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Vom European Green Deal zum Clean Industrial Deal –

New legal framework for the potash and salt industry

At the European level, a large number of regulations and directives have been amended and newly created in recent years, particularly in the areas of environmental, climate, and raw materials policy. These new legal requirements require companies in the potash and salt industry to make significant adjustments in almost all areas of their operations. The following provides an overview of the key legal changes at the European level and their impact from the perspective of the potash and salt industry.

From the European Green Deal to the Clean Industrial Deal –
New legal framework for the potash and salt industry

Over the last years, numerous EU regulations and directives have been reviewed, amended and newly created,

“It is the clean driver that will make our industry great.” With these words, the new Vice President of the European Commission, Teresa Ribera, together with Commission President Ursula von der Leyen, announced the “Clean Industrial Deal” on February 26, 2025. It is the central initiative of the new European Commission, which took office at the end of 2024, to restore the competitiveness of the struggling European industry while simultaneously accelerating decarbonization. Science and industry had previously called on Brussels to take far-reaching steps and provide a European response to the US “Inflation Reduction Act” and Trump's “Drill, baby, drill!”

Together with the numerous new regulations and directives that have emerged in recent years as part of the "European Green Deal," the legal framework relevant to the potash and salt industry is shifting further toward Brussels. Today, around 80% of industry-relevant laws already have their origins in EU law.

For Germany as an industrial location, it is therefore essential that the Federal Government and business associations actively participate in the legislative process at the European level and work towards practical solutions that meet the requirements of local companies.

regulations

A green agenda for Europe

The European Commission presented the "European Green Deal" on December 11, 2019. The Green Deal was the key initiative of the last EU legislative period (2019-2024). The key objective of the Green Deal is to make Europe the first climate-neutral continent by 2050 and to significantly reduce pollution in the air, water, and soil ("zero pollution target").

With over 50 individual political and regulatory measures, the Green Deal covers almost all economic sectors and requires the affected economic operators to fundamentally transform their economic activities, going far beyond the regulatory adaptation and implementation requirements previously required.

For the potash and salt industry – as an energy- and resource-intensive sector – the following new EU regulations are of particular relevance:

- the new EU regulation on nature restoration,
- ambitious requirements and an extension of the scope of the EU Industrial Emissions Directive to certain mining sectors (exclusively metal ore mining) and underground landfills,
- the introduction of a European soil protection directive („EU Soil Monitoring Law“),
- to allow a tightening of the Water Framework Directive without more flexible exemption options for industry and authorities,
- the introduction of a new EU regulation to improve the supply of critical raw materials (“Critical Raw Materials Act”),
- raising the CO2 reduction targets to -55% by 2030 compared to 1990, combined with a reduction in the free allocation of CO2 certificates and the introduction of an external CO2 tariff (“Carbon Border Adjustment Mechanism”).
- In addition, there are additional reporting obligations in the area of sustainability, such as the EU Taxonomy Regulation on strengthening sustainable finance (“Sustainable Finance”), the EU Sustainability Reporting Directive (CSRD – Corporate Sustainability Reporting Directive) and the EU Supply Chain Due Diligence Directive (CSDDD – Corporate Sustainability Due Diligence Directive), according to which companies must provide comprehensive and standardized information about their sustainability commitment and document their efforts towards sustainable development.
- Amendments and extensions to chemicals and hazardous substances legislation, including the derivation of new workplace exposure limits for hazardous substances, for example within the framework of the EU Cancer Directive.
- Changes to EU state aid law.
- Changes to EU waste legislation.

This will significantly change the regulatory framework for the potash and salt industry, imposing requirements that require companies to adapt and adapt in almost all areas. This could lead to a significant competitive disadvantage, particularly compared to non-European competitors who are not subject to these requirements.

Focus on raw material security

The raw materials industry plays a key role in achieving the Green Deal goals, particularly climate neutrality by 2050. More and more raw materials are needed for applications such as electric vehicle batteries, solar panels, wind turbines, digital applications, and the defense industry. The EU Commission estimates that demand for rare earths in the EU will increase sixfold by 2030, and that demand for lithium is expected to increase twentyfold by 2050. The EU relies on imports from other countries for many of these raw materials. The coronavirus pandemic, global political tensions, and, not least, the Russian war of aggression against Ukraine have shown that the EU is overly dependent on raw material imports and that supply chains can be quickly disrupted—with disastrous consequences for the supply situation in the EU.

The EU Commission therefore proposed an EU regulation to improve the supply situation for critical raw materials ("EU Critical Raw Materials Act") in 2023, which entered into force on May 23, 2024. The regulation classifies a total of 34 raw materials as critical, as the EU is significantly dependent on imports for these raw materials. 17 raw materials are also classified as strategic, as they are particularly important for green technologies, digital applications, and the defense industry, in addition to their high import dependency.1

Despite their outstanding importance for food security and medical care, potash and salt are not considered critical or strategic raw materials within the meaning of the Critical Raw Materials Regulation (in contrast to the Critical Medicine Act).2

The exclusive consideration of raw materials with a very high import dependency is one of the key weaknesses of this new EU Critical Raw Materials Regulation, as it disregards the need to substantially strengthen existing domestic raw material production in order to avoid future critical dependencies on non-European suppliers. To this end, appropriate policy instruments are urgently needed within the framework of a holistic European raw materials strategy to avert the trend of creeping deindustrialization in Germany and Europe. For example, the EU's global market share in the production of potash fertilizers has declined from 17 to 7% over the past 25 years. During the same period, potash producers from Russia, Belarus, and China have expanded their production share to a combined almost 50%. With a view to the strategic autonomy of the European food supply chain, decisive measures are therefore required to improve the framework conditions in the EU for the raw materials potash and salt.

The supply situation for critical raw materials is to be improved, among other things, by enabling an accelerated approval process for so-called "strategic projects" and by improving coordination between the EU Commission, member states, and financial institutions regarding access to financing options or networking with relevant buyers. For strategic projects in the field of raw material extraction, a maximum processing time of 27 months is planned (not including the time required for an environmental impact assessment); this period can be extended by six months if necessary.

Approval procedures for strategic projects should be coordinated and facilitated by a central contact point. The central contact point should serve as a single point of contact for project sponsors and provide support for all administrative and technical questions related to the approval process.

The EU Member States should designate or establish these contact points by 24 February 2025. In Germany, responsibility for the central contact points lies

1 The EU Commission shall review and, if necessary, update the list of strategic raw materials by 24 May 2027 and every three years thereafter.
2 However, within the framework of the planned EU regulation on securing the supply of medicines (“EU Critical Medicine Act”), potassium chloride is classified as critical.

at the federal states; the Federal Ministry for Economic Affairs and Climate Protection has provided information via the state ministries and state mining authorities, which act as central contact points.3

In practice, compliance with the maximum processing time of 27 months for strategic raw material extraction projects will likely require appropriate prioritization by the responsible approval authorities. For non-strategic projects, this could potentially result in further delays to the already excessively long procedures, as the limited capacities of the approval authorities are initially allocated to the strategic projects. In the list of 47 strategic projects in the EU presented by the EU Commission on March 25, 2025, only three are located in Germany. Whether this will actually result in disadvantages for non-strategic projects in the approval process remains to be seen.

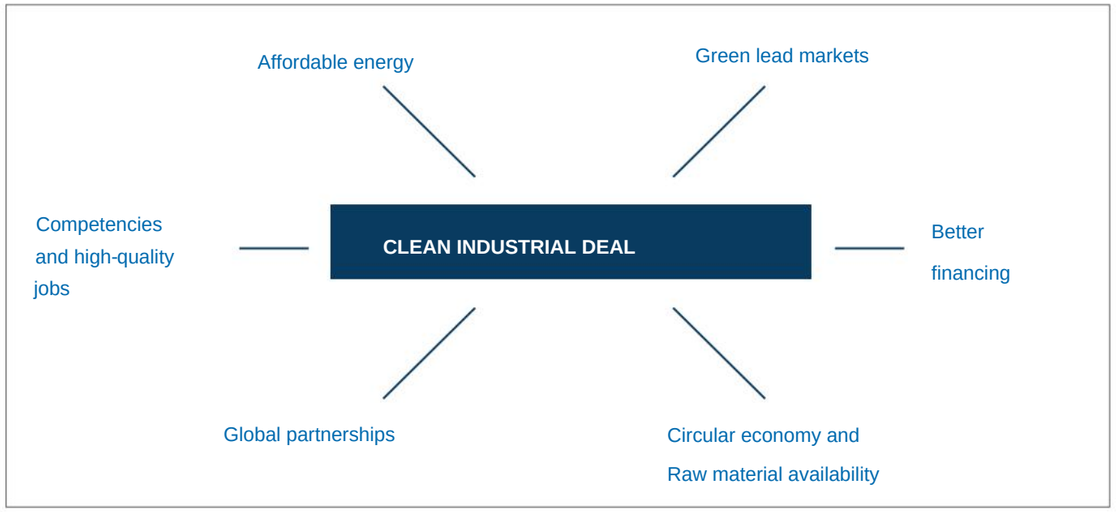
However, in the long term, it will be crucial for Germany as a raw materials location to fundamentally accelerate the process for all raw materials projects. Germany is one of the leading suppliers of salt and potash in Europe and worldwide. To maintain this position,

Approval procedures for the potash and salt industry will become significantly simpler and faster in the future. This requires, in particular, simplifications and pragmatic adjustments to substantive environmental law to reduce the previously high approval costs and lengthy process duration. The Association of the Potash and Salt Industry (Verband der Kali- und Salzindustrie eV) has made concrete proposals in this regard in the past that could be adopted and implemented by the legislature.

Clean Industrial Deal: Strengthen competitiveness – reduce energy costs

The European Green Deal was presented in 2019 not only as an environmental and climate policy initiative, but also as a growth agenda intended to stimulate the EU economy.4 The Green Deal's promise of growth has so far failed to materialize for European industry. The German economy is in recession for the third consecutive year, and German gross domestic product is barely higher than before the coronavirus pandemic. With the 2024 European elections, the focus at the European level has shifted to the issues of the economy, competitiveness, and reducing bureaucracy.

In the report of the former President of the European



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NEWS FROM BRUSSELS

Central Bank, Mario Draghi, from September 2024, the weaknesses of European competitiveness were made clear on around 400 pages.5 In a much-noticed appeal ("Antwerp Declaration for a European Industrial Deal"), more than 1,300 companies and associations also drew attention to the urgent need for reform and called for rapid action to restore the competitiveness of European industry.6 An initial outlook on the future priorities of EU policy was then presented in the EU Commission's communication on the "EU Competitiveness Compass" of January 29, 2025.7

Subsequently, the European Commission presented the "Clean Industrial Deal" on February 26, 2025. The "Clean Industrial Deal" is a key initiative of the EU Commission in this EU legislative period (2024-29) to restore the competitiveness of industries, especially energy-intensive ones. The main goals are to improve the framework conditions for competitiveness, reduce bureaucracy, and better support companies on their path to climate neutrality, for example through lower energy costs. According to the EU Commission, the "Clean Industrial Deal" aims to mobilize investments totaling EUR 100 billion and create 500,000 new jobs. The Clean Industrial Deal does not call into question the objectives of the Green Deal. Rather, it aims to take measures to enable the competitive achievement of the Green Deal's objectives.

The Clean Industrial Deal package of measures comprises around 40 individual initiatives and is supplemented by an “Affordable Energy Action Plan” (23 individual measures) and proposals to simplify reporting and proof obligations for companies (for example, the so-called Omnibus Regulation on Simplifying the Taxonomy, CSRD, CSDDD).

The objective of the Clean Industrial Deal, namely increased competitiveness, is to be welcomed; the current challenges are clearly highlighted. The measures proposed by the European Commission are essentially still announcements that require further development and implementation. From the industry's perspective, the Clean Industrial Deal is an important step, but it still falls far short of expectations and the necessary measures to

Reduction of overregulation and bureaucracy in European legislation.

The Clean Industrial Deal rightly clearly identifies the problem of high gas and electricity costs for European industry. The potash and salt industry is one of the most energy-intensive sectors and relies heavily on natural gas, for example, for drying and processing. Natural gas prices in Germany are currently around five times higher than in potash-producing competitor countries such as Canada, Russia, and Belarus. According to the Federation of German Industries, electricity costs in Germany are around twice as high as in other countries.

The energy measures proposed in the Clean Industrial Deal can have a cost-reducing effect in the medium to long term, for example through the reduction of energy taxes. However, the urgently needed revision of the European Emissions Trading System and the future design of competitive carbon leakage protection for energy-intensive industries are barely addressed.

As part of the revision of the EU ETS State Aid Guidelines in 2020, the potash industry was deprived of its eligibility for electricity price compensation, an important measure to relieve companies of indirect CO2 costs. This has led to a significant increase in CO2 costs, and thus in energy costs for the potash industry, without any economic and technical alternatives for CO2 avoidance being available in the short term. Therefore, an urgent adjustment of the EU ETS State Aid Guidelines is needed to make this important relief instrument for strengthening competitiveness accessible to companies in the potash and salt industry again, and thus also to create an incentive for the future electrification of processes. This is of strategic importance within the EU, particularly for Germany as a potash and salt production location.

In the coming months, the EU Commission will gradually roll out the initiatives and measures presented in the Clean Industrial Deal and convert them into proposals for regulations and directives, in the preparation of which stakeholders will be involved, for example through consultations.

Why the circular economy will continue to need mining in the future

In the Clean Industrial Deal, the EU Commission announced that it will propose a European Circular Economy Act by the end of 2026. The circular economy is intended to make a significant contribution to decarbonization and sustainable development in Europe. According to the German Federal Government, Germany's National Circular Economy Strategy should also provide significant impetus for regulatory developments at the European level in the field of the circular economy.

Fundamentally, it is worth supporting the advancement of the circular economy and the increased utilization and recycling of material flows ("secondary raw materials") where technically, ecologically, and economically feasible. It is important to consider the necessity and increasing demand for primary raw materials, as well as their material-specific properties, in a market- and material-appropriate manner, so as not to jeopardize or disproportionately impair the raw material supply of Germany as a business location.

Due to the increasing demand for raw materials (as well as the limited amount of reusable or recyclable waste), the raw material demand in Germany and Europe for key projects such as the energy transition, infrastructure projects, housing construction, food safety, medical care, strengthening industrial competitiveness, and the defense and security sector can only be met to a limited extent by secondary raw materials. The majority of raw material supplies will continue to have to be covered by primary raw materials, for which domestic raw material extraction should gain significantly in importance due to proximity to supply, the low ecological footprint, compliance with the highest standards (including environmental, climate, energy, and occupational safety), and supply security. These aspects should be given special consideration in future European circular economy legislation to avoid contradictions with existing raw material policy and a weakening of raw material supplies in Europe. This requires, in particular, a differentiated analysis of the individual raw materials, as is particularly evident in the example of the mineral raw materials potash and salt.

The minerals potash and salt are extracted through underground mining and solution mining in Germany and are key raw materials for agriculture, industry and consumers, and are not available as secondary raw materials due to their specific properties and use.

High-purity salts for the production of COVID-19 vaccines and saline infusions, potash fertilizers for securing global food supplies, and de-icing salt for safe roads in winter are particularly striking applications. Potash and salt are also basic raw materials in the fields of medicine, pharmaceuticals, chemicals, textiles, paints, varnishes, metals, and glass and cannot be replaced by secondary raw materials, omission, or substitution. A reduction in absolute primary raw material consumption, as called for, for example, in the German Federal Government's National Circular Economy Strategy, would therefore have direct negative impacts on the supply of potash and salt (but also construction raw materials and many other raw materials) in key vital sectors and should therefore not be used as a quantitative target in practice-oriented policymaking. Furthermore, the disposal of waste in underground cavities of potash and salt mining through recycling and disposal represents an important and safe pillar of the circular economy.

Sustainable mining

The discussion about critical raw materials has shown that more primary raw materials and thus more mining will be required in the future in order to meet the increasing demand for raw materials in almost all areas of life.

Mining will therefore remain necessary and indispensable in the future. This raises the question of what ecological conditions mining and raw material extraction should be under in the future. In addition to legal standards, standards for sustainable raw materials are currently being developed by the private sector and the International Organization for Standardization (ISO).

The European Green Deal also includes the EU Taxonomy Regulation, which aims to increasingly direct financial flows toward sustainable economic activities. A key challenge is defining the conditions under which an economic activity can be classified as sustainable. This has been a major challenge in recent years.

The EU Platform on Sustainable Finance, in particular, has been working on this topic for years. Small working groups attempted to define sustainability categories, indicators, and thresholds for each economic activity. This is particularly difficult for mining due to the great diversity of the respective raw materials, deposits, and extraction and processing techniques, which must always be adapted to local conditions. In a report from March 2025, the EU Platform on Sustainable Finance also proposed sustainability criteria for mining for the first time, initially only for the raw materials lithium, copper, and nickel. The proposals were developed over several years by a small group within the Platform, but ultimately without the participation of the key mining representatives and experts in Europe. As a result, the proposals are unsuitable for practical application and do not reflect the sustainability commitment of the raw materials industry.

From the industry's perspective, the Platform's proposals are therefore not suitable for inclusion in so-called delegated acts within the framework of the EU Taxonomy Regulation.

The potash and salt industry is considered a pioneer in the field of sustainable mining. For example, the German potash and salt industry is the first raw materials sector in Europe to commit to the “EU Principles for Sustainable Raw Materials”.

With the high legal standards in Germany and the EU in the areas of environment, water protection, nature conservation, climate protection, occupational safety and health protection, mining regulations and social security, as well as the voluntary commitment of companies, Germany is one of the leading locations when it comes to issues of sustainable mining.

The focus of future raw materials policy in Germany and Europe should therefore not be on continually increasing the requirements for domestic companies, but rather on encouraging non-European suppliers to also comply with comparably high standards and imposing corresponding import requirements on deliveries to the EU, for example, through cost-compensating import duties or non-tariff requirements. This is urgently needed to create a level playing field for domestic producers and to strengthen the acceptance and effectiveness of the high European regulatory requirements in competition.

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Soil protection law – end of the subsidiarity principle?

The European Green Deal and the Clean Industrial Deal have led to the establishment of numerous new regulations and directives at the European level. In each case, the question arises as to the extent to which European regulation is required or whether statutory provisions at the Member State level are sufficient. The areas of environmental protection, water protection, nature conservation, air quality, and climate protection are already largely regulated by directly applicable regulations or directives at the European level, which provide EU Member States with corresponding requirements for implementation. The need for regulation at the European level is justified, among other things, by the cross-border or global impacts of the respective regulatory area and the need for equal competitive conditions within the EU.

The EU Soil Directive ("EU Soil Monitoring Law"), proposed in 2023, is intended to regulate soil in addition to the environmental media of air and water, which are already regulated at the EU level. Until now, this has been the responsibility of the EU member states. This is primarily due to the fact that soil protection requirements vary greatly depending on local conditions and, above all, soil lies exclusively within the territory of the respective member state without any cross-border impact, so that additional new soil legislation at the EU level is not necessary. In Germany, soil protection is essentially adequately regulated by the Federal Soil Protection Act, the Federal Soil Protection Ordinance, the state regulations, and the soil protection provisions in the respective sector-specific legislation. Therefore, from the perspective of the German raw materials associations, the Federation of German Industries, and the German Farmers' Association, no additional regulation at the EU level is required. A similar initiative at the European level in 2006, which is currently being discussed, was rejected by the EU Member States at the time, among other things for reasons of subsidiarity.

The new federal government rejects a new EU soil law in order to avoid additional burdens.
However, some EU Member States are now more open to such a regulation at the European level.

The new EU Soil Directive would result in duplicate regulations and additional requirements for raw material extraction in Germany, as well as projects in the areas of housing, infrastructure, renewable energies, etc. In particular, the restrictive requirements proposed by European legislators for the avoidance, reduction, and compensation of soil and land use, as well as the restrictive application of so-called soil descriptors (including "salination"), could lead to significantly more complex and lengthy approval procedures for the potash and salt industry (as well as the other aforementioned sectors)—and disproportionate to the environmental benefits.

Given the current need for less bureaucracy, faster approval procedures and greater competitiveness, the European legislator should refrain from adopting the proposed EU Soil Directive, especially since the current proposals do not contain any practical flexibilities and exemptions for raw material extraction and other affected sectors.

The inclusion of mining and raw material extraction in the new EU Soil Directive would also be disproportionate because the entire area used

Area for mining, dumps, opencast mining, pits and quarries in Germany less than 0.4% of the total

land area in Germany.8 According to the Federal Statistical Office, only 8 km² of land area is used for underground mining operations (for comparison: the total land area in Germany is 357,683 km²). Given these ratios and the urgent need for a stronger and more secure supply of raw materials from domestic extraction, it is incomprehensible why the European legislature has not yet excluded raw material extraction from the scope of the new EU Soil Directive, instead exposing it to the risk of additional permit uncertainty and lengthy and complex permitting procedures.

On the way to European mining law?

The EU Industrial Emissions Directive is the most important European regulatory framework for the licensing and operation of industrial plants. It is implemented in Germany primarily through the Industrial Emissions Implementation Act, the Federal Immission Control Act, the Closed Substance Cycle and Waste Management Act, and the Water Resources Act.

With the new EU Industrial Emissions Directive of April 24, 2024, European legislators have significantly increased the technical requirements for the operation of plants. Furthermore, certain sectors that were previously not covered by the EU Industrial Emissions Directive have been newly included, with significant consequences for the respective plant permits and plant operators. This affects, among other things, underground landfills and mining operations for the extraction (and processing) of metallic raw materials such as bauxite, lead, chromium, iron, gold, cobalt, copper, lithium, manganese, nickel, palladium, platinum, tungsten, zinc, and tin on an industrial scale. Mineral raw materials such as potash and salt are rightly still not directly covered by the scope of the EU Industrial Emissions Directive and, in the view of the Association of the Potash and Salt Industry, should not be covered in the future either.

For the sectors that will be subject to the EU Industrial Emissions Directive in the future, the best available techniques must be defined in technical data sheets within the framework of the multi-year so-called Seville process, which must be complied with by plant operators. Experience shows that the requirements for plant operators in the course of this process usually increase significantly and lead to retrofitting and conversion and thus higher costs.

The derivation of uniform Europe-wide techniques for comparable facilities is reasonable. For mines, which typically require individual adaptation to the respective raw material, deposit, and local conditions, uniform best available techniques cannot be derived in this way. Furthermore, the derivation of uniform Europe-wide standards for underground storage facilities in salt formations seems to make little sense, as there are only four facilities in this area, all of which are located in Germany.

In order to avoid additional bureaucracy and disproportionate and inappropriate plant requirements, European and German legislators should ensure that plants for the extraction and processing of potash and salt continue to be subject exclusively to mining-specific regulations and are not included in the scope of the EU Industrial Emissions Directive.

The new legal requirements of the Green Deal and the Clean Industrial Deal have far-reaching implications for approval practices in Germany. This particularly affects the approval of projects in the field of raw material extraction.

In the past, the licensing of mining operations was subject in particular to the relevant mining regulations at the federal and state levels, such as the Federal Mining Act. A separate European Mining Directive does not yet exist. However, when licensing mining activities under the Federal Mining Act, all applicable environmental and climate protection regulations at the EU and national levels apply. This means that a significant portion of the environmentally relevant licensing requirements already have their origins in EU regulations, such as the EU Water Framework Directive and the Flora-Fauna-Habitat Directive. With the new EU Regulation on Nature Restoration, adopted in 2024, and the EU Soil Directive currently in the legislative process, further licensing requirements would be shifted from the national to the European level. The handling of mining waste is already regulated by the EU Mining Waste Directive of 2006.

As described above, the mining permit for mining operations involving the above-mentioned metals will also have to be largely aligned with the new EU Industrial Emissions Directive in the future.

In addition, the EU Critical Raw Materials Act sets out for the first time requirements for the coordination and timing of approval procedures for the extraction of so-called critical or strategic raw materials.

Even though there is currently no European mining law, the licensing requirements will be largely determined at European level by the various environmental and climate protection regulations and directives as well as by specialist directives and regulations.

Proactively support EU law

With regard to the legal regulations relevant to mining, Germany is unique within the EU in that no other EU Member State has comparable extensive and high-quality potash and salt deposits, meaning that the German potash and salt industry has a certain unique selling point in European mining and in terms of security of supply in the EU (Germany accounts for around 85% of European potash production).

For Germany's economic success – and the EU's security of supply – it is therefore imperative that Germany decisively advocates for the interests and concerns of the German potash and salt industry at the European level, as other EU member states have no direct involvement in this area. This is especially important in order to sustainably strengthen the competitiveness of German potash and salt producers against low-cost suppliers from Russia and Belarus, who produce to significantly lower standards.

To achieve this, the German Federal Government must participate early on in the European legislative process, taking a clear position in favor of potash and salt extraction, and conveying to other member states the need for a secure supply of these raw materials. In the past, the Federal Government's hesitancy or abstention in European legislative processes has repeatedly led to disadvantageous or irrelevant regulations for the potash and salt industry, weakening Germany as a production location and security of supply in Europe.

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