

# The EU's Global REACH

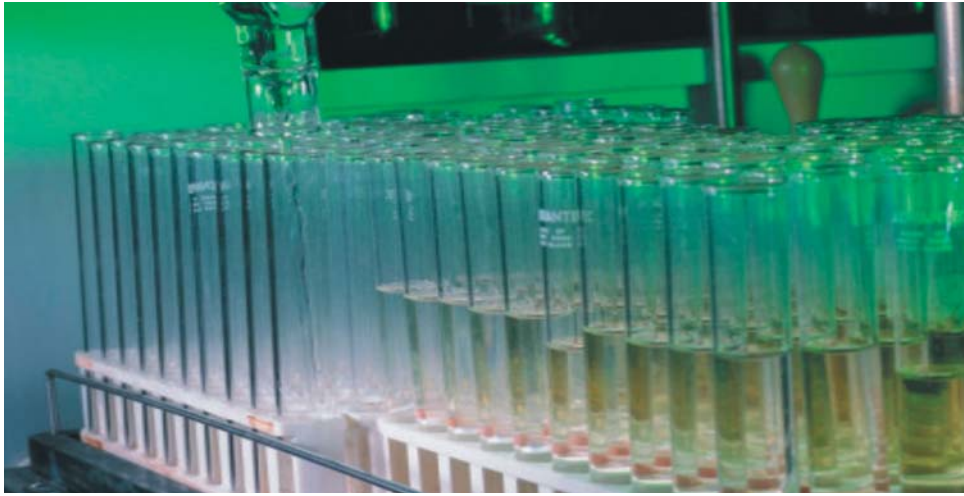
## Chemical Regulations in Europe Promise Worldwide Costs

by Angela Logomasini

This month, the European Parliament voted in favor of a massive new expansion of the European Union's (EU) chemical regulations. Known as REACH—which stands for registration, authorization, and evaluation of chemicals—the policy is likely to cost billions of dollars, reduce innovation, and limit access to EU markets. Meanwhile, the proposal's benefits are likely to be insignificant if not negative since economic decline presents more serious risks.

Cost estimates on REACH range from the European Commission's estimates of €2.8 to €5.2 billion to those released by the Nordic Council of Ministers, which range from €3.5 billion for REACH's direct costs, plus 1.5 to 2.3 times that amount for indirect costs—ranging up to a total of €11.5 billion and €28 billion—or about \$13.6 billion to \$33 billion.

REACH's impact isn't only going to fall on Europe because the United States and other nations are inextricably linked to the EU economy through



trade. The U.S. exports more than \$20 billion in chemical products and invests more than \$4 billion in the EU chemical and related industry sectors annually. In addition, U.S. firms export more than \$400 billion in products containing chemicals, some of which may fall under the scope of REACH regulations. The U.S. also imports more than \$40 billion of chemicals from Europe each year.

The U.S. government mission to the EU has pointed out that REACH is expected to adversely impact tens of billions of dollars of trade in chemicals and products. Affected sectors will likely include textiles, pharmaceuticals, electronics, automobiles, and advanced materials. According to the Commission's own study, users of specialty chemicals are likely to suffer serious repercussions.

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>>FROM THE **GENERAL COUNSEL**



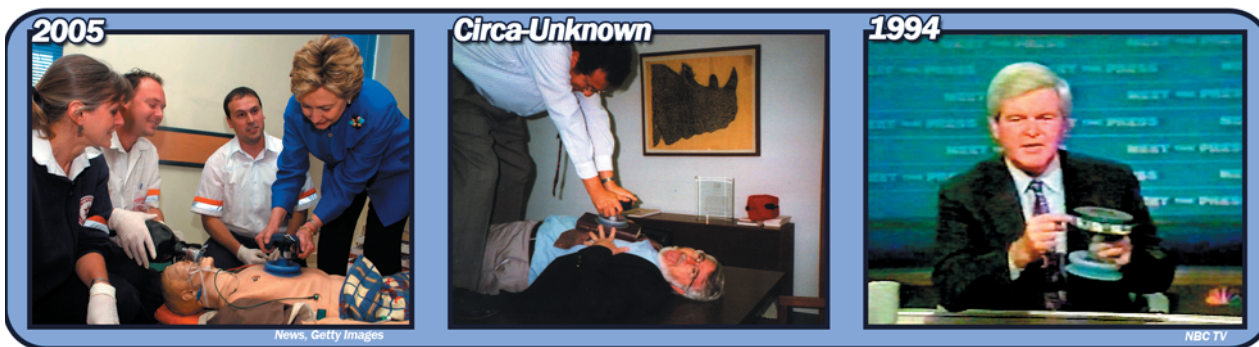
# The Tale of a Medical Device

by **Sam Kazman**

**S**enator Hillary Clinton traveled 6,000 miles to dramatize the need for faster medical device approvals. Hard to believe, isn't it? In fact, Sen. Clinton herself may not believe it, since she probably didn't realize just what she was doing. Nor, for that matter, did most of the people who saw news accounts of the event.

Actually, it wasn't really an event, but a photo-op, and the resulting shot was carried on the front page of *The Washington Times* on November 15. Its caption: "Senator Hillary Rodham Clinton...practiced cardiopulmonary resuscitation techniques while medical personnel looked on in Jerusalem."

This would have been the end of the story, except for one thing. In the Senator's hands was a small blue device that, 11 years ago, became a symbol of the Republican campaign to reform the Food and Drug Administration (FDA). The device is a CardioPump, essentially a sophisticated suction cup that enables CPR to be administered more effectively.



In 1994 Rep. Newt Gingrich learned of the CardioPump and its problems at FDA from CEI, and he began using it to illustrate the shortcomings of the agency's approval process for new drugs and devices. The CardioPump did not pose new risks for people receiving CPR, but at the time FDA had halted testing of the device in the U.S. because unconscious heart attack victims had not "consented" to its use. Nonetheless, the CardioPump was being used in other countries because there was encouraging data on how it improved the abysmally low rate of CPR subjects who make it to the hospital.

Rep. Gingrich soon came under heated attacks from journalists, who claimed that the CardioPump was medically unproven and thus an example of Republican know-nothingness. Congress enacted its FDA modernization program, but the agency still refused to approve the device because, in its view, there wasn't enough long-term data. At CEI, however, that didn't stop us from putting the CardioPump to good use.

Years passed. More studies supporting the device appeared in such eminent medical publications as *The New England Journal of Medicine* and *Circulation*. And then Sen. Clinton showed up for her photo-op in Jerusalem.

FDA, however, has still not approved the CardioPump.

## CEI PLANET

Publisher:  
**Fred L. Smith, Jr.**

Editor:  
**Ivan G. Osorio**

Assistant Editor:  
**Peter Suderman**

Contributing Editor:  
**Richard Morrison**

The CEI Planet is produced by the Competitive Enterprise Institute, a pro-market public interest group dedicated to free enterprise and limited government.

CEI is a non-partisan, non-profit organization incorporated in the District of Columbia and is classified by the IRS as a 501 (c)(3) charity. CEI relies upon contributions from foundations, corporations and individuals for its support. Articles may be reprinted provided they are attributed to CEI.

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ISSN# 1086-3036

## Europe's Global REACH

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REACH advocates have maintained that even at these high prices, REACH is affordable. Yet they fail to acknowledge some important realities. REACH will hit small and mid-sized firms very hard, which could have broader economic impacts. Moreover, these estimates mostly consider only the costs of filing registrations; they fail to consider indirect costs or the cost of various other REACH phases such as its eventual regulations and product bans. As a French industry study produced by Mercer Studies notes, the costs of REACH will be much higher than estimated because a number of factors create a “domino” effect, creating cost impacts down the entire supply chain and around the world.

While it is clear that REACH will be expensive, all the benefit claims are highly speculative; many don't even rise above the level of hearsay.

conclusions; it provides no evidence that it was properly peer reviewed; and it cannot be replicated because the data is either unavailable or unclear.

Worse, our analysis found that some of the data noted in the study doesn't match the original sources, some of the sources are nothing more than references to telephone conversations, and errors in the report charts simply add to the confusion.

Finally, the study ignores the reality that the source studies indicate that occupational health is improving, and chemicals are a small and shrinking source of problems—facts that undermine the case for REACH. A recently released study by the Commission-funded European Trade Union Institute for Research, Education, Health, & Safety carries similarly fatal flaws, which are detailed in another paper hosted on the Hayek Institute website ([www.fahayek.org](http://www.fahayek.org)).

In contrast, actual data on chemicals, cancer, and other health impacts indicates that REACH focuses on the wrong thing. In

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**It is clear that REACH will be expensive,  
and many benefit claims don't even rise  
above the level of hearsay.**

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For example, the Commission's 2003 Extended Impact Assessment claims that REACH might save 4,500 lives based on data provided in a World Bank study. This claim is repeated in the Tufts study conducted for the Nordic Council and is used as a basis for findings in a study by the World Wildlife Fund. Yet if one reviews the original source it is easy to see that the figure is inappropriate for REACH benefit considerations.

The World Bank report relates to problems as associated with high-level exposures to agro-chemicals, most of which are related to improper use of chemicals. REACH is not designed to address acute poisoning from or misuse of chemicals whose properties are well known. It is supposed to encourage study with the hope of uncovering yet unknown risks. In addition, many of the substances involved in the World Bank study are likely pesticides that will be exempt from REACH.

The European Commission sponsored only one study on benefits. It attempts to quantify REACH benefits in terms of occupational safety. A critical review of this study indicates that it should be disregarded because it violates nearly all the standards of good science. It does not collect data in a systematic fashion; it makes extrapolations from a sample that is not representative of the larger population and is too small to offer meaningful

its 2003 *World Cancer Report*, the World Health Organization (WHO) cites a world-renowned study by scientists Sir Richard Doll and Richard Peto. According to Drs. Doll and Peto, pollution accounts for only 2 percent of all cancers, while diet and smoking account for more than two thirds of all cancers. Neither Doll and Peto nor the WHO mentions exposure to chemicals through consumer products as a serious cause of cancer, which is a key focus of the chemicals strategy. The WHO suggests that cancer prevention efforts should focus on three factors: tobacco use, diet, and infections, which together account for 75 percent of all cancer cases worldwide.

REACH is due to be considered by the EU Council of Ministers and then will need a final vote by the European Parliament to become law, which is expected to happen early in 2006. It is astounding that REACH has made it this far through the EU policy making process. Any serious analysis shows that the economic impacts for REACH are not good for Europe and its trade partners, and its impacts could be particularly dire for new EU member nations. Meanwhile, the documented benefits of this program are nonexistent.

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# LET A THOUSAND ISPs BLOOM:

## *A Hands-Off Approach to Global Tech Development*

**By Daniel Corbett and Braden Cox**

Simply uttering the phrase “Internet governance” is enough to make some people cringe with visions of Big Brother. But Internet governance is not—and shouldn’t be—some Orwellian nightmare in which a global ministry of information controls what we read, see, and do online. In fact, it is a relatively innocuous concept—one of domain names, root servers, and other such arcana.

However, as people increasingly communicate online, governments have also become more involved. The World Summit on the Information Society (WSIS), a United Nations agency that studies technological development, met in November in Tunis, Tunisia. A U.N. working group called the Working Group on Internet Governance (WGIG) released a report in June 2005 that included some controversial policy recommendations for the future of the Internet.

The Tunis summit focused largely on the Internet Corporation for Assigned Names and Numbers (ICANN)—a longstanding player in the Internet governance debate. ICANN has been in charge of assigning all domain names and country codes through the Domain Name System (DNS) since its creation by the U.S. government in 1998. Despite the possibility for a showdown between the U.S. and other countries, representatives from the international community agreed to

keep ICANN in the control of the U.S. The U.S. also agreed to work with individual countries before ICANN makes a decision affecting a non-U.S. country’s top level domain.

Yet a showdown averted does not mean that the United Nations—or some governments—will back off from future attempts for more political control over the Internet. Restrictions over content and control over the technical aspects of the Internet will remain a threat—and the United States must remain vigilant in asserting private sector involvement.

### **WSIS: An International Talk Shop and Development Plan**

WSIS was conceived during a 1998 meeting of the U.N.’s International Telecommunication Union (ITU) to serve as a two-phased platform for discussing the international role in information technology. The first phase of WSIS negotiations took place in December 2003 in Geneva. The meeting brought together leaders from 175 nations to discuss the best ways to bring new information and communications technologies to the developing world. During the Geneva meeting, the members adopted a Declaration of Principles and a Plan of Action. The Summit’s second phase took place in Tunis in November.

The WSIS “Plan of Action” aims to “build an inclusive Information Society,” emphasize development, and address new challenges of the Information Society, at the national, regional, and international levels.

While many of the solutions WSIS proposed before its first meeting suggest an important role for governments, the findings in the Geneva phase emphasized the importance of the private sector, civil society, and international organizations. The group found that, “governments should foster a supportive, transparent, pro-competitive and predictable policy, legal and regulatory framework, which provides the appropriate incentives to investment and community development in the Information Society.”

This is the glimmer of hope—a seemingly market-oriented strategy buried in what is an otherwise typical, acronym-laden proposal by an international organization. Participants in both discussions—governance and development—need to seek input from outside government bureaucracies. There is a tendency in any policy-related endeavor toward more governmental control, not less. In order to strike the sort of balance for which WGIG and WSIS are calling, governments must make an active effort to include private firms and standards bodies in their deliberative process.

## The WGIG Report Outlines Its View for the Future of Governance

On July 18, 2005, the WGIG presented its much anticipated report in Geneva. It discussed three significant items:

First, WGIG created a *working definition* of Internet governance as “the development and application by Governments, the private sector and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures, and programmes that shape the evolution and use of the Internet.” This definition includes the assignment of domain names, cyber security, and development.

Second, it proposed a multi-stakeholder forum to *coordinate discussion* at the international, national, and regional levels.

Third, it outlined four possible models for *oversight*. This section of the report will draw the most attention from policy makers. The models are:

- 1) Creation of a Global Internet Council, which would replace the U.S. Commerce Department’s role in governance;
- 2) Privatization of ICANN, with ICANN retaining control over the DNS, with no need for a new specific oversight organization;
- 3) Creation of a global forum for discussion. The International Internet Council would work closely with ICANN and make sure that no single government has a preeminent role in Internet governance; and
- 4) Construction of three new bodies—for governance, oversight, and coordination—and creation of a reformed, internationalized ICANN, which would be part of the U.N.

### Which Way WSIS?

WSIS leaders should take comfort in the fact that access to the Internet continues to increase for all people. Internet governance as an ongoing international discussion that involves all stakeholders, not a mere task to be handed off to a new bureaucracy or government agency. In order to make development and governance worth the effort, WSIS must encourage the free exchange of information

and culture over the Internet—and finally broach the topic of state-sponsored filtering. If WSIS focuses on these goals, it can provide a workable holistic approach toward Internet governance.

### Does Governance Mean More Government?

Still, at some level, many people understandably cringe at the phrase “Internet governance.” The Internet is loath to be governed, particularly by state

Yet, on June 30, 2005 the U.S. government ruffled feathers in the Internet governance community when it stated its intent to maintain control of ICANN and the DNS. In a controversial Declaration of Principles, the U.S. argued that in order to preserve the “security and stability” of the Internet and the economic transactions that take place over it, it would exercise unilateral control over the DNS.

This action contradicts an earlier U.S. position, which said that management

**“The Internet is loath to be governed, particularly by large bureaucracies.”**

actors and large bureaucracies. Clearly, an oversight model that calls for no new government involvement in the Internet—WGIG’s second model for oversight—is the best solution.

Given that the WGIG report listed three proposed models that involve *more* government oversight versus one that seemingly retains the status quo, it is easy to understand the fears of advocates against Internet governance by governments.

Prior to the WSIS meeting in Tunis, U.S. Sen. Norm Coleman (R- Minn.) made the case to keep the Internet out of the U.N.’s hands: “The first priority for the United Nations must be fundamental reform...rather than any expansion of its authority and responsibilities. The Internet has flourished under U.S. supervision, oversight, and private sector involvement.”

### Cyber-hegemony: The U.S. Takes the Internet

Sen. Coleman is correct in making the case against U.N. control of the Internet—but the U.S. shouldn’t control it, either. The Internet would best be governed by an independent, nongovernmental organization, free of politics.

of the DNS would be best handled in the private sector, not by a national government. In a response to comments regarding its 1998 white paper, the National Telecommunications and Information Administration called for private sector control over DNS, stating that, “neither national governments acting as sovereigns nor intergovernmental organizations acting as representatives of governments should participate in management of Internet names and addresses.”

Governance organizations have a role in deciding technical specifications that encourage the free flow of information. Governments, however, tend to limit information. ICANN and other Internet governance organizations should be free from the political powers of both individual countries and global bodies. The future prosperity of the Internet depends upon its freedom.

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# MILLENNIUM CHALLENGED?

*A New Approach to More of the Same*

*by Isaac Post*

## Standing alongside U2 lead singer Bono in March 2002,

President Bush announced the formation of a “new compact for global development, defined by new accountability.” Yes, the president proposed the creation of a new foreign aid program...but not the same old foreign aid. This would be foreign aid with strings attached. As he explained it:

Countries that live by these three broad standards—ruling justly, investing in their people, and encouraging economic freedom—will receive more aid from America. And, more importantly, over time, they will really no longer need it, because nations with sound laws and policies will attract more foreign investment...earn more trade revenues...and find that all these sources of capital will be invested more effectively and productively to create more jobs for their people.

Further, Bush went on to portray this effort as vital to America’s security:

The advance of development is a central commitment of American foreign policy...And when governments fail to meet the most basic needs of their people, these failed states can become havens for terror...Development provides the resources to build hope and prosperity, and security.

This view was bipartisan. Sen. Dianne Feinstein (D-Calif.) said earlier that, “if we are going to win this war against terrorism, we have to be willing to invest in the lives and livelihoods of the people of the developing world.”

Heeding the president’s call, Congress passed the Millennium Challenge Act of 2003, which Bush signed into law in January 2004. The Act created a new government

corporation, the Millennium Challenge Corporation (MCC), to be responsible for granting the development aid. To be eligible for MCC grants, a candidate country must demonstrate a commitment to (a) just and democratic governance, (b) economic freedom, and (c) investments in its people, particularly women and children.

The MCC selected 16 quantifiable indicators to determine how well a candidate country’s policy environment reflected these three broad criteria, using data from respected, established sources. For example, the MCC uses Freedom House’s *Freedom in the World* survey to measure civil and political rights under the “ruling justly” category, while it uses the “Days to Start a Business” measure from the World Bank’s Private Sector Development unit under the “economic freedom” category.

But earlier this year the MCC announced that it was searching for a 17<sup>th</sup> indicator to measure “the sustainable management of natural resources.” Why? In the original legislation, the “economic freedom” category includes the requirement that a candidate country demonstrate a “commitment to economic policies that...promote private sector growth and the sustainable management of natural resources.” Now the MCC claims that a separate natural resources indicator must be developed and it put former EPA Administrator Christine Todd Whitman in charge of this effort.

All of this, however, is not clear from the original legislation. In fact, not only is a separate natural resources indicator not needed, but the desire for such an indicator undermines support for the MCC’s broader goals. For instance, the Millennium Challenge Act prohibits assistance “for any project that is likely to cause a significant environmental, health, or safety hazard.” This in itself should satisfy those who worry that the people of Honduras might be tempted to turn their country into a gigantic dumping ground for PCBs and nuclear waste. But it is unlikely to satisfy those who approve of economic development only if it is “sustainable.” And that is a real problem.

## A Vital Link

Creating a separate natural resources indicator severs the legislative link between the “sustainable management of natural resources” and “private sector growth” as articulated in the Millennium Challenge Act’s “economic freedom” category. This link is important because it breaks with the historic environmentalist view—clearly articulated in the Club of Rome’s *Limits to Growth* report from 1972—that economic growth can only come at the expense of the environment. Indeed, this link is one of the reasons why this “new compact for global development” can be designated as “new” at all.

In the early 1990s economists

juggle access to and use of environmental resources... The limits of efficiency are found when defined and defended environmental rights can be completely alienated. (pp. 144-145)

Thus, adding a new and separate criterion dealing with natural resources confuses, rather than advances, The Millennium Challenge goal of tying development aid to a country’s policy environment.

### But Does it Work?

The MCC vision and methodology are themselves highly questionable. The idea that development aid should be given to a

study and using the hedged conclusion as the basis for a new type of foreign aid program. In fact, as Easterly points out, President Bush’s Millennium Challenge initiative in March 2002 made use of the conventional wisdom that foreign aid increased economic growth so long as the local policy environment was “good.”

Without going into too many details, Easterly goes on to conclude that (a) the empirical basis for the “new” foreign aid is highly dependent upon how one defines, for instance, “good policies;” (b) a sound theoretical basis for thinking that foreign aid can increase economic growth is lacking; and (c) aid agencies around the world continue to ignore evidence that development aid is not contributing to

**Empirical evidence documenting the failure of foreign aid programs, both “old” and “new,” is extensive.**

discovered an “environmental Kuznets curve.” Named in honor of Nobel Prize economist Simon Kuznets, this is a statistical relationship that shows that as GDP per capita increases, measures of environmental pollutants first rise, then fall, in an inverted-U shape, suggesting a clear link between economic development and environmental quality over the long term. Other recent studies show the contribution of institutions—such as property rights—to economic growth and their relationship to environmental quality. For example, in a 2001 study, Bruce Yandle of Clemson University and Andrew Morriss of Case Western Reserve Law School, argue that the efficient management of environmental resources is dependent upon the recognition of property rights:

[T]o obtain efficiency in environmental management, economic agents must be allowed to truck and barter as they

country only if it adopts “good” policies is somewhat paradoxical. If a country knows what policies encourage economic growth and reduce poverty, then that’s wonderful! Why give them money for following what they know are good policies?

Moreover, does foreign aid, even the “new” foreign aid, actually *work*? In a fascinating 2003 article, “Can Foreign Aid Buy Growth?” (*Journal of Economic Perspectives*), economist William Easterly describes how the media, politicians, and the World Bank among others mischaracterized an earlier academic study by Craig Burnside and David Dollar (“Aid, Policies, and Growth,” *American Economic Review*, 2000) which had found that, “aid has a positive impact on growth in developing countries with good fiscal, monetary, and trade policies but has little effect in the presence of poor policies.” This mischaracterization involved ignoring the assumptions, caveats, and data limitations that were present in the

growth and therefore emphasize our shared “commitment of resources” in the fight against global poverty.

To the extent that the Millennium Challenge initiative succeeds in emphasizing the importance of private property rights, the rule of law, and economic freedom for fostering economic growth and prosperity, then one should wish it well. This includes helping the MCC to resist a weakening of this emphasis by spending time searching for an indicator to measure the “sustainable management of natural resources.” But the empirical evidence documenting the failure of foreign aid programs, both “old” and “new,” is extensive. It is unfortunate that politics combined with a misguided effort to “do good” have led to a blissful ignorance of foreign aid’s failures.

*Isaac Post (ipost@cei.org) is Regulatory Policy Analyst at CEI.*

# Fever Pitch on Mercury Fears

Small mercury spills can be cleaned up easily and don't pose a danger to children—but panic-driven responses can cause real harm.

by Sandy Szwarc, RN, BSN, CCP



It's enough to make any parent's heart race: children evacuated from schools as hazmat teams race in to decontaminate the buildings, while national headlines scream, "highly toxic hazardous spill." But when the source of this panic is a few beads of mercury from a broken thermometer, it's time to take a deep breath and seek some sound information. Small mercury spills can be cleaned up easily and don't pose a danger to children or their teachers—but panic-driven responses can cause real harm.

After finding small beads of mercury, about five to 10 fever thermometers' worth, officials at Washington, D.C.'s Cardozo High School evacuated the building and undertook a costly and elaborate "decontamination" at an estimated cost to taxpayers of \$150,000. While it sent parents into a panic, it proved to be an amount of mercury that untrained adults could have cleaned up. In fact, after simply picking up the liquid metal beads, health officials checked the level of mercury in the air and found it was about 25 times lower than levels at which the Centers for Disease Control and Prevention (CDC) has

found harm in children, even after years of such exposure.

Generations of children have been fascinated by the dancing beads of elemental mercury found inside thermometers—and today's children are in no more danger than their parents were when they played with it as kids or when it was part of their childhood science classes. In fact, the amount of mercury in a typical fever thermometer is unlikely to threaten the health of even the most sensitive of people—children and pregnant women—according to the Illinois Teratogen Information Service (which provides free information on medications, chemicals, infectious diseases, or environmental agents that might interfere with healthy fetal development).

In recent years, we've come to believe that any level of exposure to potential toxins is dangerous, but nothing could be further from the truth. Granted, we know more about the dangers of mercury today, but it is our *perception* of risk that has changed the most. The risks of mercury depend on the amount,

type, and duration of exposure. As with everything, the poison is in the dose.

Elemental mercury is not a health threat when handled or ingested, because virtually none (less than 0.1 percent) is absorbed through the skin or digestive tract. Left undisturbed, mercury will begin to vaporize. When breathed in and absorbed through the lungs, high levels of mercury vapor can be harmful. Vaporization happens very slowly over time, however. The Association for Science Education in the UK reports that negligible amounts of mercury are released from small spills even after seven months.

Experts at the Environmental Protection Agency and elsewhere say that spills the size of a quarter can be cleaned up by untrained adults. Cleanup involves simply scooping the mercury into a sealed plastic bag and airing out the room. Sprinkling zinc or copper flakes, available at hardware stores or found in the spill kits at most public buildings, will pick up any remaining traces. So, when school officials—or individuals at home—take basic steps to clean up spills, dangers can be easily eliminated.



Unfortunately, confusion arises when parents are told that their kids have been exposed to mercury levels above “safe” levels. Parents are never told that these thresholds have very large safety margins built in, so they are many times lower than levels at which any actual risk has ever been shown. According to the CDC, the lowest level where any adverse effect has been observed occurred in workers exposed *for over 15 years* to air mercury levels about *100 times higher* than today’s “safe” levels.

Letting our fears get the better of reason can become costly. From 1993 through 1998, the CDC’s Hazardous Substances Emergency Events Surveillance system reported 406 such mercury spills, mostly in schools, universities, homes, and health care facilities. The EPA responded to 12 “emergency spills” in 2004, with cleanup costs as high as \$200,000 each.

Even worse, the media attention given to mercury spills over recent years has stoked fears and even incited copycat pranks. Beads of mercury found at the Williamsburg City Council chambers earlier this year will cost about \$250,000 to clean up, according to EPA estimates. A 2003 intentional spill closed Ballou High School for 35 days and rang up EPA cleanup costs of \$1.5 million. And in March, a Hatfield, Massachusetts school was evacuated and a hazmat team called in when a thermometer in a science classroom simply began to leak, while teachers and a student were whisked to the hospital for unnecessary blood tests.

Sensationalizing danger doesn’t simply add more stress to our already stressful lives. Panic-driven responses can divert financial resources away from other priorities, including education. And that is a far greater risk to our children’s future.

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*Sandy Szwarc is a registered nurse and frequent writer on public health topics. She is the author of Fishy Advice: The Politics of Methylmercury in Fish and Mercury Emissions, recently published by CEI.*

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On August 2, 2005, the Competitive Enterprise Institute launched a lawsuit challenging the 46-state tobacco settlement of 1998. Americans have been led to believe that the tobacco settlement punished “Big Tobacco” for decades of dishonest business practices, such as lying to the public about the health risks of smoking.

**But the truth is that the settlement that was negotiated behind closed doors created a new cartel arrangement between state governments and big tobacco companies.**

**Visit [www.controlabuseofpower.org](http://www.controlabuseofpower.org) to see how CEI is working to stop the unconstitutional expansion of government power through attorney general activism.**

Control Abuse of Power is a project of the Competitive Enterprise Institute

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# the GOOD, the BAD & the UGLY

## THE GOOD

### U.S. and EU Open International Air Travel to Competition

On November 18, the United States and the European Union reached a deal which, once ratified, will allow increased competition between air carriers crossing the Atlantic. The Open Skies agreement would remove current restrictions on travel which block many carriers from flying in and out of heavily-traveled airports such as London's Heathrow.

The plan, which must still be ratified by all 25 EU countries, will allow any U.S. or EU airline to fly into any U.S. or EU city. Both passengers and cargo would be covered in the deal, which would also allow cross-Atlantic flights to continue to third countries without restrictions on the number of flights or routes.

Labor unions have vigorously opposed the deal, fearing it would move many airline jobs overseas.

Depending on EU approval, the agreement could take effect as early as October 2006, and with the expected impact on the worldwide airline industry, other nations such as Australia and New Zealand could soon be prompted to join. "A global industry deserves a globally-minded set of rules," notes CEI Technology Counsel Braden Cox. "If there is an industry that deserved the 'global' tag, it is air transportation. Affected by terrorist attacks, war in Iraq, and dire financial straits, airlines need the ability to quickly adapt to international events—an ability that requires foreign partners, flexible access to international routes, and global sources of capital."

## THE BAD

### South Korea Slaps Microsoft with Hefty Antitrust Fines

On December 7, South Korean antitrust regulators fined Microsoft \$32 million, claiming the software giant violated the country's Monopoly Registration and Fair Trade Act. The Korea Fair Trade Commission (KFTC) says Microsoft took advantage of its position as the market leader in computer operating system software by bundling Windows Media Service software with its Windows Server operating system.

The Commission also argued against Microsoft's bundling of Windows media player and instant messenger with its desktop operating system. Microsoft argued that the bundled software created value for consumers. The company plans to appeal the ruling, which gives it 180 days to unbundle the media and messaging software from its operating systems.

The Commission asked consumers and businesses to be patient with inconveniences caused by the ruling, claiming it would eventually benefit local software developers—which is precisely the problem. Moreover, the ruling's effects would be felt far beyond South Korea, as antitrust law becomes globalized—and therefore more burdensome. As CEI Vice President for Policy Clyde Wayne Crews, Jr., notes, "By elevating government intervention above the market's competitive discipline, antitrust has allowed disgruntled firms to mount legal attacks against their more successful competitors. Particularly given today's global economy is that other governments are now emulating U.S. antitrust regulations to 'protect' their own industries."

## THE UGLY

### Federal Agencies Spend Profligately After Hurricanes

Financial records from the Federal Emergency Management Agency (FEMA) show that government agencies engaged in post-hurricane relief efforts used taxpayer-funded credit cards on massive retail spending sprees, including for items bought at full retail price. From \$223,000 for flip-flops to \$2024 on CamelBak-style water containers, the federal government spent more than \$19 million in the aftermath of Hurricane Katrina, and because of the scale involved, it seems unlikely that spending records will ever receive close review.

For many of the expenditures, there is no way to determine the legitimacy of a purchase, as it is often unclear whether the items were necessary or even used at all. Many officials carrying government charge cards took full advantage of their increased spending limits, which were raised from \$2,500 to a whopping \$250,000. Some found that even their new limit wasn't sufficient.

Government officials say the rush to aid victims in the wake of Hurricane Katrina is at the root of the much of the spending, but others question whether it was necessary to pay retail in all the instances. Sen. Charles E. Grassley, the Republican chairman of the Finance Committee, has announced intentions to investigate possible mismanagement of post-Katrina spending.

# MediaMentions

Compiled by **Richard Morrison**



## Environmental Studies Senior Fellow **Robert H. Nelson** suggests a path to urban revitalization that doesn't trample on property rights:

In June the Supreme Court said that New London, Connecticut could force Susette Kelo and a small group of homeowners to sell out to private developers. It was not a popular decision. Already the U.S. House of Representatives has passed a bill to deny federal funds to state or local governments that use eminent domain powers for economic development. Many state legislatures are considering similar laws.

But older cities face serious land-use problems. How can a dense urban area like New London or Hartford revitalize itself if developers have to build one lot at a time? Should residents of failing cities insist that shopping centers be built only in the far suburbs, displacing farms and increasing suburban sprawl? Must all large housing developments be relegated to the exurbs?

There is a better way to give developers access to sizable plots of land in the city: allow homeowners to privatize their neighborhoods and sell *en masse* directly to developers.

- *Forbes*, December 12

## Assistant Editorial Director **Peter Suderman** weighs the pros and cons of competing documentaries on Wal-Mart:

*Wal-Mart: The High Cost of a Low Price*, the latest film from progressive activist Robert Greenwald, and *Why Wal-Mart Works & Why That Makes Some People Crazy*, the first film in a planned

series of free-market documentaries by director Ron Galloway, are both part of a new strain of documentary that seeks to use film as a tool for political activism. Low-budget and low-style, the films offer competing political perspectives on the retailer's more controversial practices, pitting free-market academic ideas against the egalitarian appeal of progressivism.

Like most editorials, each of the films uses prototypical argument styles from their respective political factions. Greenwald's film is almost purely egalitarian in its appeal. His interview subjects tell personal stories of perceived oppression by a corporate monolith, and there is much talk of feelings and fairness.

Consequently, Greenwald's movie comes off as little more than a forum for disgruntled former employees and jilted competitors to grouse about how Wal-Mart has wronged them. It's a 97-minute list of individual grievances that, in standard pro-labor form, assails a legitimate business without looking at the larger economic picture.

- *National Review Online*, December 12

## Economic Policy Fellow **John Berlau** warns of the expanding impact of the Securities and Exchange Commission's hedge fund regulations.

Today in the D.C. Circuit Court of Appeals, outspoken hedge fund manager Phillip Goldstein will have his chance to challenge the SEC's hedge fund registration rule. The rule's fine points will be debated, and the SEC will likely argue that the rule was narrowly tailored

to put only minimal burden on hedge funds. But outside the courtroom, some are discovering that the SEC's hedge fund scheme is actually so broad it could likely ensnare two other investing segments crucial to dynamic growth: venture capital and private equity. Last year, for example, the National Venture Capital Association (NVCA) wrote to the SEC that the hedge fund regulations "create a risk of future burdensome regulation on venture capital."

- *The Wall Street Journal*, December 9

## Adjunct Analyst **Steven Milloy** takes on the campaign to ban PVC plastics:

Software giant Microsoft announced this week that it plans to stop using packaging material made from polyvinyl chloride (PVC) plastic by the end of the year—giving new life to a health scare that I thought had been squelched years ago.

"Those PVC clamshell packs that protect new copies of Microsoft Office Excel, PowerPoint, Word and other products fall short when it comes to protecting the environment and human health," Microsoft announced on December 7.

The truth of the matter is that "the PVC problem" is merely a creation of CHEJ's opportunistic pressure campaign against Microsoft and other businesses that started in 2004.

- *FoxNews.com*, December 8

## Senior Fellow **Marlo Lewis, Jr.** counters the charges of price gouging and the call for a windfall profits tax on the oil industry:

In the third quarter of 2005, the major U.S. oil companies—ExxonMobil, Chevron, ConocoPhillips, BP America, and Shell Oil Company—collectively earned almost \$26 billion in profits, an all-time record. In September and October, gasoline prices also hit historic highs, exceeding \$3.00 per gallon in many locations.

Predictably, many politicians, pundits, and activists accused oil companies of "price gouging" and urged Congress to impose "windfall profits" taxes on the majors. Some even argue that oil companies should be regulated as public utilities. Rather than allow supply and demand to determine oil company profits, these advocates want Congress to establish "reasonable rates of return" based on the oil companies' costs of production.

- *Tech Central Station*, December 5

### Great Moments in Public Health

In November, attorneys general from 32 states signed a letter urging major movie studios to include anti-smoking public service announcements on all new DVD and VHS releases in which smoking is depicted. Maryland Attorney General J. Joseph Curran, Jr., who is leading the campaign, said that there is a “direct relationship” between movies and “youth smoking initiation,” citing a Dartmouth study funded by the National Cancer Institute. But a different study in the journal of the American College of Chest Physicians conclude that “lower class, unsuccessful ‘bad guys’ were more likely to be shown smoking in movies, making portrayals of smoking anything but glamorous.”

### World Ends; Women Most Affected

At the Eleventh United Nations Climate Conference (COP-11) in Montreal in December, a spokeswoman for a feminist group charged that men contribute more to global warming than do women, while women feel global warming’s effects disproportionately. “Women and men are differently affected by climate change and they contribute differently to climate change,” Ulrike Rohr, director of the German-based group Genanet-Focal Point Gender, Environment, Sustainability, told CNSNews.com. “To give you an example from Germany, it is mostly men who are going by car. Women are going by public transport mostly.” She added, “As I am looking around the negotiations, it is really a male discussion going around,

# ...END NOTES



[discussing] climate change with a closed view to the people (women) that are being affected.”

### Please Avoid Our Deadly Product

In December, Japanese automaker Mazda asked its employees to walk rather than drive to the office, in an effort to improve their health and protect the environment, reports the Associated Press. Employees who meet a set of requirements by walking to work are eligible to receive ¥1,500 (\$12) a month.

### Hang Ten? Not if the State Says No

Gordon Clark, who helped invent the modern all-foam surfboard, says that

environmental regulations have forced him out of business, reports the BBC. Until recently, Clark manufactured most of the polyurethane foam blocks that are used to make many of the world’s surfboards. Clark—known as “grubby” among surfers—revolutionized the sport in 1958 when he and fellow innovator Hobie Alter coated a foam block in resin to create an all-foam surfboard. Previously, surfers could only use wooden boards which could break under the force of waves. “For owning and operating Clark Foam, I may be looking at very large fines, civil lawsuits, and even time in prison,” Clark announced in a seven-page letter to his customers. He said that he was forced to spend \$400,000 on legal fees to defend a claim by a former employee and about the same amount to meet emissions laws. Custom-made boards account for almost 75 percent of surfboards sold around the world—and Clark Foam supplied foam for 90 percent of those boards.

— Ivan Osorio