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THE EFFECTS OF UNILATERAL MEASURES OF HEALTH PROTECTION AND THE ENVIRONMENT ENVIRONMENT IN INTERNATIONAL TRADE

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The effects of unilateral measures to protect health and the environment in international trade

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ABSTRACT

In June 2007 , entered into force in the European Union 's REACH (Registration, Evaluation, Authorization and Restriction of Chemicals) , which regulates the registration, evaluation, authorization and restriction of chemicals in the European Union. Consistent with several principles of international environmental law, in particular the precautionary principle, the system created reverses the onus of proof in relation to risks of chemicals, ie it is for the producing industry prove that the substance is safe for commercialization. The system to be applicable to items produced or imported in the European Union, has effects beyond the borders EU, in that it creates requirements for different industries from foreign adopted in countries of origin. Thus, REACH can be understood as a unilateral measure to achieve objectives outlined in the agreements International chemical safety, ie goals avowedly multilateral. The work aims to evaluate some of the legal effect and politicians at international level, the implementation of REACH in order to understand its implications for governance in the area of chemical safety. Therefore, it is , at first, presented the structure of regulation REACH . Then we analyze the implications of unilateral action to build environmental governance in relation to the theme.

Finally, we study the effects of REACH in particular multilateral forum, the World Trade Organization.

Key - Words

REACH ; unilateralism ; international trade

... The more or less questioning at international level, unilateral measures involves the perception of legitimacy of the measure. Protective measures with justification environmental and health tend to confer greater legitimacy, one should take into account also measure the impact on the economy, a factor that increases the likelihood of questions. According to Shaffer and Bodansky:

(pp. 8-9)

Perceptions of legitimacy often will determine its effectiveness. Where the rule advanced unilaterally or norm is deemed to be illegitimate, it will spur greater resistance, including challenges under WTO and other international law, undermining its effectiveness (2012, p. 41).

Also according to these authors, the perception of the influence legitimate recognition of the legality or otherwise of the measure in the view of the World Trade Organization:

The WTO does not forbid unilateral environmental regulatory action but it does press countries to justify Their actions substantively and procedurally or face potential trade sanctions , but such regulation must be applied in a nondiscriminatory Manner and meet procedural safeguards of transparency and due process (2012, p. 40).

REACH could be understood as a unilateral measure to achieve objectives outlined in international agreements chemical safety, i.e., goals reportedly multilateral. In response to questions that are suffering, it would, therefore justify it based on environmental concerns and protection of health, despite impacts of their business:

Chemical companies objected to the adoption of REACH imposing exorbitant costs on the industry, Potentially stifling research and innovation, and creating competitive disadvantage for the U.S...(...) The sheer magnitude of this EU-wide undertaking to build a system for registering, tracing , and Controlling the use of chemical substances demonstrates the feasibility of que ambitious reforms reflect an explicit political commitment to protect human health and environment (Omarova 2012, p . 98-99).

In the United States, the impact of new regulation has not gone unnoticed, posing intense expressions of disapproval. In this sense, Kog[an] (2005, p.12) states that the EU was trying to impose its overall regulatory model, as REACH requires U.S. multinationals , and its supply chain, to spend time and money to make a record that in addition to unnecessary, even in places risk

inside information on intellectual property. All this continues the author, without any scientific justification, but only aims to strengthen environmental regulations with extraterritorial effects. That's because the Union European would want to establish the precautionary principle as a norm of regional basis and then transform it into a global legal standard. With this, the Union European would be expanding its political power in the world and overcoming your system cultural values to other countries would be forced to assume a system of social well-being similar to Europe (Kog[an], 2005 p. 93).

(pg. 9)

In the European Union the main fear is that the new legislation would be risking unjustifiably a vital sector for the economy to significantly modify their standard regulations.

(pp. 9-10)

In the study entitled "The European Global REACH: expensive for world, suicidal for Europe," Angela Logomasini (2005) describes the main criticisms raised against the new rules...

... Finally, both Kog[a]n (p.93, 2005) as Logomasini (2005) introduce the REACH disguised as a barrier to free trade that will harm not only Europe, but all its trading partners.

(p. 10)

Reference Bibliography

(p. 16)

...KOGAN, Lawrence A. Precautionary Preferences: How Europe's New Regulatory Protectionism Imperils American Free Enterprise. ITSSD, 2005. Disponível em: www.itssd.org. Acesso em: 05 abr. 2013.

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