FROM NADA TO NAMUR: NATIONAL PARLIAMENTS’ INVOLVEMENT IN EU TRADE POLITICS AND THE CASE OF BELGIUM

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**Abstract:**

*In the past years we have witnessed a somewhat paradoxical evolution in EU trade politics. While the Lisbon Treaty was intended 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. This has been exemplified by the Walloon Region’s temporary refusal to allow the Belgian Government to sign the EU-Canada trade agreement CETA. We investigate this shift in involvement by analysing parliamentary activity on trade policy in the Belgian Federal, Flemish and Walloon Parliaments. We find that these Parliaments paid little attention to EU trade policy in the past fifteen years. This has changed since 2013 in all three Parliaments. Combining a variety of sources, we conclude that several interacting factors have fuelled this increase in parliamentary involvement. First, TTIP has generated an unseen amount of mobilisation and contestation, and this has led politicians to join the fray as well. Second, TTIP (the EU-US trade agreement) and CETA contain ‘deep trade’ provisions that touch upon sensitive issues for national politicians. 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.*

# 1. Introduction

In October 2016, the Belgian Walloon Region made the headlines worldwide when it refused to give the authority to the Belgian Federal Government to sign the EU-Canada trade agreement CETA, leading Canadian Prime Minister Justin Trudeau to have to postpone its visit to Brussels for the signing ceremony. This is a remarkable development, given that the 2009 Lisbon Treaty reforms were intended to streamline the negotiation and conclusion of EU trade agreements by enlarging its scope and transferring the competence of control from national legislatures to the European Parliament (cfr. Krajewski, 2010)[[1]](#footnote-1)? In this paper, we will not go into the legal discussion about the status of the CETA agreement and if it should have been considered a ‘mixed agreement’ implying Member State ratification or not. We will look at the political dimension and analyse how exceptional the ‘CETA saga’ was and, if not, why (sub)national Parliaments have become more involved in EU trade agreements, seemingly in contradiction with (the spirit of) the Lisbon Treaty. To find an answer to these questions, we will look at the Belgian case, the arena where the CETA saga played out. We will point out where the Belgian case is idiosyncratic, but will formulate findings and conclusions that can be applied to other EU Member States as well.

The remainder of this paper is structured as follows. In the next section, we review the literature on EU trade policy-making after the Lisbon Treaty reforms, with a specific focus on the role of Member States’ (national and subnational) Parliaments. Subsequently, we discuss the involvement of the Belgian Parliaments in trade since the start of the century, based on desk research and twenty interviews with decision-makers and stakeholders in Belgium. In the fourth section, we offer a number of explanations for the recent politicisation of EU trade policy in Belgium. We conclude with some reflections about the implications of these developments for the future of EU trade policy.

**2. National Parliaments in EU trade policy 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 levels (Billiet, 2006; Young, Holmes, & Rollo, 2000). At its core, much of this debate has revolved around the trade-off between efficiency (by increasing supranational authority and Commission autonomy) and legitimacy (by ensuring control by representatives close to the citizens): 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. Devuyst, 2013; Woolcock, 2013). On the one hand, the ‘efficiency’ dimension was strengthened by expanding the scope of supranational trade competence (which now also covers services, intellectual property rights and foreign direct investment), thereby limiting the need for national 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)[[2]](#footnote-2). In that way, it was considered that the Lisbon Treaty reforms boosted EU trade policy legitimacy. Before this double reform, national Parliaments had ‘abdicated their control over the making of trade policy’ in EU exclusive trade agreements formally, while the European Parliament held no role either, creating a democratic deficit (Meunier 2005: 191). Moreover, national Parliaments were seen as having abdicated their control function *de facto* also when they held the ratification competence in mixed agreements: ‘[m]ost member state Parliaments have never been able – or perhaps interested enough – to provide effective scrutiny of EC external trade policy as they are two steps removed from the real negotiations’ (Woolcock 2010: 7). Hence, several EU trade policy observers considered the Lisbon Treaty reforms as an unequivocal win-win for the effectiveness and legitimacy of EU trade policy, ‘go[ing] a considerable way to filling the democratic deficit that previously existed with the technocratic decision-making process’ (Woolcock 2010:14).

The reforms were not universally welcomed, however. On the one hand, two authorities in the legal discipline of EU external relations, Marc Maresceau and Joseph Weiler, expressed their scepticism about the impact of the European Parliament’s new powers on the effectiveness of EU trade policy (cited in Devuyst 2013: 311-312). On the other hand, some scholars pointed out that giving the European Parliament more power in trade may be positive in terms of control at the supranational level, but that this may create new problems. As several policy domains potentially affected by deep trade agreements (e.g. social policy) remain national competences and (re)distributive consequences of trade agreements have to be mainly dealt with at the Member State level in the EU’s overall architecture[[3]](#footnote-3), the loss of power of national Parliaments could weaken the legitimacy of an expanded EU trade policy. 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 (Young, 2007), ‘subsidiarity’ did not unambiguously 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 Howse & Nicolaïdis, 2003; Rodrik, 2007).

This latter perspective is our starting point to understand the ‘CETA saga’. The apparent paradox of sudden (sub)national activity on an EU trade agreement, while the Lisbon Treaty intended to do away with this, could be the consequence of the deeper intrusion of post-Lisbon EU trade agreements. In the remainder of this paper, we will focus empirically on Belgium to answer two questions. First, how does the ‘CETA saga’ fit in the wider context of (sub)national parliamentary trade activity before and after the Lisbon Treaty? Second, how can we explain this evolution? Recently, a limited number of authors have looked at similar questions. Rosén (2016) has discussed the disagreement during the Constitutional Convention, which would later lead to the Lisbon Treaty, about the desirability of handing the European Parliament co-decision competence in trade. She concludes that the European Parliament has succeeded during these negotiations to convince the other Convention members that this transfer of power was in line with the EU’s constitutional principles and the Laeken Declaration’s emphasis on legitimacy (and not doing so would lead to inconsistencies). Jančić (2017) has studied the involvement of national Parliaments in TTIP, focusing on the UK and France. His intent was to explain differences in parliamentary influence over the executive in the negotiations, through a comparison of the UK and France. He finds that ‘the key factors of parliamentary influence over the executive in EU external trade relations are the nature of the agreement, information access, and the level of fusion between the government and parliamentary majority’ (2017: 216). Our aim is to explain why national Parliaments have taken up their scrutiny function at a time when they seemed to have lost this competence, while they had neglected this role in the past when they held the formal responsibility.

In the next section, we descriptively map the evolution of parliamentary activity in Belgium over the past two decades. Subsequently, we offer explanations for this evolution. These explanations have been abductively generated (e.g. Friedrichs & Kratochwil 2009). This means that our search for them has been guided by the literature discussed in this section and by our own previous research on Belgian involvement in EU trade policy, on recent EU trade agreements, and in politicisation of the policy domain (e.g. Bollen et al. 2015; De Ville & Siles-Brügge 2016; Gheyle 2016), while during our analysis of parliamentary debates and interviews we have been open for alternative interpretations.

# 3. National parliamentary involvement in EU trade policy: the case of Belgium

## 3.1. Trade-Policy Making in Belgium

Since the late 1980s, a series of constitutional reforms have altered the way that foreign and trade policies are formulated in Belgium. First, the “Sint-Michiels Agreement” of 1993 granted the sub-national governments the ability to sign international agreements in matters where they hold exclusive competence. Subsequently, in 2001 and 2016, the remaining chunks of export policy were regionalized, along with federal funds and personnel[[4]](#footnote-4). A non-hierarchical system has been set in place, in which the federal level is primarily in charge of coordinating with the other levels to find Belgian positions over EU trade policy issues. Belgium can now no longer take any stance unless Wallonia, Brussels and Flanders (i.e. the communal/regional governments) are able to reach an agreement. Without consensus, Belgium would need to abstain. These transitions were not always very smooth, and were often accompanied by inter-institutional struggles (Bollen et al., 2015; Coolsaet, 2015)[[5]](#footnote-5).

This devolution has led to 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 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[[6]](#footnote-6) organizes (bi-)weekly consultations in 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’ (interviews 16 & 17).

## 3.2. 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 reason 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.

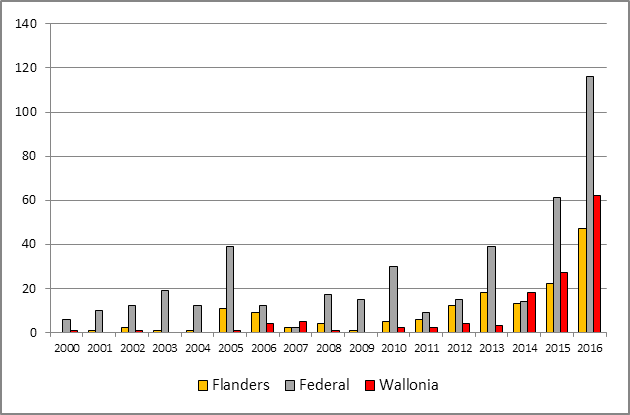
Yet their lack of clear avenues for a strong *formal* role in the Belgian trade policy system does not necessarily exclude parliamentary influence through other means. Non-binding resolutions, parliamentary questions and hearings, as well as reports and interviews in public media can all put pressure 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.

### 3.2.1 Some Data: parliamentary Scrutiny of Trade Issues

Using the search engines from the Walloon, Flemish and Federal Parliaments[[7]](#footnote-7), we have constructed a database of all trade-related questions[[8]](#footnote-8) (written and oral)[[9]](#footnote-9). While activity on trade broadly defined was present also before 2009, especially in the sub-federal parliaments these were concentrated on issues such as export promotion, trade performance of regional companies or weapons export. In the figures below, we exclude these topics and concentrate on activity related to ‘trade politics’ *strictu sensu[[10]](#footnote-10)*. As can be seen from Figure 1, in all three the attention for trade issues strictly defined has generally been low but has increased enormously since 2013.

Figure 1 Activity on trade in the Belgian Federal, Flemish and Walloon Parliaments

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In the federal Parliament, the attention paid to trade issues had generally been low, with a peak in interventions in 2005 (related to textiles and the Doha round). The increase since 2012 is unprecedented. This dynamic is not wholly attributable to the increasing zeal of particular MPs, it is also driven by an increase in the number of MPs that are active in this theme. In the Flemish Parliament, activity related to trade issues has been slowly increasing after 2009. Just like at the federal level, this growing activity is accompanied by an increasing number of active MPs. In the Walloon Parliament, as in the other ones, there was asteady increase in attention, especially after 2013. Again this has been accompanied by a rise in the amount of active MPs.

The bulk of the extra trade activity has been focused on EU free trade agreements, and within this category on TTIP and CETA in particular. Figure 2 is especially interesting for the sequence of the growing interest that it highlights. This increase started in 2013 with activity on TTIP in the Federal Parliament. In 2015, debate on TTIP was still by far the most important category of trade-related activities in the Federal and Flemish Parliaments, while in Wallonia activity on CETA had already overtaken interest in TTIP. In 2016, finally, CETA was the core trade occupation in all three Parliaments. Also remarkable is that the attention for TTIP and CETA has also led to a very recent significant increase in consideration for other FTAs in all three Parliaments. Hence, we can conclude that activity on EU trade policy in Belgian Parliaments has increased since 2013, starting with attention for TTIP, spilling over into much commotion around CETA and resulting, in the final year of our analysis, in increased devotion to other trade agreements as well. In the next sections, we look for answer for this boost in activity and the sequence of its components.

Figure 2 Activity on CETA, TTIP and other FTAs in the Federal, Walloon and Flemish Parliaments

### 3.2.2. Interviews and analysis of recent debates

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. In addition, we 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. 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 discussion or larger debate on trade policy, which also reflected the lack of real, politically salient cleavages among the parties (interviews 5, 6, 7). 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 still 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 (see infra).

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 (interview 6). 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 (interview 6, 5).

As is also evident from our interviews, and in line with the statistics presented above, parliamentary work on trade has picked up tremendously inrecent 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 (interview 1). Moreover, the passive consensus has made way for ideologically charged divisions. Our respondents from the right echoed *the Economist’s* (2016)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 support any proposed trade deal (interviews 1, 3, 5 & 7).

The same developments were present, *a fortiori,* in Wallonia**.** With the arrival of the new Parliament in May 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, our translation)*.* 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 (interview 2).

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 by the Walloon Government and the other Belgian Governments as well as with European institutions (and, defying Belgian and EU constitutional practice, even between the Walloon Government and the Canadian Minister for Trade) the Parliament did ultimately condone Belgium’s signing of the deal on 28 October 2016 (only Ecolo and the PTB voted against while recognizing the efforts made by the coalition in the two weeks of the ‘CETA saga’). 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 itself, 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 BelgianMP’s acknowledge, still houses most trade-related expertise (interview 6).

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.

# 4. Explaining the shifts in parliamentary involvement

## 4.1. Why the lack of attention before the Lisbon Treaty?

A first question 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 (interviews 6, 4 & 7).

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 MPs (interview 6). 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.

## 4.2. 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 seemingly been transferred to the European Parliament after the Lisbon Treaty.

### 4.2.1. 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 (De Ville 2016; Young 2007). This has not only resulted in renewed discussion about the status (exclusive or mixed) of these agreements, and hence about the competence of (sub)national Parliaments with regard to them, but has aroused the attention of MPs independent from their legal status. After all, activity on CETA preceded the decision by the European Commission to declare the agreement ‘mixed’ in July 2016.

The first of these provisions inciting attention of MPs is *investment protection*, which only became a supranational competence with the Lisbon Treaty as discussed above. Investment protection provisions and the dispute settlement procedures to adjudicate 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 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 ostensibly 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 and (only after the conclusion of the negotiations) CETA on the one hand and, EU-Japan and other deep and comprehensive EU trade negotiations on the other, while their substance is very comparable.

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).

### 4.2.2. 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 with 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 2015) was far more likely with such a powerful political and economic counterpart[[11]](#footnote-11). 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)[[12]](#footnote-12). 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 committed group of Belgian NGO (and trade union) representatives who often worked and campaigned on trade policy, and built up considerable expertise. Their work was mostly related to development and 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 because of concerns about the development impact of these deals. Outside of this core group (which includes amongst others CNCD-11.11.11, Oxfam or Wereldsolidariteit), trade policy was a secondary issue for many other organizations (interviews 11, 12, 10, 13 & 14). 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, health insurance 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 CNCD-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 (ibid)[[13]](#footnote-13).

These organizations were successful in their attempts to mobilize their membership and parts of the general public, but also in generating parliamentary scrutiny (interview 8). 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 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, 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 (interviews 8, 9, 12, 11, 14 & 15,). In the book that Walloon Minister-President Paul Magnette wrote about the whole CETA episode, the first chapter is revealingly entitled ‘when civil society awakens’ (Magnette 2017). There have been frequent contacts between civil society and especially 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 (interview 8). Some MPs acknowledged that they had not been actively scrutinizing 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 (interviews 1, 2 & 6). This claim is bolstered by the fact that the PS, cdH and Ecolo, which would, from late 2014 on, start opposing these deals fiercely from within the parliaments, 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 (interviews 8 , 11, 14 ). 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[[14]](#footnote-14), but we have also seen much earlier and more intense attention in the Walloon and Federal Parliament[[15]](#footnote-15).

Meanwhile, the supporters of the trade agreements were caught off guard and failed to develop a coherent block (interviews 9 & 15). In Wallonia, for example, the general business federation, *l’Union Wallonne des Entreprise* (UWE), supported both deals, but mustered little in terms of actual impact. Their earliest public remarks about CETA date from April 2016, around the time of the Walloon 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[[16]](#footnote-16), 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 (interviews 15, 19, 20).

### 4.2.3. Party Politics, Institutions and People

There are of course also some specific institutional and party-political dynamics at play. 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 (interview 2).

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. Magnette’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 that had been searing in the polls. Had the PS 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. 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 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 anyway; but the immediate political fallout may have been different. This factor echoes findings in the literature that divided government (Belgium in this period with different majorities at the federal and sub-federal levels could be considered a divided federal government) leads to a stronger parliamentary grip over an executive’s trade policy (Lohmann & O’Halloran 1994, Maurer 2005 in Jancic 2017).

# 5. 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 the Federal, Flemish and Walloon Parliaments paid little attention to EU trade policy. This has changed since 2013, 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). Hence, attention for EU trade policy in (sub)national Parliaments might fade out, even if the substance of other agreements is similar (as is today to some extent the case vis-à-vis the EU-Japan negotiations). The year 2017 may already be indicative in that respect. 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 Walloon Minister-President Paul Magnette, signed by the likes of Piketty and Dani Rodrik, also shows that the opposition is trying to seize the momentum (Magnette 2016). In this paper, we have described and offered explanations for how we have gone ‘from nada to Namur’ in terms of national parliamentary activity on EU trade policy. What will follow from Namur (and its declaration on trade) is an open question. Paul Magnette seems to believe the ‘CETA saga’ could lead to substantial change to EU trade policy: the final chapter of his book is titled ‘pour une autre mondialisation’.

Would continued (sub)national parliamentary involvement in EU trade politics mark the death of EU trade policy, as it is sometimes claimed, inter alia by another declaration “Trading Together’ by academics responding to the Namur Declaration (Anon. 2017)? 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 the substance of agreements. On the other hand, the participation of (sub)national MPs in EU trade politics might be enhanced procedurally during the negotiations by collaboration between the European Parliament and the national Parliaments, as well as by 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**

1. *Flemish MP (Groen) - 10/11/2016*
2. *Walloon MP (Ecolo) - 12/12/2016*
3. *Federal MP (MR) - 27/10/2016*
4. *Federal MP (Groen) -* 16/9/2016
5. *Flemish MP (N-VA) - 16/11/2016*
6. *Federal MP (sp.a) - 14/07/2016*
7. *Flemish MP (Open VLD) - 25/11/2016*
8. *CNCD - 22/02/2017*
9. *UWE - 24/06/2016*
10. *11.11.11 - 21/03/2016*
11. *Christelijke Mutualiteit (CM) - 21/04/2016*
12. *TestAankoop - 19/04/2016*
13. *ABVV/FGTB - 23/05/2016*
14. *ACV/CSC - 12/05/2016*
15. *VBO - 13/04/2016*
16. *Wallonie-Bruxelles International* - 23/06/2016
17. *Departement Internationaal Vlaanderen - 26/04/2016*
18. *European Documentation Service, Flemish Parliament - 16/11/2016*
19. *Boerenbond – 27/04/2016*
20. *VOKA – 14/07/2016*

**Bibliography (preliminary)**

Anon. (2017). Trading together: For strong and democratically legitimized EU international agreements. 25 January, available at <https://media.wix.com/ugd/035467_d81f8a7835434c438cff38b5f20dd036.pdf>.

Billiet, S. (2006). From GATT to the WTO: The internal struggle for external competences in the EU. *Journal of Common Market Studies*, *44*(5), 899–919. http://doi.org/10.1111/j.1468-5965.2006.00667.x

Bollen, Y., Derous, 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.

Bossuyt, F. (2012). De impact van multilevel governance op de democratische input in het EU-handelsbeleid onder het Verdrag van Lissabon. *Res Publica*, *1*.

Comité d’avis chargé des questions Européennes. (2015). Projet de Partenarait Transatlantique de Commerce et d’investissement entre l’Union Européenne et les États-Unis (TTIP).

Coolsaet, R. (2015). Belgie en zijn buitenlandse politiek: 1830-2015.

De Ville, F. (2012). Subsidiarity and EU trade policy: overview of the (complex) discussion, treaty of Lisbon, and implications for Flanders. In *Subsidiarity and multi-level governance* (pp. 125–136). Brussels: Koninklijke Vlaamse Academie van België voor Wetenschappen en Kunsten.

De Ville, F. (2016). Regulatory Cooperation in TTIP. A risk for democratic policy making? *FEPS Policy Brief, February 2016*.

De Ville, F., & Siles-Brügge, G. (2015). *TTIP - The truth about the transatlantic trade and investment partnership.* Cambridge, MA: Polity Press.

Devuyst, Y. (2013). European union law and practice in the negotation and conclusion of international trade agreements. *Journal of International Business & Law*.

Eliasson, L. J. (2015). The Transatlantic Trade and Investment Partnership: Interest groups and public opinion. *14th Biennial Meeting of the European Union Studies* Association, Boston, 5–7.

Falkner, G. (2016). The European Union's social dimension. In: Cini, M. & Borragan, N. P-S. (eds.), European Union Politics (Fifth Edition), Oxford: Oxford University Press, pp. 269-280,

Friedrichs, J., & Kratochwil, F. (2009). On acting and knowing: how pragmatism can advance international relations research and methodology. International Organization, 63(04), 701-731.

FWA. (2016). FWA CETA.

Gheyle, N. (2016). Adding fuel to the flames: how TTIP reinvigorated the politicization of trade. Paper Presented at the GIFTA Workshop Series “Social and Labour Impacts of Free Trade Agreements”, 7-8 July, Brussels.

Howse, R., & Nicolaïdis, K. (2003). Enhancing WTO legitimacy: constitutionalization or global subsidiarity? Governance, 16(1), 73–94.

Jančić, D. (2017). TTIP and legislative-executive relations in EU trade policy. West European Politics, 40(1), 202-221.

Krajewski, M. (2010). The Reform of the Common Commercial Policy. In A. Bioni & P. Eeckhout (Eds.), *European Union Law after the Treaty of Lisbon*.

Magnette, P. (2016). Namur Decleration. Namur, 5 December, available at http://declarationdenamur.eu/wp-content/uploads/2016/12/EN-Déclaration-de-Namur-EN-.pdf.

Magnette, P. (2017). CETA: Quand l'Europe déraille. Waterloo: Editions Luc Pire.

Meunier, S. (2005). *Trading Voices: The European Union in International Commercial Negotiations*. Princeton: Princeton University Press.

Rodrik, D. (2007). How to save globalization from its cheerleaders. *Harvard University, July*.

Rosén, G. (2016) The impact of norms on political decision-making: How to account for the European Parliament's empowerment in EU external trade policy. *Journal of European Public Policy*.

The Economist. (2016). The New Political Divide. Retrieved from http://www.economist.com/news/leaders/21702750-farewell-left-versus-right-contest-matters-now-open-against-closed-new?cid1=cust/ednew/n/bl/n/20160728n/owned/n/n/nwl/n/n/n/n %0A%0A

Verenigde Verenigingen. (2015). Trans-Atlantische handelsakkoorden: Het Belgische middenveld slaat de handen in mekaar tegen deze ondemocratische dereguleringsakkoorden.

Woolcock, S. (2010). *The Treaty of Lisbon and the European Union as an Actor in International Trade*. Brussels: ECIPE (working paper 01/2010).

Woolcock, D. S. (2013). *European Union Economic Diplomacy: The Role of the EU in External Economic Relations*. Ashgate Publishing.

Young, A. (2007). 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., Holmes, P., & Rollo, J. (2000). The European Trade Agenda after Seattle. *SEI Working Paper No.37*, (37).

1. 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. [↑](#footnote-ref-1)
2. The EP was given co-decision powers in trade policy legislation. With respect to free trade agreements, the Treaty stipulates 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. [↑](#footnote-ref-2)
3. An exception specifically introduced to respond to the dislocation effects of EU trade liberalisation is the European Globalisation Fund, but this is generally considered to be underfunded and underutilised (cfr. Falkner 2016). [↑](#footnote-ref-3)
4. 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. [↑](#footnote-ref-4)
5. 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. [↑](#footnote-ref-5)
6. This has almost always been the Flemish head of government, or ‘minister-president’. [↑](#footnote-ref-6)
7. We decided to focus on the three largest Parliaments in Belgium, and excluding the Brussels and German-speaking parliaments. In very general terms, it can be said that they have taken positions that are close to the one of the Walloon Parliament. [↑](#footnote-ref-7)
8. Long lists of keywords have been used to search for questions or resolutions that deal with trade policy. The list is available on demand. [↑](#footnote-ref-8)
9. 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 differences should be marginal. [↑](#footnote-ref-9)
10. 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. 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). [↑](#footnote-ref-10)
11. 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 a partner of at least equal power, heightening the fear that EU organizations and societies might be harmed. [↑](#footnote-ref-11)
12. 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. [↑](#footnote-ref-12)
13. This group as well is coordinated by CNCD, which shows that the Belgian civil society is still 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. [↑](#footnote-ref-13)
14. See https://www.ttip-free-zones.eu/ [↑](#footnote-ref-14)
15. 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. [↑](#footnote-ref-15)
16. 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 indications, 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 (L'Echo, 27/10/2016). [↑](#footnote-ref-16)