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EDITORIAL

Precaution and Power

The Precautionary Principle is an idea whose time has come.

The industrial age's experience with leaded gas, ozone destruction, involuntary chemical poisoning of virtually every person on earth, and global warming -- among many other phenomena -- highlight the importance of acting to prevent public health and environmental harms before they occur, and acting even when there is less than complete certainty about the risks of such harms occurring.

With application of many novel technologies, such as genetic engineering and nanotechnology, speeding to market, society faces a choice: Undertake an experiment on a planetary scale to determine if these technologies endanger human well-being and the ecology -- and try afterwards to fix whatever problems emerge -- or act in preventive fashion to assess what problems might occur, and take action to avoid them in advance of widespread diffusion of the technologies.

The Precautionary Principle says: Take the second course.

The core mandate of the Precautionary Principle, as Carolyn Raffensperger describes in the interview in this issue, is to take preventive action in the face of uncertainty to prevent harm. It should guide not just environmental protection, but management of the economy.

The Precautionary Principle directs that where public health and environmental protection is at stake -- as it is generally throughout much of the functioning of the economy -- the proponents of an activity bear the burden of showing it is safe. Rather than passively accept technological and other choices made by corporations, society should consider alternatives to proposed activities, and opt for the safest option, including the possibility of doing nothing. Because it insists on intentionality -- that society should actively consider options and make conscious decisions about what products it will use and in what circumstances, how products may be manufactured, and many other technological and economic matters -- the Precautionary Principle emphasizes the centrality of establishing democratic decision-making and citizen authority to make decisions that now are often left, by default, to corporations.

Not surprisingly, big business generally finds the Precautionary Principle threatening. That's because it imposes new duties and responsibilities on private corporations, even as it says that decision-making authority should be transferred from the private corporate realm to the public sphere.

Trade associations such as the National Association of Manufacturers and the U.S. Chamber of Commerce have launched increasingly shrill campaigns to denigrate and

mischaracterize the Precautionary Principle.

Perhaps the most serious threat to implementation of the Precautionary Principle is the claim that it conflicts with governmental obligations under the World Trade Organization (WTO) agreements and other trade deals.

The European Union has been a global leader in beginning to incorporate the Precautionary Principle in its policymaking. Joseph DiGangi describes in this issue one of the most important manifestations of the EU engagement with the Precautionary Principle -- the REACH chemical regulation policy -- and the U.S. government and chemical industry joint campaign to undermine REACH.

In addition to the direct lobby pressure on the EU, private industry has developed a series of well-crafted arguments about how Precautionary Principle-based regulatory systems violate WTO rules, and these corporate groups have in many cases induced the U.S. government to launch WTO challenges to EU policies based on these theories.

The National Foreign Trade Council (NFTC), a U.S. business association working on trade issues, has issued a series of reports arguing that precautionary action conflicts with countries' WTO duties. The centerpiece of the council's elaborate argumentation is this: The WTO's Sanitary and Phytosanitary Standards Agreement (SPS Agreement, covering food safety and animal and plant health standards) and Technical Barriers to Trade Agreement (TBT Agreement, covering regulations, standards, testing and certification procedures) require countries not to use standards more stringent than those established by international agencies. Countries may exceed these standards only in very rare circumstances, and based on risk assessments. Regulatory action in the face of uncertain evidence -- the core of the Precautionary Principle -- conflicts with these WTO rules.

As it happens, the NFTC's arguments are good ones, at least in WTO terms. Consumer and environmental critics have long complained that the WTO agreements -- drafted under industry influence, or, in many cases, directly by industry lobbyists -- contradict the Precautionary Principle.

The United States has already won arguments of this sort in successfully challenging an EU ban on beef treated with hormones at the WTO; has lodged a complaint against EU policy on biotechnology that is based in part on the Precautionary Principle; and has signaled its readiness to sue the EU at the WTO over the EU's REACH policy, once the policy is implemented.

Countries that lose WTO cases may maintain their offending rules -- but only at the price of expensive trade sanctions or fines.

Thus although the Precautionary Principle may be an idea whose time has come, there is nothing inevitable about its adoption, implementation and diffusion. Powerful forces are arrayed against it. One of the chief benefits of the Precautionary Principle, as its adversaries acknowledge, is that it helps frame issues in a way that empowers citizens to take action. Unless people take and demand action -- including the roll back of WTO rules -- Precautionary Principle foes will manage to suppress this rising and vital public health and environmental doctrine.