Managing risk through enhanced regulatory cooperation between the EU and the US

Newfound recognition that regulatory problems, including risk issues, are of a cross-sector and cross-border nature has led to enhanced transnational dialogues on the most general level of regulatory policy (often labelled ‘Better Regulation’). This ‘meta-regulatory’ cooperation is the most developed between the EU and the US, as exemplified by the recent attempts to achieve convergence on regulatory impact assessment through a horizontal dialogue between the European Commission and the Office of Management and Budget. On both sides of the Atlantic, regulatory impact assessment is an important tool for risk assessment. But given the considerable differences in ‘regulatory philosophies’, substantive agreement (e.g. methodology and the policy objectives of regulatory analysis) is hard to achieve, making common procedural principles (e.g. early notice of planned regulatory initiatives and transparency) the preferred route.

Even though the two global powers mainly seem to ‘agree to disagree’, their explicit dialogue forces them to take an explicit stance on pivotal issues such as risk assessment. This paper analyses the impact of the enhanced ‘meta-regulatory’ cooperation on the traditional transatlantic divide on how to handle risks in setting regulatory standards. Although it primarily offers a normative analysis, the paper also draws on empirical findings from two case studies on environmental regulation to illustrate the differences in approaches to risk assessment.

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