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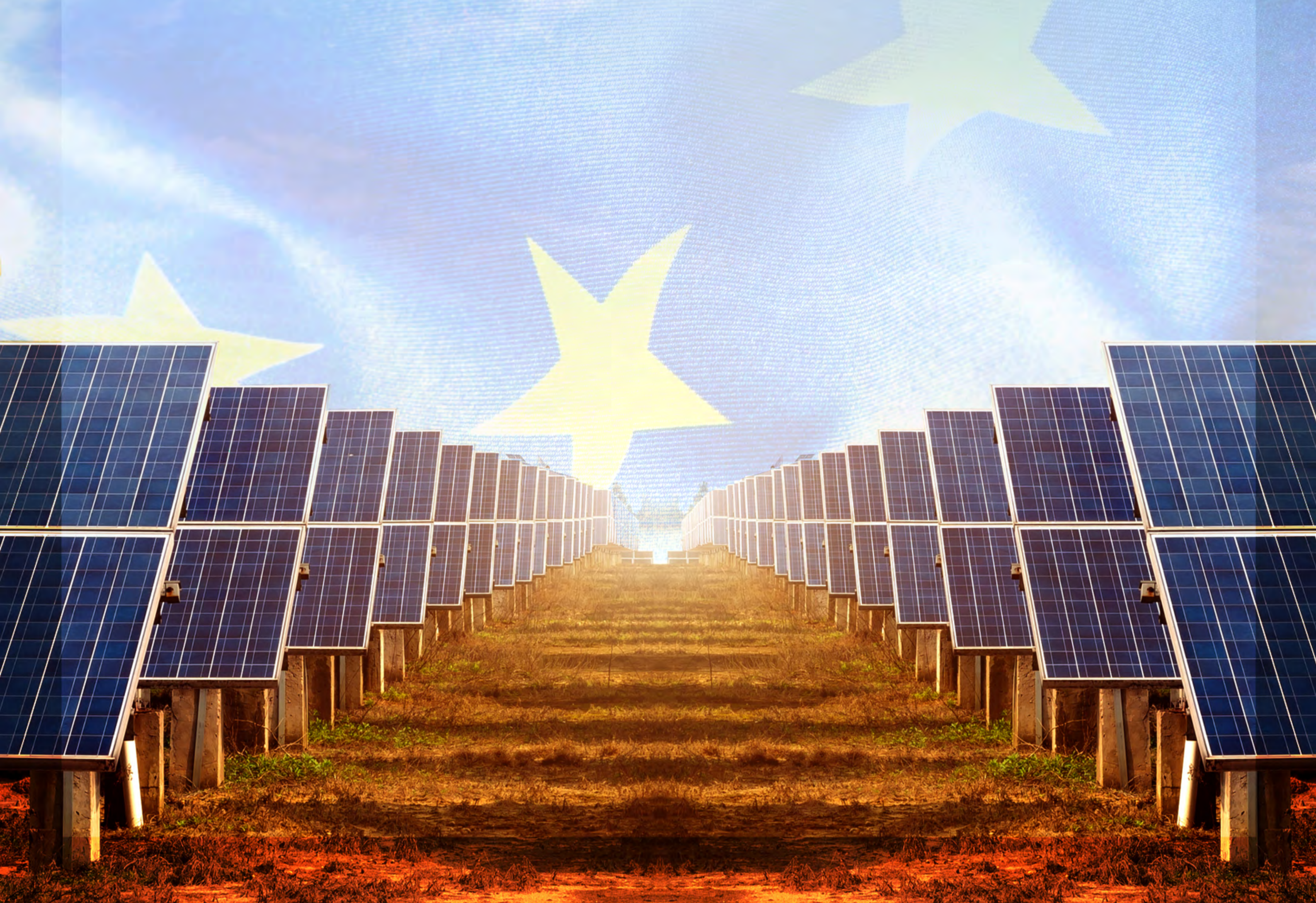
IMPLEMENTING THE EUROPEAN GREEN DEAL

A LONG AND WINDING ROAD



Implementing the European Green Deal A Long and Winding Road

Nicolas de Sadeleer [1]

Entangled Crises

Europe is the fastest warming continent.[2] As a result of the climate emergency, environmental crises are piling up one after the other. Moreover, rising temperatures and seas are not the only problem; the oceans are also acidifying at an alarming rate. During Europe's hottest year ever, 2024, climate records were broken at an alarming and unprecedented rate (reduction of river flow, loss of 5 cubic kilometres of Alpine glaciers, unprecedented aridity in the Mediterranean area and more intense wild fires), plunging our continent into the unknown.[3] The EU is already feeling the direct effects of climate change (longer and harsher heatwaves, droughts, water scarcity, wildfires, precipitations, etc.), and at an accelerating pace. Economic losses due to extreme weather and climate in the EU have been estimated at EUR 650 billion between 1980 and 2022, but over EUR 100 billion of the losses were concentrated in just the last two years of this period.[4] Given that the impacts from climate change are rapidly accelerating, urgent action is needed to keep the 1.5 °C goal within reach and to address the climate crisis.[5] That being said, climate change is only part of a larger megatrend of environmental degradation linked to overexploitation of natural resources.[6] Resolving such a crisis requires more than an energy transition and climate adaptation measures. A green transition must go hand in hand with the emergence of a decarbonised and circular economy, pollution elimination, the expansion of organic farming, as well as a genuine ecosystemic approach.

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2. Johan Rockström et al., 'A safe operating space for humanity' *Nature* 461, 2009; Johan Rockström et al., 'Planetary boundaries: exploring the safe operating space for humanity' 2 *Ecology and Society* 14, 2009, p. 32.

3. Copernicus, '2024 virtually certain to be the warmest year and first year above 1.5°C', 7 November 2024.

4. David Armstrong McKay et al., 'Exceeding 1.5°C global warming could trigger multiple climate tipping points' 6611 *Science* 377, 2022.

5. UNFCCC, 'Outcome of the first global stocktake' in Decisions adopted by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement, 2024, Decision 1/CMA.5, FCCC/PA/CMA/2023/16/Add.1, para 5.

6. ESPAS, *Global Trends to 2040. Choosing Europe's future*, Geraldine Barry (Ed.), Publications Office of the European Union, Luxembourg, 2024, p. 23.

An Unprecedented Reform

As the flagship measure of the first von der Leyen Commission, the European Green Deal (EGD)[7] adopted in December 2019 was intended to create the largest shock wave since the creation of the single market in 1986 by turning the European Union (EU) into the first decarbonised (achieving carbon neutrality by 2050) and circular economy in the world aiming at zero pollution. The EGD is unprecedented in the history of public policy. The 2019 Communication reinforced by the 2021 Fit-for-55 program[8] has led the EU lawmakers to adopt almost 160 legislative instruments. Given that the climate crisis is entangled in a deep ecological crisis, the EGD reform has been above all polycentric: the green transition will go hand in hand with the emergence of a decarbonised and circular economy, pollution elimination, the expansion of organic farming, as well as a genuine ecosystemic approach.

A number of these legislative instruments were adopted urgently, whilst others emerged in response to regimes that had not sufficiently proven their worth. Some are incremental, in particular for instance the extension of the carbon market, which has already been overhauled several times. Several new acts represent a break with the past: carbon neutrality required under the European Climate Law (ECL),[9] the border adjustment measures,[10] new carbon market (ETS 2),[11] as well as the regulation on nature restoration.[12]

7. Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, The European Green Deal, COM(2019) 640 final.

8. European Council, 'Fit for 55', *Explainers*, 17 March 2025.

9. Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law'), OJ 2018 L 243, p. 1.

10. Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism, OJ 2023 L 130, p. 52 ('CBAM Regulation').

11. Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system, OJ 2023 L 130, p. 134.

12. Regulation (EU) 2024/1991 of the European Parliament and of the Council of 24 June 2024 on nature restoration and amending Regulation (EU) 2022/869, OJ 2024 L 1991.

The genius of the EGD lies precisely in the fact that it articulates a number of complementary objectives whilst also operating within the framework of several EU policies

The scale of the reform is thus unprecedented. It is ambitious, with all sectors of society being mobilised in the push to achieve carbon neutrality by 2050. The genius of the EGD lies precisely in the fact that it articulates a number of complementary objectives whilst also operating within the framework of several EU policies. In a nutshell, it requires a drastic reduction in GHG emissions in a variety of sectors such as industry, transport, energy, agriculture and the heating and cooling of buildings. There are, however, many imperfections and weaknesses. In particular, the EGD reform is characterised by its 'climate-centrism', with the ecological crisis being often reduced to the level of the energy transition.[13]

What Will the Future Hold?

Four years after its inception, and with EU institutions endorsing a new political agenda compared to that followed by the previous legislature, is this Deal still likely to foster a new economic model? Or is it in danger of fading away in the face of new political priorities? What will the future hold?

The new von der Leyen Commission sees its role more in terms of implementing the 160 legislative instruments adopted during the 2019-24 legislature rather than putting forward new legislative proposals. Nevertheless, the Commission envisions the adoption of a legislation on a circular economy, the creation of an internal market for sustainable products, a new chemicals strategy and incentives for investors, as well as watering down due diligence reporting requirements (Omnibus law).

Implementing the numerous EGD legislative instruments will be a real challenge, as no one has a clear overview of these wide-ranging reforms. A titanic task awaits the Member States when it comes to implementing the 160 legislative instruments that will be complemented by hundreds of delegated regulations. In practice, achieving many of the objectives - phasing out greenhouse gases (GHG), storing carbon in agricultural lands and in natural habitats, increasing renewable energy production, restoring nature, purifying wastewater, achieving higher reuse and recycling rates - depends on the national authorities, who will in turn find themselves under pressure from vested interests.

Challenges Ahead

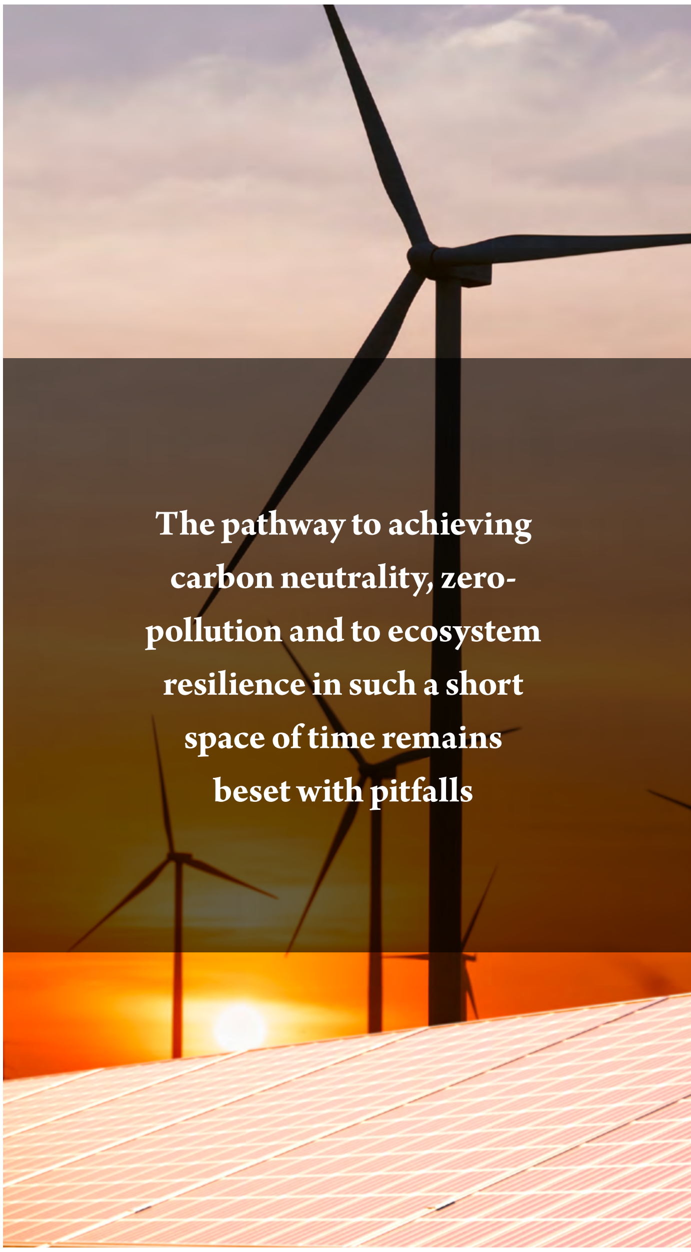
The pathway to achieving carbon neutrality, zero-pollution and to ecosystem resilience in such a short space of time remains beset with pitfalls. Indeed, in achieving a major economic transformation, the stumbling blocks that the EU and the Member States will have to overcome are manifold: financing investment in the green transition, difficulties in combining the climate, zero pollution and ecosystem resilience objectives, and in striking a balance between the economic, environmental and social dimensions, obstacles in linking up genuine climate change legislation with energy legislation,

13. Nicolas de Sadeleer, '[Le bilan en demi-teinte du Pacte vert](#)', 7 *Europe*, Juillet 2024, pp. 7-15

challenges in convincing non-EU countries to embark on similar reforms, and the urgent need to address the climate crisis. While it is not possible to provide an exhaustive account of all of these imponderable obstacles, it is still possible to highlight the main issues.

First, the energy transition prompted by the EGD should result in a historic caesura in the way in which Europeans produce and consume energy. But will this transition ever take place when, historically speaking, technological innovation has never resulted in the replacement of one source of energy with another? As a matter of fact, humanity has never consumed as much wood, coal and oil as it is doing today, and none of these energy sources are sustainable.[14] There is therefore a legitimate concern that the increase in the production of renewable energy (RED III)[15] will not be accompanied by a parallel decline in the consumption of gas and petroleum products. So far, almost three-quarters of the EU energy system relies on fossil fuels, with oil dominating the energy mix.[16] To make matters worse, the EU's success in reducing GHG emissions is likely to be wiped out by increases in emissions from non-EU countries.

Second, the green transition will require a renewable, decarbonised energy-based economy entailing the electrification of entire sectors of the economy, from transport to real estate. This should lead to a sharp increase in electricity produced from renewables (biomass, solar, wind, hydro).[17] Will the energy infrastructure be adapted in time to accommodate low-carbon energy sources through the expansion of grids and energy storage facilities? Needless to say, this shift in energy production and consumption will require a deeply coordinated approach based on solidarity and strategic autonomy.[18]



14.Jean-Benoît Fressoz, *Une nouvelle histoire de l'énergie*, Paris, Seuil, 2024.

15. Directive (EU) 2023/2413 of the European Parliament and of the Council of 18 October 2023 amending Directive (EU) 2018/2001, Regulation (EU) 2018/1999 and Directive 98/70/EC as regards the promotion of energy from renewable sources, and repealing Council Directive (EU) 2015/652, OJ 2023 L 2413, Art 3(1) (' RED III').

16. Mark Leonard and al., 'The geopolitics of the European Green Deal', 21 *Bruegel Policy Contribution* 4, 2021, p. 3.

17. Leigh Hancher and Adrien de Hauteclocque, 'Strategic autonomy, REPowerEU and the internal energy market: Untying the gordian knot', 61 *CMLRev*, 2024, p. 59.

18. *Ibid.*, p. 56. See also Enrico Letta, *Much more than a market. Speed, Security, Solidarity*, April 2024, p. 62.

Raw materials have recently moved into the political spotlight because they are key enablers of the EU's twin green and digital transitions

How can the EU protect European businesses from unfair competition while remaining open to the rest of the world?

Third, raw materials have recently moved into the political spotlight because they are key enablers of the EU's twin green and digital transitions. As the COVID-19 crisis highlighted the dependence of the EU economy on imported raw materials and technologies, securing the supply of raw materials is essential for the competitiveness of EU businesses. Moreover, the rapid transition to low-carbon technologies prompted by the EGD is expected to result in a substantial surge in demand for various raw materials.[19] The sheer number of economic sectors that need these materials is likely to result in bottlenecks in the flow of these materials, thus heightening the EU's vulnerability to imports of raw materials and technologies from non-EU States.[20] As a matter of course, the extent of reliance on imports varies greatly for different materials and at different stages in the value chain. Mario Draghi recently took the view that Europe faces a trade-off: on the one hand, it may be cheaper at first sight to import Chinese technologies in order to achieve decarbonisation targets more efficiently.[21] On the other hand, such an approach would increase the dependence of European companies on Chinese undertakings and, in the long term, threaten various companies, and indeed the automotive industry as a whole. As such, the current European dependence on fossil fuels would be substituted by another type of dependence. This leads us to ask the following question: How can the EU protect European businesses from unfair competition while remaining open to the rest of the world? Against this background, the aim of the Critical Raw Materials Act (CRM Act) is to ensure the EU's long-term supply of raw materials that are deemed critical for five strategic sectors between now and 2030: low-carbon technologies, e-mobility, industry, ICT, space and defence.[22] In order to reduce vulnerabilities within the EU's global value chains, the CRM Act aims to promote the exploitation of new deposits in the EU as a key for domestic supply. Whether this regulation will be sufficient to enhance the EU's strategic autonomy remains to be seen.

19. International Energy Agency, The *Role of Critical Minerals* in Clean Energy Transitions, Paris, May 2021; European Commission, *3rd Raw Materials Scoreboard – European innovation partnership on raw materials*, Luxembourg, POUE, 2016, p. 5; European Commission, *Critical Raw Materials for strategic technologies* and sectors in the EU – a foresight study, Luxembourg, POUE, 2020.

20. 97% of magnesium is imported from China, and 63% of cobalt used in batteries throughout the world is extracted in the DRC.

21. Mario Draghi, The *Future of European Competitiveness*, European Commission, 2024, p. 37.

22. Regulation (EU) 2024/1252 of the European Parliament and of the Council establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/1020, OJ 2024 L 1252.

Fourth, the reform is costly on account of the major scale of the investments that will need to be made by both public authorities and the private sector. The 27 Member States will be forced to bear the lion's share of the financial costs associated with the green transition. Public investments in the energy and environmental transition, whether focusing on infrastructure (storage, interconnection, etc.) or the modernisation of the industrial base (decarbonisation of steelworks, paper mills, etc.) thus represent a massive challenge. The designers of the EGD reform quickly realised the need to finance it through several new EU funds that should encourage public authorities to abide by their new obligations (Recovery and Resilience Facility, Just Transition fund, Modernisation fund),[23] but also to avoid a social divide (Social Climate Fund).[24] However, the resources allocated to support the just transition appear not to be commensurate with the issues at stake.[25] As these funds are likely to be insufficient to successfully complete the energy and environmental transition, the Member States will have to supplement them, at the risk of deviating from budgetary constraints under the Stability and Growth Pact.

Fifth, with a trillion euros set to be invested in the green transition, a financial pillar must interact with the public investments. The Taxonomy Regulation,[26] the Corporate Sustainability Reporting Directive (CSRD)[27] and the Sustainable Finance Regulation[28] should encourage investors to change course and invest massively in the energy and ecological transition. As these new obligations are procedural rather than substantive, investors are not subject to a rigid regulatory straitjacket imposing a gradual reduction in their polluting activities. Ultimately however, it remains to be seen whether private investors will jump into the fray. Following the 2024 Draghi report,[29] the EU executive will propose to EU lawmakers an 'omnibus' initiative, which may involve revisiting the existing reporting requirements provided for in several of these legislative instruments. The degree of complexity of the requirements contained in the CSRD, the CSDDD and the Taxonomy should be addressed, albeit without calling into question the principles underpinning these legislative instruments. But of course the devil, as always, is in the details.

Sixth, as one of the key EGD objectives, circularity should make it possible to 'close the loop' by transforming residual materials into secondary raw materials. It should increase the recycling of waste and scraps into secondary materials. By way of illustration, waste of electrical and electronic equipment (WEEE) contains a wide range of materials and is a potential

23.Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility OJ 2021 L 57, p. 17; Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund, OJ 2021 L 231 p. 1; Article 10d of Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC, OJ 2003 L 275, p. 32.

24. Regulation (EU) 2023/955 of the European Parliament and of the Council of 10 May 2023 establishing a Social Climate Fund and amending Regulation (EU) 2021/1060, OJ 2023 L 130, p. 1.

25. Lucien Chabason and Didier Kling, *Quel avenir pour le Pacte vert pour les citoyens ?*, Paris, CESE, 2024.

26. Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment and amending Regulation (EU) 2019/2088, OJ 2020 L 198, p. 13.

27. Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting, OJ 2020 L 322, p. 15.

28. Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector, OJ 2019 L 317, p. 1.

29. Mario Draghi, *The Future of European Competitiveness*, European Commission, 2024.

source of secondary critical raw materials. The regulation on batteries and waste batteries[30] should ensure a sustainable and circular batteries value chain thanks to increased collection, mandatory supply chain due diligence and transparent information to consumers and to recyclers on the content of the batteries, among other measures. If they are forced to innovate, EU undertakings will become more competitive as compared to their foreign competitors, which will ultimately fall victim to the poor management of natural resources. The circular economy should thus reinforce the EU's strategic autonomy. Will this progress be up to the challenge posed by the transformation from an economy with a profligate approach to natural resources to a virtuous economy? Whereas decoupling GHG emissions reduction from economic growth has been hitherto successful, it is far from certain that the decoupling of economic growth and natural resources consumption will succeed.

Seventh, the EU is taking the lead in the fight against climate change by adopting unilateral measures. With respect to the climate policy, the carbon border adjustment measures[31] aim at adjusting the common playing field and at suppressing carbon leakage with respect to different energy-intensive products (steel, cement, nickel, etc.). In addition, the 2023 forest degradation regulations (EUDR)[32] and the 2024 Directive on corporate sustainability due diligence (CSDDD) oblige companies to carry out due diligence across their global value chains.[33] This regulatory approach has been criticised by many non-EU countries, which see it at best as a protectionist undertaking, and at worst as a post-colonial one.

30. Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 concerning batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC, OJ 2023 L191, p. 1.

31. CBAM Regulation (EU), *supra*, note 8.

32. Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010, OJ 2023 L 150, p. 206.

33. Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859, OJ 2024 L 1760.

A Successful Landing or More Turbulence?

Finally, changing political winds (EU economic decline, inflation, pressure from populist parties) risk blowing the EGD off course, or at least slowing down the implementation of a reform occupying several thousand pages in the OJEU. Turbulence at both the national and European levels is inducing national and EU decision makers alike to call into question several EGD legislative instruments, such as the CSRD and the CSDDD. In several Member States, the commitment to act on the climate crisis has either stalled or is eroding.[34] The ecological transition has been criticised as being overly 'punitive', particularly by right-wing political parties. On the other hand, in the wake of the 2024 Draghi Report, the European Commission has been intent on reducing reporting requirements by 25%. Against this backdrop, the EU executive will propose to EU lawmakers an 'omnibus' initiative. Such a process entails the risk that entire legislative instruments may be reopened for political renegotiation.[35] Moreover, on 20 January 2025, President Trump signed a blitzkrieg of executive orders in front of his supporters at an arena in Washington DC not only pushing oil, gas and mineral production but also revoking entire swaths of environmental, climate and energy policies.[36] The process of withdrawing the US, the world's second-largest emitter behind China, from the Paris Agreement[37] not only sends a clear signal to the EU that the new US federal administration is unwilling to take collective action against climate change, but also aims to cancel American contributions to international climate funding. All in all, these various internal and external non-legal pressures are likely to throw a spanner in the ongoing works relating to the EGD implementation.

In the 2024 Budapest Declaration on the New European Competitiveness Deal, the EU heads of State and Government called for 'a simplification revolution, ensuring a clear, simple and smart regulatory framework for businesses and drastically reducing administrative, regulatory and reporting burdens, in particular for SMEs'.[38] The Commission has shown itself willing to act on this shopping list of demands. Following the 2024 Draghi report, its 2025 simplification 'Omnibus' package, aimed at cutting administrative burdens, is indeed a response to this concern. This package consists of amendments to the CSRD, the CSDDD, different Taxonomy Disclosures Delegated Acts,[39] and a proposal to amend the CBAM.[40] It is impossible to review the proposed amendments here. We will just highlight the most significant changes envisaged by the European Commission. These proposals aim at postponing the CSDDD's transposition deadline[41] and at simplifying and

34. Oliver Milman, 'Huge elections year worldwide sees weakening commitment to act on climate crisis', *The Guardian Weekly,* 23 November 2024.

35. On 27 January 2025, Stéphane Séjourné, the Executive Vice-President of the European Commission, in charge of simplification in the context of omnibus legislation, announced the possible 'abrogation' of reporting requirements under the CSRD.

36. The White House, 'Initial Rescissions of Harmful Executive Orders and Actions', 20 January 2025.

37. Executive Order of January 20, 2025 (Putting America first in International Environmental Agreements).

38. European Council, 'Budapest Declaration on the New European Competitiveness Deal', 8 November 2024.

39. Proposal for a directive amending Directives (EU) 2022/2464 and (EU) 2024/1760 as regards the dates from which Member States are to apply certain corporate sustainability reporting and due diligence requirements, COM(2025) 80 final; Proposal for a directive amending Directives 2006/43/EC, 2013/34/EU, (EU) 2022/2464 and (EU) 2024/1760 as regards certain corporate sustainability reporting and due diligence requirements, COM(2025) 81 final.

40. Proposal for a regulation amending Regulation (EU) 2023/956 as regards simplifying and strengthening the carbon border adjustment mechanism, COM(2025) 87 final.

41. On 3 April 2025 Parliament and Council adopted the proposal for a directive amending the CSRD and the CS3D as regards the dates from which Member States must apply certain provisions on corporate sustainability reporting and due diligence. MEPs backed the Commission's proposal by 531 votes to 69, with 17 abstentions.

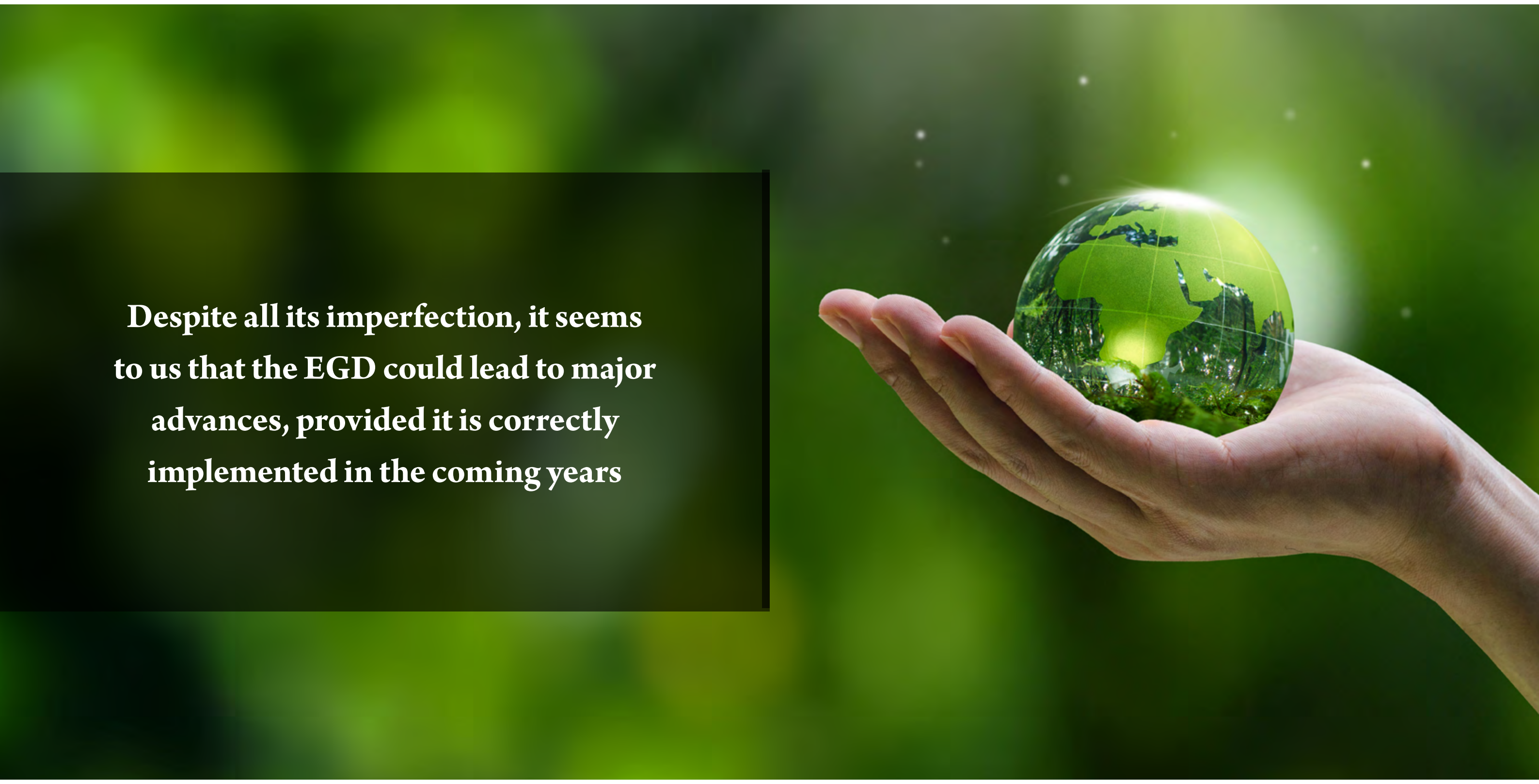
reducing companies' reporting obligations (reducing the required frequency of the periodic monitoring exercises, limiting the due diligence steps, etc.). Under the proposed amendments to the CSRD, undertakings that have more than 1000 employees and either a turnover above EUR 50 million or a balance sheet above EUR 25 million will still be subject to mandatory reporting requirements. In contrast, undertakings with up to 1000 employees will not be subject to mandatory reporting requirements. At this stage, there are three points to make.

First, since the devil is in the detail, this simplification exercise is likely to lead to a real reduction in the reporting and due diligence requirements placed on a number of companies in recent years.

Second, so far the Omnibus package is aimed solely at the financial limb of the EGD. Climate change targets and anti-pollution standards have not yet been called into question. At the beginning of March 2025, the European Commission proposed, however, a temporary easing of the CO2 standards for the car industry, which has to compete with Chinese undertakings.

Third, will such reforms allow European industry to overcome this situation? It is doubtful. The problems the industry is facing are structural (energy prices, dependence on raw materials produced outside of Europe, etc.) and not of an administrative nature.

The Clean Industrial Deal will thus feature prominently in the 2024-2029 legislative term, as the European Commission will be working on more ambitious industrial legislation.



Despite all its imperfection, it seems to us that the EGD could lead to major advances, provided it is correctly implemented in the coming years

A Greener, More Innovative, More Self-Sufficient Europe, Despite a Short-Term Loss of Competitiveness

So how could we envisage the future? Certain crises have actually proved to be lifesaving for Europe. The aggression in Ukraine and the effects of the COVID-19 pandemic, for example, have led to a surge in energy prices across the Union, thus highlighting the need to accelerate Europe's drive towards energy independence. Despite all its imperfection, it seems to us that the EGD could lead to major advances, provided it is correctly implemented in the coming years. This swath of new legislative instruments should at least have the effect of drastically reducing European dependence on hydrocarbons, which are largely imported, as well as on many other natural resources. The adoption of these new rules should also improve the quality of life of Europe's citizens by encouraging them to consume more virtuously and to preserve their environment, which is priceless. The new legislation should also pave the way (by improving the quality and diversity of more resilient ecosystems, zero pollution, etc.) for Europe to put in place suitable arrangements for the long-term use of natural resources that are essential for its sustainable development,[42] while its main competitor countries are still failing to grasp the seriousness of the situation.

42. Articles 3(3) and 21(2)(d) TEU; Article 11 TFEU; Article 37 of the Charter. See Nicolas de Sadeleer,'Sustainable Development in EU Law. Still a Long Way to Go', 1 *Jindal Global Law Review* 6, 2015, pp. 39-60.

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