



environmental  
defence

## Media Backgrounder—Regulatory Cooperation Council

### What is the Regulatory Cooperation Council and what does it mean for Canadian chemical regulations?

Regulatory differences and the burden they can place on business are increasingly a topic of focus in international relations. Sometimes the demand to harmonize regulations to minimize impacts on trade can be a threat to measures national governments have taken to protect human health and the environment.

The Regulatory Cooperation Council (RCC) is a relatively new collaborative effort being undertaken by Canada and the U.S. in order to achieve greater regulatory alignment. Prime Minister Harper and President Obama announced the Action Plan in December 2011, and on August 2014, the Joint Forward Plan was released, outlining the project.

It remains to be seen what impact this may have on Canadian environmental regulations, but many aspects of the project deserve more attention and discussion.

The RCC covers four main sectors: agriculture and food, transportation, health and personal care products, and the environment. The nature of the work includes pilot projects, scientific and technical collaboration, harmonized testing procedures, and joint standards.

A series of stakeholder sessions will be conducted on October 8, 2014 at the Canadian Embassy in Washington D.C.

Environmental Defence is a Canadian environmental charity that has been active for more than 30 years. Protecting human health and the environment by preventing toxic pollution is central to our work. Therefore we will be actively engaging in stakeholder consultations and watching closely as the RCC moves forward in creating recommendations regarding Canadian and U.S. chemical regulations and scientific collaboration.

### What are the key differences between U.S. and Canadian chemical regulations?

The *Canadian Environmental Protection Act* (CEPA) (1999) is the enabling legislation of the Chemicals Management Plan (CMP) which is a collaboration of Health Canada and Environment Canada. Under CMP, BPA was banned from baby bottles and phthalates were banned from children's toys. While more progress is needed, Canada has banned or restricted over 500 chemicals from personal care products, and research continues. The Chemicals

Management Plan is in the process of assessing 4,300 substances for risk, and risk management, by 2021.<sup>i</sup>

The precautionary principle is enshrined in law as a “guiding principle” of CEPA: “The government’s actions to protect the environment and health are guided by the precautionary principle states that “where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.”<sup>iii</sup>

In the U.S., the *Toxic Substances Control Act* (TSCA) of 1976, administered by the Environmental Protection Agency (EPA), is the main legislation dealing with the manufacture, import, use and distribution of chemical substances. A 2005 study by the United States Government Accountability Office found that the EPA “was often unable to access adequate data sets, had regulated few chemicals and had not fully assessed risks.”<sup>iii</sup> The EPA has only required testing for 200 chemicals for human safety,<sup>iv</sup> and has banned a total of only five,<sup>v</sup> though other chemicals are restricted.

A broad range of voices, including ENGOS *and* industry, have expressed concern regarding the inadequacy of TSCA, and there have been numerous attempts to reform this legislation. In the absence of stronger chemical regulations at the federal level, many states have acted to create their own legislation to protect citizens from exposure to toxic substances. California enacted Proposition 65, requiring labeling of products containing carcinogens and reproductive toxicants in 1986, and Washington State and New York State have recently moved to ban toxic flame retardants. Earlier this year, Minnesota moved to ban the sale of products containing triclosan, which Environment Canada declared toxic in 2012.

### **What are the potential pros and cons?**

Increased sharing and collaboration between Canadian and U.S. scientists would have the potential to help address critical data gaps regarding the health effects of endocrine disrupting chemicals; the cumulative, and additive effects of exposures to multiple chemicals; and the effects of low level chemical exposures. There are over 80,000 chemicals in commerce in North America, but only a small fraction have been adequately assessed for their impacts on human health and the environment. More scientific research is urgently needed to determine where our safety is at stake, and international cooperation in this effort can have a positive impact.

While efforts to increase data gathering, and to support scientific collaboration, are worthy of public support, the Canadian and U.S. laws that govern how policymakers respond to new research have significant differences, and in some areas, the *Canadian Environmental Protection Act* legislates stronger protections where harmful chemicals are concerned. A cautious approach is needed to ensure that the RCC will result in improvements, rather than degradations to the Canadian system of addressing potentially hazardous chemicals.

## What's happening next?

The RCC is still in the early stages of investigating regulatory alignment in key areas, including chemical regulations and scientific collaboration.

Stakeholder engagement in the RCC process will be critical to ensuring an optimum balance between financial, administrative, and health and environmental concerns.

Environmental Defence will be following the development of the RCC closely.

---

<sup>i</sup> Health Canada. Final Report - Audit of the Implementation of the Chemicals Management Plan - Existing Substances, September 2013.

<http://www.parl.gc.ca/Content/LOP/researchpublications/prb0629-e.htm#fn5> -retrieved October 2, 2014.

<sup>ii</sup> Environment Canada. A Guide to Understanding the Canadian Environmental Protection Act 1999. -retrieved October 2, 2014

<sup>iii</sup> Erica Crawford and Tim Williams, "International Management of Chemicals" Science and Technology Division, Parliament of Canada, 6 September 2006 <http://www.parl.gc.ca/Content/LOP/researchpublications/prb0629-e.htm#fn5> -retrieved October 2, 2014

<sup>iv</sup> Dashka Slater. "How Dangerous is Your Couch?" The New York Times, September 6, 2012. <http://www.nytimes.com/2012/09/09/magazine/arlene-blums-crusade-against-household-toxins.html?pagewanted=all> -retrieved October 2, 2014

<sup>v</sup>U.S. Government Accountability Office. Observations on the Toxic Substances Control Act and EPA Implementation. June 13, 2013. <http://www.gao.gov/products/GAO-13-696T> -retrieved October 2, 2014.