

The Need for International Harmonization of nanotechnology Laws

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EMERGING LAWS OF NANOTECHNOLOGY



UN General Assembly, New York City, Aug 2006, passing the UN Convention on the Prevention of Discrimination Against Persons With Disabilities.

What is the future for a UN Convention on nanotechnology?

Defining the Issue

Nanotechnology and Risk

- ▣ **Nanotechnology - The Challenge**
 - Does the nature of engineered nanostructured materials and devices present new safety and health risks?
 - How can the benefits of nanotechnology be realized while proactively minimizing the potential risk?

Discussion Objectives

▣ Understand:

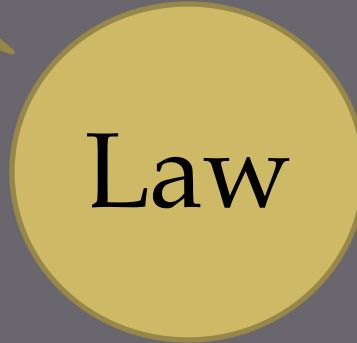
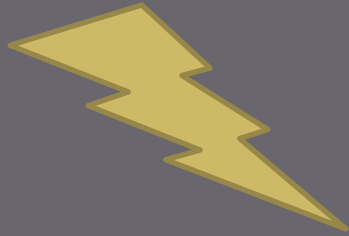
- Where we are under law.
- How law is created.
- Where the law may go.

▣ Cultivate:

- NANOINFORMATICS to foster good law (consistent, predictable, workable).
- Good law to foster innovation.

Inputs to Law

Insight



Law

Inputs to Law

Vested Interests

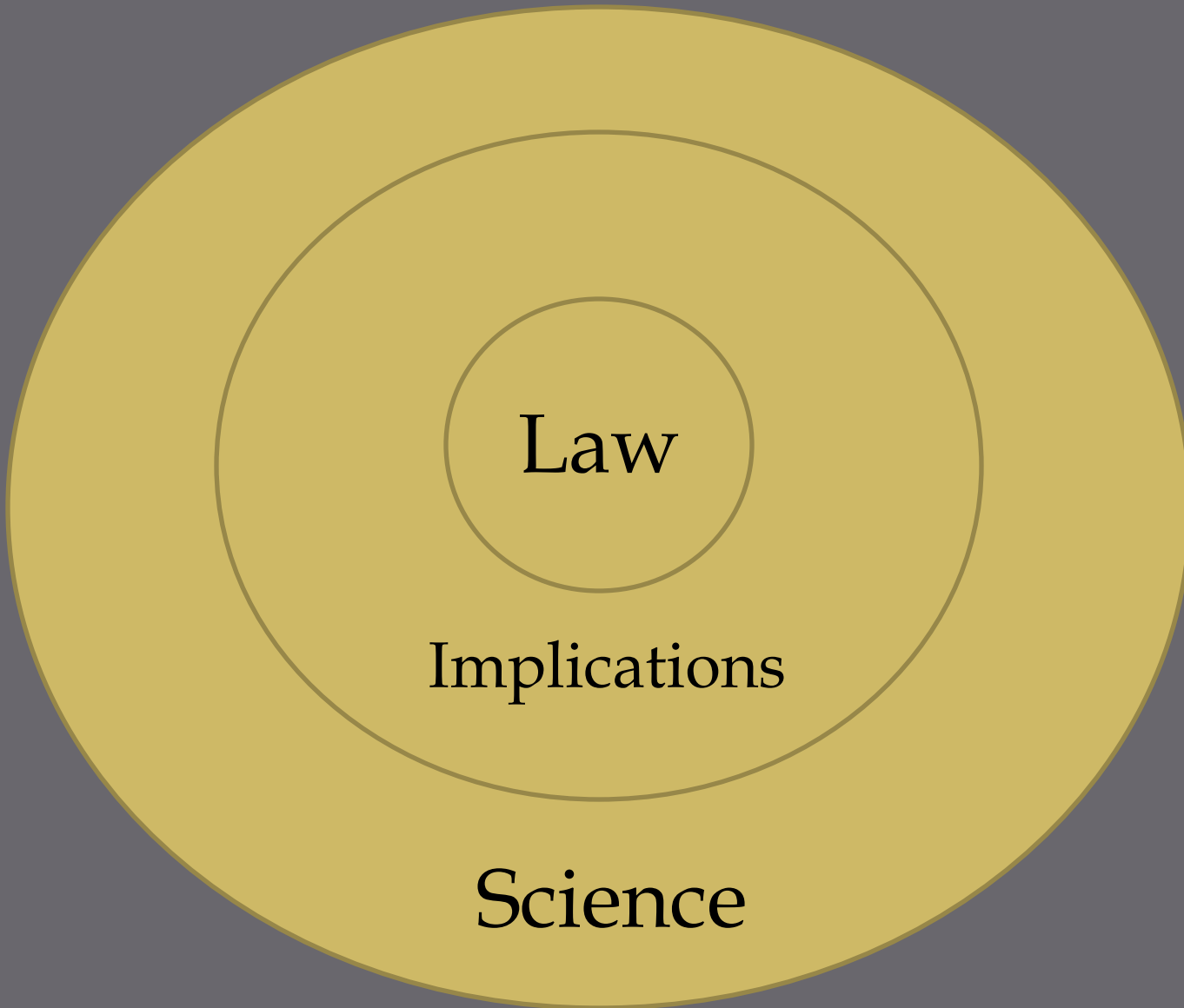
Vested Interests



Vested Interests

Vested Interests

Ideal Input to Law



Sound occupational health programs

- ▣ implement best strategies are the grease for the machinery of powerful economic engines
- ▣ Occupational health programs help employers survive because accidents and disease are not simply expensive but wasteful.

OBJECTIVE

▣ NECESSITY OF AN OCCUPATIONAL HEALTH COMPLIANCE PROGRAM

▣ Avoid liability

- ▣ Reduce lost productivity and down-time;
 - ▣ Avoid ADMINISTRATIVE fines and penalties; and
 - ▣ Prevent injury.
-
- ▣ In addition, workers' compensation systems also provide financial incentives for preventing occupational accidents, occupational diseases and some forms of gradual injury, such as occupational deafness, back injuries and carpal tunnel syndrome. For this reason in-house occupational safety and health compliance programs serve two major functions: providing clear evidence of an enterprise's commitment to obeying the law, while identifying hazards in time to reduce costs and potential liability.

AREAS FOR PROGRAM DUE DILIGENCE EMPHASIS

INTERNAL SYSTEMS TO LISTEN TO
COMPLAINTS BEFORE THEY
BLOSSOM INTO MAJOR PROBLEMS

LISTEN TO STAFF IN HOUSE
INTERACT WITH AGENCY
REGULATORS BEFORE PROBLEMS
ARISE

Hierarchy of controls the basic bricks for due diligence

- ▣ 1. Eliminate or minimize risks at their source;
- ▣ 2. Reduce risks through engineering controls or other physical safeguards;
- ▣ 3. Provide safe working procedures to reduce risks further, and
- ▣ 4. Provide, wear and maintain personal protective equipment.

UNPRECEDENTED!

*GHS will bring together
consumers, suppliers,
end-users and
manufacturers of toxic
chemicals as never
before*

Advantages of Harmonization

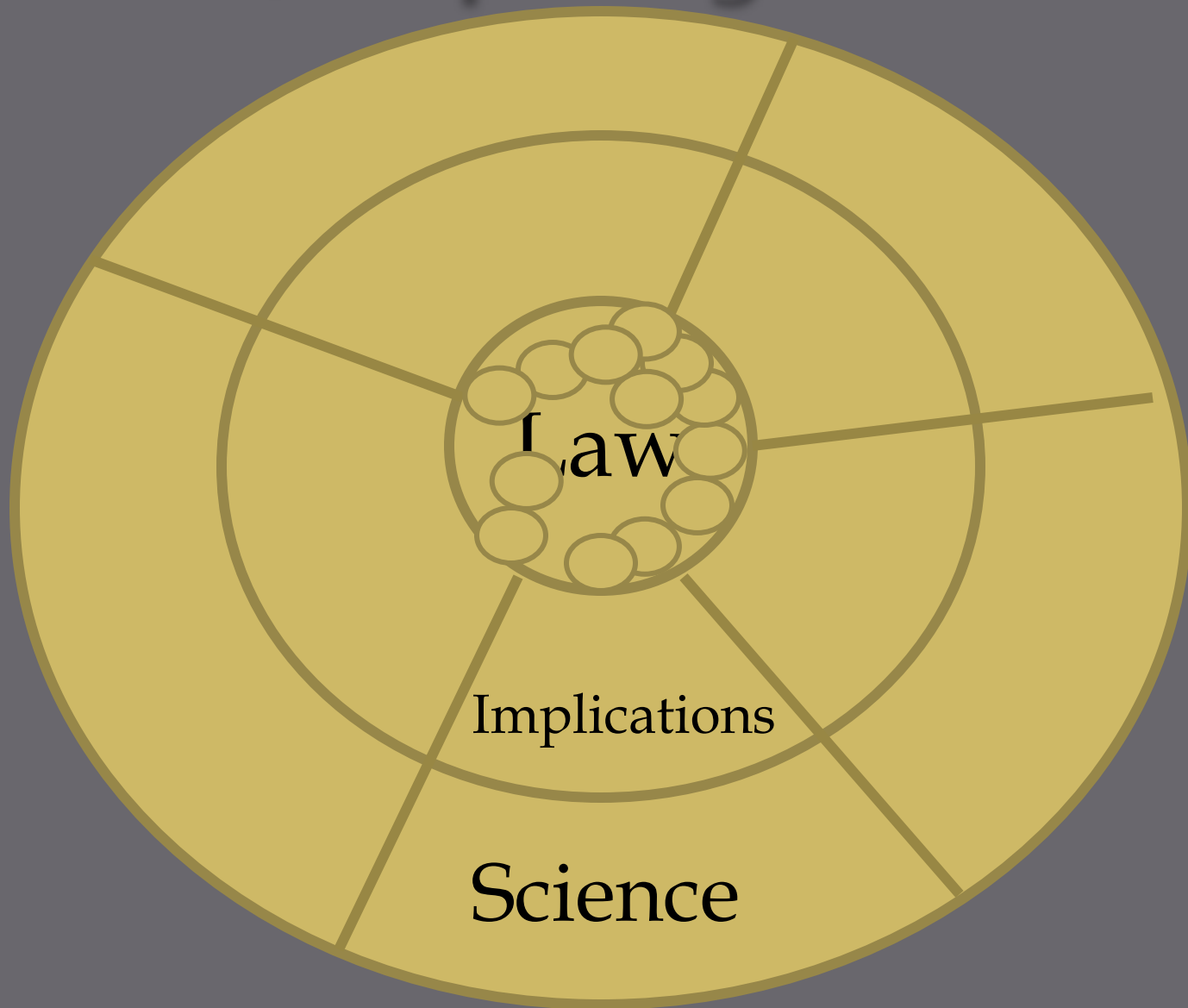
Best practices

Shows due diligence

Predictability for commerce

Consistency that prevents conflicts of laws

Competing Laws



WHO

Is doing or influencing nano law?

Some

KEY
PLAYERS

- ▣ OECD
- ▣ WHO
- ▣ ISO... not a government
- ▣ European Union
- ▣ USA
- ▣ China
- ▣ South Africa
- ▣ India
- ▣ NATO
- ▣ Think tanks

European Legislation (EU)

27 countries



Collective will

Political will

Legislature exercises power

WHOM ARE THE NATIONS OF THE EU???

DEFINITION UNCLEAR

THIS IS IMPORTANT FOR QUESTIONS OF JURISDICTION

FOR QUESTIONS OF CONFLICTS OF LAWS

27 NATIONS

SEVERAL PROVISIONAL MEMBERS

FLOATING MEMBERS LIKE Switzerland

Who can pick and choose when to participate

When to fund

AMBIGUITY UNDER LAW

Everybody Knows.. EU major efforts

NanoImpact Net
QNANO
Nanosafety Cluster

EU Comission

JRC

Major Multinational
Legislation

- ▣ Each nation has their own nanotechnology
- ▣ Programs
- ▣ Plus
- ▣ New EU- USA ACCORDS

Does Europe speak with one voice?

▣ Yes twice !!

- European Union

- Council of Europe

Council of Europe (COE)

47 countries



The Council of Ministers
The Parliamentary Assembly
The Congress
The Conference of International NGOs
The European Court of Human Rights

Role protecting consumer health

Within the rubric of individual rights to protections under European human rights law

-- COURT

-- REPORTS AND INVESTIGATIONS

OVERSIGHT FOR MEDICAL CARE

CONSUMER RIGHTS

GENETICALLY MODIFIED FOOD

CAN HEAR COMPLAINTS AGAINST GOVERNMENTS

Council of Europe Interest in Nano regulations

1. SURVEY OF THE LAW
2. PROTECT HUMAN RIGHTS IN HEALTH CARE
3. PROTECTING THE HUMAN RIGHT TO HEALTH
(VALID UNDER EUROPEAN LAW)
4. PROTECT HUMAN RIGHTS OF CONSUMERS
5. COUNTERWEIGHT TO “BIG CORPORATIONS”

RECOMMENDATION 1- POSSIBLE ROLE FOR THE COUNCIL OF EUROPE DEFINING OR REGULATING NANOTECHNOLOGY IN ITS 47 MEMBER STATES

Plenty of laws exist already

GAPS in Two major areas:

1. Harmonization and
2. Consumer Education

RECOMMENDATION 2

POSSIBLE ROLE FOR COMMITTEE OF MINISTERS

Commission evaluating economic political scientific and legal aspects to determine-

or should there be a Convention developed on a "nanotechnology and human rights/health"

or possibly a Protocol to an existing Council of Europe Convention such as the Oviedo Convention on Biomedicine and Human Rights?

(Convention can be open to ratification by non-member states, like the Cybercrime Convention which binds the USA)

RECOMMENDATION 3

PROPOSED REPORT FOR THE PROPOSED STUDY COMMISSION REGARDING NANOTECHNOLOGY

- if such a Council of Europe-level recommendation (guidelines) or even a binding legal instrument were recommended,
- Definitions: which criteria to apply for defining nano
- Precautionary principle how respected, in which way?)
- what could be the role of the Council of Europe's Parliamentary Assembly?
- How best to participate in global discourse:
- harmonise laws at national level while pushing for Council of Europe (or other institution)

nOMS Certification Program

Executive Overview



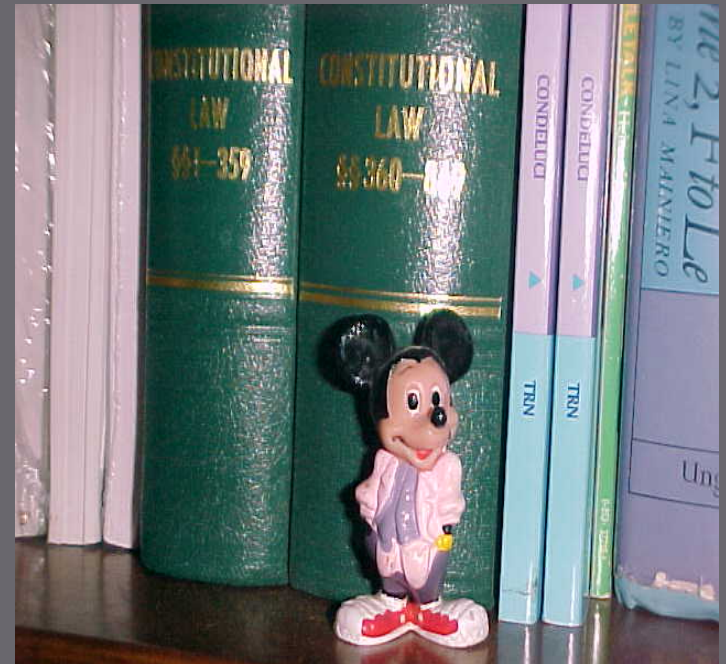
SPECIAL invitation

Swiss neutrality, sweet mountains,
Lausanne calm, come to our Institute
for Work and Health at Uni Lausanne
in collaboration with Nanotox
Academy so that we can ponder and
resolve harmonization problems



Proactive Opportunities

1. Educate yourself about the possibility of new laws, as well as existing laws.
2. Be clear in your goals about the scope and definitions in new laws.
3. Think through existing drafts.
4. Participate as an informed stakeholder.
5. Enjoy your role when
HAVING YOUR SAY!



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ist



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Innovative educational tools to better understand sustainable development

- ▣ Prof Ilise L Feitshans JD
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