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BACKGROUND

By no means all companies welcome relaxation of green European rules

Making business more sustainable Under pressure from big business and some countries like France and Germany, the European Commission wants to weaken just-introduced green regulations already. But business is not united. Relaxations and restrictions are against the wishes of large companies like Nestlé, Unilever and Signify.

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At the very bottom of a 15-sentence letter from the European Round Table for Industry to the European Commission earlier this month were two brief statements.
Food companies Nestlé and Unilever and cosmetics company l'Oréal distanced themselves from many of the objections their fellow multinationals raised in the pages before against the only just-introduced European sustainability regulations.

This happens very rarely in joint statements by this European Round Table, whose members include major European companies such as TotalEnergies, Shell, BMW, Nokia and Dutch companies such as Heineken, ASML and Philips. In their letter, the large multinationals opposed parts of three European regulations arising from the Green Deal: a directive on sustainability reporting, one on corporate social responsibility and one on green taxonomy, which defines which investments may be considered sustainable, and which may not. Under the previous European Commission chaired by Ursula von der Leyen (2019-2024), those rules were adopted by the European Parliament after a long preparation period with much lobbying and negotiations.

The new Commission wants to merge these regulations into one so-called Omnibus regulation. The motivation: simplification of the rules. This should increase the competitiveness of European companies.

Right-wingers averse

Many companies saw opportunities in recent weeks to put pressure on the Commission through their lobbying organizations to relax the rules, supported by governments of countries such as Germany and France. Moreover, this Commission is also dealing with a new European Parliament, in which right-wing parties prevail that have already expressed aversion to strict sustainability rules. This weekend, proposals circulating within the Commission leaked out, indicating that the scope of the regulations will be reduced.

By no means all companies welcome far-reaching changes. "We shouldn't throw the baby out with the bathwater," says Bart Vandewaetere of food giant Nestlé (which has brands such as San Pellegrino, Maggi, KitKat, Nuts, Nescafé and Nespresso). The communications director of Nestlé Europe points out that for more than a decade, his company has voluntarily done a lot of research on the environmental impact and human rights issues in the supply chain of its products. "We have developed action plans for it because we now know which issues we have an impact on and which pose a threat to our business. We have been reporting on this ourselves for years. European regulations mean that more companies have to start doing that. That creates a level playing field and we welcome that."

Unilever states in a statement sent to *NRC* that it - like Nestlé - fears that the level playing field will disappear if the legislation is changed. Moreover, according to Unilever, that could lead "to legal uncertainty and a lack of urgently needed planning certainty."

Relaxation

Nestlé and other companies that consider themselves forerunners with their sustainability policies now fear firm adjustment of three directives. According to the CSRD (Corporate Sustainability Reporting Directive), as of this year large companies (more than 1,000 employees, turnover over 450 million euros) and smaller listed companies as of next year must report annually on their climate, sustainability and social policies. These weeks, the first reports according to this new standard will be released. They quickly reach 80 to 100 pages, Nestlé's CSRD report published two weeks ago even nearly 200 pages.

"Of course, through this exercise, we also see that the rules could be simplified," Vandewaetere said. "But for that you don't have to change the basic legislation. There is mainly an agenda behind that to partially block those laws."

Leaked proposals show that the Commission wants the CSRD to apply only to large companies that have been required to comply with the new reporting directive since this year. For smaller companies, the requirement would be removed.

The CSDDD (Corporate Sustainability Due Diligence Directive, referred to as the anti-looking-away-law) commits companies to corporate social responsibility by investigating human rights, working conditions and impact on climate and nature throughout their supply chain. In doing so, they must identify and address abuses. This obligation would apply to large and small companies starting in 2027.

That obligation would now be limited to companies with more than 500 employees, according to the leaked proposals. The investigation would only have to extend to companies' direct suppliers, but not further down the chain. And it would only have to be conducted once every five years, compared to annually under the current regulation.

What adjustments the Commission wants to make to the green taxonomy has not yet been leaked. On Wednesday, the European Commission will decide on the Omnibus Act.

Cocoa

Fears of a serious loosening and delay in green legislation are high among companies such as Nestlé , Unilever, Signify and Primark. These companies have already invested heavily to implement the new regulations. They sent letters to the European Commission in various alliances, urging them to stick to the policies they have initiated.

"We have a strong need for predictability," said Head of Public Affairs Mario Giordano of Signify, the former lighting division of Philips. "We have done our homework, made investments, made short- and long-term plans and got the job done. If some overlap is reduced and some rules are simplified, we're not opposed to that. But we fear that Pandora's box will be opened again and negotiations are reopened. That would make it unpredictable, and that's bad for businesses."

His colleague Maurice Loosschilder, Signify's head of sustainability, emphasizes that the CSRD report coming out this week fits seamlessly into the company's 'climate transition plan'. "That plan was not motivated by the regulation coming our way, but by our goal of net zero by 2040. By reporting according to CSRD, we can transparently show how we are making progress towards that. With all the steps we had already in recent years, complying with CSRD was not that complicated. It can be more complex for other companies and the investments can then be higher. Especially if they don't have a developed sustainability strategy yet. "

'Very dangerous precedent'

It would set a "very dangerous precedent" if discussions on all regulations already passed by the European Parliament were reopened, says Tsvetelina Kuzmanova of think tank Cambridge Institute for Sustainable Leadership. Who works closely with companies that consider themselves forerunners, such as Signify, Ikea and Hennes & Mauritz. "The crazy thing is that few companies in our network of 'Corporate Leaders' have been invited to the consultations by the Commission in recent weeks," she says. "It is being framed as if it is about competitiveness, but it has nothing to do with that. There are calls for delay, but delay does not help companies at all if they have been preparing for years."

Delaying regulation is also a big fear for Nestlé's Vandewaetere: "It is then going to take us a lot of effort to actually improve conditions for farmers, for example. We know from all the data collected that 60 to 70 percent of the emissions we cause come from agriculture and the agricultural products we use. We give farmers premiums to reduce their emissions. But if a farmer can just as easily move with his products to a competitor of ours who does not have these requirements on his emissions, it is much easier for him. The more companies make the same demands, the more likely farmers are to change the way they produce."

Along with almost all major competitors in the chocolate industry, Nestlé sent a letter to the Commission. It was also signed by U.S. companies such as Mondelez (with brands like Milka, Cote d'Or and Toblerone) and Mars Wrigley. "We jointly advocated for this legislation several years ago with a number of NGOs like the Rainforest Alliance," says Vandewaetere. "Then it makes sense that we don't want to see it torn down again now."

Tony Chocolonely is also among the signatories, although it does not have to comply with the new regulations. The young Dutch company is making it a point of honor to prove that even a smaller company can comply with the regulations. "Of course we have a big lead over other companies, because it has been in our DNA since our founding to do screening in our production chain," says Belinda Borck. "Our recently published sustainability report is already broadly in line with the CSRD directive and we want to show that even with full compliance with CSDDD it is possible to run a profitable business," she says. "There should be no distinction between large and small companies, it should just be a basic necessity to comply with these rules. The world is not doing that well. We see deforestation increasing, the goals of the Paris Agreement not being met, and we see deterioration in working conditions."

Accountant's Experiences

For small businesses, the regulations may well be too detailed, is the conclusion of auditors who these weeks are finalizing the approval of sustainability reports according to CSRD directive.

Six major accounting firms (Deloitte, EY, KPMG, PwC, BDO and Grant Thornton) also sent a letter this month, urging simpler standards especially for smaller companies.

"We are now finalizing the CSRD reports of many large companies, which will be published these weeks. We see that companies have to comply with a lot of points and collect a huge amount of data. It's even more detailed than we initially realized," said Mark Vaessen, head of sustainability reporting at KPMG. "The really large companies can still handle that, but smaller and also medium-sized companies lack the manpower for that and then have to make substantial investments," he says.

According to KPMG, it would be wise to exclude only small companies, but not the medium-sized ones. However, according to the auditors, it would be good to limit the number of standards they have to comply with. "You could also introduce the CSRD for those medium-sized companies more in stages, so that more can be learned from the experiences of the large companies first," says Mariska van de Luur, member of the board of directors of KPMG Netherlands. But she and Vaessen are not in favor of exclusion. "For example, those medium-sized companies also contribute a significant amount of CO_2 emissions in Europe."

There is concern among auditors that the principle of so-called double materiality is being jeopardized. This means that a company is obliged to properly explain two aspects in the sustainability report. What is the impact of climate and other sustainability issues on its own financial results? And what activities of the company affect the environment, nature and society? There were rumors that the Commission also wanted to tamper with that principle, but the leaked proposals do not yet reflect that. "Europe has set a standard with this, which has been adopted by countries like China and Japan, for example. It would really be a shame if that is abandoned," Vaessen said.

The companies that approached the Commission also value this principle of double materiality."We've been doing that analysis for years, long before the CSRD came into effect," says Maurice Loosschilder of Signify. "It gives a good indication of what issues your company should be concerned about and what it should be working on. Moreover, when you compare different companies on it, you can really see what the impact of an entire sector is and what an individual company contributes to it."

That view is shared by Nestlé's Vandewaetere. "This is business conduct that society expects from companies in the 21st century. I have stressed to competitors and to other members of the European Round Table that this legislation is the right direction."