

## **Raising Global Standards: Hazardous Substances and E-Waste Management in the European Union**

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The European Union (EU) has emerged as a global leader on hazardous substances policy.<sup>2</sup> While such policy has been a cornerstone of EU environmental policy since the 1960s, the EU has recently developed a series of new policy initiatives to further address negative environmental and human health impacts of hazardous substances. These new policies govern the use, recycling, and disposal of hazardous substances in electronic and electrical products and expand regulations on the production, use, and sales of tens of thousands of chemicals. While these policies regulate the management of hazardous substances and e-waste across 27 European countries, EU policy also increasingly shapes decisions by policymakers, manufacturers, and consumers around the world. (p.7)

Three recent EU policy developments—two “directives” and one “regulation,” in EU terms—are of particular significance to the future management of hazardous chemicals and e-waste.<sup>3</sup> The first directive covers waste electrical and electronic equipment (WEEE),<sup>4</sup> and the second outlines restrictions on the use of certain hazardous substances in electrical and electronic equipment (RoHS).<sup>5</sup> WEEE and RoHS entered into force in February 2003. Finally the regulation on the registration, evaluation, and authorization of chemicals (REACH) will soon be finalized and will become legally binding in 2007. WEEE, RoHS, and REACH are noteworthy for several reasons. All are critical for EU sustainable development efforts. Furthermore, aspects of the new hazardous substances and e-waste standards are the highest in the world. As such, they are drawing considerable attention from policymakers, regulators, company managers, and environmental activists from around the globe. Because of growing international trade and the diffusion of policy ideas and information, producers and users of chemicals, heavy metals, and manufactured goods in markets such as the United States, Japan, and China will be affected by EU policy. In effect, new, higher EU regulatory and product standards are likely to push many global standards upward through a process that political scientist David Vogel calls “trading up.”<sup>6</sup> (pp. 7-8)

...European actors also want other jurisdictions to adopt similar chemical and waste policies. Now that EU standards have increased, European officials, European environmental organizations, and European firms have shared interests in exporting EU standards to other countries and in uploading such standards into international agreements. Political scientist David Vogel argues that such shared interests lead to coalitions of environmental actors and firms—‘Baptists and bootleggers’—that use market forces to ‘trade up’ regulatory standards.<sup>48</sup> This is consistent with a long-standing EU strategy, dating from the first Environment Action Programme in 1973, of active engagement in international forums to achieve goals that

could not be obtained solely at a regional level.<sup>49</sup> As such, the EU can be expected to pursue the uploading of its new chemical and waste management policies in a host of international forums. (p.15)

... Together, the U.S. government and industry organizations have lobbied intensively against these EU policy developments, targeting the European Commission, the European Parliament, and national politicians and policymakers.<sup>54</sup> Yet while U.S.-based firms have lobbied European officials extensively over REACH and other proposals, they typically do not carry the same political influence in Brussels and other European capitals as they do in Washington, DC.

Despite this interest in EU policy developments from U.S. states, municipalities, and firms, **the U.S. federal government and some industry organizations have been fierce critics of WEEE, RoHS, and, in particular, REACH.** Reflecting some of their major criticisms, the U.S. State Department and the United States Mission to the European Union distributed a report by the National Foreign Trade Council in 2003 on several EU policy developments, including WEEE, RoHS, and REACH, that argued:

*The EU has invoked the precautionary principle, a non-scientific touchstone, to justify its identification and assessment of such risks as well as its enactment of technical measures to manage and eliminate them. By doing so, it has effectively banned U.S. and other non-EU exports of products deemed hazardous, stifled scientific and industrial innovation and advancement and, in the process, has ignored a basic reality, namely that a certain amount of risk is unavoidable in every day life.*<sup>55</sup>

Needless to say, the European Commission and many European politicians and policymakers strongly reject these claims. EU officials assert that the precautionary principle is not “non-scientific” but an indispensable principle for guiding decisionmaking on risk under conditions of uncertainty regarding effective environmental and human health protection. WEEE, RoHS, and REACH are also designed to stimulate technical innovation to reduce the use of hazardous substances and make recycling and disposal of e-waste easier. In addition, the European Commission argues that all recent EU legislation is compatible with the rules of the World Trade Organization.

**Although the Bush administration and the U.S. chemical industry continue in their strong opposition to much EU environmental policymaking,** a growing number of other countries, U.S. states, and private firms are looking to the EU for inspiration and practical suggestions for better management of hazardous substances and e-waste...”  
(p. 16)

## NOTES

... **54.[55.] National Foreign Trade Council, Looking Behind the Curtain: The Growth of Trade Barriers that Ignore Sound Science (Washington, DC: The World Trade Organization, 2003): 118–119.**  
(p. 18)