



THE ROLE OF NON- GOVERNMENTAL ACTORS IN REGULATING RISK

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Response to Learning and Innovation**

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International Regulatory Co-operation

A publication released mid May 2013: a synthesis report summarising the knowledge to date on IRC & 3 volumes of 10 case studies:

Key trends

The multiplication of state and non-state actors

The shift from a unitary model to multi modal regulatory cooperation

The rise of private regulation



A typology of 11 IRC mechanisms

**Integration /
Harmonisation
through supra
national institutions**
(EU)

**Specific negotiated
agreements**
(treaties / conventions)

**Formal regulatory co-
operation
partnerships**
(US-Canada RCC)

**Inter governmental
organizations**
(OECD, WTO)

**Regional agreements
with regulatory
provisions**
(RTAs, FTAs)

**Mutual recognition
agreements**
(MRAs)

**Trans-governmental
networks of
regulators**
(ILAC, ICPEN, PIC/S)

**Formal requirements
to consider relevant
frameworks in other
jurisdictions in the
same field**

**Recognition and
incorporation of
international
standards**
(ISO, IEC,...)

**Soft law: principles,
guidelines, codes of
conduct**

**Dialogue / Informal
exchange of
information**
(Transatlantic dialogues)



Why a growing role for private regulation?

- Production of certain goods and services transcends domestic frameworks and national boundaries
- Extension of global value chains to countries in which the rule of law is not entirely complied with (& replaced by contractual governance)
- The development of markets with fast pace of techno change and technical information (IT) lead policymakers to rely on private parties
- In some areas, private sector is the most informed party, the best positioned player to solve a given failure, or in control of essential resources.



Trends in Private Regulation

- Private Regulation developed as a sector specific regulation – environment, food safety, e-commerce
- Many schemes of various scope, size & governance structure (fully private, public-private, business, NGO,...)
- Evidence of proliferation, fragmentation and competition
- Growing delegation of regulatory authority to international private standard-setting bodies
- Some consolidation and rationalisation of various private schemes
- Little evidence (and analysis) of use of good regulatory practices



Issues for consideration and discussion

- Potential of capture - lock-in effects and collective action problems
- Status quo bias – focus on immediate benefits rather than long-term social welfare
- Divergence of interest over time
- Accountability deficit – some private regulatory arrangements may lack legitimacy



Challenges from a policy perspective

- Need for research and guidance on which Private Regulation can be used to meet specific regulatory objectives
- Need to produce hard evidence on the impacts
- Need to develop key principles and accepted standards of good regulatory policy in the development of private regulation.
- Need to develop clear accountability framework and governance arrangements for private regulatory arrangements



THANK YOU FOR YOUR ATTENTION!

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