



How the United States Became a Regulatory Laggard

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For roughly three decades, from 1960 through 1990, the health, safety, and environmental regulations adopted by the United States were typically more stringent than those of any other country. Yet since 1990, many of the important regulatory standards adopted by the European Union are more stringent than those of the American federal government. What accounts for this transatlantic shift – and what are its implications?

European Regulators Overtake the United States

For many years, the United States took the lead in developing regulations to promote health and safety and deal with environmental risks.

- In 1962, the United States adopted the world's most stringent standards for the approval of new pharmaceutical products.
- In 1970, America became the very first country to impose stringent regulatory controls on automotive emissions.
- Starting in 1975, the United States restricted the use of lead in gasoline and subsequently became the first nation to ban its use completely.
- The risks of widely used ozone-depleting chemicals were first recognized in the United States, which banned their non-essential uses starting in 1978.
- For years, the United States played a leadership role in the adoption of global treaties such as the 1973 Convention on International Trade in Endangered Species and the 1987 Montreal Protocol on substances that deplete the ozone layer.

But starting about 1990, the United States fell back on many fronts, and the European Union jumped ahead – adopting a succession of health, safety and environmental risk regulations that are considerably more stringent than their American counterparts.

- In the important area of food safety, the European Union has banned the use of beef and milk hormones and antibiotics in animal feed, all of which continue to be permitted in the United States.
- Europe has imposed the world's most stringent labeling requirements for food grown from genetically modified seeds. In part because European approval procedures are tighter, only five percent of processed food in Europe contains genetically modified ingredients, compared to seventy percent in the United States. Almost no genetically modified crops are grown in Europe, but U.S.-grown soy and corn

are often genetically modified.

- Climate change is another arena where the European Union has moved much more vigorously to address the growing risks. In 2003, Europe adopted a cap and trade scheme to reduce greenhouse gas emissions from more than 11,000 stationary sources. A similar proposal was stymied in the U.S. Congress in 2010.
- In 2005, the European Union reformed and strengthened regulations for new and existing chemicals, while the last legal updating of U.S. chemical regulations happened in 1976.
- When it comes to global treaties, the European Union has strongly supported the adoption of the 1992 Biosafety Convention, the 1997 Kyoto Protocol about climate change, the 2000 Cartagena Protocol on Biosafety, and the 2001 Stockholm Convention of Persistent Organic Pollutants – none of which has been ratified by the United States.

Why Have Europe and America Traded Places?

There are three critical reasons for the marked decline in the rate at which new risk regulations have been adopted by Washington and the significant increase in their adoption by the EU. In the first place, although both Europeans and Americans worry about business practices that pose threats to health and safety and the environment, the European public has become more demanding of government action, while Americans have muted their demands.

Secondly, European policymakers have also become more supportive of the need for stronger government regulation than their U.S. counterparts. From the 1970s through 1990, both major U.S. political parties supported stricter consumer and environmental legislation, and many key steps were taken under Republican Presidents Richard Nixon and George H.W. Bush. But thereafter U.S. regulatory and environmental debates polarized, as Republicans shifted sharply to the right. The Clean Air Act Amendments of 1990 were the last major U.S. environmental laws enacted. Meanwhile, Europe's legislative bodies began to support strong regulatory actions. In 1995, as U.S. Republicans took the majority and turned against regulation, the European Union added three "green" nations, Sweden, Finland, and Austria. European conservatives, moreover, in sharp contrast to their contemporary counterparts in the United States are not ideologically opposed to stronger consumer and environmental regulations.

Third, regulatory practices have diverged. U.S. procedures increasingly require very high levels of scientific proof of harm before new rules are imposed on business. But in the European Union the precautionary principle allows regulatory officials to restrict, ban, or delay the approval of new technologies even when the risks are still uncertain, or not fully proven.

So What?

Because the European Union, the world's largest market, imposes relatively stringent rules, global influence on health and safety and environmental regulation has passed from Washington DC to Brussels. America has become a regulatory laggard, with some of the least demanding standards. Multinational firms, including those based in the United States, are now adopting European product standards for all their global marketing. Inside the United States, progressive state governments have adopted regulations similar to those in Europe.

Ironically, America's unified market, long a source of economic strength, has become increasingly fragmented.

Read more in David Vogel, *The Politics of Precaution: Regulating Health, Safety, and Environmental Risks in Europe and the United States* (Princeton University Press, 2012).