SUMMARY ANALYSIS OF THE RISK-REGULATION REFLEX
ENTRENCHED BELIEFS AND SIX POSSIBLE AVENUES FOR SOLUTIONS

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Translated from: 'Veiligheid boven alles? Essays over oorzaken en gevolgen van de risico-regelreflex' (Boom Lemma, The Hague 2011) [Safety above all? Essays on causes and effects of the risk-regulation reflex]

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1. The problem of the risk-regulation reflex
After ten highly individual essays and talks about the risk-regulation reflex, it is time for a synthesis: where are these authors in agreement, where are they not, and to what insights, on balance, does this lead us? This final appraisal will also incorporate the insights that emerged in the course of the Day of Risk conference held in The Hague on 19 May 2010 and at other gatherings before and since. All this is arranged along a number of threads running through this great bulk of material. In this way we also come across some unspoken yet powerful beliefs which ensure that we remain in thrall to the risk-regulation reflex (§ 3). Although at this stage we are some way from final recommendations, it is nevertheless possible to discern some possible avenues for solutions. These are mainly suggestions for government (see § 4).

What was the problem again?
As time has gone by, in our society we have seen an increasing tendency to overreact to risks, accidents and incidents. In the Netherlands, this is what Margo Trappenburg has called the risk-regulation reflex. In Britain there is a perhaps more down-to-earth expression for it: knee-jerk regulation; but the meaning is essentially the same. Indeed, says Alex

Brenninkmeijer, the attitude that central government takes when it comes to risks and incidents could even be described as neurotic.

The phenomenon of the risk-regulation reflex is familiar to many, particularly those in the inner professional circles of the civil service and ministers and their local government counterparts, but also to researchers and entrepreneurs. It is a mechanism that leads to over-regulation and inconsistently focused attention to risks. The adverse implications and effects of this, say the authors, are these:
- needless direct costs for society;
- inefficient use of government effort (time, attention and resources for policy-forming, implementation and inspection);
- needless restriction of individual liberties and privacy;
- constraints on technological innovation in industry leading to barriers to rising prosperity;
- damage to the image of government and parliament resulting from unrealistic expectations.

The risk-regulation reflex can be found in numerous areas of safety: from transport and fire regulations to working conditions and the environment, and also, for example, in health care. The mechanism also appears to operate analogously in the areas of public order and security.

Is the problem a problem?
The multiplicity of adverse implications and effects tends to create the impression that we are dealing with a much-discussed problem, yet for most citizens the risk-regulation reflex is not high on their list of the problems facing our society. One obvious reason for this is that citizens are not commonly confronted with the disadvantages. Moreover, or perhaps because of this, the media and politicians display little interest in the actual price tag that may accompany an overreaction to risks and incidents.

There is also another side to this. Even if the drawbacks were known, many people would still think we simply have to be prepared to pay for our safety and security. This brings us to a curious thing about the debate about risks: the tendency for people to simplify situations so that they are reduced to a choice between safe and unsafe. This is despite the fact that in our society the risks we face are mainly residual risks, i.e. those that remain when carefully carefully considered precautions have been put in place. Certainly hasty measures seldom deliver additional safety or security in practice. There are numerous examples of such overreactions leading to one or more of the drawbacks just mentioned. Some of these are collected in this book, in the section dealing with example cases. Here the reader will also find examples both of chiefly symbolic overreactions and of balanced reactions.

Neither the risk-regulation reflex nor knee-jerk regulation itself, of course, is a purely Dutch phenomenon. One notable example occurred some years ago in the UK. In a BBC interview recorded at the scene of a major rail accident, the minister for transport said that safety had the highest priority and finance would be no object to that goal. That statement led to the spending of £5 billion with a spectacularly poor cost–benefit ratio.[1]

The risk-regulation reflex occurs in many developed countries and is now attracting attention from governments in a number of Western countries as well as international bodies such as

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[1] One of these investments, the Train Protection and Warning System, was examined by Prof. Andrew Evans. TPWS, a system to apply the brakes automatically on a train travelling too fast or overshooting a signal at 'danger', was developed at the end of the nineties and introduced in an accelerated programme in the wake of the accident in question (Ladbroke Grove, 31 fatalities). The system cost £510m and was expected to save two lives a year. Evans shows that 90% of this safety dividend could have been achieved for no more than a third of the cost. See also A.W. Evans (2005), 'Railway risks, safety values and safety costs'. *Transport*, part of the *Proceedings of the Institution of Civil Engineers*, 158(TR1), pp. 3-9.

the OECD, the World Bank Group and the United Nations Economic Commission for Europe (UNECE).

2. Where did the risk-regulation reflex come from? Anxious citizens?

So who are the instigators of the risk-regulation reflex? Within the civil service and among ministers and their local government counterparts there is a widespread feeling that citizens have become increasingly vocal and more pampered, that they make increasingly higher demands for the preservation and if possible further improvement of prosperity, safety and security, and that this attitude then gains a voice in the media and amongst parliamentarians. Seen from this perspective, it is a country's citizens themselves who are the chief instigators. Even so, several of the authors in this collection believe that central government has too little understanding of what citizens think. This, then, may be a good starting point for thinking about the origin of the risk-regulation reflex.

Spoilt, or rightly concerned?
In the historical and international perspective the Netherlands is an extremely prosperous and safe country. This does not detract from the fact that matters that are only remotely connected with safety and security often give rise to concern or unrest. Some of the writers in this volume do not share this perspective. Citizens are not spoilt brats, they say. On the contrary, they are right to be concerned, because in three essential areas the context in which they lead their lives is under threat: the economy, health, and the environment (see the essay by Alex Brenninkmeijer). In addition, people are concerned not just with the highly technical risks of matters such as the storage of nuclear material, but also with socially complex areas like child and youth care, say Tsjalling Swierstra and Evelien Tonkens.

So what is wrong with society becoming increasingly sensitive to risks? Surely this is a sign of civilisation. In fact, why is it that we continue to accept seven hundred road deaths every year? (See the contributions from Swierstra & Tonkens and Trappenburg.)

Not prepared to take responsibility?
An often heard view is that citizens are reluctant to take responsibility for the consequences of the risks surrounding them or which they deliberately seek out. Here too, more than one author disagrees.

Swierstra and Tonkens believe that on the contrary, it is increasingly incumbent on citizens to regulate their own well-being, healthcare and social security, and they encourage us all to make choices that used to be taken for us by the government or others: healthcare insurance, a life-course savings scheme, tailored pension, and so on. Marc Chavannes points out that in the Netherlands the government itself has a growing tendency to act as the producer of services, safety and security, and, in a wider sense, a life free of major concerns. This, he writes, has brought about a passive type of citizenship. On the other hand, as professor of Political Theory and Philosophy of Law, Herman van Gunsteren observes, the same government is urging citizens to behave in ways that are deemed to be desirable.[2] Brenninkmeijer talks about a tendency to judge citizens in moral terms.

Trappenburg believes that it is wrong to claim that most citizens automatically blame the government when something goes wrong. On the contrary, in matters like health she says people are more inclined to blame themselves. In other words, citizens are perfectly prepared to take responsibility for themselves, but not if the government keeps imposing all sorts of ifs and buts. And anyway, in a modern society it is far from always clear who should bear what responsibility. Even the government itself is not entirely clear about this, adopting

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[2] Ministerie van BZK, *Day of Risk Conference proceedings*, 2010, p. 46.

an ambivalent attitude towards responsibilities, say Swierstra & Tonkens and Trappenburg. In some areas the government assumes an active role in matters of safety and security, but in others it stays well clear of them — so how are citizens (and companies, come to that) supposed to know where they stand? These writers, then, believe it is wrong simply to demand of citizens that they 'take responsibility for themselves'.

Perception and acceptance
How do people perceive risks? Brenninkmeijer makes extensive reference to the work of risk perception expert Paul Slovic. The perception of risks is influenced by all sorts of distortions caused by the way the brain works. For example, there is a widespread assumption that an accident that has just happened increases the probability of something similar occurring again, whereas in reality the opposite is true. When accidents are analysed there is a tendency to rely heavily on one particular aspect, often on the basis of first impressions. There are also wide discrepancies in assessments of risk that can be attributed to age, race, sex, political beliefs and trust. Meanwhile the acceptance of risk correlates closely with the extent to which it is voluntary: people tend not to feel unsafe when they participate in dangerous sports or have unhealthy habits like drinking too much or smoking. The subjective sense of safety is also affected by the visibility of the risk and perceptions of the seriousness of the possible consequences.

3. Symptoms and entrenched beliefs

The risk-regulation reflex is a deeply rooted mechanism. Several writers observe that politicians, the bureaucratic machine and the media have difficulty resisting hypes surrounding risks and incidents, the associated call for decisive action, and the political responses that follow.

The authors in this volume describe a great many symptoms of the risk-regulation reflex. One explanation for the phenomenon, say Swierstra and Tonkens, has to do with the main focus on safety and security in many debates, which imposes a lopsided emphasis on negative goals and risks. Over the past few decades the old confidence that everything was getting better has made way for an atmosphere of fear in which, above all, we feel threatened. Mobilising anxieties has become the dominant political discourse to which all political actors resort, with, as the standard solution: resolute action and firm promises. After decades of this medicine it is difficult to see the acceptance of risks as a 'saleable' political standpoint.

This attitude towards safety and security appears to be buttressed and further coloured in by a number of other unspoken views. Some of these entrenched beliefs are identified by the authors; others only come to light on closer inspection. It has yet to be demonstrated whether and to what extent these beliefs really exist in practice, but the notion of entrenched beliefs may explain why the risk-regulation reflex is so difficult to eradicate, for it is precisely because of their implicit character that such beliefs have such a powerful effect on society. This is an influence that is not confined to individual citizens, but appears to extend to the thoughts and actions of professionals in government, science and academia, politics and the media.

Let us now look at a number of stereotypical behaviour patterns that can be regarded as symptoms of the risk-regulation reflex. For purposes of the discussion, each cluster is preceded by an entrenched belief as a starting point.

Entrenched belief 1: Every accident could have been prevented

A much-heard view is that any accident could have been prevented, from which it follows that since an accident has occurred, somebody must be to blame. Modern political theory has a compulsion to free the world from unpredictable forces, so we are constantly being seduced into interpreting adversity as negligence on the part of another.[3] Chavannes calls this illusory makeability.

The notion that every accident could have been prevented leads to a number of predictable symptoms.

The guilty party must be found
After any accident, the standard question put by journalists and politicians to the government of the day, even before it is established what exactly happened, is: who is to blame? The question looks logical, since the reconstruction of an accident it creates (in the media) the illusion that the accident was predictable and hence preventable, says Brenninkmeijer elsewhere in this book. Michel van Eeten goes even further: every form of suffering can be presented as being avoidable or preventable. Indeed, many official investigations of accidents present them in this light.

Everyone has an alibi
Given that an accident, or at least a major accident, will lead to a hunt for the guilty party, it is only logical that people should attempt to cover themselves in advance against possible accusations. Donald Macrae in his talk says that this applies to policy makers, public servants and regulators, as well as to the bodies that set standards. Academics and consultants add their bit and we then have an endless string of regulations and protocols. Macrae points out that this self-preservation behaviour can be very expensive as well as leading to a lack of clarity regarding responsibilities, not uncommonly augmented with the perverse consequence that public safety and security are effectively diminished. Dutch examples will be found in youth care (Brenninkmeijer), child day care (Chavannes) and tunnel safety (Helsloot).

Entrenched belief 2: We do not have to accept risks

Conventional risk governance policy is based on the acceptance of a small but calculable probability of a particular sort of accident. Increasingly, however, both in the Netherlands and elsewhere in Europe the basis for regulation is the precautionary principle. In essence, this means that the government (along with other 'risk producers') is deemed responsible for controlling new and unknown risks. In this way risk policy increasingly becomes a social task, since every activity may carry with it some unknown risk. The result is that government becomes responsible not only for the demonstrable level of safety and security, but also increasingly for the extent to which citizens feel safe. That is a difficult remit to achieve, as Ernst Hirsch Ballin acknowledges in his foreword to this book. In this context Simon Webb observes: 'The precautionary principle is so dangerous, unless you have unlimited money.'[4]

The idea that risks need not be accepted has to do with phenomena such as the following:

Government politicians avowing their belief in the right to a risk-free society
Chavannes says that many of those with political responsibility are afraid to say out loud that certain risks are acceptable. Making a hit in the media with a forthright policy response delivers far more political brownie points than reminding people whose houses have been flooded that it might have been sensible not to build them on a flood plain.

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[3] According to Susan Mendus; see the essay by Michel van Eeten.
[4] View expressed during the Informal Forum on Risks and Incidents, 20 May 2010, see *Day of Risk Conference proceedings*, 2010, p. 94.

High media attention to risks, incidents and accidents
In his essay Chavannes also points out that in the tradition of the press good news is no news. Even neighbours chatting over the garden fence will be quicker to pass on bad news than good news. That is why it is so difficult for journalists to let any news go unmentioned, or to highlight a rational response from a politician. The commercialisation of the media means that news about risk, danger and accidents now has economic value (see Brenninkmeijer). This reinforces the emphasis on that kind of reporting. The media often zoom in on risks and incidents and then give a one-sided analysis. Yet at the same time, as Chavannes observes, there are all sorts of cases (such as the 2010 volcanic ash cloud and the Mexican flu epidemic of 2009) that demonstrate that we don't even need the press at all to create a flood of panic and risk management logic within the corridors of power.

The government's message of acceptance fails to get across after an incident
Van Eeten writes that if the government issues a plea for acceptance following an incident — that is, after it had initially argued that there was no risk — this message will always prove to be impossible to get across. Even minor risks of financial fraud like that involving the Netherlands' new public transport chip card (similar to the Oyster card in London) generate a great deal of commotion. In his essay Van Eeten identifies two common mistakes. The first is trivialising the problem in order to quell anxieties. This has the unintended effect of making all new information about the risk in question newsworthy, in addition to raising suspicions that the real risk is a good deal larger than the government would care to admit. Worse still, the implicit message is that the size of the risk matters. That is true only if the risk is to be borne by other people. In other words, the more loudly the risks are played down, the more loudly the message is heard: it is you who bear the risk, not us. The second common mistake is the mantra that nothing is ever a hundred per cent safe. That is a platitude which at the emotional level comes across as the government hoping to sweep the street clean. In effect, what it says is: I'm doing my best to protect you, but for the rest you will have to learn to live with it. Van Eeten calls this fatalism at someone else's expense.

Neurosis about risk
According to Chavannes, the desire of ministers and their local government counterparts to score points is exacerbated by the oxygen of media hype. Brenninkmeijer too believes that the dynamic surrounding incidents and risks is determined largely by the way in which politics and the media influence each other. He sees this as one of the principal causes of the neurotically tinted reactions of government leading to more and more rules and regulations.

Entrenched belief 3: Safety is a moral issue

In a secular society, says Macrae, public safety is the only remaining universal value. To paraphrase Swierstra and Tonkens: without ideals to guide us, the only currency accepted in the political marketplace seems to be fear. According to Van Eeten, politics is dominated by an ethic of avoiding public disaster. Suffering now becomes part of a simple moral scheme: there is suffering, ergo something has to be done.

The view that public safety is a moral issue has the following effects.

Simplifying the debate
The political debate is conducted within the straitjacket of what is instantly comprehensible and attractive on television: we prefer a personal view to a complicated and nuanced treatment of a subject, and would rather have disagreement or even an argument than a harmonious but laboriously arrived at solution (see Chavannes). At the same time the political debate is dominated by anxieties about how it will be viewed by the media and by voters, says Van Eeten. Journalists and politicians are inclined to weigh up a risk solely against the hypothetical absence of it. Moreover, tangible short-term risks always carry more

weight than long-term risks, even if they are likely ultimately to have a far greater impact (see Swierstra and Tonkens). Macrae points out that this simplification also leads to moral disapprobation of those who try to keep a cool head during a heated debate about risks or accidents, as if the debate were only about right and wrong.

Logical arguments lack the power to persuade
A risk is a possibility of suffering. Probability is not something that appeals to the imagination, whereas suffering can be only too easily imagined. Arguments to the effect that as a society we would sometimes be better off if we accepted risk are abstract, and tend to be no match for the dramatic power with which suffering is portrayed (see Van Eeten). However sound arguments about risk analysis, cost versus benefit, and side effects may be, the public debate is dominated by the magic word Safety with all its deep emotions running from fear of a catastrophe to hope of salvation. To voters it is simply a more attractive proposition to ally themselves with the notion that safety always takes priority.

Addiction to forthright action
Parliamentarians and government politicians are always keen to demonstrate their readiness to take forthright action by making promises about tightening up legislation and closing loopholes. Even applied without due consideration, forthright action and overlapping regulation will deliver temporary relief from the pain of risk (see Chavannes). As Dutch parliamentarian Brigitte van der Burg has said, some politicians find demanding action is a far more attractive option than taking time to consider a sensible response.[5] On the same occasion her colleague Pierre Heijnen added that it is not just parliamentarians: a localised incident can also lead government to lose its sense of proportion and impose drastic national measures.

Symbolic measures
Imposing new safety measures can give the impression of being a ritual act in which symbolic elements mitigate feelings of anxiety, unrest or indignation and help restore authority and public faith in the system as quickly as possible.[6] Politicians demand action in the name of those whom they represent. But how would voters react if they knew that many measures introduced in their name are actually extremely bad value for money when you compare them with what they deliver, or that they entail all sorts of side effects? This is a rhetorical question, since the full cost is not ordinarily calculated, let alone raised as a subject for public debate.

Entrenched belief 4: The government will fix it

In the United Kingdom the concept of 'public risk' has been developed. The term refers to risks that may affect any part of society, and to which government is expected to respond. What these risks are is not always easy to predict, particularly as it is a matter not so much of demonstrably large risks as of risks that give rise to concern or indignation on the part of the general public. In the Netherlands too, many people take it as axiomatic that the government has a central role in taking adequate steps to avoid public risks. There is an unspoken assumption that the government is capable of acquitting itself of this task — in itself very much a debatable point (see the foreword by Hirsch Ballin). The government itself is partly responsible for these expectations. Then as soon as something goes seriously wrong it is never just the company or institution that has failed: it is always assumed that with its inadequate supervision the government has at the very least been an accessory before the fact. (See the article by Ferdinand Mertens.)

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[5] Panel discussion, see *Day of Risk*, p. 27.
[6] See also Helsloot, *Voorbij de symboliek* [Beyond Symbolism] The Hague, Boom Juridische Uitgevers 2007.

In line with the assumption that the government will fix things, it is possible to identify the following patterns.

'This must never happen again'
In another common knee-jerk reaction, politicians are easily tempted, after a serious accident, to say that something of the kind must never be allowed to happen again. More than one writer has pointed out that this is a dangerous thing to say, and that it presses the wrong kind of buttons. To start with, it reinforces the illusion that all accidents can be prevented. One result of this is that citizens simply sit back and abdicate responsibility for their own actions (see Macrae). If in spite of these high expectations something of the kind happens again, the result is a dent in the reputation for dependability enjoyed by government and public administration.

Underestimating the role of other parties
Macrae refers to a British analysis of the 'risk landscape': the system that determines how the public respond to risks. The metaphor illustrates that the role of government is limited. Within the landscape, ministers and their local government counterparts and public servants are only some of the many actors in addition to parliamentarians, the media, interest groups, executive agencies, insurers, experts, standards bodies and consultants. The risk landscape looks different for each subject, but there will always be some actors with an interest in exaggerating the magnitude of any risk. Macrae concludes: 'The world of risk is spreading everywhere, so you see the rise of the risk actors.'

Government inspection contributes to the mechanism
Many inspectorates focus not only on the system and what goes on in their area of attention but also on current matters such as how telephone calls are handled in GP practices or the safety of school buses. The summary and generalising reports that emerge from such studies, says Ferdinand Mertens, may unwittingly contribute to what might be termed the 'incidentism' of politics. When thematic reports of this kind are not clearly set in context it is usually not long before the impression is created in the media of irregularities that are more serious or more extensive than they really are. Very soon, too, the whole sector concerned comes to be viewed with suspicion, which in turn helps undermine public confidence in whatever system may be involved, be it in healthcare, transport, education or anywhere else.

Another point is the definition of risk. Since there are virtually no risks that can be defined in a completely clear cut and unambiguous way, risks are up to a point 'made'. Thus, says Mertens, risk policy in supervision is rhetorical, and hence also political.

Entrenched belief 5: Government and science are always objective

According to Weberian bureaucratic logic, government operates on the basis of the public good, and hence fulfils an objective role. Against this it can be argued that government and the civil service machine nevertheless represent a specific interest, namely the implementation of political decisions. That interest may well be democratically legitimised, but it will not be to the liking of the whole of society. If the government fails to communicate clearly with the people on matters of its intentions or decisions, this can arouse resistance and suspicion.

Simon Webb makes a similar observation when it comes to scientific objectivity. He says that scientific advice is not always based on demonstrable facts, being sometimes little more than an expert opinion. Excessive reliance on advice of this kind can lead to decisions that lack balance, particularly as experts systematically overestimate the risks in their own field, as Helsloot argues. Brenninkmeijer notes that citizens are not the only ones to be affected by distortions in the perception of risks: experts too can be influenced.

The belief that government and science are always objective can lead to the following effects.

Failure to see the wood for the trees
In some fields governments go much further with safety and security measures than in others. This is a discrepancy with a long history, often in response to incidents and thus not based on objective comparisons. Thanks to this largely compartmentalised approach there is a lack of appreciation of the risks that may threaten citizens and businesses. Nor is it clear how the costs and benefits in one field compare with those in another.

Complexes of interests continue unnoticed to influence safety and security policy
Experts find it difficult to say that safety is adequate. The problem is that bringing about more and more rules and regulations, more and more research and more and more safety is their bread and butter (see Helsloot). When combined with policy departments and interest groups, activist experts can form a complex of interests. These can appear in many areas.[7] If they continue unnoticed, they can strongly influence safety and security policy due to the erroneous assumption that the views they express are always unbiased.

Entrenched belief 6: Regulation is the answer

One economical way of achieving at least a symbolic reduction in risk is regulation (see Chavannes). It is what policy makers have always done, acknowledges Macrae, himself a former policy maker. Where one is dealing with predictable risks about which something really can be done (e.g. encasing a nuclear plant in concrete), it is clearly a good idea to draw up rules and regulations. In the nineteen-eighties, however, the noted sociologist Aaron Wildavsky argued that governments by default choose certainty over uncertainty. This, he went on, meant that society was defrauding itself, since in the case of unknown and uncertain risks this is not the most effective approach.[8]

The belief that the best solution lies in more regulation concurs with the following patterns.

The original problem disappears from view
In the heat of the regulation battle, improvements already embarked on can shift unnoticed in a direction that is no longer based on the original problem, says Helsloot, referring to what happened in the aftermath of the New Year's Eve fire at a bar in Volendam (2000) and the fire in the Schiphol airport detention cell complex in 2005. Regulation also tends to be applied more widely than is actually necessary. One example of this is the decision to tighten government inspection of domestic gas connections following a major explosion in The Hague. It eventually turned out that the explosion had been due not to any shortcoming in the existing regulations but to illegal hobbyist activities in the building's cellar.[9]

Shortcomings in regulation
The OECD identifies four imbalances in government regulation of risks in Western countries.[10] First, risks that are equally great are treated with different levels of urgency. Second, there is insufficient prioritisation of risks, partly due to there being no way of carrying out a systematic comparison. Third, there is over-regulation, which is perpetuated by a lack of periodical review of the seriousness of the risk concerned. On the other hand it is certainly not always the case that regulation needs to be reduced: the fourth imbalance is under-regulation. The recent credit crisis is a case in point.

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[7] Comment by Roel Pieterman, *Day of Risk*, p. 54.
[8] A. Wildavsky, *Searching for Safety*, New Brunswick: Sage 1988.
[9] R. Ruitenberg, 'Gasexplosie in Den Haag', in I. Helsloot, R. Ruitenberg and W. Jong (eds.) *Crisis 2003*, Boom Juridische Uitgevers, 2005.
[10] OECD, *Risk and Regulatory Policy. Improving the Governance of Risk*, Paris 2010, p. 18.

Sovietisation
In his essay, Florentin Blanc holds up a mirror to us. The countries of the former Soviet Union are all too familiar with the tradition of total domination and control by government with the aim of extinguishing all risk. Here the trend today is deregulation and simplification on the basis of of a selective approach to risks, and in practice this leads to increased safety and security. In the West, by contrast, Blanc sees precisely the opposite: more and more regulation. The rationale appears to be founded in a belief that greater involvement of government leads to a safer society — something that behind the Iron Curtain proved to be an illusion.

The EU gets the blame
Excessive regulation is often blamed on the European Commission. In reality, the stimuli for over-regulation turn out to lie more in national implementation than in the European directives and regulations themselves.[11]

Entrenched belief 7: Safety above all

The belief that links all the assumptions mentioned thus far is 'safety above all'. It sounds noble, but it muddies the waters when it comes to seeing the true added value of safety and security measures. It has to do with the following phenomena.

Little attention is paid to the effectiveness of measures
The whole debate about safety and security is often dominated by some notional choice between safety and unsafety. This is a misplaced contradistinction, since there is no such thing as a hundred per cent safety. One-sided or politically opportune measures may make people feel good, but there is a good chance that they will turn out to be unnecessarily expensive and add little demonstrable extra safety. In his essay Helsloot refers to misapprehensions regarding what makes effective safety policy. Van Eeten observes that there is virtually no burden of proof to show that an intervention is desirable. In his analysis, the problem is not that politicians or public servants fail to think about things or weigh matters up sufficiently, but that the way politics works forces them to ignore the results of their considerations. This is partly because parliamantarians and government politicians have no script to help them make the acceptance of risk more palatable to voters.

The safety paradox
Referencing John Adams's book *Risk*, Helsloot observes that while more and more safety regulations may give the citizen a sense of increased safety, in practice they tend to encourage him to engage in riskier behaviour, thereby undermining the effect of the measures. In more general terms, the safety paradox means that any measure will ultimately shift the risk. The construction and use of tunnels provides a good illustration. Because the safety requirements for tunnels become more stringent by the day, so too does the cost of constructing them. The effect of this is that given the same overall budget fewer tunnels can be built, and this in turn impacts on policy areas such as the environment (fewer tunnels means more kilometres driven by cars) and transport (less safety). And as soon as there is a hiccup in the safety system in a tunnel, strict interpretation of the Dutch Tunnel Law means that the tunnel in question is instantly closed to traffic. However, diverting traffic means more accident casualties than there would ever have been in a tunnel completely devoid of safety systems.[12]

Limited consideration for other values and intangible interests

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[11] Wim Voermans and Gregory Bounds at the Day of Risk, pp. 56-62.
[12] Victims per unit of time. This claim is uncontested in traffic expert circles, and appears to have been reported — though more than once — only in the context of the transport of hazardous cargoes.

Brenninkmeijer says that a lopsided emphasis on safety can easily lead to drastic measures that affect people's private lives. These include the centralised fingerprint archive and biometric data for passports, which he believes make the Netherlands an exception in Europe. Another value that can come under pressure from the drive to greater safety is faith in the citizen. Chavannes cites the example of the bureaucratic obstacle course for childminders. Another aspect of safety regulations is that they can have the effect of slowing down technological innovation in industry and hence, effectively, the general rise in prosperity (see Helsloot).

4. Possible avenues for solutions

The authors have not only examined the causes of the risk-regulation reflex, they also have a broad palette of ideas for doing something about it. Some of these ideas are principally concerned with the way risks and uncertainties are handled, others focus on the response to incidents; yet others deal with both. They include some ready-to-run practical solutions alongside ideas that require further elaboration before they can be put into practice.

In what follows we have collected together the principal avenues proposed by the authors and combined them with what emerged from the Day of Risk. The first three are in the nature of values, the next two relate to the regulation process and the last has to do with the division of roles in our society. The suggestions put forward are mainly aimed at ministers and their local government counterparts and civil servants, though parliamentarians, journalists and others are naturally welcome to take them up.

Avenue 1: More rationality as well as more values

One of the threads running through the recommendations is greater rationality. Another is more attention to non-rational aspects: after all, the work will always have to be done by people.

More rationality
The entrenched beliefs enumerated above show that dealing with risks has become increasingly liable to be affected by irrational elements. There are all sorts of ways of adding more rationality, such as broadly based cost–benefit analyses and evaluations of the way policy is actually working. In this context it is important not to get bogged down in narrow logic but to be constantly alert to the proportionality, effectiveness and side effects of regulation. This approach was also enunciated at an OECD conference in October 2010, among whose conclusions was this: 'There is a need to assess the costs of regulation to prevent risks, balanced with the costs of failure to prevent risks.'[13]

More receptiveness for non-rational aspects
The institutions of government have always been geared to science, demonstrable facts, rational decisions and rules. However, one result of this has been a failure to take due account of the non-rational side of things, even though when it comes to the process of political decision-taking it is often non-rational thinking that tends to take precedence. Increased rationality, then, cannot on its own be the whole answer to the problem of the risk-regulation reflex.

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[13] OECD, *Regulatory Policy: Towards a New Agenda. Pathways to the future. Key messages*, Paris 2010, p. 28. From the programme: 'The notion of risk is intrinsically linked to regulation, yet is often only partially acknowledged in regulatory processes and regulatory design. ... For regulation to be efficient and effective, policy makers have to explicitly recognise and manage the gap between the level of risk acceptable to policy makers and the level that is achievable through regulation.'

Macrae draws our attention to an erroneous contradistinction: the opposite of rationality is not necessarily irrationality. We have a tendency to dismiss and ignore the non-rational as irrelevant, even though it embraces great human qualities such as values, beliefs, faith, judgement-forming and intuition. Since people live in a world of values and beliefs, decisions on safety and security ought also to take shape in that dimension. Macrae sees values and rationality not as in opposition to each other but as operating side by side. In other words, greater emphasis on values need not stand in the way of a simultaneous increase in rationality.

More values and meaning
The psychologist Drew Westen has written that there are all sorts of subjects about which voters usually have conflicting feelings. A strong political message may bring people together.[14] Van Eeten adds that the political messages of today do nothing with the ambivalence surrounding safety issues. Instead, they merely play on people's fears and promise protection even though what citizens really what is meaning and freedom. Two years after the attacks of 11 September 2001 presidential candidate John McCain appealed for people to show more courage in the face of the threat of terrorism. He acknowledged the risks, but linked them to a principle: carrying on as usual when faced with danger is one way of showing courage.[15] In other words, powerlessness to prevent adversity need not necessarily mean complete powerlessness. The acceptance of risk, then, gives the citizen a new perspective for action.

Swierstra and Tonkens argue that we must use positive terms to discuss what we want to achieve and what risks we accept as part of the deal. That will bring back more room for values such as freedom, faith in society as a whole, privacy and opportunities for self-advancement.

Avenue 2: Another way of looking at risks and safety

The term 'risk' has gradually taken on a menacing undertone. To change this, the first thing we need is a new and different way of looking at the whole concept of risk. The authors advance various building blocks for this, including the following.

The positive side of risk
The meaning of the Italian word *risicare* tends more towards the notion of daring than taking risks. Herman van Gunsteren points out that in the seventeenth and eighteenth centuries, dealing with an uncertain future and thinking in terms of probabilities was a huge stimulus to the entrepreneurial spirit. A 'risk', in those days, was principally a matter of asking when you would undertake certain activities, when you would not, and what the chances were of a particular outcome. This is quite a contrast with the way governments today see risk, i.e. principally as entailing danger.[16] A risk is the other side of a given activity or situation. Thus credit card fraud is the other side of Internet shopping, which represents a far greater economic interest than the damage that may be suffered through fraud (Van Eeten). In short, risk aversion is lethal to opportunities.[17]

Resilience
In *Searching for Safety* Wildavsky observes that there are not one but two ways of dealing with risks: avoidance or control on the one hand, acceptance (up to a point) on the other. Predictable risks can be controlled through regulation, but where threats and risks are unknown and uncertain and it is impossible to take meaningful steps in advance in order to to

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[14] Drew Westen, *The Political Brain: The Role of Emotion in Deciding the Fate of the Nation*, New York, 2007.
[15] John McCain, *Why Courage Matters: The Way to a Braver Life*, New York, 2004, pp. 35-36. See also the essay by van Eeten.
[16] *Day of Risk*, p. 28.
[17] Marcel Pheijffer at the Day of Risk, p. 49.

reduce them, Wildavsky advocates the strategy of resilience. This involves the acceptance of a certain level of risk and arranging things so that it is possible to respond with flexibility to any incident or abnormal situation. Thus dealing with risks in a balanced way requires us to weigh up the relative merits of the strategies of anticipation and resilience.

Accept that accidents can happen
It would be an enormous step forwards if we could simply accept the fact that accidents happen. This is not to allow someone who behaves irresponsibly and thereby causes an accident to go scot free, but to enable us to break the vicious circle of unrealistic expectations, people covering themselves, an incident, the blame game, expensive and ineffective regulation, and back to unrealistic expectations.

Avenue 3: Take citizens seriously

We need to take citizens more seriously. This does not mean 'Tell us what to do and we'll do it', because that would perpetuate the illusion that the government can do anything. It would also create a sense that a guarantee had been given, says Chavannes. There is no single recipe for how the citizen must be taken seriously, but here are a few ingredients to start with.

Greater transparency surrounding risks and decision-making procedures
Government has a tendency to assume that citizens have no appetite for acknowledging the existence of risks, and therefore often opts for statements that are principally intended to be reassuring. As Van Eeten and others have pointed out, however, the public are now often rightly sceptical when risks are played down.

Another tack is to organise all sorts of public consultation procedures that are designed to give citizens the idea that they have an influence in the decision-making process. In fact, of course, this is true only to a very limited degree, since such procedures are not calculated to bring about a change in a decision. As a result, protracted public consultation procedures themselves lead to extra commotion (and sometimes indeed to a change in the siting of the supposed source of the risk), as with the proposed carbon capture project at Barendrecht and creation of new marshland in the Horstermeer polder.

The public are far from being as averse to risk as the government assumes
Recent research has shown that citizens are a great deal more relaxed about risks than is often supposed. One reason for this shift in survey results has been that the questions being asked have changed. In 2009 a study by students at the VU Amsterdam University questioned 600 metro users about safety.[18] While respondents thought metro safety was very important, they were unwilling to pay more for their tickets in order to improve it. Instead, they said the investment had to come from the government. When asked how they would vote if they were on the city council, fifty per cent of them thought that the city's resolve of extra expenditure on fire safety would not be a particularly good investment.

Courageous government politicians
The above observation shows that today's intractable citizens are not mere Nimbys. When you ask more penetrating questions you find that they also have a desire for rational governance. Like Paul Frissen (professor of Public Administration), Helsloot believes ministers and their local government counterparts need the courage to address citizens on this last aspect. That courage begins with putting into perspective all the surveys and polls that do nothing but show the dissatisfied face of public opinion. It turns out that government

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[18] I. Helsloot, 'Een introductie tot het gebruik van symboliek in de voorzorgsmaatschappij', in M. Hildebrandt and R. Pieterman, *Zorg om voorzorg*, Boom Juridische uitgevers, 2010.

politicians who eschew unrealistic prognostications, and who dare to take decisions that are rational and sensible, often gain considerable public respect.

Public dialogue on balancing risks
Brenninkmeijer argues for a proper dialogue with citizens about accepting and dealing with risks. This he sees as part of ethical governance, making it something to be desired in spite of all the obstacles that are likely to be put in its way due to possibly lopsided perceptions of risks. Macrae stresses that a central element in such a dialogue must be the equation between safety and the cost and side effects of safety policy on the one hand, and values such as privacy and individual liberties on the other. In other words, safety has to be seen as a relative concept.

Having looked at these value-related avenues towards solutions, we now turn to two that have to do with the process of regulation.

Avenue 4: Different rules, different policy

Choices in policy and regulation are determined by an underlying attitude towards risks. Policy and regulation are not, however, exclusively the product of that attitude: they too, in their turn, affect the way citizens and entrepreneurs look at risks. That is why several authors recommend that government intervention should be cut back or at least reviewed. The following approaches may be helpful.

Evaluation of existing regulation
Over the long term, legislation and regulation have a tendency to become routine: to become, as it were, part of the wallpaper. Parliamentarian Pauline Meurs argues for much more *ex post* evaluation and the courage to abolish obsolete regulation.[19] A similar call came during the OECD conference of October 2010 referred to above. There the European Commission was one of the bodies arguing that new policy should always start with an evaluation of what is already there, in order to see whether there is really any point in making new rules. The conference identified an obstacle in the fact that governments are reticent when it comes to assessing how effective their policy actually is.[20] Helsloot points out that it takes knowledge to determine what regulations do or do not work. That knowledge resides in the policy department and its generally external experts. They, however, seeing things from their angle, have complete faith in the effectiveness of the existing regulations.

Incentives in regulation
Mertens draws attention to the nature of regulation over the past hundred years or so. It has put government in a position of bearing some of the responsibility and often, in the public perception, of being chiefly if not wholly responsible. Instead of clearly defining what an business may and may not do, regulations often only explicitly define the tasks of the relevant government bodies. Dutch parliamentarian Brigitte van der Burg adds that it is necessary to reflect on the question of what incentives actually need legislation.[21]

The consequences of risk must be fairly distributed
According to Van Eeten, the disagreeable message that risks cannot be entirely eliminated would be a lot more palatable if the consequences of risks were to be fairly distributed. For example, one important principle in creating a better balance in anticipation of adversity may be that a party that profits from risk must also either bear at least part of that risk or enable

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[19] *Day of Risk*, p. 32.
20 One of the conclusions had to do with 'Smart regulation', a principle now applied by the European Commission itself: 'Smart regulation takes into account the whole policy cycle – from rationale to adoption of the design, implementation, and monitoring ex post.' (OECD, *Regulatory Policy: Towards a New Agenda. Pathways to the future. Key messages*, p. 10).
[21] *Day of Risk*, p. 28.

those concerned to share in the profit; this is something that banks already do. This would also have been a possibility in the carbon capture project in Barendrecht, if, for example, either Shell or the Dutch government had given guarantees of compensation for the effects of planning blight on house values. A second option might have been to offer some sort of compensation in the shape of improvements in public space or amenities. Van Eeten also suggests that there could be some symbolic sharing of health risks.

A different way of assessing risks
As a result of the traditional compartmentalisation into policy areas and ministries, risks are often assessed in isolation. It would be helpful if they were also evaluated as part of a large complex of risks in the same way as citizens and entrepreneurs have to approach them. However, Trappenburg doubts that risks of different sorts can be compared in any rational manner. Brenninkmeijer believes that risks cannot be objectivised or rendered comparable at all, since there is no universally usable set of characteristics to describe them. In this context it is interesting to see the comparison by Andrew Evans of UK safety measures for road and rail. Evans shows that for the same expenditure more lives can be saved by investing relatively more in road safety and relatively less in rail safety. He observes with some surprise that society is evidently happy for this not to happen.[22]

It is not just a matter of regulation
According to Donald Macrae it is not just about the question of whether or not to regulate. Even without rules and regulations, citizens and entrepreneurs are limited in the extent to which they can take risks. This limitation is due to the fact that all sorts of actors interpret the rules excessively strictly — either in their own interests or to cover themselves against negligence claims. Citizens could be more independent if they had good information and a clear perspective for action. In addition, what handling 'public risk' needs is not so much a legal framework as a social or socio-political framework.

Small steps
Macrae also stresses that the risk landscape is a complex system in which grandiose interventions by government are not automatically guaranteed to be effective. Here the theory of complex adaptive systems comes to our help, advising small interventions and careful monitoring to see what effect each one has on the system.[23] In line with this, Swierstra and Tonkens point to Popper's 'piecemeal engineering'. It is perfectly possible to cherish great ideals and work towards them in small, carefully considered steps.

Avenue 5: Being alert to the danger of the risk-regulation reflex in the immediate aftermath

Despite all our good intentions to respond to risks in a balanced way, things can still go wrong in the immediate aftermath of an incident, or directly after information about a potential risk has become known and has led to public indignation. In the UK, then director general Simon Webb investigated twenty-seven widely differing crises. He found that the mechanisms operating in them were almost all generic: from the political pressure and the ill-thought-out decisions to the alternative routes towards a balanced response despite all the tumult. (See his contribution elsewhere in this book.)

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[22] Evans demonstrates that the safety dividend of measures applied to the rail system is a fraction of that of road safety measures. He also writes that in the UK {{?of heeft ie het echt in dit geval alleen over Engeland? Kan...}} the starting point taken is that a life saved on the railway network is valued 2.8 times more highly than one on the roads. This is despite the fact that according to surveys the public think they should be valued more or less equally. Even regular train passengers take this view — even when the question was put to them when memories of the Ladbroke Grove accident were still fresh. See also A.W. Evans, *Railway Risks, Safety Values and Safety Costs.*
[23] Jake Chapman, *System Failure*, 2004, Demos, London - www.demos.co.uk/publications/systemfailure2.

The initial reaction must be right first time
Webb says that the initial reaction of government to an incident has become far more important in an age when news coverage never ceases and the social media are ever present. At the same time, the expectations that citizens have of government action in a crisis are also much higher than they were once. He identifies four cardinal rules for avoiding the risk-regulation reflex: neither overreact nor wait for the problem to resolve itself, do not instantly apportion blame, do not react to the media hype but establish your own personal reading of the situation based on factual information, and pay plenty of attention to any casualties or others directly affected.

In an uncertain situation, adopt a middle position
In a situation of uncertainty (e.g. when a risk is only just becoming apparent, or immediately following an incident) there will be great pressure on government to do a lot. The British study recommends not immediately imposing the maximum possible measures as long as the cause has not been established. This offers the flexibility to scale up or wind down as it becomes clearer what has happened and what kind of side effects measures may have. Introducing new rules with a poor cost–benefit ratio is certainly not right if the problem is subsequently traced to human error.

Put out a value statement as soon as a crisis develops
Following the attacks on London Underground trains and a bus in 2005, the first reports to come in were confused. In the space of two hours the government had to decide whether the public transport system could be restarted, otherwise two-and-a-half million commuters would be unable to return to their homes that evening. The cabinet then received a report that motorway signs were reading 'Avoid London. Area Closed'. Meanwhile the train operating companies were saying it would take at least two days to inspect all their rolling stock, a necessary move if only to avoid negligence claims. Two cabinet ministers then swiftly gave a 'political value statement' to the effect that London would stay open as usual. The government would act as guarantor in the event of liability claims due to the failure to inspect all rolling stock.[24] A similar statement was issued by the Spanish premier after the train bombing in Madrid. The positive guiding effect of these statements was in both cases enormous.

Incident investigation
British experience teaches us that it is wise to have an initial investigation carried out swiftly and by experts whose independence is unassailable. To start with, this provides a better basis for a good response than do the first internal reports (which are almost always wrong), but it also reduces the immediate pressure to make pronouncements that may subsequently prove to have been too hasty. Such an investigation should be limited to a reconstruction of the course of events: if it becomes embroiled in the apportionment of blame, that may in itself still lead to a knee-jerk reaction.

Take more time
Several writers attach great value to taking more time after an incident. Helsloot observes that there is already a built-in cooling-off period because of the long path from incident to legislation, though this does not have any appreciable damping effect on the risk-regulation reflex. On the other hand, perhaps the damping effect is only cosmetic. This so-called cooling-off period is actually the time it takes to convert a political decision into enacted legislation. The example of childcare confirms this inertia, but it also confirms the inevitability of the process. As Chavannes puts it: the moment we start extending a system that is based on distrust we don't hold back. New rules and regulations really aren't introduced 'just like that', but that is a separate issue from the speed with which, following an incident, the decision can be taken to set the machinery in motion. Looked at this way, taking more time

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[24] Simon Webb at the Informal Forum on Risks and Incidents (*Day of Risk*, p. 94).

really is a new solution. Hence the plea from Dutch parliamentarian Pierre Heijnen at the Day of Risk that we should henceforth insert a genuine and deliberate pause for thought after an incident. Give the government such a pause to reflect, and it will be able to prepare a properly thought out response that will be both proportional and effective without having too many side effects.

The last avenue towards a solution has to do with the system of role division in society.

Avenue 6: A new way of dividing roles in society

If we start from the assumption that there are indeed several risk actors, what then is a logical role for central government and what can be left to others? The thoughts that follow below may play a part, provided that we can succeed in abandoning the notion of the state as a universal safety net.

Shared responsibility
In a climate of shared responsibility it becomes easier to come together to discuss risks instead of either promoting or demanding a risk-free existence. Swierstra and Tonkens argue for a reappraisal of the question of which domains can be organised with the logic of self-interest, and which definitely cannot. Once things have been made subject to the rules of market logic it is difficult to extract them again. At the same time, there are all sorts of disadvantages to the highly individualising approach to dealing with risks. Collective organisation, insurance and solidarity are often more efficient and also more reassuring for the individual citizen. They make it easier to accept a certain degree of uncertainty.

Clear choices
Trappenburg observes that central government is not yet very good at letting go. In the areas of healthcare and combating crime much responsibility has been shifted to citizens, but only within strict limits. Genuinely taking responsibility for oneself appears not to be the intention, and all those niggling rules and regulations do not go down well with the public. Government ought to make clear and principled choices regarding its own role in respect of risks and uncertainties. As Macrae sees it, the key question here is who should be accountable for decisions to accept risks or do something about them.

Communication
Regarding communication various suggestions are put forward throughout the book. One of them is that we should take account of the rhetoric surrounding risks, as it can have a negative effect on public perceptions. Van Gunsteren points out that real risks can be quantified, so that where it is a matter only of uncertainty or ignorance it is actually misleading to employ the language of risk. For the rest, regulators can make an independent, rational and if necessary critical contribution to the public debate about dealing with risks (see Mertens). Several authors stress the importance of ensuring that communication establishes a clear link with values and principles.

Internal opposition
In the reality of the business of government, principles once espoused have something of a tendency to ebb away. According to Trappenburg many more of us ought to be prepared to speak out and say: there is no need for us to do this; it is completely unimportant. It ought to be perfectly normal and acceptable practice for public servants to be able to speak out against overreaction. Both the UK and Irish governments have chosen an institutional solution in the form of a Chief Scientific Adviser, whose job it is to provide government with recommendations by adding context and political options to the advice given by scientists. The result is that the political deliberations of the Cabinet are founded on a broader basis.

5. A provisional conclusion

The large body of material that is available on the risk-regulation reflex offers a variety of starting points for learning not only to understand but also how to resist it. Apart from the question of precisely what we need for this, there are also all sorts of other questions that still need an answer. For instance, much has been said about the dangers of overreacting to risks and incidents, but that does not tell us how often overreaction actually happens. Is the response to incidents usually moderate, and is overreaction just a conspicuous exception — or is it really a widespread phenomenon? And if it is, how significant are the disadvantages in practice, and are there perhaps benefits that counterbalance them? To government, these are relevant questions that precede the search for solutions and the implementation of any changes. And of course new solutions can build on what has already been tried and tested, as in the English-speaking countries but also here in the Netherlands.[25]

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[25] e.g. Ministry of Housing, Spatial Planning and the Environment (VROM) (*Nuchter Omgaan met Risico's*) and Ministry of Justice (*Bruikbare Rechtsorde*).