

# Risk Governance and Regulatory Processes

## A case study of the role and function of a Regulatory Forum

Introduction

Risk Governance Process Model

Characteristics of Policy-making Styles

Findings – Tripartite Risk Governance Process

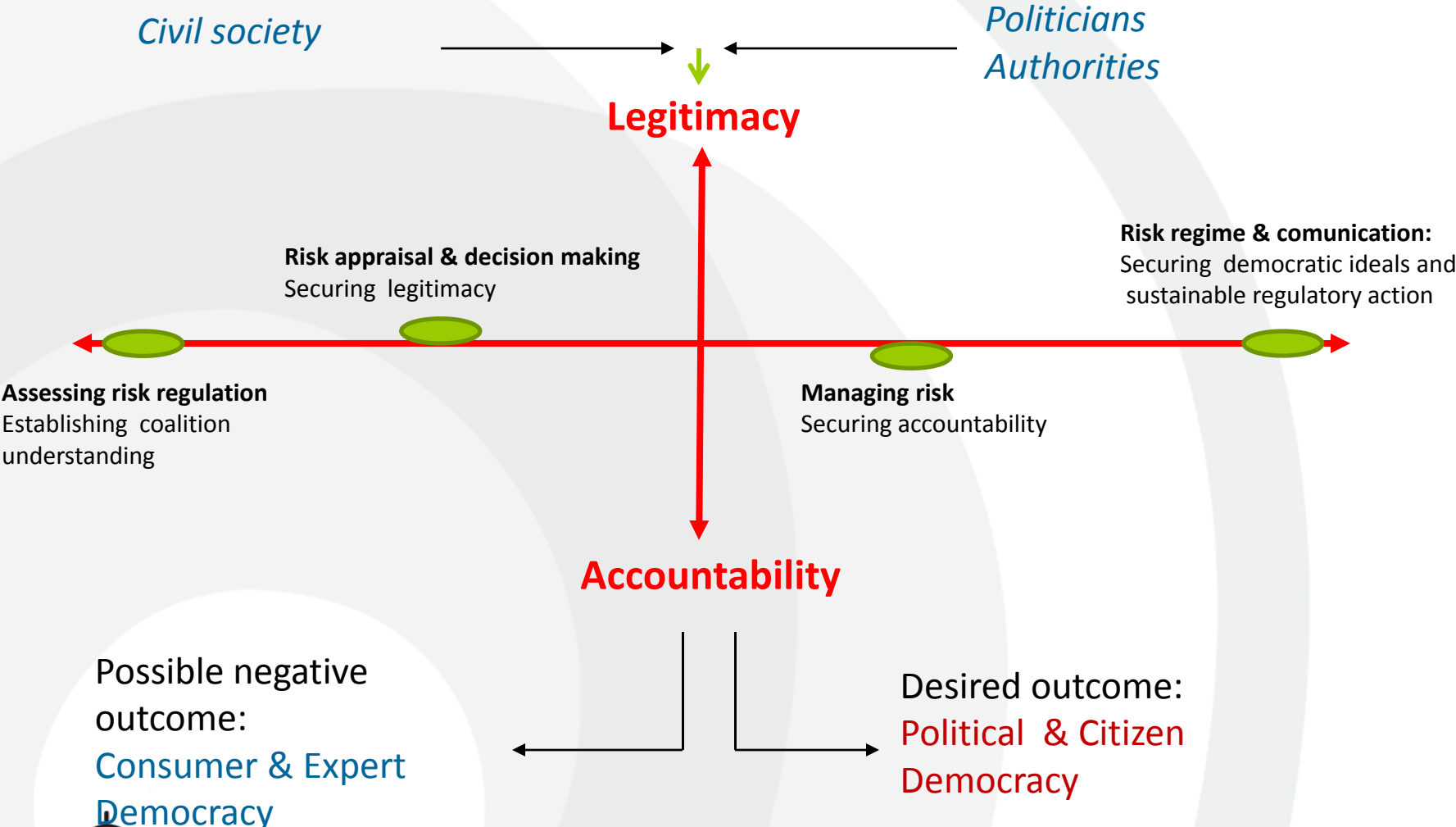
Findings on Authority Roles

Summary of Success Factors and Concerns

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# Risk Governance Process Model



# Table 1 Characteristics of policy-making styles

(After Renn (2008) and Kirwan (2002))

<p><b><i>Driving forces behind the risk governance process in RF by priority</i></b></p> <ul style="list-style-type: none"> <li>- <b>The public effect and value</b> (5)</li> <li>- Providing cost effectiveness and efficiency to the petroleum business (4)</li> <li>- Providing stability and predictability (3)</li> <li>- Influence on undesired incidents (3)</li> <li>- Providing regulatory competency (2)</li> <li>- Industry complexity (1)</li> </ul>	<p><b><i>Socio-political &amp; cultural framework regarded as characteristic for RF</i></b></p> <ul style="list-style-type: none"> <li>- <b>Corporative (inclusive) culture</b> (5)</li> <li>- Consensus based culture (4)</li> <li>- Innovative culture (2)</li> <li>- Contradictory culture (1)</li> </ul>	<p><b><i>Characteristic attitudes observed over time in RF</i></b></p> <ul style="list-style-type: none"> <li>- <b>Proactive attitudes</b> (3)</li> <li>- Confident attitudes (2)</li> <li>- Integrity based attitudes (2)</li> <li>- Industry related attitudes (2)</li> <li>- Democratic attitudes (1)</li> <li>- Attitudes influenced by transparency and by integrity (1)</li> </ul>

**Organizational culture:** The way we do business here (**artefacts**), strategies, goals, and philosophies (**espoused values**), and the underlying attitudes, motives and values (**underlying assumptions**)

(E Schein 1992)



# Findings – Tripartite Risk Governance Process

- Tripartite motives and perspectives are different – but basic principle: “*agreeing to disagree*”
- Clearly understood authority mandate, legitimacy and accountability
- Tripartite regulatory cooperation creates understanding, knowledge and competency
- Tripartite cooperation the preferred and most efficient way of developing petroleum HSE regulations
- Tripartite cooperation – at its best a representative democracy
- Transparent and less bureaucratic - utilizes consensus principles
- Political issues lifted to other arenas (Safety Forum/authorities)
- A general belief that the tripartite cooperation leads to a political and citizen democracy – and not to an expert/consumer democracy
- Tripartite cooperation has matured over the last 10 years (Ref Hovden (2000) in Kirwan et al (2002))



# Findings - Authority roles in RF



- PSA :

- Professional and good leadership - tackles most often vertical (ministry) and horizontal RF (tripartite) counter pressure
- A possible Janus complex - "speaking with two tongues" ?
- Stretching their regulatory authority by sanctioning- or rewarding strategies? (Ref Hopkins (2007) "*Going beyond compliance*")?
- A possible "set the fox to feed the geese" syndrom (Ref Parliament white paper – No independent court of appeal for complaints)



# *Summing up Success Factors and Concerns 1*

## Success factors

- A formally established risk governance process where parties have a government mandate and equal influence on the whole regulatory development process
- Common values and principles, and good leadership of the risk governance process
- Supporting authority supervisory strategies such as:
  - Split of accountability for petroleum resource management and licencing (Ministry of Petroleum and Energy) and HSE regulation (Ministry of Labour)
  - PSA coordinating role (single point of focus principle)
  - Establishment of various arenas for tripartite cooperation
  - PSA pre-qualification of duty holders entering the Norwegian Continental Shelf
  - Enforced duty holder reporting of all undesired incidents to PSA
  - "See-to it" duty based on a regulatory framework of four normative royal decrees
  - A well-balanced mix of coercive (e.g. government regulation), consensual (e.g. industry standards), and incentive-based, (e.g. operational consents) strategies. (Ref. Renn 2008:p184)
  - Supervision of duty holders by use of risk based system audits and verifications
  - "Trends in risk level" (RNNP) – authority initiated questionnaire for all offshore personnel providing a comparative and common feedback and learning arena for duty-holders, employee organizations and authorities
  - Transparency and insight into authority documentation and files



# *Summing up Success Factors and Concerns 2*

## **Concerns**

- Increasing number of duty holders (70+ companies) with complex ownership and various incentive bonus programs for leaders
- A normative set of regulations and extensive use of legal standards gives room for various duty holder interpretations
  - Legal standards refer to inaccurate use and interpretations of legal terms like “shall” and “should”. “Should” is sometimes a recommended, but not mandatory way of fulfilling requirements. Sometimes “should” means “shall as a minimum”, depending on context. (Ref. Lindøe & Braut (2010) and Hovden (2000))
- No independent court of appeal for complaints
- A weakening tendency of “single point of focus” principle

