

**From:** [REDACTED]  
**To:** [REDACTED] [BUSA Lucrezia \(CAB-REYNDERS\);](#) [REDACTED]  
[PERIGNON Isabelle \(CAB-REYNDERS\);](#) [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Report on the meeting between Commissioner Reynders and [REDACTED] European Chemical Industry Council (Cefic) and [REDACTED] BASF, 8 September 2021 - Ares(2021)5604108  
**Date:** lundi 13 septembre 2021 14:29:02

[Report on the meeting between Commissioner Reynders and \[REDACTED\] European Chemical Industry Council \(Cefic\) and \[REDACTED\] BASF, 8 September 2021 - Ares\(2021\)5604108](#) (Please use this link only if you are an Ares user – Svp, utilisez ce lien exclusivement si vous êtes un(e) utilisateur d'Ares)

Sent on behalf of [REDACTED]

## **Report on the meeting between Commissioner Reynders and [REDACTED] European Chemical Industry Council (Cefic) and [REDACTED] BASF, 8 September 2021**

### **Participants:**

- BASF: [REDACTED] BASF, [REDACTED], [REDACTED] Cefic, and team
- COM: Commissioner Didier Reynders, Lucrezia Busa (Cabinet Reynders), [REDACTED]

### **Summary:**

Constructive exchange of views as regards the Commission's initiative on sustainable corporate governance and the Commission's Fit for 55 package. Cefic and BASF welcome an EU-wide approach to corporate human rights and environmental due diligence but take a critical view of an EU legal framework that would require companies to carry out due diligence through their entire value chain.

### **Main takeaways:**

#### ***Sustainable Corporate Governance:***

- Cefic welcomes an EU-wide due diligence framework, but believes that it is not easy to carry out due diligence throughout the value chain. BASF, for example, has over 40,000 suppliers. Companies do not know how to deal with and obtain relevant information from tier 2, 3 and 4 suppliers, as suppliers do not usually disclose details about their own suppliers. Faced with a duty of care for the entire value chain, some companies in the chemical sector are likely to withdraw from certain risky markets. Cefic could live with an EU-wide framework based on the German model, which in principle limits due diligence to the direct supplier.
- The objective should be a global level playing field. Any regulatory framework should be practicable and not only a paper tiger.
- As far as enforcement is concerned, fines need to be harmonised across the EU. As for civil liability, suing companies is becoming a business model in some high-risk countries. For example, BASF was held responsible for police violence in connection with mining activities. A multiplication of lawsuits will lead to companies withdrawing from certain countries. EU legislation should not go too far in holding companies liable for problems

they cannot control.

- Commissioner Reynders stressed that in the absence of an EU framework, a multitude of different national laws and sector-specific EU rules would emerge. An EU framework would prevent fragmentation in the EU and create a level playing field. An initiative aimed at preventing and combating child and forced labour in corporate value chains must go beyond tier 1 suppliers. Beyond tier 1, however, different requirements would apply to companies, due diligence would entail an obligation of means. As regards timing, if the Commission adopts a proposal by the end of the year, an agreement with the European Parliament and with the Council may be reached by the end of 2023. Due to the transposition deadline, a directive could then possibly enter into force in 2025. Discussions on due diligence legislation, both at national and EU level, are mainly taking place in the western and northern EU member states.
- Cefic plans to provide information to the Commission and join the debate about the elements of the initiative.

***Fit for 55:***

- The Commission's Fit for 55 package has considerable impacts on the chemical industry. There are too many topics at that same time, CO2-related measures heavily hit the chemical industry, in particular the small companies. Cefic would appreciate a sectoral deal with a clear roadmap.
- The recent Shell-judgment has kept companies in the sector wondering what will come next. Member States have to provide the conditions for companies to reach the climate goals. Member States such as Germany do not have enough renewable energy and will fail to reach the targets. Companies may start suing governments for failing to provide the necessary pre-conditions for companies to comply with their own obligations. Ultimately, there is a risk of a multiplication of lawsuits.
- Cefic has concerns about CBAM enforcement, including the lack of sufficient customs controls.

***Other topics:***

- As regards the Chemicals Strategy for Sustainability, Cefic considers that this is a considerable change of approach and that the Commission underestimates the impact this will have on the industry. Cefic is preparing an impact assessment including data from 300 companies that will be ready by the end of the year.
- Commissioner Reynders invited Cefic members to take part in the Green Consumption Pledge initiative.
- The discussions about the EU-US Privacy Shield are very relevant for the chemicals sector, but the main issue is data security and the protection of data from government interference. This is why we are assessing solutions to avoid the transfers of the most sensitive data.