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Group of Experts on Risk Management in Regulatory Systems

Report of activities under the Group of Experts on Risk Management in Regulatory Systems 2022–2023

Submitted by the subgroup Chair*

Summary

This document presents the main results achieved by the Group of Experts on Risk Management in Regulatory Systems (GRM) as of July 2023, reports on the progress in the completion of its project plan and presents priorities for 2024.

Mandate

At its thirty-second session, the Working Party on Regulatory Cooperation and Standardization Policies (WP.6) mandated the secretariat and the GRM to continue to report on an annual basis on these activities (ECE/CTCS/WP.6/2022/2, paragraph 22, decision 5).

Proposed decision 1:

“The Working Party adopts the *Report of the Group of Experts on Risk Management in Regulatory Systems 2022–2023*. It requests the Economic Commission for Europe (ECE) secretariat and the Group of Experts to continue to report on an annual basis on these activities. The Working Party also emphasized the critical importance of extra-budgetary funding to support capacity building in this area. It called on donors and development partners to consider providing additional funding for undertaking follow-up work on this topic.”

* This document is submitted under the responsibility of the subgroup Chair and has not been subject to a substantive clearance procedure through the Economic Cooperation and Trade Division Director. This document has not been edited by a professional editor.

I. Introduction

1. Risk management in regulatory systems is a key aspect of reducing non-tariff barriers to trade and ensuring that the products entering onto the market are safe for consumers and the economy. Since its establishment in 2011, the GRM has been considering how risk management can contribute to efficient regulatory frameworks, which is essential to the achievement of the WP.6 goal of reducing technical barriers to trade. The GRM aims at 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. The GRM works towards this goal by developing and sharing best practice as regards the application of risk management tools in regulatory activities and international trade.

2. This report provides a summary from the annual meeting of this group that was held during the second WP.6 Forum on 25 May 2023. At the annual meeting, Ms. Alexia Davison of the United Kingdom of Great Britain and Northern Ireland was elected chair of GRM for a one-year period; Mr. Donald Macrae of the United Kingdom and Mr. Valentin Nikonov of Israel were elected vice chairs for a one-year period. The annual meeting was attended by 44 experts, 16 were women. The GRM also had working meetings during this period on 9 September 2022, 19 January 2023, 16 March 2023 and 6 July 2023.

II. Report on progress of activities 2022–2023

3. The GRM has made good progress on the activities which were defined in the WP.6 Programme of work (PoW) for 2023 (ECE/CTCS/WP.6/2022/12).

- (a) In support of paragraph 14(a), the GRM jointly with International Trade Centre (ITC) launched the publication on *Managing Risk for Safe, Efficient Trade: Guide for border regulators* (see ECE/CTCS/WP.6/2021/INF.1) at the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) Asia-Pacific Trade Facilitation Forum. The publication includes guidance on the implementation of the WP.6 recommendations T, S and V.
- (b) In support of paragraph 14(b), the GRM has launched the survey on the application of crisis management principles described in ECE *Recommendation P on Crisis Management in Regulatory Systems* during the COVID-19 crisis.¹
- (c) In support of paragraph 14(c), the GRM has launched the project “Integrated risk management in single window systems”, which is aimed at improving the efficiency of risk management applications in international trade procedures. The launch meeting was held on 6 March 2023 and a draft questionnaire to single window operators was developed and presented at the GRM annual session.
- (d) In support of paragraph 14(d), the GRM enhanced cooperation with customs authorities of Georgia, Mexico and Nigeria, as well as with the North America Plant Protection Organization and the European Commission Directorate-General for Taxation and Customs Union (DG TAXUD) (see next section on return on experiences/best practices).
- (e) In support of paragraph 14(e), the ECE has a category A liaison with the International Organization for Standardization (ISO) Technical Committee 262 “Risk Management”; progress on the work of this ISO committee is reported back to the GRM on a regular basis in order to ensure compatibility of deliverables.

¹ The survey is available online at:
<https://forms.office.com/Pages/ResponsePage.aspx?id=2zWeD09UYE-9zF6kFubccADkRDjCNmhOhrEQlaZ6ZKJUMlpCR0k5TFZJMDkwTFdSSFIHTUROR0IMVC4u>

III. Impact and implementation

A. Return on experiences / best practices

4. The GRM seeks to verify the implementation of its guidance by regulatory authorities. To this end, it organized a webinar on “Risk Management in Regulatory Systems” on 25 May 2023 as part of its annual meeting to review how the principles of recommendations S and V are applied by customs authorities and product regulators to address the risk of product non-compliance at the border and in post-market surveillance.² Some of the highlights on return on experiences and best practices follow.

5. For systematically addressing all non-compliance risks within border management procedures (as outlined in ECE *Recommendation V on Addressing Product Non Compliance Risk in International Trade*), the customs authority of Georgia integrates requirements of technical regulations from relevant state regulating agencies into risk criteria within the risk management system operated by the customs authorities for evaluation of incoming shipments. An integrated risk management system for border control includes processes for sanitary, phytosanitary, veterinary and food safety.

6. The integrated risk management system of the Nigerian Customs Services started operating in 2012. As *Recommendation V* calls for governments to establish/strengthen cooperation among product regulators (whose products are involved in international trade) and customs authorities in assessment of shipment according to product non-compliance risks, the customs authority established such cooperation (including with product regulators who are not physically present at the border) to ensure that various risks of product non-compliance are included into an integrated system of customs and that inspections of incoming shipments are performed at the border (including, in certain cases, by the customs authority and not by a product regulator). Allowing risk evaluation and shipment clearance to be performed by the customs authority according to the compliance rules or algorithms developed by product regulators is one of the options for such cooperation, according to *Recommendation V*.

7. *Recommendation V* underlines the central role of the customs authorities in border management and the generally high level of data processing infrastructure available at the customs. It calls upon Governments to ensure that processes required for management of product non-compliance risks are integrated into processes aimed at addressing customs-related and trade disruption risks. The risk management system run by the National Customs Agency of Mexico was developed in 1989, when a ten per cent random inspection principle was applied, to become a risk intelligence-based system, integrated with the single window. The system implements profiling techniques for evaluating the probability of non-compliance based on risk factors such as importer status, level of risk of the port of provenance, consistency of the shipment characteristics with previous activities of the importer, and others (which is consistent with the reference model of described in annex A of *Recommendation V*).

8. The European Union (EU) is running a project to smoothen digital cooperation between customs and market surveillance authorities. It will enable market surveillance authorities to get real time data from customs systems at clearance into market surveillance authorities’ systems in order to coordinate checks on product compliance and safety and provide data for risk management. The project will ensure, according to the principles outlined in *Recommendation V*, that all non-compliance risks will be systematically addressed within border management procedures, including customs-related and those related to non-compliance of imported products with the requirements of technical regulations and standards. Also, it will allow customs to provide product regulators with the data necessary to determine compliance rules or applying predictive algorithms for profiling

² The event webpage contains all of the presentations and bios of the speakers. See: <https://unece.org/info/Trade/WP.6-Meetings/events/375802>

the incoming shipments, as well as for developing an integrated history dataset and analysing correlations among different non-compliance risks.

9. The North American Plant Protection Organization (NAPPO) has developed a *Risk-Based Sampling Manual*,³ which contains methodologies and tools that could help regulatory authorities developing sampling plans proportionate to risks of incoming shipments and thus facilitate trade. Recommendations on performing risk-based inspections are included into annex A of *Recommendation V*.

10. WorkSafe New Zealand (the regulatory authority responsible for electrical equipment) runs a risk engine which allows setting priorities in market surveillance based on the evaluation of probability of non-compliance and consequences of non-compliance of products within the scope of responsibility. ECE *Recommendation S on Applying Predictive Risk Management Tools for Targeted Market Surveillance* presents a generalized model of risk engine, applicable to any type of product.

11. The Hellenic Ministry of Development applies risk assessment tools for setting priorities in market surveillance of industrial products. Consistent with the approach described in *Recommendation S*, products are classified as low, medium and high-risk level based on risk assessment, which incorporates factors such as the number of potential users of the product category, vulnerable user groups, inherent risk of the product category, and others.

B. Implementations

12. During the reporting period, recommendations developed by the GRM were implemented by ITC through a series of workshops on risk management in customs control (based on the publication *Managing Risk for Safe, Efficient Trade: Guide for border regulators*) in Uzbekistan and the Philippines.

C. Relation with other organizations' work

13. The GRM made a presentation of the publication *Managing Risk for Safe, Efficient Trade: Guide for border regulators* at the UNESCAP Trade Facilitation Forum on 31 August 2022.

IV. Pertinence of the topic today

14. In international trade, the efficient application of risk management is a prerequisite to reduce non-tariff trade costs, as it helps reduce redundant or sequential border controls that cause delays and impose unnecessary costs on traders. The role of risk management in trade facilitation is widely recognized by the international community (risk management is referred to in the World Trade Organization (WTO) Trade Facilitation Agreement (TFA), Technical Barriers to Trade Agreement (TBT) and the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS)); at the same time, it remains to be one of the least implemented trade facilitation measures.⁴

15. On 17 May 2023, the EU published a press-release “EU Customs reform: a data-driven vision for a simpler, smarter and safer Customs Union”.⁵ The article underlines the importance of a risk management approach, assisting Member States to prioritize risks and coordinate their checks.

³ See: <https://www.nappo.org/english/learning-tools/Resources-and-Learning-Tools-for-Risk-Based-Sampling>

⁴ See WTO Trade Facilitation Agreement Database: <https://tfadatabase.org/en/measures/article-7-4>

⁵ See: https://ec.europa.eu/commission/presscorner/detail/en/ip_23_2643

V. Future directions

16. The GRM suggests to continue activities in the same direction: developing tools for improved risk management in international trade (as described in *Recommendation V*) while continuing its work on methodological support for the implementation of all other recommendations developed by the GRM.

17. The GRM also suggests to resume its work on some of the activities of previous years, such as risk management in the context of the United Nations Sustainable Development Goals (SDG) 14 on Life Below Water (a work item that was the basis for the development of ECE *Recommendation T on Standards and Regulations for Sustainable Development*).

18. In addition, in light of new technological developments, such as digital transformation and artificial intelligence, the GRM finds it important to develop risk management tools that could contribute to the regulatory approval of products for which standard conformity assessment procedures are not applicable.
