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Ecology - European Union

Toxic chemical defence sabotaged

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“We are disposed to review our position. The result of the studies could lead to profound modifications. The Commission has not adopted a dogmatic position”. Thus the new European Commissioner for Industry, Günter Verheugen, speaking last January to the European Parliament on the REACH (Registration, Evaluation and Authorization of Chemicals) project.

This declaration [1] confirms a significant turning point. Conceived initially as a “new policy” in the fight against chemical pollution. REACH has raised hope among some of the EU prioritizing the health of its peoples before the profits of the multinationals. But the hopes have gone up in smoke.

The chemical industry mobilized all its forces to torpedo the project, the governments supported it and the partisans of REACH in the institutions were restrained. Verheugen's little sound bite leaves no doubt as to the intentions of the Barroso team. Legislation genuinely compatible with the precautionary principle is decidedly incompatible with the neoliberal framework.

To understand the battle around REACH, we need to go back more than 25 years, to 1976 to be exact. At the time, the small town of Seveso in northern Italy was the theatre of the first chemical industrial catastrophe in history - dioxin pollution. In the wake of the emotions raised by this drama, in 1981 the decision was taken at the European level to submit all new chemical products to toxicity tests, at the cost of the producers.

[https://www.internationalviewpoint.org/IMG/jpg/chemical_works.jpg]

Substances marketed before the catastrophe were not affected by this decision, hence the industry, to avoid costs, decided to continue to produce, sell and use by preference the old products. These are not subject to regulation unless the public powers prove - at their cost - that they are dangerous. In this case, the evaluation of the risk is as long and complex as it is costly, given that around 40 different legislations are in force in the member states and at the European level.

Twenty-five years later, the result of this differentiation between “old” and “new” products can be seen in some figures:

- in volume, 99% of the hundred thousand substances put on sale have never been analyzed... for the simple reason that only a small number of them (2,700) were put on the market after 1981;
- 70% of the new products - subject to preliminary tests - have been classed as “dangerous”. It might therefore be thought that the proportion of dangerous products would be at least as significant among the old products if these latter were tested, but it cannot be formally proved;
- of 141 old substances identified as presenting serious risks to health and the environment, only a third have been subjected to the procedure of evaluation and less than five have been subjected to regulation.

Health in peril

Seveso or no Seveso, the European chemical industry has then conserved the right to produce virtually anything. However, as production goes ever upwards [2], the dossier on chemical poisoning of the biosphere has continued to pile up, with new proof of the impact of chemicals on human health and the environment. For several years, doctors

and biologists have multiplied their warnings. [3]

They particularly draw attention to the three categories of molecules whose toxicity and ecotoxicity are recognized: Polybrominated diphenyl ethers (PBDEs), Polychlorinated Biphenyls (PCBs) and organic chlorine pesticides (OCPs) (see box). Compounds belong to these families are persistent and “bioaccumulables” pollutants (they particularly accumulate in fat, including in the fatty cells of milk). Several components are extremely toxic, even in very small doses if exposure is long term.

The effects of chemical pollution have been well established by numerous studies on animals. Multiple examples prove that a series of products upset the hormonal system: exposure to these “endocrine disrupters”, causes marine mollusks to change sex, while gulls become hermaphrodite, hawks and falcons lay eggs that break, seals lose their immune defence and so on.

In the absence of systematic tests, the effects on human health are less well known. Nonetheless many specialists are increasingly convinced that chemical poisoning is one of the direct or indirect causes of the increase observed in illnesses like asthma, cancer, hormonal disturbances, genetic mutations, some deformations of the fetus and some neurological illnesses. Concern is particularly serious around the consequences of pollution for pregnant women and children, since growing organisms absorb more pollutants. [4]

More and more children are developing allergies. The well-known fact that asthma has become the most significant chronic illness on a world scale among children is probably due not only to the pollution of the air by particles but also to chemical pollution, including pollution through food. Some neurologists believe that the greater incidence of attention deficit syndrome and hyperactivity among the young is in part attributable to chemical pollution.

The specialized literature cites many examples of this genre. [5] The norms of exposure to pollutants - when they exist - have often been established in reference to the impact of products on adult males, while “cocktail effects” resulting from a mixture of substances are little studied.

Reconciling environment and competitiveness?

As these environmental concerns have developed, it was felt that the legislation in force in Europe was too disparate, and consequently ill-adapted to the single market. This, combined with the desire to create a profile for the European Union (EU) as a motor force of “durable development”, was probably at the origin of the process which would lead to REACH. In April 1988, the Environment Ministers' Council asked the Commission to prepare a draft European regulation on chemicals.

[<https://www.internationalviewpoint.org/IMG/jpg/erin.jpg>]

Chromium hexavalent poisoning scandal dramatised by movie "Erin Brokovich"

A year later, the Council mandated the Commission to draw up a proposal for a “new policy” based on durable development as well as on the precautionary principle, and giving the industry responsibility for proving that its products were not harmful. A gradual process led to the White Paper “Strategy For a Future Chemicals Policy”, adopted by the Commission, then by the Council, at the beginning of 2001. The chemical industry would unleash an unprecedented mobilization against this text.

Drawn up by the services of the Directorate-General for the Environment, the White Paper of 2001 proposed the

establishment over a period of 11 years of a system of registration, evaluation and authorization of chemical substances: REACH. The main elements of the system envisaged were the following:

- registration of some 30,000 substances produced or imported in quantities of more than 1 tonnes per year;
- during the registration there would be an obligation for the industry to provide data on the intrinsic properties of these 30,000 products, to evaluate them from the point of view of their (eco) toxicity and provide information on this subject to downstream users. The extension of accountability to these users also;
- different levels of evaluation according to the danger presented by the intrinsic characteristics of the products, their use, exposure and quantities;
- incentives to research by the industry for substitute products for “substances of very high concern” (carcinogens, mutagens, reproductive toxins). In the absence of substitutes, production would require special authorization and respect for certain conditions; [6]
- integration of existing substances in the registration system by stages, between now and 2012, beginning by testing over five years substances responsible for significant exposure whose known or supposed properties are “of very high concern”;
- creation of a European agency to manage the data base, classify, identify and label the products, draw up for each of them a safety record proposing measures of risk management and so on.

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In the vision of the Commission, more specifically of the DG Environment and commissioner Margot Wallström, REACH was to prove that the protection of the environment and public information are compatible with the promotion of competitiveness on a liberalized world market

That's why the White Book insisted on the utility for the companies of a progressive harmonization of legislation as well as stressing the protection of trade secrecy. That is also why it stresses the fact that, with consumers increasingly concerned about the environment, REACH would allow the European industry to score some points over its US and Japanese competitors.

The cost of REACH for the industry was estimated at 2.1 billion euros in 11 years: a completely supportable burden given that the expected turnover of the sector for the same period was more than 5,000 billion euros. The White Book's cost-benefit analysis offset these 2.1 billion euros against the growing costs that illnesses due to pollution represent for health insurance systems. [7]

According to EU civil servants, REACH would allow social security to save 54 billion euros over 11 years. Can it be that the most powerful chemical industry in the world cannot devote 0.042% of its turnover to guarantee the harmlessness of its products, while improving people's health and the quality of the environment?

The bosses, their friends and the friends of the friends

The response of the employers has shown the utterly utopian character of this reasoning that a cost for the industry could be compensated by a gain for society. This response has involved several phases that we will not go into here. [8] To summarise simply, from the adoption of the White Paper the European Council of Chemical Manufacturers' Federations (ECCMF) launched a huge offensive around three main ideas:

1. REACH would be bureaucratic, top heavy, inefficient and more costly than predicted by the Commission;
2. REACH would be broadly useless given the voluntary efforts already agreed by the industry and the good regulations in the area of health protection for employees in the workplace;
3. REACH would be contrary to the “Lisbon strategy” and would endanger the competitiveness of a key sector, and consequently jobs (1.7 million jobs directly, 3 million indirectly).

Very significant resources have been invested, notably in the production of ever more catastrophist impact studies. One of these studies predicted the loss of 2,350,000 jobs in Germany. Another predicted a 1.7% to 3.2% fall in GNP for France. All these so-called scientific studies have been exposed as fraudulent, including by the official bodies, but the media have nonetheless given them very wide coverage. Also, they have broadly echoed the blackmail of relocation, notably when the British company Elementis (a world leader in chrome) threatened to transfer 40% of its production in Asia. [9] Three aspects of this exceptional offensive merit being highlighted: the involvement of the US chemical industry and the Bush administration, the spectacular intervention by Blair, Chirac and Schröder and, last but not least, the collaboration of trade union organizations in the European Mining, Chemistry and Energy Trade Unions Federation (EMCEF). Let's briefly look at these aspects.

– Capitalists of the world, unite against regulation: the European and US bosses in chemicals are locked in ferocious competition, but they have formed a solid common front against REACH. The American Chemistry Council (ACC) mobilized alongside CEFIC, both to defend its exports on the European market and to ensure that REACH did not serve as a model for similar legislation in the USA. [10] It involved itself in the battle through the Transatlantic Business Dialogue (TABD), an important centre for the development of pro-business free trade policies. The ACC stirred up its members, the press, and above all the Bush administration (whose election campaign it had previously actively supported).

A report exists which shows in detail how the White House, guided by the chemicals bosses, mobilized itself and the state apparatus against REACH. While Secretary of State Colin Powell gave instructions to US embassies and trade representatives in 50 countries, but a whole series of bodies made their contribution. The highest officers of the EPA (Environment Protection Agency) were sent to Europe to explain the environmental advantages of the system of voluntary evaluation of chemicals by US companies. [11]

– The common intervention by Blair, Schröder and Chirac was of the same kind. Meeting in Berlin in September 2003, the three leaders addressed an open letter to Romano Prodi. The president of the Commission was sharply called to order in the name of the Lisbon objectives: "It is also essential to comprehensively assess all important Community projects with respect to their potential effects on industrial competitiveness". It could not have been clearer. The moment chosen for this intervention was not neutral given that the "final" version of REACH - that which was to be sent to the European Parliament - was precisely in the process of being polished up in the offices in Brussels.

– As for the EMCEF, its rallying to the employers' camp merits being highlighted. [12] The EMCEF has indeed adopted a "common statement of views" with the employers. The text begins by stating that "the chemical industry is one of Europe's most international, competitive and successful industries" [2,700 new products out of 100,000 in 25 years!]. All the key themes of the employers' propaganda are taken up in this document: preference for voluntary commitments from the industry, priority for competitiveness, the protection of industrial secrecy, denunciation of useless bureaucratic burdens, the specific situation of small and medium enterprises, the healthy collaboration between employers and trade unions around the improvement of health at work in the sector, and so on. The conclusion: together with the employers, the EMCEF demands the maintenance of the existing legal and operational framework in the area of chemicals. [13]

Shrinking away

To better assess the impact of this common union-employer declaration, it should be stressed that it was adopted in November 2003, or after the pressures from the industry, Bush and Blair-Chirac-Schröder had led the Commission to completely change the nature of REACH.

Indeed, the text adopted in October 2003 by the Brussels Areopagus which the employers and unions denounced is no more than the shadow of the White Paper: the amount of information to be supplied by the companies during the registration of substances was considerably reduced; evaluation no concerns no more than 10% of products; most imports are no longer affected; the protection of commercial and industrial secrecy has been strengthened, at the expense of the information made available to the public; the production of substances of very high concern can continue, even if there are substitute products, providing the producer can show that there are "adequate" measures of control. And so on.

In signing this "common declaration", the EMCEF has aligned itself with aggressive employers who, emboldened by the success of their offensive, wish to push further until total victory.

The history of REACH is that of its gradual disappearance. What's more, in addition to the setbacks mentioned above, the employers had already obtained, successively: no registration below one tonnes per year, no tests below 10t/year, exemption for polymers and intermediary products, co-piloting of REACH by the DG Industry instead of the DG Environment alone and so on.

In the process, the cost for the industry has been brought down to 0.01% of turnover. But it is still too much. The real objective of the employers is a system in which the evaluation of toxicity and ecotoxicity is replaced by a "risk evaluation", without obligation of substitution. That is to say, in broad outline, the maintenance of the status quo.

Through a whole series of maneuvers, scrutiny of REACH at the European Parliament has been postponed after the elections of June 2004. A new impact study has been ordered - in the "spirit of Lisbon", of course. It is this study that Verheugen alluded to in January, when he told the new deputies of possible "profound modifications" of REACH. On all the evidence, the conclusions have preceded the results. One child in 500 in Europe is affected by leukemia before the age of 15 and 55% of cancers are due to chemical pollution. The vampires of chemicals wash their hands of this and the politicians support them: profit first!

Appendix 1

PBDEs, PCBs, OCPs

At a certain point in the REACH saga, former European environment commissioner Margot Wallström agreed to submit her blood to analysis for the presence of persistent and bio-accumulable chemicals. The analysis revealed the presence of different varieties of polybrominated diphenyl ethers (PBDEs), Polychlorinated Biphenyls (PCBs) and organic chlorine pesticides (OCPs).

PBDEs are used in textiles, furniture, cars and electrical engineering. Mixed into plastics and polyurethane foam, they delay combustion in case of a fire. Ms Wallström's blood contained two kinds of PBDE which have been banned in the EU, but these pollutants don't recognize frontiers and can travel very long distances. Contamination takes place primarily through food, but also through inhalation.

PCBs have been used massively in the electrical industry (the manufacture of transformers) as well as painting and plastics. They were also used as flame-retardants until it was noticed that their combustion liberates large quantities of carcinogenic dioxins. They have been banned in the EU since 1996 and are also banned by the Stockholm Convention on Persistent Organic Pollutants. [\[14\]](#)

However, more than a million tonnes have been produced during the 20th century and they have accumulated particularly in sea mud estuaries. Fishes are another source of PCB contamination.

OCPs need no introduction: everybody knows about DDT, which can be transported a very long distance by air and water. Now banned because of its ecotoxicity and long remanence, DDT is however still used against malaria in poor countries. The Stockholm Convention outlaws DDT and eight other POCs, but it remains hard to escape. In fact, there is DDT everywhere - even in the fat of Antarctic penguins - and it will stay there for a long time.

Signed on May 23, 2001, the Stockholm Convention on Persistent Organic Pollutants (POPs) came into force last March after long controversies and despite the opposition of the USA. It envisages the total elimination of dioxins and furans (products of combustion processes), PCBs and nine POCs: aldrin, chlordane, dieldrin, endrin, heptachlore, hexachlorobenzene, mirex, DDT, toxaphene.

Appendix 2

The REACH saga

- April 1988: the Environment Council asks the Commission to revise the legislation.
- November 1998: a "revision of chemicals policy" is referred to the European Council.
- June 1999: the European Council asks the Commission to prepare by the end of 2000 a proposal for revision based on sustainability, the precautionary principle and the reversal of the burden of proof in relation to the toxicity of products.
- February 2001: the Commission adopts the White Paper "Strategy For a Future Chemicals Policy"
- June 2001: the European Council adopts conclusions on the basis of the White Paper and asks the Commission to present a proposal for European regulation on the question by the end of the year.
- November 2001: the European Parliament adopts a resolution approving the White Paper and demands the strengthening of protection for health and the environment.
- End of 2001(?): The US government echoes the criticisms of REACH by the American Chemistry Council in an undated and unheaded document known as a "nonpaper". According to this "nonpaper", \$8.8 billion of US exports are threatened by REACH, the principle of substitution is an "arbitrary discrimination" and the precautionary principle "could provide cover for politically-motivated bans and other severe restrictions [15] .
- March 2002: Colin Powell asks the US embassies in EU countries and 35 other countries to "raise the EU chemicals policy with relevant government officials (e.g. officials from the Environment Ministry, Economics/Trade Ministry, and Foreign Affairs Ministry) and the local business community and offer the nonpaper as a brief description of USG [U.S. government] views."
- March 2003: the European Council asks the Competitiveness Council to involve itself in the REACH process.
- May 2003: the Commission presents a draft regulation and a strategy for the consultation of the bodies involved and the public.
- September 2003: open letter from Blair, Chirac and Schröder to Romano Prodi.
- October 2003: the Commission presents the draft regulation for the joint decision of the Council and Parliament.
- March 2004: memorandum between the Commission, the UNICE and the ECCMF: the Commission and the industry will together assemble case studies on the economic impact of REACH. A working group is set up involving various bodies.
- July 2004: the representatives of the WWF and the European Environmental Bureau (140 associations) withdraw from the working group on the impact of REACH, to protest against the influence of the chemicals industry.
- January 17, 2005: the UNICE asks for a "prioritization based on risk" (in other words: not based on the intrinsic characteristics - carcinogenic, mutagenic, reprotoxic - of the products). [16].

[1] "La Libre Belgique" January 20, 2005

[2] The world production of the chemical industry went from 1 million tonnes in 1930 to 400 million tonnes in 2000. The share of the European industry is around 31%.

[3] See, for example, the Paris Appeal. Launched in May 2004 during a congress of UNESCO, the Appeal demands in particular "Banning all products that are certainly or probably carcinogenic, mutagenic or reprotoxic (CMRs) for human beings", "Applying the precautionary principle to all chemicals that... constitute an allegedly serious and/or irreversible danger for human and/or animal health, and more generally the environment, without waiting for the definite proof of an epidemiological link" as well as "reinforcing the REACH programme". It can be read and signed online at: <http://appel.artac.info/appel.htm>

[4] The lead contained in food is absorbed at 50% by children and only 10% by adults.

[5] See for example the common AEE-OMS report "Children's Health and the Environment: a Review of Evidence".

[6] These products "of very high concern" are far from being exceptional in our environment: according to a study carried out by Greenpeace, they are found in toys, children's clothing, computers, televisions, fitted carpets, furniture, and so on. Greenpeace, "Beginners Guide to REACH", October 31, 2003.

[7] The share of treatment of allergies in Europe's health expenditure has increased by 40% since 1970 (White Paper, 2001).

[8] See "REACH - The Only Planet Guide to the Secrets of Chemicals Policy in the EU. What Happened and Why?" Detailed report of the affair by the ecologist MEP Inger Schörling, former rapporteur on REACH to the European Parliament, 2004. See also a summary of the former, "Bulldozing REACH - The Industry Offensive to Crush EU Chemicals Regulation", Corporate Europe Observatory, 2005.

[9] The same media have attached much less importance to the report by ING Financial Markets that the estimate of the cost of REACH by the Commission was "the best available". Pan European Chemicals, October 2004, quoted on the WWF site "REACH no Threat to Chemical Industry Predict Financial Market Experts".

[10] The legislation in force in the United States is very similar to the system "old products/new products" that REACH was supposed to replace in Europe. It is moreover born out of similar conditions. It was in 1980, after the Chromium hexavalent poisoning scandal, that a law was passed making testing compulsory uniquely for new chemicals introduced onto the market. (This affair was brought to the screen by Steven Soderbergh in his film "Erin Brokovich", with Julia Roberts in the title role).

[11] Joseph Digandí, "US Intervention in EU Chemical Policy", Environmental Health Fund, September 2003.

[12] The EMCEF comprises the main trade union organizations in the industry in Germany (IG BCE), France (CGT, FO, CFDT), Britain (TGWU) and Belgium (FGTB, CSC), particularly.

[13] "Joint statement of ECEG, CEFIC and EMCEF on the New European Chemicals Policy (REACH)", November 2003.

[14] Signed on May 23, 2001, the Stockholm Convention on Persistent Organic Pollutants (POPs) came into force last March after long controversies and despite the opposition of the USA. It envisages the total elimination of dioxins and furans (products of combustion processes), PCBs and nine POCs: aldrin, chlordane, dieldrin, endrin, heptachlore, hexachlorobenzene, mirex, DDT, toxaphene.

[15] "US Intervention in EU Chemical Policy", op. cit.

[16] UNICE, "An EU Industry Recommendation to Improve the Efficiency and Workability of REACH".- January 20, 2005: Verheugen informs the European Parliament of possible "profound modifications" of REACH