

AGENDA OF THE WORKSHOP

ANALYSIS OF THE PRACTICES OF GOAL-ORIENTED REGULATIONS TO CONTROL INDUSTRIAL RISKS

CEN, 17 Rue Marnix, Brussels
(Final Version)

- 8:45** Arrival of the participants
- 9:30** Welcome addresses:
Welcome from CEN, P. Ziethen (CEN - DIN, DE)
Objectives of the workshop and the initiative, V. Laflèche (INERIS, FR)
- 10:00** Analysis of the Practices of Goal-Oriented Regulations to Control Industrial Risks: The legal perspective, A. Alemanno (HEC, FR)
- 10:20** Presentation of the discussion paper, M-A. Kordek (INERIS, FR)
- 10:40** Goal-based regulation of industrial risks - "peeling the onion", a public authority view, M. Hailwood (LUBW, DE)
- 11:00** Coffee break
- 11:20** Towards Goal-Oriented Regulations: An IPPC Case Study, A. Farid (Air Liquide, FR)
- 11:40** Current practices and examples of implementation in two EU Member States
Experience in UK, L. Cusco (HSE-HSL, UK)
Experience in NL, P. Uijt de Haag (RIVM, NL) & C. Pietersen (Hazardous Substances Council, NL)
- 12:30** Lunch break
- 13:40** Current practices and examples of implementation in non EU countries
Canada, Korea, Japan (possibly, video contribution) and international initiatives
- 14:00** Update on developments in the European standards environment (the Commission's EXPRESS panel on future standardization), P. Ziethen (CEN - DIN, GE)
- 14:20** Round table on implementation issues: benefits or requirements
Moderators: O. Salvi (EU-VRi, DE) and M. Hailwood (LUBW, DE)
Participants: C. Pietersen, M-J. Masson, M-A. Kordek
- Elaboration of the guidance documents**
- How to prepare them at the European level?
 - How to take benefit from all guidance documents existing at national or local level?
 - What should be the role of the industry: the industry branches and associations, the large companies?
 - Should the technical working groups at EU level be more independent from the regulators?
- Responsibility split between authorities, industry and organizations involved in the preparation of the standards**
- Is a "goal-oriented regulation" a benefit for the implementation of the regulation?
 - Is it more dynamic to adapt the regulatory constraints to the technical progress?
 - What is the economical impact?
- Control of the effective implementation**
- How are the reference documents specified in the regulation?
 - How is organized the control in practice, with companies such as notified bodies or the authorities themselves?
- New projects to support goal-based regulations to control industrial risks**
- The iNTeg-Risk project (www.integ-risk.eu-vri.eu)
 - Are there other projects in preparation?
- 15:30** Wrap-up and conclusions
- 16:00** Adjourn

List of abstracts

Analysis of the Practices of Goal-Oriented Regulations to Control Industrial Risks: The legal perspective. Alberto Alemanno, Associate Professor of Law, HEC Paris.

The aim of this presentation is to contextualise the Seveso II Directive within the broader European legal context, by analysing to what extent this directive may be considered a goal-based regulation. After examining its legal basis and its relationship with the subsidiarity principle, the focus will shift to the normative and implementation structures of the Seveso Directive. After stressing the tension existing between the benefits of goal-oriented regulations and the expectation of a harmonised implementation across Member States, a few recommendations on how to meet the challenge of closer harmonisation in the control of industrial risks will be formulated.

Goal-based regulation of industrial risks - "peeling the onion", a public authority view, M. Hailwood (LUBW, DE)

Based on the German situation, the safety regulatory framework will be described as an "onion":

- starting with the general texts like the European Seveso directive,
- then, the Major Accident Ordinance §§3-6, and the Machine and Product Safety Law & Operating Safety Ordinance defining a set of general requirements,
- the Technical Regulation published by the Federal Ministry such as TRBS operating safety, TRGS – hazardous substances, TRB, TRG, TRbF– pressure vessels, gases, flammable liquids (until max. 31 Dec. 2012)
- the International and national standards: ISO, EN, DIN, BS, etc. which can be referred to in technical regulations or legislation and thus as a consequence become legally binding
- the Standards and norms of private organisations and associations, e.g.: API, PI, VdS, etc.

From the analysis of the current situation, the author will present his point of view for possible improvement of the implementation of regulations for the control of industrial risks.

Towards Goal-Oriented Regulations: An IPPC Case Study, A. Farid (Air Liquide, FR)

EU Directive 2008/1/EC on Integrated Pollution Prevention and Control (IPPC) is a fixture of modern European environmental regulation. This presentation seeks to contrast two possible interpretations in its implementation. In the first, the regulation is treated as "conventional" and prescriptive. The benefits and disadvantages to this approach are summarized. In the second, the regulation is treated as goal-oriented. This approach is demonstrated through recent work at Air Liquide and the European Industrial Gases Association (EIGA). The presentation concludes with some lessons learned towards designing effective industrial regulations.

Experience in UK, Laurence Cusco (HSE, UK)

This talk will summarize the UK Health & Safety Executive (HSE) approach to goal-setting and prescriptive regulations. It will make reference to two key publications.

First, "Reducing Risks Protecting People (R2P2)" sets out our general approach to regulating health and safety, which is broadly risk-based. And it describes a spectrum of possible controls. The following procedure has evolved for identifying options most likely to work for new regulatory measures and the order in which they should be considered:

- Reliance on the general duties and the 'Management of Health and Safety at Work etc.' Regulations.
- Use of Guidance.
- Approved Codes of Practice, which may help whilst still allowing scope for alternative, equally good, ways of controlling hazards and reducing risks.
- Goal-setting regulations, which may help to amplify general duties.
- Specific or prescriptive regulations.

Second, the policy statement "Our approach to permissioning regimes" explains the philosophy adopted in regulating health and safety in hazardous industries through the use of permissioning regimes and when this may still be preferred.

Experience in NL, P. Uijt de Haag (RIVM, NL) & C. Pietersen (Hazardous Substances Council, NL)

Different levels of regulations exist, ranging from international regulations like EU directives, national laws, national guidelines and national norms and standards. In this presentation, the framework of goal-oriented and prescriptive regulation is described using the Seveso directive as example. Especially the role of the PGS documents will be addressed. These documents give instructions on the safe use of dangerous substances for various activities and are published following consensus between the national government, the Labour Inspectorate and the experts from branch organizations. The advantages and disadvantages will be discussed as well as possible improvements.

Update on developments in the European standards environment (the Commission's EXPRESS panel on future standardization), P. Ziethen (CEN - DIN, GE)

The presentation will update the audience from the perspective of the European Standards Organizations. There will be a brief presentation of CEN and CENELEC as the two relevant organizations for ETPIS, and information on their convergence (the creation of a common "back office", the CEN-CENELEC Management Centre, from 1 January 2010). The "New Approach" linking European Standards and formal regulation, which is of interest to the ETPIS community, will be outlined, and the other possible tools for standardization (including in innovative areas, with links to EU Commission and Council documents) will be covered. Finally, some political developments affecting European standardization will be mentioned, including the EXPRESS Panel, which is an expert team advising the Commission on a possible blueprint for the European standards environment a decade ahead.