



## ***EU Hides Behind 'Private' Standards in Effort to Secure Global Regulatory Control***

*Developing Countries May Have New Grounds to Bring WTO Actions Against Europe*

PRINCETON, N.J., Oct. 9 /PRNewswire-USNewswire/ -- In the current issue of the Global Trade and Customs Journal, international trade and regulatory lawyer Lawrence Kogan details how the European Union and its member states previously enlisted private European environmental standards bodies to promote official government sustainable forest management policies that likely violated the World Trade Organization rights of developing countries and their industries. In addition, the article describes how these same EU governments are behind the ongoing efforts of other European pressure groups to promote, via United Nations agencies and international standardization organizations, the adoption by global industry supply chains of overly strict corporate social responsibility standards.

According to Mr. Kogan, "It is no secret that the EU aspires to 'usurp America's role as a source of global standards,' and to become 'the world's regulatory capital' and 'standard-bearer.'" Therefore, it is natural that they would endeavor to employ whatever nontransparent means are available to push their regulatory control agenda forward." As EU trade commissioner Peter Mandelson claimed in a prior speech, 'exporting our rules and standards around the world is one source [and expression] of European power.'"

Two recent articles appearing in the Financial Times and the Economist confirm this assessment. "The Commission, the EU's executive body, states openly that it wants other countries to follow EU rules and its officials are working hard to put that vision into practice... [T]he Union [has]... a body of law running to almost 95,000 pages -- a set of rules and regulations that covers virtually all aspects of economic life and that is constantly expanded and updated. Compared with other jurisdictions, the EU's rules tend to be stricter, especially where product safety, consumer protection and environmental and health [sustainable development] requirements are concerned."

The European regulatory model is worrisome, emphasizes Kogan, paraphrasing from one article, especially "because 'it rests on the [standard-of-proof-diminishing, burden-of-proof-reversing, guilty-until-proven-innocent, I-fear-therefore-I-shall-ban, hazard-(not risk)-based] Precautionary Principle', which is inconsistent with both WTO law and US constitutionally-guaranteed private property rights." As another article reaffirms, "In Europe corporate innocence is not assumed. Indeed, a vast slab of EU laws...reverses the burden of proof, asking industry to demonstrate that substances are harmless...[T]he philosophical gap reflects the American constitutional tradition that everything is allowed until it is forbidden, against the Napoleonic tradition codifying what the state allows and banning everything else."

"Notwithstanding its knowledge of Europe's extraterritorial activities," warns Kogan, "the 110th US Congress may soon ratify the UN Law of the Sea Convention without all of its committees possessing oversight jurisdiction having first adequately reviewed in public hearings its 45-plus environmental regulatory articles -- which also incorporate Europe's Precautionary Principle! This would essentially open



up the floodgates to a tsunami of costly non-science and non-economics-based environmental laws, regulations and standards that would abridge Americans' Fifth Amendment rights, impair U.S. industry's global economic competitiveness and fundamentally reshape the American legal and free enterprise systems.

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