



Industry Deal to Supplement Green Deal?

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Ales Bartl

- ◆ Ales Bartl has a broad experience EU product regulatory law, including Registration, Evaluation, Authorisation, and Restriction of Chemicals (REACH) regulation, the Classification, Labelling, and Packaging (CLP) regulation, Biocidal Products Regulation (BPR), medical devices, electronic products, and general product compliance and product safety. He advises on regulatory compliance of a broad range of products marketed in the EU and represents clients before EU and national competent authorities on compliance and enforcement issues, including product withdrawals and recalls.
- ◆ Ales also represents clients before the Court of Justice of the European Union and the Board of Appeal of European Chemicals Agency.



Alejandra Martinez Perea

- ◆ Alejandra Martínez Perea counsels clients on regulatory and compliance matters related to food and drug packaging, food and feed, medical devices, data sharing, and product safety. She also advises companies on REACH matters; the Classification, Labelling, and Packaging (CLP) Regulation; and the Biocidal Products Regulation (BPR).
- ◆ Alejandra also helps companies navigate the process of securing regulatory approvals for food contact materials within the European Union (EU) and at the level of individual Member States.





Background



EU Chemical's Strategy for Sustainability (CSS) - Status



- ◆ CSS towards a toxic-free environment by 2050 (announced in 2020)
- ◆ Several issues in implementation:
 - ◇ Delays/inconsistent messages leading to uncertainty and difficulties to make long-term business plans
 - jeopardizing the goal to make EU industry more competitive
 - ◇ Overregulation detached from risk and socio-economic impact
 - ◇ High costs, low benefits
 - ◇ Not taking into account geopolitical challenges

Industry Concerns

- ◆ Lately, the Commission has been more receptive to industry concerns = good basis for continuing (and upgrading) this communication with the new Commission
- ◆ Key term: **Industry Deal**
- ◆ Key message: only strong EU Industry can deliver Green Deal Goals
- ◆ Key goals defined in **Antwerp Declaration**, followed up in **Clean Transition Dialogues**



Antwerp Declaration



The Antwerp Declaration for a European Industrial Deal (1)



- ◆ On February 20, 2024, industry leaders from 25 sectors presented the Antwerp Declaration to Belgian PM Alexander De Croo and Commission President Ursula von der Leyen.
- ◇ **Main goal:** Urgent call to restore competitiveness, secure jobs and align with EU Green Deal objectives
 - Addressing challenges such as economic downturn, external and internal pressures and import dependency
- ◇ **Industries Represented:** Chemicals, Pharmaceuticals, Paper, Steel, Mining, Aluminium, Glass, Zinc, Metals, Textiles, Refineries, Cement, Lime, Fertilizers, Ceramics, Industrial Gases, Biotech.
 - **Total Workforce:** 7.8 million EU workers.
 - **Signatory Breakdown:** - **Companies:** 819 - **Associations & Unions:** 335 - **Organizations:** 1199 - **Individual Supporters:** 593

The Antwerp Declaration for a European Industrial Deal (2)

10 key points to call Member State Governments, and the new European Commission and Parliament to act:

- ◆ 1. Put the Industrial Deal at the core of the new European Strategic Agenda for 2024-2029
- ◆ 2. Include a strong public funding chapter with a Clean Tech Deployment Fund for Energy Intensive Industries
- ◆ 3. Make Europe a globally competitive provider of energy
- ◆ 4. Focus on the infrastructure Europe needs
- ◆ 5. Increase the EU's raw materials security
- ◆ 6. Boost demand for net zero, low carbon, and circular products
- ◆ 7. Leverage, enforce, revive, and improve the Single Market
- ◆ 8. Make the innovation framework smarter
- ◆ 9. A new spirit of law-making
- ◆ 10. Ensure the structure allows to achieve results



Clean Transition Dialogue Follow-Up



Clean Transition Dialogues

- ◆ Clean Transition Dialogues: discussions between industry stakeholders and the Commission (Commissioner Sevcovic): focusing on industrial approach in Green Deal implementation
- ◆ Publication on 10 April 2024 of EC stocktaking document “*A strong European Industry for a sustainable Europe*”
 - ◇ Picked-up the points raised in the Antwerp Declaration
 - ◇ Proposed direction for the new Commission regarding the industrial approach to the Green Deal.
 - ◇ Reinforced industrial approach to reach climate neutrality by 2050 and increase competitiveness and resilience for industry.

10 April 2024 of EC stocktaking document

- ◆ Key building blocks:
 - ◆ Effective and simplified regulatory framework for businesses to deliver on the transition;
 - ◆ Taking action on energy prices to ensure abundant and affordable clean energy;
 - ◆ Building modern infrastructure as a backbone for EU industry;
 - ◆ Unlocking finance for the transition;
 - ◆ Leveraging the clean Single Market in a globally competitive environment.



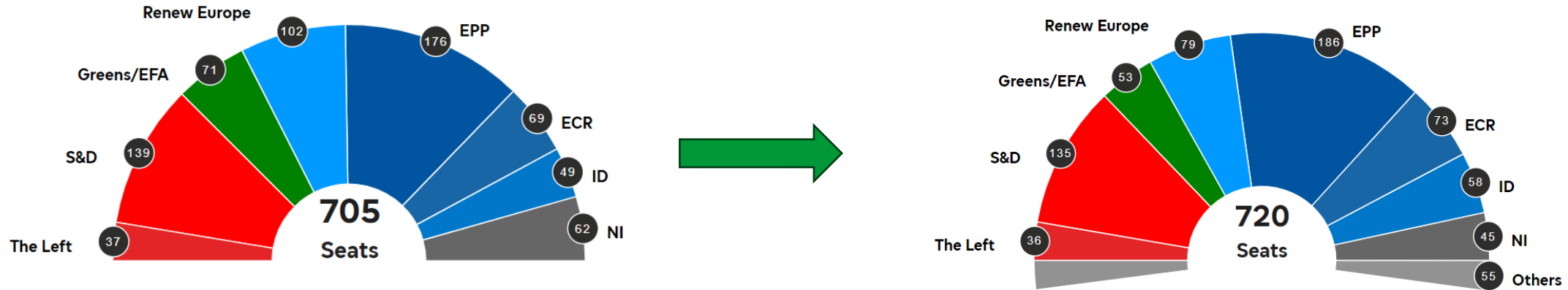
Potential to influence the new Commission and the European Parliament



◆ Elections for the European Parliament

- ◆ Elections are held every five years, simultaneously across all EU member states.
- ◆ Seats Allocation: Based on population of each Member State with larger states having more seats but smaller states having slightly higher per capita representation.

Background information on EU Elections (2)



◆ Results from the recent EU Elections:

- ◆ Far-right and far-left parties stronger, but the status-quo parties remain strongest
- ◆ Green party lost seats
- ◆ Political crisis in France because of overwhelming victory for far-right => extraordinary Parliament Elections => France may lose its regulatory driving role (impacting the proposed ban for certain PFAS)
- ◆ Potential shift of influence to Central/East Europe (Poland) – neglected in advocacy so far

Background information on EU Elections (3)

◆ Appointment of the next European Commission

- ◆ Commission President: agenda-setter
- ◆ Proposal of Commission President: European Council proposes a candidate considering European Parliament election results (*Spitzenkandidaten System*)
 - The lead candidate from the party that wins the most seats is typically "entitled" to be picked.
- ◆ Selection of Commissioners: Each Member State nominates a candidate. President-designate assigns portfolios.
- ◆ Approval of the Commission: Full Commission approved by European Parliament after individual hearings.

Potential to influence the new EP and EC

- ◆ The elections are likely to impact the priorities of the next EC
- ◆ Possible continuation of Ursula von der Leyen's mandate: In 2019, she was elected with support from the EPP, S&D, and Renew Europe. The same coalition could potentially provide her with a majority again
- ◆ Key topic will be how can the industry meet the Green Deal goals, as mentioned in the 23 May Debate between the candidates to be elected as President of the EC
- ◆ Recent proclamation: Director General of DG ENVI (Florika Fink-Hooijer) to continue work on REACH revision and PFAS restrictions, while acknowledging need for financing (taxation to be discussed) and competitiveness
- ◆ Focus on Green Deal implementation and role of Industry



What has been done under the European Green Deal so far and what are the next steps?



Introductory notes

- ◆ Fact: EU Industry has already shifted towards green technologies; this is irreversible
- ◆ ‘Industry Deal’ discussions so far: reducing regulation/reducing Green Deal goals: not the main goal
 - ◇ It is more about clarity/consistency of regulations and incentives/financial support to EU industry
- ◆ But: the problem of overregulation should not be overlooked!

Key argument for advocacy

- ◆ Argument for advocacy: key regulations have already been delivered, or are about to be delivered
 - ◇ + voluntary phase-out already taking place, driven by best efforts
- ◆ What industry needs now is that the EU legislator closes the loop and expedites the implementation process of existing tools, addressing the competitiveness and costs challenges



What has been done?



Main focus: endocrine disruptors

- ◆ Revision of CLP (done): new hazard classes: ED, PBT/vPvB and PMT/vPvM
 - ◇ Commission Guidelines for identification of ED: still pending!
- ◆ Revision of REACH (pending): new data requirements for ED endpoint
 - ◇ Idea: industry to generate data under REACH => harmonized classification => generic restriction
- ◆ Revision of CLP (done): common element: acceleration of harmonized classification procedure => we expect focus on ED

Streamlining of hazard and risk assessments: one substance, one assessment

- ◆ On 7 December 2023, the European Commission issued three proposals implementing the objectives of the ‘One substance, one assessment’
- ◆ They address the creation of a common data platform (studies + repository for limit values) and the re-attribution of tasks (ECHA to perform assessment under WEEE, POPs, WFD, PPWR, cosmetics, observatory for nanomaterials, toy safety, medical devices...)
- ◆ Impact: hazard assessment performed by ECHA as a basis for risk assessment and limit value setting
 - ◇ CLH as a central piece for risk assessment

Enforcement tool: CSDD

- ◆ On 24 May 2024, the Council approved Corporate Sustainability Due Diligence Directive
- ◆ The Directive obliges large EU (and non-EU companies) to identify and disclose any potential negative impacts on the environment and human rights worldwide, and to **remediate it**.
- ◆ Enforcement + establishment of framework for civil actions: for MS discretion!
- ◆ Remediation criteria/requirements in Commission guidance documents – **focus for advocacy!**

Phase out of most harmful chemicals: derogation for ‘essential uses’

- ◆ **Concept to be used horizontally in all legislation for derogations from restrictions of the ‘most harmful substances’**
 - ◇ REACH, PPWR, ecodesign (cosmetics, food contact materials and toys)
- ◆ Communication from the Commission ‘[Guiding criteria and principles for the essential use concept](#)’ (April 22, 2024)
 - ◇ Guidance broader/less strict than expected
 - ◇ Subcategories in the Guidelines are sufficiently broad to cover e.g., green technology/digital applications (including semiconductors?)
- ◆ Risk element: battle not lost

Green claims

- ◆ Creation of new labelling schemes: goal to promote EU-wide labels
- ◆ Verification bodies to be set out and accredited by each Member State to verify green claims being made



Off the table?



Off the table? (1)

- ◆ Latest statements from Ursula Von Leyen: nature restoration, biodiversity and nitrogen pollution ‘should wait’
 - ◇ Focus on climate change
- ◆ DG GROW: polymer REACH registration burdensome + animal testing concerns + not likely to bring significant new information
- ◆ ‘Safe and sustainable by design’: test phase 2023: not much response: drop?
- ◆ PMT/vPvM?

Off the table? (2)

- ◆ New REACH data requirements for non-ED end-points (immunotoxicants, neurotoxicants, extension of data requirements for the 1-10 tons band) – not appearing anymore in discussions
- ◆ Information on environmental footprint not necessary – CSDD!



Incentives



Some outside the box ideas

- ◆ Adjust Carbon Border Adjustment to include more than raw materials
- ◆ More political and financial support to innovative materials (e.g., biodegradable natural-like polymers to tackle plastic litter)
- ◆ Use of New Approach Methodologies (NAMs) under REACH to avoid animal testing
- ◆ Improve acceptance of read-across under REACH
- ◆ EU to push regulations at GHS/UN level to give competitive advantage to EU Industry – start with new CLP categories (ED!)
- ◇ Overall, shift of regulations to the UN level (UN treaty to end plastic pollution to be adopted by the end of 2024)



Final thoughts



Our Intake

- ◆ Likely shift towards industry: get the most out of it
- ◆ Gather strong socio-economic data and analysis of alternatives to support your case
- ◆ Monitoring at the early stage necessary: be prepared before your competitors are
- ◆ Check involvement of ‘your’ industry association in ongoing advocacy



Thank You

Any questions?

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