



EU REACH Adoption Likely to Trigger WTO Action

ITSSD Briefly Discusses How Europe's Adoption of the REACH Chemicals Regulation Can Harm Property & Investment Values, Impair Global Trade Flows and Incite WTO Conflict

Princeton NJ - Dec. 15, 2006 – Barely two days ago, Europe's *over*-regulation-prone lawmaking bodies announced that the European Parliament had finally approved for adoption and implementation the highly controversial 'REACH' chemicals regulatory regime. Since the adoption of REACH is certain to have a severely negative impact on *global* industry and seriously undermine confidence in the international trading system, do Europe's governing institutions honestly believe that REACH will escape a vigorous challenge at the World Trade Organization?

According to ITSSD CEO Lawrence Kogan, "the REACH regulation is premised on the extra-territorial, non-scientific, *Precautionary Principle*, which a WTO Panel recently disregarded in the *EU Biotech Products* dispute. The European Communities (EC) even subsequently agreed to 'accept' the finality of that ruling. Yet, despite this world body's considered opinion, or perhaps, *in spite of it*, the EC Communities apparently felt confident enough or compelled to brazenly move REACH forward."

Whatever the final form this regulatory leviathan ultimately assumes, the regionally conceived REACH should not be mistaken for other than what it really *is*: a carefully crafted legal template specially designed to facilitate European-dominated, and hence, United Nations-based, *global governance* over every nation's industries, particularly those located and/or based in the United States.

Furthermore, according to Mr. Kogan, "REACH has been conveniently structured to restore European industry's global competitiveness by imposing upon other countries' industries the same highly onerous and costly non-scientific regulations, standards and cultural preferences tolerated in Europe. In this way, the REACH regime 'levels the global economic playing field' for besieged European companies", without ever really addressing the legitimate environmental and health concerns cited.

"Most significantly, REACH *will* reverse the legal burden of proof (i.e., both the burden of production of evidence and the burden of persuasion) from government to industry, which will trigger a host of significant downstream legal and economic consequences", says Kogan. And this will occur without regulators having first conducted, either an 'adequate' scientific risk assessment as concerns any of the chemicals for which pre-market authorization will be required, or a rigorous economic cost-benefit analysis that considers the exorbitant expense and burdens associated with regulatory compliance and the development by industry of acceptable 'substitute' substances and products.

For these and other reasons discussed in an accompanying article entitled, *REACHing For Your Wallets or Your Lives*, the ITSSD calls upon the United States Trade Representative, U.S. industry and developing country governments and industries to come together to plan and launch



a full-scale WTO attack against the European Communities' blatantly *illegal* REACH regulation.