

## Editorial

This third issue of the EJRR is loaded with contents that touch upon virtually all aspects of risk regulation.

The issue begins with a mini-symposium devoted to the recent Deepwater Horizon oil spill, the largest marine oil spill in the history of the petroleum industry. The Society for Risk Analysis's (SRA) Past Presidents share their views on the impact of this man-made catastrophe on the disciplines of risk analysis and risk regulation.

In a particularly insightful piece, "Tax Exemption, Moral Reservation, and Regulatory Incentivisation", Roger Brownsword, from King's College, explores whether there is a tendency for regulators to withhold tax incentives where moral reservations exist about a technological innovation. In answering this question, he examines three recent European Court of Justice cases, two of which deal with the controversial stem cell banking activities ('biobanking' or more specifically cord-blood banking services). In his view, if a particular morally contestable activity is allowed, then regulators should control it by relying on patent law, contract law or tax law to signal either encouragement or discouragement, or – as seems to be the case in the EU case law – to signal neutrality.

Kristina Nordlander, Carl-Michael Simon and Hazel Pearson, from Sidley Austin LLP Brussels, offer a thought-provoking analysis on the controversial hazard-based approach adopted by an emerging number of EU risk regulations, notably in the chemical sector. After providing a systematic examination of the role of hazard, exposure and risk in EU chemical regimes, they provide a critical assessment of the hazard-based regulatory model by highlighting the main negative consequences stemming from such an approach. By relying on their experience acquired as legal practitioners in risk litigation before EU Courts, they also put forward some possible solutions to address these concerns.

Following the "mushrooming" of agencies at European level, Kai Purnhagen, researcher at the EUI, tackles the emerging question of competition between agencies. After contrasting the different notions of competition among agencies in EU Member States and in the USA, he focuses on agency competition in European risk regulation, by looking particularly at the pharmaceutical sector. Then Jacopo Torriti and Ragnar Lofstedt, from Surrey University and King's College respectively, assess the role of regulatory impact assessment in the US and the EU in response to the economic downturn and climate change. They predict that regulatory impact assessment will be an instrument through which it will be possible to read the level of cooperation and competition between the US and the EU, particularly on economic trade and environmental regulation.

As in the past, this third issue of EJRR also contains a significant number of reports and case notes devoted to national, European and global regulatory approaches in areas such as biotechnology, food, intellectual property, pharmaceuticals and nanotechnology.

In the section devoted to biotechnology, the contribution by Justo Corti Varela explores the array of concerns about the safety of synthetic cells, and comments on the latest scientific developments. The food section hosts two contributions. The first examines whether EU Member States may, in the absence of EU harmonised legislation, subject the processing aids used in the manufacture of foodstuffs to pre-market approval procedures. In contrast, the second focuses on the legal status of country of origin labelling (COOL) under both EU and WTO law, COOL is set to become one of the most contentious issues of the already controversial EU food labelling reform.

In the IP section, Enrico Bonadio and I report on the recent Australian move towards plain packaging for cigarettes. This innovative way of marketing cigarette packs implies that all trademarks, graphics and logos are to be removed from cigarette packs except for the brand name, which will be displayed in a standard font. As such, plain packaging raises both legal and health-related tricky issues which are worth exploring. In the RIA section, Klaus Jacob offers a preliminary analysis of the ongoing efforts at both national and EU level on integrating Sustainability Impact Assessment for new legislation (SIA) into Regulatory Impact Assessment (RIA). It seems that although ex-ante Impact Assessment of policies is a powerful tool for integrating sustainable development concerns, SIA still has to find a role within the institutional decision-making context. Acting on behalf of the pharmaceutical section, Sabine Brosch and Alessandro Spina shed light on the successful (yet still not well known) activities carried out by the International Conference on Harmonisation of Technical Requirements for the Registration of Pharmaceuticals for Human Use (ICH). This joint regulatory/industry project has played a crucial role in the harmonisation of technical requirements for demonstrating the quality, safety and efficacy of new medicines within the European Union, the United States and Japan.

Nico Jaspers updates us on the nanotech regulatory debate by reporting on the current regulators' dilemma brought about by the array of applications linked to this technology. This dilemma consists – in his view – in having to ensure the safety of nanotechnology applications without being able to state exactly what nanotechnology is. Frederic Boudier offers the reader an intriguing account of the genesis and evolution of the rich and diversified (although often undervalued) research field of risk communication.

Finally, our WTO correspondents report on the findings of the symposium that they organised at the annual meeting of the Society for Risk Analysis Europe, hosted by King's College London last June. This symposium ("Global governance of risks: WTO, Codex Alimentarius and Private Standards") was dedicated to the problems posed by current structures of the global governance for food-borne risks.

In addition to the well-established reports, this issue again hosts a rich selection of case notes covering the most significant judgments delivered by the European Court of Justice as well as the International Court of Justice in the area of risk regulation.

Finally, two book reviews of recently published manuscripts complete this issue, together with a list of upcoming conferences and events.

As you may know, the EJRR will co-sponsor the 1st HEC Paris Workshop which will be devoted to "Emergency Regulation under the Threat of a Catastrophe: A Hard Look at the Volcanic Ash Crisis". The deadline for submissions is September 30.

As I often do, I encourage all EJRR readers to consider submitting their work to us for future issues. Meanwhile I take this opportunity to wish you a smooth transition to post-summer life.

*Alberto Alemanno*