

Towards Policy Coherence for Sustainability

International regulatory co-operation

Mapping sustainability in policy making

**Addressing risk in
regulatory policy making**

International regulatory co-operation

International regulatory co-operation in a networked world of global markets is the next frontier. While regulation is above all a state prerogative, in an increasingly interdependent world, many regulatory issues are addressed in international fora, which produce some form of soft or hard law or “supra regulations”. These then need to be translated and implemented in various national contexts. At the same time, countries are implementing and developing quality regulation initiatives in a national context. In the European Union, explicit mechanisms for co-ordination and transposition exist between EU and national laws and regulation. There is therefore a specific need to focus on regulatory quality both within and across borders, as countries have to co-operate and agree on common frameworks, as well as work across levels of government.

This session will discuss this emerging issue on the regulatory policy agenda. Options and formats for co-operation are relatively open. The session will more specifically discuss countries’ needs and strategies for regulatory co-operation, as well as the approaches which would be likely to yield the maximum benefits. Participants will discuss potential areas for cross-border regulatory co-operation as well as the standards for openness, consultation and communication across jurisdictions. The goal will be to open the debate and highlight the value of potential OECD work in the area.

- What are the benefits of stronger international regulatory co-operation? What are the potential drawbacks, in terms of losing the possibility to have competing and possibly better policy options? What are the implications across levels of government?
- What are the appropriate fora and institutional mechanisms for international regulatory co-operation? How to co-ordinate with sector specific efforts?
- What cultural and political challenges need to be overcome to develop international regulatory co-operation?

Chair:	Mr. Felipe Duarte , Vice-Minister for Competitiveness, Mexico
Speakers:	<ul style="list-style-type: none"> » Mr. Michael Fitzpatrick, Associate Administrator, Office of Information and Regulatory Affairs, United States » Mr. Simon Holland, Policy officer, Directorate General Enterprise & Industry, International Affairs Unit, European Commission » Mr. Benoit Turcotte, Director, Regulatory Affairs Division, Treasury Board of Canada
Moderator:	» Mr. Josef Konvitz , Head of the Regulatory Policy Division, Public Governance and Territorial Development, OECD

Session C1. International Regulatory Co-operation

Key points

- Need clear understanding of benefits either in terms of reducing barriers to trade, productivity, employment, greater pooling of scientific expertise, greater transparency and predictability.
- Central units in charge of regulatory oversight have to engage with departments, agencies, and particularly institutions in charge of standards and the need to reduce technical barriers to trade.
- A number of international and bilateral fora already exist: high level regulatory cooperation forum (US/EU), High level regulatory cooperation Council/regulatory cooperation framework (US Mexico, Canada), APEC, transatlantic risk dialogue.
- Improving techniques and programmes can be a useful way to go, on impact assessment techniques, risk assessment and management, transparency, social cost of carbon would be a core topic, ensuring to use a global value.
- It is essential to focus on upstream coordination, as mature regulations are hard to change.
- Need to address irritants.
- Cooperation is a long term investment with a need for prioritisation, and focus on major partners.
- OECD can serve a useful role, through principles, or the initiative on regulations 2.0, although practical constraints always play a significant role at the domestic level.
- Practice can sometimes be difficult and requires a lot of commitment and follow through.

Quotes (adapted)

“Prevention is better than cure: preventing barriers from arising is much easier than removing them”.

Implications for the Principles:

There is a need to outline the benefits of international regulatory cooperation and the need to focus it on the areas with greatest benefits, with specific attention to trade implications and standards.



U.S. Office of Management and Budget Office of Information and Regulatory Affairs

International Regulatory Cooperation

Michael Fitzpatrick

Associate Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget

Any views expressed here are solely those of the presenter, and do not necessarily reflect the position of the Office of Management and Budget or the Executive Office of the President.



OIRA's Role

- ❖ Centralized regulatory review.
 - ❖ OIRA works with various Federal agencies, including the Office of the U.S. Trade Representative (USTR) and the Department of Commerce, to ensure U.S. regulations are consistent with U.S. economic and trade commitments and goals.
- ❖ OIRA works with the National Institute of Standards and Technology (NIST) on international technical requirements and standards.
- ❖ OIRA works with the State Department on a wide-range of activities to promote the U.S. regulatory principles, processes, and transparency.



OECD

- ❖ OIRA Engagement in Regulatory Policy
 - ❖ Since the mid-1990s, OIRA has actively participated in the work of the OECD's program on Regulatory Management and Reform.
 - ❖ OIRA Branch Chiefs have regularly served on the relevant Bureaus, including the Regulatory Policy Committee Bureau.

- ❖ Key Venue for Promoting and Sharing Best Practices
 - ❖ 2005 Guiding Principles for Regulatory Quality and Performance
 - ❖ Current initiative on "Regulations 2.0"



High-Level Regulatory Cooperation Forum

- ❖ OMB-European Commission
 - ❖ Co-Chaired by OIRA Administrator and the Director General of DG Enterprise.
 - ❖ Last meeting was June 28-29, 2010, in Brussels.
 - ❖ Discussion of energy efficiency, labeling, and use of standards in regulation.

- ❖ Horizontal Issues
 - ❖ Regulatory impact analysis
 - ❖ Risk assessment
 - ❖ Use of voluntary standards

- ❖ Transatlantic Economic Council
 - ❖ Interest in opportunities for regulatory cooperation, reducing non-tariff trade barriers, and promoting SME exports.



High-Level Regulatory Cooperation Council

- ❖ U.S. – Mexico
 - ❖ Announced during the Mexican State Visit in May 2010
- ❖ Key Goals
 - ❖ make regulations more compatible, increase simplification, and reduce burdens;
 - ❖ increase regulatory transparency and provide “early warnings”; and
 - ❖ strengthen the analytic basis of regulation
- ❖ What about Canada?
 - ❖ Both sides have agreed to invite Canada to join the Council.



APEC

- ❖ OECD-APEC Integrated Checklist for Regulatory Reform
 - ❖ Collaborative effort between APEC and the OECD to promote regulatory best practices.
 - ❖ Self-assessment tool that evaluates a country’s regulatory, anti-trust, and market-openness policies.
- ❖ 2011: U.S. Host Year
 - ❖ U.S. plans to make good regulatory practice a key focus in 2011.



Social Cost of Carbon

Is it possible to imagine an international impact analysis for a specific problem?

- ❖ Yes. Consider the recent effort of the United States Government to develop figures for the social cost of carbon – figures that have been used for several different regulations, involving energy efficiency in vending machines and greenhouse gas emissions from motor vehicles.
- ❖ The figures were based in significant part on a decision to use a *global rather than a domestic* value – recognizing that carbon emissions in the United States also harm people elsewhere in the world.
- ❖ The figures were also based on discomfort that a high discount rate for future damage could lead to action that might harm future generations.

International Regulatory Cooperation

Global rules for a global economy?

Simon Holland

European Commission DG Enterprise and Industry



European Commission

Directorate-General for Enterprise and Industry

Why Cooperate?

- Reducing barriers good for trade & growth
- Between peers, cooperation may be the only way to reduce barriers
- We can learn from each other



European Commission
Directorate-General for Enterprise and Industry

Strengthening the foundations

- Better Regulation programmes aim at improving techniques
- Scope for learning from each other – assessment techniques, transparency...
- Bilateral initiatives can go global
- Capacity building

Prevention is better than cure

- Preventing barriers from arising is much easier than removing them
- Focus on upstream coordination
- Bilateral good, multilateral better

All Pain, No Gain

- Mature regulations are hard to change
 - The result of (painful?) compromise
 - Considerable investment involved
- Addressing irritants
 - Irritants give rise to confrontation
 - Confrontation and cooperation don't mix

...and we can't do everything

- Cooperation is a long term investment
- Scarce resources have to be committed
- We have to prioritise
 - Look at potential benefits
 - Consider prospect of success
- Consequently
 - Focus on major partners
 - Favour multilateral over bilateral



Better Regulation through International Cooperation

Benoit Turcotte, Director of Policy

Regulatory Affairs Sector, Treasury Board Secretariat

Canada

Benefits of Regulatory Cooperation

- Empirical literature tends to measure potential benefits or regulatory cooperation in terms of gains in trade. Other economic benefits can also accrue from greater international regulatory cooperation, namely:
 - Reductions in regulatory burden
 - Increases in productivity, income, employment, and investment
 - Greater pooling of scientific and technical expertise
- Regulatory cooperation can also result in:
 - Better-informed decision making through access to regulatory resources of international bodies and other countries (e.g. assessment results, analysis, people)
 - Greater transparency and predictability of regulatory practices
 - Allow countries to contribute their expertise and promote their best regulatory practices internationally, thus influencing standards elsewhere.



How does International Regulatory Cooperation Fit Within a Regulatory Reform Strategy

- With reduction in tariffs and proliferation of bilateral free trade agreements, attention is increasingly focused on how to dismantle technical barriers to trade.
- Differences in the regulatory requirements or standards of individual economies arguably have the greatest potential impact on trade.
- Aligning with key trading partners allows for better market access, exchange of best regulatory practices internationally, convergence on risk assessment methods and adoption of common standards and practices.



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Implementing Regulatory Reform Policies and Building Capacity in Canada

- The *Cabinet Directive on Streamlining Regulation*, that came into force April 1, 2007, is the result of collaboration between federal regulatory departments and agencies as well as thorough consultations with a wide cross-section of stakeholders including environmental and consumer groups, industry and small business as well as provinces and territories.
- Canada also took into account the recommendations that came out of a number of studies, including the 2002 OECD review of the Canadian federal regulatory system and the 2004 report of the External Advisory Committee on Smart Regulation. Some of the more notable recommendations focused on:
 - Moving towards a lifecycle approach that includes evaluation;
 - Improving coordination within Canada;
 - **Paying greater attention to market openness and improving international regulatory cooperation**



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Regulatory Impact Analysis

The Cabinet Directive on Streamlining Regulation supports a performance-based regulatory system

Features

Quantitative cost-benefit



Domestic & int'l cooperation



Business impact analysis



Performance measurement



Regulatory Governance



Outcomes

Protection of public and value for money

Sensitive to trade & investment

Minimizes administrative burden on business

Drives continuous improvement

Drives the culture change to create a performance-based regulatory system

Canadians will benefit from new regulations that offer high levels of protection while being easier to comply with, aligned with key trading partners, and supported by timely and transparent approval processes.



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Canada actively participates in Regulatory Coordination and Cooperation ...

- Canada participates in different regulatory cooperation initiatives with its main trading partners.
 - Canada (TBS-RAS), the U.S. (OIRA) and the European Commission (Directorate-General for Health and Consumers) engage in the Transatlantic Risk Dialogue (TRAD) to facilitate cooperation and exchange of practices and methods on risk assessment. The goal is to improve risk assessment approaches between the three jurisdictions. On June 3-4, 2010, Canada hosted an international conference on risk for regulators and meetings of the TRAD Working Groups.
 - Under the Security and Prosperity Partnership in North America (SPP), Canada engaged with the US and Mexico on regulatory cooperation through the Regulatory Cooperation Framework (RCF). Canada continues to dialogue with its NAFTA partners on regulatory matters.
- Canada hosts various delegations and engages in discussions with various jurisdictions on regulatory reform and governance topics including the exchange of best practices.
- Canada contributes to setting and advancing agendas under the auspices of regulatory policy and reform committees of multilateral forums e.g. OECD and APEC.
- Departments and agencies play an important role by engaging with regulatory counterparts from other jurisdictions on effective risk management and standards development to achieve its regulatory policy objectives.



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How is Canada Addressing International Regulatory Obligations and Cooperation (IROC)

- **Coordination and Cooperation**
 - The CDSR also emphasizes on the necessity for departments and agencies to take advantage of opportunities for cooperation, either bilaterally or through multilateral fora, by:
 - reviewing and influencing international best practices, sharing knowledge, adopting or contributing to the development and updating of international standards and conformity assessment procedures, and developing and pursuing compatible approaches with international counterparts;
 - limiting the number of specific Canadian regulatory requirements or approaches to instances when they are warranted by specific Canadian circumstances and when they result over time in the greatest overall benefit to Canadians;
 - identifying the rationale for their approach, particularly when proposing regulations that would be unique to Canada.



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How is Canada Addressing International Regulatory Obligations and Cooperation (IROC)

- **Compliance with international obligations**
 - Through the CDSR, Canadian departments and agencies are to respect Canada's international obligations in such areas as human rights, health, safety, security, international trade, and the environment. They must also implement provisions related to these obligations in all stages of regulatory activity.
 - To ensure the compliance of regulatory proposals, departments and agencies are encouraged, among other things, to seek the advice and assistance of the Regulatory Affairs Sector within Treasury Board of Canada Secretariat, the Trade Law Bureau of Foreign Affairs and International Trade Canada (DFAIT) and the Department of Justice Canada, which provides advice on Canada's international trade obligations.
 - DFAIT is responsible for implementation of the WTO TBT Agreement. DFAIT contracts with the Standards Council of Canada (SCC) for the operation of Canada's enquiry point and notification authority. The SCC, a federal Crown corporation, is the focal point for standardization in Canada that monitors the Canada Gazette to identify relevant technical regulations and conformity assessment procedures for WTO notification.



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Implementing IROC Requirements

- **Challenge Function**

- The Regulatory Affairs Sector within the Treasury Board of Canada Secretariat (TBS-RAS) brief Treasury Board Committee on about 250 regulatory proposals and orders per year.
- Through this function, it is has developed a specialist challenge role to ensure departments are complying with the IROC requirements of the CDSR.



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Implementing IROC - Example

- **Canada works closely with the United States (US) and the European Union (EU) to align frameworks and reduce barriers to trade most notably, in the areas of:**
 - Food safety
 - Chemicals safety
 - Consumer products
 - Motor vehicle safety standards
- For example, with respect to food safety, Canada's decisions are based on risk analysis principles established by Codex. Under Codex, decisions made by jurisdictions are subject to challenge by trade partners allowing for a harmonized approach, mitigating against overly risk averse decisions and facilitating international trade in food while protecting the health and economic interests of consumers.
- Collaborative activities on risk assessment have been important to minimize technical barriers to trade.



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Implementing IROC – A Specific Example

GHG Emission Regulations for New Light-Duty Vehicles

- On October 1, 2010, the US and Canada aligned greenhouse gas emission standards for new passenger automobiles and light trucks for the 2011-2016 model years. Average GHG emission performance of new vehicles for the 2016 model year will be about 25% lower than the vehicles sold in 2008.

US/Canada harmonized approach to regulatory innovation:

- Companies are required to comply with fleet based GHG emission standards
- Intra-company emission credit trading system: providing compliance flexibility
- Regulatory incentives for companies to market "advanced technology vehicles", including electric vehicles, plug-in hybrid electric vehicles and fuel cells vehicles.
- Provisions for Non-Conventional GHG-Reducing Technologies (e.g. improvement in vehicle air conditioning systems)



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Thank you

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Breakout Session C1: International Regulatory Co-operation

Comment as moderator:

The speakers highlighted “standards” as a significant area of international regulatory co-operation. Cross-border work on standards dates from early in the 19th century as part of an agenda to improve safety at sea through universal adoption of a standard of longitude (eventually, Greenwich) and a standard of measurement (the meter). This enterprise also focused on how to collect statistics in uniform ways. Already at the time, risk reduction, transparency and trade facilitation – to use our contemporary terminology – were drivers. Underlying this effort was a belief in the universal applicability of science as an objective and neutral way to provide solutions to practical problems, and the assumption that trade reduces conflict. Perhaps for historical reasons, more progress has been made toward harmonised standards for maritime trade (the high seas being international; the cost of and public sensitivity to shipwrecks; the role of insurance; etc.), and by implication for aviation, than for land transport (the cross-border movement of which remains hugely complex from a regulatory burdens point of view).

There are different national and sectoral approaches to how standards are developed, as the above examples from transport reveal, and as everyday life confirms when using an electrical appliance in the UK, on the continent, in the US, or in Australia. Decisions taken early on concerning a technological option can generate path-dependency and lock-in, emphasizing the critical need to address standards early, before the costs of adjustment become significant. The cost of converting existing systems may still be reasonable in the long run, as the example of Sweden’s conversion from right to left-hand driving shows.

Small jurisdictions may have stronger incentives to harmonise than large ones with big internal markets. How small and large states negotiate on standards and other regulatory issues remains largely un-studied. At the very least, there needs to be a common language.

Three questions for discussion and further analysis:

- 1) How to assure compliance and monitoring behind borders;
- 2) How to handle systemic risk through international regulatory co-operation for health (infectious disease), intellectual property rights (counterfeiting), and
- 3) How to unleash innovation for green growth.

Mapping sustainability in policy making

“Sustainability” reflects “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (Brundtland report, 1987). This notion has three main dimensions, economic, social and environmental, all crucial to achieve sustainable development. Regulation has of course an important role to play. The question is how to incorporate the concern for sustainability into the design and assessment of rules. At the same time, countries are developing and strengthening general impact assessment systems, to cope with the integration of economic, social and environmental impacts.

Developing tools that incorporate sustainability dimensions into regulatory management and policy making poses many challenges. The goal is for sustainability aspects to become an instrumental part of policy making and implementation. Sustainability impact assessments have been considered in some cases, while other options imply a broader focus for existing tools for ex ante impact assessment, such as regulatory impact analysis. Integrating sustainability as a key feature of policy making requires changing mindsets and learning new ways of thinking.

- What are the analytical and political challenges of incorporating broader concerns for sustainability into policy making?
- How can concerns for sustainability be integrated into regulatory design and decision making processes? What are the implications for RIA?
- Can sound methodologies be implemented while at the same time ensure that the process is politically relevant and visible?

Chair: **Ms. Barbara Kunz**, Project Manager, Modern Regulation, Bertelsmann Stiftung

Speakers:

- » **Ms. Michelle Moore**, Federal Environmental Executive, White House Council on Environmental Quality, United States
- » **Mr. Marc Hostert**, Head of the Private Office of Mr. Henri Grethen, Member of the European Court of Auditors
- » **Mr. Andrea Renda**, Senior Research Fellow, Centre for European Policy Studies, Belgium

Session C2: mapping sustainability in policy making

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The issues:

- What are the analytical and political challenges of incorporating broader concerns for sustainability into policy making?
- How can these concerns be integrated into RIA?
- How to objectivise the process while remaining politically relevant?

Two very different contributions to this fairly challenging question:

- The US approach: mainstream the “broader concern” of sustainability into the principles guiding the operation itself of public agencies: this way is chartered by the
- The European approach: integrate the sustainability test into RIA practice, currently being pursued at the level of the European Commission.

Interesting points made:

- Sustainability and green government are no longer the preserve of environmentalists but are coming to be good business practice;
- Including long term concerns into evidence for policy making is not always useful for politicians, who are more sensitive to their citizens concern than to background evidence;
- Parliaments need not fear a diminution of their policy making power with the advent of better evidence.

For OECD

- The sustainability community (environmental advocate, climate change lobbies, etc) and the regulatory community need to come together and interact for the greater social good;
- There is still a lot of technical work to be done on fine-tuning the metrics of long-term impacts of policies and regulation.

Executive Order 13514: Sustainability and the U.S. Federal Government

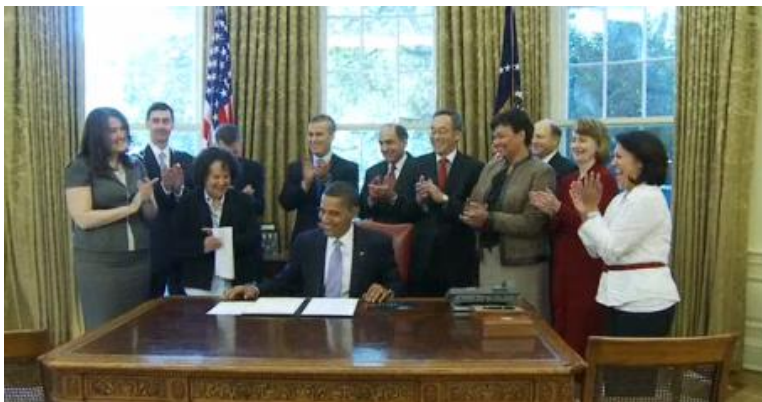
White House Council on Environmental Quality
October 27, 2010

Michelle Moore

Federal Environmental Executive



Leadership in Energy, Environmental, and Economic Performance



Purpose

“In order to create a clean energy economy that will increase our Nation’s prosperity, promote energy security, protect the interests of taxpayers, and safeguard the health of our environment, the Federal Government must lead by example. It is therefore the policy of the United States that Federal agencies shall increase energy efficiency; measure, report, and reduce their greenhouse gas emissions from direct and indirect activities; conserve and protect water resources through efficiency, reuse, and stormwater management; eliminate waste, recycle, and prevent pollution; leverage agency acquisitions to foster markets for sustainable technologies and environmentally preferable materials, products, and services; design, construct, maintain, and operate high performance sustainable buildings in sustainable locations; strengthen the vitality and livability of the communities in which Federal facilities are located; and inform Federal employees about and involve them in the achievement of these goals.”



Our Responsibility

- Approximately 500,000 buildings
- More than 600,000 vehicles in the Federal fleet
- Almost 2 million civilian employees, and 1.5 million active duty military (85% are work outside Washington, DC)
- More than 600,000 companies in the supply chain
- More than \$500 billion in annual purchases



What are our goals?

- Greenhouse gas emissions
- Energy efficiency
- Water use efficiency and management
- Pollution prevention and eliminating waste
- Regional and local integrated planning
- Sustainable Federal buildings
- Sustainable acquisition
- Electronics stewardship
- Environmental management



Interagency Milestones Met

What's Due	Timeframe	Date
Senior Sustainability Officer Named	30 Days	11/4/2009
Agency-specific GHG reduction targets for direct emissions	90 Days	1/4/2010
Agency Sustainability Plan and Indirect GHG reduction target	240 Days	6/2/2010
GHG Inventory	15 Months	1/31/2011



Interagency Milestones Met

Lead	Sec.	Title	Due Date
DOE	9	Greenhouse Gas Accounting and Reporting Recommendations	180 days ; 1yr Dates: 4/5/2010 ; 10/5/2010
DOT	10	Sustainable Locations for Federal Facilities Recommendations	180 days Date: 4/5/2010
GSA	11	Federal Local Transportation Logistics Recommendations	180 days Date: 4/5/2010
DOE	12	Federal Fleet Management Guidance	180 days Date: 4/5/2010
GSA	13	Vendor and Contractor Emissions Recommendations	180 days Date: 4/5/2010
EPA	14	Stormwater Guidance for Federal Facilities	60 days Date: 12/4/2009



Next Steps

- Government-wide GHG inventory (January 2011)
- Implementation instructions for Adaptation
- Annual update of Sustainability Plans
- Review/Improve GHG Guidance

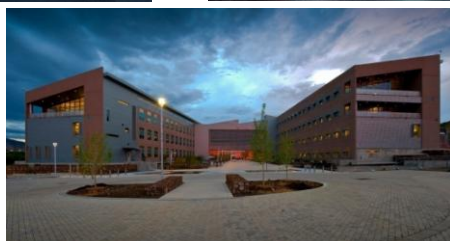


Engaging and Involving the Community

- GreenGov
 - The Challenge
 - The 2010 GreenGov Symposium
 - Presidential Awards



Examples of Agency Action



Learn More...

- On the web at...
 - www.WhiteHouse.gov/greengov
 - www.FedCenter.gov
- View video from the GreenGov Symposium...
 - www.PlanetForward.com





Impact Assessments in the EU institutions: do they support decision making?

Special Report No 3/2010
European Court of Auditors
Regulatory Policy at the Crossroads
28-29 October 2010 OECD, Paris

28-29 October 2010, Paris

Marc HOSTERT, Head of cabinet



Impact assessment in the EU institutions

- Better Regulation
 - aims to improve and simplify new and existing legislation
 - is a responsibility of ***all*** EU institutions involved in the legislative process

- impact assessments contribute to Better Regulation by
 - systematically analysing information about planned European Union legislation and programmes and estimating their likely impact
 - providing a basis for deciding how to address policy challenges



Does impact assessment support decision making?

- the Commission has put in place a comprehensive impact assessment system which has been
 - widely used within the EU institutions
 - effective in supporting decision-making

but

- there are areas for improvement regarding the main procedures and also the content and presentation of reports

Findings and recommendations



The use of impact assessment in the EU institutions

- ❑ the Commission has made impact assessment an integral part of policy development and has used it to design its initiatives better
- ❑ the European Parliament and the Council found the Commission's impact assessment reports helpful when considering the Commission's proposals

but as the legislative procedure progressed:

- ❑ the Commission's impact assessments were not updated to take account of amendments
- ❑ the European Parliament and Council rarely carried out impact assessments on their amendments



Procedures for impact assessment

- ❑ transparency in the Commission's procedures was achieved
but
 - advance notice was not provided for all initiatives planned to undergo an impact assessment
 - the basis for selecting the initiatives to be analysed was not always made public
- ❑ consultation with stakeholders was widely used for initial input
but
 - not on draft impact assessment reports
- ❑ review by the Impact Assessment Board contributed to the quality of impact assessments
but
 - in some cases this took place too late in the process



Recommendations regarding procedures

The Commission should:

- ❑ provide an overview of all legislative initiatives for which it intends to undertake an impact assessment
- ❑ justify why an impact assessment is not performed on a legislative initiative
- ❑ publish interim documents for information and comment
- ❑ ensure that the Impact Assessment Board's quality review takes place on a timely basis



Content and presentation of impact assessment reports

- ❑ the Commission has complied with its own guidelines
- ❑ the Commission's comprehensive approach compares favourably to that of other bodies

but

- implementation aspects are not always sufficiently analysed
- potential enforcement costs and administrative burden are not always sufficiently quantified and the Standard Cost Model is rarely used
- difficulties in quantifying and monetising impacts can be traced back to the availability of data
- the main results and messages of impact assessment reports are not always easy to gather



Recommendations regarding content and presentation

- put more emphasis on implementation aspects and make more use of *ex-post* evaluations of EU legislation
- fully analyse the enforcement costs and administrative burden of legislative proposals and use the 'Standard Cost Model' in a consistent way
- improve the quantification and monetisation of impacts by developing a strategy to improve the quality of data
- improve the presentation of qualitative analysis and prepare reports that facilitate the comparison of policy alternatives



Recommendations regarding content and presentation

The Commission should:

- put more emphasis on implementation aspects and make more use of *ex-post* evaluations of EU legislation
- fully analyse the enforcement costs and administrative burden of legislative proposals and use the 'Standard Cost Model' in a consistent way
- improve the quantification and monetisation of impacts by developing a strategy to improve the quality of data
- improve the presentation of qualitative analysis and prepare reports that facilitate the comparison of policy alternatives



In a nutshell.....

- ❑ the Commission has put in place a comprehensive impact assessment system
- ❑ it has been widely used and effective in supporting decision-making within the EU institutions
- ❑ ***but*** there are areas for improvement regarding the main procedures and also the content and presentation of reports

The European Parliament, the Council and the Commission are urged to consider these recommendations when revising their Inter-institutional agreements on "Better law-making" and the "Common approach to impact assessment"



European Court of Auditors

Thank you for your attention



Audit work done

- ❑ Analysis of a sample of Commission impact assessment reports
- ❑ Interviews with officials involved in performing and reviewing impact assessments in the Commission
- ❑ Interviews and surveys with people in Parliament, Council and Member States using the Commission's impact assessments
- ❑ International comparison of impact assessment systems
- ❑ Advice and support through expert groups
- ❑ Assessment against inter-institutional agreements, the Commission's guidelines and a set of good practices observed in policy documents and established by the OECD
- ❑ Examined period: 2003-2008



Audit questions

- ❑ Did impact assessments support decision-making in the EU institutions?

In particular:

- Were impact assessments prepared by the Commission when formulating its proposals and did the European Parliament and the Council consult them during the legislative process?
- Did the Commission's procedures for impact assessment appropriately support the Commission's development of its initiatives?
- Was the content of the Commission's impact assessment reports was appropriate and the presentation of findings conducive to being taken into account for decision-making?



IMPACT ASSESSMENT AND SUSTAINABILITY: LIAISONS DANGEREUSES

Andrea Renda

Senior Research Fellow, CEPS

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INTRODUCTION: THE (R)IA WORLD

- RIA is heavily promoted as a very important tool for the efficiency, transparency and accountability of policymaking
- RIA is also reportedly a success, with several countries adopting it over the past two decades
- A few research projects have looked at RIA implementation over the past years (ENBR, EVIA): results are not encouraging...
- In the US, RIA faces criticisms on substance; in many other countries, on both substance and governance

SUSTAINABILITY IN IMPACT ASSESSMENT

▪ Several challenges:

- RIA normally looks at specific proposals/impacts, sustainability depends on a broader set of factors
- Hard to interpret sustainability if not case-by-case:
 - **Environment-related:** preserving resources for the future?
 - **Social:** distributional issues, inter-generational altruism?
 - **Economic:** reduction of public debt, achievement of financial stability, Protection of critical infrastructures
- Distributional issues:
 - RIA is often considered unfit for dealing with distribution
 - Should governments address sustainability separately?

Benefit category	Estimation approach
To individuals	
• Mortality	<i>Wage compensation; stated preferences; averting behaviour; human capital (foregone earnings).</i>
• Morbidity (acute, chronic)	<i>Stated preferences; cost of illness (medical earnings, pain and suffering, avoidance); averting behaviour</i>
To production/consumption	
• Crops/forests/fisheries	<i>Consumer plus producers surplus</i>
• Water-using industry	<i>Consumer plus producers surplus</i>
• Municipal water supply	<i>Opportunity cost (alternative aquifer)</i>
• Authorities	<i>Service replacement (municipal treatment, bottled water)</i>
Economic assets	
• Materials (corrosion, soiling)	<i>Replacement cost, service values, household production function</i>
• Property values	<i>Hedonic price models</i>
Environmental assets	
• Recreational use	<i>Unit day, stated preference, property value, travel cost, random utility, hedonic prices, travel cost, service replacement costs</i>
• Other use (visibility)	<i>Stated preferences, property value</i>
• Passive use (non-use)	<i>Stated preferences</i>

Source: elaborated from Freeman (1993)

ANALYTICAL PROBLEMS (1)

- When should sustainability be taken into account in RIA?
 - As a mandatory step on defining the baseline (*e.g.*, are there significant risks of undermining the situation of future generations if nothing is done?)
 - As a mandatory check in analyzing and comparing regulatory options (*e.g.*, even if option x maximizes net benefits, does it feature significant negative impacts on sustainability?)
 - As a separate screen (once the regulatory option has been chosen, possibly leading to ancillary remediation measures)
 - Outside the RIA, as a stocktaking tool in ex post evaluation, possibly leading to specific regulatory or policy measures

ANALYTICAL PROBLEMS (2)

- What are the major methodological problems?
 - Methodological individualism:
 - RIA is often based on neoclassical economics, which relies on the sum of individual preferences as an approximation of societal welfare.
 - The value of public goods (*e.g.* biodiversity) is often underestimated if one uses stated preferences or averting behavior
 - Accounting for sustainability would require the use of more objective value judgments: neoclassical economics by itself is not suited for accommodating such concerns

ANALYTICAL PROBLEMS (3)

- What are the major methodological problems?
 - “Resourcist” efficiency criteria:
 - RIA is often based on “*efficiency as justice*” and an “*efficiency as sustainability*” criteria. It uses wealth to approximate welfare – and they’re not the same
 - Non-market goods may be misrepresented and under- or over-estimated
 - Cost savings may be weighted together with heavily discounted future environmental or social benefits
 - Impacts related to sustainability are way more difficult to quantify and monetize: e.g. efficiency v. resilience of critical infrastructure; production v. damages to biodiversity

ANALYTICAL PROBLEMS (4)

- What are the major methodological problems?
 - Behavioral problems:
 - Non-market impacts are often monetized based on individual behavior and individual preferences
 - However, human rationality is bounded: individuals misperceive long-term impacts, and in some cases consider long-term as a luxury
 - Need to “nudge” people into more sustainable behavior?
 - Need to change social norms towards more sustainable patterns? (e.g. pooper-scooper norms, Cooter 2000)

EXAMPLE 1: THE US RIA MODEL

- **An increasingly quantitative model**
 - Only for secondary legislation
 - Uses often Kaldor-Hicks net benefits calculation (OIRA A-4)
 - Can force administrations to think about long-term
- **Critiques** (e.g. Heinzerling, Ackerman, Revesz and others)
 - *Too heavy discounting of future benefits leads to short-termism (especially referred to EPA RIAs)*
 - *Knowing the price of everything and the value of nothing*
 - *Reliance on stated and revealed preferences incorporates people's selfishness*
 - *Anti-regulatory bias?*

EXAMPLE 2: THE EU IA MODEL

- **Multi-criteria model with less emphasis on monetization**
 - Binding and non-binding legislation
 - Enables early decisions on sustainability (through several rounds of consultation)
 - Sustainable development AND competitiveness since 2002
 - Use of IA Steering Groups
 - The Impact Assessment Board should check on (at least environmental) sustainability
 - Potentially leaves a more balanced document in the hands of political decision-makers
- **Critiques**
 - *Bad quality, routinization, too many "screens", rapid obsolescence, absence of external oversight*

CAN WE ADDRESS SUSTAINABILITY IN RIA?

- **Available evidence shows that RIA is simply too seldom performed to be a reliable tool to address sustainability**
 - Before we “make it more complex”, we should try to “make it”
 - Non-market impacts are almost never addressed by the approx. 50 governments that have launched RIA systems (with the exception of the US, the EU and few others)
 - Accordingly, analysis of sustainability in RIA is only occasional
- **A sustainability test without (necessarily performing) RIA?**
 - In certain policy domains, it may be useful to require *ex ante* analyses of sustainability for a number of major new policy actions
 - This would run counter to the current trend towards “integrated Impact Assessment”: are we sure this would be worse?
- **Is RIA sustainable?**



THANK YOU!
Andrea.Renda@ceps.eu

Addressing risk in regulatory policy making

The notion of risk is intrinsically linked to regulation, yet is often only partially acknowledged in regulatory processes and regulatory design. Modern economic activities involve the promise of innovation radically expanding the availability of supply and limiting price increases, and, given the complexity of production processes, relegating a high degree of regulatory compliance to firms. The issue of complexity, technological progress and regulation extends to many areas of modern life, including nano technologies, genetically modified organisms or nuclear fusion. In all these areas and others, regulation has to strike a balance between managing “tail risk”, very low probability yet high consequences events, and supporting innovation. The policy challenge is to adapt regulation over time to manage complex systems with constantly evolving risk, which may need the setting up of resilient institutions to design and enforce regulations, with constant and specific attention to the risk and prudential aspects.

In the future, governments will have to balance efficient market regulation and the protection of citizens, while remaining ultimately in charge, as a form of “insurer” of last resort, in case of catastrophic risks. At the same time, excessive attention to petty risks also has the potential to unnecessarily increase administrative burdens and generate significant reporting requirements. Therefore, enforcement activities will need to be designed with risk-based approaches.

Finally, policy makers are also subject to political pressures, particularly in the aftermath of a catastrophic event, which requires specific attention to communication. For regulation to be efficient and effective, policymakers have to explicitly recognise and manage the gap between the level of risk acceptable to policy makers and the level that is achievable through regulation. This also requires transparency to promote an understanding of stakeholders supported by tools and processes for risk assessment, risk management and risk communication. This will also require capacity to manage the political context and communication with the public to avoid the pitfalls of reactive regulation, which can lead to duplicative, burdensome and at times, conflicting regulations.

- What are the political and governance challenges of addressing risk as a policy issue in its own right in regulatory design and policy making?
- How can proper risk management and communication avoid short term policy making and reactive regulation?
- How to take advantage of risk-based approaches to improve compliance mechanisms?
- What are the emerging issues with a risk dimension which regulators will have to confront?

Chair: **Mr. Nikolai Malyshev**, Deputy Head, Regulatory Policy, Public Governance and Territorial Development, OECD

Speakers:

- » **Mr. Simon Webb**, Executive Director, The Nichols Group, Former Director General, Cabinet Office, United Kingdom
- » **Prof. Jonathan Wiener**, Professor of Law, Duke University Law School, United States
- » **Mr. Panagiotis Karkatsoulis**, Professor, Hellenic School of Public Administration, Greece
- » **Mr. Jan van Tol**, Manager Risk and Responsibility Programme, Central Government Reform Programme, Netherlands

Session C3. Addressing Risk in Policy Making

?YmDc]bHg

- History demonstrates a link between crisis and regulatory overreaction. However, governments can learn techniques to overcome negative incentives and control unnecessary regulation by setting risks in proportion. Ready action in the early hours is made more critical by the continuous news cycle and social networks, and citizens have an expectation of support even when the crisis occurs overseas.
- Early errors in risk handling lead to a lack of public confidence. These include: hoping risks will resolve themselves, being slow to mobilise crisis machinery and allowing your subject experts to exhaust themselves so they cannot advise on longer term decisions. Take care not to let the public information set the parameters of the problem. The rapid initial investigation of facts and causes by a visibly independent expert - detached from policy making - leads to a more rational response.
- Governance arrangements are required to manage responses to the multiple, connected and complex causes of risks. There is a synergistic effect and more often a dynamic risk-risk trade off to be managed, where policy responses to one risk spawn other risks.
- The tragedy of the uncommon is that public and expert assessment of risks vary considerably - hence the role for governments to educate and communicate with the public about the likelihood of risk consequences.
- The risk regulation reflex is inherent in government and needs to be addressed through rational policy governance models.

Quotes (adapted)

“It is bad if you have your Minister on the spot of the crisis with nothing to say; they may promise to camera that it will never happen again”

“There is a large appetite for information on comparative approaches to regulatory oversight around the world”

“The disruptive powers of the risk regulation reflex have to be addressed more directly in the principles”

Future projects:

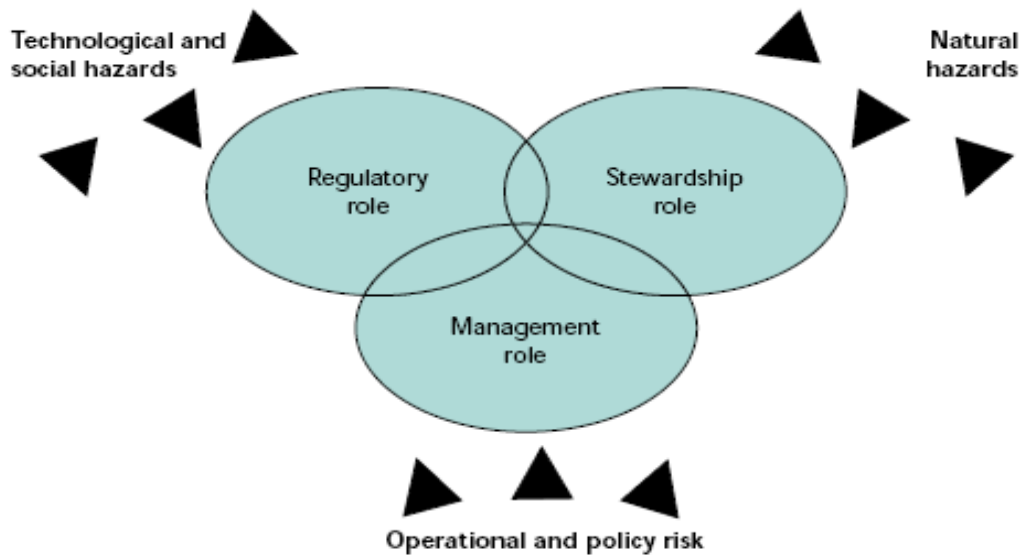
The OECD has commenced the development of a risk governance framework for regulatory policy. Further dissemination of this and testing with governments would be timely and useful.

Implications for the Principles:

There is a risk governance deficit in OECD countries. For the most part Countries have not developed a coherent policy framework for assessing and managing responses to risks to prevent regulatory overreaction. A future revision should include guidance on how to improve risk governance in regulatory policy.

Nikolai Malyshev, Deputy Head, Regulatory Policy Division, OECD

Risk and the role of Government



Source: UK Strategy Unit, 2002

Simon Webb: Crisis! How to avoid an Incident resulting in Bad Regulation

Key message: Disproportionate regulation often follows a high profile incident, such as a major accident, disease outbreak, terrorist attack or natural disaster. Being pressed into kneejerk responses (and the associated loss of reputation for a Government or Board) is avoidable, by training for crisis management that recognises the realities of modern media and social networks.

From studying how crises over the last 20 years were handled, Simon Webb observed new features: actions in the early hours are made more critical by continuous news and social networks; and individuals have higher expectations of getting information and support, even when overseas. Therefore, a Government or Corporate Board needs to set a new risk in proportion - or be outpaced in the public information space.

There are two ways that momentum frequently gathers for extra regulation:

- Hesitant management and poor public handling in early stages leads to public pressure for action to prevent a recurrence, and more regulation is promised without proper assessment
- Follow-up investigations or inquiries are commissioned in ways that lead inexorably to proposals for additional regulation.

Simon suggested some practical ways in which these paths to poor regulation and reputation loss can be avoided. His conclusion, picked up in the final session, was that after an incident:

A Government or Board must create space and time for itself to get the right answers

Simon drew conclusions from 29 episodes ranging from the stadium disasters of 1988 to industrial accidents and the H1N1 outbreak in 2009-10 while he was a UK Government Servant. For further information and check-lists on crisis management, please feel free to contact him at the Nichols Group on simon.webb@nichols.uk.com. The Nichols Group is a London-based company that partners UK and international clients through major change and infrastructure programmes.

Risk and Regulatory Policy

Jonathan B. Wiener

**Perkins Professor of Law, Environmental Policy & Public Policy, Duke University
University Fellow, Resources for the Future (RFF)
Past President (2008), Society for Risk Analysis (SRA)**

**Conference on “Regulatory Policy at the Crossroads”
OECD, Paris
29 October 2010**

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Risk

- “Risk” = combination of probability and impact: $p(I)$
- No such thing as “zero risk.” We are mortal.
- Human capacity to assess and manage risks
 - Essential to survival (Peter Bernstein)
 - Unique ability to envision future scenarios and plan ahead (Dan Gilbert)
- We face many risks, e.g.:
 - Accidents
 - Air pollution
 - Chemicals
 - Climate change
 - Disease
 - Disasters
 - Food
 - Finance
 - Tsunamis
 - Terrorism

Declining risks, but rising concern?

- The world appears to be getting generally safer over centuries
 - Rising human longevity (life expectancy)
- Why?
 - Increasing wealth = demand for safety (e.g. EKC)
 - Advancing science = better detection of risk
 - Better regulation = reduce risks
- But: public concern about risks continues to grow
 - Especially longer-term, lower-probability risks
- Why?
 - Increasing wealth
 - Advancing science
 - Greater awareness – news, internet, “availability”
 - Greater safety and longevity itself, so rare risks become more salient
 - Emerging risks

Why should governments care about risk?

- Public well-being: goal to increase net benefits to society
 - Market failures: externalities, public goods (“tragedy of the commons”)
 - Government failures: costs, new risks created, hasty response to crisis
 - Responsibility to think through decisions
 - Thinking ahead -- crucial for prosperity, survival
- Political accountability: governments held responsible for:
 - Costs of regulation to prevent risks
 - Burden on businesses, consumers, innovation, competitiveness
 - Costs of failure to prevent risks
 - Terrorist attacks, e.g. Madrid train bombings
 - Natural disasters, e.g. Haiti earthquake, Hurricane Katrina
 - Systemic failures, e.g. 2008 Financial crisis
 - Diseases, e.g. H1N1, HIV/AIDS, BSE (Mad cow)
- Legal accountability: civil or criminal liability

The Traditional Challenge of Risk Policy

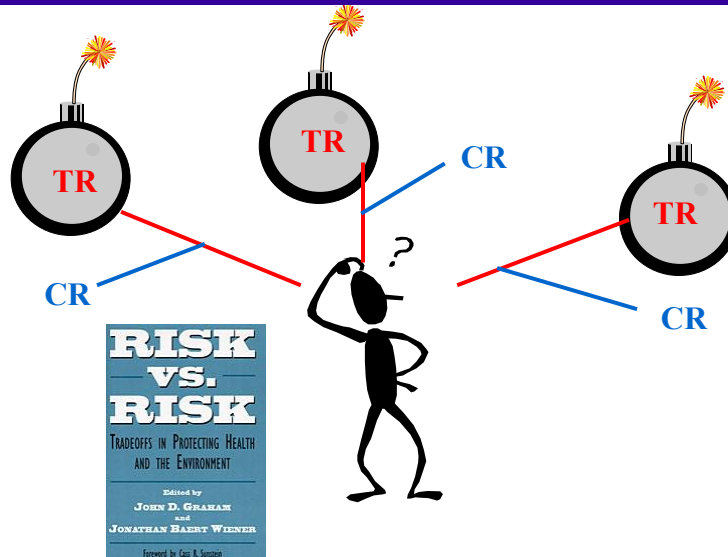


Challenges for Risk Policy

- Triage: selecting risks to address – setting priorities
- Risk assessment
 - Science: biology, chemistry, climate, engineering
 - Social science: economics, psychology, decision science
 - Uncertainty
 - Latency
 - Errors – false negatives, false positives
 - Joint effects: the joint effect of multiple simultaneous risks may not be simply the sum of the individual risks
- Risk management
 - Precaution
 - Impact Assessment
 - Costs
 - Benefits
 - Dynamic effects on innovation, technology

The “New” Reality: Multiple, Interconnected Risks

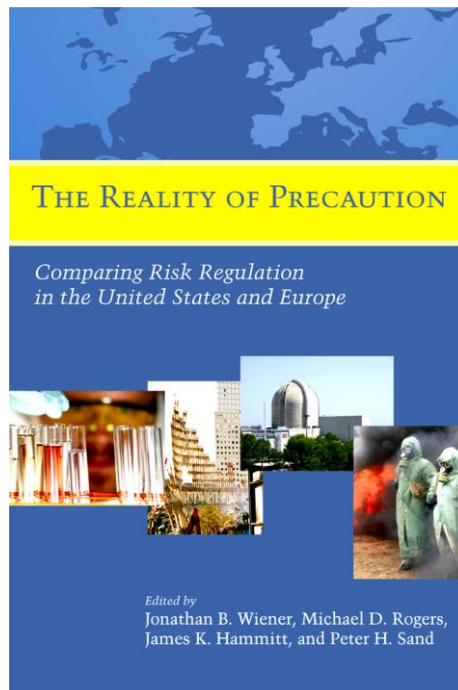
(TR = target risk, CR = countervailing risk)



Challenges for Risk Policy in an Interconnected World

- Spread: risks move rapidly across networks and borders
 - Pollution
 - Disease
 - Terrorism
 - Financial crisis
- Risk-risk tradeoffs: policies also face interconnectedness
 - Confront the tradeoff
 - Weigh the tradeoff
 - See “risk-superior” policy options that reduce multiple risks in concert
- Learning: borrowing and testing ideas
 - Over time: *ex post* impact assessment
 - Across countries: “hybridization”
 - Toward a global policy laboratory

**Comparing,
and
learning.**



**(RFF Press /
Earthscan,
November
2010)**

The Reality of Precaution

*Edited by J.B. Wiener, M.D. Rogers, J.K. Hammitt, P.H. Sand
(RFF Press / Earthscan, 2010)*

I. Introduction

The Rhetoric of Precaution – Wiener

II. Case Studies of Specific Risks

Genetically Modified Foods – Lex & Cantley

Beef Hormones and BSE – Gray et al.

Smoking Tobacco – Blanke

Nuclear Power – Ahearne & Birkhofer

Automobile Emissions – Walsh

Climate and Strat. Ozone – Hammitt

Biodiversity – Saterson

Marine Environment – Freestone

Chemicals – Renn & Elliott

Medical Errors, new drug approval and patient safety – Miller

Terrorism and WMD – Stern & Wiener

III. Information Systems

Information Disclosure – Sand

Risk Analysis Methods – Rogers & Charnley

IV. Quantitative Empirical Analysis of Comparative US and EU Precaution – Swedlow, Hammitt, Wiener, Kall & Zhou

V. Explanations?

Political Systems – Majone

Legal Systems – Bergkamp & Smith

Perceptions and Culture – Weber & Ancker

Perceptions and Selection – Sunstein

VI. Conclusions

The Real Pattern of Precaution – Wiener

Parity and Particularity in Precaution



1970s – 80s:

- Marine environment
- Guns

1990s - present:

- Hormones in Beef, rBST
- GM foods / crops
- Climate
- Toxic Chemicals



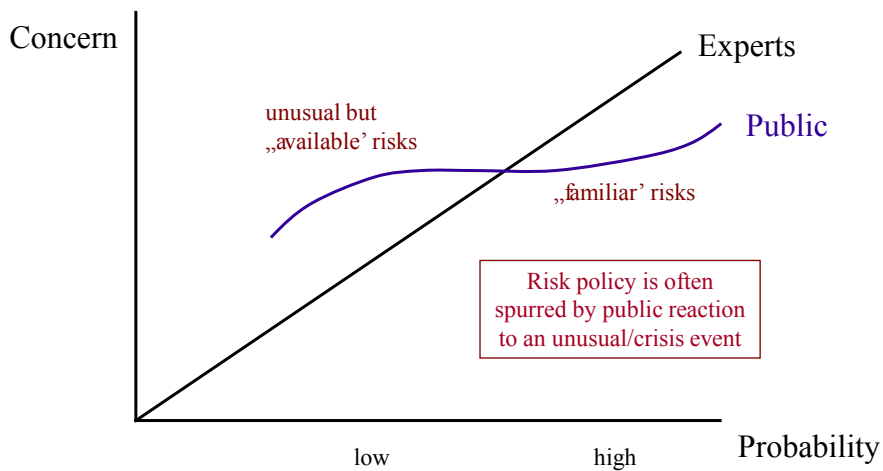
1970s – 80s:

- New drug approval
- Strat. Ozone (CFCs)
- Nuclear power
- Endangered species
- Lead (Pb) in gas/petrol

1990s - present:

- BSE/vCJD in Beef, Blood
- Smoking tobacco
- Particulate Matter (PM) air pollution
- Terrorism

The Politics of Risk Policy – and Public vs. Expert risk perceptions



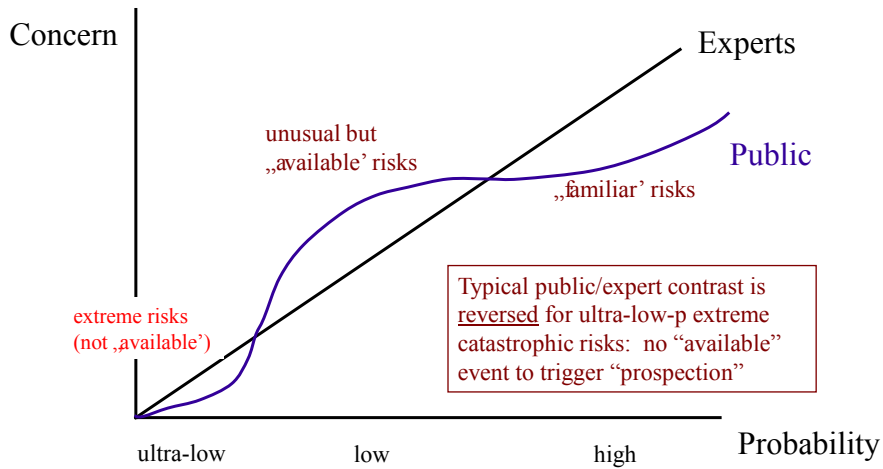
The “Tragedy of the Uncommons”

- As society gets safer and more prosperous, rare extreme (“tail”) risks become relatively more important
- But public perception may not spur policy to address rare extreme tail risks
 - Ultra-low-probability (but catastrophic): may be a one-time event. Thus, psychologically “unavailable”: no crisis/warning event to trigger public “prospaction” and political response (Slovic & Weber 2002; Gilbert & Wilson 2007)
 - Overwhelming: “mass numbing” (Slovic 2007)
 - Short-termism: lack of near-term financial or political rewards
 - Underdeterrence: bailouts yield moral hazard; or, institutions may be wiped out
- Still, cannot become obsessed/paralyzed by uncommons risks.
 - Priorities: as the cognizable „p’ declines, the scenarios proliferate
 - Risk-risk tradeoffs: catastrophe-catastrophe ...

Some possible Tragedies of the Uncommons

- Global financial collapse
 - Neglect of tail risk
 - Moral hazard (anticipated bailouts; “too big to fail”)
 - Short-termism (bonuses paid before performance)
- Extreme climate change
 - “Tail” risks of emissions, concentrations, temperature, sea level, waves, winds, ... (e.g. Schneider 2009, Parry et al. 2009, Weitzman 2009, Borthwick 2009, Cooke & Kousky 2009, Bender et al. 2010)
- Global pandemic plague / bioterrorism
- Strangelet / black hole
- Asteroid collision
- “Back contamination” from outer space
 - NASA Apollo Project, 1960s (Johnston et al. 1975; Robinson 1971, 2005)
 - Future space exploration

Public vs. Expert risk perceptions - of rare extreme catastrophic risks ?



“Mass numbing” (Slovic 2007)

Expected value:

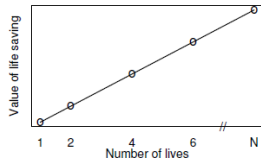


Figure 2: A normative model for valuing the saving of human lives. Every human life is of equal value.

Catastrophe premium:

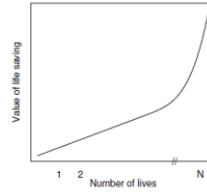


Figure 3: Another normative model: Large losses threaten the viability of the group or society (as with genocide).

Diminishing marginal concern:

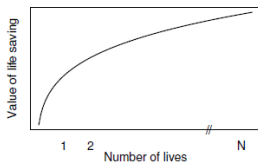


Figure 4: A psychophysical model describing how the saving of human lives may actually be valued.

Mass numbing:

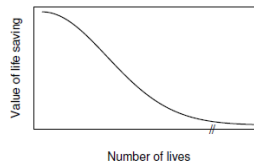


Figure 11: A model depicting psychic numbing — the collapse of compassion — when valuing the saving of lives.

Lessons for Risk Policy

- Crucial role for expertise in risk policy
 - Risk assessment
 - Risk management
 - Correcting market failures (“tragedies of the commons”)
 - Correcting the political failure to address “tragedies of the uncommons”
- Crucial role for center-of-government oversight bodies
 - e.g. U.S. OIRA, E.U. IAB
 - Impact Assessment of proposed policies (ex ante, and ex post)
 - Confront, weigh, and reconcile “Risk-risk tradeoffs,” especially across units
 - “Return” proposals that would not improve social well-being
 - “Prompt” actions to address uncommons risks – both research and policy.
- Crucial role for learning: exchange of ideas, experience
 - Toward a global policy laboratory



Thank you.



www.law.duke.edu/fac/wiener

www.sra.org

ANNOUNCING THE WORLD CONGRESS ON RISK III
SYDNEY – AUSTRALIA – SUMMER 2012



Co-chairs:
Professor Allison Cullen – University of Washington
Professor Jonathan Wiener – Duke University
Dr Daniela Leonte – University of New South Wales

Contact the SRA Secretariat to join the
organizing effort: ddrupa@burkinc.com





Addressing Risk in Regulatory Policy Making

Towards a risk based policy
against the wildfires

Panagiotis Karkatsoulis
Hellenic School of Public Administration



Work hypothesis (1)

1. The risk regulatory concept is understood as part of public management reforms.
2. Risk is used not only in an instrumental way regarding specific operations which should be undertaken, but it is also used as a means of understanding and reflecting on an existing reality.
3. The operation of a risk regulatory concept and policy is not straightforward and is always embedded in a particular cultural and legal context.



Work hypothesis (2)

4. Risk overpasses governments: It is a Governance issue (and even more: a personal issue for each emancipated citizen).
5. Personal responsibility is required for the establishment of collective organizational accountability.
6. Formal rules that are to be enforced must be flexible enough in order for the rules that are shaped in the real world to be complementary to them.



THE CASE: WILDFIRES IN GREECE



Firefighters Struggle in Athens

By [ANTHEE CARASSAVA](#),

Published: August 24, 2009

ATHENS — [Two years ago](#), ferocious fires tore through scores of villages and olive groves, killing at least 65 people and destroying 6 percent of [Greece's](#) tree cover.

On Monday, the fourth day of a major operation that is struggling to contain brush fires burning the outskirts of Athens, Greeks were asking how their country could still appear so unprepared for a similar disaster.

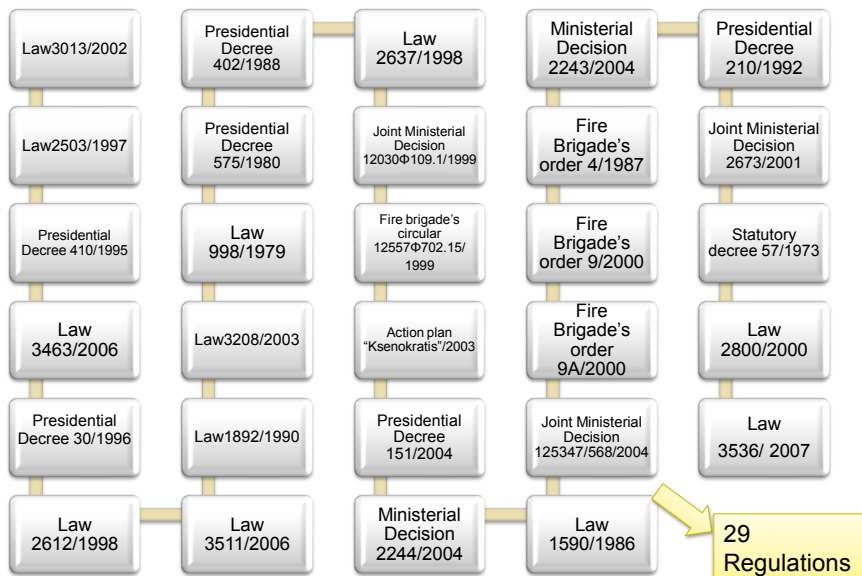




Looking for some explanations



Dispersion of the regulatory framework



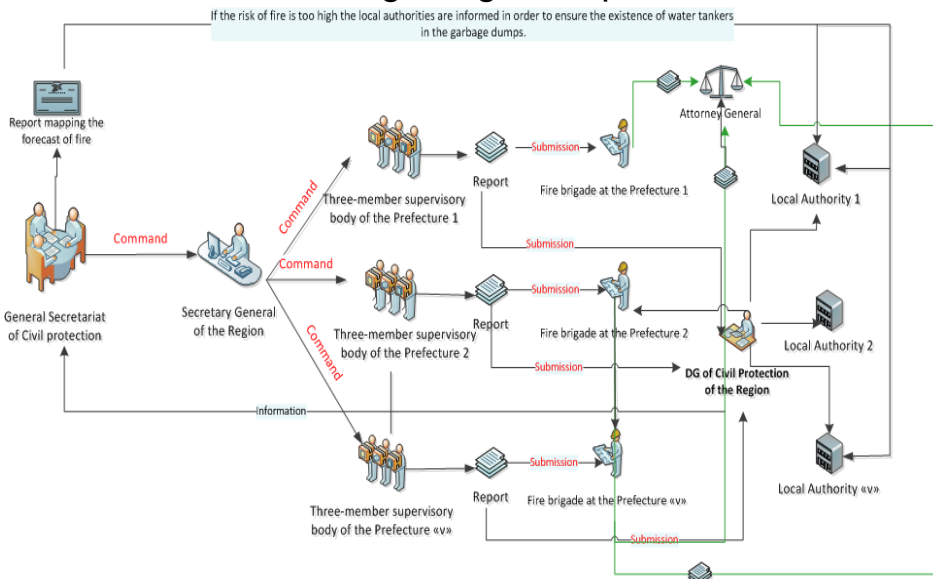


Overlapping competencies

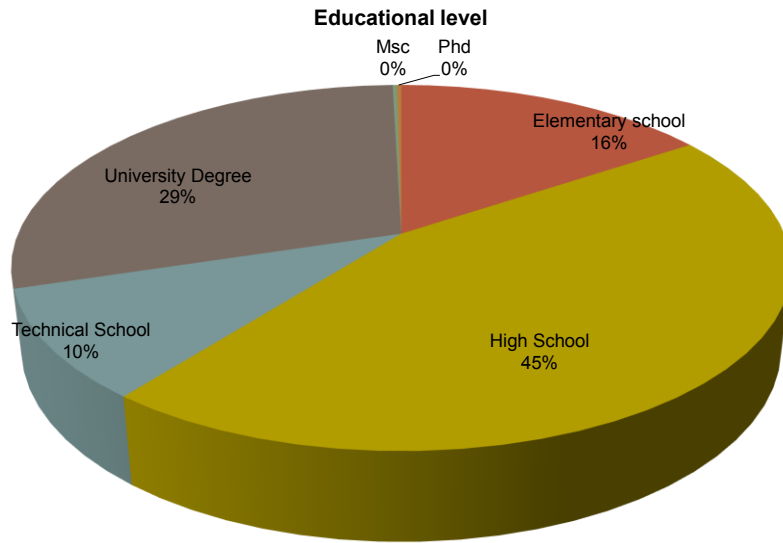
Example: Clean up the forests' vert to minimize ignition risk



Complicated procedures: i.e. How to avoid ignition in the garbage dumps



The HR for civil protection in Greece



The phase of suppression of the disasters

- Problems of coordination of resources
- Significant delays
- Lack of alternative plans
- Lack of information to people on how to be protected
- Low awareness



...But also, some good news

- The massive participation of volunteers in certain areas where the wildfires had been expanded, led to some interesting remarks:
 - Diverse results: In areas where the people was involved, the catastrophic results of the wildfires were much less.
 - Self organization flourished in parallel to the official procedures: Structures, rules and procedures emerged ad hoc.
 - More actors were involved: Skills otherwise unexploited were optimally used.



Towards a risk based civil protection policy

1. Instrumental changes are needed: A regulatory reform in civil protection could be helpful.
2. Strengthening the civil participation which is complementary to the rationally designed procedures and fills the gaps of a formal policy, is also needed. Nevertheless, it does not replace the instrumental changes.



The added value of a participatory civil protection policy

- Better definition of the problem.
- Clarity of the results to be attained and the means to be used.
- Optimal use of resources.
- Maximum legitimation of the public policy and the decisions taken.



Suggestions

- The embedment of openness in all phases of the policy process.
- Proper communication at all levels.
Awareness campaigns.
- Redrawing of the ethical standards and rigid implementation.
- Make use of all possible institutional instruments.



Central Government Reform
Programme
Ministry of the Interior and
Kingdom Relations

Building a different approach to risk

The Dutch Risk and Responsibility Programme

OECD Conference 'Regulatory Policy at the Crossroads'
Paris, 29 October 2010
Jan van Tol



How we deal with risks and incidents



Dutch Risk and Responsibility Programme



Some examples

- Heated debate in Parliament about feeding animals in a nature reserve
- Some more serious examples:
 - Fire at detention centre constructed from temporary units lead to a costly large-scale overhaul of (stone) custodial complexes
 - Outbreak of legionnaires' disease after a flower exhibition lead to draconic regulation, costing businesses and government hundreds of millions of euros
- Underlying pattern: 'Something must be done', meaning to completely root out a particular risk (by government regulation)

Dutch Risk and Responsibility Programme



Day of Risk Conference

- A more rational approach to risk is not enough
- Rules of the political and media game dominate; magic word SAFETY brushes aside all other considerations
- Other contributory factors to the 'risk-regulation reflex':
 - Instinctive human mistrust of ratio
 - Cognitive bias in the public mind (experts are prone too)
 - Government is considered default protector
 - If every accident is considered preventable, all risk actors will try to cover themselves and so contribute to top-heavy system (cf. film Killer Trees)

Dutch Risk and Responsibility Programme



Some elements for the Cabinet vision

- Acknowledge that accidents can happen (but don't make it sound like a cheap excuse)
- Acknowledge the way the public perceives risk; provide positive values
- Acknowledge the limitations of government's role
- Share advantages and disadvantages of risky actions
- Limit accident inquiries to facts (recommendations often unproductive if they assume that every accident is avoidable)
- More rules could in fact *diminish* safety
- Test and judge the public's risk appetite (cf. film Subway Safety)

Dutch Risk and Responsibility Programme



Proposed measures of our new Cabinet

- Fewer politicians at all levels (e.g. 1/3 fewer MPs)
- Fewer ministries
- Movement toward a single central government inspectorate
- No more gold plating of EU rules
- Major cutbacks of 18 billion euros (= 7% of National Budget)

In short: our government wants to take a step back.

Dutch Risk and Responsibility Programme



Update Inspection Reform Programme

- Review of the Inspection Council (collaborative body of all inspectors-general)
- Inspectorates quite advanced in risk assessment
- No consensus on integral risk assessments (new Cabinet will push it further)
- New impetus for information exchange between inspectorates and co-operation with local and regional authorities
- Intention to review their own role as risk actors

Dutch Risk and Responsibility Programme



Risk and Responsibility Programme

- Two-year programme 2011-2012:
 - Develop Cabinet vision on government's role toward risk (+ guiding principles concerning new risks and aftermath of incidents)
 - Stimulate change in ministries' response to risk
 - Initiate debate outside government (e.g. among MPs)
 - Perhaps: review proportionality of existing regulation
- A lot is going on outside central government:
 - Council for Public Administration
 - Province of North-Holland
 - Dutch Expert Group on Aviation Safety (sharing lessons with youth care, education, health care)

Let's keep working together internationally!

Dutch Risk and Responsibility Programme