

# The wooden house

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**better  
europe**  
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## State of play financial regulation

People say “we’ve wasted a crisis” – why?

- Ten years after financial crisis, we’ve fixed the house, but it’s still a wooden house (we got better at managing the risk!)
- This can be expected in fire-fighting mode; a crisis is the worst time to fundamentally change the system, as the fire-fighting reinforces existing power structures and social-economic models (tighten the screws rather than changing them)
- Financial regulation is still in silos: banks, markets, products
- Some baby steps are being taken on sustainable finance, but interpretation is too narrow (limited to environment, and within that excessive focus on climate change risk, cfr FSB TCFD)
- In the EU, sustainable finance is framed within the Commission’s Capital Markets Union project  
-> financial stability (FISMA) perspective, not more

## State of play financial regulation

- What is needed now is to start a long-term generational change of the role of finance in society (capital allocation, wealth, inequality, money creation)
- New momentum in 2019-2020?
  - Elections in major member states
  - New Parliament and Commission
  - Brexit
  - EU convention?
- Reviving the G20?
  - Trump, China

## Stereotypes business & NGOs

- NGOs have unlimited supporters and a lack of financial resources
- Business have limited supporters and indefinite financial resources
- NGOs are badly coordinated angry hippies
- Business representatives wear suits and lobby “the right”
- NGO representatives wear jeans, carry banners, and lobby “the left”

## NGOs do have resources



## NGOs are well coordinated



3/03/2017 11:35

**UNITED AGAINST BAYER-MONSANTO DEAL:** It's no secret that civil society organizations are working behind the scenes on how to cause trouble for the world's largest seed and pesticides firms, six of which are [at various stages of merging with each other](#). Their main target is Bayer and Monsanto, who are in discussions with the European Commission over a proposed merger. They even have a cool name for it — Baysanto. However it's not often that the minutes of their strategy meetings [are leaked](#), which happened this week. The NGOs' interest in EU competition law appears to be relatively new, with the minutes referring several times to the need for further legal advice. The reason for their interest? "Power concentration of corporates" and the "the social justice issues arising around increased market domination from an even smaller number of companies," according to two of the participants.

**The meeting:** At the end of last month, a group of NGOs met in Berlin to "discuss international campaign plans and opportunities regarding the three mega mergers in the seed and pesticide industry." The discussion began with a *tour de table*, during which 19 people gave updates on campaigning strategies, including how to involve activists in U.S. and "the south," specifically South Africa, through the African Center for Biodiversity.

**Spiritual and anti-corporate activists:** At the table were representatives from Oxfam, Friends of the Earth and Corporate Europe Observatory, as well as Misereor (the German catholic bishops' Organization for Development Cooperation), Bread for the World (representing German protestant churches) and Demeter (a company that certifies organic food products).

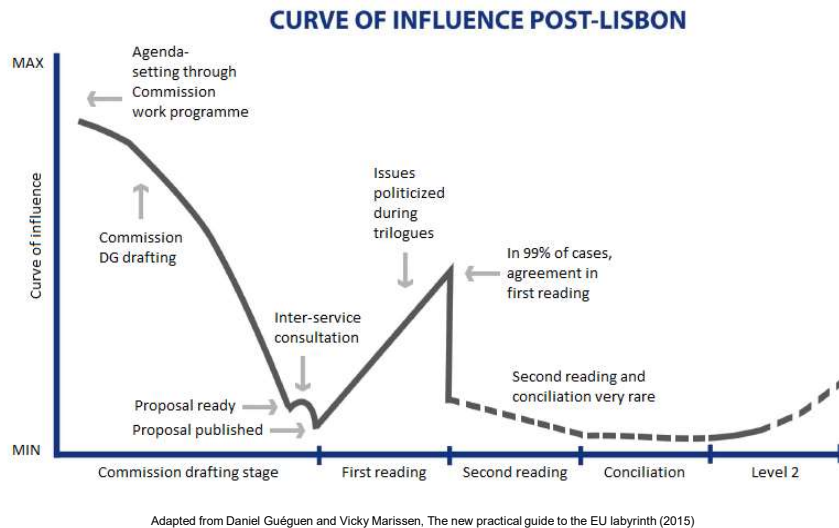
## NGOs work with all MEPs



## Lessons from business for NGOs

- Become a shapeshifter (TJN)
- Intervene earlier and upstream
- Have a long breath!
  - Align funding to long-term goals
  - Ensure staff continuity
- Avoid fights for visibility and funding – there is a greater common fight (cf. industry associations)

## Set the agenda (1)



## Set the agenda (2)

- NGOs most vulnerable to the dangers of agenda following
  - Instead of challenging the role of the financial sector in society, the post-crisis regulation of every aspect of the financial sector has reinforced its role in society
  - Campaigning for agri-based car fuel actually reinforces transport infrastructure based on fossil fuel combustion
- But business also
  - Hedge funds starting to lobby when the draft Directive regulating them with largely symbolic requirements was already on the table

## Work with other stakeholders

- NGOs with member associations and trade associations are very similar in governance, structure, and activities.
- Create associations and coalitions with diverse members to increase your appeal to MEPs and Member States
- Coordinate loosely but do not impose common positions (BSR, TTIP)

## Recent developments (1)

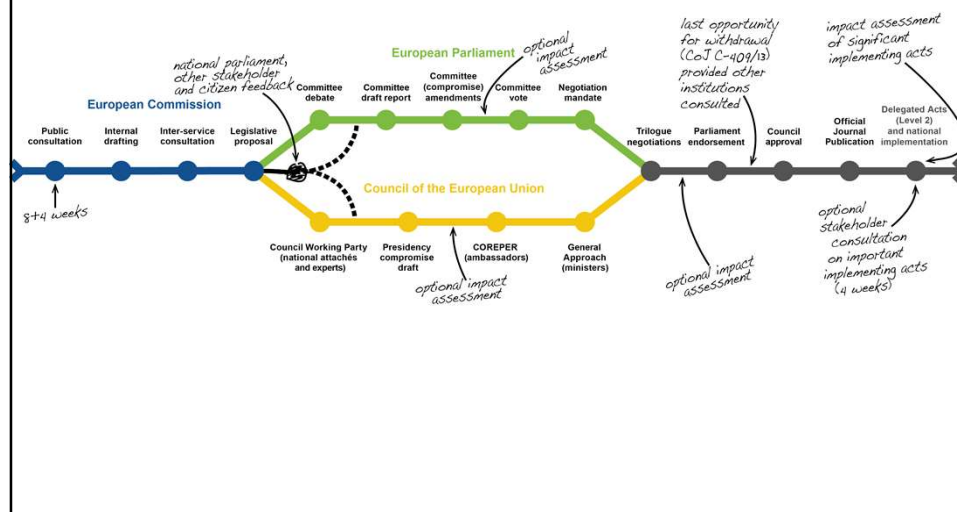
- Coping with inflexible legislative process:
  - No more “real” second readings (96%) since EP 2009 (≈ Lisbon); 75% first reading deals
  - Increased relevance of delegated legislation since Lisbon Treaty and a politicization of Level 2 implementation process
  - Increased relevance of consultations in pre-legislative phase



## Recent developments (2)

- Better Regulation agenda (2014):
  - Aims to address shortcomings by creating additional opportunities to influence legislation, but most changes only help insiders
  - Longer “public consultations” before proposal
  - Failed attempt to introduce U.S.-style post-proposal consultations for industry and national parliaments
  - Increased focus on impact assessments during legislative phase (new lobby tools!)
  - Additional consultations during implementation process

## Recent developments (2)



## Consequences – Trilogues

- Curve of influence: relatively high influence during trilogues before years of calm
- Either last opportunity to win what you failed to achieve before (at Commission level!)...
- ...or damage control as opponents try the same!
- Careful about political decisions delegated to Level 2, dressed up as technical issues, calibrations, etc. (e.g. maximum speed, level of speculation, amount of pesticides allowed)
- The legal form of delegation matters (Reg/Dir/ITS/RTS) and is subject to political horse-trading
- Relatively easy to monitor but lots of work to follow-up, as individualised strategic messaging rather than blunt communications to everyone

## Consequences – Level 2

- Lobbying doesn't stop when the legislative proposal is adopted
- Lots of things to win and lose at Level 2
- Engage with technical authorities (ESAs in finance) along with the Commission as they prepare delegated rules, just as you would with the European Commission in a normal legislative procedure



## Consequences – Consultations

- Don't forget to include impact assessments in the pre-legislative lobby
- Certainly in the case of industry, ensure you are in dialogue with Commission policy staff and national officials on the relevant expert group
- REFIT (Platform) is an opportunity to influence Commission Work Programme

## Thank you

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