

INTRODUCTION TO OPINION N° 2000-01 OF THE FRENCH COMMISSION FOR SUSTAINABLE DEVELOPMENT

The report entitled "*Le Principe de Précaution*" (The Precautionary Principle) was presented to the prime minister by Philippe KOURILSKY (Professor at the *Collège de France* and Director of the *Institut Pasteur*) and Geneviève VINEY (Professor at University of Paris I, Panthéon-Sorbonne) on October 15th 1999. In the text, the reporters express their feeling that the implementation of the precautionary principle has to be organised in such a way as to "make real improvements to citizens' safety". Their recommendations target both "reflection and action over the longest term possible" and "short-term implementation" through "political and regulatory acts".

The French Commission for Sustainable Development (*Commission française du développement durable* – CFDD) has studied this report as part of its priority of developing sustainable development (SD). For the CFDD, the development concept is a crucial one, and supposes that the human (and particularly cultural) dimension should prevail over the economic, with the notion of equity being applied to all of humanity.

The CFDD appreciated the positive aspects of the report, in particular those parts where it emphasises that the precautionary principle should be used as an incentive. Nevertheless, the relatively narrow definition of the precautionary principle it develops does not allow the concept of sustainable development to be taken into account. Its approach, which is limited to short-term direct and environmental health risks, means that the application of the precautionary principle is confined to immediately measurable elements.

The sustainable development requirement means that the precautionary principle has to be taken at a much broader level, taking on board societal problems caused by new technologies. Finally, the conceptual limitations of the report produced an under-estimation of the democratic importance of public debate and an over-estimation of the role and status of the scientific expert.

The CFDD envisages a very different mechanism for the implementation of the precautionary principle, putting the evaluation centre at the heart of civil society: it is proposing to set up a ***consultative committee for the Evaluation of technologies*** (*Comité Consultatif pour l'Evaluation des Technologies*), made up of citizen volunteers from those drawn out of a hat. An appropriate communications platform would allow its members to consult scientific experts as well as the representatives of the various associative bodies from diverse tendencies, and then to issue a well-informed opinion directed at the political decision maker. In the event of persistent uncertainty within the Committee, a ***citizens' conference*** would be consulted simultaneously in several different regions. The politicians would then have access to a tool allowing them to investigate and evaluate on a far broader level than the purely scientific, economic and technical.

The CFDD contends that a protocol of this sort is necessary to contribute to the conditions required for sustainable development.

The President, Jacques TESTART

The French Commission for Sustainable Development

**Opinion n° 2000-01 (March 2000) on
"THE PRECAUTIONARY PRINCIPLE",
a report to the prime minister,
by P. Kourilsky and G Viney, October 15th 1999**

Philippe Kourilsky and Geneviève Viney's report is remarkable for its coherent exploitation of vast information sources and the pertinence of its annexes which analyse the major instances of the precautionary principle coming up against hard reality over recent times (contaminated blood, prions, GMOs).

However, the relatively narrow view of the precautionary principle developed in this report does not take the concept of sustainable development into account, and does not measure up to the mistrust that already prevails amongst public opinion.

From the *sustainable development* point of view, the choice of an approach which is limited to environmental and health risks means that the application of the precautionary principle is boxed in, as it were, and fails to address the primary consequences of technical innovation for society, both in economic terms and in terms of job development, social equality, North-South solidarity and so forth. The sustainable development requirement and the practices that are emerging from recent experiments do go some way to broadening the notion of the precautionary principle beyond purely environmental and health-related risks, including, for example, the different societal problems that arise as a result of technological innovations.

Additionally, the CFDD regrets that the report has limited its findings to the *direct damage* to man, neglecting the indirect harm that affects the resources that man needs to survive (air, water, soil, biodiversity, etc...).

Finally, the report gives no column space to the notion of *irreversibility*, which should be placed at the very centre of the precautionary principle in the majority of cases.

These various conceptual limitations lead logically to an under-estimation of the democratic function of the public debate and an over-estimation of the role and status of scientific experts. The proposal to create a scientific and technical expertise agency, the *Agence d'Expertise Scientifique et Technique (AEST)* is an attractive one indeed, especially if it helps to break down the innumerable expert structures that exist at the present time. However, we have to look very carefully at this, at the risk of the AEST being simply added to the already long list of Commissions, Committees, Study Centres and so forth, whose continued existence would always be campaigned for by the different ministries or influential lobbies. Furthermore, if the AEST were to adopt a supra-agency position, overseeing all the specific expertise structures, it would be subject to unending growth which would eventually render it difficult to manage, on account of the never-ending emergence of new themes requiring expert comment. The report emphasises the fact that "the contracting out and remuneration of expertise, making insurance possible, would allow victims to hope for real compensation through the mechanisms of civil liability proceedings". This measure, which would also make it easier to identify the expert and

make opinions more transparent, would undoubtedly be beneficial, without it actually requiring the existence of expert committees or of an Expert Agency.

The report goes back to the idea of expert assessment in two circles, as proposed by the citizens' conference on GMOs (1998). But here, the first circle (scientific assessment) is largely hegemonic whilst the second (covering economic, cultural and social aspects) is somehow subservient. This attitude is all the less justified on the basis of the report's finding that "the assessor is not all-knowing" and that his opinions "are not free of all prejudice". Under such conditions, is it fair to say that assessment has the attributes of scientific attitudes, and would it not be better to talk about "assessment of scientists" rather than "scientific assessment"? One of the rulings of the European Community Court of Justice referred to in this report (November 24th 1993) indicated that "measures to preserve fishing resources *do not have to conform fully with scientific viewpoints...*". It does indeed seem somewhat inconsistent to recognise the situation of uncertainty facing experts and yet not really take that position into account when preparing political decisions. And yet this is very much the sense of the proposal which enfeoffs the second circle to the first. Why, indeed, should the economic, ecological and social arguments not be considered as valuable as scientific and technical ones, and therefore not considered as "expert" as them (the term is reserved almost throughout the report to the scientific approach)? Why are the experts of the first circle necessary in the second if the scientific assessment has already been produced and communicated? Why would the issues considered by the second circle only draw upon the assessments produced by the first, as if they had all scientific knowledge available on the subject? Why place the second circle under the control of the health and safety agencies which would choose the members of the circle and make the "results of the analyses" public, making all elements the prerogative of the first circle, who would also have the privilege of informing the public and informing the press? The mechanism leaves little room for consumer associations, NGOs and alternative proposals, with the majority of the assessment work being left to the research agencies, the universities and science academies. The idea of making assessment (but only scientific assessment) a "recognised field offering adequate information and even diplomas, a publication system and the recognition of work done" could lead to formalising a *society of experts* whose interests would not necessarily be the same as those of the general public.

The report frequently insists on the need to "cost" the risks linked to technological innovation, thus reducing the scope of potential risks to those which can actually be measured objectively. Such a requirement supposes that the opinions which really matter are those coming from the scientific community, and that heed is only paid to the points the scientific community is capable of demonstrating. This means that precaution will only be acceptable if it is combined with prevention. This requirement for the scientific angle to prevail is all the more surprising since it does not seem to be being called upon to demonstrate the advantages of technology: indeed, we were unable to find credible pieces of information which would allow us to "cost" the benefits of growing transgenic crops anywhere in the report. Should we accept that the vague production gains (which are in fact very limited) announced by the industry are sufficient? What is the urgency of pushing on with a production mode which not only poses a number of problems, but which has no proven benefits? Supposing that transgenic crops actually work! Is this not just a simple belief – an ideology even – rather than a rational conclusion? Even if results were to be produced in the near future which demonstrated beyond reasonable doubt substantial productivity gains of GMOs, the absence of such proof amongst the experts and at the political level, which until now has been tolerated, is proof enough that

being "non-scientific" is not necessarily the exclusive domain of those who are supposedly "anti-progress".

The CFDD proposes a very different mechanism as far as the precautionary principle is concerned, taking the actual uncertainties of scientific assessment and the expression of varied analyses into account (institutional and independent, technical and social, national and foreign, etc...). It would also be our wish to place this Evaluation centre at the very heart of civil society. This would mean setting up a consultative committee for the assessment of technologies (*Comité Consultatif pour l'Evaluation des Technologies*) made up of citizens chosen at random and who are willing to inform themselves of all the aspects of the particular innovation under investigation. At the request of this committee, a variety of outside experts (scientists, economists, NGOs, human and social scientists, administrative authorities, etc...) would be called upon to produce detailed reports under contract. On the basis of the information gleaned from these sources, the members of the consultative committee would then be required to produce an informed report for the political decision maker. In the event of continued uncertainty within the consultative committee for Evaluation, citizens' conferences would be called, on the model of the one organised in 1998, but this time, simultaneously in several different geographic locations, on the basis of the presumption that greater objectivity would prevail under such circumstances. The CFDD feels that the answers given during such consultations, in their way of bringing knowledge and desire, rationality and common sense together on the same platform would help the political decision-making process. It believes that such a protocol would limit the influence of the active lobbies as well as reducing the impact of unfounded fears, thus contributing to sustainable development. It is clear that the form this would take would be worth investigating in greater detail elsewhere.