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XVIIth Meeting of the Association of European Senates Theme of the Meeting, Bern:
The importance of the Senate in parliamentary decision-making

In the parliamentary system of the Netherlands, the Senate performs the role of "chambre de réflexion". The Senate scrutinizes all legislation that has been passed by the House of Representatives. It is the only institution that reviews the final text, including amendments, and checks whether it is in line with national and international law. In addition, the Senate of the Netherlands scrutinizes bills for legality, practicality, and enforceability. The Senate of the Netherlands does not have the right to amend bills, like some other European senates do. But it does have a full veto right, which is rare, if not unique among our European senates. We do not know the system of the navette. We can have a veto on bills that are before the Senate. However, we rarely use this veto. It would mean that the bill – and the years of effort that were put into it – would be off the table entirely. The whole legislative process would have to start from scratch. The real influence of the Senate of the Netherlands is much more subtle than its veto right suggests. Our main added value lies in the questions senators ask the cabinet regarding the congruity of the bill with other laws and the implementation of the bill. The answers to these questions by the Senate are often used by the judiciary to interpret a bill's meaning once it has been enacted into law. And sometimes, questioning can lead to a pledge by a minister to implement a law in a certain way.

During last year's conference, we spoke about hard power versus soft power. I think I can safely say that the Senate of the Netherlands uses its soft power infinitely more than it does its hard power. But its hard power, i.e. the veto right, does have a deterrent effect on both the Government and the House of Representatives. Long before a bill reaches the Senate, they anticipate the Senate's reactions. In the last few years, a new light has been shed on the balance between hard power and soft power. The reason for this is that for the first time in decades the reigning coalition does not hold a majority in the Senate. Some say this damages the position of the Senate because it puts all the various parties – both opposition and coalition – in an increasingly political position. But one can also argue that it allows the Senate to fulfil its role as "chambre de réflexion" even better than before. The reason for this is that it can never be assumed that a majority of senators will be in favour of a bill. The government has to fight for a parliamentary majority for each proposal.

When the Second Rutte Cabinet started its term of office in 2012, there was a lot of uncertainty as to how it would make sure that proposed legislation would pass both houses. But now that its term has almost come to an end, we can start to conclude that it has been fairly successful in this. Out of the hundreds of bills – there were almost a thousand bills between 2011 and 2015 – submitted by the Second Rutte Cabinet, only six were rejected. Five more were withdrawn for further reconsideration and alteration. How is this possible? Over the last four years, the two coalition parties worked together with a number of opposition parties to reach political agreements. In order to arrive at these agreements, the coalition was forced to consult, debate, persuade, and compromise. That in itself is a good thing. However, these agreements were made behind closed doors instead of during a parliamentary debate. Of course, the legislative proposals that resulted from these agreements were always debated in public. It is my firm belief that the acceptance of a legislative proposal should always be the result of a debate in which all arguments have been heard and debated. Without this, a free democracy is an empty shell. I am reminded of a quote by Marcus Tullius Cicero, who once said that arguments should be weighed, not counted. He believed in the power of the argument, that, when all arguments, both for and against, are put on the table, a debate can be enriching and new insight can be generated, leading to increased respect for the opinions of others.

In March of next year, the Netherlands will hold elections for the House of Representatives. In a country like the Netherlands with many different political parties, this means that it is necessary to form a coalition in order to have a majority in the House of Representatives. Already, many discussions are taking place as to whether this coalition should make sure it has a majority in the Senate as well. Some politicians have stated that a majority in the Senate is a *conditio sine qua non*. Others have stated that it is preferable, but not necessary. In my view, a majority in the Senate remains desirable, although in two years from now there will be new elections for the Senate which could change its composition once more. In any case, the decision has to be the result of a conscious choice.

In the meantime, there is another current development that I would like to share with you today. As I said earlier: four years ago, there was a lot of uncertainty about how this relatively new and unique political situation would work. This led to intensive political debate on the workings of the Dutch representative democracy. As a result, last July both houses of parliament requested the Prime Minister to install a so-called State Committee to analyse the functioning of the Dutch parliamentary system as a whole. This State Committee will look into the question of whether or not the current system is sustainable. It will look at, for instance, citizen involvement in the political process and the effect of European decision-making on the national parliament. In addition, the Senate of the Netherlands has installed a special committee of senators to look at practical ways in which it can further optimize its work. Amongst other things, the committee will examine the way in which the Senate deals with highly urgent legislative proposals and the manner in which senators obtain information from the Government. The committee is expected to present its conclusions some time next year. Of course, I will gladly share them with you next time we meet.

To round off, I would like to state just how much I value this platform. All over the world, senates play an important role in the checks and balances of their respective political systems. How we fulfil that role is different in every country. The reason we take this yearly opportunity to exchange experiences is because we can learn from our differences. I firmly believe that, ultimately, a bicameral system is beneficial to the functioning of a democracy because of the necessary checks and balances. We as politicians should emphasize this in all discussions concerning the position of senates. Checks and balances, that is what it is all about.