

<http://press.princeton.edu/titles/9752.html>

<http://press.princeton.edu/chapters/s9752.pdf>

[https://www.princeton.edu/politics/about/file-repository/public/Vogel\\_The-Politics-of-Precaution.pdf](https://www.princeton.edu/politics/about/file-repository/public/Vogel_The-Politics-of-Precaution.pdf)

[http://books.google.com/books?id=84NiervGr3sC&printsec=frontcover&source=gbs\\_ge\\_summa ry\\_r&cad=0#v=onepage&q=kogan&f=false](http://books.google.com/books?id=84NiervGr3sC&printsec=frontcover&source=gbs_ge_summa ry_r&cad=0#v=onepage&q=kogan&f=false)

<http://blog.press.princeton.edu/2013/07/18/23854/>

<http://newsroom.haas.berkeley.edu/article/david-vogel-receives-second-book-award-politics-precaution>



PRINCETON UNIVERSITY PRESS

## **The Politics of Precaution: Regulating Health, Safety, and Environmental Risks in Europe and the United States**

David Vogel

Solomon P. Lee Chair in Business Ethics, Haas School of Business  
Professor, Political Science Department  
University of California, Berkeley

Princeton University Press © 2012

...CHAPTER ONE

### *The Transatlantic Shift in Regulatory Stringency*

...For approximately three decades, the United States was typically one of the first countries to identify new health, safety, and environmental risks and to enact a wide range of stringent and often precautionary standards to prevent or ameliorate them. Several important American consumer safety and environmental regulations, including rules for the approval of new drugs; many pesticide, food safety, and chemical standards; controls on automobile emissions, including lead in gasoline/petrol; and restrictions on ozone-depleting chemicals, were among the most risk-averse in the world. “The United States was the clear global leader in environmental policy in this era, and many other countries copied its policy initiatives.”<sup>4</sup>

(p.3)

### *The Policy Shift*

Around 1990, the locus of transatlantic regulatory policy innovation and global regulatory leadership began to shift. While American policy makers previously had been “quicker to respond to new risks, more aggressive in pursuing old ones,” more recently it is European policy makers who have been more likely to identify new risk and have been more active in attempting to ameliorate existing ones.<sup>5</sup> Europe has not simply “caught up” to the United States; rather, many of the risk regulations adopted by the EU since 1990 are now more stringent and

comprehensive than those of the American federal government. In “many policy areas [the EU] has taken over the role of world leader,”<sup>6</sup> a role formerly played by the United States.

The rate at which the federal government has adopted new stringent and comprehensive regulatory statutes and rules markedly declined after 1990. “Further building of the green state—at least at the national level—essentially stopped around 1990.”<sup>7</sup> By contrast, “[the] EU surged forward,” issuing a steady stream of “higher and tougher standards.”<sup>8</sup>...It has become almost a constant trend to see more and more legislation being planned or adopted in Europe that sets higher standards to protect health or the environment than in the United States.”<sup>10</sup>

Not all American risk regulations enacted between around 1960 and 1990 were more stringent than those adopted by any European country or the EU...

(p. 4)

...There has also been increased transatlantic convergence in some policy fields.

...Some differences in European and American risk perceptions and regulations are long-standing.

...While not *every* European and American consumer or environmental risk is consistent with a transatlantic shift in regulatory stringency since 1990, *a disproportionate number* of the consumer and environmental regulations adopted, or not adopted, on either side of the Atlantic during the last five decades do fit this pattern. For roughly three decades, *relative few important* risk regulations adopted by either individual European countries or the EU were more stringent than those of the American federal government. But since 1990, *a significant number of important* risk regulations adopted by the EU fall into this category.

(p. 5)

In some cases, such as chemical regulation and restrictions on ozone-depleting substances, there has been a literal “flip flop”, with the United States and the EU switching places with respect to the adoption of more stringent and comprehensive regulations. But more commonly, the more stringent regulations adopted by the EU since around 1990 address risks that were not previously regulated on either side of the Atlantic. Recent European regulations are likely to be more stringent and often more precautionary than those of the United States for those health, safety, and environmental risks that have emerged or become more salient since around 1990, such as global climate change, genetically modified food and agriculture, antibiotics in animal feed, hazardous materials in e-waste, and chemicals in cosmetics.

(pp. 5-6)

## INTERNATIONAL ENVIRONMENTAL AGREEMENTS

The transatlantic shift in regulatory stringency and global leadership is reflected in changes in the pattern of support for international environmental treaties.

...The 1992 Rio “Earth Summit” marks a shift in global regulatory leadership from the United States to the EU. While every major environmental agreement supported by the United States has been ratified by the member states of the EU and/or the EU itself, since the early 1990s the United States has not ratified twelve important international environmental agreements ratified by the EU and/or its member states.<sup>14</sup> These include the 1992 Convention on Biological

Diversity, the 1997 Kyoto Protocol on climate change, the 2000 Cartagena Protocol on Biosafety and the 2001 Stockholm Convention on Persistent Organic Pollutants.<sup>15</sup>  
(p. 6)

## THE SHIFT PATTERN OF TRANSATLANTIC TRADE DISPUTES

The shift in transatlantic regulatory stringency is also evident in the changing pattern of European-American trade disputes.<sup>16</sup> The earlier wave of disputes over the use of protective regulations as non-tariff trade barriers (NTBs) between Europe and the United State primarily involved European challenges to, or complaints about, the barriers to transatlantic commerce created by more stringent American regulatory standards.

...However, more recent transatlantic regulatory-related trade disputes have revolved primarily around American complaints about the trade barriers posed by more stringent European regulations. In 1996, the United States filed a formal complaint with the World Trade Organization (WTO) that challenged the legality of the EU's ban on the sale of beef from cattle to whom growth hormones had been administered, which was applied to American beef imports in 1989. In 2003, the United States filed a complaint with the WTO challenging the EU's procedures for the approval of genetically modified organisms (GMOs), as well as the unwillingness of some member states to permit GMO varieties approved by the European Commission. In 2009, the American government filed a complaint with the WTO over the EU's refusal to permit imports of processed poultry treated with anti-bacterial chemicals such as chlorine dioxide, a processing method that differed from the method required by the EU in 1997.  
(p. 7)

**American officials and firms have also complained to the EU about the obstacles to transatlantic commerce posed by a wide range of other European consumer and environmental regulations, including its ban on the milk hormone rBST, its ban on human-use antibiotics as growth promoters in livestock feed, its electronic recycling requirements and bans on hazardous toxic substances in electronics, and the Registration, Evaluation, Authorization and Restriction on Chemicals (REACH), the EU's stricter and more comprehensive chemical approval and testing regulation adopted in 2006.<sup>17</sup>** The latter statute was strongly opposed by American government officials and American-based chemical firms.

-----  
**17 For an extensive list of American business criticisms of EU regulatory policies, their lack of scientific basis, and the harm they pose to American firms, see *Looking Behind the Curtain: The Growth of Trade Barriers that Ignore Sound Science* (Washington, DC: National Foreign Trade Council, 2003); Lawrence Kogan, *Unscientific 'Precaution': Europe's Campaign to Erect New Foreign Trade Barriers* (Washington, DC: Washington Legal Foundation, 2003); *EU Regulation, Standardization and the Precautionary Principle: The Art of Crafting a Three-Dimensional Trade Strategy That Ignores Sound Science* (Washington, DC: National Foreign Trade Council, 2003);**

**Lawrence Kogan, *Precautionary Preference: How Europe's New Regulatory Protectionism Imperils American Free Enterprise* (Princeton, NJ: Institute for Trade, Standards and Sustainable Development, 2005).**

(pp. 7-8)