



# **The regulator-regulatee interaction: insights taken from a high risk business firm**

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## The regulator-regulatee interaction: insights taken from a high risk business firm

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- description of the interaction between regulators and regulated organisations
  - built on an empirical case-study in the French chemical industry
  - a collective interdisciplinary research study on risk management in high-hazard facilities
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## The regulator-regulatee interaction: insights taken from a high risk business firm

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- The question we intend to answer in this presentation is whether the regulator-regulatee interaction is working ?
    - Is it cooperative or adversarial?
    - Does it yield benefits in terms of risk prevention?
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## The regulator-regulatee interaction: insights taken from a high risk business firm

- The French regulatory regime
- Risk tolerance and trust
- Is the interaction working in practice?
  - Two organisational modes interacting
    - Safety and risk prevention in a French HRO: multiple internal and external interactions
    - Organising public oversight: dealing with constraints, dependence and imbalance
    - Assessing the impact of the organisational modes on the interaction
  - Incidents in practice: How can the interaction work in the case of a “near failing HRO”?
- Conclusion

# The French regulatory regime

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- The French regulation of industrial high hazards consists mainly in what has been called a “safety case approach”
    - This is a “generic regulation” (Rasmussen Svedung)
    - This is little prescriptive
    - Leaves a lot to the discretion of inspectors
    - Explicit instructions of tolerance consist in the preservation of firms’ economic sustainability
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# Risk tolerance in interaction and trust

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- The parties
    - The plant
      - an entity of a chemical company located in the USA
      - with around 350 employees
      - A HRO
    - The local branch of the Inspectorate
      - With about 150 employees
      - 50 specialising on environmental regulation, and overseeing about 1000 hazardous plants
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# Risk tolerance in interaction and trust

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- The climate of the interaction
    - presented by both parties as a fruitful interaction
    - proactive attitude of the company
    - no warning nor sanction in more than ten years
    - the public communication engineered by the firm reinforces its image of a reliable firm
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# Risk tolerance in interaction and trust

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- How is cooperation between regulator and regulatee theorized ?
    - increasing regulatory compliance and the efficiency of policy (Ayres and Braithwaite 1991)
    - an incentive towards increased mindfulness of safety matters (La Porte 1996).
    - Ayres and Braithwaite (1991) warned against the risks of “regulatory capture”
  - The data collected supports the most optimistic theories, and there is so far no evidence of “capture”.
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# The interaction regulator/regulated: working in practice?

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- Is that all? Or is there more to the interaction than a successful person-to-person strategic game?
    - Our input: to study each party for what it is: a complex organisation
    - Yields a very different picture of the interaction
    - One may then wonder whether the interaction is “working in practice”, i.e. yielding benefits?
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# The interaction regulator/regulated: working in practice?

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- The firm: managing multiple internal and external interactions
    - Several traits of an HRO...
    - But it is difficult for managers to keep their eyes “wide open”
    - But there are tendencies towards decline
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# The interaction regulator/regulated: working in practice?

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- The Inspectorate: can it handle a safety case approach in regulation?
    - Structurally under-resourced
    - Dependent upon the firm
    - Having trouble developing and keeping in-house expertise
    - Making trade-offs between all-important tasks
    - Incapable of overseeing the whole safety management effort at the firm
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# The interaction regulator/regulated: working in practice?

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- Two interacting modes of organisation yield:
    - Delay in regulatory procedures
    - Risk management from the inside and from the outside cannot be coordinated
    - Imbalance in expertise is obvious and seems to limit the capacity for the inspectorate to do more than formal control
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# The interaction regulator/regulated: working in practice?

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- The limits of the interaction also appeared when the plant experienced incidents
    - The organisation did not question its technical safety architecture, although it was flawed
    - The incident was considered purely internal and technical
      - Was not discussed with workers representatives
      - Was not communicated to the Inspectorate
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# The interaction regulator/regulated: working in practice?

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- Are we dealing with the “dark sides” of organisations?
  - Are the organisation’s people trying to protect their own confidence in the architecture?
  - Are the firm and the Inspectorate trying to keep their interaction as good as possible, and hence avoid anything which could jeopardize it?
    - Negative signals regarding safety
    - Adversarial attitude
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Thank you for your attention

