

President's Office



Diplomatic Commission advisory International

Geneva on 11 December 2017

PRESIDENCY OF THE
FRENCH REPUBLIC

Mr Emmanuel Macron

Elysée Palace

55 Rue du Faubourg Saint-honoré,
75008 Paris France

Mr. President,

The investigators of the International Diplomatic Advisory Commission, which we have the honour of chairing, are alerting us at the end of 2017 to a most alarming general situation, observed mainly in Europe and France, without excluding the other continents.

Various European and sometimes global scientists are in agreement sounding the alarm about our future, the future of the planet and the future of our children and grandchildren.

However, everything is linked, subject essentially to the powers and influences of finance, and in this area, in relation to health, we are reaching unacceptable, even scandalous heights.

No one should, or can, hide from this, especially not the European legislative powers.

We can see that the French population is becoming obese, is becoming addicted to self-medication thanks to the Internet, and is suffering from the exponential harm of sugar, both adults and young people.

What the population eats contains an increasing percentage of artificial and chemical products (additives, additives, colourings, flavour enhancers, texture, artificial flavour, various types of "E" etc.). (additives, additives, colourings, flavour enhancers, texture, artificial flavour, various types of "E" etc.). All of this essentially benefits the large international agri-food groups and chemical laboratories.

The list of harmful "E" type products added to various food products is almost exclusively reserved for insiders, who are the only ones who can recognise the carcinogens among those indicated. The food industry continues to use them excessively, without taking into account the possible dangers that their long-term ingestion represents. In addition to all this, there are endocrine disruptors which are spreading everywhere and reaching even the foetus (thus the proportion of autistic children has risen in a few years from 1 in 5000 to 1 in 100, and it is still going on), as well as nanoparticles, present in food products, and according to the DGCCRF without any indication on the packaging, even though this is compulsory.

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The consultative aspect of our general actions consists first of all in analysing the situation in depth, and then in suggesting possible solutions, through actions which, even if they are not immediately applicable, because of their radical nature, are nonetheless of real and urgent necessity.

Thus, sooner or later, European legislators will have to prohibit by law the marketing of all products known and proven to be "carcinogenic"; this would have the consequence of obliging laboratories and other manufacturers, as well as the large groups, first of all in the food industry, and then in the distribution industry, to be more cautious with regard to what is offered to consumers, both in basic foodstuffs, processed foodstuffs, and in agriculture.

However, it goes without saying that the lobbies, which have foreseen these possibilities, will do everything to prevent, or at least slow down, any attempt in this direction, even at the cost of public health, which is not their primary concern.

A real social revolution will eventually emerge, from the information that is increasingly circulating on multimedia networks and information media, enabling people to escape the ignorance in which they are being kept. The fact remains, and to the great pleasure of the lobbies, that if we want to have an effective action, we will not be able to bring the populations to reduce their unbridled consumption of sugars without radically suppressing :

1° audio-visual and television advertisements for sweets, ice-creams, cakes and soft drinks, whose ravages are no longer a secret (a 33cl Coca Cola contains the equivalent of 7 lumps of sugar);

2° prohibit in campuses, public places, gas stations, schools, high schools, and cinemas, those machines used to deliver chocolate bars, candies and other sweets, as well as sweetened drinks such as soda, and other popcorn.

Finally, in order to reduce general obesity, whose evolution curve is in constant and clear progression, it will be necessary to suppress, in an equally radical way, all food advertisements, which only stimulate appetite, and incite the consumption of often processed foods, often synonymous with obesity, and whose contents are often untraceable. (A cheap hamburger may be made of a dozen mixed meats from different sources and different countries).

But the most alarming issue, which is largely responsible for all the above (copy of which is attached), is the real and scandalous influence of lobbies, which have become a profession in their own right, in the form of pressure groups, whose stated aim is to influence in all its forms, with a view to achieving results that benefit their employers.

Their actions are in fact clearly a form of active corruption. Their sprawling influence is reminiscent of the 'mafia', but the gains from their actions are far greater, and amount to billions.

They act openly in all fields: food, chemical, scientific, aeronautical, medical, and even political. (They have obtained from the "Council of Europe", for the food distribution groups, that the font size of the letters used on the labels of food packaging is 1.2 mm. In other words, without a good lens, in addition to glasses, it would be impossible to read the labels, which makes it possible to conceal from the consumer, of all ages, the reality of what he or she is consuming.)

Today, the new target of the lobbies is to try to slow down, or even sabotage, the bans on endocrine disruptors, as well as the labelling of the use of "nanoparticulate" structures in food, with all the harmful and catastrophic consequences already observed in laboratories on rats.

The worst thing is that the lobbies try to confuse public opinion, by disseminating reports of "They are the so-called scientific experts in their pay, and they run counter to the real analyses carried out by independent professionals, who are not under their influence. Unfortunately, there are many of these designated experts who, on the one hand, work for a government health agency and, on the other hand, work for large pharmaceutical companies, which obviously creates conflicts of interest, but this does not seem to bother anyone, as the lobbies play on the indifference of an uninformed public.

Only a few journalists denounce and broadcast these disturbing realities, at the risk of compromising their careers, because the big groups are fond of paid advertising. But one should not bite the hand that feeds you? Advertising contracts have been withdrawn from media outlets that have denounced malfunctions relating to public health.

Most recently the victory of the lobbies in the vote on the use of glyphosates. This European vote was largely marred by incredible oddities, with experts paid by Monsanto providing the report to the German institute, and the term "probable carcinogen" bought with large amounts of US dollars, in order to minimise the danger, as if "probable" were not already sufficient to stop the spread.

Today it is more than too late, and the European legislative authorities cannot and must not hide behind possible requests for impact studies to be carried out, as long as public health is concerned; studies which could take a considerable amount of time and delay essential decisions. In fact, we know that the only purpose of these studies is to consider the financial impact of such decisions.

But what is the real price of health?

The lobbies are already acting in order to slow down the future positions of the European states, whereas all the scientists agree on the harm and danger of endocrine disruptors, which point to a future in which humans will become more and more stupid, and which also foresees a clear decline in the intelligence quotient (already announced) and even more so, and for the first time in our human history, a noticeable decline in life expectancy.

The mere mention of proposing to the assemblies of nations, in France or in the European Union, a law in relation to the above, will see the sudden emergence of a massive outcry from all those, elected, or people of power, who have been working for a long time to maintain the financial influence of lobbies and their powerful clients.

But the real question that remains, beyond our conclusions, is: "how long can society hold out like this, before a wind of revolt shakes the coconuts of international interests, in the form of a multitude of lawsuits, undertaken by private individuals grouped together in associations, for negligence and endangering the lives of others poisoning leading to death, etc., which will be aimed without distinction at laboratories, agri-food groups, and politicians who have allowed this to happen".

Without neglecting, moreover, the possibility of popular demonstrations, which are not to be excluded.

The foreseeable scandal that will erupt at that time will be of such importance, of such magnitude, that it will relegate the contaminated blood scandal of the 80s and 90s to the rank of trifling, because this time we are all concerned.

Thus, Mr. President, the future of the health of the French people, and of the European population which is also concerned, is in your hands;

It is our duty to send this letter to the 28 countries, member states of the European Union, and to the President of the European Commission, and to make it public.

Please accept, Mr. President, the expression of our deepest respect.

Lord Eastleigh
President

PJ :

1° An example of the labelling of products intended for children and containing a multitude of chemical dyes, some of which are carcinogenic,
2° A list of the 50 lobbies with access to the French National Assembly; 3° A study on the real influence of lobbies

The **International Diplomatic Advisory Commission** has decided to speak out strongly against all the various influences exerted by different lobbies, in all forms and in all areas. Consequently, we call upon the Member States of the European Union to legislate in order to create a European regulation which, on the one hand, will purely and simply prohibit and, on the other hand, will put an end to all forms of lobbies, whose action will have to be requalified and prosecuted as an **attempt at corruption** with the legal penalties incurred, which will be defined by this regulation.

Lord Eastleigh

We present this dossier on

The real influence of lobbies

By Morgane Huchet

Member of the C.D.C.I.

The term lobbying is defined by Transparency International as "*any direct or indirect communication with public officials, policy makers or elected representatives for the purpose of influencing public decision made by or on behalf of an organised group*".

In 2015, Transparency International (an anti-corruption NGO) published a report called "*Lobbies: hidden influence, privileged access*". This report assesses the level of transparency, integrity and fairness in the relationship between lobbies and the EU institutions. The aim is to highlight the possibility for the general public to have access to information exchanged between lobbyists and public officials (traceability/transparency); the existence of clear and strict rules for lobbyists and public officials (integrity); and the openness of public decision-making to multiple voices representing a wide spectrum of interests (equity of access). In other words, the reliability of the system for regulating lobbies and the efforts made to do so should be noted.

This is one of the conclusions of the report:

"Overall, the results of this study are worrying and indicate that efforts undertaken to date by both governments and interest representatives to promote responsible and transparent lobbying rules lack coherence and effectiveness. Influencing strategies remain largely hidden and

The risks of undue influence remain high and occasionally result in serious consequences for the economy, the environment, social cohesion, public security and human rights. The risk of undue influence remain high and occasionally result in serious consequences for the economy, the environment, social cohesion, public security and human rights. There is an urgent need for public authorities, but also all actors seeking to influence public decision making, to intensify their efforts

The results of this survey :

- In the 19 countries surveyed as well as the 3 European institutions (Council of Europe, Parliament and Commission), the average score including the 3 factors (transparency, fairness, integrity) is 31%.
- At the level of the institutions, the Commission is the best performer with an average of 53%, far ahead of the Parliament with 37% or the Council of the European Union with 19%. This means that
- brings the average score for the quality of lobbying regulation in the institutions to 36%.
- Only 7 out of 19 countries have tools to regulate lobbying (Austria, France, Ireland, Lithuania, Poland, United Kingdom, Slovenia).
- 58% of EU citizens believe that the actions of their government are largely or entirely determined by vested interests.

- This report raises the alarm about the lack of regulation of lobbies and this leads to ask to what extent lobbies can really influence future European policy?

So are we really right to be concerned about the power of lobbies and the nature of their activities?

The lobby as a counterweight to institutions or an elite seeking to satisfy its own interests?

Who are the lobbyists?

If we look more closely at the composition of the lobbies, we can see that of the lobbies registered by the Commission, 4, 879 act with the aim of defending corporate activities, i.e. defending the interests of a company. Exxon Mobil, Schell and Microsoft are the biggest spenders on lobbying, spending an average of €4.5 million on lobbying activities.

The share of NGOs is only 18%, Think Tanks 4% and local authorities 2%.

So which areas are most affected by lobbying? It seems that the climate and energy sector is the sector with the most lobbying with 487 lobbying events. In second place we have jobs and growth (398), the digital economy (366) and financial markets (295).

In the financial markets category and according to the same study, 90% of the meetings are for corporate purposes and only 10% are for NGOs or think tanks. This asymmetry shows the importance of lobbies in the market, but especially the lobbies of the large multinational firms whose aim is to increase the value of their business. There is a great lack of equity of access when one sees the nature of the interests mainly defended during these famous "meetings". Only in the health and education sectors is there near parity between hardcore lobbying and NGOs.

Lobby and politics: a thin line

The correlation between lobbying and politics came to light in 2011, when 3 MPs were tricked by Sunday Times journalists into accepting bribes in exchange for signing amendments.

In 2012, it was the Commissioner for Health, Mr John Dalli, who was suspected of having connections with the tobacco lobby. The world of politics and lobbying rub shoulders in a rather ambiguous way. In the same report, Transparency International underlines the inadequacy of lobbying regulations at the European level, which "*are unable to prevent the development of opaque influence strategies*". Indeed, the vast majority of countries do not have specific regulations to govern these relationships between private groups and elected officials. Even if the European Union has decided to create the "transparency register" where interest groups must declare themselves as such, this is not enough to provide a sound framework for lobbying activities. As registration is not compulsory, only 7,821 lobbies are registered, whereas the number of lobbyists in the city of Brussels is close to 30,000 according to the Corporate Europe Observatory. The city is ranked second on the list of cities where lobbying is most present, after Washington.

What techniques do lobbyists use?

There are three main tactics used by lobbyists to influence power. Firstly, they may attend public consultations which are open to all and whose purpose is to bring together interest groups to collaborate on the development of a law after it has been proposed by the Commission. These can also be direct consultations or grassroots campaigns.

While these communication tools are legal, the beneficiary(ies) and the process by which they are achieved are often unclear, concealed or incomplete.

In the worst cases, lobbyist organisations even resort to 'front organisations' (again according to the Transparency International report), clandestine strategies aimed at influencing public opinion (also called 'astroturfing').

For example, the tobacco lobby Philip Morris, currently the world's largest tobacco seller, operates 'under the radar' by instrumentalising protests. In September 2012/January 2013, Phillip Morris used the tobaccoists by organising protests to further their cause and influence policy. The publicity from the protests was used by Phillip Morris to make their case in Brussels against standardised tobacco packaging. They operate under the radar because instead of acting on their own behalf, they act under the radar by supporting protests by honest traders to get what they want. They have provided material such as banners, t-shirts, logos to the demonstrators and have also participated financially in the form of gifts. They have used the demonstrations to defend the interests of the multinationals for their own money and at the expense of public health. Such action is not an isolated fact among lobbyists, it is clear that only very large multinationals with a strong lobby budget can afford such expenses but these practices are still possible and feasible within the institutions that are supposed to guarantee our rights.

Indeed, the tobacco industry has great means to establish its lobbying strategies, it is currently one of the most powerful lobbies in the United States, but they are not the only ones, the pharmaceutical lobby is also extremely powerful. Do you remember the potbelly syndrome? That disease invented from scratch in order to sell a so-called miracle drug? The Sanofi laboratory financed the invention of a "metabolic" syndrome in order to sell more and more drugs. This famous drug, Accomplia, was supposed to treat patients suffering from diabetes, blood pressure and cholesterol. Studies later revealed that the drug was not only useless but also had bad results in the test phase. It was said to cause serious psychiatric disorders. Sanofi ignored the results and marketed the drug. The result: 10 deaths (4 by suicide) and 385 cases of depressive disorders, 125 of them serious. The drug was finally withdrawn from the market after one year.

In the end, it is normal to wonder about the health, social, environmental, economic and political dangers that lobbies may pose through their sometimes extreme practices. Between bribes, gifts, use of the media and demonstrations, lobbies are not free of suspicion. Some lobbies contribute to the weakening of our institutions by operating "under the radar", making the line between political decision-making and the interests of the big lobbies less and less certain. Greater regulation of these lobbies is necessary and indispensable, as the Transparency International report underlines. However, there is some hope, as countries such as Estonia, France, Italy and Lithuania have committed themselves to proposing more regulation. The Council of Europe is also working on an international legal instrument on lobbying. At the same time, several lobbies are calling for more transparency and fairness in their dealings with the institutions, seeking to improve their reputation by establishing a level playing field.

National Assembly in France: open door to lobbies?

Similarly, lobbies in France lack transparency and regulation. Indeed, according to the book published by **Vincent Nouzille and H  l  ne Constanty**, *"D  put  s sous influences : le vrai pouvoir des lobbies    l'Assembl  e nationale"*, lobbies are welcomed with open arms while non-governmental organisations remain on the doorstep. The accessibility of parliament for lobbies is made possible by the famous pass without which one cannot enter the National Assembly, the "peace room" access card. According to the book, 50 lobbies hold this card, which allows them to enter and move around the Palais Bourbon

With some 10% of citizen lobbies, the question of the representativeness of civil society in the debates is worrying, as the body is supposed to represent the French Parliament. This same parliament which is then composed of deputies elected by the people who have placed in them a hope of fair and equitable representation. These same deputies who, once in the hemicycle, are surrounded by Siemens, Microsoft and Apple, who wave their expertise, promises, invitations, temptations and communication campaigns worth millions of dollars... so what interests can they possibly defend?

One has to wonder...don't you think?

Lobbies are perceived by French parliamentarians in a positive way, their expert groups promising them an objective analysis in line with the values of the republic, their communication campaign also helping parliamentarians to remember them once in the hemicycle.

Only recently, the European Union has begun to show a desire for more transparency and regulation, and France may soon follow suit. Moreover, the multiplication of lobbying training centres is an incentive to act quickly. Also, the numerous lobbying scandals in the National Assembly and the gifts that are said to be circulating under the table are making elected officials question themselves.

Business firms: great defenders of lobbies?

Lora Verheecke, journalist for the magazine Démocratie, denounces in her article "**Les (trop) puissants lobbies de Bruxelles**" the practices of business lawyers established in the European quarter in Brussels. These lawyers, who specialise in defending the interests of lobbyists, have found a gold mine by specialising in lobbying services. **Akin Grump Strauss Hauer & Feld**, a business law firm in Washington, D.C., had a turnover of \$103.7 million in 2013.

In Brussels, **Alber & Geiger** succeeded in getting the plastic bag ban banned by working for Papier-Mettler, Europe's largest producer of plastic bags.

Having found a good lead, it is natural to protect the interests of its clients. This is how **White & Case** lobbied for the creation of the **TSIC** (Trade Secrets and Innovation Coalition) where its biggest clients (*Alstom, General Electric, Michelin, Intel, Nestlé, Dupont...*) are protected. Because when you do business, you don't want others to stick their noses into it, and that's what business lawyers have been able to do. Under the guise of protecting commercial data, these organisations close the door to those who are closely interested in their activities. So goodbye transparency, bye bye democracy and hello profits.

In order to gain influence, these law firms call upon former employees of the European institutions such as **Wim van Velzen** (former president of the European People's Party - EPP). In order to further close the door to the curious, the names of the clients of these law firms are often kept secret, a guarantee that the big lobbies and powerful people of this world are delighted with.

In corporate law firms, there are also lawsuits, and not just any lawsuits, but private arbitrations between the law firm (or rather its clients) and the state. And this is how you get an average of 30 million dollars in fees and 8 million in legal costs by suing the states. Also, thanks to the investor-state dispute resolution (**ISDR**) mechanism, business firms have a very prolific business. In order to secure their business, business firms have set up the **European Federation for Investment Law and Arbitration** (EFILA), which aims to defend their interests in private arbitration. Business firms do not hesitate to take advantage of the war in Libya or the financial crisis in Cyprus to advise oil companies and banks to sue governments for compensation because, according to them, they have suffered heavy losses. To the gentle sound of these violins one would almost forget the disastrous effects of civil war and financial crises such as political instability, social instability, scarcity and, in short, the humanitarian crisis... which is happening under the eyes of the big industrial groups.

Let's visit the lobbies

Sandrine Warsztacki, director of Alter Echos, a newspaper renowned for its fine, in-depth and profound analyses, sheds light on the presence of lobbies in the Belgian capital in her article "**Let's visit the lobbies**". In her article "Let's visit the Lobbies", she tells us about the tour of Brussels she made with Martin Pigeon of Corporate Europe Observatory (CEO). Indeed, for some time now, the organisation that monitors lobbies has been offering a "guided tour" open to all in which you visit the location of the various lobbies by bus.

You will find the ECO booklet "**Lobby Planet**" where you can find the details of this tour (to see the google maps of lobbies, click on this link:[Lobby tour in Brussels](https://corporateeurope.org/sites/default/files/publications/ceolobbylow.pdf)) . You can find out where lobbyists and parliamentarians go out, where they meet and where they hold conferences and a lot of other information that might be of interest to you. Do not hesitate to try it yourself, with the help of this booklet which you can find on the OEB website or in the link below, go on an adventure and discover the underground world of lobbies, thrill guaranteed.

(<https://corporateeurope.org/sites/default/files/publications/ceolobbylow.pdf>)

The official list of 50 lobbies with permanent access to the National Assembly

This official list of the 50 lobbies with permanent access badges to the National Assembly, although not accessible to the public, is dated 4 April 2006. It comes directly from the appendix of the book published by Vincent Nouzille and Hélène Constanty, *Députés sous influences : Le vrai pouvoir des lobbies à l'Assemblée nationale*

These fifty privileged people have a "peace room" access card. This precious pass allows them to come and go wherever they want in the Palais-Bourbon, with the exception of the "sacred perimeter", which includes the hemicycle and its neighbours (Delcroix, Pujol and Casimir-Périer).

If this very closed club of top-lobbies is recognised by the State, it is not constitutionally recognised since, according to Article 3, "national sovereignty belongs to the people, who exercise it through their representatives and by means of referendum" and "no section of the people nor any individual can claim to exercise it".

Also, with regard to the rules of the National Assembly, although there is mention of "special card holders" having access to the "sacred perimeter", the rules remain opaque as to the allocation of these famous sesames, as well as the list of lucky beneficiaries ("Table of titles and articles of the general instruction of the Bureau", III, article 26: "Access and circulation in the rooms and corridors of the National Assembly")

It should be remembered that the term lobby originally meant "corridor" or "vestibule" in English. From 1830 onwards, the meaning became more precise, as the term lobby referred more specifically to the corridors of the British House of Commons where members of pressure groups could come to discuss with the "MPs" (Members of Parliament).

The 50 French interest groups with permanent access to the National Assembly thus fit perfectly into the Anglo-Saxon definition of the term lobby. However, it is regrettable that while the "House of the French people" opens its doors to industry, it closes them to civil society organisations, unlike the Parliament

The European Commission is much more open to non-governmental organisations (this will be the subject of a future post).

It should also be recalled that on 30 October 2006, the UMP deputies Patrick Beaudouin and Arlette Grosskost presented a motion for a resolution "tending to modify the Rules of Procedure of the National Assembly to establish rules of transparency concerning interest groups".

It would be interesting to compare this "official" list with the list of competitors for the third edition of the Institutional Relations Trophies (48 companies and 28 professional federations, submitted to the evaluation of the

(e.g. French parliamentarians with permanent or temporary access to the National Assembly)

Without further ado, the list of 50 lobbies with permanent access to the National Assembly

1 ACFI "Assemblée des chambres française de commerce et d'industrie

- 1. ADEME " Agence de l'environnement et de la maîtrise de l'énergie**
- 2. ADF "Assemblée des Départements de France" formerly APCG "Assemblée des présidents de conseils généraux de France**
- 3. Air France (2 cards)**
- 4. AMF " Association des maires de France " (French Mayors Association)**
- 5. ANIA**
- 6. ANPE**
- 7. Permanent Assembly of Chambers of Agriculture**
- 8. APCM "Assemblée permanente des chambres de métiers**
- 9. ARF " Association of French Regions ".**
- 10. Banque de France**
- 11. Caisse des dépôts**
- 12. CAPE (Centre d'accueil de la presse étrangère)**
- 13. CEA**
- 14. CFCE "French Foreign Trade Centre**
- 15. CFDT**
- 16. Paris Chamber of Commerce and Industry**
- 17. Charbonnages de France**
- 18. CNAMTS " Caisse nationale de l'assurance maladie des travailleurs salariés " (National Health Insurance Fund for Employees)**
- 19. European Commission**
- 20. Representation in France of the European Commission**
- 21. Energy Regulatory Commission**

22. **Interministerial Committee for European Economic Cooperation Issues**
 23. **Economic and Social Council**
 24. **Court of Auditors**
 25. **CSA**
 26. **Conseil supérieur du notariat**
 27. **DATAR**
 28. **EDF**
 29. **FNSEA**
 30. **Force ouvrière**
 31. **France Telecom**
 32. **France Télévisions (2 cards)**
 33. **GDF**
 34. **GIE Conseil national des barreaux - Barreau de Paris - Conférence des Bâtonniers**
 35. **INA " Institut national de l'audiovisuel " (National Audiovisual Institute)**
 36. **INSERM "Institut national de la santé et de la recherche médicale**
 37. **Young farmers (former NAC)**
 38. **Ombudsman of the Republic**
 39. **Agricultural mutuality "Union des caisses centrales de la mutualité agricole**
 40. **French Mutuality**
 41. **National Observatory of Environmental Education for Sustainable Development**
 42. **The Post Office**
 43. **Radio France**
 44. **RATP**
 45. **SNCF (2 cards)**
 46. **UNAF "Union nationale des associations familiales" (National Union of Family Associations)**
 47. **UPA "Union professionnelle artisanale" (Professional craft union)**
 48. **VNF "Voies navigables de France**
 49. **Total-Fina-Elf**
 50. **CENCEP "Centre national des caisses d'épargne et de prévoyance" (National Savings and Provident Fund Centre)**
 51. **Canal +**
 52. **GDF**
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The (too) powerful lobbies of Brussels

Lora Verheecke for Democracy magazine

In Brussels, the world's second lobbying capital after Washington, there are many lawyers business lawyers who operate in the European quarter. They sell legal advice to companies in total discretion. These new breed of lawyers also lobby on their own behalf, for example by calling for the establishment of private tribunals to settle commercial disputes, a very lucrative and growing field of activity. Focus on these defenders of the powerful.

There are between 20,000 and 30,000 lobbyists in the Belgian capital, or about one lobbyist for every EU official. Lobbying is a profession that specialises in influencing policy on behalf of particular interests. Dye sums up his job as follows: "I do espionage and manipulation". In fact, the profession of lobbyist covers a wide range of activities. It can be direct: personal contacts with decision-makers to advance a certain position, a certain point of view. But lobbying can also be carried out indirectly. This includes the creation of fake citizens' associations, the organisation of events, dinners, media campaigns, etc. Effective lobbying uses multiple channels to get the same message across to as many decision-makers as possible to support a policy position.

In Brussels, business law firms are conquering the lobbying market, as it is extremely lucrative. In Washington, for example, the law firm *Akin Gump Strauss Hauer & Feld* had the highest turnover in lobbying services in 2013, amounting to 103.7 million dollars! An internet search (with the keyword 'lobbying Brussels') will certainly bring up several advertisements, including one for *Alber & Geiger*. This law firm claims to be a leader in lobbying in Brussels. It recently worked on a European proposal to ban plastic bags. Due to the popularity of this proposal, *Papier-Mettler*, the largest producer of plastic bags in the European Union, hired the firm to counter this legislative proposal.

In the end, the plastic bag ban did not happen... A success, according to *Alber & Geiger*. It was the result of persistent lobbying that put a stop to the planned ban and even had an impact on similar projects at national level. Mettler, the owner of *Papier-Mettler*, described the law firm's work as "fast and convincing".

Two of the three people who worked on this case epitomise the way these law firms operate: Wayne R. Boyles was a waste specialist during his career in the US government and Marcelo Regúnaga held many high positions, including minister, in the Argentine government. Boyles was a waste specialist during his career in the US government and Marcelo Regúnaga held a number of senior positions, including minister, in the Argentine government. These lobbyists, who are not always lawyers, are to be commended. One of their main characteristics is that they have a huge network.

While it is in the headlines because it threatens freedom of information, the protection of journalistic sources and the mobility of workers, the draft directive on business secrets is another good example. example of the influence of law firms in Brussels. In this case, there is ample evidence that a law firm (*White & Case*) directly lobbied for a new directive in an area not yet regulated at EU level on behalf of its

This organisation was established to protect commercially sensitive company information, known as 'trade secrets'. This organisation was established to protect companies' commercially sensitive information, known as "trade secrets". Its members include *Alstom*, *Dupont*, *General Electric*, *Intel*, *Michelin* and *Nestlé*.

The text proposed by the European Commission has obviously given TSIC full satisfaction.

Little transparency

It is difficult to know whose interests these firms represent, as opacity is their best friend. Some law firms have exported their practices from Washington to Brussels, but they operate in the European capital with far fewer constraints.

Indeed, in Washington, numerous laws have surrounded lobbying since 1946. A 'transition' period, for example, is now required once members of Congress and their staff have completed their term of office before they can work as lobbyists. This 'transition' period does not exist for MEPs in Brussels.

Like most lobbying consultancies, law firms therefore recruit former employees of the EU institutions to increase their power of influence. The law firm

Covington in Brussels employs Wim van Velzen, former vice-president of the largest political group in the European Parliament, the European People's Party (EPP). In order to influence the European Council, this same cabinet can also count on its advisor Jean De Ruyt, an influential former Belgian diplomat, who knows the institution perfectly. There is another rather famous example in Brussels circles: that of Michel Petite, former Director of Legal Services of the European Commission, who retired in 2008. He now works for a major law firm, *Clifford Chance*, one of the ten largest in the world.

Another notable difference between Brussels and Washington is that while registration in the Lobbying Transparency Register is compulsory in the US capital, it is optional here, unless lobbyists meet with EU Commissioners or their heads of cabinet.

In the official transparency register of the European Union, only twenty-nine law firms with a registered office or offices in Belgium are listed. The largest firms are (often) not listed.

White & Case, for example, portrays itself as a firm that "works to achieve a comfortable legal and regulatory environment" for its clients and advertises its lobbying skills on its website without being registered in the European Lobbying Transparency Register. The register's rules state that legal advice aimed at influencing the EU institutions must be declared.

Sometimes there are also errors in the data recorded. For example, the law firm *Linklaters* states that it employs three full-time lobbyists, but lists four people who are accredited to enter the European Parliament freely...

Nevertheless, following public pressure, some law firms registered in the first months of 2015. This is the case of *Covington & Burling* registered since 15 May 2015. According to them, they employ seven full-time lobbyists with an annual turnover of over €1 million from January to September 2014. Their clients include *Microsoft*, as well as large pharmaceutical companies.

However, few law firms disclose the names of their clients. The reason given is professional secrecy. By virtue of professional secrecy, the legal profession requires that, in order to benefit from the client's trust and to be able to organise his or her defence in the best possible way, exchanges between the client and his or her lawyer be protected, including when the client is a legal entity (a company for example). But today, professional secrecy is used for purposes far removed from its original justification. For example, Lourdes Catrain (of *Hogan Lovells*) says that "the client does not want our involvement to be known. A law firm provides very high guarantees of confidentiality".

The argument of professional secrecy thus becomes a commercial argument to attract clients willing to put pressure on politicians.

Private arbitration and business law firms... in figures

Costs

The highest known compensation paid by a state to a private investor is \$50 billion, which had to be paid by Russia to former shareholders of the *Yukos* oil company. This case was handled by *Shearman & Sterling*, which received \$70 million in legal fees and other legal expenses.

Slovakia had to compensate a Czech bank (ČSOB) for USD 877 million.

Venezuela had to compensate a Canadian mining company *Gold Reserve Inc.* for \$740 million.

The legal costs for an investor-state dispute (RDIE) average about \$8 million, with costs exceeding \$30 million in some cases.

Transparency

Just 15 arbitrators decided in 55% of known private arbitration cases in 2012.

In 2013, these private tribunals issued 37 decisions, but only 23 of them were made public in April 2014¹.

A juicy mechanism

The ongoing negotiation of the Transatlantic Trade and Investment Partnership (TTIP) between the European Union and the United States would benefit law firms, as the agreement contains an investor-state dispute resolution (ISDR) mechanism.

As Nicolas Vandenhemel explains, "the RDIE is a private arbitration body designed to settle conflicts that arise between an investor and a State. This mechanism has many shortcomings. It is not a court.

Its decisions are therefore not public. Moreover, the arbitrators who sit on it may, depending on the case, be dressed as lawyers for an investor. As a result, their conflicts of interest are obvious. For private arbitration, corporate law firms charge up to \$1,000 per hour.

As of summer 2014, no business law firms admitted to lobbying for the TTIP. Nevertheless, there are strong indications that they are actively lobbying for the inclusion of the RDIE in the TTIP.

In particular, these law firms have joined forces to set up a new think-tank called the *European Federation for Investment Law and Arbitration* (EFILA), whose mission is to "counteract

citizens' campaigns'. EFILA is a lobby set up by corporate lawyers to preserve their very lucrative market. And when lobbying experts create a lobby group, their influence is only doubled.

It should be recalled that private RDIE arbitration already exists in many bilateral investment treaties. For example, the *Freshfields Bruckhaus Deringer* was quick to advise *Marfin Investment Group* (MIG) and other groups in a private arbitration case against Cyprus at the height of the financial crisis.

Prior to the latter, Cypriot banks had acquired a share of Greek debt and thus found themselves in financial difficulty as early as 2012. To remedy these difficulties and on the orders of the Troika, the Cypriot government nationalised 84% of the Cypriot bank *Laiki*. This nationalisation revealed that MIG, the main shareholder, had taken many financial risks since 2006 and had dubious lending practices. Despite this share of responsibility for the Cypriot financial crisis, MIG sued the Cypriot government in a private arbitration court in the midst of the crisis and is seeking 823 million euros in compensation!

Another example is the case of *King and Spalding* which, during the civil war in Libya (2011), did not hesitate to send a "client alert" outlining the legal options available to oil and gas companies to sue the Libyan state before an international arbitration tribunal and claim compensation. The argument? The Libyan government has failed to meet its obligations under bilateral investment treaties and has made the investment climate untenable, unstable and unpredictable.

Conclusion

The other side of the coin of these business law firms is not very bright: little transparency, abusive use of professional secrecy and a significant and probably growing political weight. This is hard for citizens to swallow.

But reforms are possible. Law firms must be pushed to be more transparent. Their registration in the transparency register should be made compulsory and sanctions should be imposed if data is missing or incorrect. The register should also include their clients and a list of their meetings with members of the EU institutions.

Some steps have been taken, but many remain to be done. In any case, it is urgent that the activities of these firms be better supervised so that their influence is better known and their possible conflicts of interest denounced. #
