MPs to substantiate these findings. We also looked at the substance of parliamentary debates, hearings and resolutions, while using GoPress to perform a cursory analysis of the press' coverage of recent events.

First of all, our interviewees confirmed that Parliamentary **attention** for trade policy has generally been very low, at least until TTIP, and that this had seldom been a divisive, partisan issue. This is true for all Parliaments, not just the national one. In the Flemish parliament, for example, past, discussion had often been limited to the economic missions undertaken by Belgium and the regions. With the exception of arms' trade, there was seldom any discussions or larger debate on trade (or foreign) policy, which also reflected the lack of real, politically salient cleavages among the parties. Asked for the percentage of their time spent on trade (in 2016, so after TTIP became a relatively big issue), several of our respondents estimated this was at most about 5-10%, while it was even less in the past. This makes MPs dependent on the expertise (and agenda-setting) of outside players such as NGOs.

<sup>10</sup> To be fair, this finding may be produced by the way Wallonia's search engine works. We've been working on going through the committee hearings manually.

Secondly, our interviewees confirmed that Parliamentary *ratification* has almost always been a pro-forma – or ‘rubber-stamping’ – procedure. One interviewee could recall only one instance in which the Parliament defied the government by refusing to ratify a signed agreement, the EU-Israel Association Agreement. Yet even here, the Parliament eventually yielded to government pressure and ratified the deal. More generally, the MPs were aware of the constraints that the Belgium system imposes on parliamentary action. They did not believe that the parliamentary debates in themselves had much power to shape 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 MPs from the governing parties, making use of informal channels to influence decision making at an earlier stage is more likely to bear fruit.

As is also evident from our interviews, however, parliamentary work on trade has picked up tremendously in **recent years**. Most of this activity has revolved around the controversial deals with the US and Canada. In Flanders for example, TTIP has received a rare amount of parliamentary attention: not only have the negotiations been discussed in multiple debates, they have also been the subject of hearings with academics, stakeholders and EU/US diplomats and politicians. Even MPs from the (left-wing) opposition were pleased (and a little surprised) with the amount of space allotted to these deals. Moreover, the passive consensus has made way for ideologically charged divisions. Our respondents from the right echoed *the Economist’s* observation that old left-right cleavages had been cross-cut by an open-closed divide (The Economist, 2016). 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 support any proposed trade deal.

The same developments were present, *a fortiori*, in **Wallonia**. With the arrival of the new parliament (May 29, 2014), there was an important shift in the modus operandi of the assembly regarding trade deals. Whereas before the committee on European Affairs “*had not spent resources on scrutinizing the pre-approval phase of the deals*”, it now took an interest in the ongoing TTIP-negotiations, therefore “*radically changing the Parliament’s practices by preoccupying itself, proactively, with a potential future treaty, rather than finding, at the time the agreement is enacted, that certain elements could have taken another form*” (Comité d’avis chargé des questions Européennes, 2015, pp. 1–2). The parliament then organized a series of (committee and plenary) debates, hearings with policy-makers, stakeholders and experts, and also greatly increased the volume of questions directed at the government.

As in Flanders these debates were ideologically charged, but contrary to the centre-right majority’s general satisfaction with the deals in the north, in Wallonia this led to a revolt against the ‘**rubberstamping**’ of FTAs. This has so far gone farthest in concern to CETA. On 26 May 2015 the centre-left PS proposed a resolution with concerns about CETA,

which was adopted (with the support of all parties except for the liberal MR) on 7 April 2016. The draft resolution's wording was strong, calling CETA a 'Trojan horse' and opposing the deal as it stood, but became even sharper and more detailed in the final version – now openly asking that the government not give the federal level the power to sign the deal. On 14 October 2016, the Walloon parliament again confirmed its resistance – a message condoned by the Walloon government. This triggered an intra-Belgian as well as a European crisis, since it meant that Belgium would not be able to sign the treaty. After several days of hard re-negotiation both intra-Belgium and with European leaders, the parliament did however ultimately condone Wallonia's and therefore Belgium's signing of the deal on 28 October 2016 (only Ecolo and the PTB voted against). Whether the Parliament will eventually also *ratify* the agreement remains unsure, however, and is now (according to the intra-Belgian deal) contingent on a series of demands being met. Although it is unclear to what extent this move is indicative of Parliamentary 'emancipation' from the regional government (the Government was critical of the agreement, and the resolutions were supported by the governing parties), this nonetheless represents a break from past passivity.

Finally, the politicization of TTIP has also fostered the Parliaments' need for **expertise and networks** in these dossiers. The federal Chamber of Representatives as well as all regions have organized Parliamentary hearings about CETA and TTIP, and have invited Commissioner Malmström to come and explain the deals. The federal Parliament has also tried to strengthen its links with the INTA committee, which, as Belgian MP's acknowledge, still houses most trade-related expertise.

Some (but certainly not all) MPs are pessimistic about the durability of this new interest in trade policy, an issue we will pick up in the concluding section. Still, the break from the past is remarkable and in light of the diminished (formal) power of the national parliaments since Lisbon also somewhat puzzling.

## **Explaining the shifts in Parliamentary involvement**

### *Why the lack of attention before the Lisbon Treaty?*

A first question we need to answer is why Belgian Parliaments dedicated so little attention to EU trade policy before the Lisbon Treaty entered into force, i.e. at a time when they still had the power to ratify EU trade agreements.

Part of the answer can be found in how Belgian 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. The Belgian Parliaments do not have the capacity to study these issues in much detail. 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 Parliament, which then would have to 'sacrifice' time and resources allocated to other themes over which it had perhaps more immediate control.

Secondly, activity on these issues has also been low because **public interest was limited** and the Parliament is to a certain extent a 'reactive' institution. 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, as lack of attention and expertise in turn lower the potential for the Parliament to pick up and politicize an issue.

### *Why the shift in recent years?*

A second question we aim to address is why the (Belgian) Parliaments' passivity has disappeared to a considerable extent in recent years, paradoxically after their competences had been transferred to the European Parliament after the Lisbon Treaty.

### The altered substance of the deals

Part of the explanation is related to the nature and the substance of the new 'generation' of FTAs. TTIP and CETA are exponents of the movement towards 'deep' trade agreements, and include provisions that seem to encroach directly on domestic policy space (Young, 2006; De Ville, 2016).

The first of these provisions is *investment protection*, which became only a supranational competence with the Lisbon Treaty as discussed above. Investment protection provisions and the dispute settlement procedures to adjudicate investment protection disputes (better-known under the acronym ISDS that stands for investment-state dispute settlement) through which international investors can sue governments and demand compensation against public measures that offend their Treaty-sanctioned investor rights are not limited to decisions by the supranational level, but extend to every government level. Therefore, every government level also has a reason to fear that its policies become the target of a complaint by an investor that might result in sanctions as well as in a 'chilling effect' in decision-making to avoid the risk of being sanctioned. Secondly, TTIP is the first agreement where the self-proclaimed central objective is *regulatory cooperation*, more precisely to remove regulatory differences between the parties as well as to establish mechanisms that should render it less probable that the parties adopt different regulations in the future (see De Ville & Siles-Brügge 2016). The latter should be achieved by adhering to 'Good Regulatory Practices' – a number of procedural requirements that governments should follow when adopting regulations to ensure that they have given sufficient consideration to the trade and investment effects and opinions of stakeholders – and bilateral 'Regulatory Cooperation' – mandatory consultations on regulations by representatives from both parties. What the critics of this new dimension of trade agreements fear is that these ostensible innocent provisions will lead – analogous to the concerns about investment protection – to 'paralysis by analysis' and to regulatory chill, i.e. to less decision-making autonomy and lower levels of protection than would have been decided by governments absent these provisions.

These deals might thus further limit Parliaments' power to shape society, possibly leading to increased awareness of and in some cases opposition to the deals. In the Belgian case there is some evidence of this, i.e. that parliamentary attention was triggered in part by the substance of the agreements. For example, in Belgium, parliamentary debates have (just as in many other Member States) focused primarily on ISDS and regulatory cooperation, as well as the issue of (the fear for liberalisation of) public services. Much less attention has been dedicated to the more traditional elements of the negotiations such as tariffs. The role of the special nature of the treaties was also mentioned in some of our interviews. However, this argument about the content of the latest generation of trade agreements is not able to explain the different degree of attention that has gone to TTIP on the one hand and CETA or, especially, EU-Japan on the other, while their substance is very comparable. Moreover, Parliaments only started paying attention to CETA after the deal was already concluded, and TTIP's mandate was agreed upon without much fuss.

The missing link, as we hope to show in the following section, is the wide-scale mobilisation against TTIP, and subsequently CETA, by a number of non-governmental organisations (NGOs).

#### Mobilization by NGOs and public salience

TTIP and to a lesser extent CETA have led to an unprecedented politicization of the EU's trade agenda. Again, this is in part linked to the substance of these treaties, which raised concerns about the impact on domestic policies and policy space. These worries were probably also exacerbated by the fact that TTIP, which received the brunt of the contestation, was being negotiated with the United States. Not just because this aroused some latent anti-Americanism within the public and NGOs, but also because the risk of substantial(ly negative) effects (such as those related to ISDS cases, or the possible lowering of food standards, see also Eliasson, 2016) was far more likely with such a powerful political and economic counterpart<sup>11</sup>. However, it seems unlikely that these elements would have sufficed to bring about the measure of opposition we've witnessed in the past three years, without the active, successful and enduring **mobilization and organization by a wide coalition of NGOs** and their networks (Gheyle, 2016)<sup>12</sup>. Civil society has been able to foster a (self-feeding) cycle of growing press coverage, public awareness and mobilization, which eventually led to political, including parliamentary, attention and contestation.

In Belgium, TTIP has led to the emergence of new trade-policy coalitions. Before TTIP, there was a small but significant number of Belgian NGOs (but also those within the trade unions working on trade) who often worked and campaigned on trade policy, and built up considerable expertise. Their work was mostly related to development and

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<sup>11</sup> In earlier agreements, there was no power asymmetry to the disadvantage of the European Union, given that the EU mainly conducted trade negotiations with smaller, developing and/or ex-colonial countries. With the US, the EU was for the first meeting someone of at least equal power, heightening the fear that EU organizations and societies might be harmed.

<sup>12</sup> Of course, the 'substantive' and the 'mobilization' explanation are related. The NGOs have captured the attention of national Parliaments to some extent by arguing that TTIP (and CETA) threaten the policy-making autonomy of national governments. And these elements of the deal were in turn partially responsible for the mobilization of civil society.

global justice issues. For example, they mobilized against the BLEU (Belgian-Luxemburg Economic Union) Colombia Investment Treaty because of labor issues in Colombia, or campaigned against the Economic Partnership Agreements. Outside of this core group (which includes amongst others CNC-D-11.11.11, Oxfam or Wereldsolidariteit), trade policy was a secondary issue for many other organizations. TTIP, however, has drawn many new organizations to trade politics, given the possible scope of the agreement. A core group of trade unions, North-South organizations and several environmental groups has sided with less-traditional groups such as consumer, patient and climate organizations, in the self-named 4 May (2015) Coalition (Verenigde Verenigingen, 2015). This nation-wide coalition has been the main 'policy' and lobbying organization within Belgium to date, and is coordinated mainly by CNC-D-11.11.11. Next to this, a more broad-based STOP TTIP coalition (with a very large membership) was established, which acts more as the mobilization pillar of the coalition: planning actions or demonstrations, writing letters to ministers, press releases, etc<sup>13</sup>.

These organizations were successful in their attempts to mobilize their membership and parts of the general public, but also in generating parliamentary scrutiny. The important role of civil society clearly emerges, for example, when analyzing parliamentary texts and discussions. In Wallonia's debates and resolutions, at various times did the deals' opponents hail the work of the NGOs in raising awareness, or mention the greatly increased democratic stakes now that such a substantial part of civil society (and the general public) was involved. For example, in the 2015 CETA Resolution's proposal, the authors state that «*récemment, les négociations entourant [TTIP, CETA and FTAs in general] ont mobilisé largement la société civile belge et européenne, mais également les parlements européen et nationaux*». Civil society's role was also confirmed throughout our interviews. There are frequent contacts between civil society and the parties of the left (greens, socialists, to lesser extent Christian democrats), and some of the NGOs claim that a substantial amount of parliamentary questions have been fed by them. Several MEPs acknowledged that they had been largely unaware of the treaties until civil society's active attempt to raise awareness and foster opposition. At least initially, they lacked not only awareness but also expertise, which the NGOs could provide. This claim is bolstered by looking at the 2014 election programs: parties that would, from late 2014 on, start opposing these deals fiercely from within the assembly, paid very little attention to the treaties during the elections. In fact the PS, cdH, Ecolo were all part of the Walloon government when CETA was mandated and concluded, as was the sp.a in Flanders and the PS, cdH and the sp.a at the federal level.

It is clear however, that there have been pronounced regional differences in the attention for, mobilisation and Parliamentary activity on TTIP and CETA. In almost all of the Belgian organisations that have been mobilizing against TTIP, the 'southern' wings were first to become active and have remained most vocal. This has been translated in the political salience of the issue as well. Not only have we seen a much larger number of municipalities declare themselves 'TTIP-free' in the south of the country, but we have

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<sup>13</sup> This group as well is coordinated by CNC-D, which shows that the Belgian civil society is a small, but well-connected group of organizations, who are able to mobilize their partner organizations, and, subsequently, their members. The membership of this alliance is evidence of the non-traditional opposition to trade policy. Here too, the question of the durability of the alliance is prominent. For some, the actions and cooperation in the last two years was a building block for more to come, while others were more pessimistic about sustaining all these organizations' attention for other trade deals.

also seen much earlier and more intense attention in the Walloon and Federal Parliament<sup>14</sup>.

Meanwhile, the supporters of the trade agreements were caught off guard and failed to develop a coherent block. In Wallonia, for example, the general business federation, *l'Union Wallonne des Entreprises* (UWE), supported both deals, but mustered little in terms of actual opposition. Their earliest public remarks about CETA from April 2016, around the time of the Parliaments' resolution, and in an interview they acknowledged that they were not putting much effort in turning the tide. Meanwhile, the employers' federation for the SMEs (almost 70% of Walloon employment) came out against the deals<sup>15</sup>, as did Wallonia's main farmers' federation, *le Fédération Wallonne de l'Agriculture* (FWA) for a variety of reasons related to beef quota, normative and regulatory issues, and geographical indicators (FWA, 2016). Again this differed from the situation in Flanders, as Flemish business was more united in its approval of the negotiations. Here, representatives of farmers, SMEs and business in general all openly supported TTIP and CETA.

#### *Party Politics, Institutions and People*

Finally, there are some specific institutional and party-political dynamics at play.

For example, one somewhat idiosyncratic reason that these debates have received this kind of attention even 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 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. As we saw before, this was to some extent also true of the Walloon committee, which decided in 2014 to be more vigilant about trade negotiations in particular.

Finally, we must take into account the Belgian institutional and party-political setting. Notably, the fact that the PS has been part of the Walloon but not the federal government is seen by many as 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 is the only Walloon party) while simultaneously strengthening its profile vis-à-vis the communist PTB which has been searing in the polls. Had the PS (and the sp.a/ecolo/cdH/...) been present in the federal government, the party's stance may have been less confrontational, and this may have also dampened the enthusiasm of its MPs. This counterfactual is of course hard to assess. To some extent it seems like a plausible narrative, especially at the governmental level.

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<sup>14</sup> Again, this cannot be simply explained by the differential potential impact of these agreements on the Walloon Region in comparison to the other territories, but is related to mobilization resources, NGO networks and differences in responsiveness.

<sup>15</sup> After resisting TTIP from 2015 on yet hesitating with a clear position on CETA, the *Union des Classes Moyennes* (UCM) finally supported the government's resistance in October 2016. They feared that diminishing intra-European trade, lacking geographical indicators, and increased competition from multinationals would disadvantage SMEs, while few such enterprises would stand to gain: only a handful of the minority of SMEs that export have a significant stake in transatlantic trade, most trade within the EU.

Had the PS been in the federal government, we would probably not have seen the kind of cut-throat 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, on the other hand it seems plausible that the difference would have been one of degrees and not kind. The parliaments could not have turned a blind eye to the strong and persistent campaigning by a broad set of societal groups, and awareness, expertise and contestation would have increased; but the immediate political fallout may have been different.

## **Conclusion**

In the past years we have seen a somewhat paradoxical evolution in EU trade politics. While the Lisbon Treaty was meant to facilitate the adoption of trade agreements by clarifying the exclusive supranational competence of the European Union through 'updating' the scope to the new trade agenda, Parliaments below the supranational level have become more involved in trade policy than ever before.

We have investigated the shift in involvement across the Belgian parliaments. In the past fifteen years, both the Federal, Flemish and Walloon parliament paid little attention to EU trade policy. This has changed since 2014, especially in Wallonia but also in the other assemblies. Several interacting factors fuelled this increase in Parliamentary involvement. First, TTIP and CETA contain provisions that (are perceived to) go qualitatively beyond older trade agreements by potentially interfering with (sub)national policy choices, namely investment protection provisions and regulatory cooperation. Second, TTIP has generated unseen civil society mobilisation, and this has led politicians (especially on the left and in the opposition) to join the fray as well. Finally, the asymmetry between the Walloon and federal governing coalitions have favoured a more activist opposition by Wallonia, while Flanders' centre-right government has remained supportive.

An important question, which also divided our respondents, is how durable the politicisation of trade policy and the (consequent) attention and involvement of (sub)national MPs will eventually be. It is conceivable that the mobilisation by civil society will wane if and when the TTIP negotiations are eventually concluded (successfully or not). With that, attention for EU trade policy in (sub)national Parliaments might fade out, even if the substance in other agreements would be similar (as is today to some extent the case vis-à-vis the EU-Japan negotiations). On the other hand, significant energy and resources have been invested in building expertise and networks, by NGOs as well as (sub)national MPs. Such "sunk costs" might lead them to continue their involvement in EU trade politics, especially if current efforts would turn out to be successful in both influencing the outcome of negotiations and elections. The recent 'CETA episode' in Belgium has already strengthened the activity by the Walloon Parliament. They seem determined to further scrutinize other trade deals currently being negotiated, most significantly the Trade in Services Agreement (TiSA). Furthermore, the "Namur declaration" boosted by Minister-President Paul Magnette, signed by the likes of Piketty and Dani Rodrik, also shows that the opposition is trying to seize the momentum.

Would continue (sub)national Parliamentary involvement in EU trade politics mark the death of EU trade policy, as it is sometimes claimed? We tend to disagree. On the one hand, the attention and interest of (sub)national MPs has concentrated on a number of (sensitive) issues, which might be accommodated in agreements. On the other hand, the participation of (sub)national MPs in EU trade politics might be enhanced institutionally during the negotiations by collaboration between the European Parliament and the national Parliament, as well as outreach by the European Commission. Steps in that direction have already been taken by the Belgian Parliaments, the European Parliament and the European Commission, and could be reinforced.

*Prima facie*, the partial re-nationalisation and continued politicization of trade politics may benefit the democratic legitimacy of this domain – although it certainly hasn't made the Commission's life any easier.

## **Interviews (references to be added inside the text)**

Marc Maes	<i>11.11.11</i>
Nancy Pauwels	<i>LBC-NVK</i>
Gilles Suply	<i>VOKA</i>
Kevin Verbelen	<i>DiV</i>
Olivier Joris	<i>VBO</i>
Joos Vandembroucke	<i>TestAankoop</i>
Jean-Pierre Descamps	<i>Christelijke Mutualiteit</i>
Pieter Verhelst	<i>Boerenbond</i>
Renaat Hanssens	<i>ACV/CSC</i>
Thierry Aerts	<i>FGTB</i>
Jean-Jacques Westhof	<i>UWE</i>
Francois Graas	<i>WBI</i> <i>Open VLD – Flemish Parliament –Committee</i>
Rik Daems	<i>President</i>
Dirk vander Maelen	<i>Sp.a – Federal Parliament - Committee President</i>
Karim van Overmeire	<i>NVA – Flemish Parliament</i>
Wouter de Vriendt	<i>Groen - Federal Parliament</i>
Katrin Jadin	<i>MR - Federal Parliament</i>
Dries Bergen	<i>Flemish Parliament – European Research Service</i>
Barbara Boutriau	<i>PS – Cabinet Paul Magnette</i>
Koen Detavernier	<i>11.11.11</i>
Wouter Van Besien	<i>Groen – Flemish Parliament</i>
Helene Ryckmans	<i>Ecolo - Walloon Parliament</i>

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