

Brexit: the cliff-edge scenario

Remember the story of the madman who jumps from the 100th floor of a building and, when he reaches the 50th, says "This is going well so far...?"

It reminds me of Theresa May who, depending on the mood, calls for 'soft Brexit' one day, 'hard Brexit' the next and then for 'cliff-edge Brexit', the latter amounting to a jump off the cliff.

We can understand the logic of 'soft Brexit' or even 'hard Brexit', but 'cliff-edge Brexit' has none at all. Nor is it legally feasible. Even if Michel Barnier told the Sunday papers that it is necessary to prepare for a 'no deal' scenario, in my view the absence of an agreement would mean the United Kingdom remaining in the European Union beyond 29 March 2019 – the very opposite of the 'cliff-edge' scenario.

Those who consider 'cliff-edge Brexit' as an option on the same plane as soft or hard Brexit ignore the fact that the European Union, and therefore the UK, are linked by international law, the treaties they have concluded and in particular the rules of the WTO.

To claim the UK could leave the EU unilaterally without prior agreement with its commercial partners in the EU and with the World Trade Organisation: I am afraid that this is the height of foolishness.

DG

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CHEMICALS

No qualified majority for glyphosate renewal, Appeal Committee set to vote on 27 November

The Commission and Member States remain mired in stalemate over the herbicide substance glyphosate and its potential re-approval at EU level.

At times, the negotiations around the duration of the proposed new licence reminded the Newsletter of the Eurovision classic "What's Another Year?" Originally it was 15 years; then 10; then 7; then 3; before finally settling on 5, a number DG SANTE hoped would serve as a compromise.

Alas, it seems that a qualified majority is the high-hanging fruit of the glyphosate saga, always out of reach. On 9 November, the Commission tabled a five-year renewal to the Standing Committee, but the outcome saw only 14

Member States vote in favour, while 9 voted against and 5 abstained. In comitology lingo, this absence of qualified majority for or against is known as 'no opinion'.

It is a near-certainty that the **Appeal Committee**, the next port of call in the procedure, will replicate this result, meaning the final decision is once again destined to end up in the lap of the Berlaymont.

Glyphosate's current authorisation is due to expire on 15 December. With MEPs and NGOs advocating a full phase-out, and industry reportedly threatening legal action in case of non-renewal, the walls are closing in fast on the Commission. Subscribe to this month's **Premium Newsletter** for an in-depth analysis.

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ANIMAL HEALTH

Dispute over formaldehyde authorisation reaches Ombudsman

Comitology's chemical romance is still going strong, with formaldehyde the latest cause for public health anxiety. A substance occurring naturally in the body and widely employed in manufacturing processes, it is famously used in the embalming of corpses.

Like an Egyptian mummy, the issue has remained remarkably well-preserved on the agenda of the Standing Committee on Plants, Animals, Food and Feed (PAFF), where DG SANTE and Member States have been locked in talks for three solid years about whether or not to authorise formaldehyde for use in bird feed.

The major sticking point is the apparent potential of formaldehyde to cause cancer, and related concerns about worker safety.

Polish authorities have already taken steps to ban it from feed on their own soil, though some stakeholders see the substance as key in combatting diseases like salmonella. Nonetheless, the Commission has drafted an implementing act refusing approval for formaldehyde as a feed additive.

One company, US manufacturer Anitox, has reportedly filed a complaint with European Ombudsman Emily O'Reilly, accusing the Commission of failing to ensure objectivity, transparency and proportionality in the process of drafting this implementing act. According to *Politico*, the Ombudsman is looking into the matter.

In the meantime, the proposal was most recently **discussed** by the PAFF Committee on 10 November, though the timing of a vote is still unclear.

COMITOLOGY PROCEDURES

Council holds first meeting on draft comitology reform

We thought this day would never come: after months of pacing up and down the corridors, the Commission has at last been granted an audience with the Council to discuss its controversial **proposal** to revise the Comitology Regulation (182/2011).

On 10 November, the 'Working Party on General Affairs (Comitology Revision)' played host to a presentation of the draft text by the Commission Secretariat-General, followed by contributions from the Member State attachés present.

Among the reforms put forward are excluding abstentions from Appeal Committee votes and allowing for a non-binding Council opinion. The proposal requires the assent of both the Council and the European Parliament before it can enter into force.

CHEMICALS

Increased chance of neonicotinoids ban following UK reversal

The Brits might be heading for the exit but that is not stopping them from throwing a curveball on their way out the door.

On 9 November Environment Secretary Michael Gove **declared** his government's support for an EU-wide ban on insecticide substances that are considered harmful to bees. This represents a complete turnaround from the UK's previous position, when they opposed an initial moratorium on three neonicotinoids back in 2013.

With the **Standing Committee** scheduled to meet (and possibly vote) in December, this very British volte-face could well give the Commission the qualified majority it needs to get the more sweeping restrictions approved.

NEWS IN BRIEF

- Joint Register on Delegated acts expected to be operational from December 2017
- 16 October: Commission publishes **annual report** on comitology activity, notes 1,448 implementing acts adopted in 2016
- 21 November: JURI Committee to **consider** draft report on Lisbonisation proposals
- 22 November: Possible **discussion** on endocrine disruptors in Commission College meeting

IN THE PREMIUM NEWSLETTER THIS MONTH:

- **IN-DEPTH:** The Glyphosate Saga, latest developments and next steps
- Updates on comitology reform and Lisbonisation
- Neonicotinoids: what does the UK U-turn mean for the proposed ban?
- Formaldehyde, trilogues and much more!

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