

GRM Progress Report 2012: what we have and what we haven't done

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Management in Regulatory Systems*

The approved plan of work - 2011

<i>Tasks and deadlines, as originally planned</i>	<i>Results/Comments</i>
Stress-testing recommendations and reference models Applying recommendations to perform legislation analysis in the sectors considered as of high priority	The GRM performed the analysis of several legislative texts against the reference models; one of the purposes of the analysis was to stress-test the recommendations.
Performing the field work: <ul style="list-style-type: none"> • Fundraising; • Running risk forums and trainings (see para 12); • Preparing reports on best practice and problems to be solved. 	The GRM submitted several business proposals but didn't have sufficient resources to invest into fundraising activities, trainings and forums.
Developing specific recommendations (on how to perform risk management functions, such as risk identification, risk analysis and evaluation, etc.)	The draft of a specific recommendation on consistency of legislation was presented at the 11 th webinar of the Group. The Group didn't make substantial progress in developing a recommendation on equivalency of regulations on the basis of risk management.
Running pilot implementation projects	Implementation projects can be performed only if fundraising activities are successful.
Updating the recommendations and intergroup approval	October 2012 The GRM plans to discuss a new specific recommendation during one of its webinars in October, 2012.
Approving recommendations	If approved within the GRM, a new recommendation will be presented at the 22 nd Annual Session of the Group.

What we haven't done

- Fundraising
- Recommendation on equivalency



Main achievements and deliverables

- The main deliverables
 - Finalized and published the general recommendation “Managing Risk in Regulatory Frameworks”
 - Finalized and published the specific recommendation “Crisis Management in Regulatory Frameworks”
 - Published the book “Risk Management in Regulatory Frameworks: towards a better management of risks”



Risk Management in Regulatory Framework

Towards a better management of risks

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"The main purpose of the UN is to enable its member States to better shield their peoples from natural and man-made hazards. This publication addresses the need for a structured and inclusive decision-making process to manage risks and to achieve the desired level of safety without stifling economic growth. It will help the UN and its member States to apply risk management as a central process underlying all regulatory activity involving all stakeholders at the highest level of policy-making. As such, it is intended to assist policymakers, regulators, and businesses in building regulatory systems aimed at effectively mastering the risks that confront our families, our communities and our planet."

Jan Kubil, Special Representative and Head of the United Nations Assistance Mission in Afghanistan

This publication provides an insight into how risk management standards and guidelines can be applied not just to enhance the management of risk within a single entity, but also to provide an effective way of ensuring the efficiency of regulatory systems for all stakeholders. It calls for a broader application of international risk management related standards by regulators and business companies globally as a way of facilitating trade and commerce."

Kevla W Knight AM, Chairman, ISO Technical Committee 242 - Risk Management

This publication explains complicated theoretical concepts of risk management in an easy to understand manner and presents a methodology of how these concepts can be applied to building regulatory systems. It is well-structured and full of examples. Our students will certainly find it valuable reading as will all those who are interested in practical risk management."

Carolyn Wilkins, Institute of Risk Management

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Main achievements and deliverables

- Performed the analysis of a number of legislative texts that establish regulatory frameworks for the electrical appliances sector from the perspective of the risk management framework;
- Developed a draft recommendation on improving consistency of application of risk management concepts in legislation

Example: consistency of the use of risk management terms

New Zealand

- Dangers
- Electrically safe
 - “there is no significant risk that a person or property will be injured”
- Electrically unsafe
 - “there is a significant risk that a person may suffer serious harm, or that property may suffer significant damage”

EU

- Hazards
- “Protection against hazards arising from the electrical equipment”
- “The electrical equipment should be so designed and manufactured as to ensure that protection against the hazards”

Draft of the recommendation

- [...]The Authority responsible for drafting legislation in the field of electric appliances recognizes that description of the risk management process as it appears in the legislative text should be structured and consistent with international risk management standards and best practice.
- Risk management terms are clearly defined in legislative texts and are consistent with the terminology used in ISO 31000:2009 International Standard.
- When drafting legislative texts or reviewing existing ones, the Authority structures the text of legislation taking into account the description of risk management process as it appears in the UNECE Recommendation “Risk Management in Regulatory Frameworks”. [...]

Main achievements and deliverables

- Membership: welcomed 5 new members, 13 countries
- Format of work:
 - Webinars – 7 webinars
 - Webinar reports
 - Interactive website
- Participation in the work of the ISO PC 262 “Risk Management: ISO 31004 – regulatory annex
- Participation in work on the OECD Working Party on Consumer Product Safety: Workshop on Risk Assessment
- Participation in the workshop in the European Parliament



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Future plans

<i>Tasks and deadlines, as originally planned</i>	<i>Results/Comments</i>
Developing a draft recommendation on applying risk management to evaluating equivalency of regulations	March 2013 The task will imply analysing various approaches on evaluating equivalency of regulations and developing innovative risk management tools that can be used for this purpose.
Finalizing the recommendation aimed at improving consistency of risk management legislation	March 2013 The task will imply analysing various approaches on evaluating equivalency of regulations and developing innovative risk management tools that can be used for this purpose.
Performing the field work: <ul style="list-style-type: none"> • Fundraising; • Running risk forums and trainings (see para 12); • Preparing reports on best practice and problems to be solved. 	June 2013 Organizing risk forum and trainings can be perceived as first steps in projects for implementing of the recommendations. It will allow presenting the reference models and analyzing the changes (to the model or to the process) with stakeholders.
Developing specific recommendations (on how to perform risk management functions, such as risk identification, risk analysis and evaluation, etc.)	July 2013 Each function of the risk management process can be a subject of a specific recommendation (similarly to one on crisis management in regulatory systems).
Running pilot implementation projects	September 2013 Implementation projects imply performing an analysis and an audit of a regulatory system in a given sector, GRM recommendations being audit criteria.
Updating the recommendations and intergroup approval	October 2013
Approving recommendations	November 2013
Promoting the recommendations	November 2013
Presenting the feedback	November 2013

Future plans

- Finalizing the draft of the recommendation on “risk management in legislation”
- Developing a recommendation on equivalency
- Developing learning courses “Risk Management in Regulatory Frameworks” for regulators and other regulatory stakeholders

The structure

- Chapter 1: Introduction: Risk management and regulatory systems
- Chapter 2: Managing risks
- Chapter 3: Risk management in regulatory systems: a reference model
- Chapter 4: Regulation as a risk mitigation tool
- Chapter 5: How does regulation work in practice? An example
- Chapter 6: Risk Management at UNECE WP.6
- Chapter 7: Evaluating risk management in regulatory systems



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Risk management in regulatory framework

What's so special?

- Risk management is not an end in itself
- The book is not about risk management - it's about
 - how to build regulatory frameworks that
 - result in regulations that are proportionate to risks
- It presents risk management as an underlying process of any regulatory framework
- Describes a **common** playing field for all stakeholders based on **common** understanding of risks
- Provides various perspectives – regulators, business companies, standardization bodies, etc.

What's so special?

Case study: building a cruise ship (1)

As stated in Mattli and Woods (2009), “The sinking of the Titanic, in 1912, exposed the risks posed by increasingly large steamships and triggered the setting of an agenda for regulatory change”. Recent accidents, such as the Costa Concordia’s will likely lead to a repeat in this regulatory cycle.

In our example – and in real life – the regulatory authority responsible for the shipbuilding industry and transport is tasked with establishing and implementing a set of requirements for ensuring the ship’s safety. Such requirements will be legally binding on both the shipyard and the company that will own and operate the ship – the cruise line.

- protecting the interests of consumers
- providing for the free movement of safe and wholesome food
- equal conditions for competition
- confidence in the decision-making processes underpinning food law, its scientific basis and the structures and independence of the institutions that protect health and other interests

Issues addressed in the publication

- Use of different terms and reference to different models when talking about risks and risk management
- Inconsistency in risk management legislation
- A need for a holistic picture on how to build regulatory frameworks on the basis of the risk management process
- Overreaction to risks in regulatory systems
- Unpreparedness to crises
- Practical implementation

Chapter 1 - Introduction



Introduction

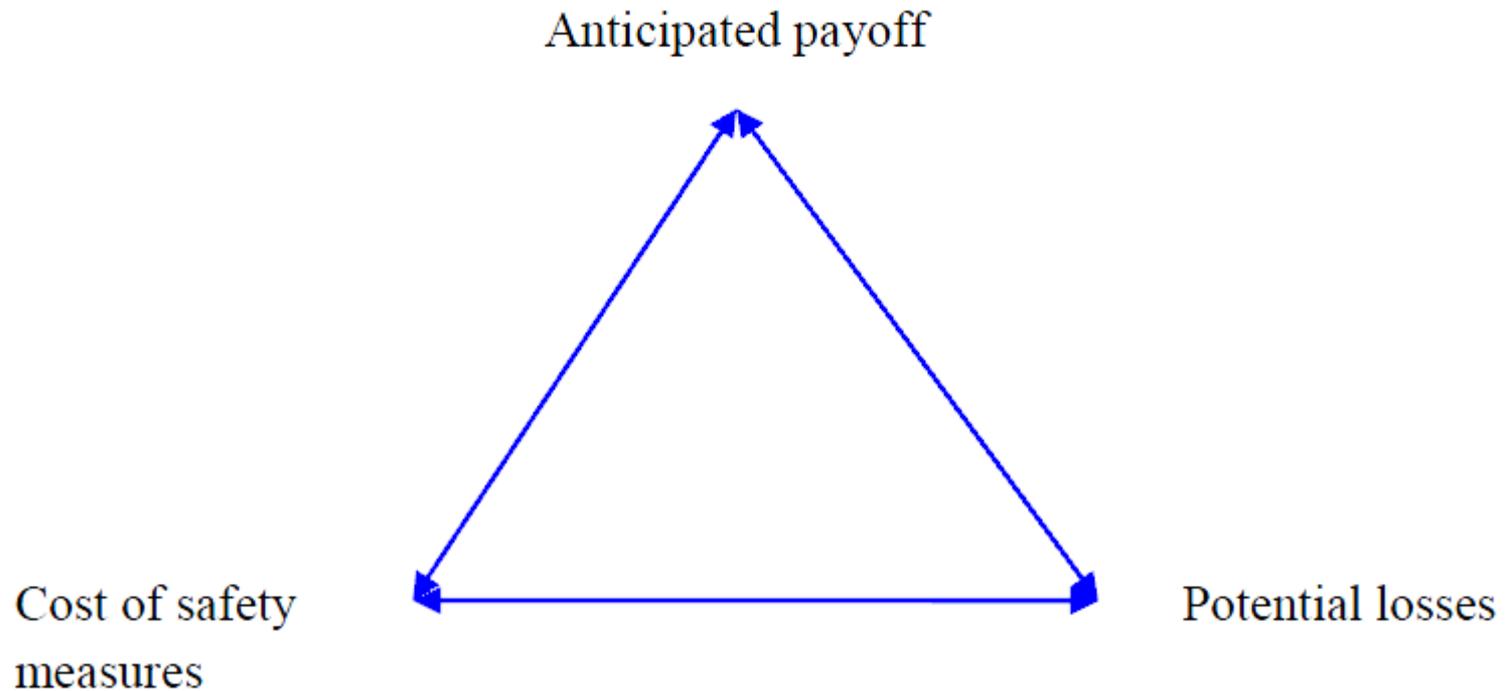
- Good risk management
 - does more than help avoid catastrophes and provide safety
 - we are prepared to take risks we might not otherwise take
 - risks that are ultimately critical to our success.
- Various levels of risk management
 - Laws, administrative measures and technical regulations, voluntary standards and norms
 - Indispensable parts of a solution to the challenges posed by the current challenges
 - The proposed solution - designing regulatory systems that result in an efficient, effective and transparent management of risks

Chapter 2 - Managing risks



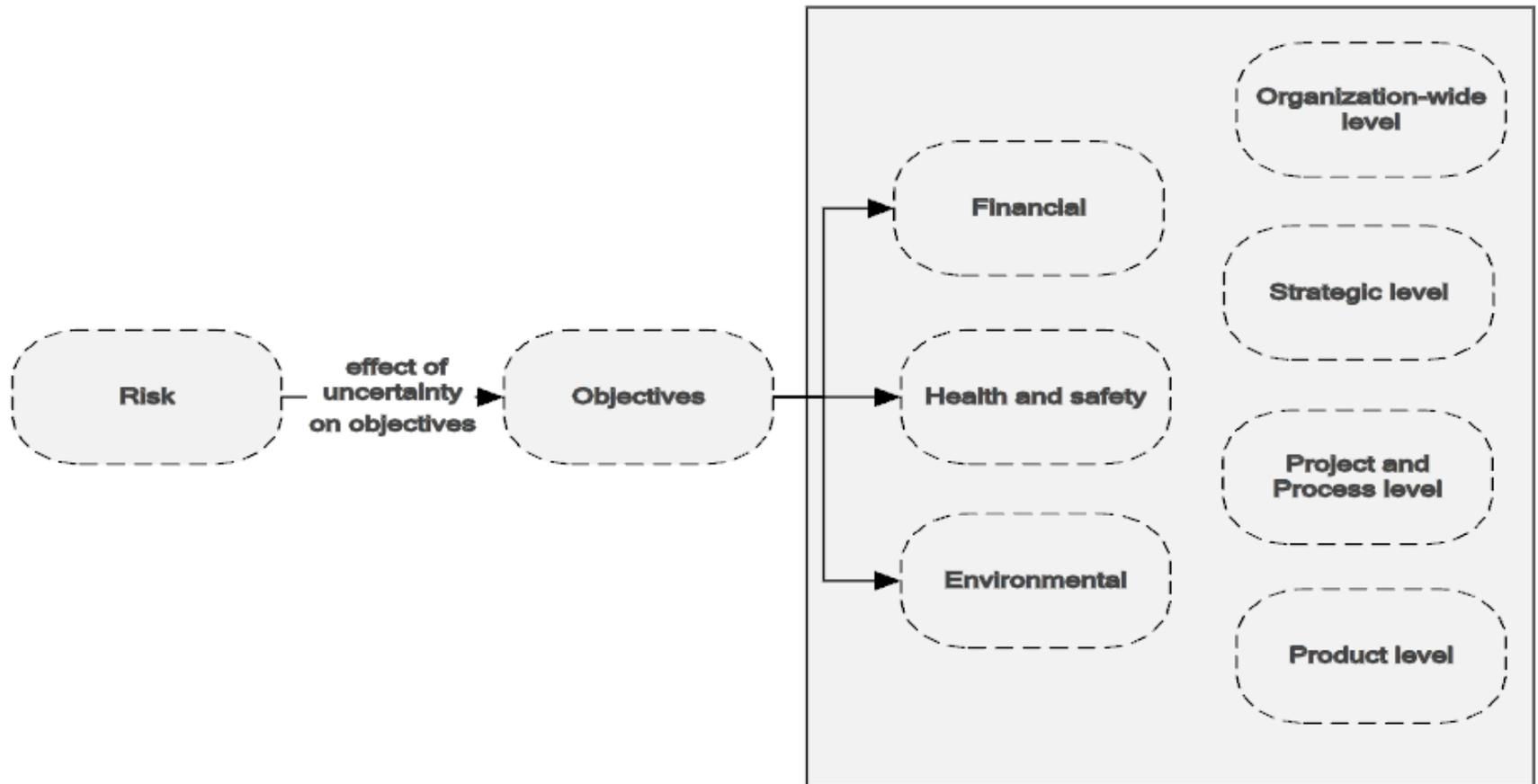
Managing risks

Figure 2.1 The risk management triangle



What is a risk?

Figure 2.2 Risks and objectives



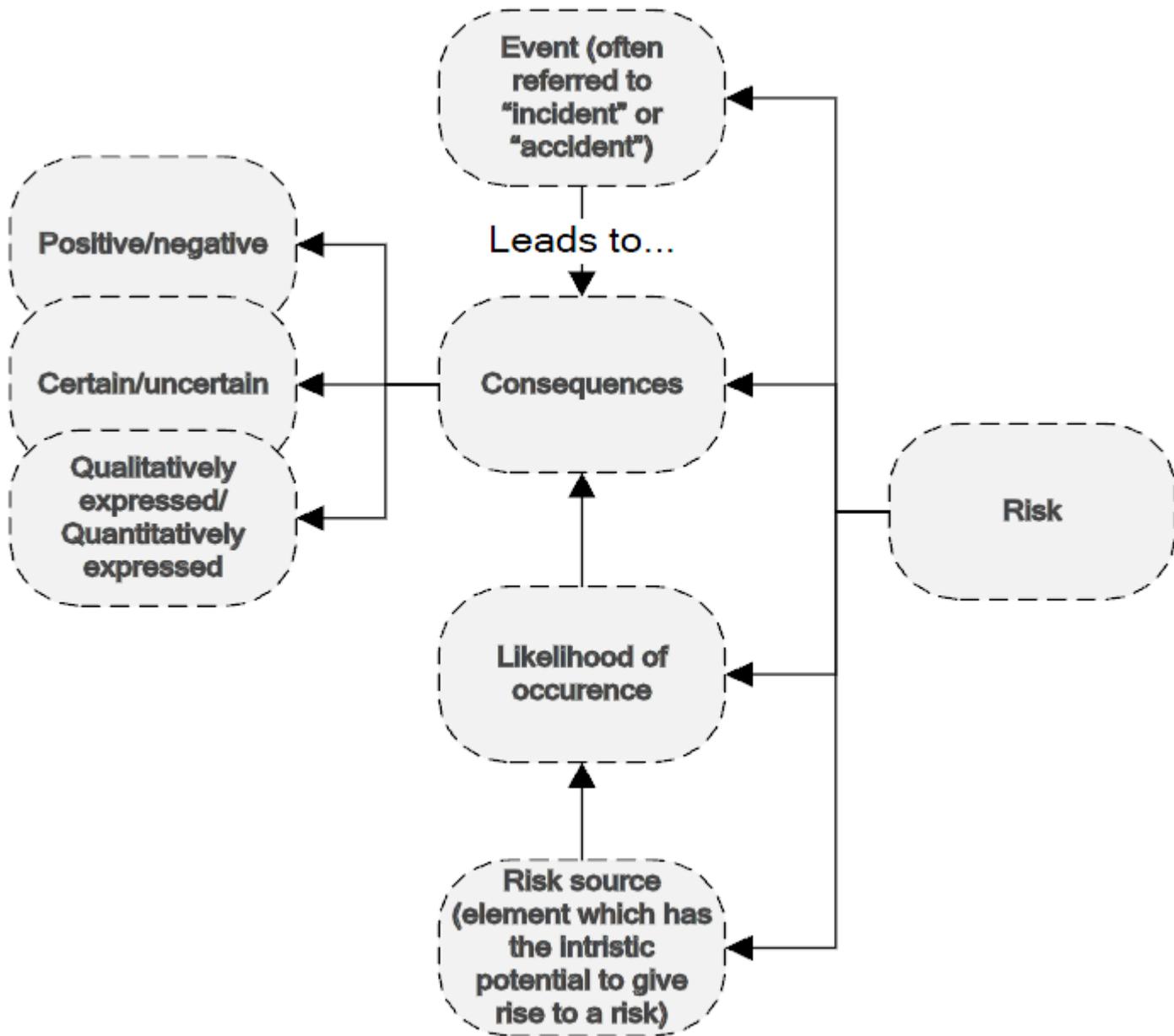
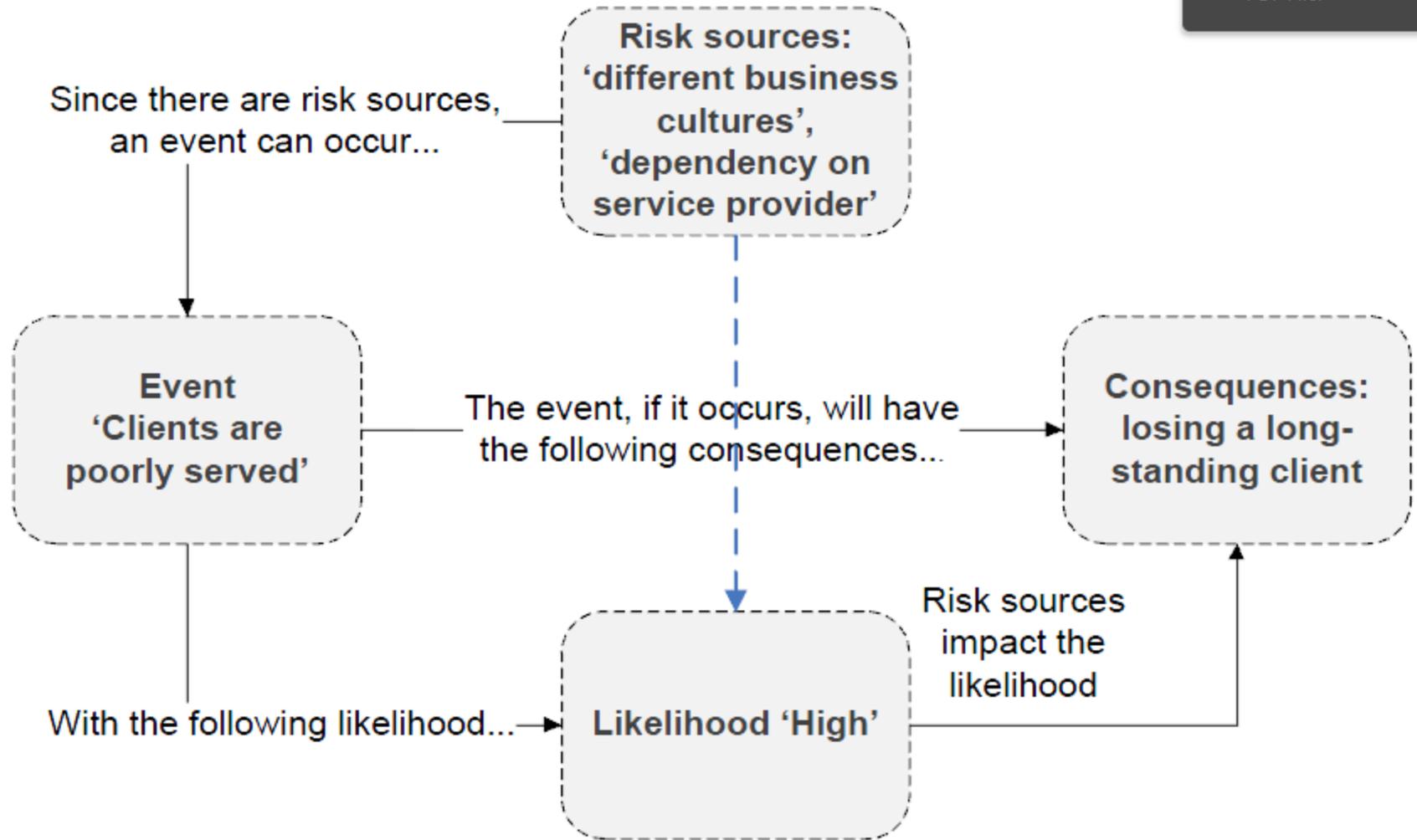


Figure 2.4 The interrelation of risk parameters

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What is good risk management?

- Risks are identified in a timely fashion
- Risks are properly analyzed and evaluated, and the most critical risks are given the highest priority.
- A balanced risk treatment is chosen.
- Risk treatment is efficiently implemented.
- Contingency plans are developed, tested and remain relevant, and resources are available to implement them.

Implementing systematic risk management

- Establishing the context
- Identifying the risks
 - what are the events that might occur
 - why might they occur
 - how probable are they
 - what impact could they have on us
- Understanding the risks that are the most important for us
- Choosing a risk treatment option (starting with the most important risks)
- Implementing whichever decision has been taken
- Devising crisis management plans

Establishing the context

- Objectives
- Assets
- Information on stakeholders and their needs

Risk identification

Figure 2.5 Various types of business risks



Risk analysis and evaluation

Category	Finance	Occupational safety	Reputation
Very high consequences	Losses exceeding \$1,000,000	More than 1 casualty	Broad negative news coverage in international media
High consequences	Losses from \$750,000 to \$1,000,000	Casualty	Broad negative news coverage in local media
Medium consequences	Losses from \$500,000 to \$750,000	Serious injury	Some negative articles in mass media
Low consequences	Losses from \$250,000 to \$500,000	Medium injury	Widespread rumours
Very low consequences	Losses below \$250,000	Light injury	Rumours (which have been reported less than 3 times)

Risk analysis and evaluation

	Very low consequences	Low consequences	Medium consequences	High consequences	Very high consequences
Very low probability	Low risk	Low risk	Low risk	Low risk	Medium risk
Low probability	Low risk	Low risk	Low risk	Medium risk	Medium risk
Medium probability	Low risk	Low risk	Medium risk	Medium risk	Critical risk
High probability	Low risk	Medium risk	Medium risk	Critical risk	Critical risk
Very high probability	Low risk	Medium risk	Critical risk	Critical risk	Critical risk

IEC/ISO 31010

Some methods for risk evaluation

“Event trees” are one of the most widely used methods in system risk analysis. The method involves performing an inductive failure analysis to determine the causes and consequences of a possible single future failure for the overall system risk or reliability. “Event tree analysis” (ETA) uses similar logic and mathematics as “fault tree analysis”, but the approach is different. The latter uses a deductive approach (from system failure to its reasons), while ETA uses the inductive approach (from basic failure to its consequences). For example, fault tree analysis would allow us to assess how our business would be affected in the event of an earthquake, whereas event tree analysis could be used to determine the possible causes of a faulty production consignment.

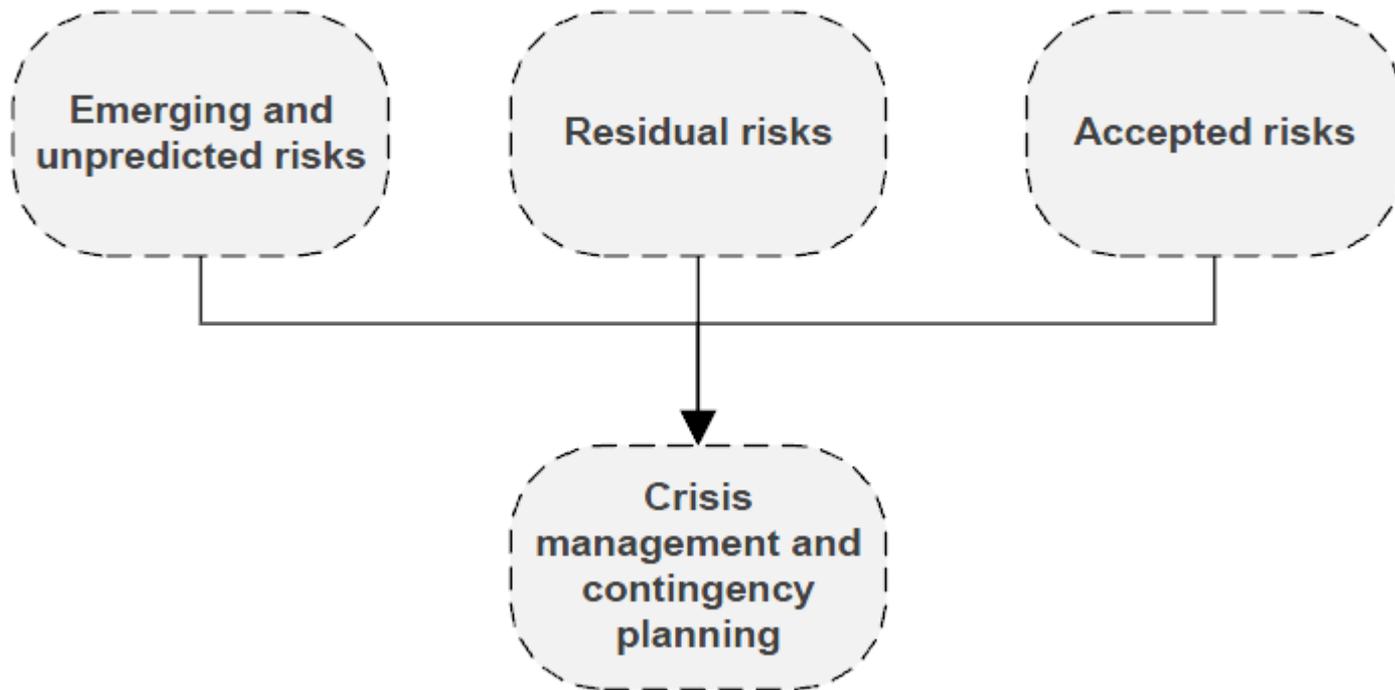
“Layers of protection analysis” (LOPA) is still another method – this time semi-quantitative – for estimating the risks associated with an undesirable event or scenario. It analyses whether there are sufficient measures to control or mitigate the risk.

Choosing and implementing risk treatment strategies

- Tolerating or accepting a risk
- Transferring or sharing a risk
- Mitigating a risk
- Avoiding a risk

Contingency planning and crisis management

Figure 2.7 Input to crisis management and contingency planning



Contingency planning

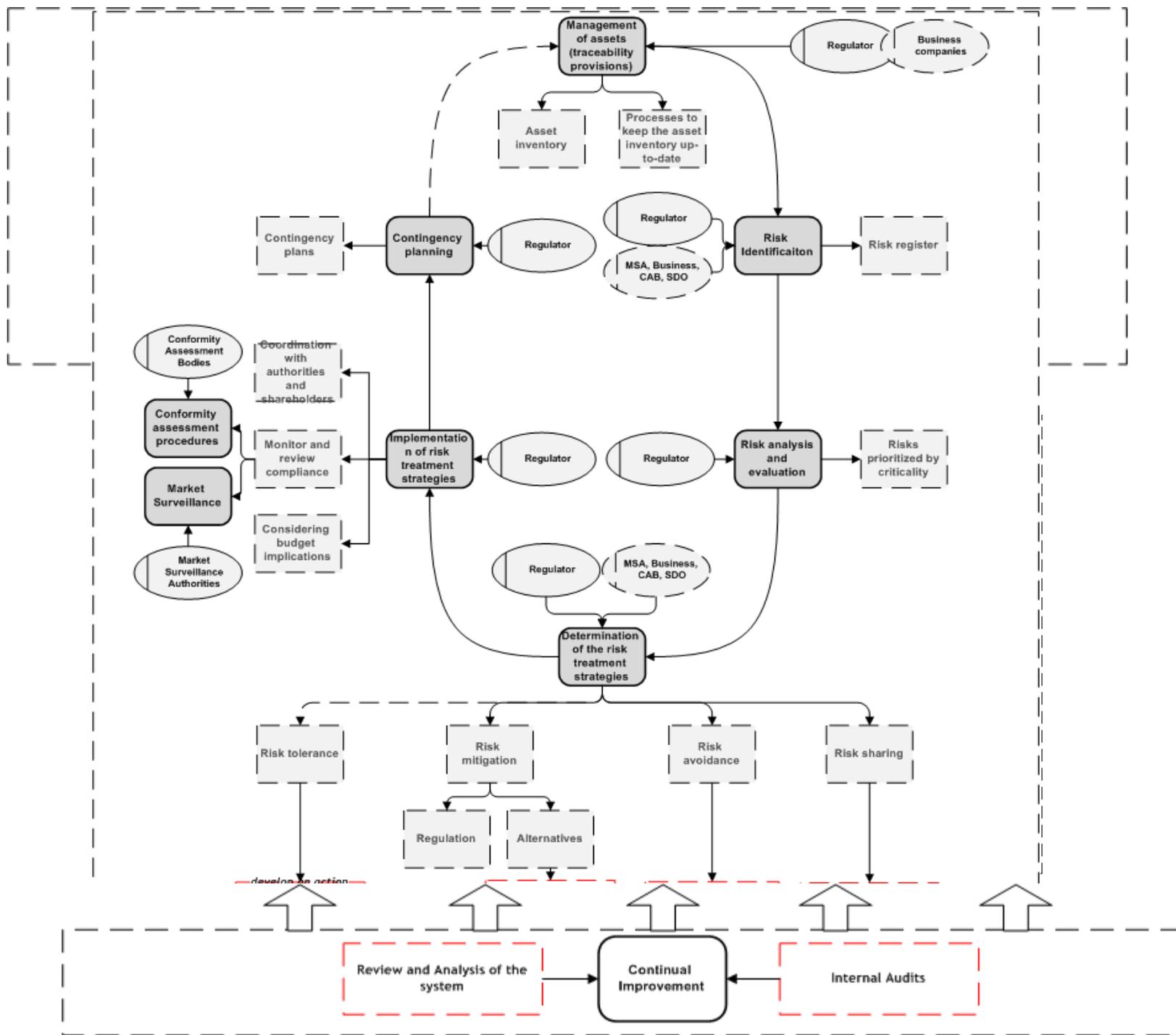
- Stabilization
- Continuing critical functions
- Recovery

Chapter 3 - Risk management in regulatory frameworks: a reference model



Risk management in regulatory frameworks

- Analysis of existing analytical frameworks
 - OECD
 - IRGC
 - WTO
- Key principles of risk management in regulatory systems
 - Avoiding excessive as well as insufficient regulation



Examples

The ob
law (E)

Risk-mitigating information campaigns: An example from Africa

Culturally specific, and culturally appropriate, information campaigns have been widely used throughout the world to mitigate health- and disaster-related risks, and the use of such campaigns is on the rise, thanks to social media and other new IT applications. The early warning systems set up by many national Governments to help prepare their citizens for hurricanes, cyclones, earthquakes and tsunamis have averted, or mitigated, the impact of these disasters. Campaigns to discourage the use of tobacco, drugs and alcohol are also common.

Campaigns to raise awareness of the risk of spreading HIV/AIDS through unprotected sexual activity have proven highly successful in changing the behaviour associated with the spread of the disease. They are also an excellent use of non-regulatory action to mitigate risks, as shown by the following example from Uganda (USAID, 2002). HIV prevalence there fell considerably, which has been largely attributed to the country's behaviour change communication strategy, launched nationally in 1986. While epidemiological, socio-cultural and political factors also contributed, in this case "HIV knowledge, risk perception, and risk avoidance options" were crucial.

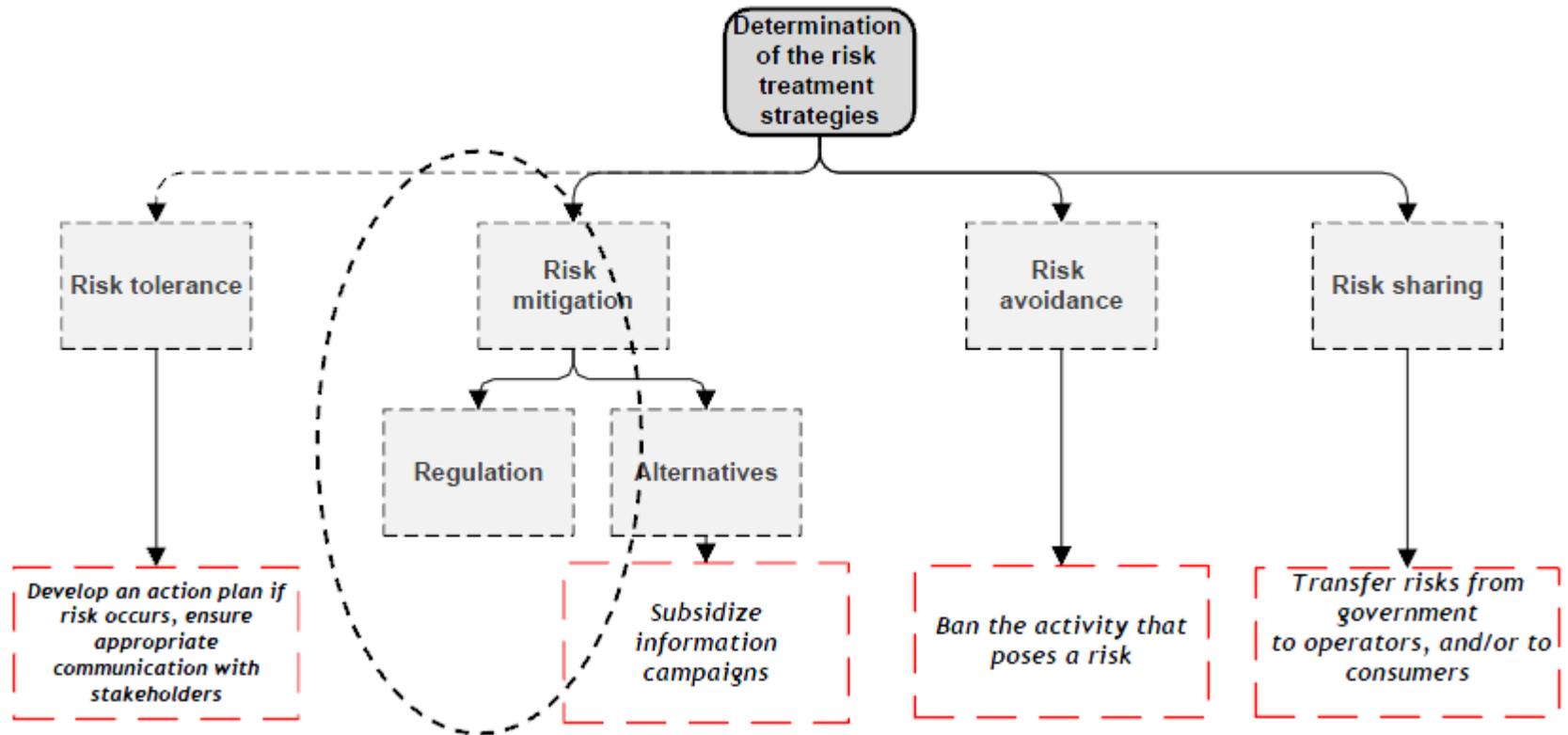
The study concludes that "although we may never fully know 'what really happened in Uganda,' the experience there and in other countries that have achieved some success suggests that a comprehensive behaviour-change-based strategy, ideally involving high level political commitment and a diverse spectrum of community-based participation, may be the most effective prevention approach".

Chapter 4 - Regulation as risk mitigation tool

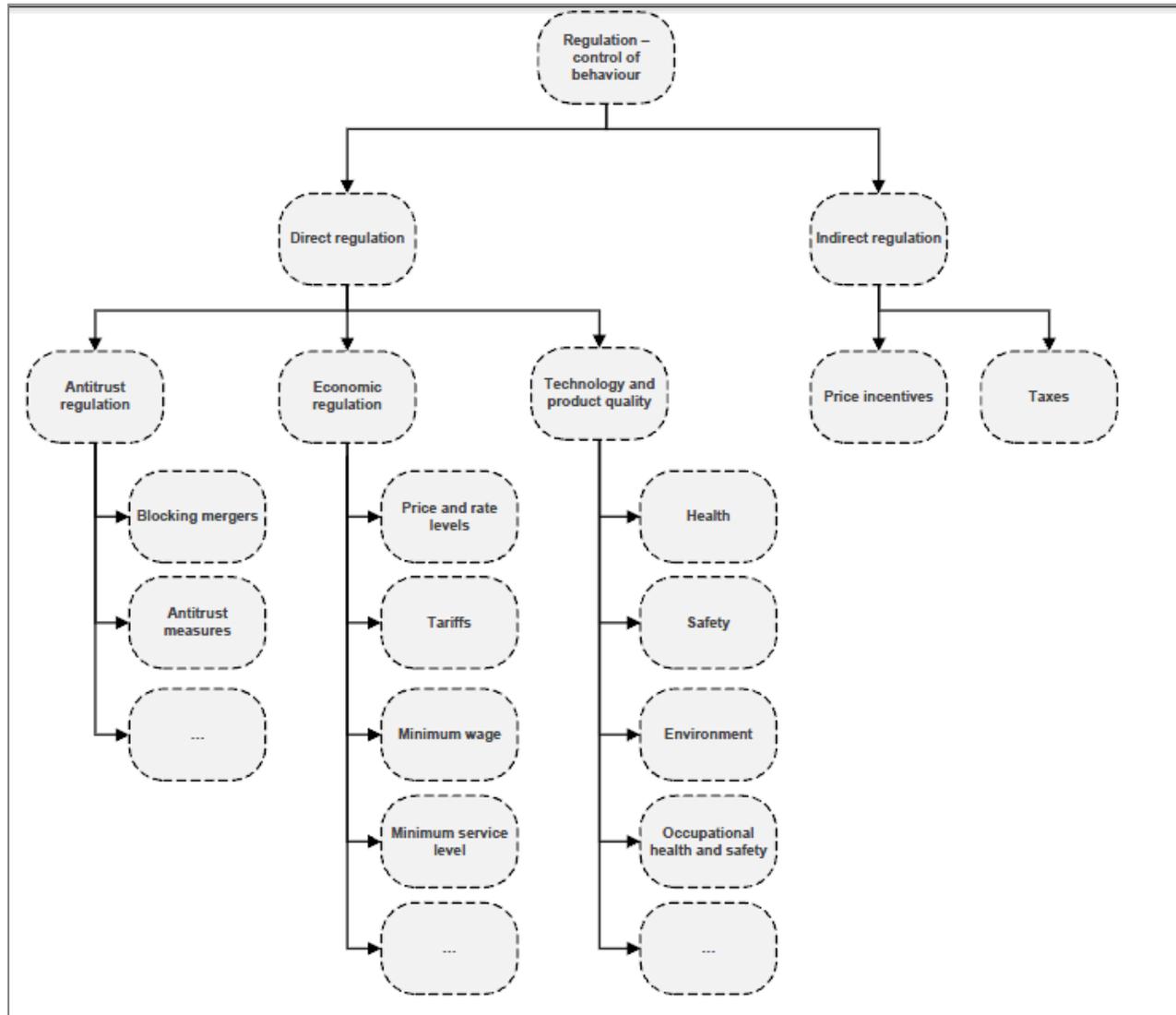


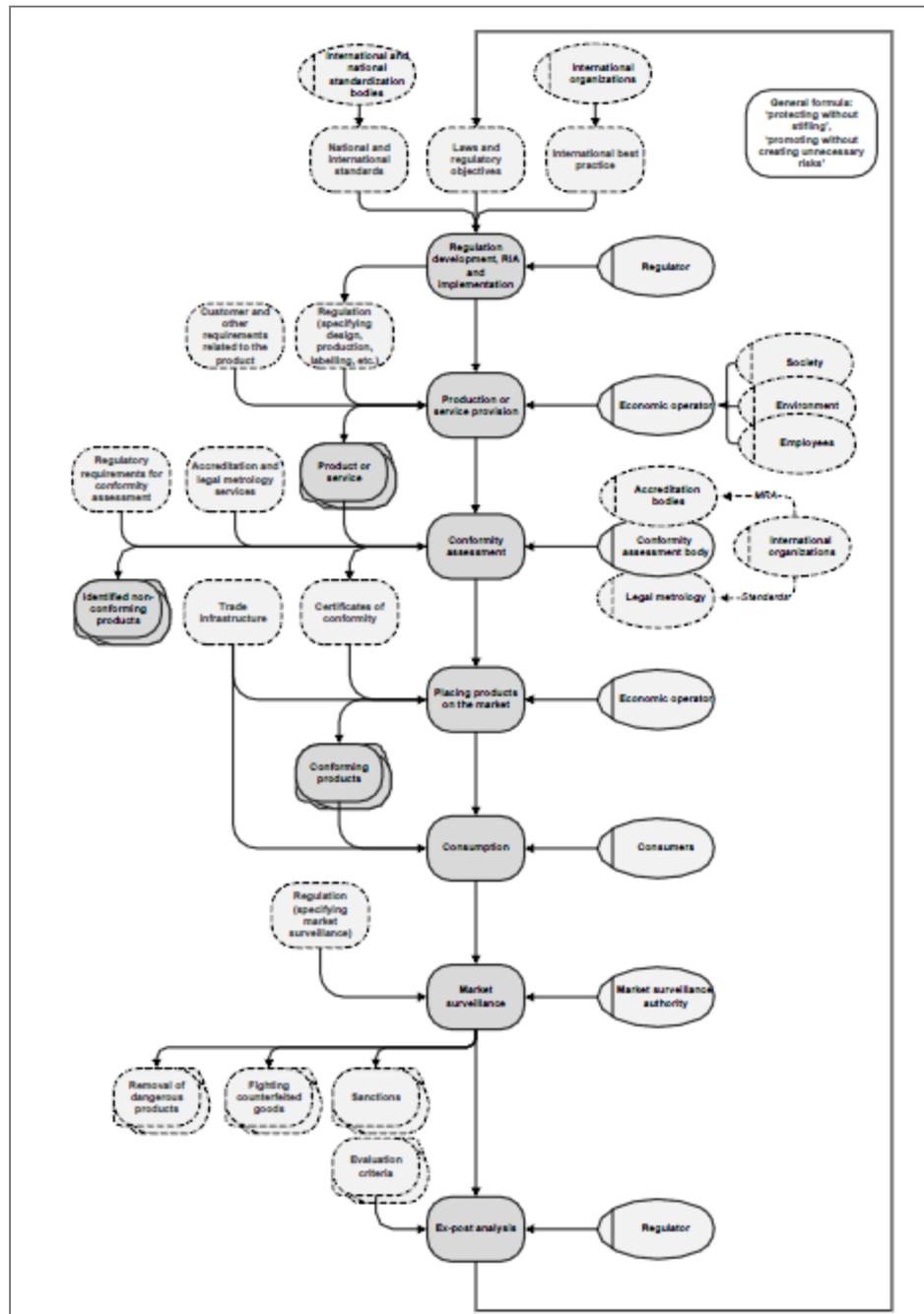
Regulation as a risk mitigation tool

Figure 4.1 Regulation as a risk mitigation tool



Types of regulations





Chapter 5 - How does regulation work in practice?



Building a cruise ship (2): Regulatory objectives and legal basis

Established and recognized objectives set a direction for a regulatory system and ensure that all the necessary regulations are in place. The objectives of the regulatory system for the shipbuilding industry are no different from those of any other transport industry. We will not list them all, but in order to create a consistent example, let us assume that such objectives would include:

- Protecting passenger safety:
 - minimizing accidents
 - minimizing the consequences of accidents
- Minimizing the environmental impact
- Avoiding escalating costs for businesses

Regulatory objectives play a major role in evaluating regulations and can be used to ensure that all the objectives are covered by regulations. They can also serve as evaluation criteria and help to avoid situations in which a regulation meets one objective but makes it impossible to achieve another (e.g. when ships are made safe but not competitive).

We will assume that in order to achieve these objectives, the regulator will develop a regulation covering three areas: 1) the quality of steel used to make ships, 2) contingency planning, and 3) the number of lifeboats.

The legislation establishing a regulatory system creates a platform that ensures the legal value of the requirements. For the shipbuilding industry, legislation should define:

- The regulatory authority (such as the Ministry of Transport)
- Regulatory objectives (discussed above)
- Regulatory processes

The European regulatory model (adapted from www.ec.europa.eu)

The EU's "New Approach" was introduced in a European Council resolution of May 1985. It is based on the principle that "the objectives being pursued by the Member States to protect the safety and health of their people as well as the consumer are equally valid in principle, even if different techniques are used to achieve them".

Recommendation "L"

This approach works well when a country formally and substantively participates in the work of the international standardization system. It entails taking part in technical committees, adopting international standards and involving the business community in the process of developing and implementing standards.

Reference to standards is widely applied because it allows regulators to:

- **Take advantage of available expertise and best practice internationally.** This is explained in the Physikalisch Technische Bundesanstalt (PTB)/ITC guide to *Technical Regulations: Recommendations for Their Elaboration and Enforcement* (Inkelaar, 2009), as follows: "Developing technical regulations requires expertise in a variety of fields, which could be not sufficiently available in State authorities. Rather than developing these competencies – including by having the regulators

Figure 5.9 Inputs, outputs and the main players of market surveillance

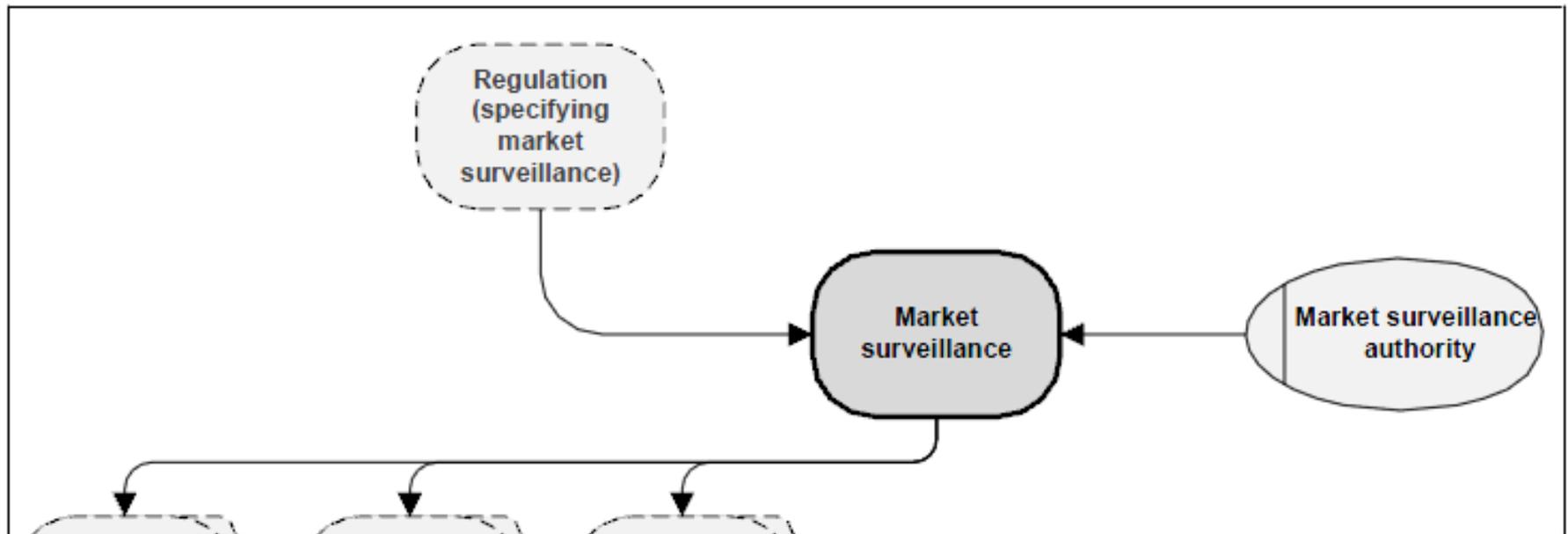
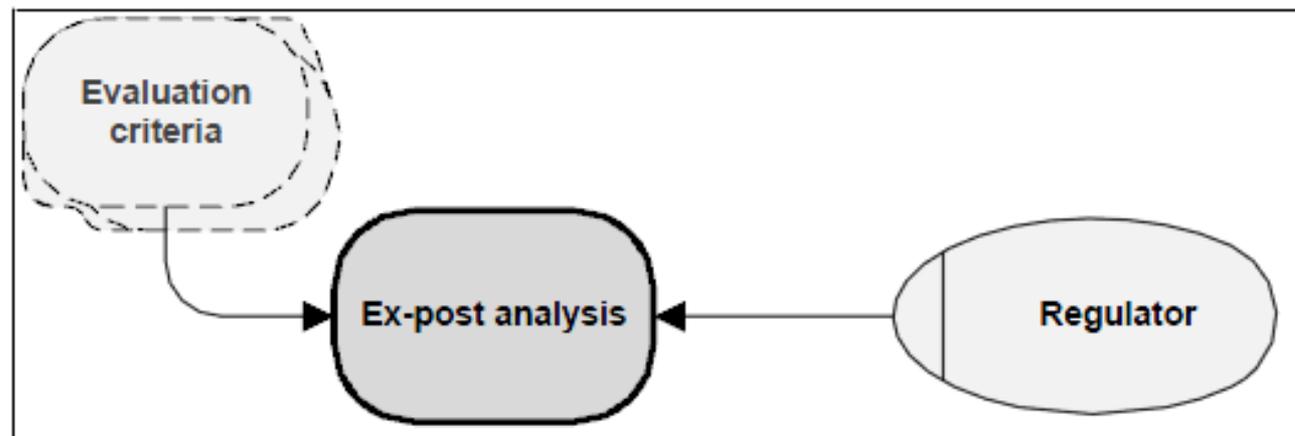


Figure 5.10 Inputs, outputs and the main players of ex-post analysis



Chapter 6 - Risk management at UNECE WP.6

- The Group of Experts on Risk Management in Regulatory Systems
- Recommendations



Chapter 7 - Evaluating risk management in regulatory systems



Evaluation methodology

7.3 Preparing the evaluation

To gather objective evidence on risk management implementation, evaluators will need to conduct a series of interviews with the main regulatory system stakeholders. In preparing for the interviews, evaluators should gather preliminary data on how risk management issues are addressed within the regulatory system “on paper”. This can be done by analysing the legislation that establishes the regulatory system. It also helps in planning and structuring actual face-to-face interviews.

Before analysing the legislation, evaluators should gather all the legal documents with provisions on how the regulatory system should function. The idea is to see how each of the functions of the reference model is reflected in the legislation. The analysis should answer the following question: “Are risk management functions consistently described in the legislation establishing a regulatory system?”

Who will benefit?

- Policymakers
 - the overview of a regulatory system with risk management as its driving force
 - how to better apply risk management tools to policymaking
 - make more informed decisions as to the fields in which risk-based regulatory systems should be developed

Who will benefit?

- Legislators
 - can use the reference models to describe risk management in legislation in a consistent manner
- Regulators
 - will learn how to establish a common risk language for use by all regulatory system stakeholders;
 - develop a common risk management process for their regulatory system; and incorporate risk management best practice into their regulatory work

Who will benefit?

- Businesses
 - will learn how to participate more actively in regulatory processes
 - how to call the attention of regulatory stakeholders to risks that businesses cannot manage on their own
- Standardization bodies
 - will better understand their role in the risk management process through the models described in the publication, thereby ensuring that their activities address the most critical risks in regulatory systems
- CAB and MSA
 - will benefit from enhanced coordination of their activities with other regulatory stakeholders



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