

Market Surveillance a Subelement of Metrological Supervision

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Importance of Market Surveillance (see Blue Guide Item 8.1)



- Market surveillance is an essential tool for the enforcement of New Approach directives.
- The purpose of market surveillance is to ensure that the provisions of applicable directives are complied with across the Community. Citizens are entitled to an equivalent level of protection throughout the single market, regardless of the origin of the product.
- Further, market surveillance is important for the interest of economic operators, because it helps to eliminate unfair competition.
- Member States must nominate or establish authorities to be responsible for market surveillance. These authorities need to have the necessary resources and powers for their surveillance activities, ensure technical competence and professional integrity of their personnel, and act in an independent and non-discriminatory way respecting the principle of proportionality.
- Notified bodies should, basically, be excluded from the responsibility of market surveillance activities. This is to avoid conflicts of interest.

Importance of Market Surveillance



It is caused by New Approach for Legislative Framework with the aim to break trading barriers.

see: http://ec.europa.eu/enterprise/policies/single-market-goods/documents/new-legislative-framework/index_en.htm



The screenshot shows the European Commission Enterprise and Industry website. The main navigation bar includes links for Sitemap, Search, About this site, Contact, Legal notice, RSS, and English (en). The breadcrumb trail reads: European Commission > Enterprise and Industry > Policies > ... > Reference documents > New legislative framework.

The page title is "Single market for goods" with the subtitle "Reference documents: New Legislative Framework".

The left sidebar menu includes: Enterprise and Industry, Single market for goods, Reference documents (selected), New Legislative Framework, Blue guide, Technical barriers to trade, Free movement for non-harmonised sectors, New approach and the global approach, Regulated sectors, Fighting late payments, and Liability for defective products.

The main content area lists three reference documents:

- Regulation (EC) No 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State and repealing Decision No 3052/95/EC
- Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93
- Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC

Below this, the "Other reference documents" section includes:

- Blue guide
- Pink Book (408 KB)

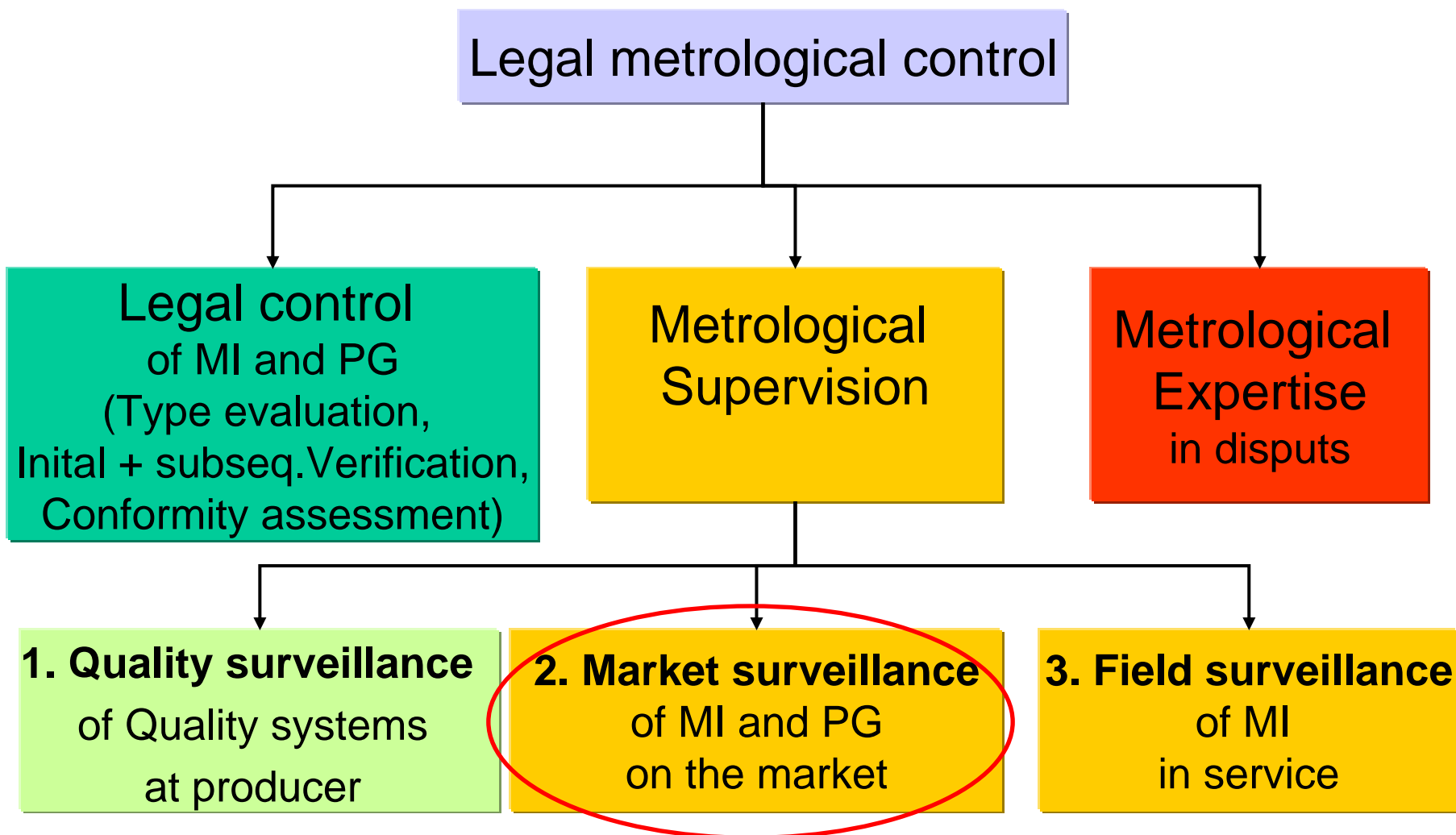
The legislation applicable to measuring instruments is covered by two *New Approach* directives by EC:

- 1.2009/23/EC relating to non-automatic weighing instruments (NAWI directive) and
- 2.2004/22/EC relating to measuring instruments (MID)

for

- 1.water meters,
- 2.gas meters and
- 3.volume conversion devices,
- 4.active electrical energy meters,
- 5.heat meters and their subassemblies,
- 6.measuring systems for continuous and dynamic measurement of quantities of liquids other than water,
- 7Automatic weighing instruments,
- 8.taximeters,
- 9.material measures, dimensional measuring instruments, and
- 10.exhaust gas analysers.

Elements of Legal metrological control (see OIML D9)



*Definition: “ **Market surveillance**”*

Form of metrological supervision aimed at a measuring instrument and prepackage which is placed on the market and/or put into service for the first time, to ensure that all the elements of the conformity assessment system work properly and result in general compliance of the products with the provisions of the applicable regulations across a country or free trade Area.

(see OIML D9, Item 2.26)

The purpose of market surveillance is twofold:

- to ensure equivalent consumer protection throughout the given area regardless of the origin of the product, especially in a liberalized conformity assessment system; and
- to serve the interest of economic operators in helping to eliminate unfair competition.

Tasks of market surveillance:

- to ensure that measuring instruments or prepackages bearing the required markings are only placed on the market and/or put into service if the corresponding requirements have been met.
- to ensure that conformity assessment procedures or metrological control of prepackages and the performance of customs authorities in relation to imports, are working properly and effectively throughout a country or a free trade area, to achieve the level of consumer protection established by law.

It is a complementary activity to the metrological controls over instruments and prepackages at the market stage (and subsequent use).

European Documents on LM regarding Market Surveillance

WELMEC-Guides:



Chairperson
Chairperson's Office

Guide Index

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MC Certificates

Please click on the title of the guide you wish to view. This will take you to details of the guide and choose any language preferences (if Portable Document Format (PDF) has now been adopted as the format to download the Adobe Acrobat reader here.

Guide	Title
1	An Introduction to WELMEC
2	Directive 90/269/EEC: Common A
2.1	Guide for Testing Indicators
2.2	Guide for Testing Point of Sale
2.3	Guide for Examining Software
2.4	Guide for Load Cells
2.5	Guide for Modular Approach and Testing of PCs and Devices

5.1	European Directory of Legal Metrology	-	WG5 (Market supervision)
5.2	Market Surveillance Guide (NAVVI and MID)	2	WG5 (Market supervision)
6.0	Introduction to WELMEC documents on "e"-marked prepackages	2	WG6 (Prepackages)
6.1	Application of Directives 75/106/EEC and 76/211/EEC concerning the marking and quantity control of e-marked prepackages: Definition of terms	1	WG6 (Prepackages)
6.2	An Application of Directives 75/106/EEC and 76/211/EEC concerning the marking and quantity control of e-marked prepackages: Translation of terms	1	WG6 (Prepackages)
6.3	Guidance for the Harmonised Implementation of Council Directive 76/211/EEC	1	WG6 (Prepackages)
6.4	Guide for packers and importers of e-marked prepacked products	1	WG6 (Prepackages)
6.5	Guidance on Controls by Competent Department's on "e" marked Prepackages	1	WG6 (Prepackages)
6.6	Guide for recognition of procedures	1	WG6 (Prepackages)
6.7	Guidance for Market Control on Prepackages For Competent Departments		Secretariat
6.8	Guidance for the Verification of Drained Weight, Drained Washed Weight and Deglazed Weight and Extent of Filling of Rigid Food Containers	1	WG6 (Prepackages)
7.1	Software Requirements on the Basis of the Measuring Instruments Directive (MID)	2	WG7 (Software)
7.2	Software Guide (Measuring Instruments Directive 2004/22/EC)	3	WG 7 (Software)

Documents for market surveillance of MI and PG

Item: 2.6. Market surveillance must take place between t_1 (placing on the market) and t_2 (putting into use). The following diagram clearly illustrates this process. This diagram presents the general pragmatic principle:



Placing on the market and putting into service/use



Placing on the market

- is the initial action of making a product available for the first time on the Community market, with a view to distribution or use in the Community.
- Making available can be either for payment or free of charge.

Putting into service

- takes place at the moment of first use within the Community by the end user.

However, the need to ensure, in the framework of market surveillance, that products are in compliance with the provisions of the directives when being put into service is limited.

A product must comply with the applicable New Approach directives when it is placed on the Community market for the first time and put into service.

(see BlueGuide)

Activities of Market Surveillance in Case of Non-Compliance



Dealing with non-systematic failure (MSGuide, Item2.13.)

If a market surveillance authority (MSA) discovers a non-systematic failure,

⇒ the authority takes care that the instrument is brought into conformity with the directive and

If compliance is not achieved

⇒ MSA necessary informs the other MSA's.

Dealing with a systematic failure of an instrument to comply with the provisions of the directive **and / or the systematic failure presents a risk**

⇒ The following procedure is necessary (MSGuide, Item 2.4...) :

1. The evaluation of the non-compliances shall, whenever possible, be carried out with the relevant stakeholders, e.g. the manufacturer, importer, distributor or other parties concerned.

2. The MSA contacts the manufacturer, or his authorised representative, or when these contacts cannot be established, any other persons having made the instrument available in the EU.

... see next Page

Activities of Market Surveillance in Case of Non-Compliance



3. The MSA should also contact the responsible MSA in the country of manufacture to ensure efficient market surveillance at a European level.
4. The MSA will then require the manufacturer, or importer to take corrective action to bring the instrument/s into compliance or withdraw it/them from supply throughout the EU.

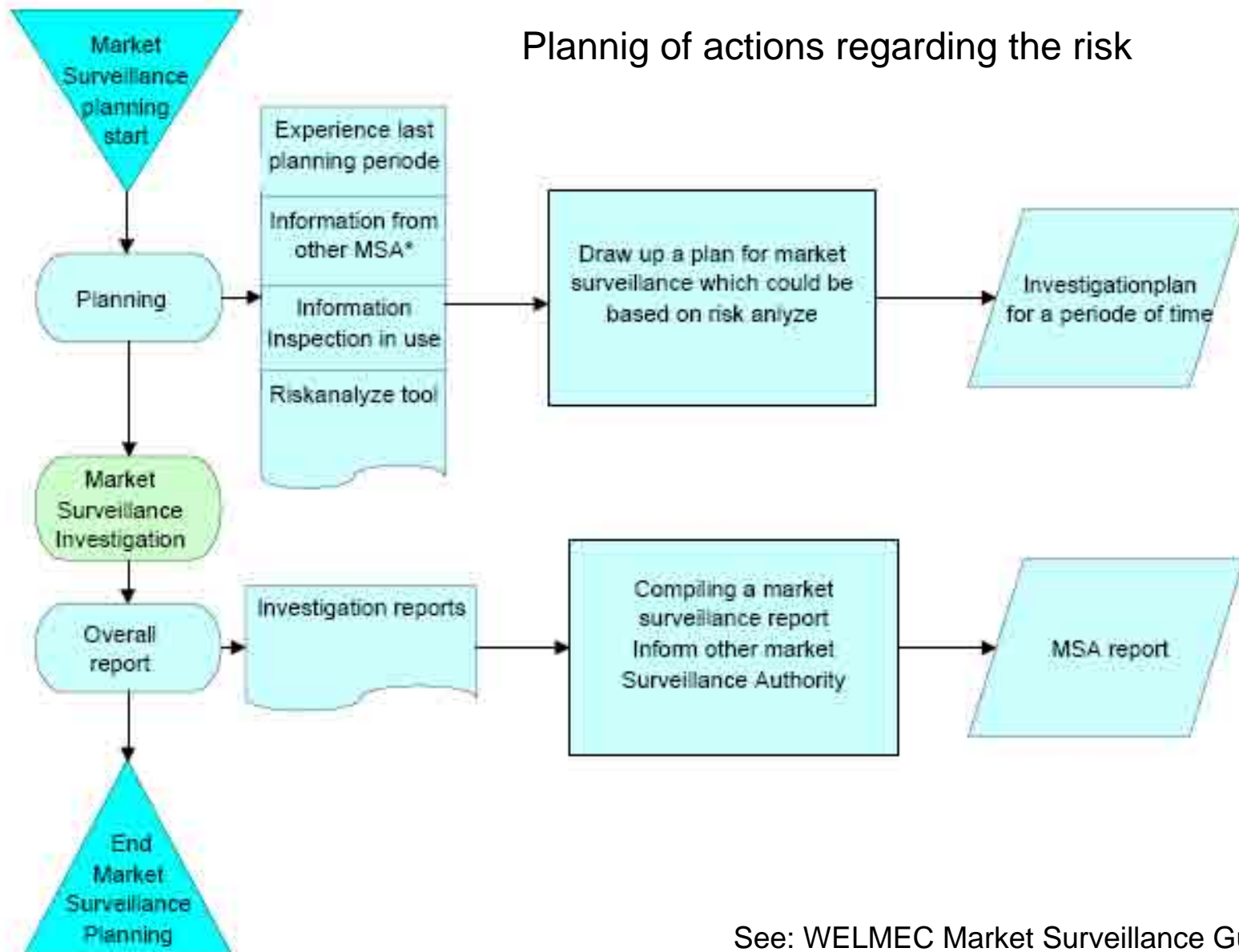
If the manufacturer, importer, distributor agrees to this requests

- => The MSA informs the Commission and other member states in order to enable them to verify that the corrective actions are effectively implemented throughout the EU.

If the manufacturer, importer, distributor does not agree to the corrective action, or refuses to withdraw the instrument;

- => the MSA shall ensure the instrument is withdrawn from its own national market.
- => The national MSA shall trigger the community procedure and notify the Commission and other member states, explaining the reasons for its decision and ask other member states to do the same and if not to provide an explanation.

Plannig of actions regarding the risk

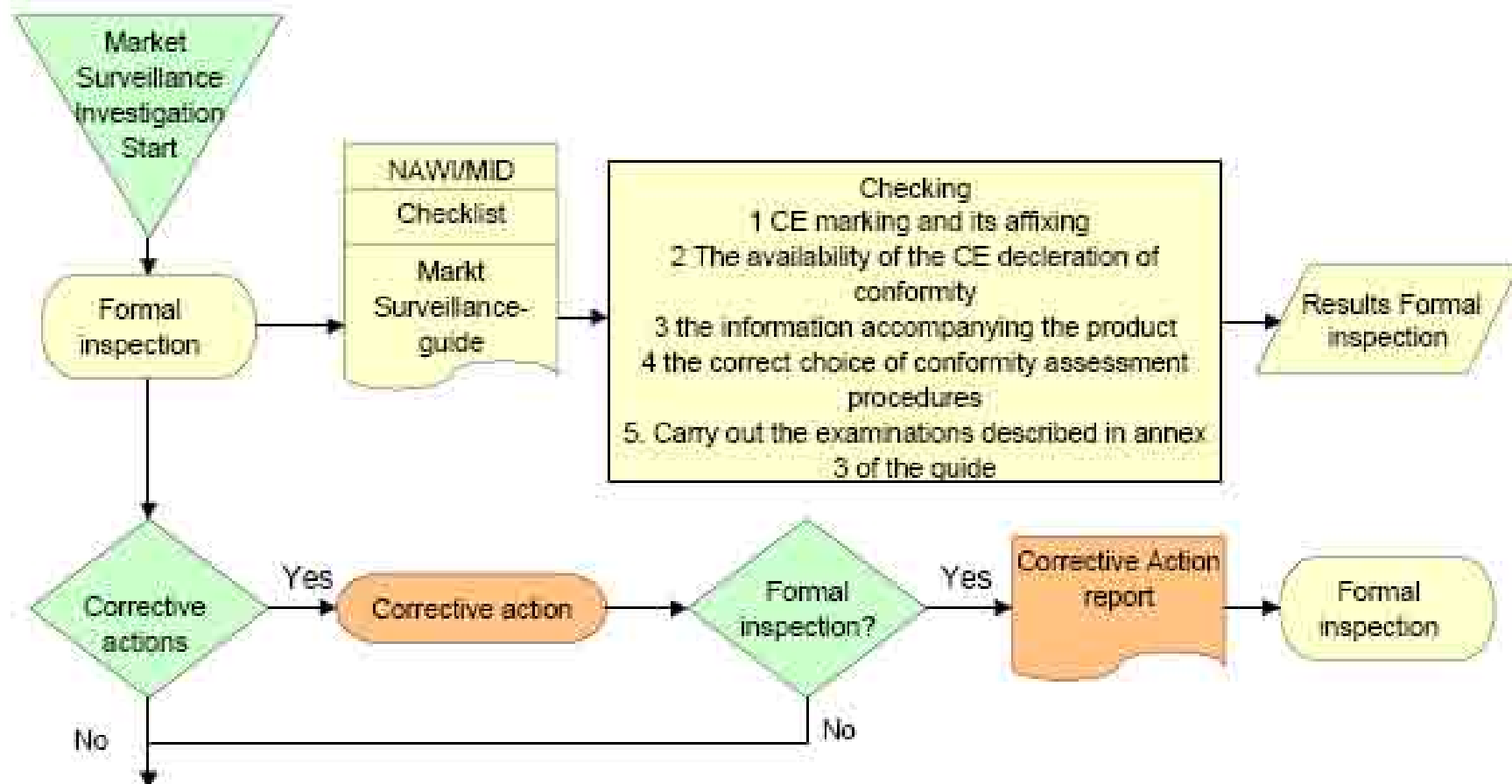


* MSA = Market Surveillance Authority

See: WELMEC Market Surveillance Guide WG 5.2

Recommendation for Realization of Market Surveillance

Investigation – **Step 1 Formal Inspection**



See: WELMEC Market Surveillance Guide WG 5.2

MS Guide, Annex 3: Examinations and tests which can be carried out.

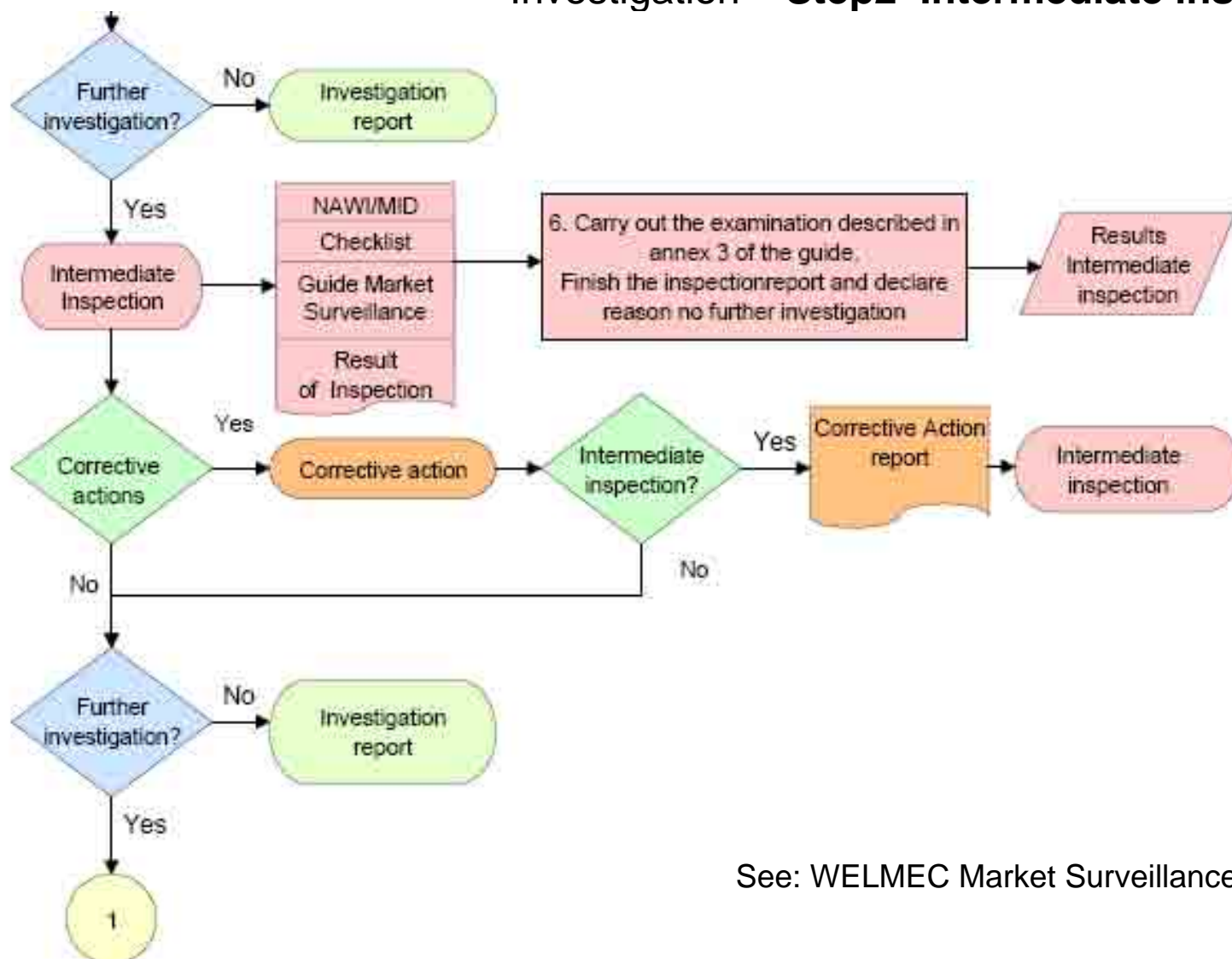
1. Formal Inspection:

- 1.1. Check CE marking and other markings and inscriptions are present and correct
- 1.2. Check for the presence and accuracy of Declarations of Conformity
- 1.3. Check for the availability and accuracy of any other technical documentation with the instrument, e.g. type approval certificate or information under 9.3 of Annex 1 of the MID
- 1.4. The correct choice of the conformity assessment procedure and the surveillance reports of the notified body.
- 1.5. The following examinations and tests may be carried out:
 - Maximum permissible errors (MPE's)
 - fraudulent use; user access to components
 - Indications direct sales to the public, and any other requirements suspected to be relevant
 - identification and security of any software
 - presence and operation of approved functions

See: WELMEC Market Surveillance Guide WG 5.2

Recommendation for Realization of Market Surveillance

Investigation – **Step2** Intermediate inspection

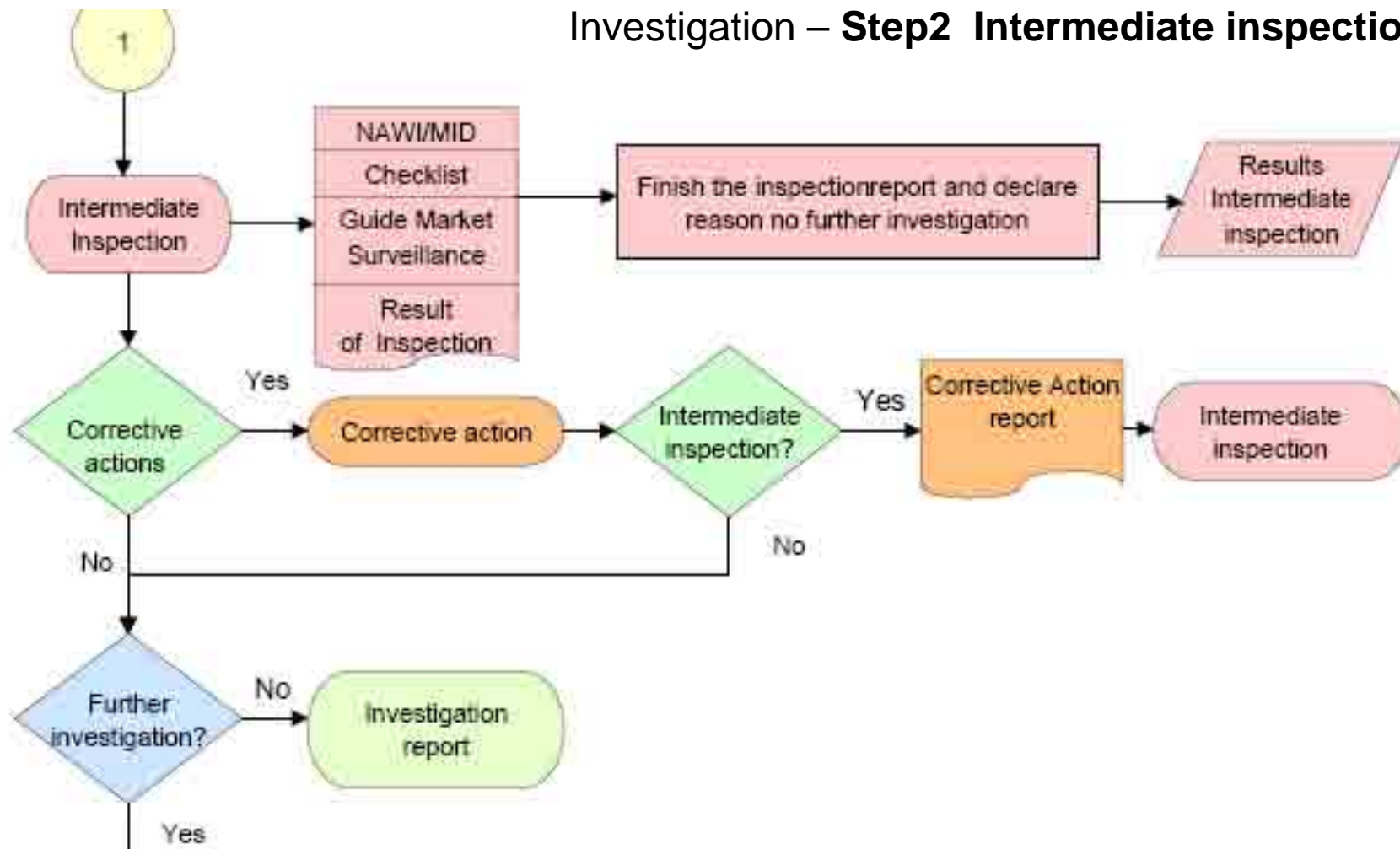


See: WELMEC Market Surveillance Guide WG 5.2

Recommendation for Realization of Market Surveillance



Investigation – **Step2 Intermediate inspection**



See: WELMEC Market Surveillance Guide WG 5.2

MS Guide, Annex 3: Examinations and tests which can be carried out.

2. Intermediate Inspection

2.1. This would include all of the above and a more detailed examination of the type approval certificate and the associated technical documentation.

2.2. This may include checking the metrological characteristics of the instrument, including compliance with the MPE's.

3. Detailed Inspection

3.1. Detailed Inspection would include all of the above;

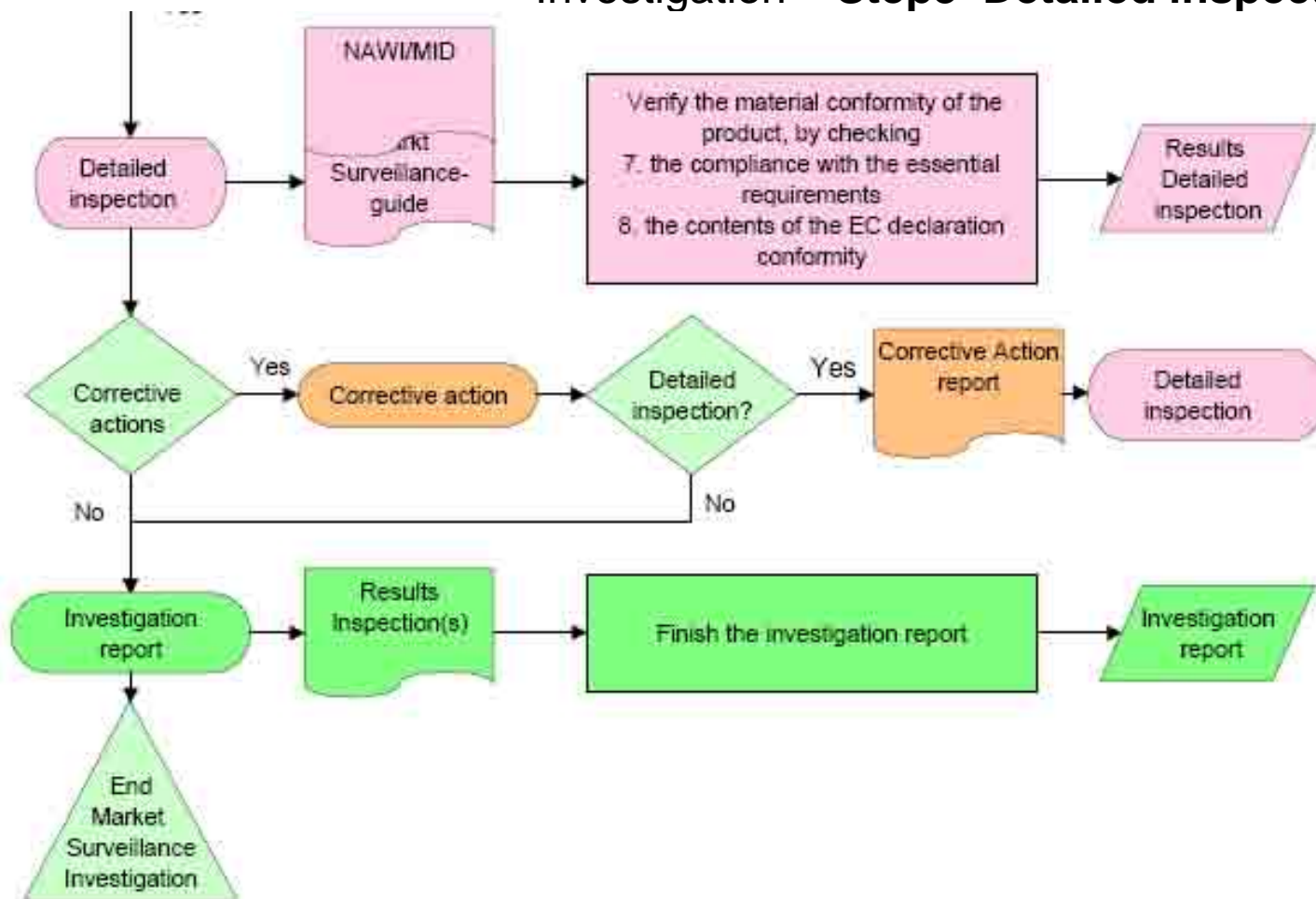
3.2. It would also include appropriate testing to ensure any instrument complied with all aspects of the Essential Requirements.

3.3. These tasks may subcontracted technical to another body; provided that it retains the responsibility for its decisions and that there is no conflict of interest between the other body's conformity

See: WELMEC Market Surveillance Guide WG 5.2

Recommendation for Realization of Market Surveillance

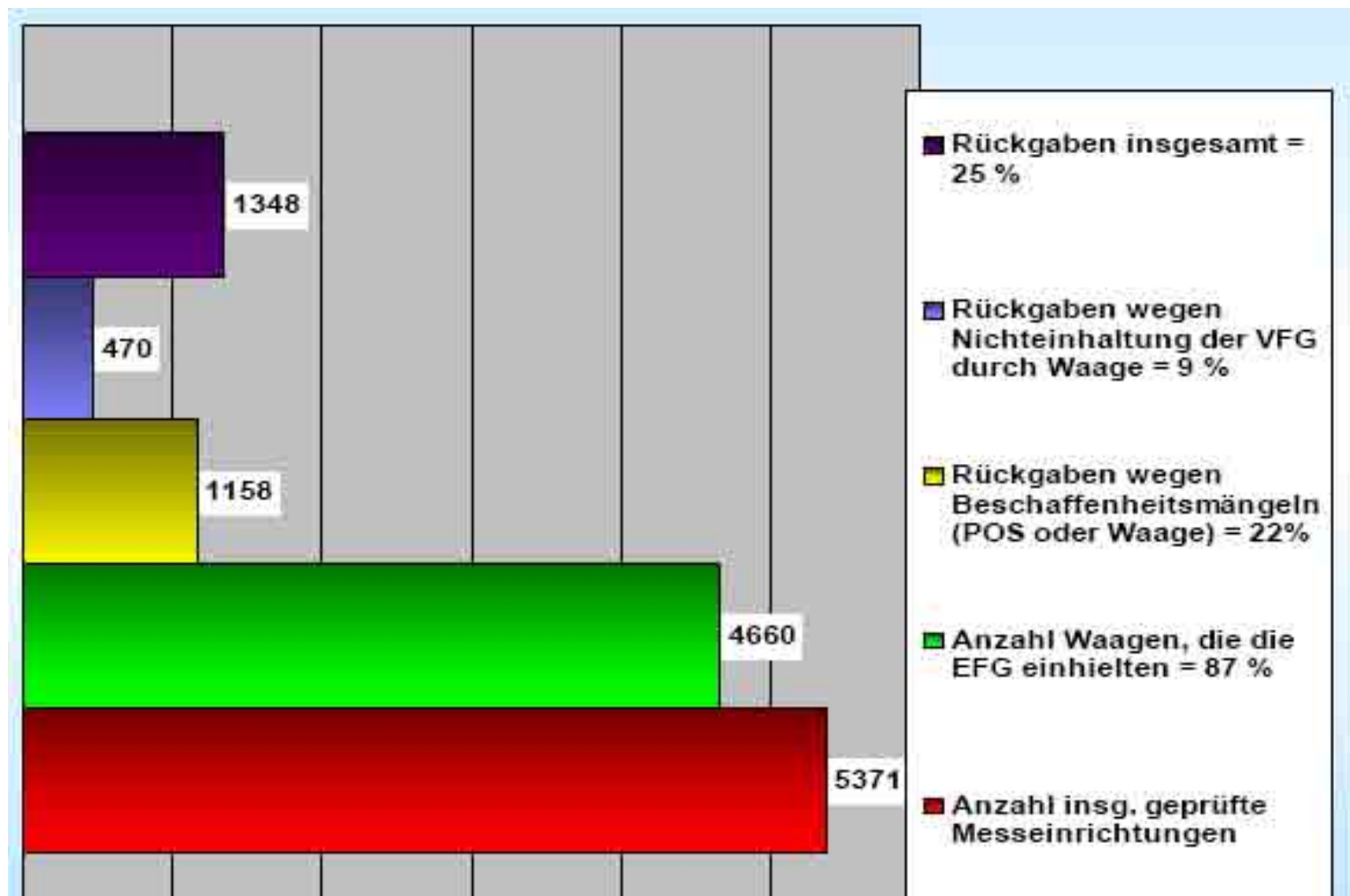
Investigation – **Step3 Detailed inspection**



See: WELMEC Market Surveillance Guide WG 5.2

Systematic Planning of MS-Actions => MS-Programm

- Risk analysis based on information of return quotes of non-compliant measuring instruments (MI) – exceeds of MPE's
- Information on suspect behavior of MI 's in use (from customer, consumer protection agencies)
- Information about new MI's based on trade fair (new product features , new technologies)
- Information on fail declared MI's on import by customs authorities
- Information exchange between the MSA 's in Germany on suspect MI's (database of subject MI's exist and is supported by collaboration of MSA's in Germany)
- Getting information from MSA's in EU (contacting network exist)



AGME Extranet - Microsoft Internet Explorer von der ED-EDV

Adresse: <https://extranet.eichamt.de/>

AGME Extranet Joachim Rebholz

Home Vorschriften **Überwachung** DAM Gremien Fachausschüsse Metrologische Dienste Admin Test Archiv

extranet Überwachung

Gesamtliste

Vorauswahl **Gesamtliste** Meldung eingeben Eingabekorrektur Suchen Hilfe Vorsitzender Recherche

Gesamtliste der freigegebenen SAM-Meldungen

Eräuterung: Nr = Fortlaufende Nummer der Meldungen / V = Nummer des Vorgangs zu einer gleichartigen Meldung

EO	Nr	V	Messgeräteart	Art der Auffälligkeit	Eingabedatum	Meldung von
EO 23	100	U	EO 22 Ortsdosimeter	Einheitenangabe falsch	05.02.2002	BY ED Bayern
EO 22	99	0	EO 22 Wärmehzähler	Hohe Ausfallrate von Wärmehzählerrechenwerken wegen Verwendung ungeeigneter Batterien.	31.07.2000	BY ED Bayern
EO 22	98	0	EO 22 Wärmehzähler	Falsche Zulassungsnummer auf Durchflusssensoren für Wärmehzähler Identische Jahresbezeichnung bei nat.....	17.05.2000	BW ED Baden-Württen
EO 22	97	0	EO 22 Wärmehzähler	Nicht in die Zulassung /Eichung/Beglaubigung einbezogene Impusanpassung zwischen Volumenmesstell un....	06.03.2000	SH ED Schleswig-Hols
EO 20	96	0	EO 20 Elektrizitätszähler	Stillstand des Rollenzählwerks	20.11.2002	NW ED Nordrh.-Westf.
EO 20	95	1	EO 20 Elektrizitätszähler	Fehlerhafte Elektrizitätszähler durch defektes Bauteil.	26.07.2002	BW ED Baden-Württen

Thank you for attention

- [1] Blue Guide: 2000 *Guide to the Implementation of Directives Based on New Approach and Global Approach*
http://ec.europa.eu/enterprise/policies/single-market-goods/documents/new-legislative-framework/index_en.htm
- [3] OIML D16:2011 *Principles of assurance of metrological control*
- [4] OIML D 9:2004 *Metrological supervision.*
- [5] MSGuide:2007 *WELMEC-Market Surveillance Guide (NAWI and MID)*