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**Twenty-third Bi-annual Report:
Developments in European Union
Procedures and Practices
Relevant to Parliamentary Scrutiny**

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COSAC SECRETARIAT

WIE 05 U 041, 50 rue Wiertz, B-1047 Brussels, Belgium
E-mail: secretariat@cosac.eu | Tel: +32 2 284 3776

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Background

This is the Twenty-third Bi-annual Report from the COSAC Secretariat.

COSAC Bi-annual Reports

The XXX COSAC decided that the COSAC Secretariat should produce factual Bi-annual Reports, to be published ahead of each ordinary meeting of the Conference. The purpose of the Reports is to give an overview of the developments in procedures and practices in the European Union that are relevant to parliamentary scrutiny.

All the Bi-annual Reports are available on the COSAC website at:
<http://www.cosac.eu/documents/bi-annual-reports-of-cosac/>

The three chapters of this Bi-annual Report are based on information provided by the national Parliaments of the European Union Member States and the European Parliament. The deadline for submitting replies to the questionnaire for the 23rd Bi-annual Report was 23 March 2015.

The outline of this Report was adopted by the meeting of the Chairpersons of COSAC, held on 2 February 2015 in Riga.

As a general rule, the Report does not specify all Parliaments or Chambers of which the case is relevant for each point. Instead, illustrative examples are used.

Complete replies, received from 40 out of 41 national Parliaments/Chambers of 28 Member States and the European Parliament, can be found in the Annex on the COSAC website. The Greek *Vouli ton Ellinon* did not answer the questionnaire due to recent elections.

Note on Numbers

Of the 28 Member States of the European Union, 15 have a unicameral Parliament and 13 have a bicameral Parliament. Due to this combination of unicameral and bicameral systems, there are 41 national parliamentary Chambers in the 28 Member States of the European Union.

Although they have bicameral systems, the national Parliaments of Austria, Ireland and Spain each submitted a single set of replies to the questionnaire.

ABSTRACT

CHAPTER 1: EU ENERGY POLICY: STATE OF PLAY, CHALLENGES AND OPPORTUNITIES

The first Chapter of the 23rd Bi-Annual Report of COSAC presents the content that Parliaments/Chambers of the EU Member States attribute to the European Energy Union (EEU) and energy security, the basis of these concepts, as well as Parliaments' views on a number of key relevant energy policy issues relevant to these. In this context, Parliaments/Chambers are asked to provide information on the outcome of their discussions on documents such as the European Commission's "Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy" [COM(2015)80], the Communication from the Commission to the European Parliament and the Council titled European Energy Security Strategy [COM(2014)330] and the Communication from the Commission to the Council and the European Parliament on European Energy Security Strategy [SWD(2014)330]. Furthermore, Parliaments are asked to present their views on closer cooperation among EU Parliaments in matters of common interest in the realm of energy policy.

Very few Parliaments/Chambers have issued an opinion on the European Commission's "Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy", while a few have debated the topic informally. However, the majority of those responding intend to hold a debate.

The Report shows that, while there is an official position/formal interpretation of the concept of the EEU adopted at the national level (parliamentary or governmental level) in the vast majority of those responding, that was not the case for the concept of energy security. As regards the sources of the EEU, a number of Parliaments/Chambers mentioned their Governments' position and Parliaments' discussions at Committee and/or plenary level. As regards the sources of energy security, the information given by Parliaments/Chambers is considerably less, with Parliaments referring to their Governments' position, or discussions at committee level, or discussions at relevant conferences, or relevant inquiries.

Regarding the concepts/actions/policies that are, or can be, associated with the EEU, responding Parliaments/Chambers mostly associate the EEU with energy security and energy savings and energy efficiency. The EEU is the least associated with the energy production portfolios of the EU Member States and long-term contracts between producers of energy producers (suppliers) and consumers. Other concepts/actions/policies that are, or can be, associated with the EEU cited by Parliaments/Chambers include the strict implementation of legislation, decarbonisation of transport, use of low-carbon and renewable energy sources, resetting the EU energy policy, remodelling the EU energy system, affordable energy pricing for consumers, building and modernising the energy infrastructure, regional collaboration and synchronisation of the Baltic States' electricity market with Europe's continental networks, and the decarbonisation policy of the Energy Union.

Regarding concepts/actions/policies that are or can be associated with the concept of energy security, responding Parliaments/Chambers mostly associate energy security with the diversification of energy supply resources and the EEU, as well as with energy savings and energy efficiency. Energy security is least associated with the energy production portfolios of the EU Member States. Regarding other concepts/actions/policies that are or can be associated with the concept of energy security, regional collaboration, synchronisation of the Baltic States' electricity market with

Europe's continental networks, better interconnection and elimination of "energy islands", transition to a low-carbon economy by 2050, improvement of energy storage facilities, diversification of energy supply among different geopolitical areas and improvement of European reverse flow capacity are mentioned among others.

Parliaments/Chambers have given detailed ideas on the scope and content of the EEU concept mostly summarising it along the main pillars of EU energy policy: 1) security and solidarity, 2) an integrated internal energy market, 3) reduction of energy demand, 4) decarbonisation, 5) research and innovation.

As regards the scope of energy security, Parliaments' views vary; some of the objectives cited include the diversification of energy supplies and delivery routes, including consultations on necessary infrastructural investments, assistance to building key interconnectors, enhancement of energy storage facilities, respect of the Member States' competence on how to determine their energy mix, use of the potential for significant energy savings, and measures designed to meet energy efficiency targets. In a number of cases, less dependency or maximising energy independence are supported.

One third of the respondents have discussed and issued an opinion on the Communication from the Commission to the European Parliament and the Council titled European Energy Security Strategy [COM(2014)330], three have informally debated the topic, while eight intend to do so. Two thirds of those responding have not discussed the Commission staff working document In-depth Study of European Energy Security accompanying the document Communication from the Commission to the Council and the European Parliament on European Energy Security Strategy [SWD(2014)330], while four have debated the topic informally, six intended to do so and only two had discussed it and issued an opinion.

The idea of closer cooperation among EU Parliaments in matters of common interest in the realm of energy policy is unanimously supported by the respondents. In terms of how this could be achieved, several Parliaments/Chambers identify COSAC and/or interparliamentary meetings of sectoral committees as a platform for discussion or sharing best practices in this field, while a few suggest holding specific "cluster of interest" meetings.

The majority of the respondents have replied positively to the question whether they consider the distributed energy production an important tool for moving away from the import of fossil energy sourced from third countries.

Closer policy coordination among EU Member States regarding renewable energy and overall energy policies among EU Member States is supported by a wide majority of the respondents.

The Member States' competence to decide on their national energy mix is stressed by several Parliaments, while the need for closer coordination leading to more harmonisation of the energy mix and a more consistent compliance with renewable energy goals is also noted.

Concerning the question how closer coordination could be achieved in the field of renewable energy, some of the respondents suggest organising regular meetings and discussions.

There is almost unanimous support among respondents for further energy efficiency measures and increased financing for energy efficiency, seen as important tools for reducing imports of energy sourced from third countries.

CHAPTER 2: FUTURE OF PARLIAMENTARY SCRUTINY OF EU AFFAIRS

The second Chapter of the 23rd Bi-annual Report on the future of parliamentary scrutiny of EU affairs explores the role played by national Parliaments in the EU decision-making process aiming at fostering the debate on strengthening the role of national Parliaments in the EU. To this end, it collects Parliaments'/Chambers' views regarding the short-term and long-term evolution of parliamentary scrutiny of the EU decision making process, exploring at the same time national Parliaments' cooperation with the European Parliament.

In terms of how to further improve the quality of national Parliaments' contributions and to facilitate the European Commission's response to them rendering reasoned opinions and political dialogue procedures more structured and effective, the majority of Parliaments/Chambers support issuing informal guidelines on how to draft reasoned opinions and contributions in the context of political dialogue.

The greatest number of those supporting such guidelines indicate that they would prefer these to be non-binding, a tool for the exchange of best practices highlighting basic legal issues, so as to draw a sharp distinction between the principles of subsidiarity and proportionality, but not in the form of a standardised template. A small number of Parliaments/Chambers (eight) state that there is no need for establishing informal guidelines on how to draft reasoned opinions. As to who should be entrusted with the task of drafting such guidelines, the majority (eight) express their preference for a specific working group established within COSAC, at staff level (permanent representatives in based in Brussels or staff in capitals) or at political level (six), often proposing a combination of those options. Seven Parliaments/Chambers express their preference for COSAC.

Only a few Parliaments/Chambers (seven) support creating a standard form for reasoned opinions and contributions in the context of political dialogue. As to who should be tasked with creating such a standard form, the majority of the respondents (four) express their preference for a specific working group established within COSAC, at staff level (permanent representatives based in Brussels or staff in capitals), or at political level (two respondents), in a couple of cases proposing a combination of those options.

The idea of introducing a "green card" procedure that would build on the existing political dialogue without any formal Treaty amendments is shared by the vast majority of the responding national Parliaments, though only six Parliaments/Chambers have adopted an official position on the "green card". As regards the scope of it, there is broad consensus among responding Parliaments on the fact that the "green card" should provide a tool for conveying to the European Commission *Suggestions for new legislation* as well as *Suggestions to amend existing legislation*. A majority of the respondents are in favour of including *Suggestions to repeal existing legislation* and *Suggestions to amend or repeal delegated or implementing acts*.

The UK *House of Lords'* recent proposal on how the "green card" procedure could be implemented in practice is seen by an overwhelming majority of national Parliaments/Chambers as a basis for further discussion. Parliaments largely support the elements put forward by this proposal, in particular those providing that any national Parliament/Chamber may issue a "green card" according to its own internal procedures, that informal consultations and contacts with other Parliaments/Chambers, as well as that possible cluster meetings may take place and that the initiating Parliament/Chamber prepare a draft letter to the European Commission and disseminate it

to all other Parliaments/Chambers. However, some Parliaments have voiced their concern regarding the deadline, as well as the threshold in relation to the initiation of the proposed procedure.

Only a few Parliaments/Chambers support that the European Parliament should play a role in the "green card" procedure. For most of the respondents, the European Parliament, pursuant to Article 225 TFEU, already enjoys the right to ask the European Commission to submit legislative proposals. Though the question as to what this role involves is not wholly clear, most of the respondents see a need to keep the European Parliament informed about the initiatives taken in the framework of the "green card".

A wide majority are in favour of calling the new mechanism "green card" procedure and only four Parliaments Chambers have submitted concrete proposals as to alternative terms that may be attributed to the "green card".

The Report also collects Parliaments'/Chambers' views and positions on proposed forms of cooperation between national Parliaments and the European Parliament with the aim of facilitating exchange of information, best practices and debate on the implementation and transposition of EU legislation, EU spending programmes, as well as parliamentary monitoring.

Half of the responding Parliaments/Chambers have discussed and/or replied to the letter of the President of the European Parliament of 5 June 2014, while most of those responding have provided a reply.

The vast majority of the respondents express their willingness to share their best practices and/or ideas with the European Parliament on parliamentary monitoring on transposition, implementation and enforcement of the EU law.

Most of those Parliaments/Chambers responding negatively highlight the fact that they are not dealing with the monitoring of transposition and/or have no information to share, while a few expressly mention they have no formal position on the issue.

The overwhelming majority is also willing to share already existing positions, information or background knowledge on the extent to which EU legislation/EU policies/EU spending programs are implemented and applied and on whether these have produced the intended effects. Those Parliaments/Chambers opposing such cooperation stress the role of the Government in the field of implementation and enforcement of EU law and the European Commission's responsibility foreseen in the treaties.

The proposed relevant methods or networks for facilitating cooperation vary from information-sharing via national Parliament representatives in Brussels to sending a direct reply from the Speaker of Parliament/Chamber to the President of the European Parliament.

CHAPTER 3: EU TRADE POLICY AND THE ROLE OF PARLIAMENTS

The third Chapter of the 23rd Bi-Annual Report begins by setting forth the extent to which the Parliaments/Chambers have been engaged in the debate on the impact of EU free trade agreements over the last few years. It then looks at the state of play of the debates on some specific free trade agreements currently being negotiated, such as the Transatlantic Trade and Investment Partnership (TTIP) and the EU-Canada trade agreement (CETA), identifying the most important issues for the Parliaments/Chambers during this negotiation process. Last, this Chapter addresses the issue of access to information for parliamentarians on ongoing EU trade negotiations.

Most responding Parliaments/Chambers, although they do not have a role in defining national priorities in relation to EU trade and investment negotiations, scrutinise such negotiations and exert parliamentary oversight over their Government's activities in the EU Council throughout the negotiation process. A few Parliaments/Chambers usually grant a mandate to their Government ahead of the European Council and EU Council meetings.

In terms of the extent to which Parliaments/Chambers have been engaged in the debate on the impact of the EU free trade agreements over the last few years, most responding Parliaments/Chambers state that they have discussed the estimated national and EU-wide impact of such agreements, mainly of the TTIP. The discussions usually have taken place at Committee level, but some Parliaments/Chambers also refer to the debates in plenary session. Most Parliaments/Chambers have informed about a wide range of parliamentary initiatives, including conferences, meetings and hearings involving different stakeholders (e.g. the Commissioner for trade and other members of the European Commission, members of the European Parliament, Chief trade negotiators, Ambassadors, Non-Governmental Organisations).

The vast majority of the responding Parliaments/Chambers do not carry out public consultations on EU trade and investment policy, and almost none of respondent Parliaments/Chambers prepare their own impact assessment on trade issues.

The EU negotiations on free trade agreements with third countries, in particular the ongoing negotiations between the EU and the United States on TTIP, have lately generated an unprecedented level of interest within the EU and on the part of the national Parliaments.

Almost all responding Parliaments/Chambers either have already discussed various aspects of the TTIP or are planning to do so in the near future, thus confirming the high level of interest in this agreement among the national Parliaments. About half of responding Parliaments/Chambers have looked at CETA, and fewer respondents have discussed the multilateral agreement on trade in services (TiSA).

The Treaty of Lisbon has granted new trade negotiation powers to the EU: the Commission has exclusive competence to negotiate trade deals in several new areas, and all trade agreements must be approved by the European Parliament. Nevertheless, several Parliaments/Chambers have urged enhancing the legitimacy of those key trade agreements through ratification by Member States.

Parliaments/Chambers' replies highlight the aspects of TTIP deemed key to concluding those negotiations. Easier market access in a wide range of market segments is seen as instrumental in providing significant opportunities to both the European and the US economies, but issues related to certain products, such as in the agricultural, chemical, metal and automotive industries are raised by several Parliaments/Chambers. Resolving the differences between the regulatory systems of the EU

and the US is seen by many Parliaments/Chambers as a major contribution from TTIP, but at the same time a strong signal is sent for upholding high consumer protection, health, labour and environmental protection, as well as social rights and food safety in the EU.

The replies on protection of investments, particularly the Investor-to-State Dispute Settlement process (ISDS), are indicative of various and sometimes clashing opinions ranging from supporting the current mandate for the negotiations and seeing this as an opportunity to set modern standards of protection for the legitimate rights of foreign investors, to calling for completely excluding the ISDS provisions from the TTIP.

The last section of this Chapter analyses the available data on access to information on ongoing EU trade negotiations for parliamentarians, especially in the light of the well-received recent decisions by the Commission on the transparency of TTIP negotiations.

Half of the responding Parliaments/Chambers indicate they have the right to access the information on trade and investment negotiations, including negotiation documents, in keeping with any of the following: specific constitutional/legislative/regulatory provisions; standard governmental scrutiny and/or cooperation procedures; upon notification and/or request to the Governments. The overwhelming majority of the responding Parliaments/Chambers receive information on ongoing EU trade and investment negotiations processes from their respective Governments. However, there are important differences between existing practices within the responding Parliaments/Chambers, in terms of the nature of the information received (ranging from very general and accessible to the public to very detailed, confidential information only accessible under strict confidentiality arrangements) and the time when it is made available (from the very outset of the negotiation process or at certain stages during the negotiations).

Valuable insights are provided on the practices currently adhered to in the course of the TTIP negotiations, and on the impact of the Commission's transparency initiative launched in November 2014. While several respondents acknowledge the importance of the initiative, the vast majority of the responding Parliaments/Chambers affirm that further steps towards enhancing transparency concerning TTIP negotiations are needed and have made corresponding suggestions, such as, ensuring that negotiation meetings are open and that more relevant documents are released to the general public, strengthening the political dialogue through the involvement of all stakeholders, granting parliamentarians access to negotiation documents, devising an effective communication strategy informing citizens on the agreement, among others.

Only few Parliaments/Chambers have presented their views on the future role of Parliaments in the area of EU trade and investment policy. These stress the importance of ensuring, *inter alia*, the involvement of national Parliaments in the debate on the negotiation mandate, with representatives of the European Commission taking part; the provision of information on the progress of negotiations in a more detailed and transparent way than has hitherto been the case; greater involvement of national Parliaments in the debate on the EU trade and investment policy, particularly in the agreements viewed as 'mixed agreements'; striking the right balance between the provision of information to national Parliaments; their involvement in the negotiation process and the necessary confidentiality of the negotiations.

CHAPTER 1: EU ENERGY POLICY: STATE OF PLAY, CHALLENGES AND OPPORTUNITIES

The purpose of the first Chapter of the 23rd Bi-Annual Report of COSAC is to present the content that Parliaments/Chambers of the EU Member States attribute to Energy Security and the European Energy Union (EEU) and their views on a number of essential energy policy issues relevant to energy security and the EEU. In this context, it compiles Parliaments'/Chambers' views as to how the EEU could be designed and, in particular, how to best address the challenges in the main areas that will likely constitute the backbone of the future Energy Union: energy security, completion of the internal market, energy efficiency, decarbonisation, research and innovation, with the aim of contributing to an exchange of information among Parliaments. It also examines which particular aspects Parliaments/Chambers would set as their priorities within this broad range of issues.

The concept of "a resilient Energy Union with a forward-looking climate change policy" has been put forward as one of the top priorities of the new European Commission, and it is one of the key points in the Commission's work programme for 2015. Parliaments/Chambers, in this Chapter, are asked, among others, to give their views on recently published documents, such as the European Commission's "Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy"¹, the Communication from the Commission to the European Parliament and the Council titled European Energy Security Strategy² and the Communication from the Commission to the Council and the European Parliament on European Energy Security Strategy³. Furthermore, Parliaments are asked to present their views on closer cooperation among EU Parliaments in matters of common interest in the realm of energy policy.

i. Parliaments' discussions on the European Commission's "Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy" (COM (2015) 80 final)

The abovementioned European Commission's Framework Strategy, published on 25th February 2015 sets out, in five interrelated policy dimensions, the goals of an Energy Union, as well as the detailed steps that the Commission will take to achieve it.

Only three of the responding Parliaments/Chambers had issued an opinion on the framework strategy, while nine Parliaments/Chambers had debated the topic informally. However, the majority of those responding (21 out of 37) intended to hold a debate.

A number of Parliaments/Chambers reported their views on the Energy Union in general and on the abovementioned Strategy. Some of them expressly stated that such discussions or reporting had taken place in relation to the Energy Council held on 5th March 2015 and the European Council of 19-20 March 2015 (Hungarian *Országgyűlés*, Dutch *Tweede Kamer*, Maltese *Kamra tad-Deputati*, Croatian *Hrvatski sabor*, Swedish *Riksdag*, Czech *Senát*).

The Polish *Sejm* stated that energy security and diversification had been discussed at a meeting of the European Union Affairs Committee and that the Communications had been welcomed.

¹ COM (2015) 80

² COM(2014)330

³ SWD(2014)330

The relevant Committee of the Estonian *Riigikogu* expressed the view that the Energy Union's goals should be defined precisely and focused on solving the energy policy's issues strategically and that the long-term goal was to synchronise the Baltic electric system with Central European systems.

The Romanian *Senat* said that the Commission's document represented a good basis for discussion, considering, among others, that a support mechanism should be created for projects of common interest and for identifying a clearer definition of the protection of final consumers with a view to solving the issue of energy poverty.

The European Parliament's⁴ Committee on Industry, Research and Energy (ITRE Committee)⁵ had discussed the issue with the Vice President for Energy Union on 26 January 2015 before the European Commission adopted its strategy. The discussions focused on: the need to enhance EU's security of supply by diversifying its sources and supply routes and by reinforcing its negotiating power with suppliers; the creation of a competitive single internal energy market by bringing down technical and regulatory barriers and fostering regional cooperation; the importance of energy efficiency; the decarbonisation of Europe's energy system and the EU's contribution to finding an agreement at the forthcoming 21st Session of the Conference of the Parties to the United Nations Framework Convention on Climate Change (COP) in Paris; the investments for boosting renewable energies.

Although the formal position of the Czech *Senát* on Communications (COM(2015)80, 81, 82) was expected in May, in a Resolution⁶ it supported further integration in the field of energy, pointing out the importance of speeding up the linking of energy infrastructure in the EU; the need to fully implement and enforce existing energy legislation; the necessity to further diversify the sources and transit routes (the construction of the Southern Gas Corridor); and the need to maintain full competence of Member States in determining their structure of energy sources.

The Dutch *Tweede Kamer* said that different parties held different views, although there was a majority in favour of the Government's preliminary position that existing EU legislation such as the Third Energy Package must be implemented rapidly and fully. A well-functioning energy marketplace enabled by a requisite infrastructure, supplemented by the Climate and Energy package, should constitute the basis of the Energy Union. This included agreement that a well-functioning energy marketplace would strengthen the EU's negotiating stance with third countries, and hence opposition to anything that would weaken such stance.

The Croatian *Hrvatski sabor* said that security of supply, as well as Croatian projects on the short list of Projects of Common Interest (PCIs) for the Southeast Europe, were the most interesting topics to Croatian members. Emphasis was given to cooperation with non-EU countries in the region.

The Committee on Industry and Trade of the Swedish *Riksdag*⁷ had requested supplementary information to the Government's position that implied that social challenges, including poverty,

⁴ The European Parliament's replies to all sections of the questionnaire represent the position of the competent organs of the European Parliament, rather than the European Parliament's position.

⁵ The European Parliament's ITRE Committee is expected to request authorisation to draw up an own initiative report on the Commission Communication.

⁶ Resolution No. 99, 18th March, 2015.

⁷ The Swedish *Riksdag* clarified that the Committee on Industry and Trade had deliberated with the Government regarding the Swedish Government's position on the Energy Union Communication and that the Committee supported the Government's position. The position of the Committee should not be understood to be the position of the *Riksdag*.

should be combatted by means of social policy and not energy policy measures. With this supplementary information, seven out of the eight parties in the *Riksdag* supported the Government's position. In the opinion of the Government, a well-functioning internal market was a fundamental prerequisite for the development of the Energy Union. Measures to contribute to the EU's three energy-policy pillars (ecological sustainability, competitiveness and security of supplies) should be mutually reinforcing and taken in parallel. The Government welcomed the fact that the position of consumers in the energy markets was highlighted in the Energy Union. The Government supported further the correlation between an innovation-driven Energy Union and opportunities for economic growth and jobs.

Regarding security of supplies, the Government considered, among others, that a fully functioning internal market was a key measure for increasing security of supplies and reducing the need for capacity mechanisms, but that greater energy efficiency and a higher share of renewable energy could also contribute. The *Riksdag* also shared the Government's opinion that a well-functioning EU Emission Trading Scheme is crucial for reduced emissions of greenhouse gases.

Although the Danish *Folketing* had not adopted an official position on the specific elements of the proposal, the proposal had been scrutinised by the European Affairs Committee, which by a majority supported the Danish Government in stressing that the Energy Union should focus on realising the long-term goals for a low emission economy in 2050. The Committee also underlined the need to create an efficient energy market.

ii. The concept of the European Energy Union (EEU) and its sources

Concerning the concept of the EEU, the vast majority of the respondents (23 out of 33) replied that there was an official position/formal interpretation of it adopted at the national level (parliamentary or governmental level).

Regarding the sources of such official positions/formal interpretations, the Slovenian *Državni zbor* referred to the first position of the Republic of Slovenia for the meeting of the Transport Telecommunications and Energy Council (TTE) meeting presented at the Committee on EU Affairs before the Council Meeting took place on 5 March 2015.

The German *Bundesrat* referred to a position paper on the Energy Union submitted by the Federal Government to the Commission and the Member States, not yet made available to itself, and to the Federal Government's position on plans for the Energy Union in response to a minor interpellation from the Bündnis 90/Die Grünen parliamentary group⁸ (official document also referred to by the German *Bundestag*).

The Slovak *Národná rada* cited the Slovak position on the Energy Union in view of the European Council, while the Hungarian *Országgyűlés* referred to the Government's position presented in a verbal procedure at the meeting of the Committee on European Affairs and a written report transmitted to the members of the Committee by the Ministry of National Development. The Estonian *Riigikogu* also referred to the Government position confirmed by the EU Affairs Committee on 27 February and 9 June 2014 after hearing explanations from the Government representative. The Committee on European Affairs of the Lithuanian *Seimas* had also approved the Government's position on the concept of the European Energy Union, which had been submitted to the committee before the TTE Council of 5 March 2015. Similarly, both the Czech *Poslanecká*

⁸ German *Bundestag* Official Document 18/4006.

sn movna and the Czech *Senát* referred to the Czech Government's framework position. The Maltese *Kamra tad-Deputati* also referred to the Government's opinion in the Statement to the House, according to which Malta was satisfied with the clear political direction that had been given in the Communication on the establishment of the Energy Union. The Croatian *Hrvatski sabor* referred to the position of the Republic of Croatia for the 3372nd meeting of the Council of the European Union.

In Portugal's case, the Parliament had noted the country's ability to produce electricity from renewable energy (solar, hydro and wind) and that its strategic position and geopolitics could be an alternative energy vehicle for Europe, which highlighted the importance of EU funding for the interconnections between the Iberian Peninsula and the rest of Europe. The Portuguese *Assembleia da República* had not concluded its discussion on this subject. The Government noted that the climate and energy package was facilitating the advent of a true EU internal energy marketplace. The inclusion in the agreement of the 10% target for interconnections by 2020 and 15% in 2030 were objectives that had been proposed by Portugal.

According to the information given by the Spanish *Cortes Generales*, no official position/formal interpretation of the concept of the European Energy Union had been adopted either at governmental or parliamentary level. Nevertheless, the plenary of the Spanish *Congreso de los Diputados* adopted, on 26th February 2015 and after the Debate on the State of the Nation, a resolution (Resolution no. 12) in which it urged the Government to develop an energy policy allowing sufficient interconnection of the Iberian Peninsula with the rest of the EU in order to complete the development of the internal market, and develop renewable energy sources compatible with competitive energy prices. It recommended taking into consideration specific projects for improving electricity interconnections between the Iberian Peninsula and France, under the supervision of the European Commission and with the commitment of technical operators of the electrical systems in France, Portugal and Spain, in order to implement the agreement reached at the European Council.

The Romanian *Senat* referred to a non-paper on the concept of the European Energy Union approved by the Romanian Prime Minister in February 2015.

The French *Assemblée nationale* referred to a definition provided in a contribution by the Government's general secretariat for European Affairs, on 6 February, based in a balanced way on three priority objectives: the combat against climate change, energy security and competitiveness.

The French *Sénat* specified that France's position was defined by the Government and taken to the European level in the context of discussions with other States. It aimed at promoting energy transition towards a low carbon economic model; adapting the internal electricity market so as to integrate the development of intermittent renewable energy; supporting the development of power generation capacity and network infrastructure; supporting industrial competitiveness of intensive consuming sectors, leaving Member States to determine the necessary steps compatible with EU law; supporting a transparent system of governance without unnecessary administrative burdens, fully respecting the freedom of Member States to determine their own energy mix; strengthening the external dimension of the EU energy policy and solidarity among Member States; fostering solidarity among citizens, contributing to the strengthening of growth and employment and supporting the implementation of energy efficiency objectives; and maintaining regulated tariffs for small consumers.

The Belgian *Chambre des représentants* referred to the federal coalition agreement presented to the House in the form of a Governmental Policy Declaration and adopted by the House on 16 October 2014 and to the Minister for Energy's General Policy Statement.

The Italian *Senato della Repubblica*, referring to its Resolution adopted on 4 March 2015 on the Commission Work Programme for 2015⁹, stated that the Committee on EU Policies welcomed the development of a strategic framework for the Energy Union designed to secure energy supply and the integration of national energy markets and to enhance energy efficiency by reducing dependence on imports, decarbonising the energy mix and promoting industry research and innovation. On 18 March 2015 the Italian Government reported the Italian position to the Senate in view of the European Council on 19-20 March 2015. After the debate, the Senate voted a resolution, which called on the Government to support a balanced approach on energy issues that included all aspects of the Energy Union project, namely energy security, internal market, energy efficiency, decarbonisation, research and development. Furthermore, the Senate called on the Government to promote the accomplishment of the internal energy market and regional cooperation, especially with neighbouring countries, and the use of all financial resources, including the European Fund for Strategic Investments (EFSI), to build the infrastructure necessary to ensure a secure supply of energy.

The UK *House of Commons* had not discussed the Communications in plenary, but the European Scrutiny Committee had reported on it, and holding them under scrutiny, concluded that they covered ground which had already been well trodden. The same Chamber also referred to the UK Government's explanatory memorandum of 12 March 2015 on the Communication, which stated that the Government welcomed the Communications, and agreed with the Commission's broad approach, referring to the Minister's comments on the different elements of the package. The Parliamentary Under-Secretary of State at the Department for Energy and Climate Change particularly welcomed the fact that this encompassed a forward looking climate policy, the centrality of completing the internal energy market, and initiatives to strengthen the EU's bargaining power and reduce dependency on Russian gas in order to enhance energy security.

Regarding the concepts/actions/policies that were or could be associated with the EEU, Parliaments/Chambers¹⁰ responding mostly associated the EEU with energy security (20 out of 24, and the European Parliament's ITRE Committee, its Committee on Environment, Public Health and Food Safety [ENVI Committee] and its Committee on Foreign Affairs [AFET Committee]) and energy saving and energy efficiency (20 out of 24 and the European Parliament's ITRE, ENVI, AFET and Committee on Internal Market and Consumer Protection [IMCO Committee]). The EEU was the least associated with energy production portfolios of the EU Member States (five out of 22 and the European Parliament's ENVI Committee) and long-term contracts between energy producers (suppliers) and consumers (five out of 20).

⁹ Doc XVIII, n. 87.

¹⁰ The Cyprus *Vouli ton Antiprosopon* stated that the left wing party, AKEL-Left New Forces, disagreed that the following concepts/actions/policies were or could be associated with the European Energy Union: Common external EU energy policy, Harmonised energy policy *vis-à-vis* third countries, Harmonisation of EU internal energy policy, Energy production portfolios of the EU Member States and Common, free and effective EU energy market; it also mentioned that the position with regard to the concepts/actions/policies in the field of Secure supply of energy should be marked as indefinite.

Concept/Action/Policy	Number of Parliaments/Chambers associating with the EEU	Number of Parliaments/Chambers responding
Energy security and Energy saving and energy efficiency	20	24
Secure supply of energy	19	24
Diversification of energy supply sources and Energy research and innovation and Common, free and effective EU energy market	18	24 23 23
Harmonisation of EU internal energy policy and Coordination of decisions on development of energy infrastructure and Minimising energy dependency and Projects of common interest (PCIs)	17	24 23 23 23
Common external EU energy policy and Support for renewable energy resources	16	23 24
Harmonised energy policy vis-à-vis third countries and Reduction of CO2 emissions	15	23 24
Emissions Trading System (ETS)	14	23
Preventing climate change	13	22
Support for indigenous energy resources	12	22
Long-term contracts between producers of energy resources and energy producers	6	20
Energy production portfolios of the EU member states and Long-term contracts between energy producers (suppliers) and consumers	5	22 20
TOTAL RESPONDENTS		24

Other concepts/actions/policies that were or could be associated with the EEU cited by Parliaments/Chambers included strict implementation of the legislation, decarbonisation of transport, use of low-carbon and renewable energy sources (Slovenian *Državni svet*), resetting of the EU energy policy, remodelling the EU energy system, affordable energy price for consumers, building and modernising energy infrastructure (Romanian *Senat*), regional collaboration and synchronisation of the Baltic States' electricity market with continental Europe networks (Lithuanian *Seimas*), decarbonisation element of the Energy Union (European Parliament's ENVI Committee).

The Czech *Senát* stated that all of the given aspects could be associated with the EEU, but what mattered was a consideration a concrete form of each and every aspect.

The UK *House of Commons* referred to the UK Government's explanatory memorandum on the Communication and the Minister's comments on energy security, internal energy market, energy efficiency, decarbonisation, research and innovation and interconnection. In relation to decarbonisation, the UK Government expressed its disappointment that the Commission had focused almost exclusively on the role of renewable energy at the expense of other low carbon technologies (notably nuclear power and carbon capture and storage).

iii. Scope and content of concept of European Energy Union

The Lithuanian *Seimas* summarised the concept of the EEU as including the main pillars of EU energy policy: 1) security and solidarity, 2) an integrated internal energy market, 3) reduction of energy demand, 4) decarbonisation, 5) research and innovation.

Indeed, Parliaments/Chambers provided many and varied detailed ideas on the scope and content of the concept in question along those axes.

The majority of members of the European Parliament's ITRE Committee agreed on the key importance of creating an Energy Union based on these abovementioned five main pillars, while the European Parliament AFET Committee's opinion in relation to the report¹¹, though supportive, asked for more synergies between the energy policy and EU external policies.

The Hungarian *Országgyűlés* stated that the concept should also involve providing EU households and businesses secure, sustainable, competitive and affordable energy; ensuring the evaluation of the implementation of the Third Energy Package; establishing an integrated continent-wide energy system; strengthening global commitments to low-carbon and climate-friendly economy; speeding up the diversification of energy supply and routes, including necessary infrastructural investments; providing assistance to building key interconnectors; respecting Member States' competence on how to determine their energy mix; using the potential of significant energy savings; and stepping up measures to meet energy efficiency targets.

The Polish *Sejm*, among others, stated that, irrespective of their party affiliation, the members opted for the separation of the energy and climate policies and supported that the EU should seek to undertake joint negotiations of contracts with major suppliers for the purchase of energy resources, especially gas, while the Estonian *Riigikogu* supported that the Energy Union's goals should be defined precisely and focus on solving the energy policy's issues strategically and that the EU's 2030 energy and climate package and Energy Security Strategy should be part of Energy Union.

The Romanian *Senat* believed that the Commission's document represented a good basis for discussion, stressing the tools available to the internal energy market and the aim of consolidation of the energy security. It emphasised the potential of own energy resources, such as those in the Black Sea. It nevertheless underlined, among others, its desire to see references to nuclear energy in relation to achieving the decarbonisation targets, highlighting the need to observe the freedom to choose one's energy mix. Nuclear energy was also referred to by the Czech *Poslanecká sněmovna* as a useful tool in fighting climate change and strengthening energy security. The French *Sénat* referred to a report¹² of the Committee on European Affairs adopted in May 2014 on French-

¹¹ AFET Opinion on the European Energy Security Strategy of 24 March 2015, AFET_AD(2015)549118 PE 549.118v02-00.

¹² "La coopération énergétique franco-allemande : naissance d'une Europe de l'énergie ?", rapport d'information de M. Jean BIZET n° 534 (2013-2014) <http://www.senat.fr/notice-rapport/2013/r13-534-notice.html>

German energy cooperation where it was stated that Europe had to think of a real energy policy. According to the Committee, the low cost characterising the nuclear power industry was the only available source capable of financing energy transition which was a long term evolution.

The Austrian *Nationalrat* and *Bundesrat* supported that the EEU should foster Europe's energy sustainability and independence while respecting Member States' competence for choosing their own energy mix.

Members of the European Parliament's ENVI Committee, among others, stressed¹³ the need for the European Parliament's involvement in the Energy Union proposal. They also advocated for a unified EU strategy in the lead up to the Paris climate change Conference and pushed for concrete plans to coordinate cross-border energy connections and fund research and development in clean energy and renewables. Some MEPs voiced concern about the differing energy mix policies in EU countries (which are of national competence), emphasising the need for cooperation in order to achieve energy mix policy convergence.

Certain Parliaments/Chambers (e. g. Romanian *Senat*) referred to, among others, the need for common EU negotiations on behalf of all Member States with the energy suppliers and the definition of a common interest regarding supply when it came to external suppliers in order to diminish the EU's dependence and minimise environmental impact of energy consumption (e.g. French *Assemblée nationale*).

The Belgian *Chambre des représentants* defined the EEU's scope and content as to ensuring a secure, affordable and renewable supply of energy within the framework of the EU energy policy, on the one hand, and the Belgian institutional landscape, on the other.

The Croatian *Hrvatski sabor* underscored the importance of ensuring security of supply, while the Austrian *Nationalrat* and *Bundesrat* supported that the latter should also be ensured by diversification of energy sources, suppliers and routes and by enhancing energy efficiency, as well as sharing of renewables in an efficient way. The latter referred also to the need for respect of the principle of subsidiarity.

The Latvian *Saeima* underlined that, whatever the content of the EEU, Member States should benefit from it in terms of energy independence and energy security.

iv. Communication from the Commission to the European Parliament and the Council titled European Energy Security Strategy [COM(2014)330]

Twelve out of 36 responding Parliaments/Chambers had discussed and issued an opinion on the Communication from the Commission to the European Parliament and the Council titled European Energy Security Strategy, three had debated the topic informally, while eight intended to do so.

The European Parliament's INTA, ENVI and IMCO Committees had issued an opinion, while ITRE had debated the topic informally (Strategic own-initiative report European Energy Security Strategy) and AFET intended to discuss it.

¹³ At an exchange of views with the Vice-President of the Commission responsible for Energy Union, Mr Maroš ŠEF OVI, on the forthcoming Strategic Framework for the Energy Union.

The European Parliament's ITRE Committee considered a draft report at its meeting on 21-22 January 2015, where the rapporteur welcomed the Commission's Communication. The rapporteur recalled that moderation of energy demand through energy efficiency was triply crucial, impacting positively on the EU's energy security, competitiveness and sustainability, and pointed to the need to reduce energy demand in buildings. In the debate, several members welcomed the prospects of a more unified European approach to energy policy and stated that the Parliament should take an active part in it. The discussion on amendments on 24 February 2015 showed that there was broad consensus on the draft report.

The German *Bundesrat* deliberated on the Communication on Security of Energy Supply on 19 September 2014 and adopted an Opinion addressed to the Federal Government¹⁴. In its Opinion, the German *Bundesrat* expressed its vigorous support for discussing security of supply at the European level and advocated cutting the cost of energy imports by both reducing demand for energy and stepping up energy production in the EU, with a focus on low-CO2 and renewable energy sources. It also called for greater coordination of national energy policies and emphasised that structuring the Member States' energy markets as a Single Market would strengthen the Member States' negotiating position *vis-à-vis* third parties. It advocated looking at mechanisms whereby the Member States could voluntarily pool demand, thus strengthening the European clients' negotiating position with supplier countries. It also underscored the need for a more comprehensive debate on protecting strategic energy infrastructure. It considered improving energy efficiency and the greater use of renewable energies as the key tools towards cutting energy demand and thereby making the EU less dependent on energy imports from abroad.

The Slovak *Národná rada* referred to the conclusions of the meeting of the Committees on European Affairs of the Visegrád Group countries (V4 countries), which had taken place in October 2014, stating, among others, that the energy policy of the EU was determined by three primary objectives, namely sustainability, security of supply and competitiveness, and welcomed the European Commission's European Energy Security Strategy (EESS). It considered that before the winter of 2014/2015 short term priority must be given to energy security, by fully exploiting the available gas storage facilities, interconnectors and by speeding up the diversification of energy supply and routes. It further called for increased efforts to reduce Europe's high energy dependency and underlined the importance of energy efficiency, further development of domestic production and integrating the European energy market based on regional approach, while it deemed it necessary to strengthen the external dimension of EU energy policy and the link between energy security and foreign policy.

The Hungarian *Országgyűlés* said that the Communication was debated at the meeting of the Committees on European Affairs of the abovementioned V4 countries in Hernádvécse, Hungary, which adopted conclusions focusing on energy efficiency and its contribution to energy security. In addition, it referred to the EU Consultative Body, an *in camera* meeting convened prior to each European Council meeting by the Speaker of the Hungarian *Országgyűlés* where the positions regarding the EESS were on the agenda.

An opinion was adopted by the European Union Affairs Committee of the Polish *Sejm* at its 276th meeting on 27 August 2014. The Committee supported the position of the European Commission on the establishment of the EESS based on eight pillars and believed that the document could serve as a good basis for further discussions, while it supported the negative position of the Government of the Republic of Poland, in particular with regard to the inclusion of the energy security strategy

¹⁴ Bundesrat Official Document 258/14 (Decision).

in the climate and energy package, pointing out that the EU's energy policy was based on three equivalent and interrelated pillars: energy security, competitiveness and sustainable development. It also supported the position of the Government, which was opposed to tying the construction of coal-based energy facilities to the use of carbon capture and storage (CCS) technology and its position on ensuring public aid opportunities for the construction of energy facilities based on clean coal technologies and nuclear energy. It drew attention to the necessity of creating favourable conditions for the use of unconventional natural gas sources in the EU, which would help lessening the dependence on natural gas imports from outside the EU. Finally, it fully supported the European Commission's recognition of energy security as an important part of the EU's common foreign policy and at the same time pointed out that the strategy made only minimal proposals in terms of new instruments for leading the EU's external energy policy.

The EU Affairs Committee of the Estonian *Riigikogu* discussed the Communication on 9 June 2014. Estonia supported the goal of the EESS of diminishing the dependence on outside EU energy and the abolition of energy islands; it supported an initiative aiming at investigating the possibility of centralised EU gas purchases.

The Committee for European Affairs of the Czech *Poslanecká sn movna* at its 19th meeting held on 2 October 2014, in its resolution No. 91, welcomed the effort to coordinate the policies of Member States towards partners from third countries and the effort to establish a common external energy policy and supported the Czech Government's framework position to the Communication.

The UK *House of Lords* referred to an exchange of letters between its competent Committee and the UK Government which explored the difficulties associated with collective gas purchasing and the progress of the Third Energy Package. Both the UK Government and the UK *House of Lords* were enthusiastic about the establishment of a fully functioning internal energy market, but acknowledged that there was a great deal of work to be done to increase strategic energy infrastructure and address technical barriers, such as electricity network codes.

The Czech *Senát* debated the Communication in August and October 2014. In general, it welcomed the initiatives aimed at ensuring energy security, not only with regard to the current unstable situation in Ukraine and some other countries exporting oil, but primarily with regard to the high dependence of the Member States on energy imports from third countries. Among others, it pointed out that the EU must act in a collective and coordinated manner while addressing issues of energy self-sufficiency and security; according to its view, it was necessary to prevent some Member States from undertaking partial steps in the field of energy policy which harmed or may harm the others.

The Czech *Senát* also considered it essential that the EU should diversify its energy resources and its transit routes, so as to reduce dependence on existing dominant suppliers of raw materials from countries outside the EU. It further supported nuclear energy as a low carbon source of electricity. Finally, it expressed the view that free market principles could not by themselves ensure the EU's energy security, and therefore considered it essential to strengthen the EU single energy market by measures aimed at enhancing energy security such as by establishing cross-border interconnections of energy networks or ensuring the possibility of reverse flows of gas, as well as by technical measures against unscheduled loop flows on grid networks arising from the unstable output of solar and wind power plants.

The Dutch *Tweede Kamer* stated that different parties held different positions, but that it generally supported the Government's position. A committee meeting to discuss the Government's position in Council meetings took place on 18 June 2014.

The Foreign Affairs Committee and the Defence Committee of the Finnish *Eduskunta* expressed their opinion in the course of the normal scrutiny procedure in September 2014. Both Committees underlined the integral link between the energy security and the general security policy. The Defence Committee considered that the strategy should focus on promoting resilience to external energy shocks and disruptions to energy supplies in the short term and reducing dependency on particular fuels, energy suppliers and routes in the long-term.

The Communication was recommended for debate by the European Scrutiny Committee of the UK *House of Commons* in July 2014, and debated in European Committee in November 2014¹⁵. The House welcomed the Government's support for the Commission's energy security strategy, in particular the recognition in the Communication that energy security was central to the EU's prosperity; and supported the Government's efforts to work to ensure that in the implementation of the strategy, the existing balance of competence between the Member States and the Commission was not altered.

v. Communication from the Commission to the Council and the European Parliament on European Energy Security Strategy [SWD(2014)330]

The majority of Parliaments/Chambers (24 out of 36) had not discussed the Commission staff working document In-depth Study of European Energy Security accompanying the document Communication from the Commission to the Council and the European Parliament on European Energy Security Strategy, while four had debated the topic informally, six intended to do so and only two had discussed it and issued an opinion.

The European Parliament's IMCO Committee had debated the topic informally, while the ENVI Committee had not debated it.

Most of the respondents had not examined the document in question, while the German *Bundesrat* clarified that it had examined it in conjunction with the Communication on Security of Energy Supply. The Slovak *Národná rada* referred to the discussions of the Committees on European Affairs of V4 countries in October 2014.

vi. The concept of Energy Security and its sources

The vast majority of Parliaments/Chambers (26 out of 33) had no formal position on the concept of energy security.

Regarding references to the source of formal positions on the concept of Energy Security, the Portuguese *Assembleia da República* replied it had not yet concluded its debate on the concept, but that energy efficiency and its contribution to energy security and the 2030 Framework for climate and energy policy had been the subject of discussion in the European Affairs Committee in the context of scrutiny of COM(2014) 520, which highlighted the role that energy efficiency could play towards reducing greenhouse gas emissions and providing greater energy security to reach the goal of 20% improvement in energy efficiency by 2020.

The Estonian *Riigikogu* and the Lithuanian *Seimas* referred to the competent Committee's support of the Government positions on 9th and 13th June 2014 respectively.

¹⁵ <http://www.publications.parliament.uk/pa/cm201415/cmgeneral/euro/141125/141125s01.htm>

The Romanian *Senat* reported that energy security in the Black Sea area was an important debate subject during a conference organised between 19-21 November 2014, at the Palace of Parliament, with high ranked officials and business representatives.

The French *Assemblée nationale* referred to its resolution on the second energy-climate package, adopted by its Committee on Sustainable Development on 7th November 2014, which affirmed the absolute necessity of reducing EU energy dependence by improving the security of energy supply in Europe and by completing the internal energy market.

The UK *House of Commons* referred to an inquiry on this topic by the relevant select committee, the Energy and Climate Change Committee¹⁶.

The French *Sénat* referred to its report¹⁷ where the issue of energy security had been explored without formally engaging the Chamber. It also explored this issue, without having adopted a formal position, in the context of a debate on climate and energy in Europe which took place on 21st May 2014¹⁸.

Regarding concepts/actions/policies that were or could be associated with the concept of energy security, Parliaments/Chambers¹⁹ responding mostly associated energy security with diversification of energy supply resources (19 out of 22 and the European Parliament's ITRE, AFET and ENVI Committees) and the EEU (19 out of 24 and the European Parliament's ITRE and AFET Committees), as well as with energy saving and energy efficiency (19 out of 22 and the European Parliament's ITRE, AFET, IMCO and ENVI Committees). Energy security was least associated with energy production portfolios of the EU Member States (six out of 20).

¹⁶ <http://www.parliament.uk/business/committees/committees-a-z/commons-select/energy-and-climate-change-committee/news/ukes-report-findings/>

¹⁷ See footnote no. 10 above.

¹⁸ http://www.senat.fr/seances/s201405/s20140521/s20140521_mono.html#Niv1_SOM3

¹⁹ The Cyprus *Vouli ton Antiprosopon* stated that the left wing party, AKEL-Left New Forces, disagreed that the following concepts/actions/policies were or could be associated with the concept of energy security: Common external EU energy policy, Harmonised energy policy *vis-à-vis* third countries, Harmonisation of EU internal energy policy, Energy production portfolios of the EU member states and Common, free and effective EU energy market; it also stated that the position with regard to the concepts/actions/policies in the field of Secure supply of energy should be marked as indefinite.

Regarding point 6, the Latvian *Saeima* replied yes in particular in the light of the EU establishing common rules on the internal electricity and natural gas market in the Member States through implementing the Third Energy Package, which harmonises requirements for the effective functioning of the energy market.

Regarding point 12 and 13, the Latvian *Saeima* replied no due to the fact that there is currently no clarity among policy and decision-makers about how the Emission Trading Scheme is going to evolve and whether it is going to add to energy security.

Concept/Action/Policy	Number of Parliaments/Chambers associating with energy security	Number of Parliaments/Chambers responding
Diversification of energy supply sources and Energy saving and energy efficiency and European Energy Union	19	22 22 24
Minimising energy dependency and Common, free and effective EU energy market	18	22
Secure supply of energy and Coordination of decisions on development of energy infrastructure and Projects of common interest (PCIs)	17	21 23 23
Common external EU energy policy and Harmonisation of EU internal energy policy	16	22 23
Harmonised energy policy vis-à-vis third countries	15	22
Support for indigenous energy resources	14	22
Support for renewable energy resources	13	23
Long-term contracts between producers of energy resources and energy producers	11	21
Reduction of CO2 emissions	10	22
Long-term contracts between energy producers (suppliers) and consumers	9	20
Emission Trading System (ETS) and Preventing climate change	8	22
Energy production portfolios of the EU member states	6	20
TOTAL RESPONDENTS		24

Regarding other concepts/actions/policies that were or could be associated with the concept of energy security, the Romanian *Senat* stated that almost all concepts could be associated with the energy security, except for long term contracts between producers of energy resources and energy producers. The Lithuanian *Seimas* cited regional collaboration, synchronisation of the electricity market of the Baltic States with continental Europe networks, better interconnection and elimination of "energy islands". The European Parliament's ENVI Committee specified ensuring the transition to a low-carbon economy by 2050. The Italian *Senato della Repubblica* referred to the improvement of energy storage facilities; diversification of energy supply among different geopolitical areas; and improvement of European reverse flow capacity.

vii. Scope and content of the concept of energy security

The German *Bundesrat* referred to its comments on the Communication from the Commission to the European Parliament and the Council titled European Energy Security Strategy [COM(2014)330], while the Slovak *Národná rada* to the discussions of the Committees on European Affairs of the V4 countries in October 2014.

The Hungarian *Országgyűlés* stated that the concept of energy security should include the following main objectives: speeding up the diversification of energy supply and routes, including consultations on the necessary infrastructural investments; providing assistance for building key interconnectors; enhancing energy storage facilities; respecting Member States' competence on how to determine their energy mix; using the potential of significant energy savings; and stepping up measures to meet energy efficiency targets.

The Polish *Sejm* supported the EU energy security concept which should be based on building energy infrastructure and creating crisis solidarity mechanisms. Among others, it stated that the use of local energy sources and resources, as well as the diversification of oil and gas supplies to the EU, should be taken into account. It stressed that strengthening energy security of the EU neighbours in the Energy Community was key. Furthermore, it underlined the need to maintain technological neutrality and to include in the Energy Union concept the role of the EU's own resources in reducing the dependence of the Member States on the import of resources. Climate policy issues, according to the Polish *Sejm's* view, should not dominate further work on the Energy Union.

The Romanian *Senat* said that the concept would ensure uninterrupted availability of energy sources at an affordable price, both over the short term (ability of the energy system to react immediately to sudden demand and/or supply changes) and over the long term (timely investments to supply energy in line with evolving economic and environmental factors). It referred to ten objectives. The Romanian *Camera Deputaţilor* also emphasised the need to ensure reasonable pricing and stressed that energy security also meant that uninterrupted supplies be ensured at reasonable pricing levels over time for both individual consumers and companies. The French *Assemblée nationale*, among others, argued that energy security was indeed synonymous with less dependence and a more long-term vision of energy costs, critical for the production costs.

The European Affairs Committee of the French *Sénat* considered it essential to have a secure energy, which would be cheap and benefiting from large interconnections on European territory. In terms of energy security, it considered it necessary to "develop" smart grids "and storage capabilities before increasing the share of intermittent renewable energy."

The concept, according to the Lithuanian *Seimas*, included a plan for maximising energy independence, namely, completion of the common internal energy market, implementation of the Third Energy Package, elimination of "energy islands" and development of a common external energy policy.

The UK *House of Lords' European Union Committee* supported the link that the Strategy made between energy security and the EU's 2030 Climate and Energy framework. Long-term planning and an integration of energy and climate change objectives should be at the heart of energy security policies.

The European Parliament ENVI Committee, in its own-initiative report on the Energy Security Strategy, overall stressed the importance of a comprehensive approach to increase energy security and meet climate objectives at the same time, in particular, in view of the needed transition to a low-carbon economy. Most members saw targets for greenhouse gas emission reductions, renewable energy use and energy efficiency as key policy (and investment) drivers, though differences prevailed as to the level of ambition and degree of binding nature at EU and national levels. Many felt that increasing energy efficiency should be a top priority, along with reducing import dependence and energy demand. There was strong support for stronger coordination of the national policies (in securing and diversifying supply, improving supply routes and interconnections, R&D into innovative energy technologies, ensuring access and affordability). Nonetheless, the widely differing situations/interests in Member States and their competence for their energy mix remained a prominent concern.

The European Parliament's AFET Committee referred to the European Parliament resolution of 12 March 2015 on the Annual Report from the High Representative of the European Union for Foreign Affairs and Security Policy to the European Parliament²⁰, which emphasised the importance of building a European Energy Union aiming at increasing coherence and coordination between foreign policy and energy policy. It also stressed that energy security should be part of the comprehensive approach to the EU's external action, and believed that energy policy must be in line with the Union's other priority policies, including its security, foreign and neighbourhood, trade, and development policies, as well as its policies in defence of human rights. It underlined the need to significantly reduce dependence on Russia and find alternative sources of energy, emphasising that efforts to diversify the EU's energy supply should be accelerated in order to strengthen the energy independence of the EU.

The Croatian *Hrvatski sabor* stated that energy security concerned mostly the security of supply and ability to react in urgent situations, underlining that emphasis must be given to interconnections and development of own energy resources, while the German *Bundestag* stated that the main aspects of the energy security concept were the diversification of suppliers and energy resources, and the development of infrastructure for energy delivery.

The Austrian *Nationalrat* and *Bundesrat* stated that energy security in the EU could be increased by completing the internal energy market, which included implementation of existing rules as well as putting in place the necessary infrastructure. Among others, it stressed further the need for diversifying sources and routes of energy supply, e.g. by making progress on the Southern Corridor. Energy security should focus on supply security and production security. All potential costs related to the production of energy had to be internalised in order to create a level-playing field on the energy market.

viii. Closer cooperation and coordination among EU Parliaments in the realm of energy policy

All responding Parliaments/Chambers supported the idea of closer cooperation among EU Parliaments in matters of common interest in the realm of energy policy. In terms of how this could be achieved, several Parliaments/Chambers identified COSAC and/or interparliamentary meetings of sectoral committees as a platform for discussions or sharing best practices in this field. Three Chambers (Polish *Sejm*, Romanian *Camera Deputa ilor*, Dutch *Tweede Kamer*) suggested holding specific "cluster of interest" meetings. The European Parliament's AFCO Committee mentioned that

²⁰ www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0075+0+DOC+XML+V0//EN

interparliamentary cooperation could play an essential role in driving the European integration process forward. The Romanian *Camera Deputa ilor* proposed to set up an electronic platform and a dedicated Secretariat, hosted by the European Parliament. The Lithuanian *Seimas* pointed out that a closer cooperation among Member States should be developed on the basis of regional cooperation and implementation of Projects of common interest. The regional dimension was also considered by the Hungarian *Országgy lés* and the French *Assemblée nationale*. The latter mentioned the establishment of regional energy hubs between interconnected countries as possible objectives. The Romanian *Senat* suggested that any form of energy blackmail on the part of supplier countries be firmly rejected. The Belgian *Chambre des représentants* mentioned an *ad hoc* interparliamentary conference, while the Latvian *Saeima*, the Austrian *Nationalrat* and the Czech *Poslanecká sn movna* proposed regular exchange of information.

The majority of the respondents (14 out of 20) and the European Parliament's ENVI and ITRE Committees replied positively to the question whether they considered the distributed energy production an important tool for moving away from the import of fossil energy resources from third countries. The UK *House of Lords* found that the potential offered by the distributed generation must be recognised more clearly in energy strategies²¹. The European Parliament's ITRE Committee, recalling a resolution on microgeneration -small-scale electricity and heat generation²², affirmed that microgeneration must be a vital element in future energy generation and pointed out that Member States facilitating microgeneration at the individual and community level could empower consumers to become active players in the energy sector. Several Chambers/Parliaments focused on the potential offered by the renewable energy production. Among them, the German *Bundestag* mentioned the revised Law on Renewable Energies, approved on 4 December 2014, which was the basis for the Energy Agenda of the Federal Ministry of Economic Affairs and Energy, and the French *Assemblée nationale* recalled the law on the French energy transition, approved on first reading, containing specific measures aimed at encouraging local renewable energy projects.

The Cyprus *Vouli ton Antiprosopon* mentioned the measures adopted for promoting the installation of small photovoltaic systems for electricity production on domestic, industrial and commercial buildings, as well as the creation of photovoltaic parks and wind farms on an industrial scale. The Austrian *Nationalrat* and *Bundesrat* pointed out that the change in the production structure should be reflected in a new market design, which would allow not only to integrate renewable energy sources, but also to ensure that there was enough back up capacity available when needed.

Among the Parliaments/Chambers which expressed a negative view, the Romanian *Camera Deputa ilor* considered that setting a framework to allow such small units to function was very expensive and time-consuming and added that small-scale hydropower systems had proved to be environmentally damaging; the Polish *Sejm* pointed out that distributed energy sources may be complementary to basic electricity production and as such of local significance, but decisions on their deployment should be taken at national level.

A wide majority of the responding Parliaments/Chambers, and the European Parliament's ITRE and ENVI Committees, were in favour of closer policy coordination among EU Member States

²¹ Report of the European Union Committee: "No Country is an Energy Island: Securing Investment for the EU's Future" (<http://www.parliament.uk/documents/lords-committees/eu-sub-com-d/energy/euenergypolicyfinalreport.pdf>).

²²P7_TA(2013)0374, adopted by the European Parliament on 12th September 2013.

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2013-0374+0+DOC+XML+V0//EN>

regarding renewable energy (23 out of 28) and, in general, overall energy policies (25 out of 29, including European Parliament's ITRE Committee).

Among them, however, the Finnish *Eduskunta* noted that the energy sector had important development needs that called for joint EU action, but the fundamental choices in energy policy (such as the security of supply and the choice between energy sources) should be kept in the national competence. The Member States' competence to decide their national energy mix was stressed by several other Parliaments; among them, the Czech *Poslanecká sn movna* expressed its negative position also on setting binding targets. The Member States' competence on the national energy mix, of which the renewable energy was regarded as part, explained the Latvian *Saeima*'s negative reply to the question on closer policy coordination among EU Member States regarding renewable energy. However, the latter clarified that in the future its position might be aligned to renewable energy policy trends stemming from the new EEU policy framework, despite renewable energy policy being considered part of Member States' discretion regarding national energy mix. The Italian *Senato della Repubblica* noted instead that closer coordination should lead to more harmonisation in the choice of energy mix and a more consistent compliance with renewable energy goals.

Concerning the question how closer coordination could be achieved in the field of renewable energy, some of the respondents suggested organising regular meetings and discussions on this subject; among them, the German *Bundestag* proposed to hold exchanges of views about national energy plans or agenda and the Slovak *Národná rada* mentioned in particular the *European Forum for Renewable Energy* (EUFORES). The Romanian *Senat* added that a centralised coordination of this activity, using examples of best practices at European level, and the availability of financial resources for such viable projects would bring us closer to energy security. The European Parliament's ITRE Committee, mentioning a resolution adopted on 21 May 2013²³, suggested establishing joint support schemes, moving forward the debate about greater convergence and a suitable European system of support for the post-2020 period and pointed out that a more integrated system for promoting renewable energy sources at EU level was necessary in the long haul.

The UK *House of Lords* highlighted that there was scope for further regional cooperation in this area, for example, regarding the North Sea Countries Offshore Grid Initiative. The impact of national policies on neighbouring states was mentioned by the German *Bundesrat*, for example in the fields of grid and network development, market design and promotion of renewable energies. The French *Assemblée nationale* stressed the importance of the European support to research and innovation in the field of renewable energies, which could be of particular benefit at local level if they participated in experimental modes of energy use and consumption²⁴. The French *Sénat* suggested establishing research partnerships concerning the techniques for producing electricity from renewable resources, "intelligent energy networks" and the energy storage, and proposed a map of intelligent energy networks in France and Germany²⁵.

Among the Parliaments/Chambers in favour of closer coordination of overall energy policies, however, the Latvian *Saeima* clarified that coordination should be regarded as positive as long as it

²³ P7_TA(2013)0201

<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2013-0201&language=EN&ring=A7-2013-0135>

²⁴ Rapport d'information déposé par la Commission des affaires européennes sur la loi de transition énergétique française et présenté par Mme Danielle AUROI.

²⁵ See footnote no. 10 above.

did not necessarily imply compulsory actions related to the national energy portfolio, whereas the Austrian *Nationalrat* and *Bundesrat* pointed out that some policy areas were better left in the competence of Member States. The Polish *Sejm* underlined that closer coordination could contribute to creating optimised national energy mixes and lead to the creation of regional energy markets, whereas the Lithuanian *Seimas* focused on the need to complete the common energy market. A closer coordination was considered necessary in the field of energy security (Czech *Senát*), PCIs, interconnection plans, energy purchasing from third countries and development of complementarities on the basis of unified rules (French *Assemblée nationale*). The support for closer coordination with third countries was also expressed by the AKEL-Left-New Forces of the Cyprus *Vouli ton Antiprosopon*. The UK *House of Lords* believed that consideration should be given to annual obligatory reporting by Member States to the Commission on their national energy policies, with assessments conducted by the Commission on the implications of emerging national policies for neighbouring countries and the EU as a whole, and recommended that the Commission provided further clarity regarding the EU rules on state aid and the compatibility of national energy policies. The latter added that further communication would be valuable. The French *Sénat* proposed to strengthen the energy cooperation between France and Germany, a cooperation which could also soon include other countries²⁶.

All responding Parliaments/Chambers saw further energy efficiency measures and increased financing for energy efficiency as important tools for reducing the import of energy resources from third countries. However, the Czech *Poslanecká sn movna* pointed out that certain limits in financing such measures must be taken into account. The UK *House of Lords*²⁷ and the Cyprus *Vouli ton Antiprosopon* acknowledged the important role that energy efficiency can play in achieving long-term energy security objectives. The European Parliament's ITRE Committee mentioned a specific article on financial instruments, which was included in the Energy Efficiency Directive at the request of the European Parliament, but containing no mandatory provisions due to resistance of Council. The European Parliament's ENVI Committee underlined the importance of fully implementing the Energy Efficiency Directive and the Energy Performance of Building Directive. The Polish *Sejm* stressed the need of scientific cooperation leading to innovative technologies, whereas the Austrian *Nationalrat* and *Bundesrat* mentioned the subject of thermal restoration. The French *Senate* recommended that the French-German cooperation gave more importance to saving energy and a greater interest in the techniques of "energy recovery". The Hungarian *Országgy és* mentioned specific national measures enhancing the energy efficiency.

²⁶ See report on the energy cooperation between France and Germany, footnote no. 10 above.

²⁷ See the above mentioned report of the European Union Committee of the UK *House of Lords*, footnote no. 20 above.

CHAPTER 2: FUTURE OF PARLIAMENTARY SCRUTINY OF EU AFFAIRS

The second Chapter of the Bi-annual Report, building on the findings of the 22nd Bi-Annual Report presented at the LII COSAC meeting in Rome in July 2014, explores further the role played by national Parliaments in the EU decision-making process aiming at fostering the debate on strengthening the role of national Parliaments in the EU. To this end, it collects Parliaments'/Chambers' views regarding the short-term and long-term evolution of parliamentary scrutiny of the EU decision making process.

Section A collects Parliaments'/Chambers' views on how reasoned opinions and political dialogue procedures could be improved and made more structured and effective.

Section B explores new ways of involving national Parliaments in the decision-making process of the EU without any formal Treaty amendments focusing on Parliaments'/Chambers' views on the proposed "green card" procedure that would build on the existing political dialogue and make it possible for Parliaments'/Chambers to make constructive suggestions regarding policy or legislative proposals to the European Commission and its potential practical implementation.

Section C aims at collecting Parliaments'/Chambers' views and positions on proposed forms of cooperation between national Parliaments and the European Parliament recently proposed by the European Parliament, with the aim of facilitating exchange of information, best practices and debate on the implementation and transposition of EU legislation, EU spending programmes, as well as parliamentary monitoring.

Section A: Improving the procedure for reasoned opinion/political dialogue

With a view to further improving the quality of the national Parliaments' contributions and facilitating the European Commission's response, Parliaments'/Chambers were asked whether they supported the idea of issuing informal guidelines on how to draft reasoned opinions and contributions in the context of political dialogue.

A clear majority of the responding Parliaments'/Chambers (21 out of 29) were in favour of issuing such informal guidelines, but 24 out of 31 Parliaments'/Chambers were against creating a standard form for reasoned opinions and contributions in the context of political dialogue.

The greatest number of the responding Parliaments'/Chambers indicated that they would prefer the guidelines on how to draft reasoned opinions and contributions in the context of political dialogue to be non-binding, rather as a tool for the exchange of best practices and containing basic legal issues, so as to draw a sharp distinction between the principles of subsidiarity and proportionality (such as the legal basis, the facts, the reasoning and the findings of reasoned opinions), but not in the form of a standardised template.

By way of example, the UK *House of Lords* expressed its view that a set of "best practices" could be drawn up, with an aim to sharing such amongst the Parliaments'/Chambers. These could however also include a format for reasoned opinions and contributions; a mechanism used for communicating contributions within the context of political dialogue to the European Commission, a mechanism for sharing contributions within the context of political dialogue with other national Parliaments and EU institutions. Also the Belgian *Sénat* and the Maltese *Kamra tad-Deputati* would

seek guidance on what format would work best for reasoned opinions, but the Lithuanian *Seimas*' Statute already provided a specific form for reasoned opinions.

The Latvian *Saeima* was of the opinion that informal guidelines would bring about a greater degree of uniformity among national Parliaments in drafting their reasoned opinions and political dialogue contributions, which, in turn, could greatly facilitate the European Commission's task in responding to these submissions. The European Commission's experiences in drafting replies to political dialogue contributions could be used in this exercise, as suggested by the UK *House of Lords*.

The European Parliament's Committee on Legal Affairs (JURI Committee) argued that only the effective functioning of the mechanism of reasoned opinions could benefit from such guidance, in particular, as regards criteria which qualified as considerations of subsidiarity and concerning the distinction between the principles of subsidiarity and proportionality. The European Parliament's AFCO Committee reiterated that the control of subsidiarity was not a collective exercise and commented that, as recipient of such documents, it could have an interest in better and harmonised drafting. However, it considered that such "informal guidelines" or "standard forms" for reasoned opinions and contributions should be issued in the framework of Article 9, Title II, of Protocol no. 1 of the Treaty of Lisbon on interparliamentary cooperation.

Eight out of 28 Parliaments/Chambers stated that there was no need for informal guidelines on how to draft reasoned opinions, with the Finnish *Eduskunta* strongly opposing this idea. The Dutch *Eerste Kamer* believed that Protocol no. 2 annexed to the Treaty of Lisbon already provided sufficient guidance. The Czech *Poslanecká sn movna*, the Czech *Senát*, the Italian *Camera dei deputati*, the Polish *Senat* underscored that the manner in which each national Parliament formulated its opinions should be left wholly to its discretion according to its own established procedures and practices.

When asked who should be entrusted with the task of drafting such informal guidelines, a majority of Parliaments/Chambers expressed their preference to a specific working group established within COSAC, at staff level (an equal number of eight Parliaments/Chambers would prefer at the level of permanent representatives in Brussels and at the level of staff in the capitals) or at political level (six), often proposing to combine those options. Seven Parliaments/Chambers expressed their preference for COSAC. The European Parliament's JURI committee suggested that a working group established within COSAC at staff level could prepare a draft under the supervision of a working group established at political level. Similar ideas were expressed by the Romanian *Senat* and the Dutch *Tweede Kamer*. The latter also suggested using the framework of a potential working group, which may be set up this spring in order to look at improvements on the yellow card procedure. Several Parliaments/Chambers underscored the importance of approving such informal guidelines at the COSAC political level, even if the drafting process takes place at another level.

Nine out of 22 Parliaments/Chambers said that they would prefer another option. Only two provided a specific proposal. The Lithuanian *Seimas* suggested that the COSAC Secretariat could prepare the draft, then to be endorsed by COSAC. The Romanian *Camera Deputa ilor* suggested entrusting this task to the European Parliament AFCO Committee or the European Parliament's *ex ante* Impact Assessment Unit or the Committee of the Regions.

Only seven out of 30 Parliaments/Chambers were in favour of creating a standard form for reasoned opinions and contributions in the context of political dialogue, and even fewer were supporting, in their extended replies, the development of a standard form meant for political dialogue contributions. In those few cases, the Parliaments/Chambers were looking for an opportunity to

indicate clearly the nature of the submission (e.g., whether it was a reasoned opinion on subsidiarity or a political dialogue contribution). The Irish *Houses of the Oireachtas* warned that a 'standard format' for reasoned opinions may not be in line with the provisions of the Treaty, thus it would support only the development of a 'non-binding' standard form for use. The Austrian *Nationalrat* and *Bundesrat* expressed its concern as to the possibility that such a form would rather complicate matters and unnecessarily bureaucratise the process.

When asked who should be entrusted with the task of creating such a standard form for reasoned opinions and contributions in the context of political dialogue, only ten Parliaments/Chambers responded. As in the case of drafting informal guidelines, on how to draft reasoned opinions and contributions in the context of political dialogue, Parliaments/Chambers expressed their preference to a specific working group established within COSAC, at staff level (an equal number of four Parliaments/Chambers would prefer at the level of permanent representatives in Brussels and at the level of staff in the capitals) or at political level (two), in a couple of cases proposing to combine those options.

Neither in the case of drafting informal guidelines nor in the case of creating a standard form for reasoned opinions and contributions, did the responding Parliaments/Chambers choose the EU Speakers Conference.

Section B: "Green card" procedure²⁸

i. Support to the idea of introducing a "green card" procedure" that would build on the existing political dialogue

A vast majority of the responding Parliaments/Chambers expressed (23 out of 27) their support to the idea of introducing a "green card" that would build on the existing political dialogue and make it possible for Parliaments/Chambers to make constructive suggestions regarding policy or legislative proposal to the European Commission without any formal Treaty changes. Three Parliaments/Chambers²⁹ indicated their opposition to the introduction of a "green card"³⁰.

The Finnish *Eduskunta* indicated that it was highly sceptical of any proposals to make institutional or quasi-institutional arrangements outside the treaties, because this would add to the complexity of the decision-making procedure at European level. It also pointed out that national Parliaments individually or collectively, already had the ability to write to the European Commission and therefore questioned the added value of a "green card".

The Italian *Camera dei deputati* recommended a careful consideration of any proposals concerning a "green card" procedure in order to assess its compatibility with the current treaties and institutional balance. The Romanian *Senat* also pointed out that the "green card" lacked a legal basis in the Treaty and that it was only possible to use it to make informal proposals to the European Commission.

Some Parliaments/Chambers further expressed their views on the introduction of a "green card" in general terms.

²⁸ "Green card procedure" is abbreviated throughout this section as "green card".

²⁹ Bulgarian *Narodno sabranie*, Finnish *Eduskunta* and Italian *Camera dei deputati*.

³⁰ The Romanian *Camera Deputa ilor* indicated that it answered no to all question in this section, because it had not reached an official position on the issue yet.

The Dutch *Eerste Kamer* stressed that it was in favour of using the existing instruments for national Parliaments, such as the political dialogue, to their full potential, as long as this was in line with the competences of the EU institutions as set out in the Treaty of Lisbon.

The Polish *Senat* supported the idea of strengthening the position of national Parliaments. However, there were formal problems with engaging in the "green card" since there were doubts about the compliance with the existing treaties. Moreover, there was no legal basis for proactive actions in external and European relations within the framework of Polish Constitution and law. According to the Polish Constitution, only the Government had a right to pursue an external policy, while the Parliament could only control and verify it. It did not have a legal basis for creating a formal procedure of issuing positions under such a procedure. Furthermore, it added that a formal position was going to be worked out in the nearest future and would be based on further legal analysis. The Swedish *Riksdag* underlined that on the basis of the constitutional conditions that applied in Sweden, the Government had the main responsibility for representing Sweden in the EU. The political dialogue between the Commission and Sweden therefore took place through Government, which was accountable to the *Riksdag*. It was only within the framework of the subsidiarity-check mechanism concerning draft legislative acts that the *Riksdag*, on the basis of the treaties, could communicate directly with the Commission.

The *Irish Houses of the Oireachtas* explained that it had stated its openness to the idea of other Parliaments on various cards, their scope, thresholds and time period in a political contribution to the European Commission in January 2015. It also acknowledged that some of these measures would require Treaty changes. Having regard to this, it proposed to integrate any new mechanism into an informal inter-institutional agreement because it would then be easier to integrate new changes into any new Treaty as actors and stakeholders would have seen them work or not work in practice.

The European Parliament's AFCO Committee had not taken a formal position on the "green card", however, it considered it as a positive suggestion to enhance the existing political dialogue with national Parliaments as long as it did not amount to a real right of legislative initiative of national Parliaments, which was not foreseen by the treaties. The Committee saw this initiative as one of the most promising ways to enable national Parliaments to contribute actively to the good functioning of the Union. As expressed in the European Parliament's resolution of 16 April 2014³¹, even the early warning mechanism should be used as a channel for consultation and cooperative dialogue between the various institutions within the EU's multilevel system. This positive mechanism could increase the feeling of ownership of the legislation adopted, contribute to render it more adapted to national realities and facilitate its transposition and implementation. In this sense, a better use of the provisions of the existing treaties could allow for national Parliaments to express their opinions concerning the need for European legislation.

Some Parliaments pointed out that the reason for not responding at all to the questions of the section related to the "green card", or only partly, was that they had not adopted an official position yet. The Portuguese *Assembleia da República* added that although it had not yet discussed the issue, it was traditionally in favour of strengthening the involvement of national Parliaments as concerns the scrutiny of European affairs and would most likely agree to a "green card". The UK *House of Commons* European Scrutiny Committee indicated that it supported initiatives to strengthen the role of national Parliaments in general terms, which included the "green card", but that it had not

³¹ <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2014-0430>

expressed a view on specific aspects of the "green card". The Estonian *Riigikogu* also declared its support to the idea of a "green card" in principle.

The Belgian *Chambre des représentants* warned that this new procedure should not overstretch the national Parliaments' capacities. The German *Bundestag* recommended putting the new procedure in line with the position of the European Parliament. The German *Bundestag* stated further that the exchange of best practice and dialogue about interinstitutional cooperation should be enhanced.

ii. Scope of the proposed "green card"

All responding Parliaments were of the opinion that the new procedure should provide for a mechanism allowing Parliaments to make *Suggestions for new legislation* as well as *Suggestions to amend existing legislation*.

When it came to conferring the competence to national Parliaments to make *Suggestions to repeal existing legislation* and *Suggestions to amend or repeal delegated or implementing acts*, the views expressed were not unanimous; three Parliaments/Chambers (Slovenian *Državni zbor*, Hungarian *Országgyűlés*, Latvian *Saeima*) were against the first proposal and three (Slovenian *Državni zbor*, Hungarian *Országgyűlés*, Belgian *Chambre des représentants*) against the latter. The Latvian *Saeima* clarified that national Parliaments should be able to formulate suggestions to amend delegated or implementing acts, however they should not have the power to repeal delegated or implementing acts.

The UK *House of Lords* would also like to include in the related competences the possibility to make *suggestions to review existing legislation* as well as *suggestions for non-legislative action in a particular field*.

As for the French *Assemblée nationale*, the "green card" should allow national Parliaments to propose amendments to a draft legislative act before its adoption by the European Commission as well as to propose new draft legislation not linked to any initiative of the European Commission.

iii. Parliaments' position on the "green card"

Only a minority of Parliaments/Chambers had adopted an official position on the introduction of a "green card"³².

The Lithuanian *Seimas* considered that the broad dialogue of national Parliaments, including their dialogue with European citizens, should contribute to the formation of EU policies. It was of the opinion that in order to give national Parliaments the opportunity to play a constructive role in policy formulation at EU level, it was necessary to improve cooperation among national Parliaments and coordination of their actions, and therefore to strengthen not only the political dialogue with the European Commission but also communication among national Parliaments. It believed that the developed political dialogue, by creating a "green card" (without amending the treaties), which encouraged the European Commission to put forward new legislative actions, and to revise, amend or repeal existing legislative acts, including delegated or implementing acts, could be useful.

³² Lithuanian *Seimas*, Cyprus *Vouli ton Antiprosopon*, Czech *Senát*, Dutch *Tweede Kamer*, Danish *Folketing* and Italian *Camera dei deputati*.

The Cyprus *Vouli ton Antiprosopon* stated that the "green card" would further enhance the role of national Parliaments in the EU decision-making. The relevant discussion paper presented by the UK *House of Lords* provided a good starting point. The left wing party, AKEL – Left New Forces, was of the opinion that an amendment of the existing EU treaties constituted a prerequisite to the introduction of a "green card".

The Czech *Senát* was of the opinion that the "green card" allowed for coordination of national Parliaments within the framework of the political dialogue and that coordination could lead to suggestions to call for a new legislative action or the amendment or repeal of existing legislation. It would also enhance the political dialogue with the European Commission. The *Senát* agreed in principle with the measures described in the discussion paper, however it suggested to add that the national Parliament initiating the "green card" included an English translation, and to extend the period for co-signing the draft to six months. Lastly, it underlined that, given the importance of the "green card", the adoption by national Parliaments should be taken by a body that was also competent to adopt written contributions addressed to the European Commission within the framework of the political dialogue (in its own case, the plenary).

The Dutch *Tweede Kamer* adopted an official position in May 2014, in which it pointed out its support to the introduction of a "green card" and declared that this procedure should include the competence to amend or revoke existing legislation. Furthermore, the *Tweede Kamer* believed that nothing stood in the way of Parliaments making such a proposal now. A group of countries gathered around a theme (cluster of interest) could issue such a card. It welcomed the proposals made by the *House of Lords*.

The European Affairs Committee of the Danish *Folketing* had issued a discussion paper outlining 23 recommendations on how to enhance the role of national Parliaments in EU decision-making, one of which concerned the introduction of a "green card".

In its official document adopted in December 2013, the Committee on EU Policies of the Italian *Camera dei deputati* stated that the political dialogue should continue to take place following the well-established practice of bilateral exchanges between the European Commission and individual Parliaments, without entering into any kind of collective dialogue between the Commission and groups of national Parliaments.

Some other Parliaments/Chambers had not adopted a formal position, but discussed the introduction of a "green card" at Committee level.

The European Affairs Committee of the Estonian *Riigikogu* discussed the concept in general and underlined that it welcomed the idea of further strengthening the role of national Parliaments in EU decision-making; that the present legal framework allowed to initiate this idea via political dialogue with the Commission, however, further steps may require the amendment of the treaties. Even in the case of the introduction of a "green card", the Estonian *Riigikogu* underlined that it would be concentrating on its current practices of scrutinising its Government's EU activities, as well as giving its position on EU proposals via its Executive.

The European Parliament's AFCO Committee was open to consider further developments of the current forms of interparliamentary cooperation and other ways to foster the dialogue between national Parliaments and European institutions. In this framework, AFCO intended to organise an interparliamentary committee meeting in autumn, which could be a good opportunity to discuss all those issues.

The European Affairs Committee of the UK *House of Lords* recalled that it had submitted a proposal on the mechanisms of the "green card", however, this paper had not been adopted by the plenary.

The Irish *Houses of the Oireachtas* reiterated that they would prefer the adoption of the "green card" in an inter-institutional agreement.

iv. The UK *House of Lords*' discussion paper on the "green card" and its main elements/proposals

An overwhelming majority of responding Parliaments/Chambers (26 out of 28) acknowledged the recent paper of the UK *House of Lords* as a basis for further discussion on the "green card"; two Chambers did not consider the paper in question as a basis for further discussion (Belgian *Sénat* and the Italian *Camera dei deputati*).

The UK *House of Lords*' discussion paper outlined some concrete proposals on the main elements of the "green card".

The replying Parliaments/Chambers expressed unanimous³³ support to the following elements:

- A "green card" may be issued by any national Parliament/Chamber according to its own internal process.
- Informal consultations and contacts with other Parliaments/Chambers, as well as cluster meetings may take place.
- The initiating Parliament/Chamber prepares a draft letter to the Commission and disseminates it to all other Parliaments/Chambers, inviting them to sign the "green card".
- Each national Parliament has two votes.

The Hungarian *Országgyűlés* voiced concerns on these elements:

- Once the threshold is reached, the initiating Parliament/Chamber sends the co-signed text to the Commission.
- Any Parliament/Chamber may propose amendments to the initial draft. The initiating Parliament/Chamber must respond to the proposed amendments. Amending the draft does not affect the 16-week deadline.³⁴

The Hungarian *Országgyűlés* and the Croatian *Hrvatski Sabor* replied that the following elements should not be integrated in the mechanism.

- Draft "green card" outlines the substance of the proposal in sufficient detail, contains a summary of the reasons behind the proposed action, describes the anticipated benefits, specifies the preferred type of legislation and specifies a possible legal base.

The Bulgarian *Narodno sabranie*, the Lithuanian *Seimas*, and the Latvian *Saeima* opposed the proposed minimum threshold of one fourth of all the votes in order to launch a "green card". The latter proposed to create an analogy with the "yellow card" procedure, and foresaw a threshold of one third of all votes.

³³ The Romanian *Camera Deputatilor* answered "No" to this whole section, because it had not reached a position yet.

³⁴ The French *Assemblée nationale* underlined that it has responded "no" to the deadline, the threshold and the amendments because those issues had not been discussed rather than because it wished to mark its opposition.

- The minimum threshold necessary for agreeing on a "green card" is reached when Parliaments/Chambers representing one fourth of all available votes have co-signed the draft according to their own internal procedure.

Parliaments'/Chambers' views on the deadline to co-sign the "green card" were mixed³⁵. Six Parliaments/Chambers commented on this element.

- Parliaments/Chambers have 16 weeks to co-sign the draft "green card" from the date when the initiating Parliament/Chamber circulated it.

Some Parliaments/Chambers provided additional information on the scope, practical implementation and formal requirements of the "green card".

According to the Hungarian *Országgyűlés*, the COSAC Chairpersons' and plenary meetings provided the right framework for the discussion of any "green card" proposal. It added that at this very early stage it was very difficult to describe the benefits of the main elements of discussion paper.

The Slovenian *Državni zbor* proposed to have a shorter timeframe of eight weeks for the signing of the "green card".

The Portuguese *Assembleia da República* pinpointed the language issue. As stated in the initial discussion paper, the initial drafts would be presented in the language of the initiating Parliament, which would imply difficult practical issues to overcome for national Parliaments. The drafts should also be circulated in the most common languages used in COSAC (English or French).

The Dutch *Eerste Kamer* indicated that it had not taken a specific position on the main elements in the paper.

The Polish *Sejm* proposed to allow for informal consultations and cluster meetings before the stage of the initiation of a "green card". However, sending the draft letter to the European Commission initiating the "green card" as soon as it was circulated to national Parliaments should mark the beginning of a formalised procedure. It further proposed to have a shorter deadline for co-signing, namely eight weeks. The *Sejm* also agreed to the proposal that any Parliament/Chamber may propose amendments, however this should not lead to opening a wide discussion; only the initiating Parliament should have the right to respond. Furthermore, every initiative should be posted in a single register accessible to all Chambers (a web platform), allowing to follow the discussions on the different initiatives.

The Romanian *Senat* underlined that the involvement of national Parliaments in EU decision-making was an ongoing debate and that the "green card" was part of it. Reducing the democratic deficit is important for Member States, EU institutions and the citizens of Europe.

The UK *House of Lords* replied that the final paper circulated suggested that Parliaments/Chambers have 6 months to co-sign a draft "green card", rather than 16 weeks.

³⁵ The question in the questionnaire for the 23rd Bi-annual Report of COSAC regarding the deadline, formulated before the UK *House of Lords'* revised proposal was drafted, is based on an initial idea of a 16-week deadline. The UK *House of Lords'* final revised working paper, circulated to Parliaments' on 28th January 2015, proposed a six-month deadline for co-signing the "green card".

The French *Assemblée nationale* had not debated yet on the deadline, the threshold and the amendments in detail. It pointed out, however, that, although the proposals circulated constituted a useful basis for discussion, the document in question was not the only possible basis for discussion.

The Czech *Senát* suggested that the time limit for co-signing of the "green card" should be at least six months. This would provide the necessary time for translations and deliberations. In its view, there was no need to impose time limits that would curtail the political consideration of proposed "green cards".

The Dutch *Tweede Kamer* pointed out that, as it was the case in the "yellow card" procedure, some informal guidelines could be formulated as long as they facilitated the possibility for national Parliaments to act in a positive way. It considered that a specific deadline of 16 weeks did not contribute to this. It also suggested that the initiating Parliament/Chamber should wait until the end of the deadline for co-signing a "green card" before sending it to the European Commission in order to collect as many signatures as possible.

For the Finnish *Eduskunta*, points 5 to 9 of the elements outlined in the discussion paper concerned procedural matters. It added that as it was agreed during the COSAC Chairpersons' Meeting to discuss the procedure during the LIII COSAC, it seemed too early to already state a position on these issues.

The Italian *Senato della Repubblica* replied that the "green card" should follow the model of the European Citizens' Initiative (ECI) as to the power of the EU Commission. The answers to the initiatives under such procedure should fall under the political dialogue, and the European Commission should reply possibly within three months. For the Croatian *Hrvatski Sabor*, a draft "green card" should not be too detailed. Based on the model of the ECI, it should only contain the main ideas of the proposal.

In the eyes of the Maltese *Kamra tad-Deputati*, further consideration should be given to what was expected of the European Commission once a "green card" was reached.

The German *Bundestag*, the UK *House of Commons* and the French *Sénat* notified that they had not reached a formal position concerning the proposals outlined in the UK *House of Lords'* discussion paper yet. Nevertheless, the European Affairs Committee of the French *Sénat* considered the proposal in a positive light. It added that it considered the UK *House of Lords'* proposal a useful contribution that should be discussed in COSAC. However, in the absence of a specific legal basis in the treaties, it considered it delicate to create anything going beyond an informal cooperation.

The Italian *Camera dei deputati* reiterated its position that a "green card" needed to be compliant with the current treaties and should not alter the institutional balance.

The Czech *Poslanecká sn movna* underlined that the "green card" should build on the existing political dialogue without any formal Treaty amendments.

v. The role of the European Parliament in the procedure

Only six Parliaments/Chambers (out of 30) were of the opinion that the European Parliament should play a role in the "green card" procedure, considering the right that it already enjoyed pursuant to Article 225 TFEU³⁶.

The Bulgarian *Narodno sabranie* made the remark that there needed to be further discussions on the role of the European Parliament.

In the view of the Hungarian *Országgyűlés*, a regular informal exchange of information with the European Parliament would contribute to the main objective of the "green card". The Romanian *Senat* also believed that the "green card" could provide the frame for informal consultations between national Parliaments and the European Parliament.

For the Lithuanian *Seimas*, the involvement of the European Parliament would signify that the latter could be informed about the initiative to raise a "green card".

The European Parliament's AFCO Committee believed that a closer cooperation between national Parliaments and European Institutions could enhance policy output and would be an asset to all European citizens, for the benefit of democratic legitimacy. Respecting the existing Treaty provisions, and the overall institutional EU balance, and in the light of a wider EU interparliamentary cooperation in the framework of Title II of Protocol 1 of the Treaty of Lisbon, AFCO was open to consider further developments of the dialogue with national Parliaments in the framework of the right of initiative that the European Parliament already enjoyed according to Article 225 TFEU.

The Maltese *Kamra tad-Deputati* replied that in the spirit of interparliamentary cooperation, the European Parliament should inform national Parliaments of any request made to the Commission in terms of Article 225 of the TFEU. Conversely, the instigator of a "green card" should inform the European Parliament of the initiative and keep it informed of any further developments.

Those Parliaments/Chambers that did not see a role for the European Parliament in the "green card", added the following explanations.

The Polish *Sejm* responded that the European Parliament should not be involved in the "green card", but it should be kept informed about it. In addition, the support of the European Parliament would lend greater strength to national Parliaments' initiatives. Finally, the European Parliament could exercise legislative initiative in the cases where national Parliaments, even if they reached the minimum threshold for such a card, would be unable to win the Commission over to its proposals.

The Czech *Senát* did not see a necessity for a formal role of the European Parliament in the "green card", but it would support informal discussions with MEPs on a potential proposal for one. It added that the European Parliament should be informed by the initiating Chambers about any "green card" proposals and it may indeed provide its opinion. It may use its right pursuant to Article 225 TFEU concurrently with the national Parliaments' "green card". Therefore, it was not necessary to formally include the European Parliament in the procedure. The inclusion of the European Parliament into the procedure would also require re-thinking the counting of votes and thresholds.

³⁶ Bulgarian *Narodno sabranie*, Hungarian *Országgyűlés*, Lithuanian *Seimas*, Italian *Senato della Repubblica*, AFCO Committee of the European Parliament and Maltese *Kamra tad-Deputati*.

The "green card's" added value should come from the experience with EU policies gained by the national Parliaments in the Member States. The European Parliament may have a different point of view and this may be expressed separately in the Article 225 TFEU procedure.

The UK *House of Lords* explained that the European Parliament had its own rights and responsibilities, and mechanisms for communicating with the European Commission. As the "green card" was an extension of the existing political dialogue between the European Commission and national Parliaments, it would not seem logical for the European Parliament to be eligible to co-sign a "green card". The Irish *Houses of the Oireachtas* commenting on its position stated that the European Parliament enjoyed its own privileges.

The Dutch *Eerste Kamer*, the German *Bundestag* and the UK *House of Commons* stated that they had not adopted a formal position yet.

vi. Examples of proposal that Parliaments would be willing to put forward within the framework of the "green card"

Nineteen Parliaments/Chambers replied, a number of which indicated that they had not taken an official position on this issue or that they had not put forward any proposals yet.³⁷

Some Parliaments/Chambers gave the following examples of proposals:

- A proposal on tackling food waste that could provide suggestions for non-legislative action and steps for the Commission to take (e.g. producing a roadmap), which could be incorporated into a new circular economy proposal if the Commission does, indeed, withdraw the existing proposal (UK *House of Lords*);
- a proposal establishing a European Business Forum (European Affairs Committee of the Danish *Folketing*);
- a proposal for a Directive on access to justice in environmental matters (Latvian *Saeima*);
- proposals on Energy Union, Digital Agenda and Fight against terrorism (French *Sénat*).

The Cyprus *Vouli ton Antiprosopon* replied that it may identify proposals in a future Committee meeting, while the Bulgarian *Narodno sabranie* and the Austrian *Nationalrat* and *Bundesrat* advocated to have further discussions on this topic.

vii. Different terms proposed for the procedure

Four Parliaments/Chambers expressed their preference for a different term for the "green card".

- "Green Card Exercise" or "Reverse Subsidiarity Exercise" (see Casini Report³⁸) (European Parliament's AFCD Committee, adding that it should not be called "procedure", because it would be confusing and could question the overall EU institutional balance as established by the Treaty of Lisbon³⁹)

³⁷ The Slovak *Národná rada*, the Hungarian *Országgyűlés*, the Spanish *Cortes Generales*, the Italian *Senato della Repubblica* and the UK *House of Commons*, the Dutch *Eerste Kamer*, the Czech *Poslanecká sněmovna*, the Czech *Senát* and the Maltese *Kamra tad-Deputati*.

³⁸ See European Parliament resolution of 27 March 2014 on relations between the European Parliament and the national parliaments, P7_TA(2014)0430.
<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2014-0255+0+DOC+XML+V0//EN>

³⁹ See European Parliament resolution of 7 May 2009 on the impact of the Treaty of Lisbon on the development of the institutional balance of the European Union, P6_TA(2009)0387.

- "Own Initiative Card" (Maltese *Kamra tad-Deputati*)
- "Enhanced Political Dialogue" (Irish *Houses of the Oireachtas*, Luxembourg *Chambre des Députés*)

The Belgian *Sénat* underlined that the name of the procedure did not matter.

Section C: Cooperation between national Parliaments and the European Parliament

Parliaments/Chambers were asked whether they had discussed and/or replied to the letter of the President of the European Parliament of 5 June 2014, which offered a new form of cooperation with the European Parliament enabling national Parliaments to share their positions or background knowledge on the implementation of legislation that the Commission intends to amend.

Half of the responding Parliaments/Chambers (19 out of 37) confirmed that they had discussed and/or replied to the letter mentioned above. Moreover, most of them had replied to the European Parliament.

Parliaments/Chambers' replies fell into two main groups: those who welcomed the initiative of the European Parliament and considered it as a good practice for further cooperation between national Parliaments and the European Parliament, and those who used this opportunity to elaborate on their Parliament's/Chamber's opinion on particular proposals listed in the letter.

By way of example, the Dutch *Eerste Kamer* explained the way in which it published information about the implementation of European legislation into national legislation through its website⁴⁰. The Luxembourg *Chambre des Députés* stated its readiness to communicate documents, but that at the moment it did not have any.

The vast majority (26 out of 32) of the responding Parliaments/Chambers confirmed their willingness to share their best practices and/or ideas with the European Parliament on parliamentary monitoring on transposition, implementation and enforcement of the EU law.

The Hungarian *Országgyűlés* supported that cooperation between the European Parliament and national Parliaments should focus on issues of common interest. On parliamentary monitoring of EU law, the current level of information-sharing, primarily on an *ad hoc* basis, provided an adequate level for cooperation.

Most of those Parliaments/Chambers responding negatively had responded in that way not because they were against sharing their best practice, but due to the fact that they were not dealing with the monitoring of transposition and/or had no information to share (Portuguese *Assembleia da República*, Spanish *Cortes Generales*, Polish *Sejm*, Austrian *Nationalrat*, Maltese *Kamra tad-Deputati*), while a few expressly mentioned they had no formal position on the issue.

The Austrian *Nationalrat* and *Bundesrat* commented that it was the Government, not the Parliament, tasked with implementing EU legislation, except for the transposition of Directives into national law.

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2009-0387+0+DOC+XML+V0//EN>

⁴⁰ www.europapoort.nl

The overwhelming majority (25 out of 28) of the responding Parliaments/Chambers expressed willingness to share with the European Parliament already existing positions, information or background knowledge on the extent to which EU legislation/EU policies/EU spending programs were implemented and applied and whether these had produced the intended effects.

The proposed relevant methods and/or networks that could be used were listed in the following order: overwhelming number of responding Parliaments/Chambers supported information sharing via national Parliament representatives in Brussels, during discussions with MEPs at interparliamentary meetings at the European Parliament, using the IPEX platform for communicating relevant information, and during discussions with MEPs in side-lines of COSAC. Slightly fewer Parliaments/Chambers considered as relevant in this regard discussions between parliamentary committees (i.e. video conference) or a reply from the Chairman of a parliamentary committee. The least supported option was sending a direct reply from the Speaker of Parliament/Chamber to the President of the European Parliament.

The Belgian *Chambre des représentants* referred to practical difficulties in sharing information, given the complexity of Belgium's institutional landscape, but reminded that these positions and background information were already available on IPEX, whereas information on the extent to which EU legislation/EU policies/EU spending programs were implemented and applied was available through more appropriate channels, such as e.g. the Commission's annual report on the transposition of Directives and the European Court of Auditors' reports.

The UK *House of Lords* pointed out that there was rarely any feedback from MEPs or European Parliament officials regarding the information shared. It noted that many of its political dialogue contributions had been already submitted to the European Parliament secretariat, including staff working on relevant Committees and DG Presidency, in order for the contributions to be included in the European Parliament's database.

On a more general note, the Finnish *Eduskunta* strongly opposed to any European Parliament's initiatives on implementation and enforcement of EU law, stressing that the treaties expressly reserved for the European Commission the duty and right to monitor the implementation of EU law. Therefore, the European Parliament's activities in this area would be contrary to the treaties and would risk harming the institutional balance. Also the Polish *Sejm* said that monitoring and evaluation of the transposition, implementation and enforcement of EU law fell into the responsibility of the European Commission.

CHAPTER 3: EU TRADE POLICY AND THE ROLE OF PARLIAMENTS

The aim of the third Chapter of the Bi-annual Report is to establish both the current and the future role and involvement of Parliaments in different Member States throughout the process of the EU negotiations on free trade agreements with third countries; these negotiations have recently generated a lot of interest within the EU Member States, mainly triggered by the negotiations on the Transatlantic Trade and Investment Partnership (TTIP) between the EU and the US.

In this context, Section A presents the extent to which Parliaments/Chambers have been engaged in the debate on the impact of the EU free trade agreements over the last few years.

Section B collects information on the state of play of the debates on the EU-US TTIP negotiations at the national and EU levels, and identifies the most important aspects for Parliaments/Chambers during this negotiation process.

Section C presents the extent to which both national Parliaments and the European Parliament have access to information on ongoing EU trade negotiations and analyses related data. It further provides Parliaments'/Chambers' assessment of the welcomed Commission's transparency initiative for TTIP negotiations launched in November 2014.

Section A: Parliaments' engagement in the debate on the EU free trade agreements

i. Policy for defining priorities in relation to EU trade and investment negotiations with third countries

Most of the responding Parliaments/Chambers (23 out of 34) stated that there was an established policy for defining their country's priorities for EU trade and investment negotiations with third countries.

When asked about their role in it, six Parliaments/Chambers pointed out that they did not have any role in defining such priorities since they were set at the executive level⁴¹. Some Parliaments/Chambers referred to their role in the ratification of mixed agreements⁴².

Eight Parliaments/Chambers⁴³ noted that they scrutinised EU trade and investment negotiations through the normal scrutiny process. Some Parliaments/Chambers specified that they scrutinised their Government's activities in the EU Council in this field⁴⁴ and gave mandate ahead of Council and EU Council meetings⁴⁵. The German *Bundestag* and the Swedish *Riksdag* informed that they also scrutinised initial negotiating mandates to be given to the European Commission, whereas the UK *House of Commons* could discuss at earlier stages and conduct parliamentary inquiries.

⁴¹ Polish *Senat*, Cyprus *Vouli ton Antiprosopon*, UK *House of Lords*, Romanian *Senat*, Swedish *Riksdag*, French *Sénat*.

⁴² Bulgarian *Narodno sabranie*, Slovenian *Državni svet*, Romanian *Senat*, UK *House of Lords*, French *Assemblée nationale*, Croatian *Hrvatski sabor*, Belgian *Chambre des représentants*.

⁴³ Portuguese *Assembleia da República*, Estonian *Riigikogu*, Lithuanian *Seimas*, UK *House of Lords*, Romanian *Camera Deputa ilor*, French *Assemblée nationale*, Finnish *Eduskunta*, Italian *Senato della Repubblica*, UK *House of Commons*, German *Bundestag*, Polish *Senat*.

⁴⁴ Polish *Sejm*, Finnish *Eduskunta*, Italian *Senato della Repubblica*, Croatian *Hrvatski sabor*, German *Bundestag*, French *Sénat*, Slovenian *Državni zbor*, Polish *Senat*, Belgian *Chambre des représentants*, Swedish *Riksdag*, French *Assemblée nationale*.

⁴⁵ Slovak *Národná rada*, Estonian *Riigikogu*, Lithuanian *Seimas*, Danish *Folketing*, Finnish *Eduskunta*, Romanian *Camera Deputa ilor*, Latvian *Saeima*, Swedish *Riksdag*.

The Dutch *Tweede Kamer* and *Eerste Kamer*, the Danish *Folketing*, the Latvian *Saeima* and the Swedish *Riksdag* informed that they discussed their government's position paper on trade and investment, in most cases, with competent Ministers.

The European Parliament's INTA Committee pointed out that it was responsible for matters related to the establishment, implementation and monitoring of the EU's commercial policy and it defined its priorities through debates and votes.

The Lithuanian *Seimas* also informed that both officials and members of the Parliament took part in the meetings of the Commission - Economic Diplomacy Council, set up by the Lithuanian Government and of the Working Group for External Economic Relations in the Ministry of Foreign Affairs.

The Polish *Sejm* referred to an *ad hoc* meeting on TTIP co-hosted by the Ministry of Economy, during which the Minister of the Economy gave an overview of Poland's trade and investment policy and its priorities in the common trade policy area.

ii. Parliaments' engagement in the debate on the impact that the EU trade and investment policy and the procedures/ practices followed

The majority of responding Parliaments/Chambers (28 out of 37) stated that they had been engaged in recent years in the debate on the impact that the EU trade and investment policy may have on the EU and/or their country.

Two Parliaments/Chambers stated that they had scrutinised such impact, but not as a matter of course (Czech *Poslanecká sn movna*, Polish *Sejm*).

Several Parliaments/Chambers stated that they discussed the estimated national and EU wide impacts of agreement during the scrutiny process and at Committee and/or Plenary levels⁴⁶. The Portuguese *Assembleia da República* added that it had also debated the impact on relationship between Portugal and other countries and the participation of national Parliaments in the negotiation process.

The European Parliament's INTA Committee replied that it was totally engaged in the debate and it held committee meetings, workshops, technical briefings and requests of technical studies. The EP AFET Committee stated that, during the past parliamentary term, it dealt with 19 procedures for consent for international agreements and gave 8 opinions to various EU agreements related to trade with third countries; it also held exchanges of views on those agreements, including on their impact on the EU.

Some Parliaments/Chambers informed about their scrutiny on the TTIP negotiations and on the possible national impact of this agreement⁴⁷. The UK *House of Lords* referred to its EU Committee report on the TTIP and hearings on various aspects of the agreement, in particular the Investor State

⁴⁶ Portuguese *Assembleia da República*, Spanish *Cortes Generales*, Finnish *Eduskunta*, Slovenian *Državni zbor*, Bulgarian *Narodno sabranie*, Hungarian *Országgy lés*, Polish *Senat*, French *Assemblée nationale*, Belgian *Chambre des représentants*, UK *House of Commons*, Austrian *Nationalrat and Bundesrat*.

⁴⁷ Portuguese *Assembleia da República*, Czech *Poslanecká sn movna*, UK *House of Lords*, Croatian *Hrvatski sabor*, Irish *Houses of the Oireachtas*, Austrian *Nationalrat*, French *Sénat*, Dutch *Tweede Kamer*, German *Bundesrat*, Luxembourg *Chambre des Députés*.

Dispute Settlement process (ISDS)⁴⁸, while the Italian *Camera dei deputati* mentioned a motion adopted by the Plenary. The Italian *Senato della Repubblica* and the Italian *Camera dei deputati* also informed about the scrutiny of their Committees on Agriculture on the impact of TTIP on the Italian Agriculture and Food sectors. The French *Sénat* pointed out that a group of senators were appointed the year before to follow the ongoing negotiations on the TTIP. The Dutch *Tweede Kamer* stated that the Committee on Foreign Trade and Development Cooperation held an *in camera* meeting with scientists to discuss legal and economic consequences of the TTIP.

Some Parliaments/Chambers referred to parliamentary debates on the impact of other EU Agreements: the Canada and European Union Comprehensive Economic and Trade Agreement, (CETA) (Portuguese *Assembleia da República*, Austrian *Nationalrat*, French *Sénat*, Swedish *Riksdag*), the Free Trade Agreement between EU and its Member States and the Republic of Korea (Italian *Senato della Repubblica* and Swedish *Riksdag*), the EU-Ukraine Association Agreement, including the Deep and Comprehensive Free Trade Area (Estonian *Riigikogu*) and Trade Agreement between the European Union and Colombia and Peru (Irish *Houses of the Oireachtas*).

The German *Bundestag* informed about its resolutions on the EU Annual Reports on Human Rights and Democracy in the World 2012 and 2013 which also referred to the consequences of free trade agreements between EU and third countries.

The Dutch *Eerste Kamer* mentioned a meeting between its representatives and former Commissioner for Trade, Mr Karel DE GUCHT, to discuss the general EU trade and investment policy, which took place in March 2013.

When asked at what level the discussions on EU trade and investment policy took place, the large majority of respondent Parliaments/Chambers replied at Committee level. According to the replies, the main Committees involved were the Committee on EU Affairs, the Committee on Economy and the Committee on Foreign Affairs⁴⁹.

Six Parliaments/Chambers pointed out that several standing Committees were involved according to topics⁵⁰. Ten Parliaments/Chambers⁵¹ referred to the role of the Plenary sitting, mainly but not exclusively during the ratification process.

⁴⁸ <http://www.publications.parliament.uk/pa/ld201314/ldselect/ldcom/179/17902.htm>

⁴⁹ - Committee on EU Affairs, Committee on Economy and Committee on Foreign Affairs (Slovenian *Državni zbor*, Portuguese *Assembleia da República*, Polish *Sejm*, Estonian *Riigikogu*, French *Assemblée nationale*).

- Committee on Industry and Trade, Committee on European Affairs, Committee on Foreign Affairs (Swedish *Riksdag*).

- Committee on EU Affairs, Committee on Foreign Affairs (Hungarian *Országgyűlés*, Polish *Senat*, Maltese *Kamra tad-Deputati*, Latvian *Saeima*).

- Committee on EU Affairs, Committee on Economic Affairs or Committee on finance (Bulgarian *Narodno sabranie*, Romanian *Camera Deputa ilor*, Spanish *Cortes Generales*, German *Bundestag*).

- Committee on Foreign Affairs (Czech *Poslanecká sn movna*, Dutch *Tweede Kamer*).

- Committee on Foreign and European Affairs (Cyprus *Vouli ton Antiprosopon* Luxembourg *Chambre des Députés*).

- Committee on EU Affairs (German *Bundesrat*, Slovak *Národná rada*, UK *House of Lords*, Danish *Folketing*, Austrian *Nationalrat*).

⁵⁰ Lithuanian *Seimas*, Finnish *Eduskunta*, Belgian *Chambre des représentants*, Italian *Senato della Repubblica* and *Camera dei deputati*, UK *House of Commons*.

⁵¹ Polish *Senat*, Czech *Poslanecká sn movna*, UK *House of Lords*, Romanian *Camera Deputa ilor*, Spanish *Cortes Generales*, Cyprus *Vouli ton Antiprosopon*, French *Assemblée nationale*, Danish *Folketing*, Belgian *Chambre des représentants*.

The Austrian Parliament also informed that the plenary of the Austrian *Nationalrat* discussed TTIP and CETA during a meeting and that TTIP was also the item for a “topical debate” in the plenary of the *National Council*.

Concerning the actors/stakeholders involved in the discussions, responding Parliaments/Chambers referred to hearings/meetings with:

- Commissioners for Trade and other Commissioners (French *Assemblée nationale*, German *Bundesrat*, Dutch *Eerste Kamer* and *Tweede Kamer*, Spanish *Cortes Generales*, Austrian *Nationalrat* and *Bundesrat*, Luxembourg *Chambre des Députés*), and European Commission officials (Estonian *Riigikogu*, Lithuanian *Seimas*, Italian *Senato della Repubblica*);
- a variety of stakeholders including those listed in the question, European Commission Representation, Commission/DG Trade, NGOs, businesses, trade unions, foreign embassies (Bulgarian *Narodno sabranie*, UK *House of Lords*, Finnish *Eduskunta*, Croatian *Hrvatski sabor*, UK *House of Commons*, Italian *Camera dei deputati*);
- Members of the European Parliament, Chief trade negotiators, Ambassadors, NGOs and other national and European stakeholders⁵²;
- Government representatives (Italian *Senato della Repubblica*, Maltese *Kamra tad-Deputati*, Irish *Houses of the Oireachtas*, Cyprus *Vouli ton Antiprosopon*, Romanian *Camera Deputa ilor*, Polish *Sejm*, Portuguese *Assembleia da República*, French *Assemblée nationale*, French *Sénat*, Luxembourg *Chambre des Députés*);
- European Commission representations in their countries (Polish *Sejm*, Romanian *Camera Deputa ilor*, Austrian *Nationalrat*, French *Sénat*, German *Bundestag*).

The Dutch *Tweede Kamer* informed that its Committee on Foreign Trade had planned a visit to Brussels to discuss trade issues in April this year.

The large majority of the responding Parliaments/Chambers (25 out of 36) stated that they did not carry out public consultations on EU trade and investment policy.

Five Parliaments/Chambers informed that they organised such consultations, but on a *case-by case* basis (Croatian *Hrvatski sabor*, Estonian *Riigikogu*, UK *House of Lords*, Finnish *Eduskunta*, UK *House of Commons*). The Luxembourg *Chambre des Députés* stated that the Conference of Presidents could authorise the organisation of a hearing upon demand by a parliamentary committee.

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- Hearings of MEPs, Ambassadors, Portuguese Agencies, Confederations and Associations and other relevant stakeholders on TTIP and CETA (Portuguese *Assembleia da República*).
 - MEPs (Polish *Sejm*).
 - Business, trade unions, NGOs, diplomatic corps (Lithuanian *Seimas*).
 - Ambassadors, enterprises, NGOs (French *Assemblée nationale*).
 - NGOs and business can ask to appear before the European Affairs Committee, for instance *Médecins Sans Frontières* on the Free Trade Agreement with India (Danish *Folketing*).
 - Social partners and NGOs (Latvian *Saeima*).
 - Agencies, Experts, NGOs, MEPs, Representatives of other EU Institutions (Italian *Senato della Repubblica*).
 - US and EU TTIP negotiators, Canada's chief trade negotiator on CETA, Foreign Embassies, (Austrian *Nationalrat*).
 - French Permanent representation, visits to Bruxelles (French *Sénat*).
 - Ministers, Agencies, Experts, NGOs, MEP, Representatives of other EU institutions (Italian *Camera dei deputati*).
 - MEPs, Associations, Professional Chambers and Trade Unions, representatives of the Stop TAFTA Movement Luxembourg *Chambre des Députés*.

When asked to specify, responding Parliaments/Chambers referred, among others, to: invitation of representatives of Non-Governmental Organisations (NGOs) and other stakeholders to Committees meetings (Slovenian *Državni zbor*); Committee meetings open to civil society representatives (Bulgarian *Narodno sabranie*); a public meeting of the EU Affairs Committee on the Anti-Counterfeiting Trade Agreement (ACTA) with NGOs and stakeholders participating which was web streamed and gave the possibility to ask questions via Twitter to the participants during the meeting (Estonian *Riigikogu*); public hearings (Lithuanian *Seimas*, EP INTA Committee, Finnish *Eduskunta* and Croatian *Hrvatski sabor*, German *Bundestag*, Irish *Houses of the Oireachtas*), inquiries and contributions from the public and from stakeholders groups (UK *House of Lords* and *House of Commons*).

Almost all respondent Parliaments/Chambers (34 out of 36), including the European Parliament's INTA Committee, stated that they had not prepared their own impact assessment on trade issues.

The Polish *Sejm* specified that it could ask its services and external experts to draw up opinions on the issue, whereas the UK *House of Commons* noted that it was not a matter of course, but a Committee could choose to do so. The French *Sénat* referred to report or hearings of experts.

When asked to provide additional information, some Parliaments/Chambers referred to debates on the involvement of national Parliaments in the negotiation process (Portuguese *Assembleia da República*) and to the former European Commissioner for Trade, Mr DE GUCHT⁵³ (Latvian *Saeima*, Maltese *Kamra tad-Deputati* and Polish *Sejm*).

iii. Scrutiny of the EU-Canada Comprehensive Trade and Economic Agreement (CETA) and the plurilateral Trade in Services Agreement (TiSA)

The scrutiny of individual EU trade and investment agreements with third countries was mainly carried out under the respective individual processes in force within each Parliament/Chamber for the purposes of scrutinising EU legislation. Various systems are in place within different EU Member States.

The Parliaments/Chambers who had granted their respective Governments a mandate ahead of the negotiations in the Council, looked at the free trade agreement proposal from the moment the Council had given a mandate to the European Commission to open a particular round of negotiations (Danish *Folketing*, Finnish *Eduskunta*, Latvian *Saeima*, Swedish *Riksdag*).

Other Parliaments/Chambers used different approaches in carrying out parliamentary scrutiny, depending on the level of importance given to the particular document. They either merely ratified agreements, when such fell under the shared competencies of the EU and its Member States, or looked at them more in-depth, in different arenas, such as debates at the committee or the plenary levels, expert hearings, written questions to the Government, or through setting up a Monitoring Group (in the case of the European Parliament).

Eighteen out of 37 Parliaments/Chambers, including the European Parliament's INTA Committee, had scrutinised the EU-Canada Comprehensive Trade and Economic Agreement (CETA), whereas only 11 (out of 35 Parliaments/Chambers), including the European Parliament's INTA Committee, had indicated scrutiny of the multilateral Trade in Services Agreement (TiSA).

⁵³ Letter of 25 June 2014 signed by the Chairs of the relevant Committees in 20 Chambers.

The main aspects which various Parliaments/Chambers viewed as the most important towards concluding the negotiations on CETA were as follows:

- The agreement's legal status: it was deemed a *mixed agreement*, therefore to be ratified by national Parliaments (Dutch *Tweede Kamer*, French *Assemblée nationale*, German *Bundestag*, Polish *Sejm*, Portuguese *Assembleia da República*, Slovenian *Državni zbor*).
- The part dealing with the investment protection and ISDS was deemed to be of key importance (German *Bundestag*, German *Bundesrat*, Dutch *Tweede Kamer*, French *Sénat*); including its effect on national regulatory powers (Finnish *Eduskunta*), and the common understanding of issues relating to investments, so as to ensure the protection of both investments and investors (Latvian *Saeima*). The French *Assemblée nationale* specifically required a substantial modification of chapters 10 and 33 dealing with the protection of investments, whereas the UK *House of Lords* considered that the ISDS provisions within CETA provide a useful template for TTIP.
- The need to obtain genuinely reciprocal access to the market, especially to services and public procurement markets, including at sub-federal level (European Parliament's INTA Committee), as well as the establishment of balanced services and investment market access conditions (Latvian *Saeima*).
- The need to improve the protection of intellectual property rights (including trademarks, patents and geographical indications) (European Parliament's INTA Committee).
- The upholding of major areas of interests, such as public services, consumer safety and geographical indications (French *Sénat*).
- The implications of the fracking regulation as foreseen in this Agreement (Spanish *Cortes Generales*).
- The need for higher transparency in negotiations (Austrian *Nationalrat*, French *Sénat*).

The main aspects which various Parliaments/Chambers considered as the most important towards concluding the negotiations on TiSA were as follows:

- Safeguarding public services, the digital sector, and information technology and communication (French *Sénat*).
- Higher transparency in negotiations and inclusion of the stakeholders in the process (Slovenian *Državni zbor*).

Several Parliaments/Chambers reported the ongoing scrutiny of this agreement without providing further details.

Section B: Discussion process on the EU-US Transatlantic Trade and Investment Partnership (TTIP)

The Transatlantic Trade and Investment Partnership (TTIP) aims to remove trade barriers between the EU and the US, and to create the largest free-trade area in the world, thereby contributing to enhanced economic prosperity on both sides of the Atlantic.

TTIP had been discussed by the large majority of responding Parliaments/Chambers (32 out of 38), and many others had indicated their intention to do so in the near future. The debates had been carried out on a number of occasions and in various arenas. In this context, Parliaments/Chambers highlighted public hearings, discussions in Committee meetings and debates in plenary that had taken place, as well as relevant reports issued. Two Parliaments/Chambers specifically indicated

that it had been proposed to carry out a study or impact assessment of the economic impacts on their country economies of such a trade agreement (Irish *Houses of the Oireachtas* and Latvian *Saeima*).

The agreement's legal status: several Parliaments/Chambers referred to the agreement's legal status and to the letter⁵⁴ to former Commissioner DE GUCHT, in which the European Commission was urged to enhance the legitimacy of both TTIP and CETA agreements through ratification by Member States.

Parliaments/Chambers were asked to highlight what they viewed as most important in three main areas covered by the negotiations: market access; regulatory cooperation and rules; and investment protection.

i. Market access

The EU mandate in this area covers the fields reconciling EU and US approaches to removal of tariffs, rules of origin, trade defence measures, aiming at furthering access for transatlantic trade in services, and opening up access to government procurement markets at all levels of the US government.

The main aspects which various Parliament/Chamber viewed as key to concluding the negotiations in this area were as follows:

- Easier market access in a wide range of market segments provided significant opportunities for both the European and the US economies to create high-quality jobs and increase prosperity (German *Bundesrat*), but a common level of ambition was needed from both sides taking into account the specific national circumstances, such as in the field of agriculture (Hungarian *Országgyűlés*);
- Lowering tariff barriers – some Parliaments/Chambers supported the objective of removal of nearly all customs duties and other barriers to transatlantic trade, for instance, supporters of TTIP in the German *Bundestag* and the Lithuanian *Seimas*. The latter suggested that longer transition periods or tariff quotas be provided for a very limited number of only the most sensitive agricultural products. The Slovak *Národná rada* promoted principles of symmetry and reciprocity. Reduction of tariffs should therefore be tied to the satisfactory resolution of outstanding regulatory issues.

The UK *House of Lords* recommended that the European Commission and the UK Government should commission more detailed analyses of the possible practical effect of tariff reductions for consumers of particular goods and services in the EU.

- Issues related to the opening of the EU market to certain products were raised by several Parliaments/Chambers. According to the information provided by the Lithuanian *Seimas*, the Lithuanian industry was said to have identified certain vulnerabilities related to the opening of the EU market to certain products, which could be compensated by maintaining the terms and conditions provided for in the EU tariff proposal. The Slovenian *Državni zbor* mentioned the possible negative impacts on agriculture, chemical, metal and automotive industries. More specifically, the issue of access of genetically modified agricultural products to European markets was brought up (Croatian *Hrvatski sabor*, Hungarian *Országgyűlés*, Polish *Sejm*, some parties in the Dutch *Tweede Kamer*).

⁵⁴ *Ibid*

- Market liberalisation in the services sector, and particularly effective removal of non-tariff barriers to trade in goods and services, was mentioned as one of key aspects by the supporters of TTIP in the German *Bundestag* and the French *Assemblée nationale*. The European Parliament INTA Committee considered that market access for services would have to be built based on the, so called 'positive list approach'; the Slovak *Národná rada* considered that the US would have to undertake obligations at the level of federal states as in the CETA.

- Public procurement - opening up access to Government procurement markets at all levels of the US Government in a balanced manner was supported by the European Parliament INTA and IMCO Committees. The Slovak *Národná rada* reiterated that the US would have to undertake obligations at the level of individual US States on transparency. The Polish *Sejm* listed the changes in this area as one of the steps to take.

- Some Parliaments/Chambers indicated their opposition to opening the markets. Opponents of TTIP in the German *Bundestag* raised concerns about possible negative impact on labour rights and collective bargaining. Slovenian *Državni svet* pointed out their concerns about a possible increase in unemployment.

ii. Regulatory cooperation

Regulatory cooperation aims at facilitating trade and investment, while ensuring high levels of protection in health and safety, consumer protection, labour and environmental legislation and maintaining the existing cultural diversity within the EU. The goal of this aspect of the negotiations is to make EU and US regulations more compatible, by tackling such barriers to trade, as different safety, environmental or health and hygiene standards.

Several Parliaments/Chambers pointed out that this part of the agreement could bring about great benefits, since resolution of the differences between the regulatory systems of the EU and the US would represent a major contribution of TTIP (Slovak *Národná rada*), stimulate investments and trade (Hungarian *Országgyűlés*), but at the same time it represented the greatest negotiating challenge (Polish *Sejm*).

The Lithuanian *Seimas* further highlighted that, once such technical regulations were agreed, the EU and the US would thereby set high standards as a model for third countries to emulate (in particular emerging economies such as China, India and Brazil, which had a steadily growing impact on international trade).

The main aspects which various Parliament/Chamber viewed as key towards concluding the negotiations were as follows:

- Lowering non-tariff barriers - the UK *House of Lords* highlighted that it would entail reductions in costs for producers and traders, therefore increasing productivity. This would lead both to potential investment and worker income gains. The Slovak *Národná rada* reminded that non-tariff barriers posed a considerable additional administrative and trade burden for businesses (mainly for small and medium-sized enterprises). The Polish *Sejm* referred particularly to sanitary and phytosanitary (SPS) issues as significant barriers to access to the US market.

Among the fields where regulatory cooperation was deemed to be particularly important, motor vehicles, machinery and textiles (European Parliament IMCO Committee), the automobile sector, the chemical and engineering sectors were mentioned (Slovak *Národná rada*).

The inclusion of a separate and ambitious chapter on energy and raw materials to the current scope of agreement was suggested by Slovak *Národná rada* with a view to removing barriers to the importation of liquefied natural gas and oil to the EU, thus buttressing the goal of a diversification of sources.

- Whilst supporting the need for improvement in regulatory cooperation, several Parliaments/Chambers called for upholding high consumer protection in the EU, health, labour and environmental protection, social rights and food safety, as well as SPS rules (German *Bundestag*, Hungarian *Országgyűlés*, Irish *Houses of the Oireachtas*, Slovenian *Državni zbor*, Slovak *Národná rada*, French *Sénat*, Latvian *Saeima*, Czech *Senát*, Finnish *Eduskunta* and Swedish *Riksdag*). The French *Sénat* and Polish *Sejm* expressed concerns about the protection of intellectual property.

The European Parliament INTA Committee commented more generally that negotiations on market access and regulatory cooperation were to be combined with the establishment of ambitious rules and disciplines, e.g. on sustainable development, energy, SMEs, investment and intellectual property.

iii. Investment protection

The overall purpose in this area is to secure investment liberalisation at both federal and sub-federal levels and potentially, to establish investment protection provisions. Investment protection and the ISDS provisions have turned out to be among the most controversial parts of TTIP.

Various and sometimes clashing opinions on this matter were expressed by the responding Parliaments/Chambers.

The Parliaments/Chambers in countries, where existing bilateral investment agreements with third countries already included the provision on the ISDS, called on the Commission to carry on with their current mandate aiming at concluding a comprehensive and ambitious agreement, including the part on ISDS (Croatian *Hrvatski sabor*, Latvian *Saeima* and Lithuanian *Seimas*). The Lithuanian *Seimas* stressed that thorough discussions on the ISDS provisions and the establishment of appropriate safeguards would allow for the development of a transparent and inclusive ISDS mechanism, which would not in any way impinge upon the domains of competence of neither national courts, nor any State's regulation rights.

The Slovak *Národná rada* saw this as an opportunity to agree on a more up-to-date and balanced ISDS, which would replace their currently existing legislation. In their view, a new ISDS must stick to modern standards of protection of the legitimate rights of foreign investors, accruing from their foreign investments, and take into account the States' right to enforce regulations, especially in areas related to public policy (e.g. human rights, environmental protection).

Another group of Parliaments/Chambers were more cautious towards including ISDS provisions in the TTIP, or they had as of yet made no clear decision on this respect. For instance, supporters of the TTIP in the German *Bundestag* stressed the importance of the rule of law within ISDS. The Czech *Senát* considered it essential to prove that a potential inclusion of the ISDS into TTIP would

not result in a limitation of the right to regulate because of a threat of arbitrations, triggered by the possibly negative impact of any new regulation on foreign investment projects.

The UK *House of Lords* highlighted public concerns about the risks that these provisions could pose to the National Health Service in the UK. The French *Sénat* asked for the formulation of a procedure upholding the sovereignty of the State in relation to investors (e.g., built on the appeal procedure in the WTO system).

Among the potential risks stemming from the ISDS provisions, the marginalisation of national courts in the resolution of disputes on matters of national interest was also mentioned (Portuguese *Assembleia da República*, Hungarian *Országgyűlés*, French *Assemblée nationale*).

The European Parliament reported that no position had been taken yet on whether an ISDS mechanism was needed or not, but an extensive debate on the subject had been carried out in the relevant committees. The JURI committee considered ISDS as one of the key aspects of the negotiations. The INTA committee reminded that the outcome of the public consultation had to be taken into account to achieve investment protection and equal treatment of investors. It considered that foreign investors should have a fair opportunity to seek redress of grievances, and domestic investors not be discriminated against.

The Finnish *Eduskunta* identified investment protection as one of the core negotiating issues, pointing out that it could apply in Finland only to investments made in accordance with Finnish and EU law.

At the other end of the spectrum were those Parliaments/Chambers that advocated the removal of ISDS provisions altogether from the scope of TTIP; for instance, opponents of TTIP in the German *Bundestag* and the Slovenian *Državni zbor*. The latter believed that current legal tools provided by the Organisation for Economic Development and Cooperation gave sufficient support. The French *Assemblée nationale* expressed its opposition to any specific dispute resolution mechanism between investors and States.

When asked specifically about the public consultation organised by the European Commission between 27 March and 13 July 2014 on ISDS in TTIP, only two Parliaments/Chambers indicated that they had taken part (French *Assemblée nationale* and Irish *Houses of the Oireachtas*).

The UK *House of Commons* added that it had taken note of this consultation and drawn on it. Dutch *Tweede Kamer* informed that the relevant Committee debated this matter during the Dutch Government's consultation and that different political parties held different views.

Section C: Transparency and access to information on ongoing EU trade negotiations

i. National Parliaments' and the European Parliament's right to access to information on ongoing EU trade and investment negotiations processes

More than half of the responding Parliaments/Chambers (18 out of 35, including the European Parliament's INTA Committee) indicated they had the right to access the information on trade and investment negotiations, including the negotiation documents.

According to the information provided, this was done in application of specific constitutional/legislative/regulatory provisions (Latvian *Saeima*, German *Bundesrat*, French *Sénat*) and/or normal scrutiny or cooperation procedures with the Government (German *Bundestag*, Lithuanian *Seimas*, Estonian *Riigikogu*, Romanian *Camera Deputa ilor*, Polish *Sejm*, Finnish *Eduskunta*, Austrian *Nationalrat*, Luxembourg *Chambre des Députés*) upon notification and/or request to the Governments (Romanian *Camera Deputa ilor*, Lithuanian *Seimas*, Bulgarian *Narodno sabranie*, Czech *Senát*, Belgian *Chambre des représentants*).

Some Chambers mentioned that they had access only to the information made available to the general public (Slovak *Národná rada*, Czech *Senát*), accessible on special databases (Dutch *Eerste Kamer*) or published on the European Commission's relevant webpages (Austrian *Nationalrat* and *Bundesrat*, Portuguese *Assembleia da República*). Members of the European Parliament Committee on International Trade (INTA) had access to information on trade and investment negotiations, including the negotiating documents as outlined in the Framework Agreement with the Commission and in the TTIP Transparency Initiative announced by Commissioner for Trade, Ms Cecilia MALMSTRÖM, on 25 November 2014. The German *Bundestag* explained that, in practice, it scrutinised all proposals for negotiating mandates to be given to the European Commission. The UK *House of Lords* mentioned that only certain documents relating to this process (such as Draft Council Decisions) were depositable. The members of the Committee on Industry and Trade of the Swedish *Riksdag* had access to the documents that had been made available to the Members of the European Parliament as a result of Commissioner Malmström's openness initiative; secrecy regulations applied to these documents. The Latvian *Saeima* explained that until now there was no need for its European Affairs Committee to require additional information on trade issues. It also mentioned that, when considering Latvia's national positions on EU matters, the Committee was provided with access to all relevant information and that, in theory, the classification of information could not stand in the way of the decision-makers being fully informed, and of ruling on relevant issues. The Luxembourg *Chambre des Députés* mentioned that there was access to all public documents of the European Commission and that the Chairman of the Committee on Foreign Affairs had access to the Ministry's documents.

The Finnish *Eduskunta* replied that, although the possibility of requesting access to negotiation documents existed, this was seldom used because the focus was placed on the Government's positions. It also mentioned that, subject to EU-imposed secrecy rules, Governments did not normally have physical possession of EU negotiating documents, but only the ability to read them and make notes. The Maltese *Kamra tad-Deputati* replied that access to such documents had never been requested.

The Danish *Folketing* informed that on TTIP the Government did provide the Committee with confidential information on the Council's mandate to the Commission before it was published. The Dutch *Tweede Kamer* replied that partial access was granted and that, in the case of TTIP, the negotiating mandate was put at the disposal of the members confidentially, from the outset and long before it was made public, which was not the case for the negotiating papers on specific issues. It further noted a special concern regarding the negotiating papers from the US: while the US Congress and Senate could access these in special 'reading rooms' and could also find the EU negotiating papers online, this was not the case for their EU counterparts. The French *Sénat* referred to access granted to the members of its Committee on European Affairs to documents relating to the negotiation of the most important trade agreements (with the United States, EU-Canada Comprehensive Trade and Economic Agreement (CETA), the Trade in Services Agreement (TiSA)) under specific rules of confidentiality governing their consultation and dissemination.

The overwhelming majority of the responding Parliaments/Chambers (32 out of 37) informed that they received information on ongoing EU trade and investment negotiations processes from their respective Governments:

- upon request (Bulgarian *Narodno sabranie*, Hungarian *Országgyűlés*, Slovenian *Državni svet*, Romanian *Camera Deputaților*, Polish *Sejm*, Spanish *Cortes Generales*, Czech *Senát*, Dutch *Tweede Kamer*, Croatian *Hrvatski Sabor*);
- within the existing framework of exchange of documents between the Government and the Parliament/Chamber (German *Bundesrat*, German *Bundestag*, Slovenian *Državni zbor*, Slovak *Národná rada*, Dutch *Eerste Kamer*, Czech *Poslanecká sněmovna*, French *Assemblée nationale*, Swedish *Riksdag*, Danish *Folketing*, Austrian *Nationalrat* and *Bundesrat*, French *Sénat*);
- or both (Estonian *Riigikogu*, Lithuanian *Seimas*, UK *House of Lords*, Finnish *Eduskunta*, Belgian *Chambre des représentants*, Italian *Senato della Repubblica*, UK *House of Commons*, Latvian *Saeima*, Luxembourg *Chambre des Députés*, Italian *Camera dei deputati*).

The Portuguese *Assembleia da República* explained that the state of play of the EU trade agreements under negotiation was on the agenda of the hearing held with the Secretary of State for European Affairs in the European Affairs Committee, after each European Council. It also mentioned that its European Affairs Committee became aware of the Communication to the Commission of 25 November 2014 concerning transparency in TTIP negotiations as part of monitoring negotiation for this agreement.

The Irish *Houses of the Oireachtas* gave a negative reply and mentioned that it had no access to Limité/Council working documents. The Maltese *Kamra tad-Deputati* informed that it received such information only if it was contained in a Commission Communication.

The Danish *Folketing* answered that the oral and written information communicated by the Government was very general and that no specific confidential insights in the negotiations process were provided. The Belgian *Sénat*, the Romanian *Senat* and the Slovak *Národná rada* underlined the need for more transparency. While arguing that the amount of information received from the Government was sufficient, the latter stressed the need of granting access to negotiation documents for the representatives of EU Member States and parliamentarians and explained that the establishment of the 'reading rooms' on the premises of the US embassies could be only a temporary solution.

The Polish *Senat* indicated that external policy trade negotiations fell under the Government's competence and that the Chamber exercised its scrutiny function at the final stage of the ratification process; similarly, the Cyprus *Vouli ton Antiprosopon* replied that it had no role in defining the country's priorities for EU trade and investment negotiations with third countries, due to the clear separation of powers according to the Cyprus Constitution, but referred to the possibility of holding meetings on the on-going negotiations and of being informed to a certain extent by the Government.

The European Parliament's INTA Committee informed that its Chairman and the Commissioner for Trade were in the process of agreeing on precise modalities of access arrangements to confidential information, like in the previous legislature⁵⁵. It added that the Commission was to provide broad access to "EU Restricted" and "Limited" negotiating documents to all Members of the European Parliament and to certain categories of staff while ensuring the confidentiality of the information, including taking the appropriate steps in the event of unwarranted disclosure of the documents or

⁵⁵ Under Article 3.2 of Annex 2 of the Framework agreement relations between the European Parliament and the European Commission

their content. It further mentioned that this implied extending the use of the 'reading room' and that the access to joint EU-US texts on TTIP ("consolidated texts") was for Members of the European Parliament with a direct "need to know" because of their specific responsibility in monitoring the negotiations.

ii. Scrutiny of the European Commission's transparency initiative for TTIP negotiations

Fifteen out of 37 responding Parliaments/Chambers looked into the Commission's transparency initiative for TTIP negotiations launched in November 2014. It was assessed as excellent by 2 responding Parliaments/Chambers, very good by three and good by three.

The Hungarian *Országgyűlés* and the Czech *Senát* welcomed the transparency initiative for the TTIP negotiations of the new European Commission, notably the de-classification of the mandate given by the Member States to the Commission or the creation of a dedicated website. The Latvian *Saeima* also underlined that the Commission made very positive steps towards more transparency in the TTIP negotiations, and that it was necessary to maintain the highest possible level of transparency in those negotiations. The UK *House of Commons* underlined that the Commission's efforts regarding parliamentary scrutiny had, so far, centred on Members of the European Parliament not on national parliamentarians and that the Chamber supported efforts by the UK Government to secure equivalent access to documents for national parliamentarians while still preserving the confidentiality of sensitive documents.

The European Parliament's INTA Committee informed that its Chairman was currently working with the Commissioner for Trade towards the proper and efficient implementation of the transparency initiative.

The vast majority of the responding Parliaments/Chambers (21 out of 27, and the European Parliament's INTA Committee) affirmed that further steps towards enhancing transparency concerning TTIP negotiations were needed. The proposed steps to achieve this goal included:

- ensuring greater transparency in conducting the negotiations (German *Bundesrat*, Finnish *Eduskunta*);
- ensuring that negotiation meetings were opened and that more relevant documents were released to the general public (Croatian *Hrvatski sabor*);
- strengthening the political dialogue with the involvement of all stakeholders (Bulgarian *Narodno sabranie*);
- granting parliamentarians access to negotiation documents similar to the one ensured to the representatives of the government (Slovak *Národná rada*, French *Assemblée nationale*);
- increasing participation by national Parliaments in monitoring the trade agreement negotiation process and EU investment in cross-coverage, which potentially include matters of shared or exclusive competence of Member States (mixed agreements) (Portuguese *Assembleia da República*);
- devising an effective communication strategy informing citizens on the real pros and cons of the agreement in order to counter the myth that TTIP was the biggest threat to democracy in Europe (Czech *Senát*);
- using plain language to explain the technical aspects in order to ensure better communication with citizens (Luxembourg *Chambre des Députés*);
- ensuring that the Council of the EU provides the European Parliament with negotiating directives of TTIP and other trade negotiations (European Parliament's INTA Committee);

- the creation of a new Ministerial Advisory Board on Trade that would include a full range of interested parties—representatives of business, trades unions, civil society groups and consumers; publication of a series of UK explanatory notes on key aspects of the negotiations and ongoing publication of information about progress in the negotiations (UK *House of Commons*).

The Dutch *Tweede Kamer* noted that more pressure had to be put on the US to release their documents, in order to ensure an equal amount of openness on both sides in the negotiations and the French *Sénat* also supported the need to receive more information from the US side. The Belgian *Chambre des représentants* argued that the final outcome was what mattered and that negotiations should be preferably conducted in a discreet atmosphere, provided regular reporting on the outcome was ensured. The Danish *Folketing* replied that further transparency had not been requested by the parliamentary committee, but rather by several members.

The Spanish *Cortes Generales* had debated, amongst other topics referred to TTIP, the Commission's transparency initiative for TTIP negotiations, but so far no official position on the assessment of the initiative had been approved. Several respondents, among which the Dutch *Eerste Kamer*, the Spanish *Cortes Generales*, Cyprus *Vouli ton Antiprosopon*, and the Danish *Folketing*, answered that the matter had not yet been examined or that there was no official position. The German *Bundestag* replied that there was no formal decision on that matter and that the assessment of the initiative differed strongly between the political groups.

The UK *House of Commons's* Scrutiny Committee reported that, given the potential scale of the agreement and its impact on many areas of Government policy, its engagement in TTIP scrutiny was shared by other Select Committees—notably the Business, Innovation and Skills Committee, the Environmental Audit Committee and the Health Committee. It noted that TTIP was likely to be the subject of scrutiny by the successor Committee and received assurances from the Government that information would be made available during the weeks (or months) in the new Parliament before a new Scrutiny Committee met, so that there was not a gap in documentation.

The Committee on European Affairs of the Slovak *Národná rada* expressed the view that a visit of the Commissioner for Trade would contribute to a better understanding of the TTIP itself and the positive effects it might have for EU Member States and referred to the lack of response over the last year regarding the availability of the Commissioner to participate in such a visit. The Polish *Sejm* mentioned that its European Union Affairs Committee was in the process of appointing an extraordinary subcommittee for the EU's trade agreements with third countries.

The future role of Parliaments in the area of EU trade and investment policy

Several Parliaments/Chambers presented their views on the future role of Parliaments in the area of EU trade and investment policy. The replies focused on the following points:

- Involvement of national Parliaments in the debate on the negotiation mandate, with the participation of representatives of the European Commission (French *Assemblée nationale*, Polish *Sejm*; Cyprus *Vouli ton Antiprosopon*, Latvian *Saeima*);
- provision of information on the progress of negotiations (Slovenian *Državni zbor* – which however had not held a specific discussion on this topic; Polish *Sejm*, French *Assemblée nationale*) especially by the European Commission, in more detailed and transparent way than before, during and after concluding agreements regarding EU Trade (Cyprus *Vouli ton Antiprosopon*);
- greater involvement of national Parliaments in the debate on the EU trade and investment policy (Lithuanian *Seimas*, German *Bundesrat*, Czech *Poslanecká sn movna*, Slovak *Národná*

rada), particularly in the agreements considered as 'mixed agreements' that require ratification in national Parliaments (Cyprus *Vouli ton Antiprosopon*, Danish *Folketing*) and a more important role in defining future trade negotiations (Romanian *Senat*); stronger role of Parliaments and regular provision of reports about the progress of negotiations and of access to documents being discussed during negotiations (Austrian *Nationalrat* and *Bundesrat*);

- discussion of the policy directions and priorities of EU trade and investment policy during COSAC meetings (Polish *Senat*);
- further provision of information under the current legal basis which was a far reaching one, on EU projects, such as negotiating mandates to engage in negotiations on international agreements of the EU and negotiations in the framework of the common commercial policy (German *Bundestag*);
- advisory role, facilitation of regular information exchange between relevant stakeholders, organisation of informed and constructive debates (Croatian *Hrvatski sabor*);
- improvement on the Council's side when it came to transparency concerning TTIP and other trade negotiations, for example providing the European Parliament with negotiating directives (European Parliament's INTA Committee);
- more openness and transparency during negotiation processes, as the growing interest on the part of citizens in trade negotiations and their impact on their countries' economies was a positive development (Latvian *Saeima*);
- striking the right balance between the provision of information to national Parliaments, their involvement in the negotiation process and the necessary confidentiality of the negotiations (French *Sénat*);
- direct information from the European Commission to national Parliaments in the context of political dialogue (Luxembourg *Chambre des Députés*).

The European Parliament's INTA Committee stated that, as co-legislator in the field of the Common Commercial Policy, the European Parliament took its responsibilities very seriously and was taking a more active role also to exercise parliamentary scrutiny of the agreements, to which it had given its consent based on the position and conditions expressed.

Several respondents expressed the opinion that the CETA and TTIP agreements should be considered as mixed agreements, as they concerned both the competences of the Commission and the Member States (Slovak *Národná rada*, Hungarian *Országgyűlés*, Portuguese *Assembleia da República*, Czech *Senát*, Polish *Sejm*, German *Bundesrat* - based on deliberations to that date, as the question had not been specifically addressed); it was argued that it was essential to share information and link the process of negotiation with Parliaments and give them a ratification role.

The Hungarian *Országgyűlés* stressed that Vice-President ŠEF OVI's reply to the letter addressed to former Commissioner DE GUCHT⁵⁶ mentioned that the TTIP would be most probably considered as a mixed agreement, an aspect which in its view should be considered throughout the negotiations. The Chamber also recommended that particular attention was paid to the approval of CETA by the Council and the European Parliament in 2015, as well as to its entry into force.

The Dutch *Tweede Kamer* contended that the discussion on whether a trade agreement was mixed or of EU-only competence should be concluded on the basis of the negotiating mandate, at the beginning of the negotiating process, not at the end, thus enabling national Parliaments to influence the negotiations. It expressed its hope that the opinion of the Court of Justice of the European Union

⁵⁶ See footnote no. 53 above.

on the EU-Singapore deal, requested by the European Commission, would confirm this point of view.

The Finnish *Eduskunta* stated that the Government's negotiation positions on EU trade and investment policy related issues were subject to the normal parliamentary scrutiny procedures and deemed the current position to be "close to optimal". The Latvian *Saeima* noted that the negotiations on TTIP and their potential results might set a standard not only within the global economy, but also in terms of how future free trade negotiations may be conducted.