Qualitative data for Chapter 4

Semi-structured interview response (transcripts of interviewees)

Interviews were held online because of the pandemic between 2020 and 2022. Before I started an interview, I asked permission in view of the purpose of my research. I indicated that the interview based on its transcription will be used in my PhD research, and these qualitative data would be published after I finish my PhD dissertation. At the same time, I promise that personal information will keep confidential (e.g., names and other indicators that may point at the person I interviewed). Therefore, I deleted from the transcriptions interviewees' names and deputy head of the internal affairs unit of DG but keep their general affiliation. By doing this, I can meet the requirements of anonymity, but also show which interviewees are involved in my semi-structured interviews.

I asked several questions during the interview meetings. These questions are listed in the following text and also presented in the appendix to Chapter 4 in the manuscript of the dissertation. Individual interviews last roughly 30 to 60 minutes. During the interview, the interviewees responded to my questions informally rather than officially. Therefore, I recorded the information as much as possible.

In addition, I supplemented the interview data with other data from several questions gathered from online chats during the seminars and conferences. This information was collected during the Europaeum policy seminar (normally taking place in Brussels), 'Policy-Making Inside Europe' from 24 to 26 January 2022. The 2022 Policy Seminar, organized in collaboration with the European Parliamentary Research Service (DG EPRS) was a joint effort to link academic and policy institutions, contributing to a better understanding of the process of preparation and implementation of EU policies. The programme included talks and discussions with policymakers from Brussels. I participated in this seminar to interview more experts. Unfortunately, the severe developments with the Omicron variant in January prevented us from holding the Seminar physically in Brussels, the organizers had to move this seminar online. Hence, I conducted my interview during the workshop when there was free discussion or a break in the breakout room and asked the respondents questions in the zoom chat. This information is presented as quotes.

When starting interviews, I briefly introduced two cases (TTIP and EU ETS) and explained the general background, and then preselected crucial questions and raised them to specific respondents. In asking question and transcribing the interviews I made a number of choices. First,

general questions such as the role of respondents in TTIP legislation and EU ETS directive can be found in official documents as well. Although I asked the respondents to briefly indicate their responsibilities during the negotiations, I excluded this information from this transcript in order to maintain anonymity. Second, based on their position and affiliation, I asked related questions that provided useful information to me about their context. In order to save time and improve efficiency, I did not ask all the questions one by one, instead, I selected the most important questions that could be helpful to my research. Here I only transcribed information that does not reveal the identity of my respondents. Third, I also asked some questions that are listed below which interviewees did not answer or did not provide relevant information about. This is not added to the transcription.

All interview questions

Case 1: Transatlantic Trade and Investment Partnership (TTIP), online interview (Zoom/Teams/Skype) (26 questions)

1. Role of respondents in TTIP legislation

(1) What is the role of your institution in TTIP negotiation?

(2) What are your main tasks and duty in the process of TTIP negotiation?

2. Please describe the process of negotiation in the Council

(1) Whether there were any disagreements on the proposals among member states or groups of member states?

(2) If was, which member state and why they opposed? On the whole proposal or parts of it? Which parts?

(3) Did the position of member states strongly diverge?

(4) Did Germany and France play a particular role?

(5) What was the role of Germany, France, and Austria? Why did they make such strong statements? Did they also defend them in the Council meeting? How did the other member states react?

(6) Has the interest groups' negative opinions on TTIP negotiations affected the member states' decision?

(7) Has the member states' position affected the Commission's decision?

3. Role of the different Council presidencies?

(1) Did the German presidency play a particular role?

(2) How was German position?

(3) How were the other presidencies?

4. Individual opinions

(1) What do you think will be the main factors that affected the position-taking on this proposal?

(2) Have you noticed that negotiators mention time invested in the Council meeting as a cost?

(3) What is the opinion of your institutions towards the TTIP negotiations?

(4) Do you think which type of political actors have exactly the preferred influence on the legislative process?

(5) Who do you think is the winner of the negotiations?

(6) What would you say has been the most successful strategy in the negotiations?

5. The Council—the European Commission interaction

(1) How much did the Council disagree with the initial Commission proposal?

(2) How much did the Council insist on changing the Commission proposal?

(3) Did the EP position matter to the Council? Did they discuss with stakeholders from the EP?

(4) Who coordinated the debate between the institutions?

6. Conciliation of heterogeneous positions

(1) How were the disagreements solved?

(2) Who proposed a solution? What solution did they propose?

(3) Was there a compromises or deals?

(4) Whose opinions would be the most influential?

The important information from TTIP interview

Respondent#1: Anonymity, Commission Official, 18 November 2020, Interview via Zoom conversation.

Related questions: What would you say has been the most successful strategy in the negotiations?

[…] The two top political issues are well known trade disputes and the advantages afforded to multinational corporations in this TTIP recommendations. The Presidency's view at this fairly advanced stage of negotiation is the arrangement of the mutual benefit is the pivotal issue. Finding a sensible compromise on this key topic will unlock final discussion on the financing part of the directive, and the timelines for introducing the energy trading, too. This will pave the way to the final package agreement on a general approach. I must stress that the matters related to unfairly benefiting multinational corporations are sensitive as recent developments have shown, I hope the

report will sufficiently clear on presenting the issues, and the main possible approaches that have been discussed in the working party and in COREPER.

Respondent#2: Anonymity, 14 December 2020, Council Official, Interview via Teams conversation.

Related questions: (1) What do you think will be the biggest challenge that affected the position-taking on this proposal? (2) Who proposed a solution? (3) What solution did they propose? (4) Was there a compromises or deals?

Our economic organizations demanded that the negotiations should be halted, and the entire process restarted. However, we government strived to function as a neutral responder and to ensure that our positions are not dominated by certain interest groups. Despite the undoubtedly potential of the Conference on the Future of Europe, I do think that the biggest challenge we face in terms of maintaining citizen's support or credibility /legitimacy of it would be assuring that the results become something tangible (whatever that might be), that they see that their contribution has been taken into account and that it didn't fall into the void of EU bureaucracy. I think EU should increase the capacity of EU to provide better more information to assure that. In this regard, there might be pro-bias. Because the EU members states have different levels of development. We have consistently urged member states and the European Commission to coordinate their efforts to explain the benefits of agreement and strengthen interaction with national parliaments and civil society organizations. Finally, the Council of Foreign Ministers endorsed the working group's provisional agreements reached following a lengthy discussion of the TTIP negotiations.

Respondent#3: Anonymity, Parliament Official, 11 January 2021, Interview via Zoom conversation.

Related questions: (1) What was the role of Germany, France, and other member states? (2) Why did they make such strong statements? (3) Did they also defend them in the Council meeting? (4) How did the other member states react? (5) Has the interest groups' negative opinions on TTIP negotiations affected the member states' decision?

As far as I concerned, the unusually secretive nature of the TTIP negotiations, as well as its provisions to establish extraterritorial courts to settle trade disputes and the advantages afforded to multinational corporations, have drawn criticism from activists and lawmakers. In 2014, the EU's executive arm blocked the registration of the citizens' movements, which aimed to prevent

the conclusion of TTIP agreements. Interest organizations like the anti-globalization group Attac and the German environmental movement BUND have supported the decision which could not allow any initiative to register that was opposed to legal proceedings already underway. The legislative procedure that we shaped was the European Parliament's democratic responsibility. As a result, our MEPs approved (447 votes in favor, 229 votes against, and 30 abstentions) the inclusion of a new public legal mechanism for resolving disputes between investors and member states.

"I remembered that finance ministers in Germany and France have claimed that the results of the consultations would 'feed into' the EU's negotiating process and allow it to form its position on these issues for the negotiations on the text in respect of this particular issue, which has cast doubt on the viability of agreements."

Per Altenberg (from Swedish trade board) said, "agreements have been criticized for being negotiated under unusual secrecy and accused of unfairly benefiting multinational corporations."

As a result, an alliance of environmental groups, labor unions, and opposition parties in Germany initiated a great amount of protest. (verified 320,000 people took part in rallies organized in Berlin, Cologne, Frankfurt, Hamburg, Leipzig, Munich, and Stuttgart. Smaller protests were also planned in other European cities, including Vienna and Salzburg in Austria and Gothenburg and Stockholm in Sweden.)

TTIP was negotiated with the next round of talks slated for October 2016 in New York. More importantly, with the demands of the Council of the EU and the member state trade ministers, the commission also announced its plans for the public consultation to respond to attack against the idea of including ISDS in the TTIP deal from NGOs and MEPs.

Respondent#4: Anonymity, 16 February 2021, Representative official of Germany, Interview via Skype conversation.

Related questions: (1) What is the role of the different Council presidencies? (2) Did the German presidency play a particular role? (3) How was German position? (4) Did the position of member

states strongly diverge? (5) Whether there were any disagreements on the proposals among member states or groups of member states? (6) If was, which member state and why they opposed? On the whole proposal or parts of it? Which parts? (7) Has the member states' position affected the Commission's decision?

Thank you, the first thing I want to say is that the Germany broadly supports the objectives of the Directive, and we welcome those to increase the transparency in this area we certainly welcome the moves to improve coordination between different members of the European Union in this area. But it's been no secret that we've had concerns, like many Member States, about some of the aspect of the Draft Directive and of course there have been quite vocal concerns expressed by the European Parliament and some interest organizations as well about aspects of this Directive as well. However, we respect the fact that other Member States feel under some considerable political pressure to make a lot of progress and we've worked in good faith to try and get an agreed text and we have made a number of concessions. For example, on Article 12 and on the restrictions on sovereign debt, on sovereign debt market I would make an observation that no other market in the world is attempting to impose these sorts of regulations and restrictions nor is any other market quite under the microscope that the European Union is. But nevertheless, we've shown flexibility, we think the compromise that has been agreed is a good one and we are happy to proceed on that basis.

We've also shown flexibility on regulation around equity and corporate trade markets, so I hope Germany or France and also other member states has demonstrated that it's been very ready to work in the spirit of corporation trying to get a compromise everyone is happy with. We have one remaining concern and that is around Article 24, it is primarily a legal concern, we have very clear legal advice about this. Now we have proposed a couple of compromises, one which would give the Council the power to implement a decision, another that was rejected, we proposed another compromise which was to give the Commission the power to implement a decision, that too was rejected, so we have attempted two compromises both of which have been rejected. A third compromise has been put on the table by the Spanish and we welcomed that. It was not everything we want, it was not what we originally proposed, but in the spirit of trying to get agreement

around this table we would like to support the Spanish proposal and if that is accepted then we would be happy with the Directive that's currently drafted. Indeed, there are divergent views within our various departments and ministries. Our [Germany] economy minister Sigmar Gabriel has previously stated that the EU-US trade talks have failed because the agreement on the table was unacceptable under the unequal conditions imposed by the US-led discussions, which more favored the US over the EU.

Respondent#8: Anonymity, Representative official of Slovenia, 24 January 2022, Interview via zoom chat at the Europeum online seminar.

Related questions: How did the Presidency of Slovenia approach the conflicts?

From my standpoint, I supported this decision regardless there were other member states opposed. Most importantly, our government believed this is a great opportunity to build a strong bilateral relationship between EU and US. Meanwhile, most of our citizens and national interest groups supported this TTIP decision. There were no conflicts that need to be approached. We reach a consensus without any negotiations in our national context. If other member states and EU institutions wanted to conduct a negotiation, I think, the objective of the negotiation is to facilitate trade between the EU and the US through the development of streamlined processes to ease the recognition of conformity assessment results that confirm compliance of products with a party's technical regulations, whilst ensuring that a high level of protection in the EU is fully preserved. Hopefully, the agreement should, as appropriate, address its relationship with the EU-US agreements on mutual recognition which are currently in force.

Moreover, I wish the Commission should in cooperation with Member States throughout the negotiations, ensure appropriate communication, based on the principle of transparency, towards all relevant EU stakeholders, including civil society and economic operators. In particular, consultations will regularly be organized with all relevant stakeholders.

Respondent#9: Anonymity, Commission Official, 24 January 2022, Interview via zoom chat, at the Europeum online seminar.

Related questions: (1) Who proposed a solution? (2) What solution did they propose? (3) Was there a compromises or deals? (4) Whose opinions would be the most influential?

I take advantage and I would like to talk some (general) questions about decision taking in a context of "crisis" (climatic, economic, health, migratory, military, etc.) and inclusion of citizens in decision making. The communication with citizens counts in a context of crisis have great importance, we first listen to the EU citizens' voices and then consider every member state of governments. Or, to say it differently, communicating with EU citizens is about the crisis as important as acting to face the crisis. The communication and transparency between the EU decision-makers themselves is quite crucial. At the meantime, there any "protocol" or procedure to be respected to assure the institutional dialogue.

Respondent#10: Anonymity, Parliament Official, 24 January 2022, Interview via zoom chat at the Europeum online seminar.

Related questions: (1) What is the opinion of your institutions towards the TTIP negotiations? (2) Who do you think is the winner of the negotiations? (3) Who coordinated the debate between the institutions?

"We believed there was no political support in Paris for the TTIP negotiations because they sought a pure, straightforward, and definite halt in order to continue subsequent conversations on a reasonable ground." Will the final TTIP recommendations possibly lead to adoption of new legislation by the European co-legislators. Yes, I think so, according to the situation of past negotiations and to a revision of the treaties, according to the results of the Conference. Such a process of revision is realistic or feasible in my opinion. I think about, for example, the proposals from discussing about new mechanisms of direct and semi-direct democracy; about the protection of EU democratic legislation or about the way(s) to better organize and to reinforce the powers and tasks of the EU institutions.

Respondent#11: Anonymity, Parliament Official, 24 January 2022, Interview via zoom chat at the Europeum online seminar.

Related questions: (1) Do you think which type of political actors have exactly the preferred influence on the legislative process? (2) Who do you think is the winner of the negotiations? (3) What would you say has been the most successful strategy in the negotiations? (4) Did they discuss with stakeholders from the EP? (5) Who coordinated the debate between the institutions?

We recognized that successful trade legislation and better implementation are a joint responsibility of the Commission, the Parliament, and the Council. The TTIP negotiations should achieve an ambitious and balanced agreement that benefits all member states equally. It would neither accept an arrangement that would lower standards, nor would it consent to a proposal that would jeopardize its ability to govern public policy objectives. whereas the EU-US partnership is based on strong political, cultural, economic, and historical ties, on shared values such as freedom, democracy, promoting peace and stability, human rights, and the rule of law, and on common goals such as prosperity, security, open and integrated economies, social progress and inclusiveness, sustainable development, and peaceful conflict resolution, and whereas both the US and the EU are democracies under the rule of law. Whereas the EU and the US, building on their strong foundation of shared values and principles, should use all available channels of communication to explore alternative ways to strengthen the transatlantic relationship and respond effectively to the important challenges we face; and whereas, as legislators, the US Congress and the European Parliament play important and influential roles in our democracies and should use the full potential of their cooperation to pr Whereas the EU and the US are in a geopolitical transition period and must deal with similar complex threats, both conventional and hybrid, posed by state and non-state actors from the South and the East; whereas cyber-attacks are becoming more common and sophisticated, and cooperation between the EU and the US through NATO can supplement both parties' efforts and protect critical government defense and other information infrastructure.

Respondent#13: Anonymity, Expert of think tank, 25 January 2022, Interview via zoom chat at the Europeum online seminar.

Related questions: Could you please describe the stances of negotiation in the EU, i.e., different institutions including the Council, EP and European Commission?

On climate change, multilateral cooperation and support for NATO, expectations are high regarding a potential return to deep levels of transatlantic consensus and cooperation. Biden's foreign policy is likely to focus on multilateral cooperation, for example by re-joining the Paris

Agreement on climate change and resuming US support for the World Health Organization. The former Vice-President has stated he will likely re-join the Joint Comprehensive Plan of Action (JCPOA, or Iran Nuclear Deal) in time, and pursue an extension of the New Strategic Arms Reduction Treaty (START) with Russia. Public opinion polls indicate that the majority of citizens in the EU-27 support Joe Biden as the next US President and that the US has suffered reputational decline in Europe under President Trump's conduct of transatlantic relations (Figure 1). In a resolution on EU-US relations in 2018, the European Parliament recalled the longstanding EU-US partnership and alliance and insisted that it 'should be based on jointly sharing and promoting together common values including freedom, rule of law, peace, democracy, equality, rules-based multilateralism (and) sustainable development'. It expressed concern at the approach taken by the US towards addressing global issues and regional conflicts since the election of President Trump and called on the US administration to uphold shared core values. Parliament also welcomed the work of the Transatlantic Legislators Dialogue (TLD) in fostering EU-US relations through parliamentary dialogue and coordination on issues of common interest. It also welcomed the relaunch of the bipartisan EU caucus in Congress. On the EU side, the TLD is chaired by the Chair of the Delegation for Relations with the United States, Radosław Sikorski (EPP, Poland). EP President David Sassoli congratulated Joe Biden on his victory on 7 November 2020, emphasizing the need for a relaunch of transatlantic relations. In November 2020 the EP urged the Commission to construct a positive EU- US trade agenda beyond tariff reductions.

Case 2: EU Emissions Trading System (EU-ETS) Directive, online interview (Zoom/Teams) (20 questions)

1. General questions

(1) To what extent the interest groups' opinions influence the member states' positions on the directive?

(2) Why did this proposal delay?

2. The European Commission

(1) What was the Commission's position on this proposal?

(2) How did the Commission handle the negotiations?

(3) How did it react to the Council's division? Did it interfere with the Council's decision?

(4) Did the Commission consider changing its position?

(5) Did the Commission react to the Council not agreeing on a position?

(6) Is the Commission closer to the Parliament or the Council on this directive?

3. The Council

(1) What are the main points of disagreement in the Council?

(2) Why is the Council so divided on this issue? Who opposed the proposal most in the Council? What are the arguments by the opposing member states?

(3) Which member states defend similar positions?

(4) Which role does Germany play in the negotiations? Did it change positions?

(5) How did the Czech Presidency approach the conflicts? Why did they fail to forge consensus?

(6) How did the other member states' presidency approach the conflicts?

(7) Were there any further negotiations after the Council decided to withdrawal the Parliament's amendments?

(8) Have you noticed that negotiators mention time invested in the Council meeting as a cost?

4. The Council and The European Parliament

(1) How did the Council judge the EP's position? (Accept? Reject? Withdrawal?)

(2) How did the Council receive the EP's criticism for not taking a position?

(3) Do you know any of division inside of the Parliament?

(4) What were the main points of disagreement?

(5) Which amendments were particularly problematic?

The important information from EU-ETS interview

Respondent#1: Anonymity, Commission Official, 18 November 2020, Interview via zoom conversation.

Related questions: (1) Could you please describe the process of negotiation in the EU institutions and among member states?

[…] Ok, here is the information that I have learned in this case. The first dilemma is about a first layer of common elements for the international competitiveness and pricing differentials in energy. The second is that do we agree, in particular, that restricted one-off flexibility with the EU ETS should have a broad scope, but a limited set of defined exclusions? Also, do we agree that there will be a need for institutions to have appropriate loss absorption capacity, if they choose alternative

strategies of greenhouse gas emission reduction, as there is no cost-free way of excluding risk of climate changes and global warming.

The procedure is as follows: the Commission presented the aforesaid recommendation to the Council. In accordance with Article 251 of the Treaty, the European Parliament and the Council reached an agreement on the Articles and Annexes and asked the Permanent Representatives Committee to write the preamble and send the text to legal/linguistic specialists for finalization. After that, it is advised that the Permanent Representatives Committee invite Council to adopt its shared position as an "A" item on the agenda of a future meeting. Take heed of the reasons stated by the Council. Enter the statements in its minutes. The joint stance was communicated to the European Parliament, along with the Council's explanations.

Respondent#5: Anonymity, Representative official of the Netherlands, 3 March 2021, Interview via Teams conversation.

Related questions: (1) What was the position of the Netherlands on this proposal? (2) How did the Commission handle the negotiations? (3) How did it react to the Council's division? Did it interfere with the Council's decision?

The Netherlands underlines that each member state's designated administrative or judicial authorities have the authority to impose the penalties outlined in Article 16 (3) in order to ensure conformity with the provisions. We argue that the proposed cap falls short of keeping up with carbon reductions on the ground and is therefore incompatible with Europe's long-term climate ambitions. This is not the result of Europe exceeding its fair and cost-effective contribution; rather, it is a consequence of inadequate targets. The long-term target agreed upon by the European Council as Europe's fair and scientific contribution is to reduce emissions by 80-95 percent by 2050. The legislative timeframe should allow enough time to modify the ETS (and ESD) budget in light of a stronger EU offer emerging from the Paris negotiations. We offer a critical safety valve through which further domestic effort could be reduced if it proves too costly. We propose enacting steps that make it easier for EU member states to unilaterally enhance ambition by cancelling their auctionable permits. Someone suggested two improvements to the carbon leakage criteria, which I

remembered. Adopt a multi-tiered strategy to leakage exposure, for example, and phase out free allocation to non-exposed sectors.

Respondent#6: Anonymity, Representative official of Poland, 15 March 2021, Interview via Teams conversation.

Related questions: How did the Poland Presidency approach the conflicts?

As far as I am concerned, some member states such as Poland, Hungary, Walloon Region, Bavaria, Canary Islands expressed preferences for developing more categories and emphasized the critical necessity of maintaining international competitiveness and pricing differentials in energy. Since this directive does not provide the community the authority to harmonize member states' criminal laws. It, therefore, cannot compel member states to include sanctions into their domestic legislation in order to implement the directive. We also had different views on this decision, the negotiations have been processed during the parliament meetings for a couple of months. Some of parliamentary representatives advocated that we should adopt the EU-ETS Directive as fast as possible, others proposed that this directive still needs to be negotiated and amended further in order to reach an absolute consensus.

Respondent#7: Anonymity, Representative official of Czech Republic, 24 March 2021, Interview via Skype conversation.

Related questions: How did the Presidency of Czech Republic approach the conflicts?

I extremely concerned over the diminishing competitiveness on specific issues of the EU ETS directive because many issues were restrictive and usually captured the attention of only a few member states with the same preferences and positions. We have urged that the European Commission conduct an in-depth examination of the EU ETS's operation and efficacy while simultaneously embarking on a fierce debate about alternative strategies for greenhouse gas emission reduction. As a result, the common position incorporated 23 of the 73 amendments proposed by the European Parliament in the first reading.

Respondent#12: Anonymity, European Commission Official, 24 January 2022, Interview via zoom chat at the Europeum online seminar.

Related questions: (1) What do you think will be the main factors that affected the position-taking on this proposal? (2) Have you noticed that negotiators mention time invested in the Commission meeting as a cost? (3) What is the opinion of your institutions towards the EU ETS directive?

Well, regarding your questions and the cases you are studying. I would like to respond one aspect of this case. For example, on the basis of questions prepared by the Presidency to guide future work on the Commission's proposal for a Directive of 23 October 2001 establishing a scheme for greenhouse gas emission allowance trading within the Community, the Council held a policy debate focusing on how to organize the initial phase of the scheme (2005 to 2007) prior to entry into force of the Kyoto Protocol. The Council began by stressing that the European Union saw such an allowance trading scheme as complementary to efforts to reduce emissions via domestic measures and policies. As to whether the method of allocating allowances should be free of charge or by auction, the vast majority of Member States held that making it free would be an incentive to participation. In general, Member States argued for the introduction of a harmonized method of allocation and harmonized criteria as the best means of preventing distortions of competition. As regards cover, the majority of Member States favored a scheme initially for CO2 only but did not rule out the possibility of rapidly extending it to other greenhouse gases. There was broad support for the Commission's proposal regarding the sectors to be covered, although a few Member States wanted to include additional sectors, with other stressing that that must be done solely on the basis of harmonized criteria set at Community level. Finally, a large majority of Member States considered that the costs of such a scheme should be borne by electricity producers, in line with the polluter-pays principle. The President concluded the debate by noting that positions were not firmly fixed, since consultations were still under way in some Member States, which had therefore expressed preliminary views. She noted that because of the initial phase many Member States were keeping an open mind and that positions could therefore change, particularly on the subsequent commitment period.

Respondent#13: Anonymity, Expert of think tank, 25 January 2022, Interview via zoom chat at the Europeum online seminar.

Related questions: (1) What is the opinion of your institutions towards the EU ETS directive? (2) Could you please describe the stances of negotiation in the EU institutions and among member states?

I strongly support we should adopt the EU-ETS Directive as fast as possible. Just to give a reflection here, if a country is entering into a new period of government with maybe four years to the next election, one has to assess, can we sustain the position for the whole four-year period. Is it possible to sustain a veto against the EU-ETS Directive for four years? If that is not possible or realistic, I would argue that it's much better to change position directly, because if there are any troubles, they are likely to be of passing nature and you still have four years to the election. If you just have to change position later on, the negative reaction from the voters is much more likely to affect the elections. So, we are politicians, sometimes it sounds like we're a group of technocrats meeting here for macroeconomic seminars, but we are politicians. I mean if you need to change the position do it directly instead of drawing it out and end up with a situation that it will come into the next election campaign.

The Directive is especially crucial in ensuring that legal commitments to reduce greenhouse gas emissions under the Kyoto Protocol, which the European Community and its Member States adopted, be met more cost-effectively. The Common Position contains five amendments that the Commission did not adopt in its modified proposal. According to Amendments 51 and 103, agreements based on the Kyoto Protocol may only be reached with Parties who have ratified the Protocol. Insofar as the accession discussions do not provide for it, agreements must be reached with the applicant nations. The Commission has agreed to this amendment in principle and in part by replacing "third parties" with "Parties specified in Annex B of the Kyoto Protocol that have ratified that Protocol." The part of the amendment referring to agreements with applicant countries has not been accepted, because emissions trading is expected to take place in the applicant countries through transposition of this scheme, and it would be premature to decide now that a link to any other pre-accession national scheme that has yet to be established "must" be made. The Common Position accepts that links should only be established with Kyoto Protocol Annex B Parties and goes further in the direction of the European

Parliament's amendment by stating that "agreements "should be concluded with third countries listed in Annex B to the Kyoto Protocol that have ratified the Protocol," rather than "may be concluded." This creates a presumption in favor of the establishment of linkages. A new recital has also been added, emphasizing that linking the Community plan to emission trading schemes in third countries will boost the cost-effectiveness of meeting the Community emission reduction target. Meanwhile, the Council has made significant revisions to the modified Proposal. Banking of assigned amounts, modifications of assigned amount units, national trading systems, Member States engaging in international carbon trading, taxation, and National Allocation Plans, among other things.

Respondent#15: Anonymity, Expert of think tank, 25 January 2022, Interview via zoom chat at the Europeum online seminar.

Related questions: To what extent the interest groups or citizens' opinions influence the member states' positions on the directive?

Citizen participation seems to me to be quantitatively low in the plenaries. We only have 80 citizens out of 449 members of the plenary sessions. Moreover, isn't the composition of the executive board a kind of filter that could weaken the legislative input of the citizens? I think it would have been very useful to create a legal duty to initiate legislative proposals on the outcomes coming from the EU-ETS directive and, above all, an institutional duty to initiate a Convention for the treaty-amendment on the basis of citizens' proposals." Bearing in mind the little poll we conducted at the beginning of this call, even EU citizens are interested in European politics, it seems that the consultations were not as well-publicized as one might hope. With its great citizen participation, more lobbying activities would undoubtedly be a great counterargument to the criticism of democratic deficit in the EU legislation. Because members' preferences on contentious and highly salient subjects are not aligned, conflicts may emerge. While contentious issues are uncommon, they are more difficult to address, necessitating additional time and effort. "In 80% of situations, we reach a quick consensus, but 20% of the policy issues we address are challenging or extremely difficult, requiring more time and effort."

Respondent#16: Anonymity, European Parliament Official, 25 January 2022, Interview via zoom chat at the Europeum online seminar.

Related questions: What do you think will be the main factors that affected the position-taking on this proposal? (2) Have you noticed that negotiators mention time invested in the MEPs as a cost? (3) What is the opinion of your institutions towards the EU ETS directive?

As far as I am concerned, the Council considers that the common position does not alter the approach and aims of the original proposal from the Commission and notes that the commission also supports the common position as it stands. In addition, the changes introduced by the Council to the Commission's amended proposal respond in certain Member States, with which the European Parliament agreed, that existing instruments should, in certain circumstances, be allowed to continue until the end of 2007 as an alternative to the relevant installations being brought within the emission trading scheme. For the five-year period beginning in 2008, the provision for "pooling" would enable there to be an easier transition between existing instruments, such as long-term negotiated national agreements and emissions trading. The common position incorporates many of the amendments proposed by the European Parliament at its first reading. In particular, reviews will take place by 31 December 2004 and 30 June 2006 to examine if emissions of other greenhouse gases can be sufficiently accurately monitored and the scope of the scheme can be extended. As from 2008 Member States will be able to unilaterally opt-in emissions of other gases, following which a review will consider harmonizing the scheme through co-decision. The scope of the emissions trading scheme includes energy, heat, and steam production of installations above 20MW, while Member States can extend the coverage of the scheme as from 2005 to lower thresholds. It should also be noted that the originally proposed use of comitology to revise Annex III has been limited to the period 2008-2012 in the common position, which is necessary purely for reasons of timing. The common position's requirement for Member States during the period 2008-2012 to allocate at least 90% of allowances free of charge gives businesses and Member States greater certainty of what to expect in the future, and the issue of further harmonization of the method of allocation will be included in the review to take place by 30 June

2006. Regarding the modalities for linking the EC emissions trading scheme with the Kyoto Protocol's so-called project-based mechanisms, it can be noted that the common position does not prejudge this issue: On the basis of the Commission's forthcoming proposal on the project-based mechanisms, the Council and the European Parliament will decide on these modalities through co-decision. Furthermore, the common position accepts the European Parliament's position that the EC emissions trading scheme should only be linked to schemes in third countries that have ratified the Kyoto Protocol.

Respondent#17: Anonymity, Expert of think tank, 25 January 2022, Interview via zoom chat at the Europeum online seminar.

Related questions: What is the opinion of your institutions towards the EU ETS directive?

Personally, I fully agree with the provisions of this directive and strongly support this directive, which should be adopted with consensus. I consider it is important, in implementing the Directive and especially Article 27 thereof, to take account of the need of some Member States to be able to continue to employ national instruments which have proved successful, such as energy taxation and energy savings agreements, in order to limit greenhouse gas emissions. Our institution also supports the objectives of the Directive, especially the pursuit of the greatest possible degree of harmonization. I believed that the Commission could accept the European Parliament's seventeen amendments in full. It considers that the principal aims of the EC emissions trading scheme are safeguarded by the compromise package that these amendments constitute.

Respondent#18: Anonymity, 25 January 2022, Expert of think tank, Interview via zoom chat at the Europeum online seminar.

Related questions: What do you think will be the main factors that affected the position-taking on this proposal?

Going off the opinions from individuals, this was a bit why I asked about potential conflict in the policy planning at the parliament/Commission level. It would be interesting to know the ownership each member state takes in EU-ETS legislations. Especially EU member states with larger Eurosceptic populations. Industry stakeholders expressed concerns about various components of the system. They argued that the proposed new restricted one-off flexibility with

the EU ETS for nine member states with a maximum allocation of 100 million ETS credits should be scrapped.

Respondent#19: Anonymity, Parliament Official, 25 January 2022, Interview via zoom chat at the Europeum online seminar.

Related questions: (1) What are the main points of disagreement in the Council? (2) Why is the Council so divided on this issue? (3) Who opposed the proposal most in the Council? (4) What are the arguments by the opposing member states? (5) Which member states defend similar positions? (6) How did the Member states Presidency approach the conflicts?

The Council determined that the common position does not change the approach or objectives of the European Commission's original proposal and notes that the European Commission also supports the common position in its current form. The Council and the European Parliament resolved these modalities in co-decision, based on the Commission's forthcoming proposal on project-based mechanisms. Each EU country agreed on the allocation of its emission allowances prior to the start of phases 1 and 2 of the EU emissions trading scheme (EU ETS). This was accomplished through the use of national allocation strategies. In many cases, the Commission demanded adjustments, particularly the reduction of national caps. The cap and allocation per installation could not be modified once a proposal was authorized.

During 2006-2007, the Commission made decisions on the majority of NAPs. Poland's and Estonia's NAPs were adopted in 2010 and 2011, respectively, after previously rejected proposals. In 2007, the EFTA Surveillance Authority made decisions on Liechtenstein's plan, and in 2009, it made decisions on Norway's plan. Iceland lacked a NAP since the few installations covered by the EU ETS withdrew out. Many of the proposed caps were later reduced in phase 2. In addition, several Commission Decisions on NAPs have been contested by Member States. One of the elements driving the decision to set an EU-wide cap for phase 3 was the need to avoid legal uncertainty.

Respondent#20: Anonymity, Expert of think tank, 25 January 2022, Interview via zoom chat at the Europeum online seminar.

Related questions: How did the other member states' presidency approach the conflicts?

The problem is the treatment of inserting sanctions in their domestic legislation in order to implement the directive. Should these consequences be excluded from the directive, or should they be included only after other visible or unsecured execution, implying that they receive preferential treatment? Without the positive preference, they would bear the losses in the same pecking order. The difficulty is twofold. First, I'd like you to declare a clear preference for one of the three ideas offered in the consultation report, or any combination thereof, as a way forward. Second, I'd like you to explain how you view the path forward in reconciling harmonization with some required flexibility. I am particularly interested in hearing your thoughts on how to frame that flexibility, as this would have ramifications for exclusions from domestic legislation at the discretion of national resolution agencies. So, four themes, we were advocating from the Presidency a broad scope, and that the exclusions would be carefully established and uniform among sovereigns.

Respondent#21: Anonymity, Expert of think tank, 25 January 2022, Interview via zoom chat at the Europeum online seminar.

Related questions: Have you noticed that negotiators mention time invested in the Council meeting as a cost?

As far as I am concerned, specific groups have substantial interests and different positions on various aspects of the policy, which will result in conflicts. Contentious or super difficult issues are more challenging to address, requiring additional time and effort. I have to acknowledge that 'we reach a quick consensus in 80% of situations, but 20% of the policy issues we address are challenging or extremely difficult, requiring more time and effort.'