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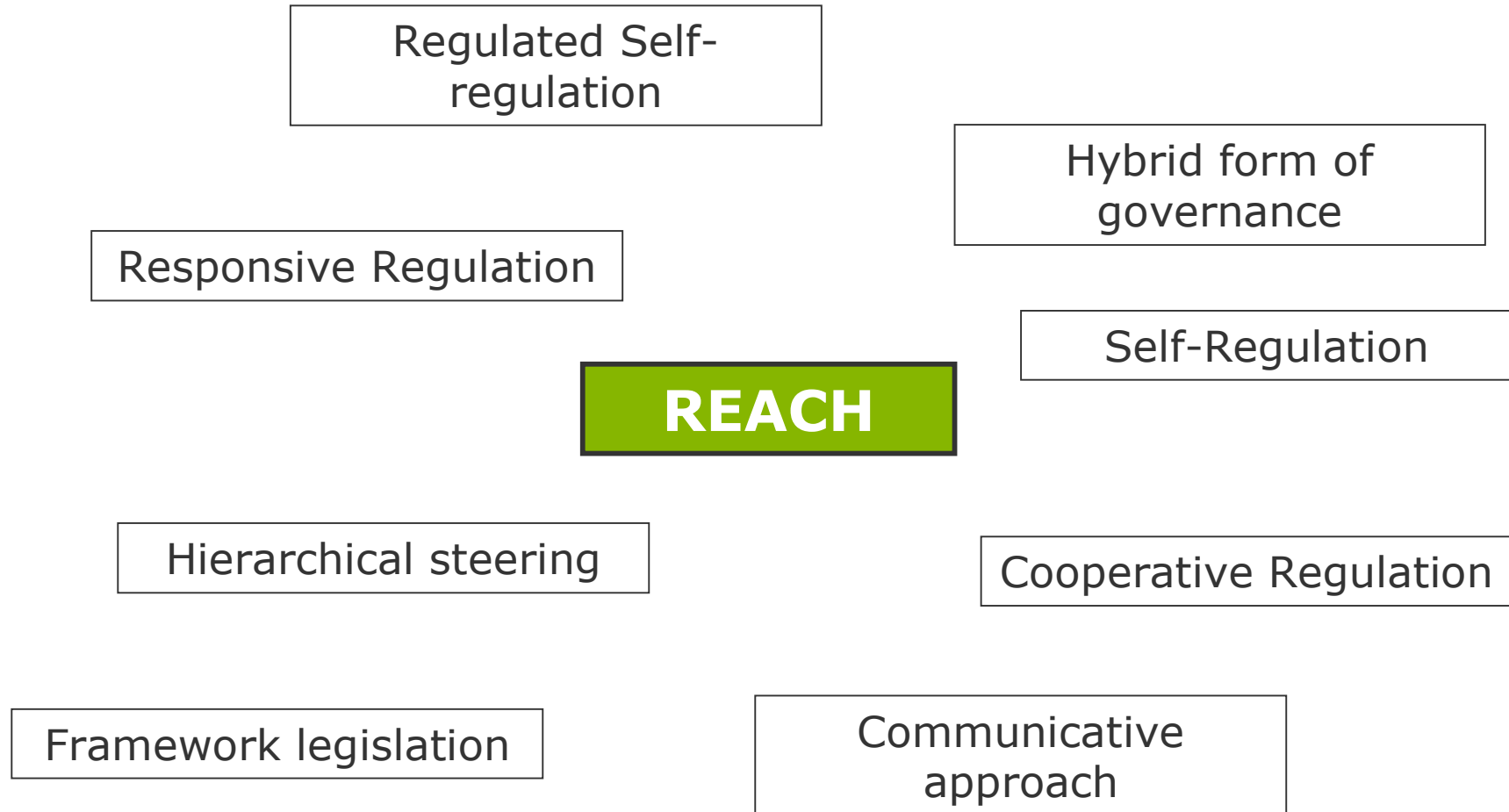
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The Paradigm Change under the REACH Regulation and New Responsibilities

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

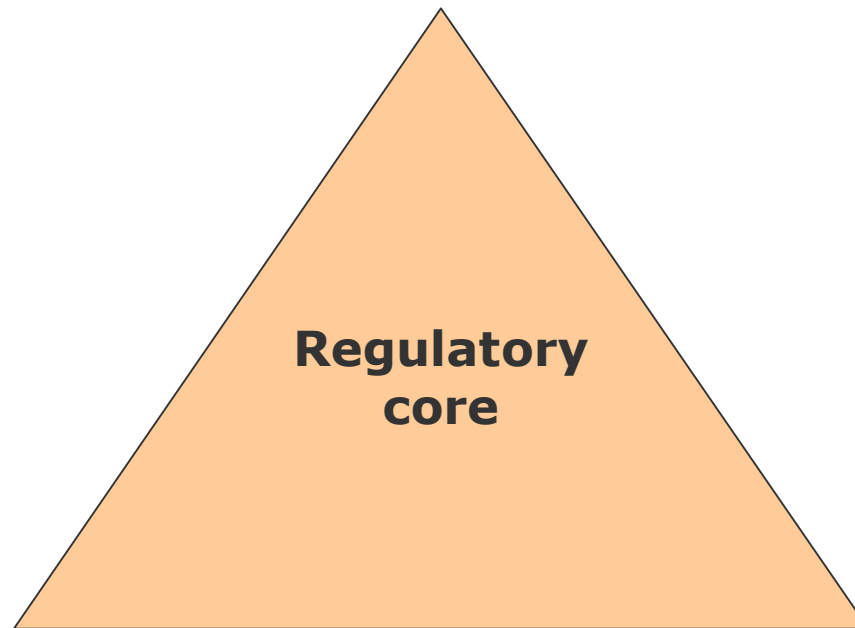
Intensive stakeholder consultation in the preparation phase

- 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

General regulatory aspects of REACH

Cooperative proceduralization and devolution



Mechanisms for public risk communication

Obligatory self-regulation

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**Regulatory
core**

Mechanisms for public
risk communication

Obligatory self-
regulation

3. New Governance and the Implementation of REACH

Proceduralization of complex risk decisions

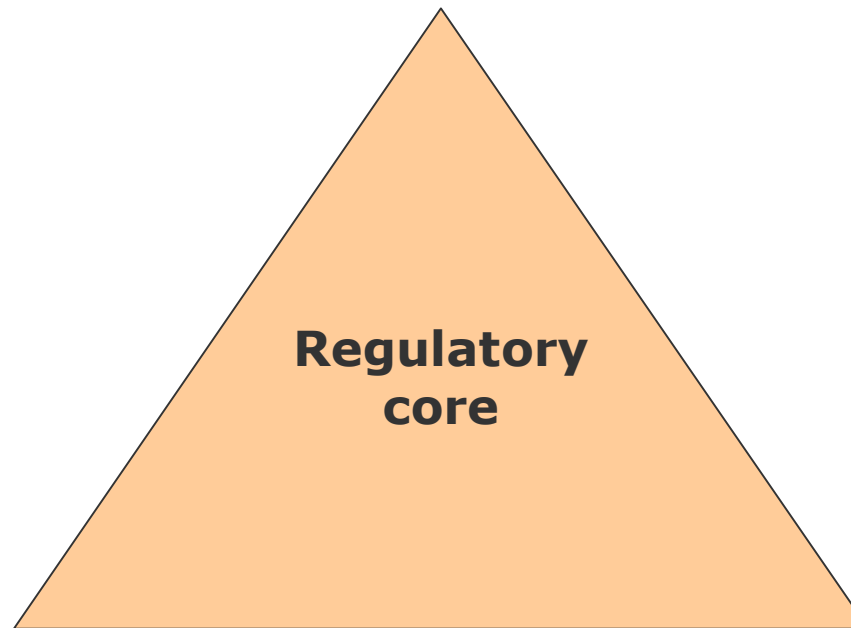
REACH serves rather as a framework legislation, leaving several key issues subject to specification

- 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.

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Mechanisms for public
risk communication

**Obligatory self-
regulation**

3. New Governance and the Implementation of REACH

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

Self regulation in the supply chain

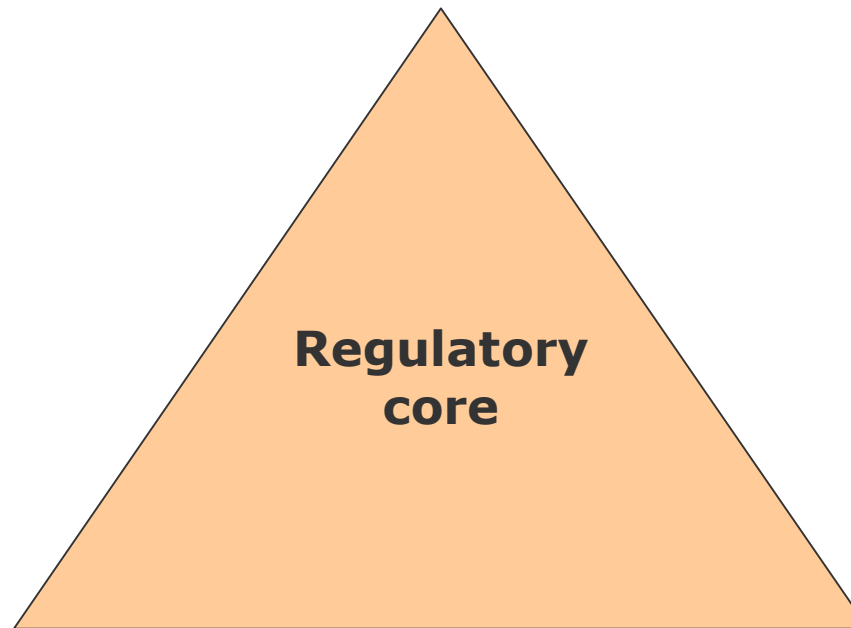
"Companies no longer satisfy the law by complying with minimum standards, but by outlining proactive behaviour in reaction to basic normative requirements. Self-responsibility requires a radical change in the self-perception of companies." (Führ/Bizer 2007:329)

- 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)

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**Mechanisms for public
risk communication**

Obligatory self-
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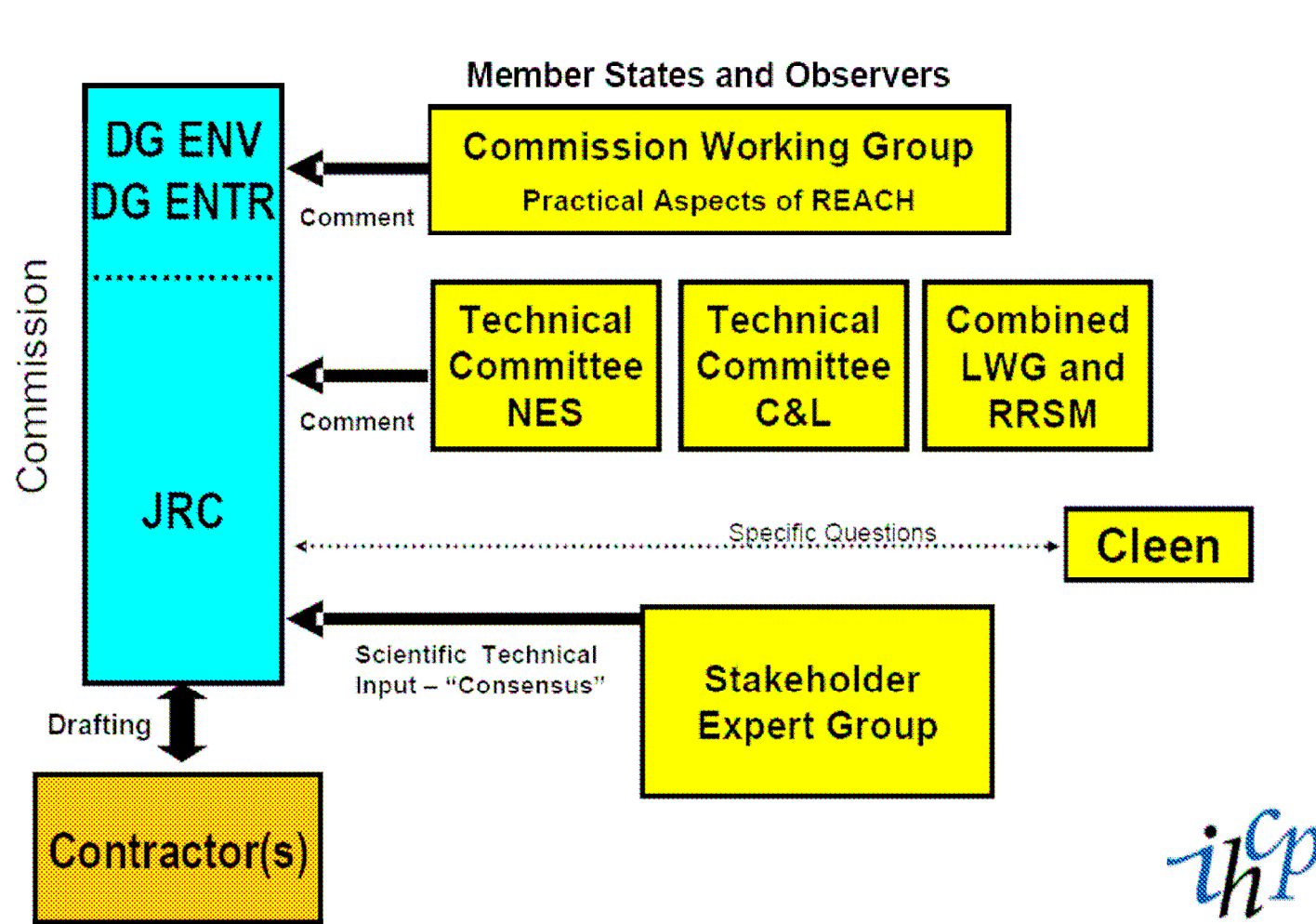
3. New Governance and the Implementation of REACH

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

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

- 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