Recommendation V “Addressing risk of product non-compliance in international trade”

ITC/UNECE Guide on integrated risk management at the border

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UNECE GRM – 10 years of (remote) work

“The GRM aims at an improved management of hazards that have the potential to affect the quality of products and services, and/or cause harm or damage to people, the environment, property and immaterial assets”

“Developing and sharing best practice as regards the use of risk management tools in regulatory activities”
GRM recommendations and trade facilitation

Risk-based regulatory systems in support of SDGs

- Proportionate regulations as risk mitigation tools, no zero risk
- Regulatory requirements
- Conformity assessment (pre-market)
- Market surveillance (post-market)

Setting regulatory objectives
- Management of assets
- Risk identification
- Risk evaluation
- Choosing risk treatment strategy, including regulation
- Implementing risk treatment strategy
- Crisis management

Market surveillance
- Product non-compliance risk
- How dangerous is a non-compliant product?
- Probability to find a non-compliant product?
- Import compliance as part of market surveillance
Setting priorities in market surveillance and enforcement
Risk of product non-compliance in international trade

- Dangerous pests?
- Smuggling?
- Spoiled products?
- Dangerous pesticides?
- Non-compliant shipment?
Risk Management as a trade facilitation tool

- Trade Facilitation Measures
  - General Measures
    - Transparency
    - Formalities
    - Institutional Arrangement and Cooperation
    - Transit facilitation
  - Digital Measures
    - Paperless trade
  - Sustainable Measures
    - Trade facilitation for SMEs
    - Cross-border paperless trade
  - Trade Finance Facilitation
    - Agricultural Trade Facilitation
    - Women in Trade Facilitation
Progress in risk management implementation

- **2015**: Fully implemented (30%), Partially implemented (25%), Planning stage (10%)
- **2017**: Fully implemented (50%), Partially implemented (15%)
- **2019**: Fully implemented (60%), Planning stage (40%)
Bottom 5 measures with lowest implementation rate

Based on implementation commitments by all WTO Members

Art. 7.4 – Risk management

Art. 8 – Border Agency Cooperation

Art. 5.3 – Test procedures

Art. 7.7 – Authorized operators

Art. 10.4 – Single window

Developed members
Category A current commitments
Category B current commitments
Category B future commitments
Category C future commitments
Unknown

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<th>Category A current commitments</th>
<th>Category B current commitments</th>
<th>Category B future commitments</th>
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<td>Art. 7.4 – Risk management</td>
<td>59.8%</td>
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<td>Art. 8 – Border Agency Cooperation</td>
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Average time of border compliance procedures across regions

- East Asia & Pacific
- Europe & Central Asia
- High income: OECD
- Latin America & Caribbean
- Middle East & North Africa
- South Asia
- Sub-Saharan Africa

The graph shows the average time of border compliance procedures across regions from 2015 to 2020.
Some analytical reports and surveys

**UNECE – Studies on Non-Tariff Barriers to Trade**
- Strengthening and improving risk management systems and techniques at the border
- A coordinated approach to risk management at the border
- Establishing a link between the individual agencies’ risk management system and that of the Customs

**OECD – Trade Facilitation and the Global Economy**
- On balance, risk management efforts seem to have stalled at the single-agency (Customs) stage and have yet to achieve their full potential
- Making risk management more comprehensive and integrating [...] input from all border agencies

**World Bank – Border Management Modernization**
- Customs is only one of the agencies involved in border processing, and evidence suggests it is often responsible for no more than a third of regulatory delays
- Traders are much more satisfied with the performance of customs than with that of other border management agencies
Setting the context: risk of product non-compliance in international trade

Dangerous pests?  Dangerous pesticides?

Non-compliant shipment?  Smuggling?

Spoiled products?
Main challenges

Individual risk management capacity of regulatory agencies: processes, methodologies, IT systems, competence

- Evaluations of incoming shipments are biased
- Evaluations are incomplete (e.g., do not take into account the probability of non-compliance and focus only on its impact),
- No risk criteria based on regulatory objectives is established

A chain is as strong as its weakest link: integration

- Overall border compliance time - at least as high as that of the longest inspection
- Differences in approaches to risk evaluation: no “common denominator”
Recommendation V

Economic Commission for Europe
Steering Committee on Trade Capacity and Standards
Working Party on Regulatory Cooperation and Standardization Policies (WP.6)
Thirty-first session
Geneva, 24–26 November 2021
Item 5 of the provisional agenda
Group of Experts on Risk Management in Regulatory Systems

Recommendation V on Addressing Product Non-Compliance Risks in International Trade

Submitted by the Bureau

Summary
The text of the Recommendation is presented to the Working Party for discussion and adoption.

Mandate
The Working Party agreed at its twenty-ninth session on the base text of this recommendation and requested that the Group of Experts on Risk Management in Regulatory Systems (GRM) prepare the document for finalization and presentation for adoption (ECE/CTCS/WP.6/2019/2, Decision 14).

Proposed decision:
Member States approved the new Recommendation V on Addressing Product Non-Compliance Risks in International Trade. They mandated the secretariat to report on its implementation. They encourage the donor community to make available resources for capacity-building projects to assist member States in its implementation.
Introduction: stressing, noting, highlighting...

- Many risks at the border and all risks should be managed
- Import compliance is a key part of a bigger regulatory framework – SDGs
- The concept of non-compliance risk
- Tools to support WTO and WCO agreements
- Key challenges in applying risk management at the border
  - Individual risk management capacity
  - Integration
- The key role of the Customs but different approaches
Finding the right balance

12. Governments develop and implement an integrated risk management strategy to optimize overall border clearance times and costs while maintaining regulatory requirements by the means of systematically addressing all non-compliance risks within border management procedures, including customs-related and those related to non-compliance of imported products to the requirements of technical regulations and standards.
Harmonizing risk criteria on the basis of regulatory objectives

13. Governments develop **harmonized – cross-agency – criteria for the evaluation of non-compliance risk** and apply overall border compliance time and costs as evaluation metrics.

Risk criteria for evaluation of non-compliance risks are based on the regulatory objectives, which take into account relevant SDGs, as described in Recommendation T.
Management of non-compliance risk: reference model for a targeting system

Fundamental inputs
- Structure of a non-compliance risk
- Risk tolerance
- Available resources and inspection costs

Main processes of the system
1. Developing compliance rules (risk profiles)
2. Evaluating compliance rules (simulation)
3. Assessing incoming shipments (applying compliance rules)
4. Performing risk-based inspections (risk-based sampling)

Risk assessment
- Risk profiles (compliance rules)
- Main parameters, characterizing the system
- Risk evaluation of the incoming shipment
- Evaluation of the risk assessment

Datasets
- Compliance history/data model of risk (training set)
- Test set/validation set
- Data on incoming shipments
- Risk evaluation of the incoming shipment

Streams:
- Compliance history/data model of risk (training set)
- Test set/validation set
- Data on incoming shipments
- Risk evaluation of the incoming shipment

Metrics
- Number of incoming shipments
- Non-compliance rate
- Inspection rate
- Inspection units
- Number of inspected non-compliant shipments (targeted as high-risk)
- Number of inspected compliant shipments (targeted as high-risk)
- Number of released non-compliant shipments (targeted as low risk)
- Number of released compliant shipments (targeted as low risk)
- Border compliance time
Information on the incoming shipment

Integrated profiling system

Compliance rules for shipment evaluation (Regulator 1)

Compliance rules for shipment evaluation (Regulator 3)

Compliance rules for shipment evaluation (Regulator 2)

Compliance rules for shipment evaluation (Regulator N)

Probability of non-compliance
Level of harm
Red light 1

Probability of non-compliance
Level of harm
Red light ...

Probability of non-compliance
Level of harm
Red light N

Integrated inspection:
Documentary checks
Visual checks
Physical checks (sampling)
Building an integrated system: integrated application of compliance rules

Governments establish/strengthen cooperation among product regulators and customs authorities by allowing the evaluation of the product non-compliance risk as well as shipment clearance procedures with respect to this risk, be performed upon shipment’s arrival:

• By product regulators based on the data supplied by the Customs within product regulator’s own IT infrastructure, or
• By product regulators based on the data supplied by the Customs within the IT infrastructure of the Customs, or
• By the Customs according to the compliance rules or algorithms developed by product regulators, as described in Annex B.
• By performing joint inspections on the basis of integrated evaluation of non-compliance risks.
Building an integrated system: integrating approaches, data and rules

Governments ensure that processes required for management of product non-compliance risks are integrated into processes aimed at addressing customs related and trade disruption risks. In particular, by:

- Guidance documents;
- Allowing the Customs to provide product regulators with data;
- Sharing IT resources and expertise;
- Encouraging cooperation among regulators in developing and evaluating compliance rules and risk profiles;
- Performing an integrated overview of a targeting system (simulations) and harmonizing risk tolerance levels;
- Developing integrated approaches for application of compliance rules of regulators.
Efficient import compliance is more efficient than post market surveillance

• Governments strengthen the role of import compliance in market surveillance and ensure that import compliance processes are integrated with other elements of the respective regulatory systems, as described in Recommendation R.
Methodological integration
IT integration
Shared HR resources in risk management
Integrated border management

Import compliance within an integrated system

Import inspections are prioritized according to the level of non-compliance risk

Profiling and targeting techniques applied for evaluating incoming shipments on the basis of non-compliance risk
Inspections and sampling plans proportionate to risks of incoming shipments

Regulatory systems support SDGs and are risk-based: risk management on a regulatory system level

Regulatory requirements, conformity assessment and market surveillance:
- Proportionate to risks they were set out to address
- Balanced among themselves

Formal risk management applied within regulatory agencies

Objectives and principles of risk management understood by personnel
The basic risk management process established and applied
Risk management tools are used for choosing risk treatment strategies
Benefits of an integrated framework

• **Defining risk appetite, structure of the non-compliance risk and other input parameters**
  • Common language and format
  • Comprehensive view

• **Building an integrated history dataset**
  • Analysis of correlations between the findings of different regulators

• **Cooperation in development of non-compliance rules (risk profiles)**
  • Sharing risk management expertise and resources, IT infrastructure

• **Evaluating a targeting system: integrated overview**
  • Evaluating the trade facilitation and risk parameters of the import compliance framework as a whole
  • Ensuring centralized data storage

• **Applying compliance rules in an integrated system**
  • One data source, one system

• **Integrated inspections**
Managing Risk for Post-Pandemic Trade

Guide for Border Regulatory Agencies
3. Choosing best actions in response to risk: principles of risk management

2. Integrated risk management as a trade facilitation measure

5. Methodology for building a risk-based targeting system in import compliance

4. Risk-based regulatory frameworks in support of SDGs: integrating import compliance

7. Best practice in the management of product non-compliance risks

6. Best practice in targeting customs risks

9. Compliance strategy for business

8. Building an Integrated Risk Management Framework

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- IT integration
- Shared HR resources in risk management
- Integrated border management

Maturity
Cooperation with UN/CEFACT

• Single Window is a prerequisite for successful implementation
• Recommendation can be used as a reference for developing assessment methodologies
• Recommendation and the Guide can be used to develop training materials