

A Comment to Ragnar Lofstedt's *Risk versus Hazard*

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It is frequently suggested that the EU in general and Parliament in particular suffer from an addiction to making rules and regulations on all things from chemicals to chocolates and from buses to booze. Classically, this is the first repost of the critic who sees the EU as legal procurator dressing up the legislative Christmas tree. Firstly, it is important to note that there are legitimate concerns that regulations passed in Europe are not always based on the best available science and perhaps even the best scientists. It is up to those with responsibility for making regulation to make it according to best verifiable evidence at hand. When you consider how important the potential implications are for industry and consumers alike then it is clearly of great importance to increase the use of risk analysis tools.

When asked to explain the difference between risk and hazard it is perhaps helpful to consider the life of a zoo keeper in charge of the Lions' den. The animals themselves can be seen as a "hazard", when the animals are free and uncaged, people in the surrounding area are exposed to the risk that they may be attacked. However, when the animal is caged, we're dealing with altogether different beasts as only the zoo keeper (who knows how to handle the risk) could be exposed to certain dangers. It may remain "hazardous" but while those around it are protected there is no exposure to attack, therefore there is no risk.

The element which maintains relative safety and eliminates a threat is "risk assessment". Risk assessment is a *management tool* to determine whether, how and in what circumstances, harm might be caused. Risk takes into consideration both the hazard itself and the potential exposure. This approach makes best use of both the hazard and its potential affect on its surroundings, without the potential for it to cause any harm there is no risk. Risk-based policy-making can make sense in many occasions; this was certainly the case when dealing with the need to specifically identify Hazards such as Asbestos. During

my time as a Member of the European Parliament I led the fight against white Asbestos (chrysotile) in the Scientific Committee on Toxicology, Ecotoxicology and the Environment. Risk was used to determine the reason behind the prohibition. The process in the Parliament was exhaustive as it was little used up until this point but the scientific experts were able to present evidence of both the harmful effects and the progress of science in being able to detect them as well as the less harmful substitutes which existed to replace them. Given that mesothelioma and lung cancers were at the heart of this threat, the response to this mineral used in so many households and industrial products was to ban its use altogether.

I, along with the twelve other Members of the European Parliamentary Labour Party, are strong supporters of proper science-based regulations. Often elected officials receive letters calling for action to be taken on issues which are often based on fear or ignorance of actual scientific procedure or evidence. It is important to keep those whom we represent and our colleagues properly informed of the facts as they are and not play on fears as portrayed in the media. A helpful example here is that of ladders; when using a ladder there is certainly a risk involved, however, we are not about to ban the use of ladders, as the newspapers would have had us believe.

It is also important that regulations should not become a political football along national lines. It is easy for some nations to call for bans of certain chemicals if they don't manufacture them, yet keep noxious facilities/food stuffs in their home countries if they do. This would lead to a disjointed, uneven and an ultimately unhelpful form of regulation.

I was pleased to hear that in September 2009, European Commission President José Manuel Barroso announced plans to appoint a chief scientific advisor to assist the Commission in making tough science-based policy decisions. However I am thoroughly disappointed to see that almost eighteen months later no such person has been appointed. The EU has a commitment to spend money on science, but unfortunately has still failed to harness its efforts or commit expertise.

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In the UK such a role has existed for almost fifty years and as of this year every individual government department apart from the treasury has its own departmental Chief Scientific Adviser. The national chief scientific advisor enjoys a position not only of influence but also of visibility as his advice is displayed on every single cigarette packet sold in the UK. Similarly the role of Sir John Beddington in the media has given balance to the views that are imparted to the public about events and specific threats; otherwise the readout from devoted but sometimes less than partial NGOs and others could be skewed. The effects on public confidence are especially significant when misinformation on an issue could cause deeper problems than the original perceived threat ought to. The current crisis in Japan and the damage to certain nuclear facilities have given cause to grave concern by many in Europe. Of course this is a very important issue, but asking those who have strong views against the nuclear industry for the solution at this time would add higher than usual value to their views and would afford a weight to their opinion perhaps not in keeping with the available evidence. When one considers the likelihood of earthquakes and tsunamis affecting the Sellafield power station in Cumbria in North West England you have an idea of how this could affect proper assessment of risk. Mixed energy production is seen as the answer along with strong regulation of the nuclear and carbon-based industries – the responsibility of the policy makers is to ensure the level of scientific and political weight which must be given. As a note it is clear that science does not exist in a vacuum and that policy decisions are sometimes based on local considerations – especially when it comes to the location of power stations. The voices of those who cry “not-in-my-back-yard!” are often the loudest, leading to widespread NIMBY-SM.

After the adoption of the European Commission’s Communication on the precautionary principle in February 2000, the principle has come to inform much EU policy beyond environmental issues. It is implemented, for example, in the EU food law and also affects policies relating to consumer protection, trade, research, and technological development. The

principle has also made it into the Lisbon treaty, where Paragraph 2 of article 191 states that:

“Union policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Union. It shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.”

However in spite of its adoption and application a comprehensive definition of the principle has yet to be formally adopted by the EU. Eleven years after the Commission Communication was first adopted this has simply been left too long, it is time that Parliament takes the initiative to help put in place the means to examine and properly interpret how best to implement the precautionary principle. Such a new initiative would set a good example of Parliament’s new ambition to take on complex scientific issues and provide leadership in this area.

Any attempt to codify further what the precautionary principle means must be an exercise in clarification calling for well-defined, easily-recognizable and unambiguous terms. In suggesting that the EU institutions tackle the issue of codification it is important that MEPs and other officials are well-informed, in particular with regard to concepts such as the risk-risk trade-off.

The Parliament is the voice of the people, the Commission is the executive legislative arm with a responsibility to come forth with detailed proposals which have been well thought-out and which can be translated into enforceable legal instruments internationally on the basis of scientific procedures when called for. The “impact assessment” remains the common way for the Commission to consider its role here, but recently the EU has insufficiently proven its case for the need for laws in certain areas, believing instead that the march towards legislation is a goal in itself. This is somewhat self-delusional, but all politicians and policy-makers are guilty to some degree of this vanity, it is however their job to bring forward new laws.