



HEADLINE – DONALD TRUMP NOTIFIES THE UN OF HIS DECISION TO WITHDRAW FROM THE PARIS AGREEMENT

On June 1, 2017, US President Donald Trump announced the withdrawal of the United States from the Paris agreement signed at the end of the COP 21 held in Paris 1 year and a half before. If the news had sparked strong reactions, the second global polluter had since no longer provided details on the actions envisaged. But on August 4, the billionaire sent a notification to the UN Secretary-General informing him of his wish to use his right of withdrawal unless it is found suitable terms of re-engagement. Under the terms of the agreement however, this right to withdraw from is effective only 3 years after the conclusion of the agreement. This notification was therefore a purely political act and had no legal effect. The US President further stated that a notification of official withdrawal would be made as soon as possible. In the meantime, the United States will be required to honor the commitments made by former President Barack Obama. It should nevertheless be recalled that no penalty is provided for in the event of failure to fulfill obligations. At a time when Hurricane Harvey is ravaging the country, it is difficult to say that the obligations under the Paris Agreement will be properly observed by the date the discharge is actually permitted.



DIESELGATE – NEW ANTI-POLLUTION TESTS FOR EUROPEAN MANUFACTURERS

Since Friday 1 September midnight, the method of homologation of cars with regard to the emission of gaseous pollutants changes radically. This comes in response to the Volkswagen scandal or "Dieselgate". It was revealed that the Volkswagen Group used from 2009 to 2015 software integrated in certain diesel engines allowing cheating to the anti-pollution tests. Other brands have also been suspected of exceeding, knowingly, the limits of polluting gases, such as Renault, Fiat Chrysler and PSA. The famous tests are carried out in laboratory and according to these the manufacturers obtain their homologations. However, these tests carried out by national approval agencies do not accurately reflect the reality in terms of nitrogen dioxide (NO_x) emissions which is different on the road. A new, stricter protocol for the approval of new vehicles therefore comes into force. It has been negotiated by the European Commission and the Member States and is for the time being concerned only with the new models. It will then be phased in, by September 2019, for all new vehicles. New tests, in addition to those carried out in the laboratory, will be more realistic because they are carried out on the road with acceleration phases in order to be able to measure Nox emissions as well as possible. This is extremely challenging economically and politically because the results will be much less flattering than before for European manufacturers. But health and environmental issues are all the more important, as nox releases from diesel vehicles into the atmosphere are responsible for 107,600 premature deaths each year worldwide. And 38,000 of them could be avoided if standards were simply met.



ENERGY – A CARBON TAX FOR FRENCH AND GERMAN ENERGY COMPANIES

In order to remove coal from European power generation, Terra Nova, the independent progressive think tank proposes to set a floor price of the ton of carbon emitted, around 20 to 30 euros. This proposal is the result of a reflection of six economists specializing in climate, a note published by Terra Nova on 30 August 2017. The authors are convinced that it is necessary to start applying this tax to French and German energy companies, the rest of the European Union. Indeed, a Franco-German collaboration on the implementation of a low carbon price would strengthen the cooperation between the two countries on the issue of global warming. This cooperation could have an influence on the other European countries, independently of the European institutions, as the climate transcends borders. According to the authors of the think-tank, if this tax was introduced from 2020, it would allow France to hold the roadmap presented on 6 July by Nicolas Hulot, the Minister for Ecological and Solidarity Transition, to close the coal-fired power plants by 2022. According to the authors of the note, the introduction of this floor price would correct the deficiencies of the European carbon market or European trading system of ETS. But the measure would be applied only to the energy sector. The latter covers emissions from the energy and heavy industry sectors, which together account for 45% of all emissions from the Old Continent. But there is general agreement that this carbon exchange is not functioning well. The price of carbon proposed by Terra Nova is intended to correct these structurally low prices.



PROTECTION OF BIODIVERSITY - "UNNECESSARY" STRATEGIES AND ACTION PROGRAMS

The European Economic and Social Committee (EESC) has delivered an extremely critical opinion against the EU's biodiversity policy. The first lines are incisive. The policy would be "a classic example of a policy that does not keep its promises". The Committee notes that problems have been identified and the necessary legal remedies have been put in place, but that the real problem lies in the lack of political will. Biodiversity strategies and programs adopted by the European Union in 1998, 2001, 2006 and 2010 are proving to be "useless". According to the EESC, they have not been able to fulfill the political commitments or halt the loss of biodiversity caused by society. Reading this review leaves a bitter taste. Disappointment is great for stakeholders and society in general. This observation of failure is not surprising for the EESC. According to him, the European Union does not take seriously and does not implement the proposals it formulates itself to solve problems related to biodiversity. The Committee accordingly enjoins the Member States to define the real financial requirements for the implementation of European legislation and calls on the Commission to make available the necessary resources.



JURISPRUDENCE

Liability for defective products and office of the judge.

Judgment of 7 July 2017, No. 15-25.651, issued by the Mixed Court of the Court of Cassation, requires judges to apply the rules of public policy arising from Community law even if the applicant has not invoked them. In the present case, a victim of a chemical had obtained compensation for his injury on the basis of fault liability. Liability for defective products was voluntarily excluded by the victim who felt that its applicability was not possible. According to the applicant, the placing on the market was prior to the date of effect of the Directive. However, the Court of Cassation disagreed and considered that it was for the trial judges to rule on the question of liability for defective products, even though the victim had not done a request. This decision might surprise at first sight, but, in reality, the motivation is quite coherent. In support of its decision, the Court of Cassation relies on the principle of the primacy and effectiveness of Community law and on the Code of Civil Procedure. Therefore, before considering reparation on the basis of fault liability as was the case here, the Court of Appeal should have applied Community law. This obligation being subject to facts justifying it. Two factors justified the applicability of liability for defective products: insufficient information for the former, and the question of putting it into circulation for the latter. The cassation is then motivated.



ENVIRONMENT - THE POTENTIAL REJECTS A PROJECT OF THE TOTAL GROUP BY BRAZIL

The Brazilian authorities have rejected the application for a license to drill off the Brazilian coast of the French oil group Total. The Brazilian environmental agency, Ibama, said the French company's response to the environmental risks of the offshore drilling project near the mouth of the Amazon was inadequate. The French group has not met the expectations of the Brazilian environmental agency and in particular with regard to the risk of oil spill that could be caused by an accident on one of the platforms that Total intends to implant at about 120 to 180 kilometers from the Amazonian coast, at the edge of the territorial waters of French Guiana, for prospecting and then possible exploitation at depths ranging from 200 to 3,000 meters. The project could endanger not only coasts, mangroves and forests (rich in exceptional biodiversity), but also fishing for indigenous peoples, and a coral reef unexpectedly 2016. This reef was discovered during an expedition jointly led by Brazilian scientists and the international organization Greenpeace, committed to the defense of the "corals of the Amazon". This rejection is not a definitive stop, but the threat of cancellation of permits is serious. According to the president of the Brazilian environmental agency, Suely Araujo, there is no doubt about the possible consequences.



POLLUTION – POLLUTION OF RIVER BY LACTALIS KILLS TONS OF FISHES

Lactalis, the world leader in dairy products, has lately recognized the pollution of the river. The fishing companies of Ille et Vilaine and the residents of the Seiche (a tributary of the Vilaine) in the South East of Rennes could only notice the disaster. On more than 7 km the stream no longer shows any trace of life. In an unbearable odor of putrefaction the river carries tons of dead fish, all the aquatic fauna perished. We are on 22 August, it is only then that Lactalis warned the prefectural authorities and acknowledges (finally), a serious incident on one of its production lines. On 18 August (4 days before the official declaration), large amounts of pure lactose were released into the river following the saturation of a reprocessing unit. The fauna was not poisoned but asphyxiated. Lactose has caused the proliferation of bacteria that have deprived the stream of oxygen. Specimens of corpses of several species have been retained for further investigation. Lactalis had the watercourse cleaned by a specialized company. More than 5 tons of fish have been removed. Floating dams have been set up. On the evening of August 29, the prefecture indicated that the return to normal was engaged. On the same day the fishing companies filed a complaint. The prefecture will carry out an investigation and will draw up a report for the criminal offense of the Environmental Code.



HEALTH – RENEWAL OF AUTHORIZATION FOR GLYPHOSATE: FRANCE WILL VOTE AGAINST

EU Member States are expected to vote on 4 October on a possible 10-year re-registration of the controversial pesticide. Indeed, since its ranking by the International Agency for Research on Cancer (IARC) as a "probable carcinogen" in March 2015, many voices have been raised for the ban on glyphosate. However, the dangerousness of the product does not reach consensus within the scientific community and opinions are extremely divided. France, which had already expressed its support for the withdrawal of Monsanto's flagship product in a vote allowing its provisional re-authorization for 18 months, confirmed by a press release to Agence France Presse that it would hold its position at the next vote. According to Brussels, the re-authorization of glyphosate will be subject to a favorable vote by a qualified majority of the state, representing 55% of the votes representing 65% of the population of the Union. In the previous vote, 7 of the 28 Member States abstained, including Germany and Italy. It is certainly on their vote that the destiny of glyphosate in Europe will be played out.