

Precaution with the Precautionary Principle

The French parliament ratified the environmental charter on 28 February 2005. Thus the precautionary principle is now part of the French Constitution. This precautionary principle has become a central demand of radical environmentalist groups since the Rio Summit in 1992. In its name, many governments now intervene in the food, farm products, toy and chemicals markets, to mention just a few. The precautionary principle is presented as a way of making our lives safer, a kind of comprehensive insurance provided by the state for free. It is necessary to reassess this idea and to show that the application of this principle is not an effective way to reduce risk.

The risks of the precautionary principle

In its final 1992 version, the Vorsorgeprinzip, or precautionary principle, states that "where there is threat of serious or irreversible damage, the lack of full scientific certainty shall not be used as a reason for postponing measures preventing environmental degradation". This is what is known today as the Rio triple negation (not having evidence about a risk is not a reason for not acting preventively). This is more or less the shape the principle takes in the French Constitution¹. Besides, as the limit between serious and mild or reversible and irreversible damage is quite uncertain, the precautionary principle allows governments to establish this limit themselves. Theoretically, the "precaution" can thus be applied to any risk.

The draft Treaty establishing a Constitution for Europe also includes a section on the precautionary principle. On this basis, any presumed environmental risk will justify the intervention of the European Union institutions in its various member States.

The purpose of the precautionary principle is to eliminate or reduce 'new' risks in our societies. This means that in order to set up a project



or create a company, an entrepreneur has to prove that it has no potentially harmful implications for the environment. In other words, a government can forbid the creation of a company without having to prove the damage it could cause. It is up to the prospective entrepreneur, presumed guilty, to prove his innocence.

It seems clear *a priori* that in order to eliminate the risk associated with a petrochemical company, it is necessary simply to prevent the company from functioning. A factory that is not functioning does not give off smoke, just as exhaust fumes do not come out of a car that is not running.

"Giving up a project means running the risk of losing the advantages it could provide."

Nevertheless, we should not forget that forbidding an activity or a company also presents certain risks. 400 000 years ago people domesticated fire and we might well imagine, as Roy Lewis wrote in "Why I ate my father", that a fight took place between those who saw it as a danger and wanted to forbid it and those who foresaw its advantages while thinking about ways of controlling it. In the story, uncle Vania addresses his brother saying: "Ok, this I can accept! But this thing, he says, pointing to the fire, is totally different, because nobody knows how it will end. And this does not only concern you, but everyone, Edouard! It concerns me too! One could burn the whole forest with such a thing and then what would happen to me?"²

¹ "When the environment is at risk from serious and irreversible harm, even if this cannot be scientifically proven, public authorities must, through the application of the precautionary principle and according to their competences, implement procedures to assess the risks and adopt temporary and appropriate measures to prevent the damage occurring."

² LEWIS, R., *Pourquoi j'ai mangé mon père*, Actes Sud, Paris, 2004, p.18-19

If Edouard had followed his brother's advice, he would have deprived himself and the whole of humankind of the potential for heating, lighting, frightening the enemy away, cooking etc.

Giving up a project means running the risk of losing the advantages it could provide. A dramatic example is DDT, a good illustration of the logic of the precautionary principle before this term had been coined. This pesticide was very effective at exterminating the mosquitoes and flies that transmitted various diseases. In 1945, the eradication of malaria seemed a reachable target thanks to this discovery by Paul Müller, for which he received the Nobel Prize for medicine in 1948. But here comes Rachel Carlson, author of the best-seller *Silent Spring*³, arguing that DDT is also toxic for certain birds. Given this risk to biodiversity, in 1972 DDT was forbidden in the USA.

Until 1970 though, DDT was successfully used in Europe, Australia and North America. However, under pressure from various ecologist organizations and with the demonization of DDT that started with Rachel Carlson, it became more difficult for some developing countries to access DDT. In the 1972 official records of the World Health Organization, one reads "certain countries had stopped manufacturing DDT and some members states were experiencing difficulties in obtaining the required supplies."⁴ As a result malaria, began to spread more easily. Nowadays, the number of malaria cases at international level is estimated at 300 to 500 million. 1 to 2.5 million Africans are dying every year because of malaria epidemics.

The application of the precautionary principle to genetically modified organisms should also raise certain doubts. Banning them could be quite costly, even if the anti-GMO organizations refuse to consider this aspect. Can we really talk about precaution if we have to give up research on a drug against cystic fibrosis just because it may involve genetic manipulations?



Another topical example: the Kyoto protocol. This protocol is now in force in the name of precautionary principle application. According to the polls, about two thirds of the French population consider fears of climate change to be scientifically justified.

“The problem with the precautionary principle is that we are invited to consider certain risks but to overlook others.”

Despite all this, we should mention that the debate among scientists is still raging, especially among climatologists, as shown in the petition launched by the Institute of Oregon and signed by more than 18, 000 scientists⁵.

To fight the potential danger represented by global warming, many governments signed the Kyoto protocol, which aims to reduce CO2 emissions considered to be the cause. Given the imperfection of the models used, Bjorn Lomborg⁶ estimates that the best the Kyoto Protocol can do is slow down the rise in temperature by six years. Consequently, a 2°C rise would be expected in 2106 instead of 2100. But in order to get this result, impressive resources will have to be mobilized; this means an immediate rise in heating costs, reduced production of certain goods and services, a reduction in productivity and increasing unemployment.

certain goods and services, a reduction in productivity and increasing unemployment.

The problem with the precautionary principle is that we are invited to consider certain risks but to overlook others. Its systematic application will have very dramatic and negative consequences.

The economic costs of the precautionary principle application

With or without this precautionary principle, it is impossible to eliminate risk. Avoiding or forbidding risky companies also means taking risks - or having others take them. Does this mean we are unable to cope with risk? No. It is true that it cannot be cast away by waving a magic wand, but it can be managed. Since the precautionary principle

³ CARSON, R., *Silent Spring*, Houghton Mifflin Company, Boston, 2002

⁴ Official Records of the Health Organization, N°98, executive Board, 49 session, 18-27 January 1972

⁵ <http://www.oism.org/pproject/index.htm>

⁶ LOMBORG, B., *L'Ecologiste sceptique*, Le Cherche Midi, Paris, 2004.

is presented as a decision-making criterion for public policies, its implementation effectively means transferring risk management to the state. The problem which then presents itself is this: is public management of risk better than private management?

“Penalties faced by public managers for irresponsible behaviour or negligence are quite weak.”

Part of the answer is to be found in the experience of the former countries of the Communist bloc. It is in these countries, and especially in the USSR, that the environment was the worst mishandled, as proved by the Chernobyl disaster. As an example of public management of risk, this disaster shows to what extent the administration was unable to protect the population from "serious and irreversible damage". Is this a mere coincidence? The answer to this question is negative, since the penalties faced by public managers for irresponsible behaviour or negligence are quite weak. They do not bear the direct consequences of the choices they make on behalf of the citizens, as neither their wages nor their careers directly depend on the services they are supposed to provide. On the contrary, people acting in their own name within a legal framework which promotes responsibility are encouraged to consider the risks they cause to others⁷ as well as to themselves. When they have to answer for their actions in cases of damage inflicted on others, it is clearly in their best interests to look after them. If the owner of a petrochemical factory is liable for prosecution when, without their consent, his toxic products affect the health and property of neighbours already established on the land, he will think twice before deciding upon the site for the factory and the techniques to use.

There are much more effective methods on the market than the bans imposed by the precautionary principle. The technique of insurance is just one good example. It does not ban or prevent the occurrence of a harmful event - like robbery or fire for instance - but it protects the person insured against it through the elimination of the risk linked to it. This does not mean that the insured person is not liable anymore. Quite the opposite. This kind of contract between the insur-

er and the insured person creates incentives that promote cautious behaviour from the insured party. Such behaviours reduce the scale and possibility of occurrence of the risk. The insurer's interest is to have his client take the necessary precautions in order to avoid the multiplication of damages. It is a matter of keeping his business running. For example, quite frequently an insurer may ask his client to have a reinforced door, an alarm, or a fire extinguisher before he agrees to insure him. The same goes for insurance against risks the client may cause for others. Thus, private insurance promotes prevention, self-discipline and a reduction in risk taking.

On the other hand, "precaution" set up as a public decision-making principle prevents the discovery process, of which the main purpose is risk management. It is true that one can never know everything about everything, but one can reduce or better manage risk by developing the knowledge one already has about the world. As a matter of fact, it is in the best interest of insurers to participate in such development by seeking the correct information concerning the risks they deal with. On the other hand, if some activities are banned because of the risks they may entail, nobody is motivated to carry out research that may best identify these risks and reduce them.

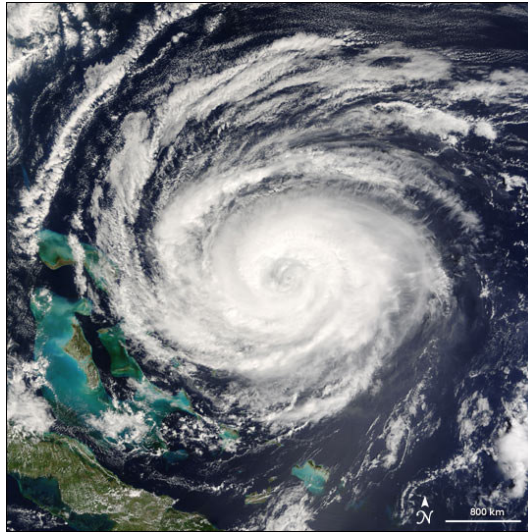
“Holding back investment, as the precautionary principle does, condemns the most destitute to poverty.”

The precautionary principle, which entails forbidding activities considered to be suspect, eliminates investments that could otherwise have been made. Less investment means less innovation, less economic growth, less revenue and less consumption. This is why developing countries and many in Eastern Europe reject the Kyoto protocol. To reduce the risks that affect their lives, poor countries urgently need to develop. Without development it is extremely difficult to protect oneself from harm because most of the means for reducing risk remain inaccessible. The precautionary principle hampers economic development. It limits investment, understanding of the causes of risks, and the free evolution of social institutions. As a consequence, people are more exposed to risk than they would be otherwise. A very good example is that of recent hurricanes Ivan and Jeanne. The first one affected Florida, leaving 30 dead and serious damage to property. The second one, less violent, left 3000 people dead and almost 300,000 homeless in Haiti. Of course, there is a huge difference between the development levels of the two countries. American houses are better constructed to withstand this

⁷ In economics terminology, it is said that an individual's economic calculation integrates the costs they could cause to others. This implies that the search for profit does not go against risk prevention, as long as property rights are well defined, recognised and protected within the legal framework. When legislation collectivises property, shortsightedness and reduced responsibility prevail.

kind of disaster than those in Haiti. This is because the US tax and legal system favours private property and investment far more than in Haiti. Haiti's best option for diminishing future risks, natural or from human activity, is to promote the conditions for economic and intellectual growth. Holding back investment, as the precautionary principle does, condemns the most destitute to poverty.

The French legislative is playing with fire, exposing citizens to "serious and irreversible harm". Making the same mistake at the European level by including the precautionary principle in the constitutional treaty would mean speeding up a high-risk process. It is strange, at the very least, to use the term "precautionary principle" for a concept that invites us to ignore the risks involved in banning certain activities. Moreover, the principle's application prevents the development of means that provide protection against risks, namely insurance, better understanding of risks and increased investment. These means evolve with respect for private property and lead to economic development and prosperity. Without economic freedom or the responsibility that a legal framework grants and demands from every individual, good risk management becomes impossible. Therefore we can only ask supporters of the precautionary principle to follow it through to its logical conclusion, that is not to have it applied unless it can be proved that no risk is involved. It is up to them to prove that this principle is harmless.



Jeanne - (c) earthobservatory.nasa.gov



**Institut Economique
Molinari**

rue Luxembourg, 23 bte 1
1000 Bruxelles
Belgique
Tél. +32 2 506 40 06
Fax +32 2 506 40 09
e-mail:
cecile@institutmolinari.org
www.institutmolinari.org

The Molinari Economic Institute is an independent, non-profit research and educational institute. It endeavors an economic approach to the study of public policy issues.

Reproduction is authorized on condition that the source is mentioned.

© Institut Economique
Molinari

Printed in Belgium

Design by LEONard