THE ROLE OF NON-GOVERNMENTAL ACTORS IN REGULATING RISK

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**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

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<th>Integration / Harmonisation through supra national institutions (EU)</th>
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<td>Specific negotiated agreements (treaties / conventions)</td>
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<td>Formal regulatory co-operation partnerships (US-Canada RCC)</td>
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<td>Inter governmental organizations (OECD, WTO)</td>
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<td>Regional agreements with regulatory provisions (RTAs, FTAs)</td>
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<td>Mutual recognition agreements (MRAs)</td>
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<td>Trans-governmental networks of regulators (ILAC, ICPEN, PIC/S)</td>
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<td>Formal requirements to consider relevant frameworks in other jurisdictions in the same field</td>
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<td>Recognition and incorporation of international standards (ISO, IEC,...)</td>
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<td>Soft law: principles, guidelines, codes of conduct</td>
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<td>Dialogue / Informal exchange of information (Transatlantic dialogues)</td>
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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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