

from the April 29, 2004 edition - <http://www.csmonitor.com/2004/0429/p07s01-woeu.html>

European plan to test chemical products irks US

The European Parliament will debate a proposal to apply the 'precautionary principle' to 30,000 widely used chemicals.

By **Peter Ford** | Staff writer of The Christian Science Monitor

PARIS - An ambitious European plan to make chemicals manufacturers test their products for safety before selling them has industrialists and the US government up in arms in what promises to be a major transatlantic battle over health regulations.

The plan, which obliges producers and importers to show that their chemicals are not harmful to consumers or the environment, has been condemned by critics as excessively costly. Supporters say the move is essential to protect European citizens' health against the insidious effects of dangerous chemicals in household and other goods.

Behind the dispute lies a growing controversy over how to measure risk, as Europe applies ever greater precaution while US regulators stick to more traditional cost-benefit analyses, accepting some risk if eliminating it would be too expensive.

The European approach has already sparked dispute: Washington has decried the European Union's 1988 ban on US beef containing growth hormones and its five-year-old ban on new imports of genetically modified food. Now the European Parliament is set to debate a proposal applying the precautionary principle to 30,000 widely used chemicals.

As sperm counts and fertility rates fall in industrialized countries, and cancer rates rise, researchers have begun pointing the finger at toxic chemicals found in deodorants, cosmetics, and furnishings treated with flame retardants and stain-resistant agents. Many of them may build up in the human body over the years, with unknown consequences.

"It is just common sense that all chemicals should be tested and authorized," says Jill Evans, a member of the European Parliament who discovered recently that her blood contains 33 of the 71 toxic chemicals she was tested for. "People think they can't be contaminated if they are careful and live healthy lives: We know now that chemicals we use for very good reasons do have an effect on our bodies."

Companies that make chemicals, however, are alarmed by the implications of the European proposal, known as the Registration, Evaluation, and Authorization of Chemicals (REACH). "It is too bureaucratic and burdensome," argues Ute Jensen-Korte of the European Chemical Industry Council. "A substance could be put on the restricted list simply because of a suspicion" that it might be harmful if tests raise doubts.

The US administration has lobbied hard on behalf of the US chemical industry to make REACH less troublesome for chemicals manufacturers, rallying European producers and some of their governments to its cause.

A report released earlier this month by Rep. Henry Waxman (D) of California details how the State Department and other US government agencies "planned a wide range of actions to build opposition to REACH." Among those actions were cables sent by US Secretary of State Colin Powell, drawing heavily on themes developed by industry representatives instructing US embassies to argue that REACH "appears to be a costly, burdensome, and complex regulatory system, which could prove unworkable in its implementation."

The report "raises very serious issues about the degree of balance on the part of the United States," said EU

spokesman Anthony Gooch in a statement. "Important and legitimate public interest concerns about the impact of chemicals ... just don't seem to have been part of the US policy formulation mix."

The European commission, which drew up the legislation, says it will cost the chemical industry some \$2.4 billion over the 11 years it will take to test and register chemicals introduced onto the EU market before 1981. Such chemicals, amounting to 90 percent of the total now on sale, are not currently subject to testing. The EC also estimates that the new law would save some 4,500 lives a year and billions in healthcare costs.

Industry representatives say the costs could reach more than 10 times the EU estimate, and that REACH will have a far ranging impact on the wider economy. "If products are withdrawn from the market because the cost of testing them is too high ... downstream companies making paint or adhesives will pay the price because they will have to reformulate" their products, warns Ms. Jensen-Korte.

Environmental activists say such fears are exaggerated. "Industry has been trying to create a huge bogeyman to attack a pretty sensible policy," says Michael Warhurst, an official with the World Wildlife Fund, which supports REACH.

A key element of the planned EU legislation is that it makes industry - not governments - responsible for showing that a product is not harmful, as is currently the case for pharmaceutical manufacturers introducing a new drug. Chemicals found, or suspected, to be beyond a safety "red line" would be banned by the European Union's regulatory agency unless the manufacturer could prove that "adequate control" was possible.

"By making chemicals of high concern hard to use, you are pushing for safer alternatives," says Mr. Warhurst.

"Of course there will be a cost to the industry," adds Ms. Evans. "But they continue to use some chemicals for which safer alternatives already exist because they are cheaper."

Chemicals manufacturers fear that the precautionary principle could be interpreted too widely, leading to bans on shaky scientific grounds. "The trigger for such a process should be sound scientific criteria," insists Jensen-Korte. "This is a fluffy area, and we should avoid extending it too far."

That concern echoes arguments heard in Washington, where administration officials are skeptical about the implications of the precautionary principle. "Sometimes claims of hazard prove to be exaggerated," pointed out John Graham, head of regulatory affairs at the Office of Management and Budget, in a recent lecture at the Heritage Foundation.

"A major peril" of "an extreme approach to precaution," he argued, "is that technological innovation will be stifled. Technological innovation occurs through a process of trial-and-error and refinement, and this process could be disrupted by an inflexible version of the precautionary principle."

EU officials say they do not invoke the principle lightly, however. A lengthy explanation of its use, issued by the EC in 2000, says the principle guides EU policy "where preliminary objective scientific evaluation indicates that there are reasonable grounds for concern that the potentially dangerous effects" of a product "may be inconsistent with the high level of protection chosen for the Community."

"It may be impossible to prove scientifically that something is safe, but the probability of a link [to disease] can be established by the evidence," says Evans. "Where there is a doubt, these chemicals should be controlled or banned."

The European Parliament is unlikely to begin debating the REACH legislation until this fall, after elections, and it may not be ready for final approval by EU member states until 2006. "There will be quite a lot of influencing of the legislation from all sides over the next two years," says Jensen-Korte.

"I have never seen a lobby as big as the chemical industry," says Evans. "But the public should have an equal say in laws affecting daily life. I hope that the lobbying from people will be as strong as lobbying from industry, so that we can come up with a balanced sort of law. It won't satisfy everyone, but it will be a step forward."

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