Captured states: when EU governments are a channel for corporate interests

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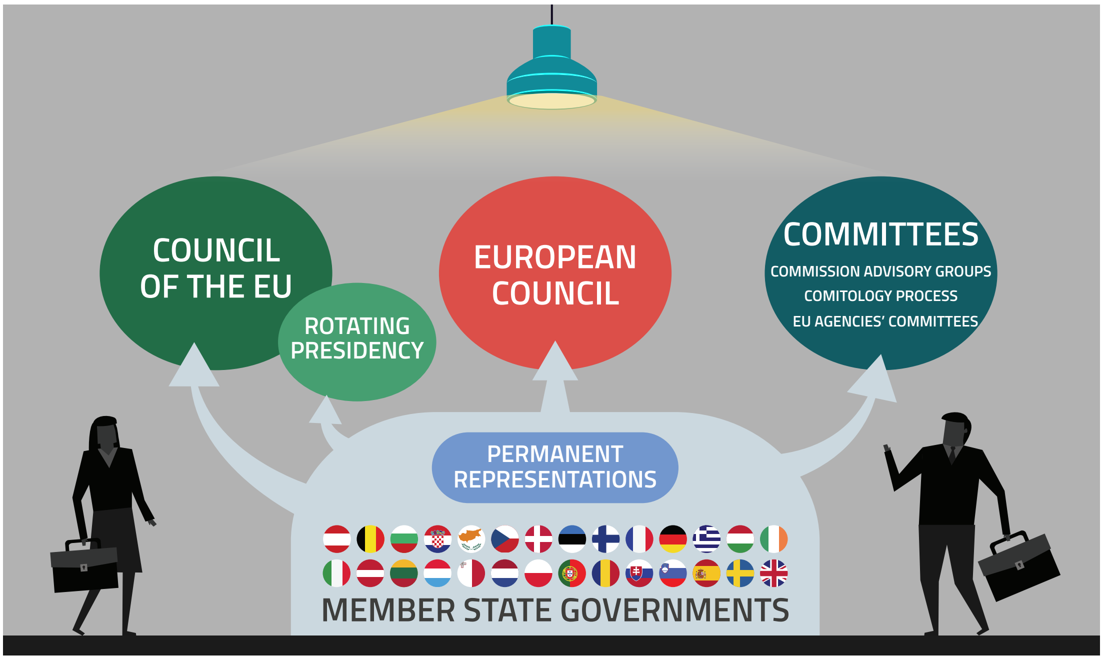
The member states of the European Union are intimately involved in, and responsible for, the EU's laws and policies. Governments set the EU's strategic direction, are closely involved in both the drafting and implementation of EU rules, and have final sign-off on all EU legislation. "Captured states: when EU governments are a channel for corporate interests" focuses on the democratic deficit that sees too many member states, on too many issues, become captured states, allowing corporate interests to malignly influence the decisions they take on EU matters. Instead of acting in the public interest of their citizens and those in the wider EU, they often operate as channels of corporate influence.



Many of the ways in which member states feed into EU decision-making are not well-known, and are neither transparent nor commonly studied. The report breaks new ground by providing an overview of how member states act as middlemen for corporate interests.

The report's key findings are:

1. **Corporate interests,** including EU and national-level trade associations as well as multinational corporations, **are really dominant** in lobbying member states on EU decision-making and they have numerous successes to show for it.
    - **Elite corporate lobbies** target the European Council of member state leaders, with access that NGOs and trade unions cannot match. For example the regular meetings of the European Round Table of Industrialists bring together 50 bosses of major European multinational companies with the leaders of France, Germany, and the Commission President.

- **Rotating presidencies** of the Council of the EU provide a key target for corporate lobbies. This report shows, for example, how the 2016 Dutch Presidency promoted both the interests of the arms industry, and the corporate-designed concept of the 'innovation principle' in EU decision-making which undermines precautionary approaches. Additionally, corporate sponsorship of rotating presidencies now appears to be standard.

- The EU's complex and opaque **committee structure** benefits corporate lobbies with the resources and capacity to influence the final outcomes. The decision-making on the licence renewal of the pesticide glyphosate and the safety of the whitening agent titanium dioxide both demonstrate the reach and staying power of the chemicals' industry lobby.

- Brussels-based **lobby consultancy firms** provide specific services to corporate lobbies aimed at influencing member states, such as Fleishman-Hillard's annual gas forum for member state officials, organised for trade association GasNaturally, a lobby forum for major gas companies such as Shell, Total, and RWE.

- Where data is available, corporate interests held the clear majority of lobby meetings with officials working at the **permanent representations of member states**. The Dutch Permanent Representation's officials held over 500 lobby meetings between June 2017 and 2018 and 73 per cent of these were with business interests, and only 15 per cent with NGOs or trade unions.

2. As a consequence, there is a **massive asymmetry of influence** on member states' EU decision-making as civil society groups cannot match the privileged access and far greater lobbying capacity and resources of the corporate sector.

3. **Member states and national corporate lobbies have developed a symbiotic relationship** whereby the national corporate interest has – wholly wrongly – become synonymous with the national public interest as presented by the relevant government in EU fora. Extreme examples include the influence of the car industry on German political establishment (and the negative impact of this on EU climate and emissions' regulation); Spanish telecoms giant Telefónica, whose closeness to the Spanish Government ensured its demands were absorbed and promoted; the state-owned coal industry which leads the Polish Government to be such a climate pariah; and the City of London, which can count on the UK Government to back its demands for the lowest possible financial regulation.

4. At the EU level, **member states have collectively absorbed some corporate agendas** and adopted them as part of the EU-wide agenda, such as on economic governance (strict fiscal rules and austerity) and investors' protection in trade treaties (allowing corporations to sue states for billions in compensation when governments act to protect their people and the planet).

5. Some member states **proactively reach out to corporate lobbies.** Rotating presidencies represent a particular opportunity for a member state to actively champion a pet project, issue, or national industry. The recent Austrian Presidency organised a high profile event for EU ministers at the premises of its key national steel producer Voestalpine, even launching an initiative to promote 'green hydrogen' (which will most likely give a boost to fossil-fuel gases) signed by member state ministers.

6. A number of **commissioners** from the Juncker Commission appear to have a **bias towards corporate interests from their own member states** when it comes to lobby meetings, providing business with another potential 'national' channel, on EU decision-making. Commissioners Oettinger, Hill (who left the Commission in July 2016), Cañete, Hogan, and Vestager have all held a disproportionately large number of meetings with corporate lobbies from their own country.

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7. Complex EU decision-making procedures, a **lack of transparency,** the **exclusion of citizens** in decision-making at national level on EU matters, and generally **weak national parliamentary mechanisms,** have combined to create an accountability and **democratic deficit,** which corporate lobbies are happy to take advantage of. As just one example of the transparency problem surrounding the way in which member states participate in EU affairs, only 4 out of 19 permanent representations (Finland, Ireland, the Netherlands, Romania) provided some transparency regarding their meetings with lobbyists. The others remain totally non-transparent.

Contemporary nationalist rhetoric argues that a strong EU is imposing rules and regulations on nation states and sometimes it suits member states to play up to this narrative and blame the EU for decisions which are unpopular at home. However, blaming the EU 'apparatus' alone is far too simplistic.

Too often, member state governments, acting individually or collectively, are a bastion of corporate influence on EU decision-making. The risk of corporate capture of some member states, on some EU dossiers, is very high, undermining democracy and the public interest. And it is getting worse.

With this report, we hope to alert civil society and decision-makers to the threat that corporate lobbies, influencing member states, have on EU decision-making, and our final recommendations set out some initial steps to start to counter this corporate influence. They include:

1. Member state governments must **adopt national rules and cultures** which **reduce the risk of corporate influence** on EU decision-making, including an end to privileged access for corporate lobbies and full lobby transparency.
2. Member state **parliamentary scrutiny** and accountability on government decision-making at EU level must be strengthened. This should include both pre-decision scrutiny and post-decision accountability.
3. Urgent action is needed by the EU institutions to tackle the **democratic deficit** in how they operate. These will require **reforms** of the ways of working of the **Council of the EU,** the **European Council,** and the European Commission's **comitology process and advisory groups.**
4. We urgently need **new models for citizens** to both **find out more** about, and **have a say** on, the EU matters with which member states are tasked with deciding. This could include participatory hearings, at the national level, on upcoming pieces of EU legislation; on-line consultations; and more.

How the UK acts as a channel for corporate interests at the EU level

Hedge funds: The financial lobby, working with its allies in the UK government, was able to prevent any serious restriction on dangerous speculative and asset-stripping activities of hedge funds and venture capital. In 2009 the European Commission proposed the first-ever EU attempt to regulate hedge funds, venture capital, and private equity, via the Alternative Investment Fund Managers Directive (AIFMD). But only months later, ministers, the then Mayor of London Boris Johnson, UK Conservative MEPs, and lobbyists were working closely to head it off. One strategy involved mobilising the US Government to express concern at the proposal for regulation. Ultimately, the hedge fund industry conceded some transparency measures in order to get easier access to the full EU single market, but regarded this as a decent trade-off and a lobbying success. The various links between the finance lobby epitomised by the City of London and the UK political establishment are further documented in our report.

Brexit: Brexit has illuminated several important elements of the UK's relationship with the EU. The first is the UK Government's self-appointed role as advocate for the City of London. From the day a ballot on UK membership of the EU was first mooted by Prime Minister David Cameron in 2013, the UK's hefty financial sector sought and won significant lobbying victories. These victories included the so-called Cameron deal, struck in February 2016 with fellow EU leaders in the European Council, which reflected demands from the City of London. Today, the City of London is using its ties to the UK Government to try to secure as much access to the Single Market as it can in a new post-Brexit EU-UK trade deal. The second element of the UK's relationship with the EU which Brexit has highlighted is the mismatch between how the UK's role in Europe is sold at home, and the reality in Brussels. The slogan of the 'leave EU' camp during the 2016 referendum, "take back control", implied that the EU was something that 'controlled' UK political and public life. But this ignores the strong voice that the UK Government has on EU decision-making, even though that voice has too often promoted the interests of the corporate sector, at the expense of the public interest. A key example of this mismatch was the pre-referendum debate on TTIP, the proposed EU-US trade deal.

Titanium dioxide: Titanium dioxide is a 'whitening' chemical found in everyday products such as sunscreen and paint, and the EU is currently assessing whether it should classify and regulate the chemical as a "suspected carcinogen". But the chemicals' producers and industrial users have put on pressure at every step of the process, and the UK, Europe's second biggest producer of titanium dioxide, has been a big industry ally. The UK Government has had numerous interactions with industry on the subject in the year to July 2018, including meetings and phone calls, alongside a ministerial visit to Cristal, one of the world's biggest titanium dioxide manufacturers. The UK, working with Slovenia, has made clear its opposition to the classification of titanium dioxide and they have instead proposed an alternative and weaker "hazard communication" label as a way to avert classification. Most recently, the final decision on whether and how to classify titanium dioxide in the EU has been postponed, with the corporate lobbying, and alternative proposal of the UK and Slovenia, apparently having an effect.

Climate: In 2014 the Commission proposed new climate and energy targets for 2030. In response the Magritte Group, BusinessEurope, and other heavyweight corporate lobby groups, launched a campaign to fight against the renewable energy and energy efficiency targets, with the backing of Poland and the UK. They argued that the EU should instead adopt a single climate target and Poland used a veto threat to get its way. Meanwhile the UK strongly supported the industry campaign for a single target by advocating a 'technology neutral' greenhouse gas target, envisaging a key role for nuclear power, shale gas, and carbon capture and storage in meeting climate commitments, as advocated by Shell and other industry players. Industry's campaign helped to ensure that national-level renewable energy targets were dropped, and the target for energy efficiency was weakened.

Commissioner Hill: For some national corporate lobby groups, their respective national commissioner is an extra, potential channel of influence for EU decision-making. Former Commissioner Hill's friendliness towards UK finance lobbies shows that his very appointment was a victory for the City of London. Of Hill's 151 lobby encounters with corporate interests, approximately one third (47) were UK-based. Four of Hill's ten most frequently met lobby groups were from the UK's finance sector. These include the London Stock Exchange Group which held four encounters, and The Investment Association, Barclays, and HSBC which all enjoyed three encounters each. (Data taken from Transparency International's IntegrityWatch on 7 January 2019 and covers Hill's lobby encounters from December 2014 to 14 July 2018.)

To find out more about these cases and those involving many other EU member states and corporate sectors, read the full report at https://corporateeurope.org/capturedstates.

Corporate Europe Observatory

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