

Building risk-based regulatory frameworks in support of Circular Economy

Applying recommendations of the UNECE Group of Experts on Risk Management in Regulatory Systems to achieve circular economy objectives

Donald Macrae, Joint Convener, GRM

31st Meeting WP6, 25th November 2021

UNECE GRM – more than 10 years of (remote) work



“The GRM aims at an improved management of hazards that have the potential to affect the quality of products and services, and/or cause harm or damage to people, the environment, property and immaterial assets”

“Developing and sharing best practice as regards the use of risk management tools in regulatory activities”

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Risk Management in Regulatory Framework

Towards a better management of risks

Risk Management in Regulatory Framework
Towards a better management of risks

The main purpose of this UN/ECE study is to assist its member States to better address their people from natural and man-made hazards. This publication addresses the need for a structural and holistic development process to manage risks and to achieve the desired level of safety without stifling economic growth. It will help the UN/ECE member States to apply risk management as a central process involving all regulatory entities, moving it from a reactive to a proactive approach. A focus is intended to assist policymakers, regulators, and businesses in having regulatory systems aimed at effectively managing the risks that confront our societies, our communities and ourselves.

John Smith, Special Representative and Head of the United Nations Secretariat for Disaster Management

This publication provides an insight into how risk management standards and guidelines can be applied not just to enhance the management of risk within single entities, but also to provide a proactive way of ensuring the efficacy of regulatory systems for all stakeholders. It calls for a broader review of international and management-related standards by regulators and business companies globally as a way of ensuring their effectiveness.

Head of Major Accidents, ILO Technical Committee III - Risk Management

Conrad Wilken, Institut für Arbeitsschutz

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Recommendations on regulatory cooperation and standardization policies

Working Party on Regulatory Cooperation and Standardization Policies

R. Managing Risk in Regulatory Framework

The Working Party on Regulatory Cooperation and Standardization Policies

Recognizing that mitigating risk that may affect society and development is an important goal for policy-making,

Underlining that risk management is an important tool for convergence at international and regional levels,

Emphasizing the role of risk management in achieving sustainable goals. Stressing that risk-management tools are essential to enhance regulatory action and of regulatory systems,

Recognizing the need of regulatory authorities, standard assessment and accreditation bodies, as well as market surveillance operators, consumers, as well as other regulatory stakeholders, in consistent, efficient, effective and systemic application of risk management systems,

Taking into account international standards related to the process such as ISO 31000:2009, ISO 9001:2008, ISO/IEC 17000:2004, and including sector-specific standards, such as ISO/IEC 27001:2005,

Underlining that regulation in many cases may not be the best and that absolute safety cannot be a regulatory outcome, as it is in undesirable to make the world risk-free,

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Recommendations on regulatory cooperation and standardization policies

Working Party on Regulatory Cooperation and Standardization Policies

P. Crisis Management within a Regulatory Framework

The Working Party on Regulatory Cooperation and Standardization Policies

Recognizing the role of technical regulation, coordination and surveillance in preventing and addressing crises in various sectors,

Noting that some risks are almost impossible to identify, cannot be totally mitigated,

Recognizing the common interest of all regulatory economic operators and consumers, in developing an effective, anticipate, and if necessary, resolve situations

Stressing that in many cases crises have led to regulatory changes,

Underlining that risks that are identified and accepted require developing or updating contingency plans that take into account other stakeholders,

Stressing that “crisis management” is an integral part of any regulatory framework (i.e. and that effective crisis management requires systemic management of risks, and vice versa)

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Recommendations on Regulatory Cooperation and Standardization Policies

Revised Edition

S. Applying predictive risk management tools for targeted market surveillance

The Working Party on Regulatory Cooperation and Standardization Policies

Emphasizing that achieving absolute safety cannot be the goal of a regulatory system,

Noting that excessively stringent controls can create unnecessary barriers to trade,

Recognizing the importance of ensuring that products on the market (linking physical infrastructure, commercial and industrial facilities are compliant and safe so as to protect citizens and the environment

Emphasizing the importance of applying predictive risk assessment tools for targeted market surveillance/compliance authorities at the “before an accident”/before the non-compliance stage,

Stressing that risk-based surveillance frameworks should help avoiding:

- Excessive controls on low risk products and
- Omitted or insufficient controls on high risk products

Recognizing that authorities need to efficiently allocate limited resources and surveillance on products on the market (as well as on installations and facilities) prove to be efficient,

Aiming to provide guidance in the use of predictive risk management techniques and efficiency of the existing risk assessment tools and data sharing platforms,

Aiming to complement the existing risk assessment tools applied by market surveillance authorities

Recommends that: Authorities plan surveillance activities on the basis of the compliance risk of products/businesses within their jurisdiction. The evaluation of this risk should reflect:

- How dangerous a certain product/business entity is when it is non-compliant
- What is the probability that a non-compliant product of this type is present

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Recommendations on Regulatory Cooperation and Standardization Policies

Revised Edition

T. Standards and Regulations for Sustainable Development

The Working Party on Regulatory Cooperation and Standardization Policies

Taking special note of how the 2030 Agenda for Sustainable Development now represents a cornerstone for the United Nations in all sectors of its activity,

Wishing to enhance the contribution of voluntary standards to realization of the 2030 Agenda,

Wishing to further strengthen cooperation between regulatory authorities and agencies of the member States and standards development bodies and the United Nations in the implementation of the 2030 Agenda,

Wishing to further broaden the application of risk management tools by regulatory authorities (in building regulatory frameworks),

Affirms that:

- A systematic management of the risks inherent to the 2030 Agenda is a pre-requisite for achieving the Sustainable Development Goals;
- A standards-based approach constitutes a solid basis for regulating in view of the realization of the 2030 Agenda;

Taking into account that:

- The social, economic and environmental dimensions of the Sustainable Development Goals and targets are currently covered by a very broad range of legislative and regulatory systems and jurisdictions;
- In order to contribute to the achievement of the Sustainable Development Goals and targets, a broad range of risks shall be effectively and efficiently managed within regulatory frameworks, as described in Recommendation R;
- Many standards, UN agreements and conventions, as well as other regulatory frameworks that are already in use are relevant to achieving Sustainable Development Goals;
- Implementation of the Sustainable Development Goals requires developing regulatory processes and building risk-based regulatory systems that would be proportionate to risks that are relevant to the Sustainable Development Goals’ targets in terms of regulatory requirements, conformity assessment and surveillance processes;

1 Recommendation adopted in 2018

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Strengthening Regulatory Frameworks

- UNECE's work on the circular economy relies on many regulatory frameworks as tools for delivering policy outcomes.
- Regulatory frameworks can be strengthened by:
 - Better design of regulations
 - Effective implementation and enforcement of the regulations

Examples of existing regulatory systems supporting Circular Economy

- **Vehicle regulations**

- A [United Nations regulation](#) adopted at UNECE in 2013 requires 85% of new vehicles' mass to be reusable/recyclable and 95% reusable/recoverable, thereby reducing overall environmental footprint by influencing the design process
- UN Regulations and Global Technical Regulations that enable [harmonized measurement of fuel consumption and tailpipe CO2 emissions](#) from cars and vans.

- **Infrastructure**

- UNECE [transport infrastructure agreements](#) define key parameters for the construction, maintenance and upgrade of international networks in all inland transport modes.
- The [Framework Guidelines for Energy Efficiency Standards in Buildings](#)

- **Movement of waste**

- The [Standards for the Transboundary Movement of Waste](#)

- There are many more regulatory frameworks

Better design of Regulations



- OECD has been developing techniques for improving how regulations are made for over 30 years
- The key tool is Regulatory Impact Assessment (RIA), which tests the regulatory proposal against likely outcomes.
- It is at this stage that the design needs to be tested against Circular Economy outcomes.

Better delivery of regulatory outcomes

- Studying how to make regulatory frameworks more effective has lagged behind studying to how to improve design but there is now a large body of practice globally on how to make regulations work in practice.
- Governments tend to downgrade the importance of regulatory delivery, in favour of focusing on the political limelight of making new regulations. Delivery is usually somebody else's problem.
- Central to both design and delivery of regulatory frameworks is risk management.

Risk Management in Regulatory Frameworks

- Risk management is about managing the uncertainty of what happens next.
- It is just as important in delivering good outcomes as it is in avoiding bad outcomes (which is the more common way of seeing risk).
- It requires a keen understanding of the context in which you are operating, which includes not only data and other evidence but also an appreciation of human nature – outcomes are dependent on what people do, and assumptions about that are often wrong.
- It is usually more effective to help people do the right things than prevent them from doing the wrong things.

GRM – Recommendation R

Recommendation R is about Managing Risk in Regulatory Frameworks (especially those dealing with Technical Regulations).

It builds on ISO 31000 on Risk Management and tailors that to both design and implementation of regulatory frameworks.



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Recommendations
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and standardization policies
Working Party on
Regulatory Cooperation and
Standardization Policies

R. Managing Risk in Regulatory Frameworks*

The Working Party on Regulatory Cooperation and Standardization policies,

Recognizing that mitigating risk that may affect society and hamper economic development is an important goal for policy-making,

Underlining that risk management is an important tool for promoting regulatory convergence at international and regional levels,

Emphasizing the role of risk management in achieving sustainable development goals, Stressing that risk-management tools are essential to enhancing the efficiency of regulatory action and of regulatory systems,

Recognizing the need of regulatory authorities, standardization, conformity assessment and accreditation bodies, as well as market surveillance authorities, economic operators, consumers, as well as other regulatory stakeholders, in promoting coherent, consistent, efficient, effective and systemic application of risk management in regulatory systems,

Taking into account international standards related to the management of risk, such as ISO 31000:2009, ISO 9001:2008, ISO/IEC 17000:2004, and other standards, including sector-specific standards, such as ISO/IEC 27001:2005,

Underlining that regulation in many cases may not be the best response to risk, and that absolute safety cannot be a regulatory outcome, as it is impossible, as well as undesirable to make the world risk-free,

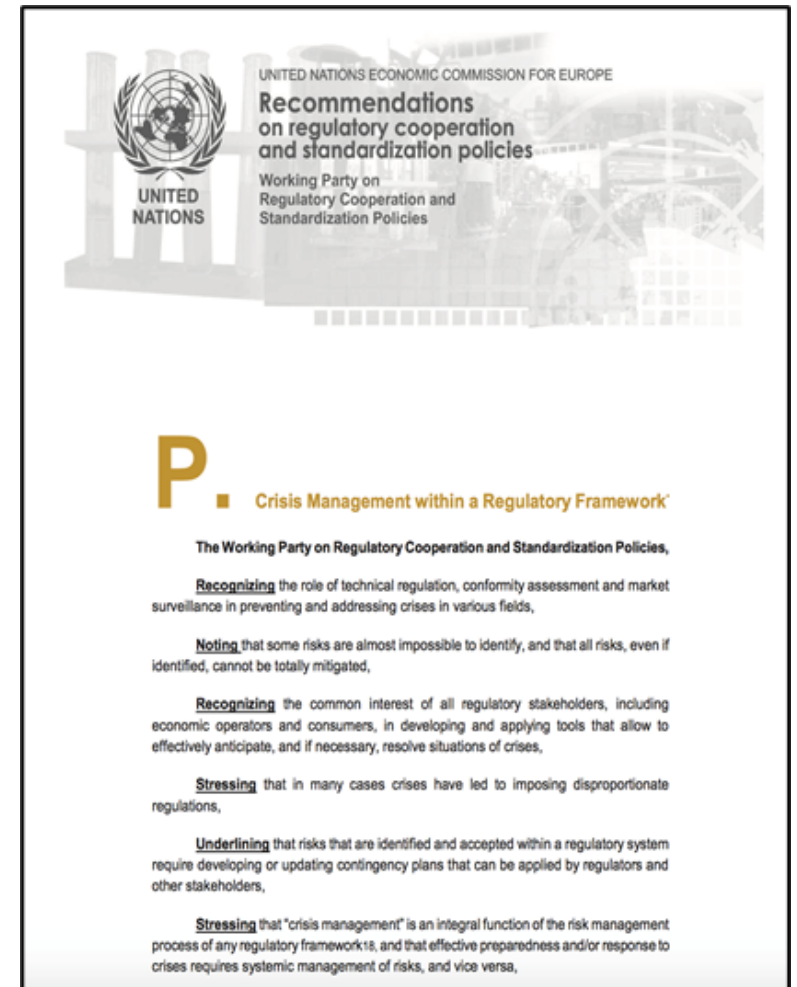
Recommendation R in Practice

- The risk management model covers not only setting the right objectives but also implementing the regulations in ways that optimise outcomes, through to crisis management.
- It has been applied in various countries, from Brazil to Kyrgyzstan.



Recommendation P – Crisis Management

- Recommendation R was followed by Recommendation P on Crisis Management.
- This has been updated following experience under the Covid pandemic.
- Bad crisis management very often leads to bad regulation as a “quick fix”.
- Good crisis management, as part of a contingency plan, can be an alternative to regulation – rather than trying to avoid a crisis, prepare for it.



Recommendation T

- Recommendation T applied much of the thinking in the previous Recommendations to the issue of Standards and Regulations for Sustainable Development.
- It includes a Checklist for implementing regulatory systems for implementation of the 2030 Agenda for Sustainable Development.
- GRM is working on updating this to cover the Circular Economy as well.

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¹ Recommendation adopted in 2018

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Recommendation S

- Recommendation S is much more narrowly focused and deals with Applying Predictive Risk Management Tools for Targeted Market Surveillance.
- The recent Recommendation V, adopted at this 31st Meeting, is also focused on a particular aspect of UNECEs work, namely Risks of Product Non-Compliance in International Trade, aimed at streamlining throughput of goods at borders, without reducing protection.

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Emphasizing that achieving absolute safety cannot be the goal of a regulatory system,

Noting that excessively stringent controls can create unnecessary barriers to trade,

Recognizing the importance of ensuring that products on the market (including imported goods), physical infrastructure, commercial and industrial facilities are compliant and safe so as to protect consumers, citizens and the environment

Emphasizing the importance of applying predictive risk assessment tools for planning the activities of market surveillance/compliance authorities at the "before an accident"/"before the non-compliance reported" stage,

Stressing that risk-based surveillance frameworks should help avoiding:

- Excessive controls on low risk products and
- Omitted or insufficient controls on high risk products

Recognizing that authorities need to efficiently allocate limited resources and that risk-based targeted surveillance on products on the market (as well as on installations and facilities) provide an important means to that end,

Aiming to provide guidance in the use of predictive risk management techniques so as to increase the efficiency of the existing risk assessment tools and data sharing platforms,

Aiming to complement the existing risk assessment tools applied by market surveillance authorities,

Recommends that: Authorities plan surveillance activities on the basis of the evaluation of the non-compliance risk of products/businesses within their jurisdiction. The evaluation of the non-compliance risk should reflect:

- How dangerous a certain product/business entity is when it is non-compliant to standards,
- What is the probability that a non-compliant product of this type is present on the market.