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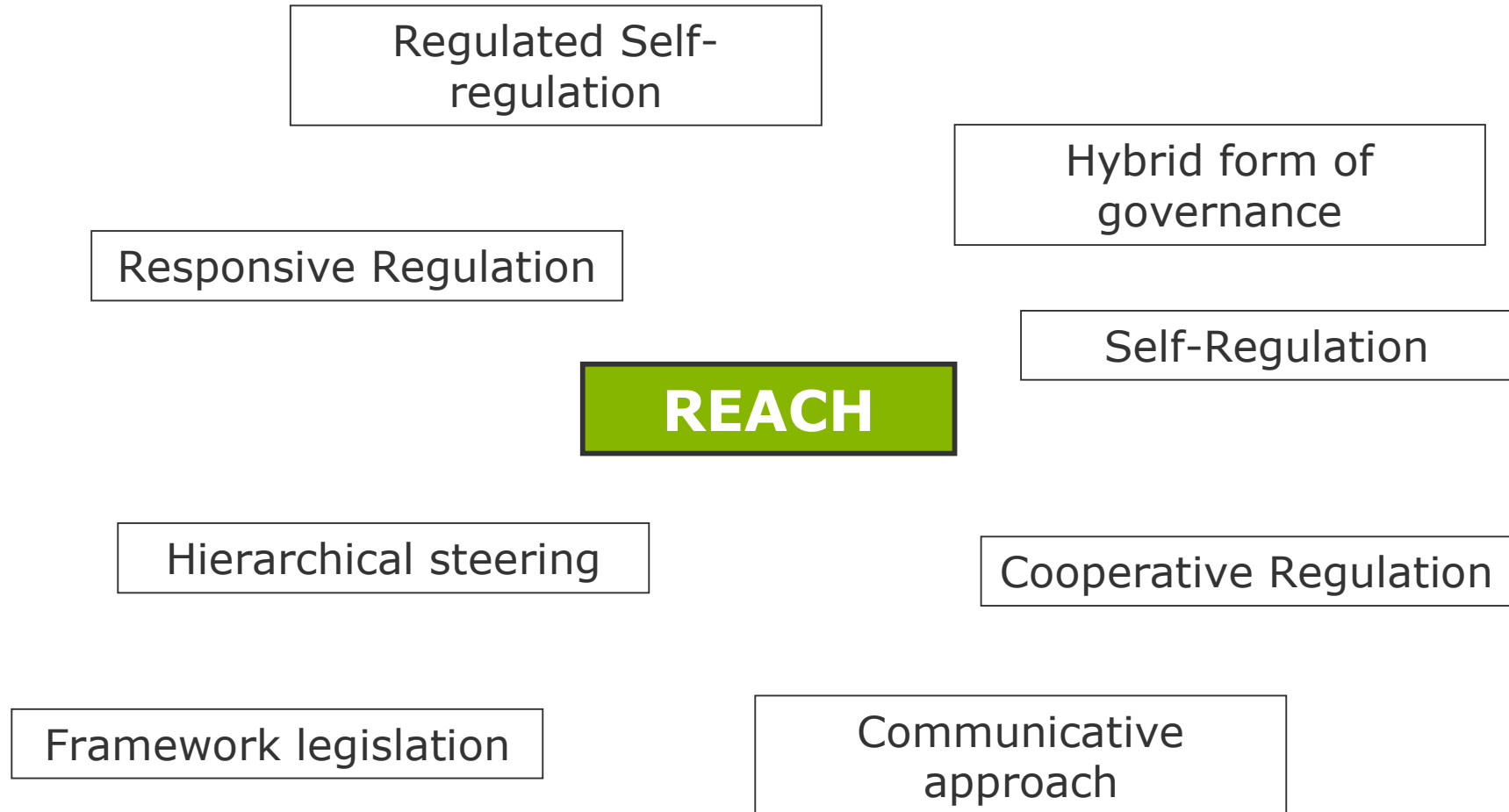
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## The Paradigm Change under the REACH Regulation and New Responsibilities

ECRN Workshop „REACH Regulation – The Burden of Proof and the  
Work for Experts and Expert Communities“, Aachen, 22-23 November  
2007

# REACH – what kind of regulatory approach?



# 1. General Changes in the Modes of Governance

## Changes in regulatory instruments

	Level of obligation	Level of discretion
Regulatory standard setting	High	Low
„New“ instruments	High	High
Self-regulation	Low	High

## Changes in process

Success and failure of the Community Method

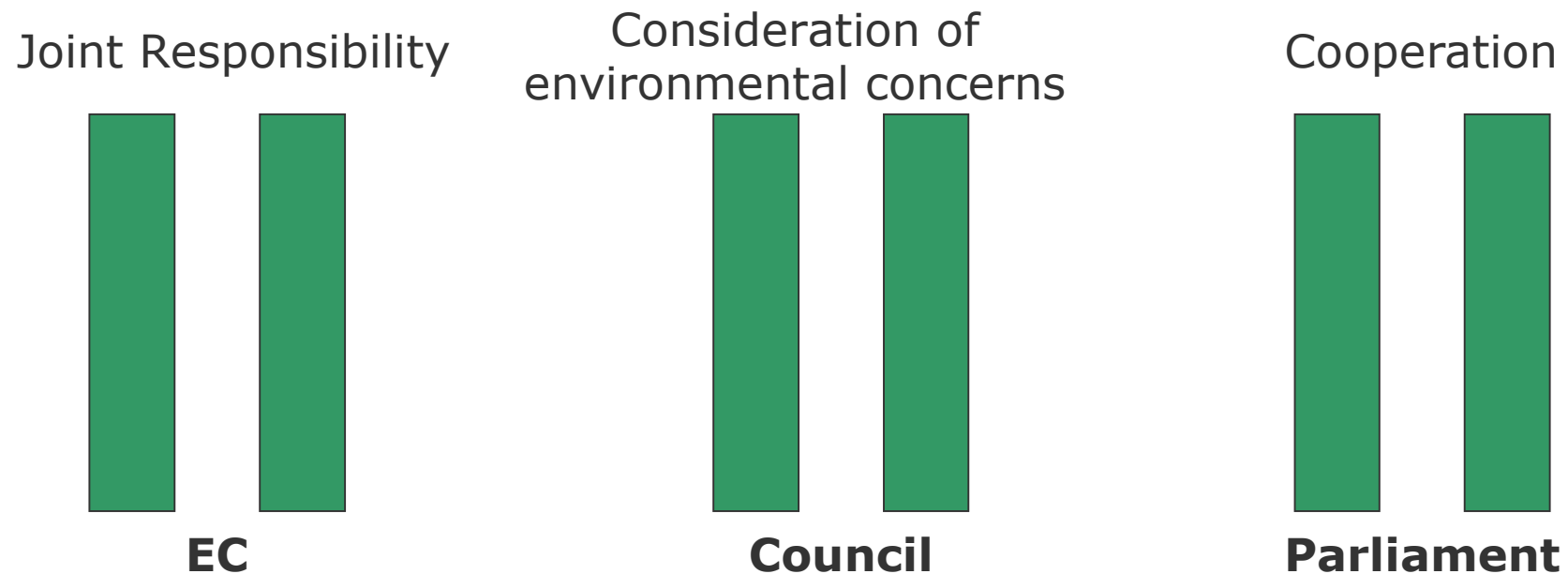
- Increasing importance of soft law approaches
- Delegation of regulatory tasks
- Increasing importance of reflexive assessment practices

## 2. New Governance in the Making of REACH

### REACH and the mainstreaming of environmental issues

#### “systematic depillarization”

overcoming of segmented responsibilities of sectoralized and relatively closed policy communities within the EU multilevel system



## 2. New Governance in the Making of REACH

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### **Intensive stakeholder consultation in the preparation phase**

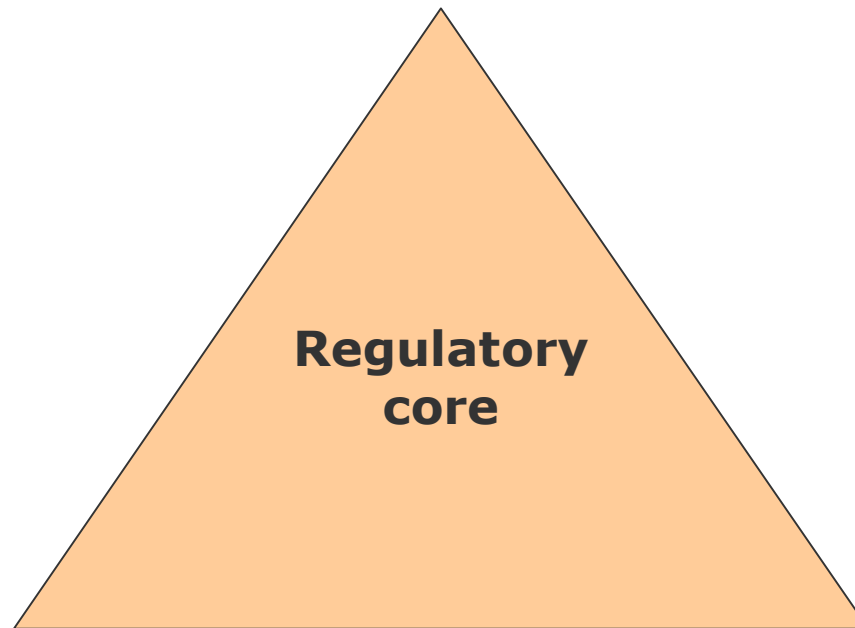
- Discussion events
- Internet consultation
- The “battle of impact assessments”
- Involvement in expert communities
- RIP process
- Consensus-oriented technical input
- Cooperation of industry friendly coalitions

### 3. New Governance and the Implementation of REACH

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#### General regulatory aspects of REACH

Cooperative proceduralization and devolution



Mechanisms for public risk communication

Obligatory self-regulation

### 3. New Governance and the Implementation of REACH

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#### General regulatory aspects of REACH

**Cooperative proceduralization and devolution**



**Regulatory  
core**

Mechanisms for public  
risk communication

Obligatory self-  
regulation

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#### **Proceduralization of complex risk decisions**

REACH serves rather as a framework legislation, leaving several key issues subject to specification

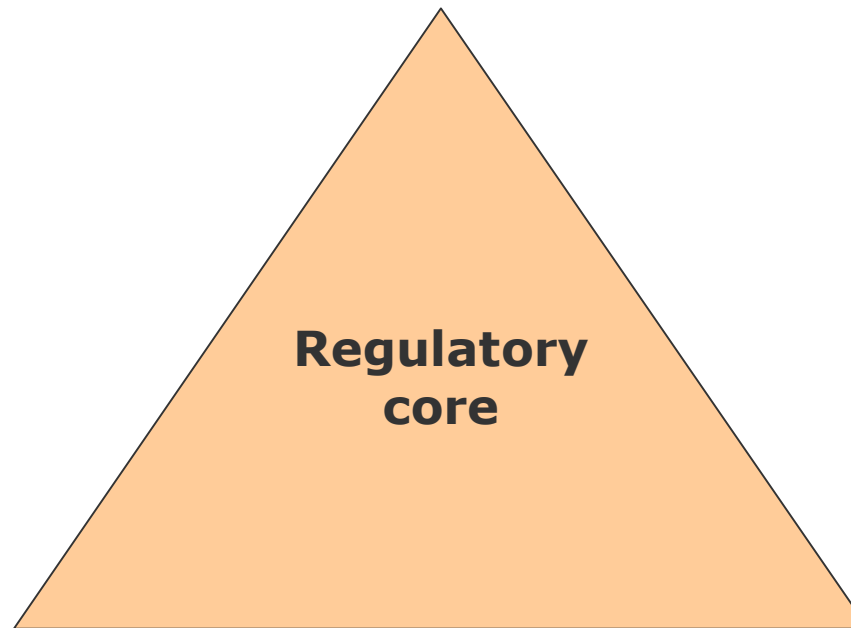
- the exact information requirements for the information chain between producers and downstream users
- the exact criteria under which producers may be exempt from delivering data
- the requirements for data sharing between producers of the same substance
- an operational definition of “adequate control”
- methodology and level of detail of the risk assessment and the socio-economic analysis, which is part of the authorization system.

### 3. New Governance and the Implementation of REACH

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Mechanisms for public risk communication

**Obligatory self-regulation**

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#### **The shifting of responsibilities: Obligatory self-regulation**

- self-regulation on the basis of producer responsibility
- self regulation within given standards
- responsibility remains within producers and downstream users

An obligatory environmental management system related to chemicals safety:

**“regulated self-regulation” (Hey et al. 2007) or  
“responsive regulation” (Führ/Bizer 2007)**

### 3. New Governance and the Implementation of REACH

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#### **Self regulation in the supply chain**

*"Companies no longer satisfy the law by complying with minimum standards, but by outlining proactive behaviour in reaction to basic normative requirements. Self-responsibility requires a radical change in the self-perception of companies."* (Führ/Bizer 2007:329)

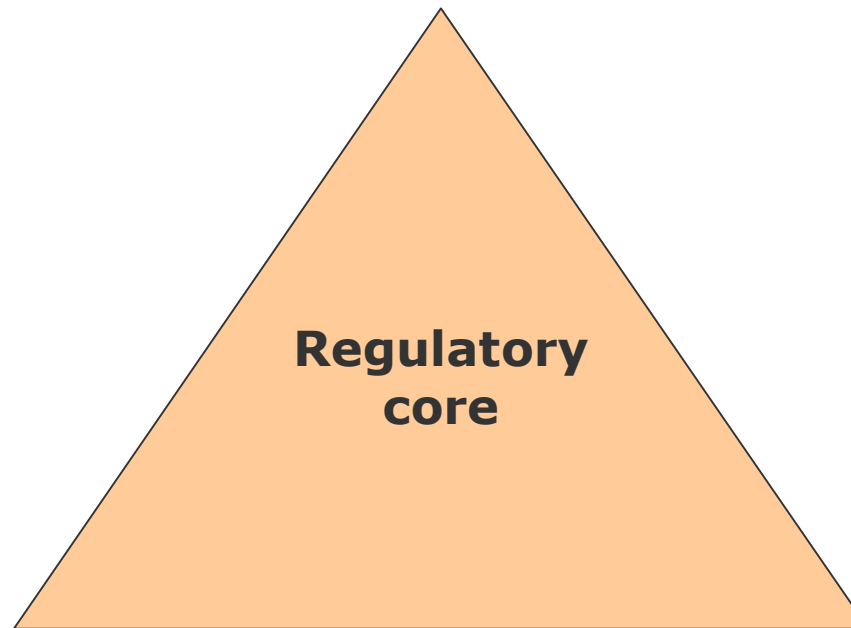
- Information as a key element of self-regulation
- Key role for the formulators in the supply chain
- Regulated self-regulation: ex. Substance Information Exchange Fora (SIEF)

### 3. New Governance and the Implementation of REACH

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**Mechanisms for public risk communication**

Obligatory self-regulation

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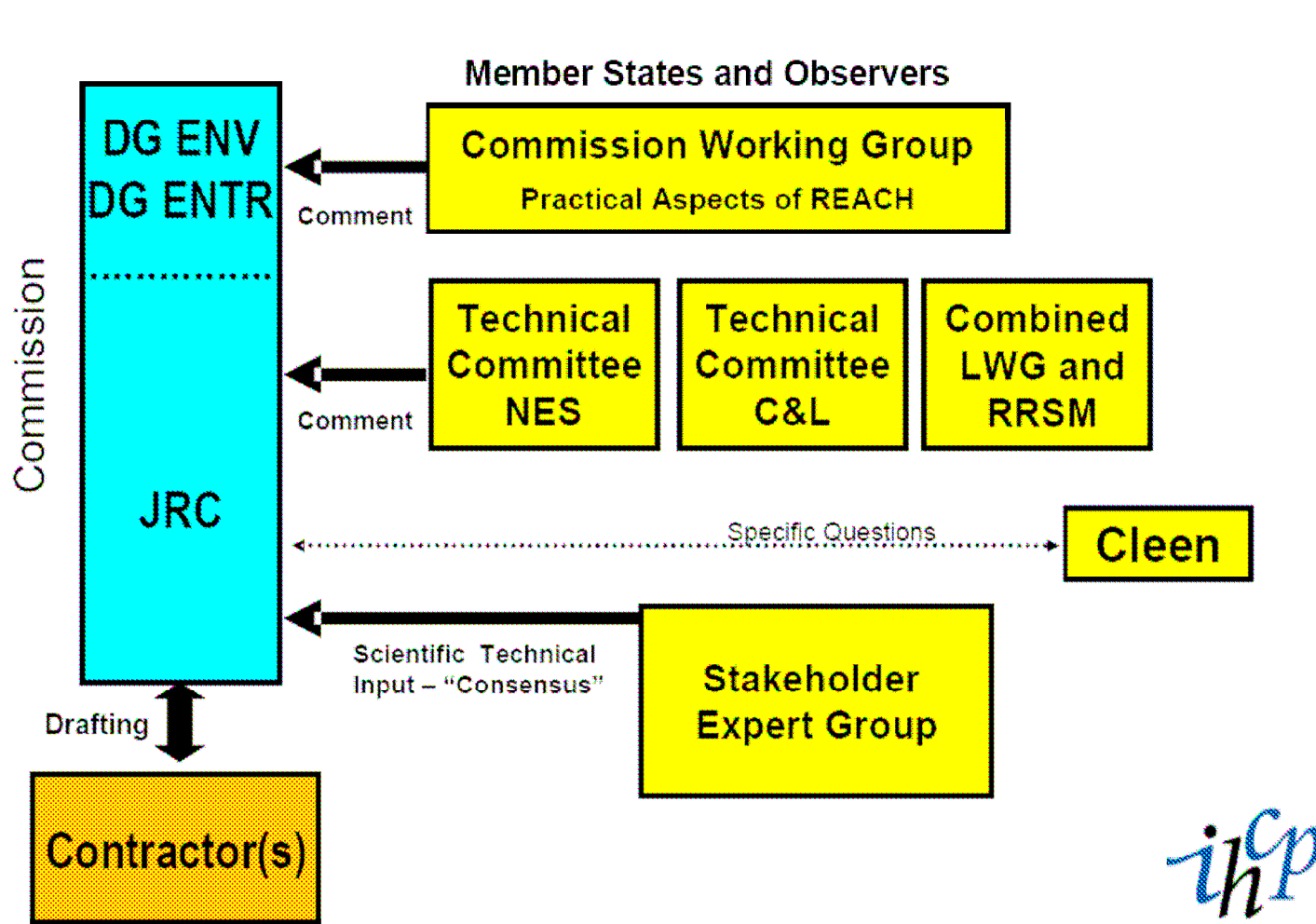
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#### **Authorization: Chain Effects and Stakeholder Involvement**

- Impacts of transparency on substitution
- More symmetric information structures in the supply chain
- The role of candidate lists and stakeholder involvement
- Will companies change their demand for substances not on the candidate lists?
- Substitution effects and impacts on supply chain management

### 3. New Governance and the Implementation of REACH

#### RIP Process



Source: de Bruijn 2006



### 3. New Governance and the Implementation of REACH

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#### **National Helpdesks**

Recommendations from the SHERPER Project:

- support industry to define and understand its specific role in relation to the REACH regulation (e.g. manufacturer, importer, distributor, downstream user)
- encourage a company to contact their industry associations for further information and advice on REACH
- create complementary structures between industry and MS helpdesks

## 4. Conclusions I

### The making of REACH

- hybrid of governance modes, providing for cooperative and conflict-oriented arenas both in the decision-making and the implementation processes and combining **hierarchical**, **cooperative** and **self-regulatory** modes of governance.

### The implementation of REACH

- a combination of different governance modes (**hybrid**)
- chance for an efficient use of scarce capacities and resources both of public administration and of business
- A new role for stakeholders from different backgrounds

## 4. Conclusions II

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- extensive use of procedural law and the postponement of substantive decisions to technical committees during the phase of decision-making bear the risk of provoking stalemates within these institutions during the implementation phase.
  - cooperative networks risk to be overburdened to solve politically contentious questions, which should be solved at the political levels.
  - Incentive structure for actors to supply relevant information
  - Consequences for insufficient dossiers (elaboration of the sanctions regime)?
- ⇒ finally, the effectiveness of REACH still depends on the outcomes of a number of parallel processes yet to be observed