Addressing product non-compliance risk in international trade

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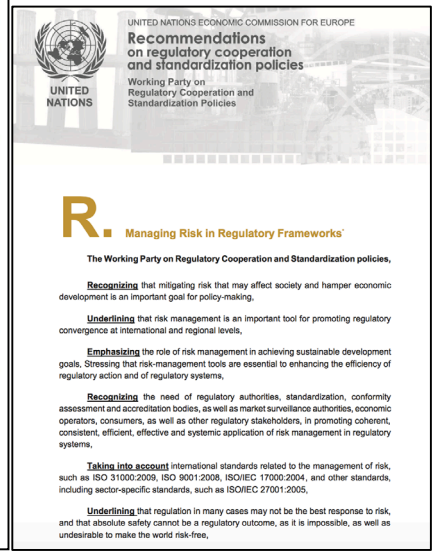
UNECE Group of Experts on Risk Management in Regulatory Systems

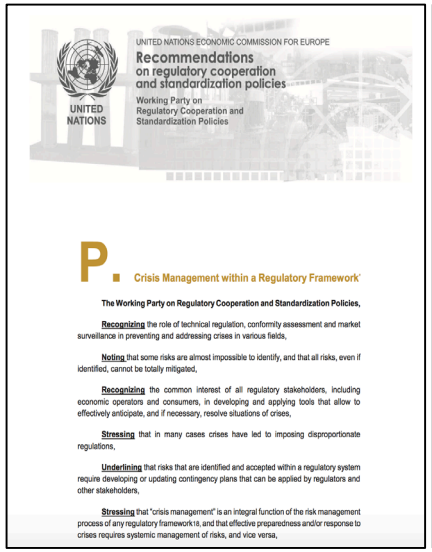
GRM Background

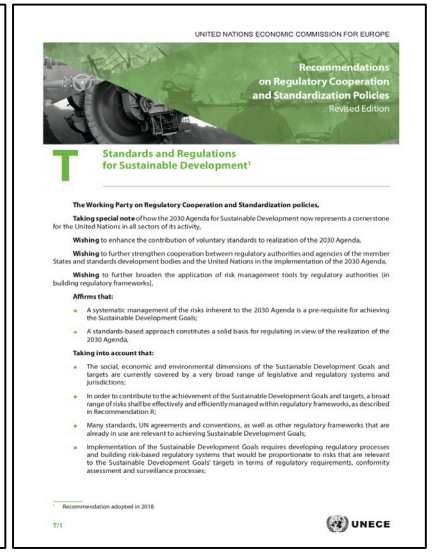
"The GRM aims at an improved management of hazards that have the potential to affect the quality of products and services, and/or cause harm or damage to people, the environment, property and immaterial assets"

"Developing and sharing best practice as regards the use of risk management tools in regulatory activities"

4 high-level recommendations on managing risks in regulatory frameworks







GRM Background

- Broad and diversified membership – 30 experts from 13 countries,
  17 active experts
- Bi-monthly webinars
- Chairman – Mr. Kevin Knight

Chairperson

Kevin Knight (Chair, Technical Committee 262: Risk management, International Organization for Standardization)

Coordinators

Donald Macrae (Independent consultant)

Valentin Nikonov (Project Manager, Tochka)

Active members

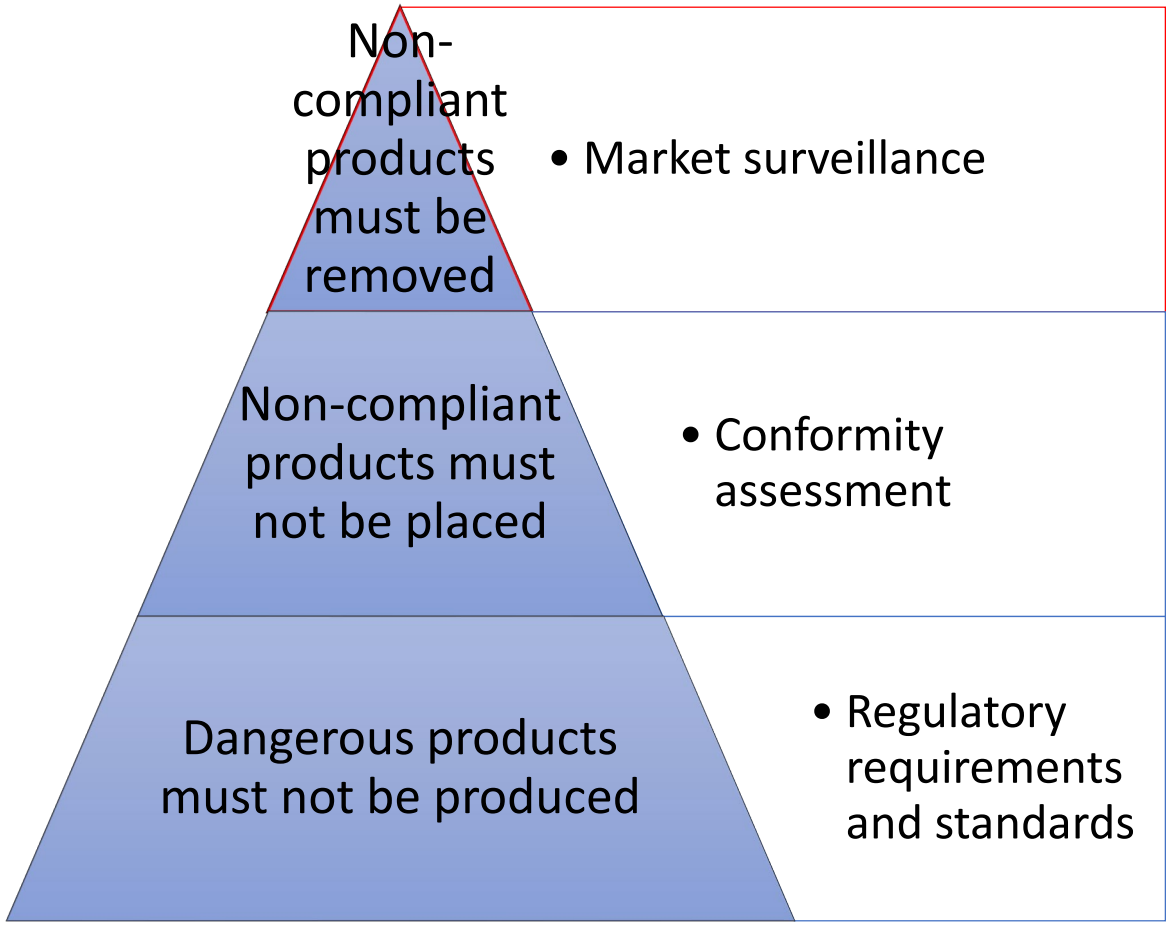
1. Florentin Blanc (The World Bank Group)
2. Ronald Cormier (Fisheries and Oceans Canada, Canada)
3. Alex Dali (President, Global Institute for Risk Management Standards, G31000, France)
4. A.M. Dolan (University of Toronto, Canada)
5. Graeme Drake (Committee on conformity assessment, International Organization for Standardization ISO))
6. Paul Hopkin (Institute of Risk Management, United Kingdom)
7. Valery Hurevich, (Belarusian State Institute for Standardization and Certification (BelGISS), Belarus)
8. Markus Krebsz (Risk Reward Limited, United Kingdom)
9. Pierre Lauquin (Group for Risk Management, Nestlé)
10. Sean MacCurtain (Secretary, Committee on conformity assessment, International Organization for Standardization (ISO))
11. Justin McCarthy (PRMIA)
12. Alpaslan Menevşe, Chairman, Mirror Technical Committee ISO 31000, Turkey
13. Peter Morfee (Ministry of Economic Development, New Zealand)
14. Mikhail Rogov (RusRisk, RusHydro, Russian Federation)
15. Paul Taylor (Federation of European Risk Management Associations (FERMA), United Kingdom)
16. Simon Webb (The Nicholas Group, United Kingdom)
17. Department of technical regulation and accreditation of the Eurasian Economic Commission (Eurasian Economic Commission).

GRM Recommendations – all elements of a regulatory framework

On which products to focus in surveillance/import compliance?

Which CA schemes are adequate for different products/companies?

Are regulatory requirements proportionate to risks they were set out to address?



Setting regulatory objectives: no absolute safety

Management of assets

Risk identification

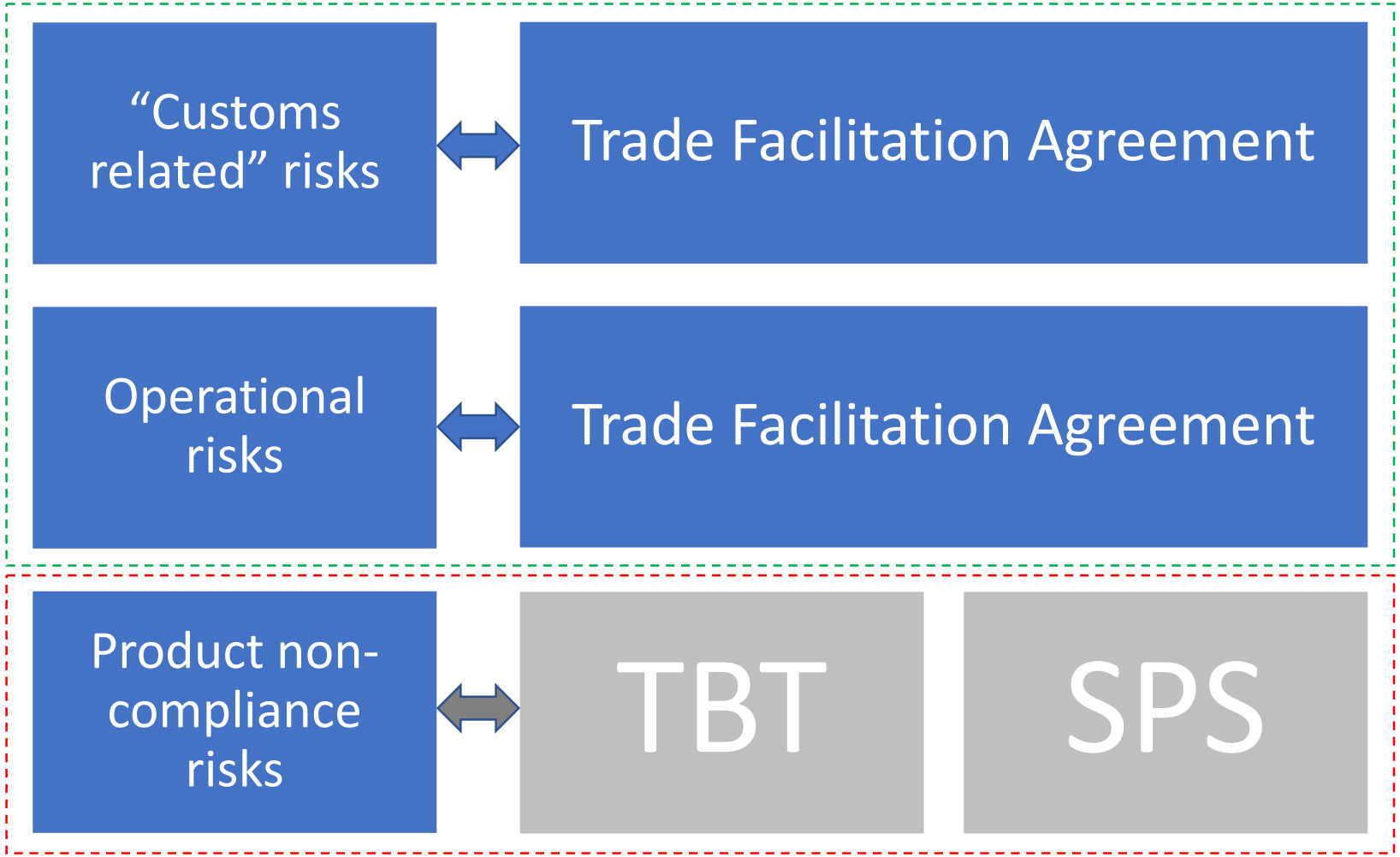
Risk evaluation

Choosing risk treatment strategies

Contingency planning

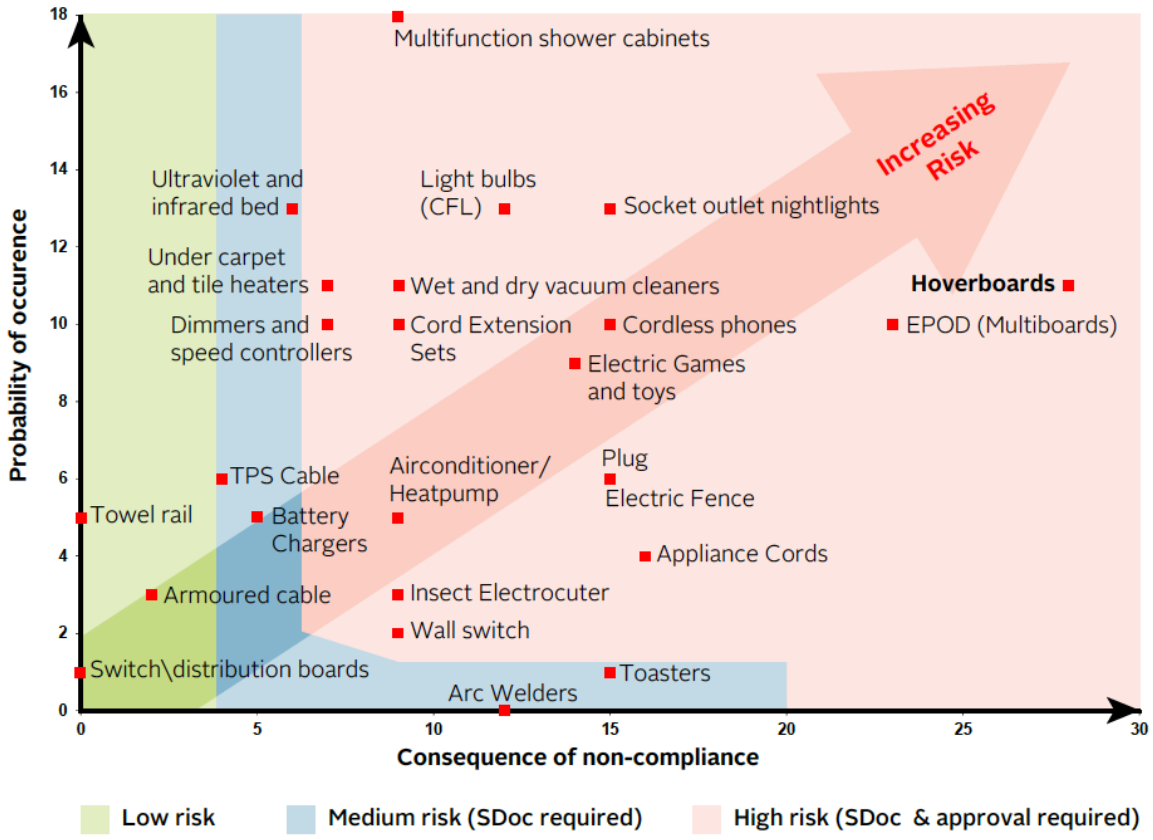
How much risk is acceptable/tolerable? and when is a regulator liable?

Risk management in international trade



- **Proportionality of regulatory requirements**
- **Proportionality of compliance procedures**
- **Systemic risk management**
  - regulatory authorities should develop and maintain a risk management system for management non-compliance risks
- **Principles of tolerable level of risks**
  - the release of low-risk consignments "could be expedited"
- **Principle of prioritizing inspections based on risk**
- **Principle of "uniform flexibility"**
  - common customs procedures and uniform documentation requirements, but
  - not prevent Member from differentiating its requirements for goods based on risk management

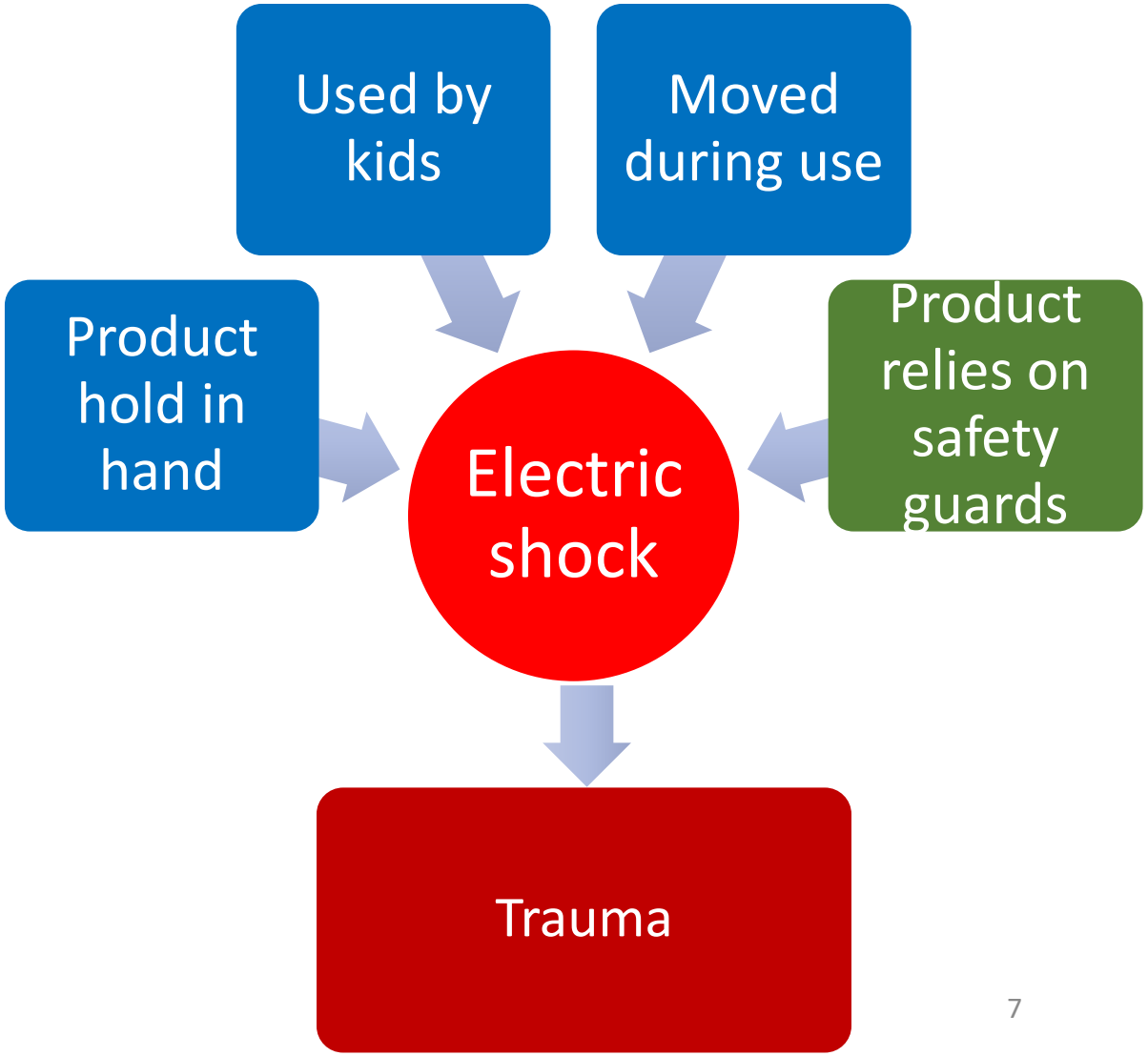
Addressing the risk of product non-compliance



- Focusing on shipments/products that are:
  - Dangerous when non-compliant
  - Have a high probability of being non-compliant
- Methodology (Recommendation S)
- Operational/data exchange procedures/communication with the Customs (draft GRM recommendation)

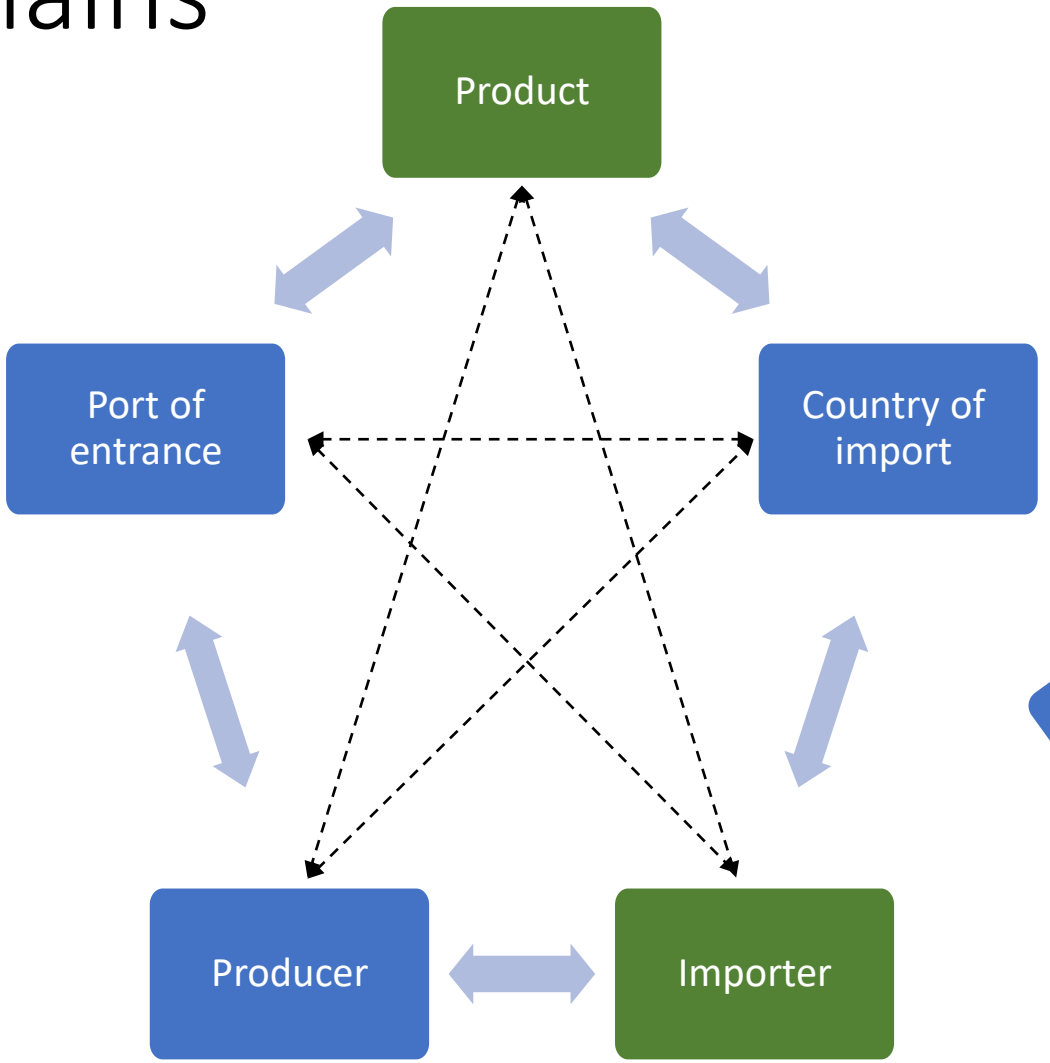
Technical factors to evaluate how dangerous a non-compliant product can be

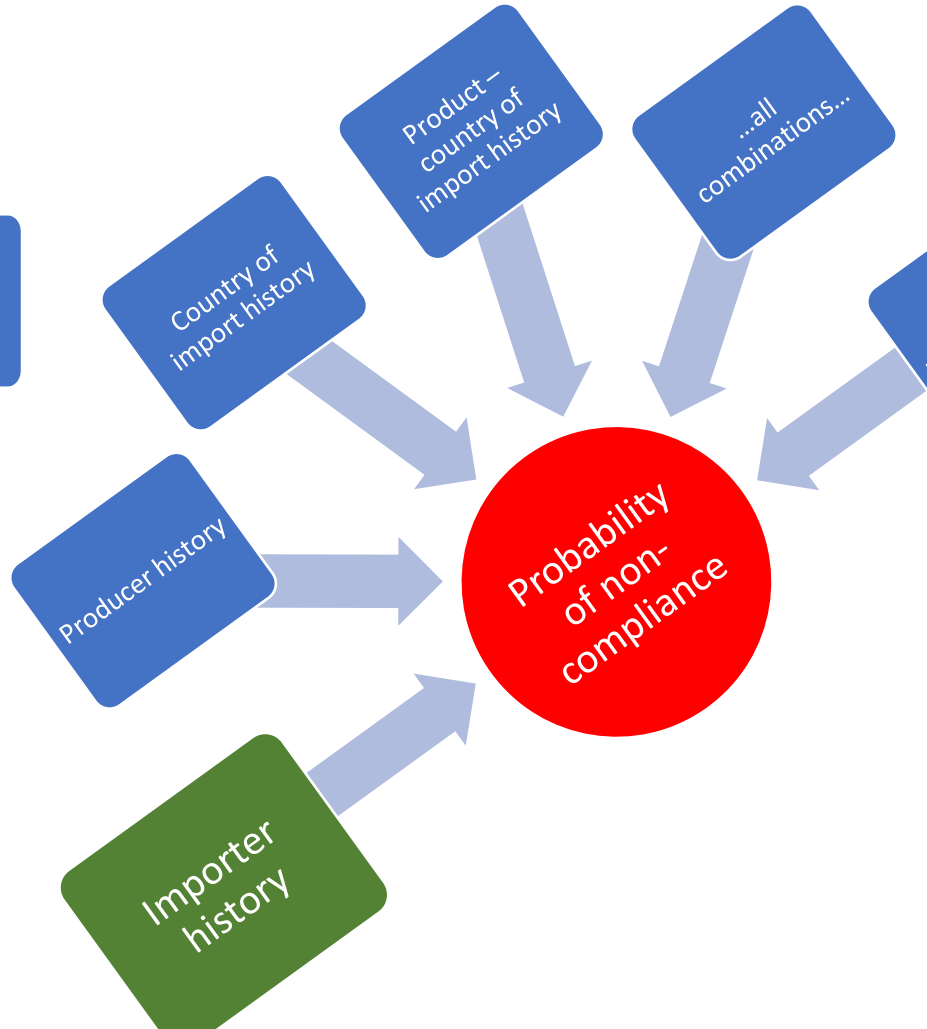
	Product 1	Product 2	…	Product n
Product relies on safety guards	1	0	…	1
Product moved during use	0	1	…	1
Product relying on guards and barriers to prevent mechanical injury	1	1	…	
Product subject to likely significant misuse	0	0	…	0
Product likely to be installed by unskilled persons or relies on adjustments by unskilled persons	1	1	1	1



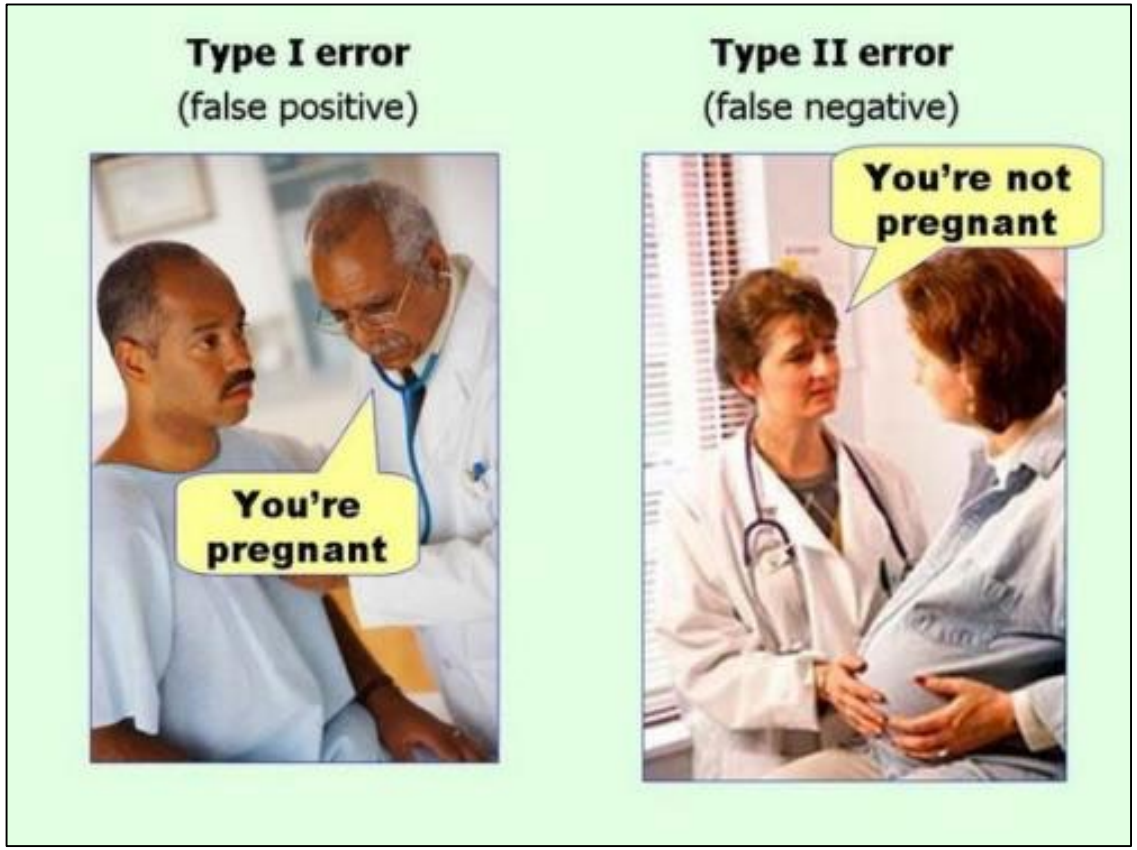
Evaluating probability of non-compliance: supply chains

Importer
Producer
Product Name
Country of import
Port of entrance

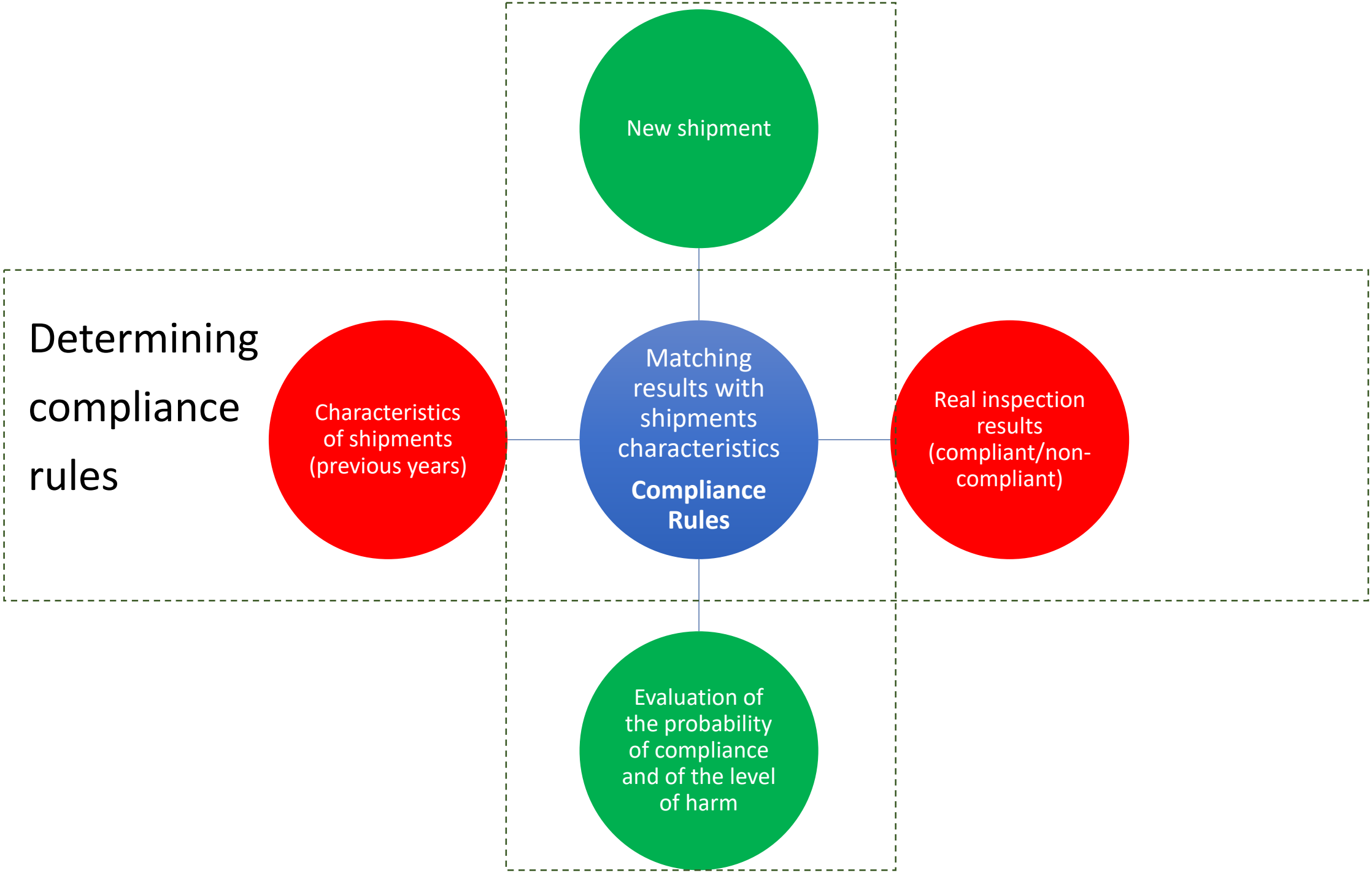


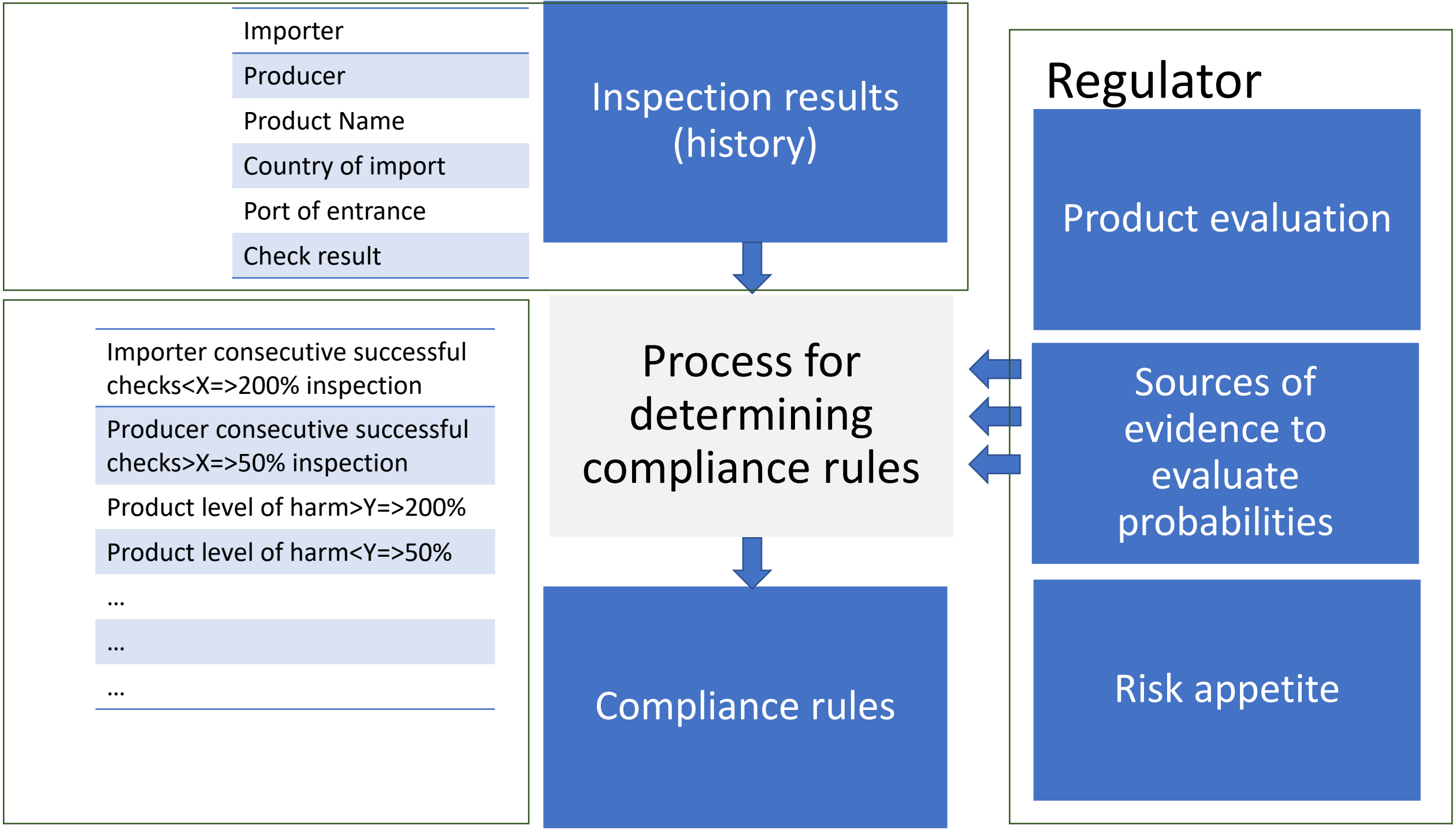


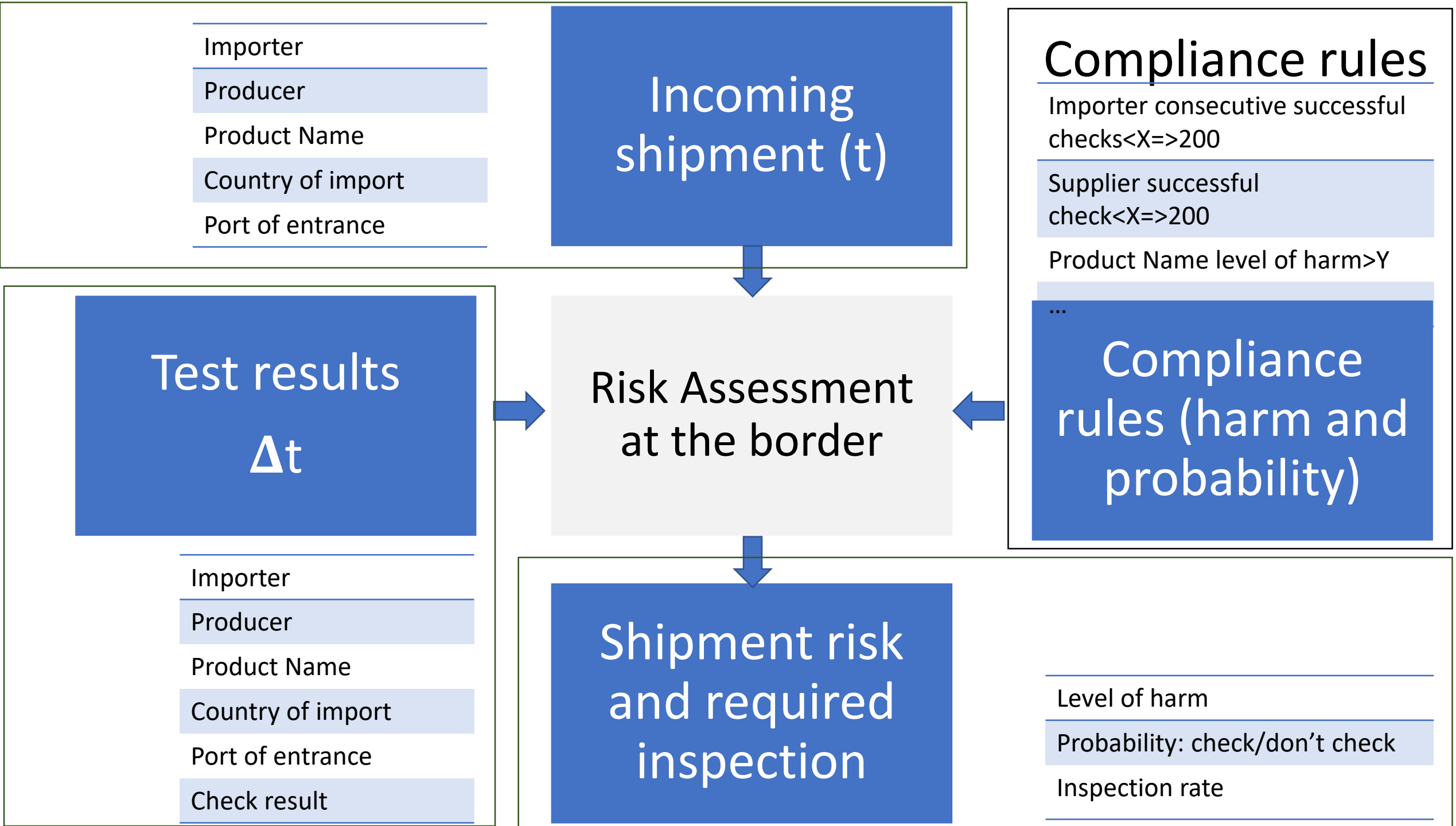
Risk appetite of a regulator/market surveillance authority



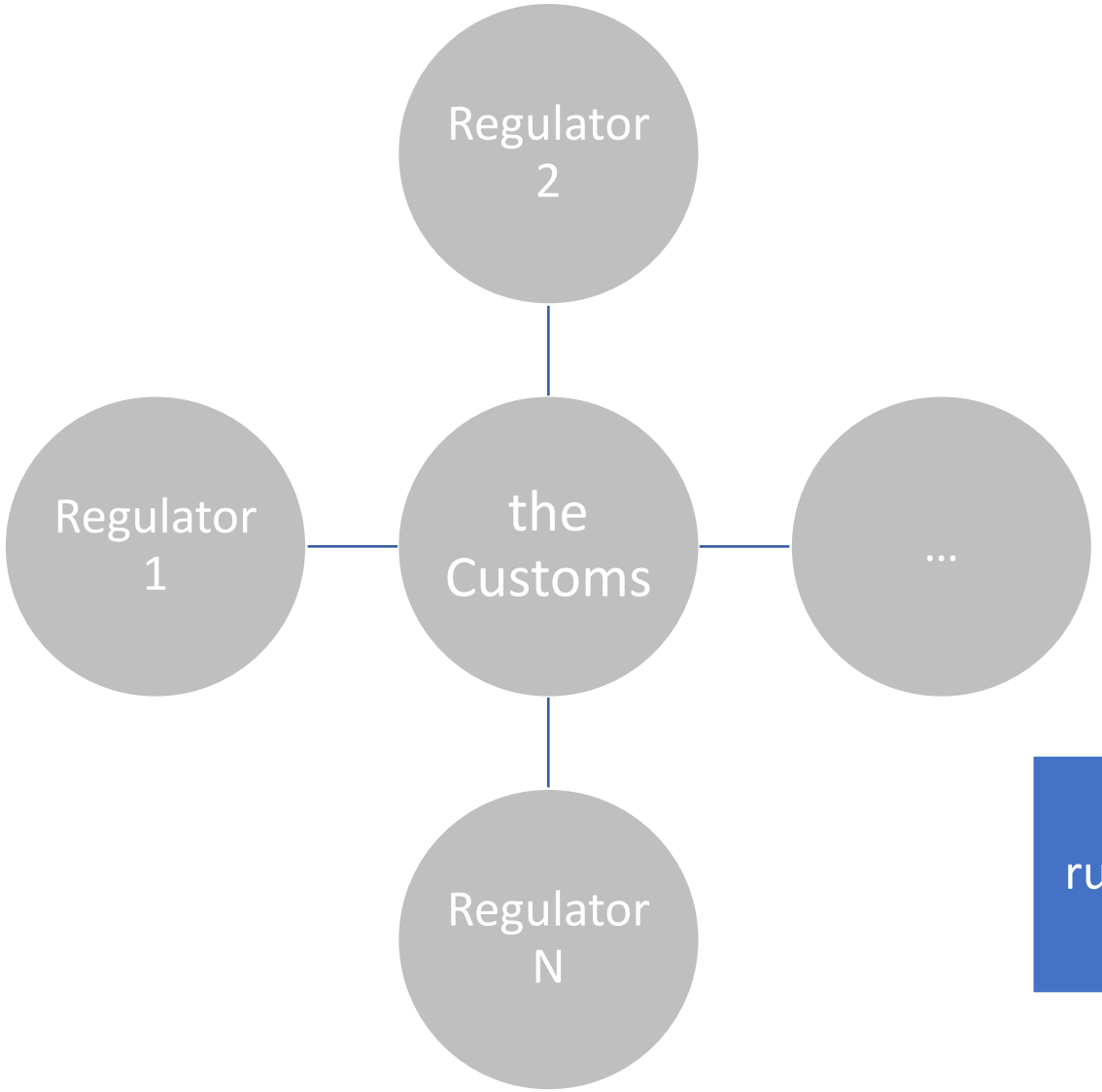
Parameter	Description
TNI	A total number of inspections performed
TNU	A total number of standard inspection units used
CC	A number of compliant shipments that were inspected and found compliant
CNC	A number of compliant shipments that were inspected and found non-compliant;
NCNI	A number of non-compliant shipments that were not inspected
NCN	A number of non-compliant shipments that were inspected and found non-compliant
NCC	A number of non-compliant shipments that were inspected and found compliant
K	coefficient, representing how many inspection units are allocated to a given inspection

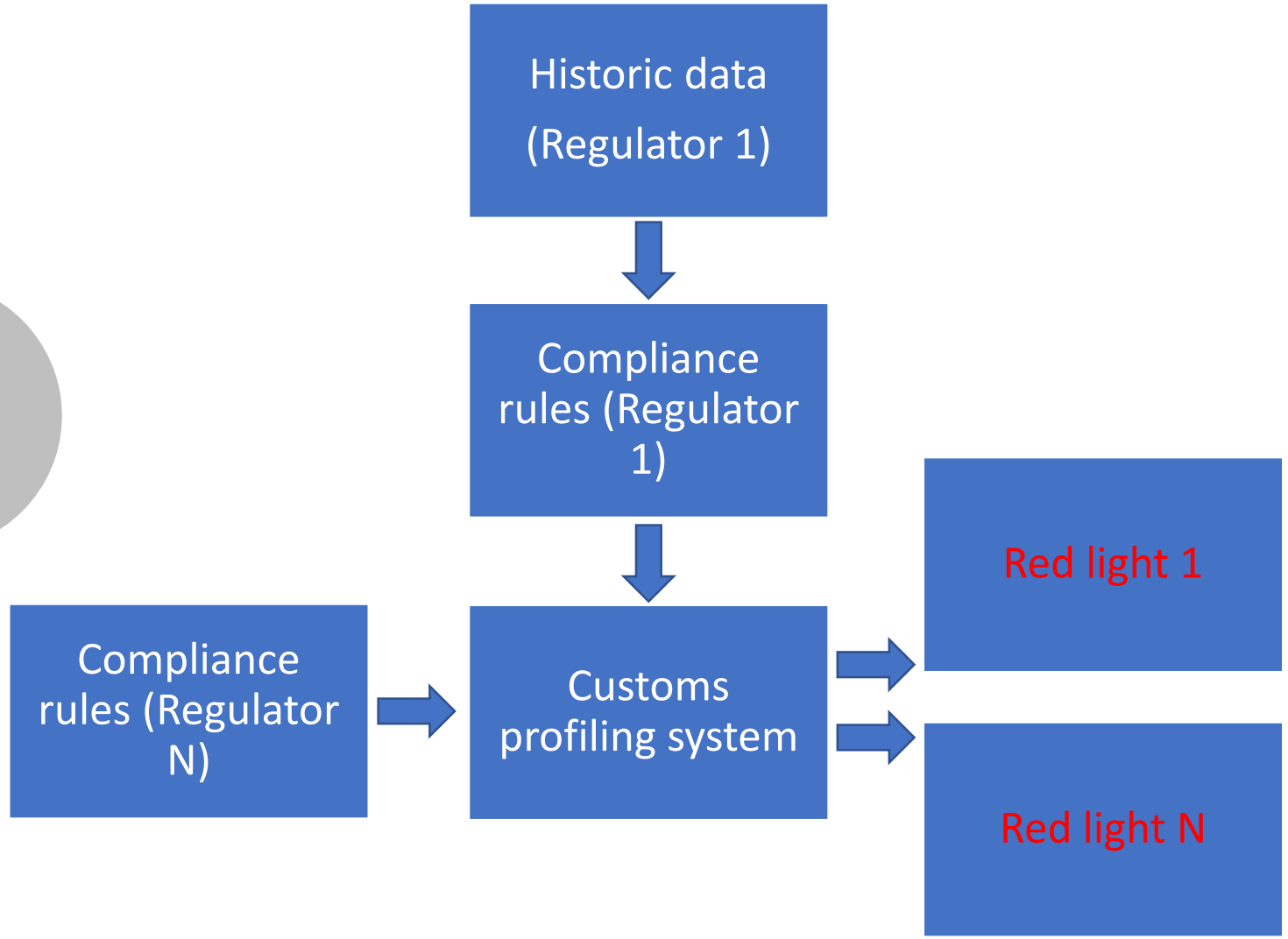

Determining compliance rules
New shipment
Characteristics of shipments (previous years)
Matching results with shipments characteristics
Compliance Rules
Real inspection results (compliant/non-compliant)
Evaluation of the probability of compliance and of the level of harm


Importer
Producer
Product Name
Country of import
Port of entrance
Check result
Inspection results (history)
Regulator
Product evaluation
Sources of evidence to evaluate probabilities
Risk appetite
Process for determining compliance rules
Importer consecutive successful checks<X=>200% inspection
Producer consecutive successful checks>X=>50% inspection
Product level of harm>Y=>200%
Product level of harm<Y=>50%
…
…
…
Compliance rules

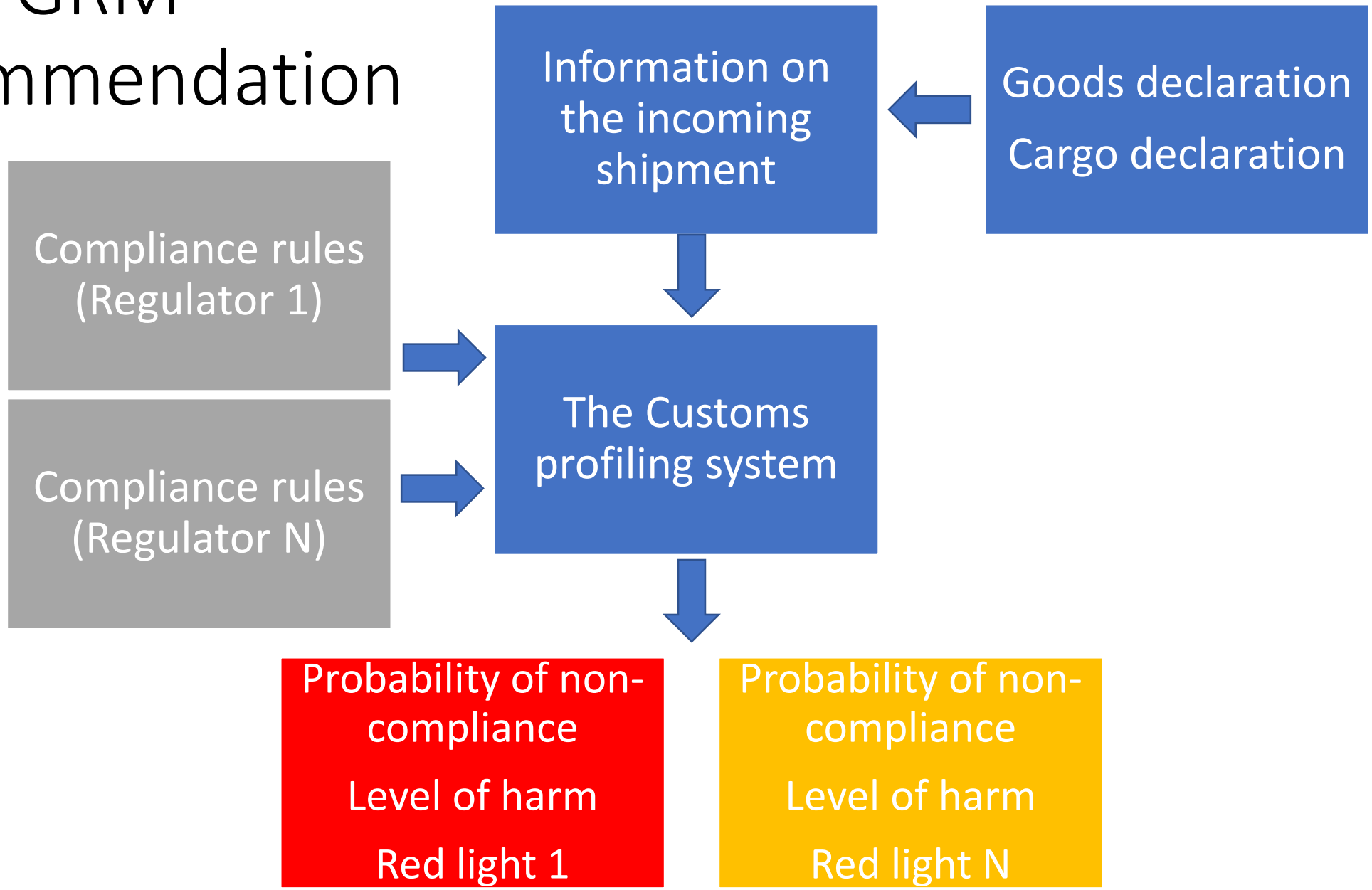

Importer
Producer
Product Name
Country of import
Port of entrance
Incoming shipment (t)
Compliance rules
Importer consecutive successful checks<X=>200
Supplier successful check<X=>200
Product Name level of harm>Y
…
Compliance rules (harm and probability)
Test results
Δt
Risk Assessment at the border
Importer
Producer
Product Name
Country of import
Port of entrance
Check result
Shipment risk and required inspection
Level of harm
Probability: check/don't check
Inspection rate

Draft of the new GRM recommendation





Draft GRM recommendation



International experience: elements of the framework present in many countries

Fresh fruit

Product	Tariff code	Date added to CBIS	Qualification number	Risk-based inspection rate
Cherries of the species *Prunus axiom* (fresh, from the USA only)	08092900	June 2017	5	25%
Dates (from the USA only)	08041000	July 2013	10	10%
Chilled durian segments (from Thailand and Malaysia only)	08106000	May 2017	3	10%
Permitted stone fruits including apricots, peaches, nectarines, and plums (fresh, from the USA only)	08091000, 08093000, 08094000,	June 2017	5	25%
Avocado (fresh, from New Zealand only)	08044000	October 2017	10	50%
Lemons and limes (fresh, from the USA only)	08055000	November 2017	5	25%

International experience: elements of the framework present in many countries

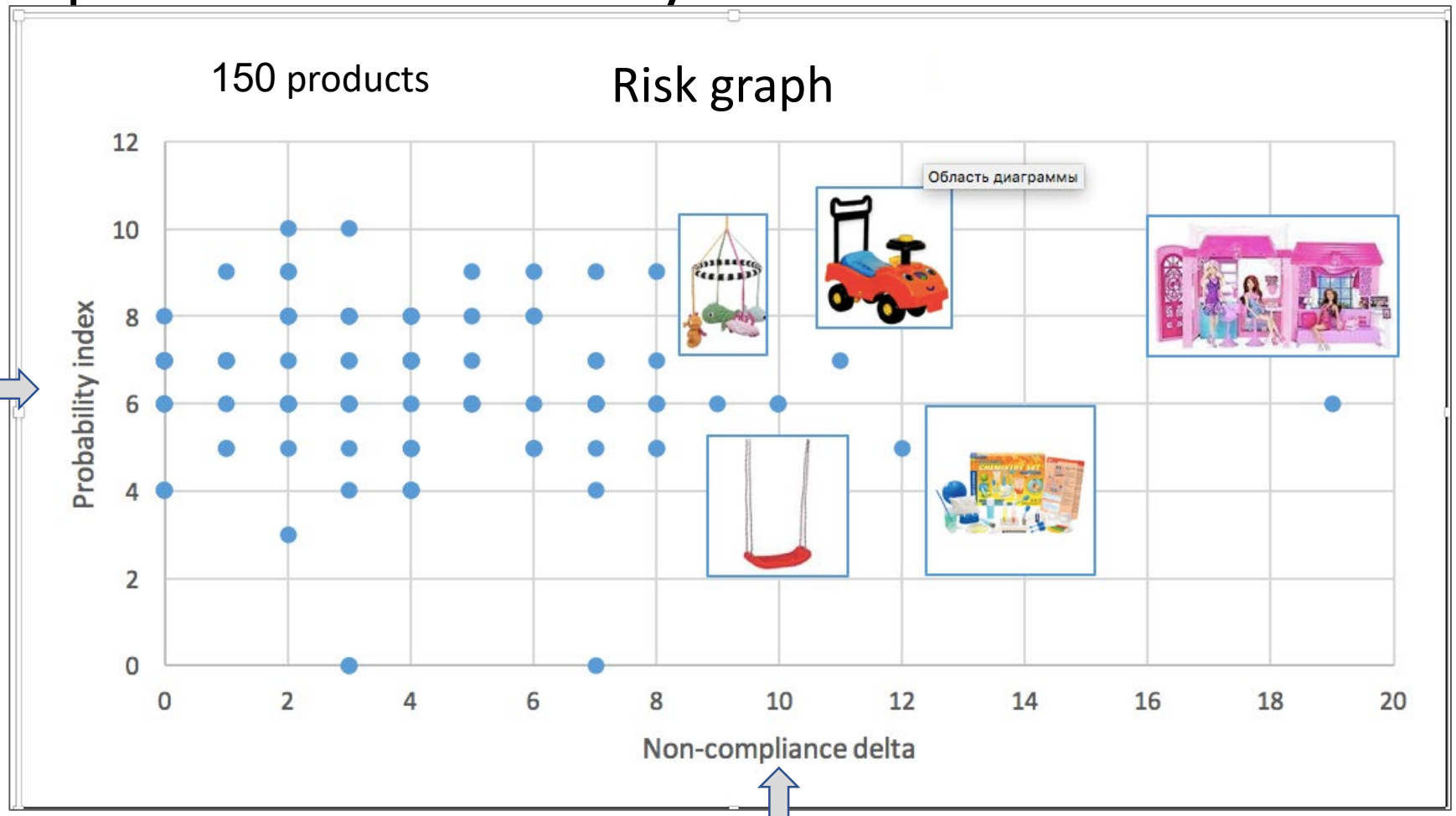
Risk Category	Level of confidence (%)	Level of infestation (%)
Low-risk	80	5
Medium-risk	90	2
High-risk	99	0.5

Number of units in lot	P = 95% (confidence level) % level of detection × efficacy of detection					P = 99% (confidence level) % level of detection × efficacy of detection				
	5	2	1	0.5	0.1	5	2	1	0.5	0.1
25	24*	-	-	-	-	25*	-	-	-	-
50	39*	48	-	-	-	45*	50	-	-	-
100	45	78	95	-	-	59	90	99	-	-
200	51	105	155	190	-	73	136	180	198	-
300	54	117	189	285*	-	78	160	235	297*	-
400	55	124	211	311	-	81	174	273	360	-
500	56	129	225	388*	-	83	183	300	450*	-
600	56	132	235	379	-	84	190	321	470	-
700	57	134	243	442*	-	85	195	336	549*	-
800	57	136	249	421	-	85	199	349	546	-
900	57	137	254	474*	-	86	202	359	615*	-
1 000	57	138	258	450	950	86	204	368	601	990
2 000	58	143	277	517	1553	88	216	410	737	1800
3 000	58	145	284	542	1895	89	220	425	792	2353
4 000	58	146	288	556	2108	89	222	433	821	2735
5 000	59	147	290	564	2253	89	223	438	840	3009
6 000	59	147	291	569	2358	90	224	442	852	3214
7 000	59	147	292	573	2437	90	225	444	861	3373
8 000	59	147	293	576	2498	90	225	446	868	3500
9 000	59	148	294	579	2548	90	226	447	874	3604
10 000	59	148	294	581	2588	90	226	448	878	3689
20 000	59	148	296	589	2781	90	227	453	898	4112
30 000	59	148	297	592	2850	90	228	455	905	4268
40 000	59	149	297	594	2885	90	228	456	909	4348
50 000	59	149	298	595	2907	90	228	457	911	4398
60 000	59	149	298	595	2921	90	228	457	912	4431
70 000	59	149	298	596	2932	90	228	457	913	4455
80 000	59	149	298	596	2939	90	228	457	914	4473
90 000	59	149	298	596	2945	90	228	458	915	4488
100 000	59	149	298	596	2950	90	228	458	915	4499
200 000+	59	149	298	597	2972	90	228	458	917	4551

Probability factors

International experience: elements of the framework present in many countries

- Many small unknown producers
- No well-known brand
- Compliance disincentives (cost difference between producing compliant-non-compliant product)
- Compliance tests are expensive/complicated
- No import checks
- /…
- Non-compliance growth (compared to the same period previous year)
- Product mostly sold in small shops
- There was a change in the standard
- Seasonal demand
- There is a non-compliance history abroad
- A consumer is willing to compromise quality
- There has been a change in the market structure



Must be stable when sitting on it	Put into the mouth	Releases kinetic energy	fingertraps	…	Without labelling can cause death

Conclusions

- The need to explicitly address the risk of product non-compliance in international trade
- Risk-based import compliance frameworks: trade facilitation without compromising safety
- Cooperation with Customs and efficiency of import compliance procedures
- New GRM recommendation to cover these issues
- Highly relevant subject