

“Building Healthy Regulatory Relationships”

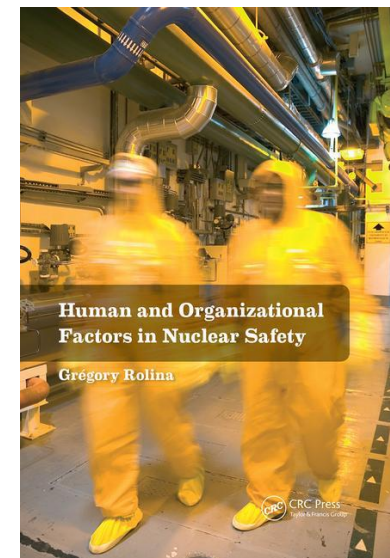
Grégory Rolina, Project Officer

Dubrovnik, 12th of April

European Rail Safety Summit

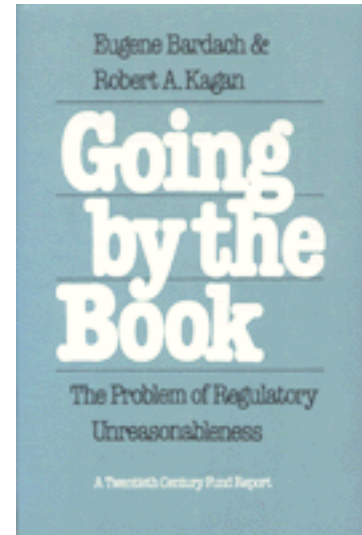


- Contribution of regulatory relationships to safety (culture)
- Objectives of the workshop
 - Discuss theories on control and risk regulatory regime,
 - share regulatory practices...
 - ...to build and maintain healthy regulatory relationships
- Background: “Human and Organisational Factors in Nuclear Safety” (2013)



Control Mechanisms (Ouchi 1979)

		Knowledge of the transformation process	
		Perfect	Imperfect
Ability to measure outputs	High	<i>Control by the results or by conforming to the rules</i>	<i>Control by the results</i>
	Low	<i>Control by conforming to the rules</i>	<i>Clan control (Ritual and ceremony)</i>



- Compliance with regulatory requirements costs the firm money
- The firm therefore has very interest in persuading the regulator to tone down his system of rules
- When this happens the regulator is captured: he champions the company's cause and the regulatory system is going rogue

Case Study: Nuclear Safety Assessments in France (1)

- Data acquisition as a critical stage
- Multiple control forms
 - Control by conforming to the rules
 - Clan control
 - Control by the result
- Are the experts captured?
 - No: the experts clearly developed and formulated their judgments independently - sometimes resulting in caustic exchanges with the licensee
 - But, the unavoidable *negotiations* with the regulatee may put constraints on the expert assessment. The implication of the regulatee into the assessment process may bother the supporter of independence...

Questions: Regulatory Practices (1)

1. a. Would you qualify acquisition of data and knowledge as a critical stage of the regulatory process?
b. Do you believe your “regulator” has an accurate image of your organisation?
2. Which mechanisms(s) of control are used by your organisation with regard to the regulatory supervision/internal monitoring? (by the results, by the rules, clan control)
3. Have you ever identified a regulatory capture? Is there any institutional arrangements that protect the regulators from the risk of being captured?
4. Have you identified *negotiations* as part of the regulatory process?

Case Study: Nuclear Safety Assessment in France (2)

Rhetorical	Build argumentations, align point of views, convince hierarchy and regulatees
Cognitive	Improve risk analysis, identify new safety barriers, publish results
Operating	Modify procedure, improve documentations

- A regulatory regime made up with negotiations (“French cooking”) that are a strong vector of the operating effectiveness
- **Trust** as a pillar of effectiveness
- Current changes towards a more legitimate, legal and transparent regime

Questions: Regulatory Practices (2)

1. What regulatory tools are used to achieve effectiveness?
2. One example that illustrates the benefits of trust (or the impacts of a lack of trust) within your regulatory relationship ?
3. According to your experience, share one tip that makes a regulatory relationship healthy

*“The author underlines the positive aspect of **cultivating close relations with licensees**: as experts gain knowledge of daily operating conditions at the facilities, they are able to incorporate real-life operating conditions into their reasoning, thereby improving the accuracy of their conclusions. When experts are able to convince the licensee, through in-depth technical discussions, that their recommendations are justified, **it is reasonable to believe that compliance will be achieved more effectively than if the licensee only takes action to comply with official rulings.**”*

J. Repussard, DG of IRSN

Preface to “Human and Organisational Factors in Nuclear Safety” (2013)

A Delicate Balance

“The Commission’s examination of the way safety regulations are deliberated and amended reveals a cozy relationship between the operators, the regulators and academic scholars that can only be described as totally inappropriate. In essence, the regulators and the operators prioritised the interests of their organisations over the public’s safety, and decided that Japanese nuclear power plant reactor operations ‘will not be stopped’.

Fukushima Nuclear Accident Independent
Investigation Commission (2012)

A Possible Solution: Responsive Regulation?

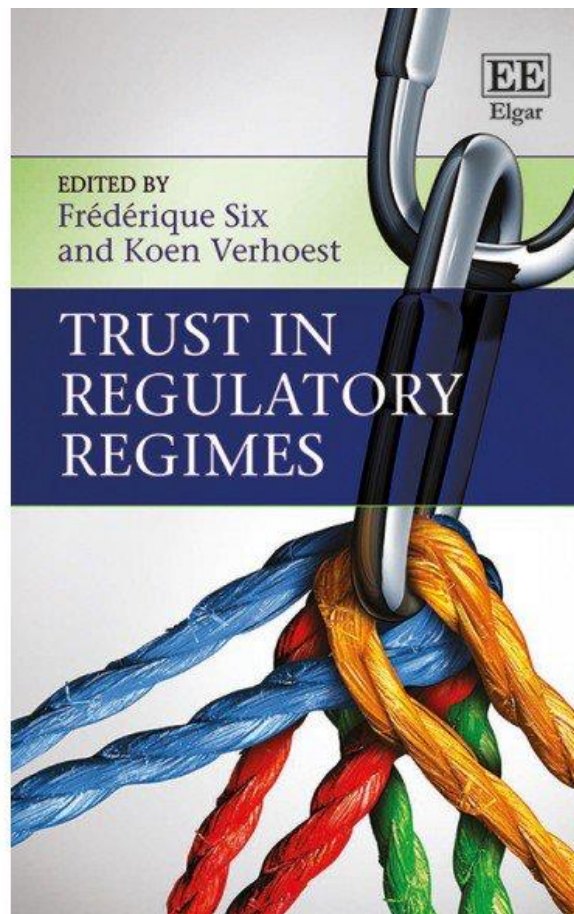
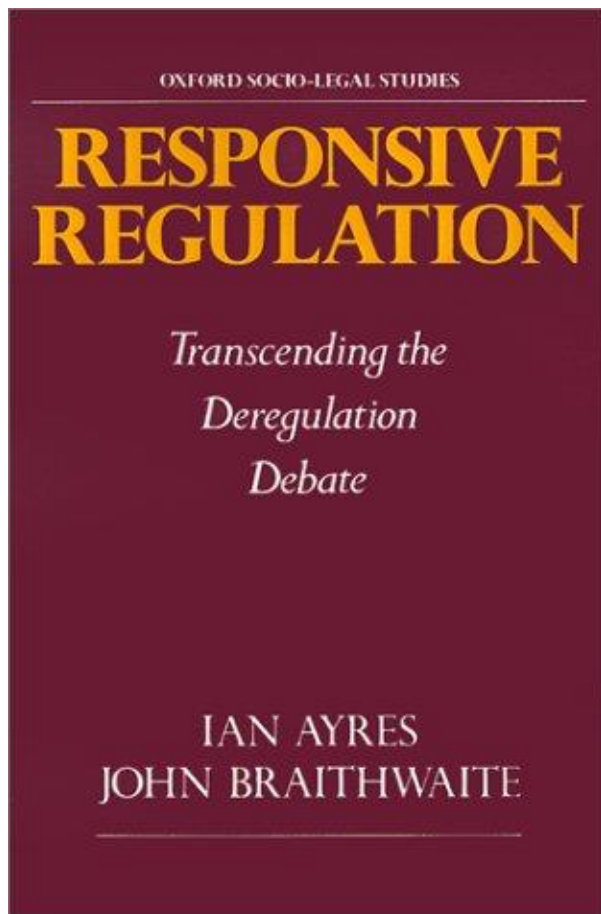


Ayres & Braithwaite
1992

Some Lessons Learned

- The regulator should be able to build an own accurate understanding of the safety issues that considers the regulatee's organisation (**“understanding workplace reality” as a safety culture fundamental**)
- Interactions with the regulatees should not compromise the regulators' independence of judgment
- Encourage open discussions between the regulators and the regulatees at all levels
- Share each other's views and challenges

Further Readings





Making the railway system work better for society.

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