The Need for International Harmonization of nanotechnology Laws

By Ilise L Feitshans JD and ScM
Visiting Scientist and Scholar in Law of Health.
Institute for Work and Health (IST)University of Lausanne,
Doctoral Candidate in International Relations

- Geneva School of Diplomacy, Geneva Switzerland.
- Email Ilise.Feitshans@chuv.ch or forecastingnanolaw@gmail.com
- tél. +41 79 836 3965 USA 917 239 9960

What is the future for a UN Convention on nanotechnology?
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

Law
Ideal Input to Law

Law

Implications

Science
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 diseases are not simply expensive but wasteful.
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
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.
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

Law

Implications

Science
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

- 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”
Plenty of laws exist already
GAPS in Two major areas:
1. Harmonization and
2. Consumer Education
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

Advisory Panel

Harmonized Nanotechnology OEHS Standards

Academy Training Programs

Certification Community  Auditor Certification

Nanotechnology OEHS Management Program Certification
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.
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!
Acknowledgements
AUTHOR
DESIGNING AN EFFECTIVE OSHA COMPLIANCE PROGRAM
VISITING SCIENTIST
INSTITUTE FOR WORK AND HEALTH (IST)
UNIVERSITY OF LAUSANNE, SWITZERLAND
DOCTORAL CANDIDATE AND Professor of international relations, “FORECASTING NANO LAW: RISK MANAGEMENT PROTECT PUBLIC HEALTH UNDER INTERNATIONAL LAW”
Geneva School of Diplomacy