


Official investigations related to EU organic production

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authent

MINISTRY OF AGRICULTURE
AND FOOD INDUSTRY
OF THE REPUBLIC OF MOLDOVA

South Eastern Europe
SWG RRD
Regional Rural Development Standing Working Group

GFA
CONSULTING GROUP
General Agent BMEL
Berlin Office

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Federal Ministry
of Food
and Agriculture
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Organic Working Group, APD SEE, 18 December, 2024

Session III: Official Investigations in EU organic production
Date: 18 December 2024

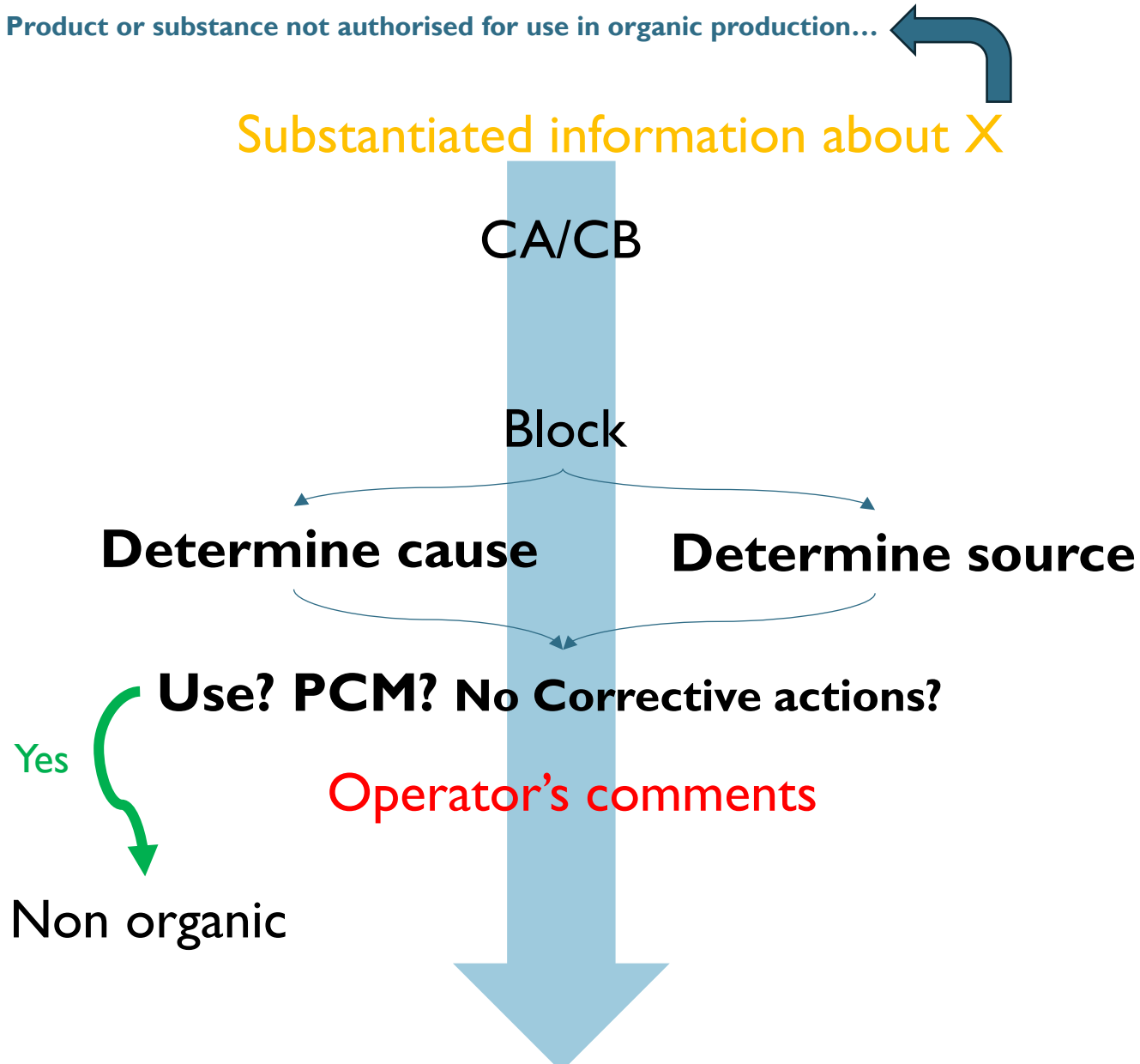
Training Agenda:
- **09:00 – 09:15** | Introduction
- **09:15 – 10:00** | Legal framework (EU & non-EU countries)
- **10:00 – 11:00** | Hypothesis based investigations (incl 10 min sanitary break)
- **11:00 – 12:00** | Collecting objective evidence and decision making
- **12:00 – 13:00** | Lunch Break
- **13:00 – 14:30** | Case studies (incl 10 min sanitary break between cases)
- **14:30 – 15:30** | Q&A Session
- **15:30 – 16:00** | Summary and planning of action/follow up

Official investigations Introduction

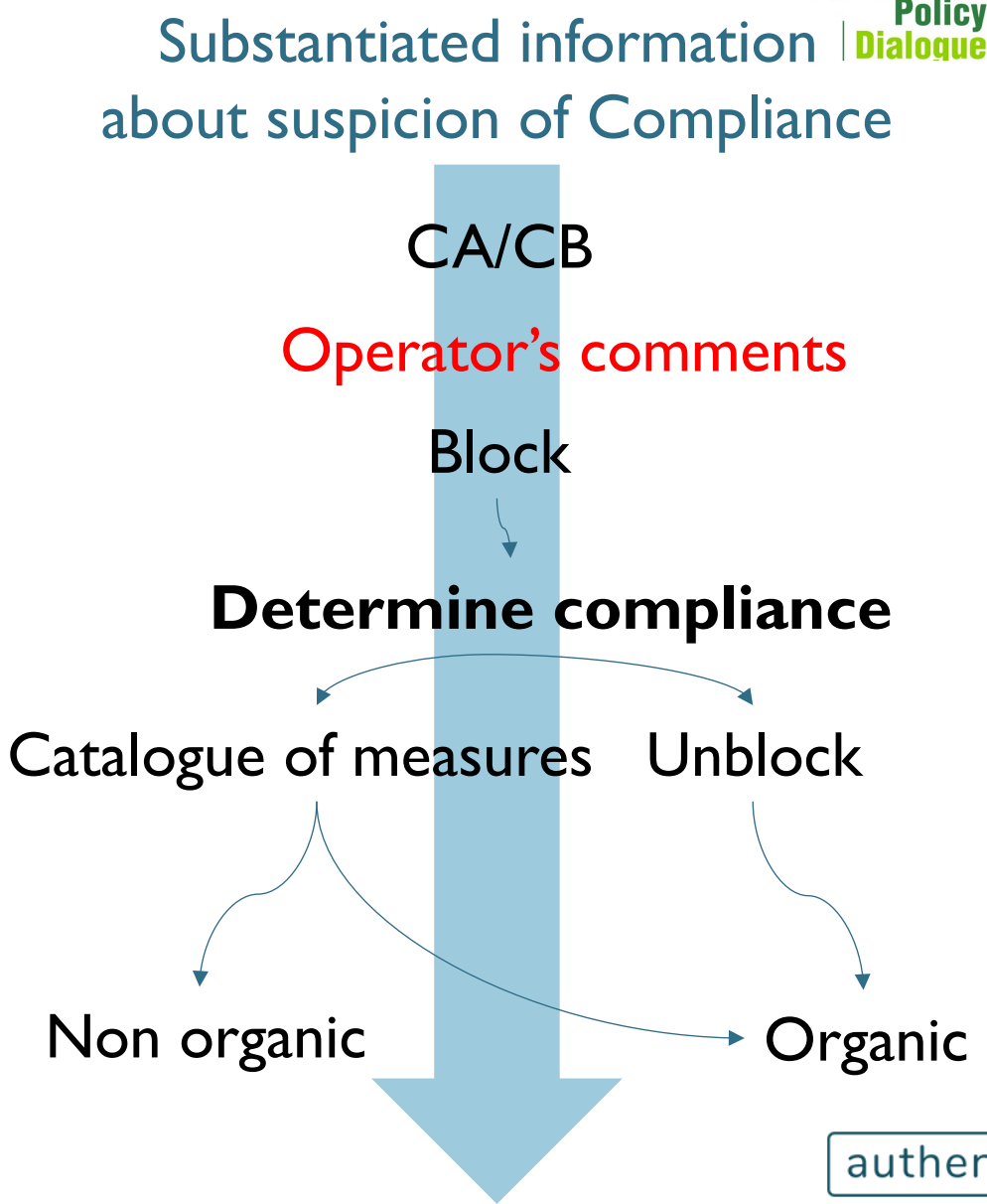
Type 1: Specific case of presence of prohibited substances (EU and non-EU)

Type 2: General case of suspicion (EU and non-EU)

2. Official investigation type I



2. Official investigation type 2



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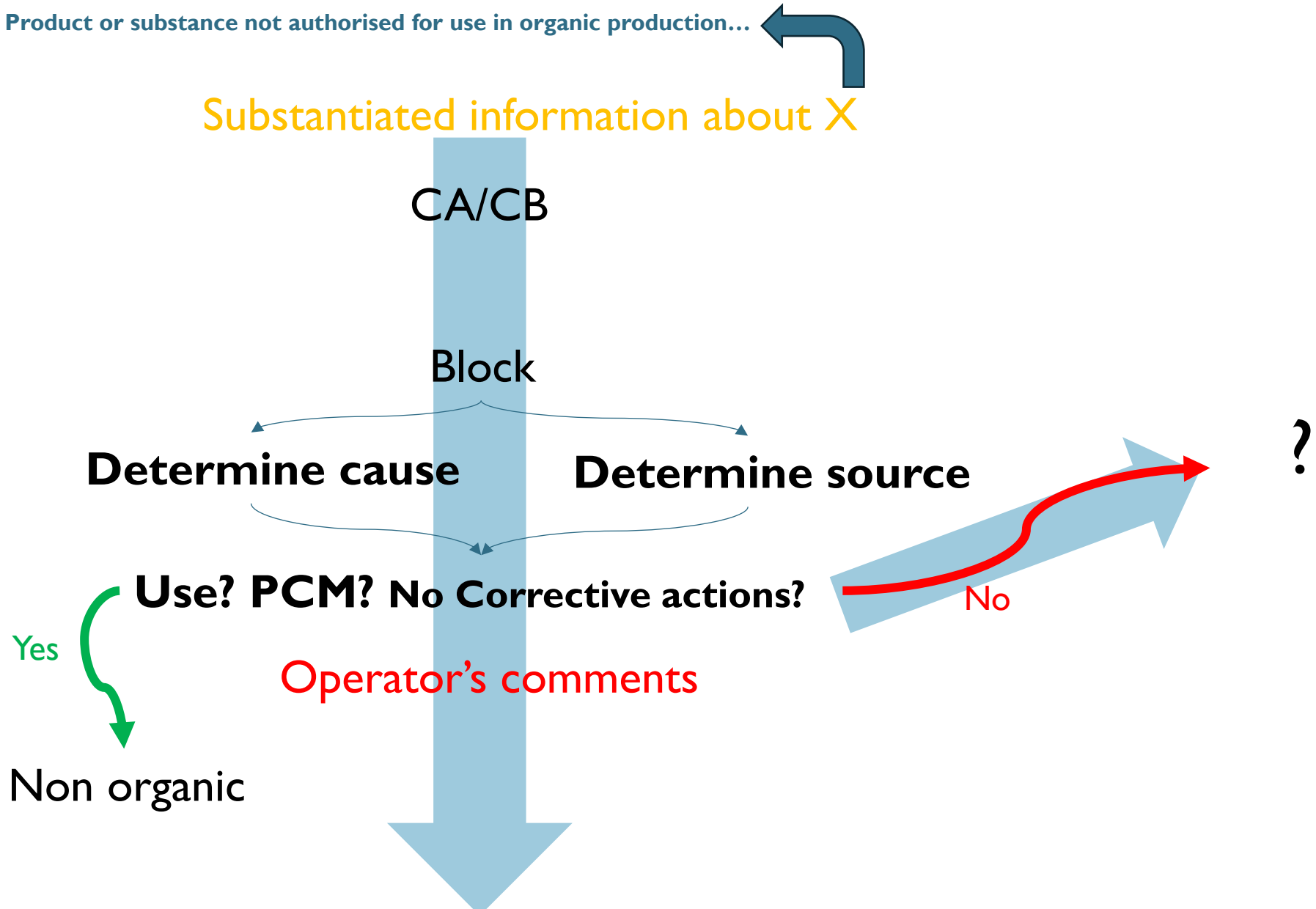
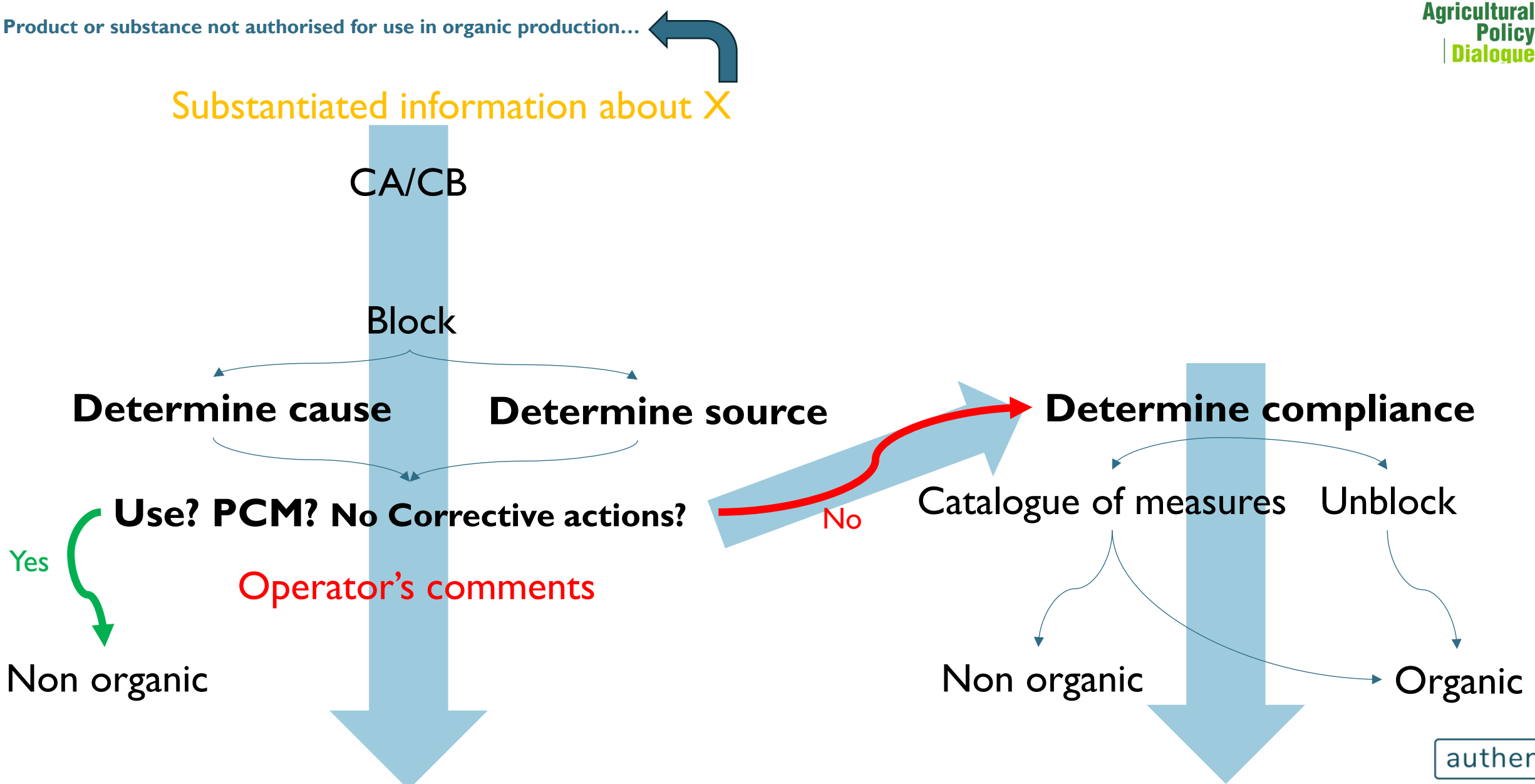
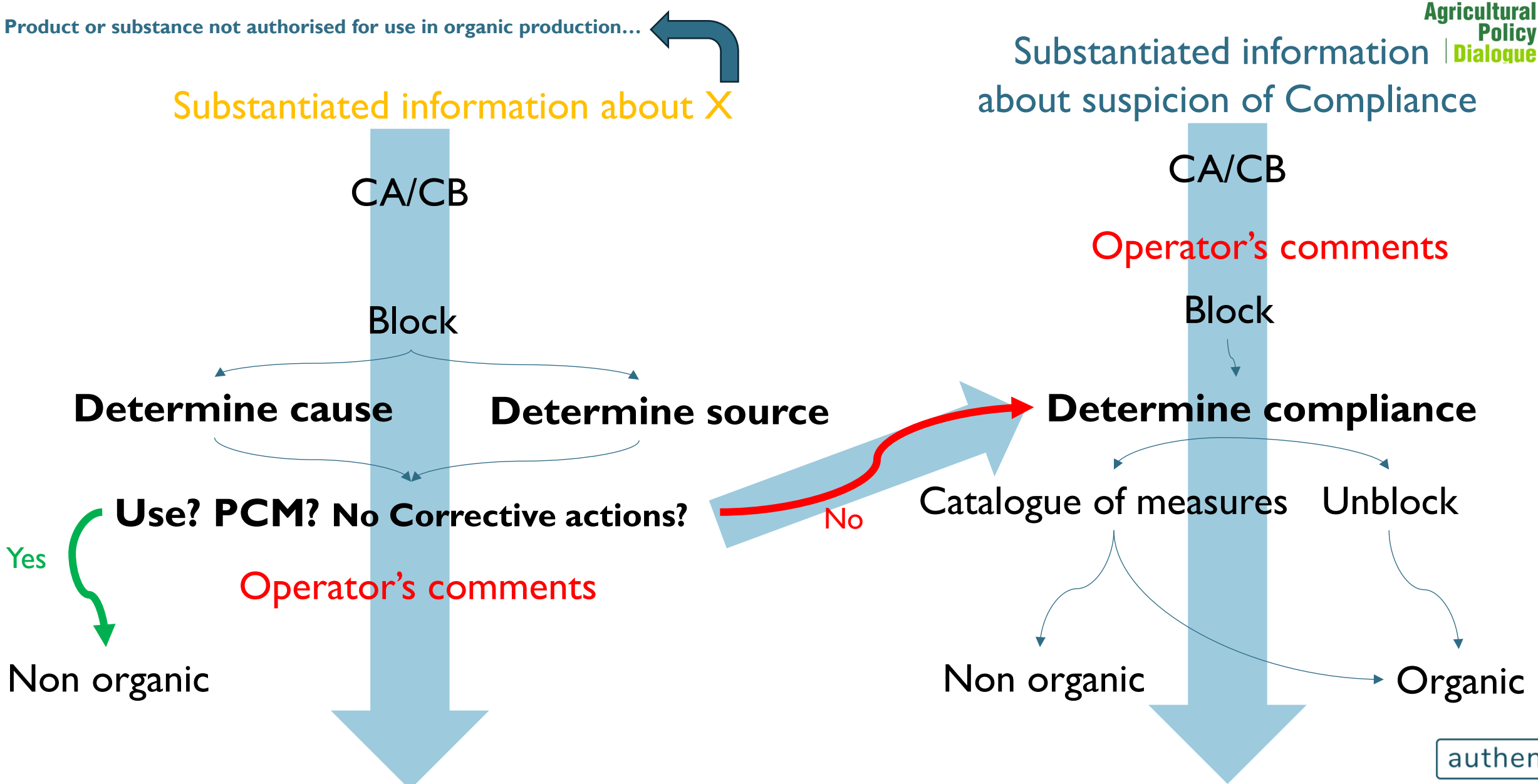


2. Official investigation type I

Product or substance not authorised for use in organic production…



2. Official investigation type I & 2



Official investigations: Introduction

1. Type 1: Specific case of presence of prohibited substances (EU)
2. Type 2: General case of suspicion (EU)

1. Type 1: Specific case of presence of prohibited substances (non-EU)
2. Type 2: General case of suspicion (non-EU)

Same approach, different legal bases for compliance
"in the EU" and "in non-EU" countries

Official investigations: Type I

Specific case of presence of prohibited substances (EU and non-EU)

Official investigations: key phases embedded in legislation

	2 types Key phases	EU		Non-EU (compliance cfr Art 46)	
		Suspicion due to X	General suspicion	Suspicion due to X	General suspicion
1	Substantiated info about …				
2	Blocking				
	Aim of the investigation …				
	Collecting objective evidence				
3	Unblock in case of absence of NC affecting integrity				
	Decertify lot / suspend or withdraw certificate if …				
	Document				
4	Exchange of information				

Official investigations: legal bases

	EU		Non-EU (compliance cfr Art 46)	
	Suspicion due to X	General suspicion	Suspicion due to X	General suspicion
Substantiated info about …	Presence: 848.29.1 279.2 2nd expert opinion: 625.35		Presence: 848.29.1 279.2	
Blocking	848.29.1b		848.29.1b	
Aim of the investigation …	Determine Source & Cause: 848.29.1a		Determine Source & Cause: 848.29.1a	
Collecting obj evidence	279.2 (625.14)		279.2 (1698.11)	
Unblock in case of absence of NC affecting integrity	Reference to 848.29 in 848.41 => 848.41.2 applies		Reference to 848.29 in 1698.22.1 => 1698.22.2 applies	
Decertify lot / suspend or withdraw certificate if …	848.29.2		848.29.2	
Document	848.29.6		848.29.6	
Exchange of information	848.29.3 (operator > blocking) 848.29.9 (MS - Commission) 848.43 279.9 + Ann II		848.29.3 (operator > blocking) 1698.20 1698.21 + Ann III	

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Agricultural Policy Dialogue

Legal framework (EU) (type 1 & 2)

Regulation (EU) 2017/625

Art 137: intensified official controls and detention (blocking)

Art 14: methods and techniques:

-examination of the results of the operators' own controls

-inspections (on-site and documentary)

-assessment of procedures (HACCP)

-examination of documents and records (traceability (incl identification as organic) mass balance (incl separation organic – non-organic)

-interviews

-verification of measurements and other test results

-sampling and analysis

-audits (financial traceability

Art 130: training and exchange of staff

-organic production/labelling rules

-control methods and techniques

Official investigations as part of official controls

https://aia.in.net/how-to-become-the-best-fraud-investigator

Legal framework (type 1)

Regulation (EU) 2018/848

Art 29

Upon reception of **substantiated information** about the presence of X not authorized for use in organic production

-immediately carry out an official investigation

-determine source and cause

-to verify compliance with the first subparagraph of Art 9(3) and with Art 28(1)

-provisionally prohibit the use / sale of the products pending the results of the investigation

Legal framework

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Regulation (EU) 2021/279

Art 2§1&2

-carrying out an official investigation means **determine at least**:

-name, lot id, ownership and physical location of the products concerned

-products still on the market or used

-type, name, quantity and other relevant information of the present non-authorized X

-stage of detection and precise location of detection of X (incl pre- or post-harvest)

-if other operators are affected

-result of previous official investigations on the products and operators concerned

-use appropriate methods and techniques (625.14)

Legal framework

Regulation (EU) 2018/848

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-determine source and cause

-to verify compliance with the first subparagraph of Art 9(3) and with Art 28(1)

-provisionally prohibit the use / sale of the products pending the results of the investigation

-**No reference to organic** if it has been established that the operator

-has used products/substances not authorized pursuant to Art 9(3) in organic production

-has not taken the PCM (28(1))

-has not taken measures in response to relevant previous requests

-The operator shall be given the opportunity to comment on the results of the investigation

Regulation (EU) 2021/279

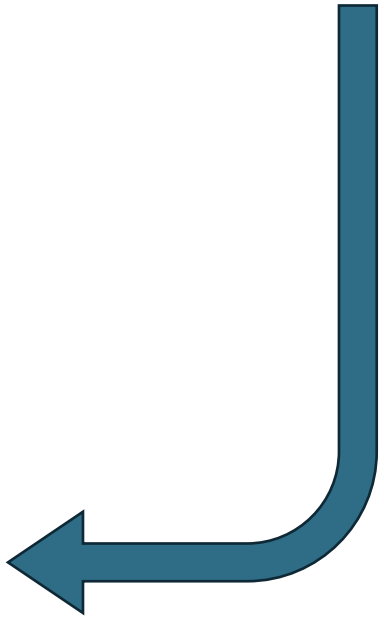
Art 2§3

-at least conclude on

-the integrity of the products

-the source and cause

-the use, the application of the PCM and the follow up of previous requests



Legal framework

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Regulation (EU) 2021/279

Art 2§4

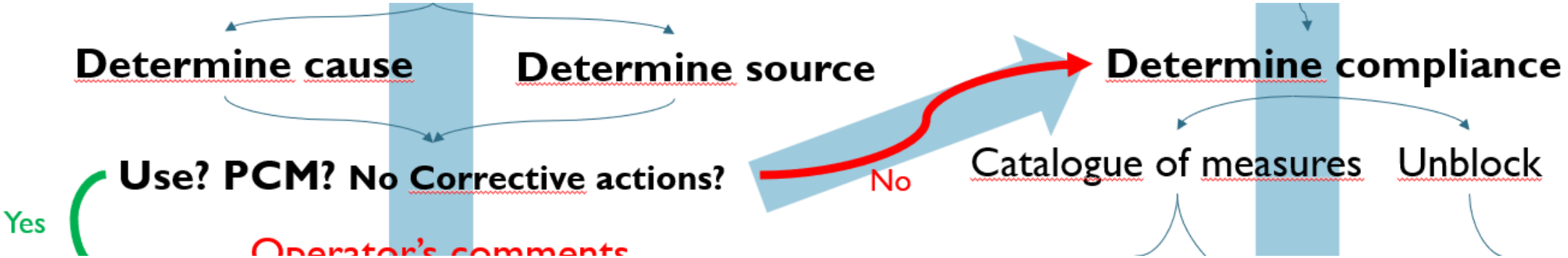
-CB shall draw up a final report for each official investigation containing the records of

-products, substances and operators concerned

-source and cause

-exchange of information

Legal framework if the source and cause is not -use -absence of PCM or -insufficient measures after previous cases?



Type I

Type 2

Legal framework (type 2)

Regulation (EU) 2018/848

Art 41

Substantiated information about an operator intending to use or place on the market which may not be in compliance but bearing references to organic

-immediately carry out an official investigation

-**determine compliance** with 2018/848

-the operator shall be given the opportunity to comment

-provisionally prohibit the use / sale of the products pending the results of the investigation

In the case of absence of NC affecting the integrity of the products, the operator shall be allowed to use /place on the market the products as organic

Art 42

In the case of NC affecting the integrity of the products, …

Legal framework (type 2)

Regulation (EU) 2018/848

Art 41

Substantiated information about an operator intending to use or place on the market which may not be in compliance but bearing references to organic

-immediately carry out an official investigation

-**determine compliance** with 2018/848

-the operator shall be given the opportunity to comment

-provisionally prohibit the use / sale of the products pending the results of the investigation

In the case of absence of NC affecting the integrity of the products, the operator shall be allowed to use /place on the market the products as organic

Art 42

In the case of NC affecting the integrity of the products, …

For EU organic production in Moldova and other non-EU countries where EU recognised bodies certify EU organic products

Regulation (EU) 2021/1698

Art 22

Substantiated information about an operator intending to use or place on the market products which may not be in compliance with Reg 2018/848 is intended to be imported but which bears terms referring to organic production

-immediately carry out an official investigation

-**verify compliance** with 2018/848

-the operator shall be given the opportunity to comment

-provisionally prohibit the import of that product for the purpose of placing it on the market as organic pending the results of the investigation

In the event of absence of NC affecting the integrity of organic products, those products shall be allowed to be used and labelled as organic.

Art 23

In the case of NC affecting integrity of the products …

Legal framework in practical situations
(based on the Vade mecum and Authent)

1. Substantiated information (848.29.1 and 5.2)

+ traceability of the sampled product: a must

+ sampling: accredited or at least complying with the sampling procedure of an (17020 or 17065) accredited body

+ quantifiable amount(s): [X] > Limit of Quantification

+ testing: not all useful analytical methods are accredited thus accreditation of the analytical method is preferred but at least the lab should hold 17025 accreditation

+ relevance of use to the product/substance combination

! covers use on the organic and conventional products in case of commingling

Attention for cases where some $[X_i] > LOQ$ and others are $LOD < [X_i] < LOQ$

Legal framework in practical situations
(based on the Vade mecum and Authent)

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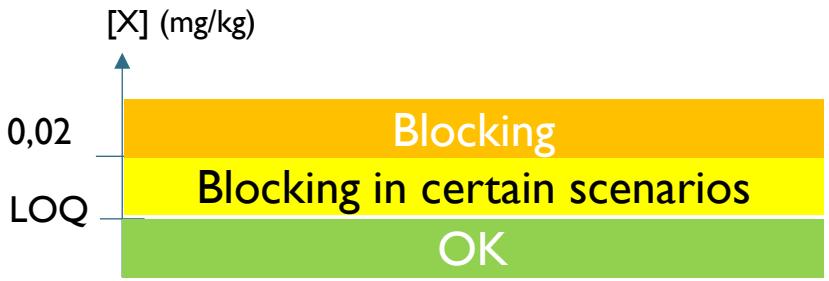
Attention for cases where some $[X_i] > LOQ$ and others are $LOD < [X_i] < LOQ$

- **No** processing factors application in relation to LOQ exceedance; only for communication purposes

- **No** application of the 50% measurement uncertainty: not applicable for organic

- thresholds (BNN, EOCC, …): **not** applicable

! However: **INAO (FR)** refers to 0,02 mg/kg



https://extranet.inao.gouv.fr/fichier/INAO-DEC-CONT-AB-1.pdf point 6.3.1

! certain product/substance combinations

? Contradicting information from analysis of sample A and B

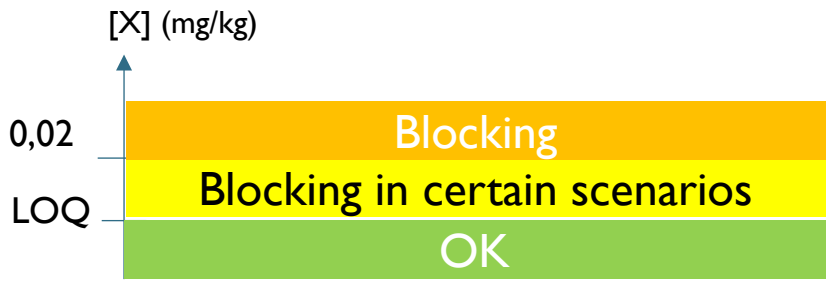
Case by case

Legal framework in practical situations
(based on INAO guidelines (France))

1. Substantiated information (848.29.1 and 5.2)

- thresholds (BNN, EOCC, …): **not** applicable

! However: **INAO (FR)** refers to 0,02 mg/kg



https://extranet.inao.gouv.fr/fichier/INAO-DEC-CONT-AB-1.pdf point 6.3.1

6.3.1 Evaluation of results

The CB must evaluate all the results of the analysis reports received.

In any case, if the analysis report reveals the presence of a single substance not authorized in AB at a concentration greater than or equal to 0.02 mg/kg without taking into account the uncertainty of the measurement (= reference value) a substantial/proven doubt exists and the CB must ask the operator to block the batches concerned.

This reference value does not apply and is reduced to the limit of quantification (without taking into account the uncertainty of the measurement), in the following cases:

- sampling in case of suspicion of non-compliant practice or cross-contamination,
- sampling from an operator at risk,
- sampling following an alert received,
- substance found is a herbicide (localized), or an insecticide on a matrix sampled post-harvest
- presence of several substances
- substance very quickly degraded (case of phosphine)
- complex matrix (complex or multi-ingredient processed products)

! In the event that the CB decides not to block batches despite the presence of an unauthorized substance above the reference value, it must justify this.

Legal framework in practical situations
(based on the Vade mecum and Authent)

1. Substantiated information (848.29.1 and Chapter 5.2)

2. Sources, causes and source and cause (the hypothesis) (848.29.1 and Chapter 3)

"Source and cause" is/are not defined in Reg 2018/848
The vade mecum adopts the principle that source and cause are one

Other approaches are also possible
(e.g. INAO (competent authority for controls B2B in France)
https://extranet.inao.gouv.fr/fichier/INAO-DEC-CONT-AB-1.pdf)

Legal framework in practical situations: sources
(based on the Vade mecum)

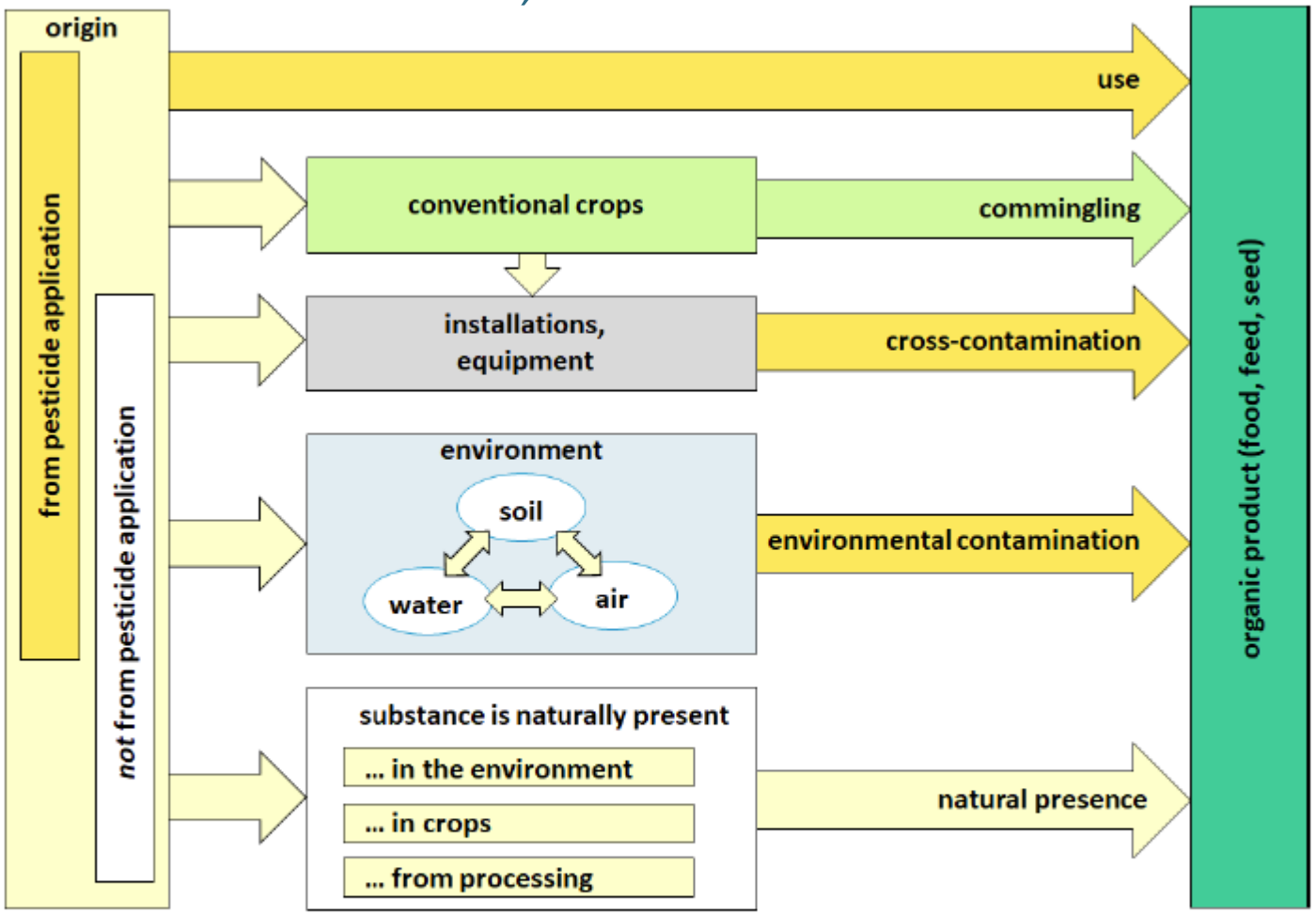


Figure 3.1: Relationship between the five contamination sources (use, commingling, cross-contamination, environmental contamination and natural presence) shown as yellow/light green arrows), pesticidal and non-pesticidal origin of substances and different contamination pathways in organic food production.

How did it happen?

Verlet & Neuendorff et al. (2024): A vadeMecum on Official Investigations in organic products. Good Implementation practices for Art 28 and 29 of Regulation (EU) 2018/848. www.anti-fraud-initiative.org

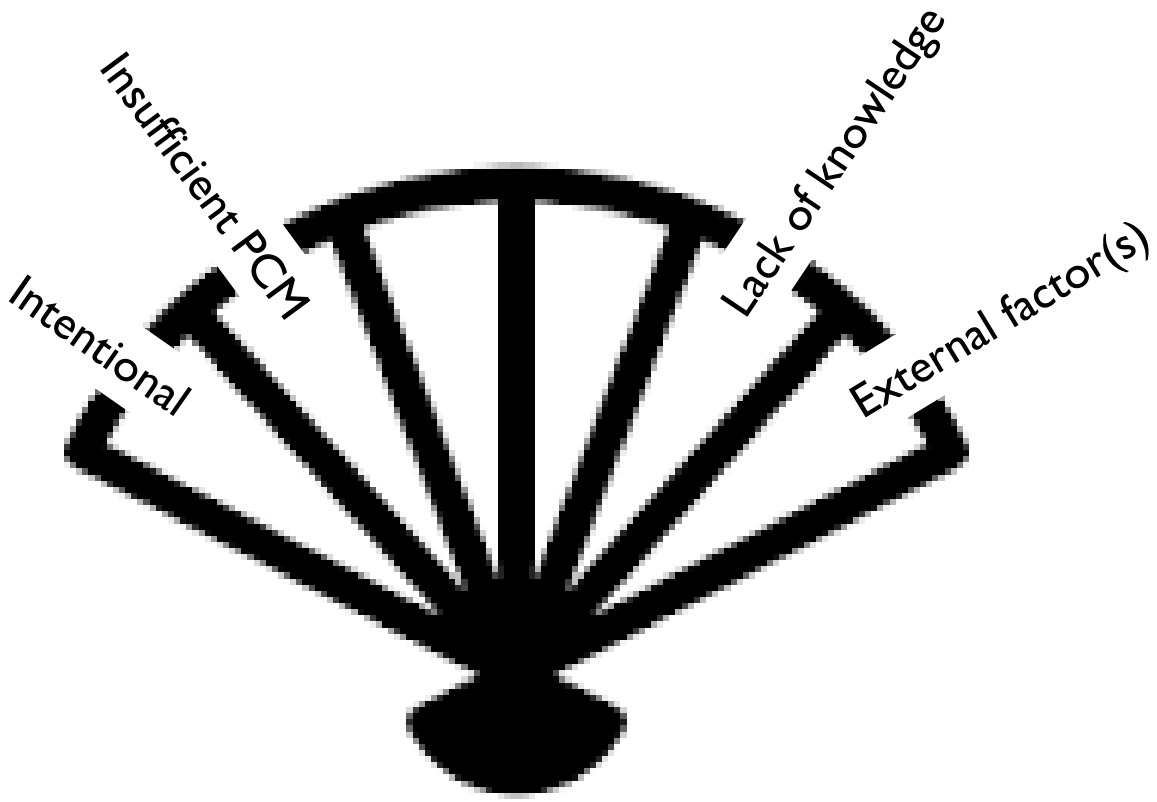
Legal framework in practical situations: causes

(based on the Vade mecum and Authent)

3.2.2 Causes

Every residue case has at least one 'cause'. The term cause describes the organisational and motivational aspects of a residue case, such as the processes established by the operator and the behaviour of the individual members of staff. Because human behaviour is a reflected by a continuous spectrum of actions, it is not possible to present a list of all possible clauses…

Why did it happen?



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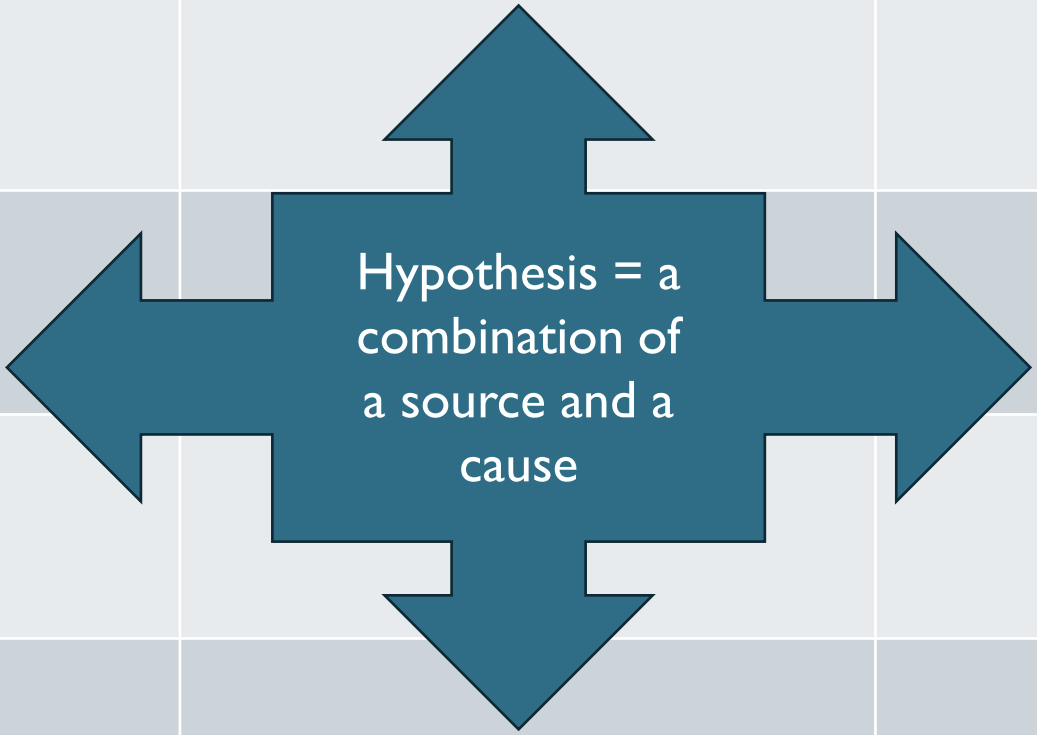
Legal framework in practical situations
(based on the Vade mecum and Authent)

Cause / Source	Intentional	Failure in PCM	External factors
Use			
Commingling (including substitution and mislabelling)			
Cross contamination (pathways under control of the organic operators)			
Environmental contamination (pathways not under control of the organic operators)			
Natural presence (incl chemical artefacts)			



Legal framework in practical situations: sources & causes: examples

Cause / Source	Intentional	Failure in PCM	External factors
Use	Use of unauthorised -PPP (fraud) or -(soluble) fertiliser -GMO or other not authorised PRM -non-organic ingredients/additives	Use of unauthorised products/substances -by mistake -not systematic	-Government request for mandatory use (incl Potable or other type of water supply) -Farm inputs whose labelling differs from content -Mandatory treatment (cross border issue)
Commingling (including substitution and mislabelling)	-Mixing/replacing to meet the contract's conditions -Compensate for bad harvest (own feed/silage)	-Conventional + organic mixed at harvest -Storage, packaging, labelling issues -Flushing / separation failures -Insufficient cleaning (large volumes)	-Unforeseen logistical challenges (transport means, storage capacity, cross border obligations, …)
Cross contamination (pathways under control of the organic operators)		-Mistakes or non respect of PCM -Use of certain detergents / cleaning agents	-Use of certain detergents / cleaning agents -Chemical artefacts
Environmental contamination (pathways not under control of the organic operators)			-Use before the start of the conversion period -Use in agriculture outside of the organic production unit -Use for other purposes than agriculture
Natural presence (incl chemical artefacts)			The active substance is also a plant metabolite in certain plants or a plant metabolite is transformed into an active substances due to certain processing steps

Legal framework in practical situations:
substances in relation to sources & causes: examples

Cause / Source	Intentional	Failure in PCM	External factors
Use	Any kind of product or substance prohibited for use in EU organic production	Any kind of product or substance prohibited for use in EU organic production	-Any kind of prohibited product or substance (incl Chlorine based disinfectants for potable water) -Farm inputs containing PA -Fumigations with methylbromide (non-EU) or phosphine
Commingling (including substitution and mislabelling)	Any kind of product or substance prohibited for use in EU organic production	Any kind of product or substance prohibited for use in EU organic production	Any kind of prohibited product or substance
Cross contamination (pathways under control of the organic operators)		Any kind of product or substance prohibited for use in EU organic production (including insect repellents,)	QAC Anthraquinone, biphenyl, phthalimide
Environmental contamination (pathways not under control of the organic operators)			DDT, aldrin, dieldrin, endosulfan, lindane, hexachlorobenzene, chlordecone, atrazine, phosphonic acid, prosulphocarb, pendimethalin, …
Natural presence (incl chemical artefacts)			Dithiocarbamate in Alliaceae, Brassicaceae Bromide in Brazil nuts and certain mushrooms 1,4 dimethylnaphtalin in potatoe PRM Phosphonic acid in perennial crops

Hypotheses based investigations

1. Substantiated information (848.29.1 and 5.2)

2. Sources, causes and source and cause (the hypothesis) (848.29.1 and Chapter 3)

3. Priority based investigation set up (848.29.1 and 5.5)

Hypotheses based investigations

Cause / Source	Intentional	Failure in PCM	External factors
Use	High risk case	High risk case	High risk case or Low risk case
Commingling	High risk case	High risk case	High risk case
Cross contamination		High risk case	High risk case
Environmental contamination			Low risk case
Natural presence (incl chemical artefacts)			Low risk case

Hypotheses based investigations

Cause / Source	Intentional	Failure in PCM	External factors
Use	High risk case	High risk case	High risk case or Low risk case
Commingling	High risk case	High risk case	High risk case
Cross contamination		High risk case	High risk case
Environmental contamination			Low risk case
Natural presence (incl chemical artefacts)			Low risk case

High risk case should be followed by an inspection:
-on-site
-unannounced
-short term

Low risk case may be followed by (only a) desk inspection

Legal framework and the Vade mecum

1. Substantiated information (848.29.1 and 5.2)

2. Sources, causes and source and cause (the hypothesis) (848.29.1 and Chapter 3)

3. Priority based investigation set up (848.29.1 and 5.5)

4. Methods and techniques for the collection of objective evidence (present and absent to assess compliance) (848.29.1 and Chapter 4)

Collecting objective evidence

Information from
-operator's control file
-inspector's findings (MB and T checks, on-site physical inspections, additional sampling & testing, interviews, public information, …)

Information about
-product
-substance

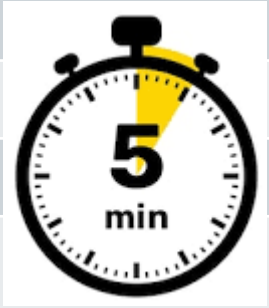
Source \ Cause	Intentional	Failure in PCM	External factors
Use	High risk case	High risk case	Low risk case
Commingling	High risk case	High risk case	
Cross contamination		High risk case	
Environmental contamination			Low risk case
Natural presence (incl chemical artefacts)			Low risk case

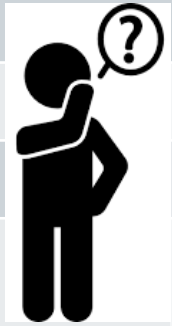
Collecting objective evidence: reverse engineering… what if the source was … then …

Indicators / Source	Present	Absent
Use		
Commingling		
Cross contamination		
Environmental contamination		
Natural presence (incl chemical artefacts)		

Collecting objective evidence : reverse engineering… what if the source was … then …

Indicators / Source	Present	Absent
Use		
Commingling		
Cross contamination		
Environmental contamination		
Natural presence (incl chemical artefacts)		





Let's do a little exercise…

Think back on a real case for which you know the source.

Then try to identify the indicators that allowed you to confirm this source.

Pay attention to indicators that you used because they were present while they were not supposed to be present (direct evidence)

But also think back on missing elements, things that should have been present but they were absent (indirect evidence)

Scan the QR code(s) of your choice and write down your answers in the slido website

Use

Commingling

contamination

https://app.sli.do/event/vQnjynUShgNt9tiNbRftXD

Collecting objective evidence: reverse engineering… what if the source was … then …

Indicators / Source	Present	Absent
Use -pre-harvest -post-harvest	-**Visual** traces (herbicides): burnt weeds, tractor traces, left overs in the sprayers, empty packaging materials (farm inputs), products in stock, contractors but no contract, very low rate of damage (leafs, fruits, …), non-systematic use of crates/bags/pallox for transport, double use points in product flow (conveyor belt, press, …), unique ventilation system in storage facilities, … -**Other senses**: smell -**Documents**: (hidden) invoices, contracts (Qtt/Qlt and time related conditions for payment), missing cleaning measures in storage facilities, -**Agronomic**: mixed production, variety, area (neighbours producing the same crop(s) in conventional), monoculture, yields comparable to conventional, … -**International**: cross border issues (phytosanitary certificate)	-**Visual**: Identification of the equipment, the equipment itself (capacity), missing alternative methods (sticky traps, pheromone traps, natural predators), no increase of biodiversity -**Documents**: no technical specifications, missing records, -**Agronomic**: no authorised PPP, no left-overs of authorised seeds, crop rotation, compost/manure, no physical, thermal or mechanical weed management, no cover crops, magazines, trainings, membership of professional organisations, -**International**: insurance (INCO)

Collecting objective evidence: reverse engineering… what if the source was … then …

Indicators / Source	Present	Absent
Commingling -post-harvest	-**Visual** traces: heterogeneous, multi-lot, multi-ingredient, different types of packaging material (incl materials used for transport), bulk products -**Documents**: (hidden) invoices, contracts (Qtt/Qlt and time related conditions for payment), exchange of information with supplier/buyer, price fluctuations -**Agronomic**: mixed production, variety, area (neighbours producing the same crop(s) in conventinoal), monoculture, yields comparable to conventional, -**International**: cross border issues (phytosanitary certificate), unclear reasons for on/off loading	-**Documents**: failing traceability and mass balance checks, failing identification of risks for commingling in the product flow -**Agronomic**: failing measures during parallel production, failing separation of products harvested from buffer zone and organic area and/or in-conversion PU and organic PU. -**Logistics**: insufficient capacity, labelling failures (real and IT), no or unclear instructions for workers, weak/no internal quality assurance program -**International**: insurance (INCO)

Collecting objective evidence: reverse engineering… what if the source was … then …

Indicators / Source	Present	Absent
Cross or internal contamination -pre-harvest -post-harvest	-**Visual** traces: products for cleaning and disinfection, -**Documents**: insufficient identification of risks and/or PCM, technical specification of packaging material -**Agronomic**: mixed farming and insufficient identification of farm equipment	-**Visual**: equipment for cleaning and disinfection -**Documents**: failing mass balance checks (flushing), missing cleaning records, -**Agronomic**: -**Logistics**: insufficient capacity, labelling failures (real and IT), no or unclear instructions for workers, weak/no internal quality assurance program, surfaces that have contact with organic and conventional products are not cleaned systematically -**International**: insurance (INCO)

Collecting objective evidence: reverse engineering… what if the source was … then …

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Collecting objective evidence: reverse engineering… what if the source was … then …

Indicators Source	Present	Absent
Environmental or external contamination -pre-harvest -post-harvest	-**Documents**: mandatory treatment (agric), water sanitation measures (chlorine) -**Agronomic**: perennial crops that were under conventional management (heritage chemical in soil and plants), mandatory treatments, spray drift (accentuated by specific active substances), -**International**: cross border issues (no exceptions as regards fumigation)	-**Visual**: buffer zones, hedges, -**Documents**: informing the neighbours

Collecting objective evidence: reverse engineering… what if the source was … then …

Indicators / Source	Present	Absent
Natural presence	-**Visual** traces: -**Documents**: scientific literature confirming that certain metabolites are also identifiable in the residue definition of certain active substances -**Agronomic**: well known combinations (see elsewhere), biodiversity enhancing measures, crop rotation, all kinds of alternatives for plant protection -**Logistics:** -**Other post-harvest operations:** covered by the PCM and supported by reliable record keeping -**International**:	-**Documents**: MB and T checks do not lead to non-compliance

Collecting objective evidence

1. Substantiated information (848.29.1 and 5.2)

2. Sources, causes and source and cause (the hypothesis) (848.29.1 and Chapter 3)

3. Priority based investigation set up (848.29.1 and 5.5)

4. Methods and techniques for the collection of objective evidence (present and absent to assess compliance) (848.29.1 and Chapter 4) (1/2)

-Evaluation of the lab report to identify characteristics of

-product

-substance

-combination and the relevance regarding "use"

What are we talking about?

-Evaluation of the sampling context:

-sampling record

-pictures

What did the sample taker notice?

-Evaluation of the operator's file:

-risk level (incl mixed/parallel production, subcontractors)

-identification of risks, PCM and results of the operator's own controls

-history of non-compliance

What do we know about the operator?
(where the sample was taken)

Collecting objective evidence

1. Substantiated information (848.29.1 and 5.2)

2. Sources, causes and source and cause (the hypothesis) (848.29.1 and Chapter 3)

3. Priority based investigation set up (848.29.1 and 5.5)

4. Methods and techniques for the collection of objective evidence (present and absent to assess compliance) (848.29.1 and Chapter 4) (2/2)

-Operators records (specific verification for the lot/land concerned)
  -operational records (reception, stock, use, production (yields), losses)
  -commercial records (invoices, delivery notes, packing lists, contracts, insurance, …)
  -other official documents (certificates: organic, COIs/CHED, phytosanitary certificate)

-Mass balance and Traceability checks including cross checks

-On-site inspection visits
  -fields, phyto room, garage, storage facilities, rolling equipment and check capacity against numbers in documents
  -interview techniques, verify statements with facts,
  -search for direct and indirect objective evidence to assess each hypothesis
  -additional sampling

What can we learn from the records?

Does it make sense in reality?
Is organic production plausible?

Collecting objective evidence and decision making

1. Substantiated information (848.29.1 and 5.2)

2. Sources, causes and source and cause (the hypothesis) (848.29.1 and Chapter 3)

3. Priority based investigation set up (848.29.1 and 5.5)

4. Methods and techniques for the collection of objective evidence (present and absent to assess compliance) (848.29.1 and Chapter 4)

5. Decision making (848.29.2 and 848.41(EU) and 1698.22 (non-EU) and 5.7, 6.2.6 & Chapter 7)

-The degree of certainty in determining source and cause and subsequent decision making

-"evidence" is needed as regards the approval/disproval of the hypothesis that an organic operator has

-used the substance

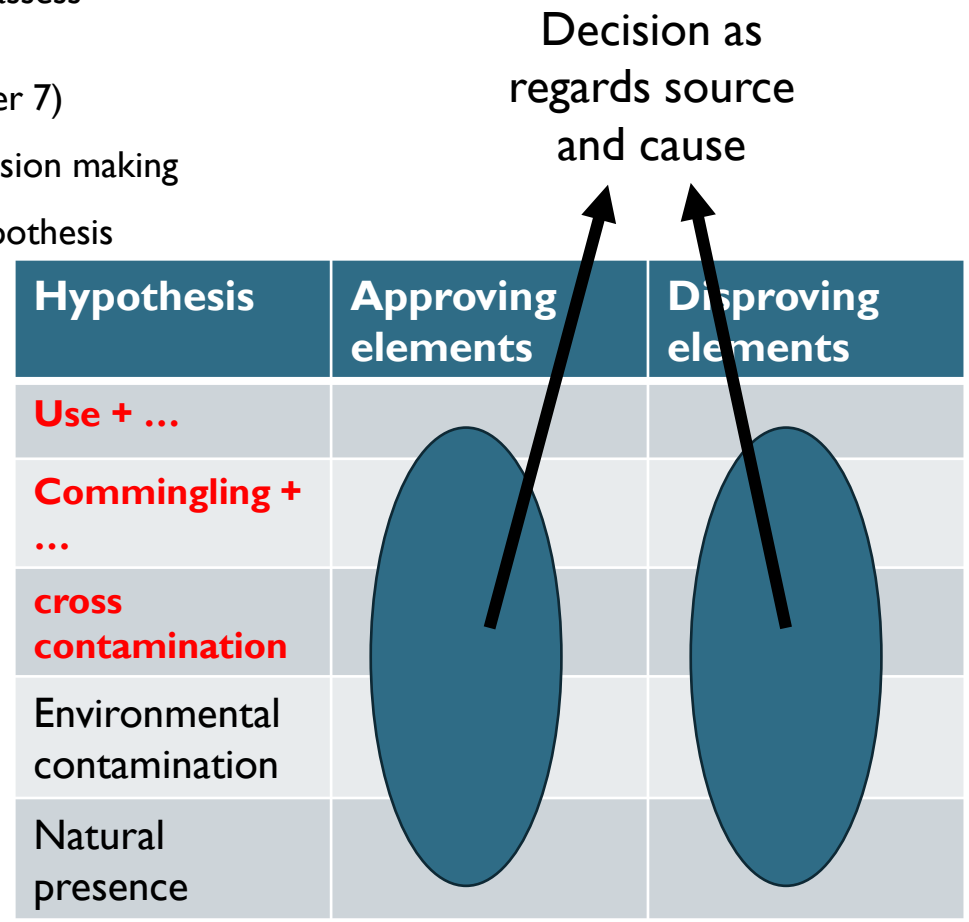
-commingled organic and conventional products

-not followed up on previous requests to improve

-"indicators" approving/disproving any other hypothesis

-direct (present while supposed to be absent)

-indirect (absent while supposed to be present)



Official investigations: Type 2

General case of suspicion (EU and non-EU)

authent

Official investigations type 2: legal basis

	EU		Non-EU (compliance cfr Art 46)	
	Suspicion due to X	General suspicion	Suspicion due to X	General suspicion
Substantiated info about …		Suspicion of compliance: 2017/625 Art 14 & 137 2018/848 Art 41.1 2021/279 Art 8 + Ann I		Suspicion of compliance: 1698.22
Blocking		848.41.1b		1698.22.1b
Aim of the investigation …		Verify compliance: 848.41.1a		Verify Compliance: 1698.22.1a
Collecting obj evidence		625.14 & 137		1698.11
Unblock in case of absence of NC affecting integrity		848.41.2 279.8 + Ann I		1698.22.2
Decertify lot / suspend or withdraw certificate if …		848.42		1698.23
Document				
Exchange of information		848.41.1b (operator < blocking) 848.43 279.9 + Ann II		1698.20 1698.21 + Ann III 1698.22 (operator < blocking)

Case studies (type 2)

Substantiated info about …
Blocking
Aim of the investigation …

1) During the annual verification of compliance the inspector carried out a plausibility check by calculating the average number of piglets/sow per year
2) The result was that the number is very high compared to other organic pig rearers
3) The case was discussed internally with other inspectors and it was concluded internally that the case is suspicious and further investigation is needed
4) Unannounced inspections have been intensified. The farmer was often "not home"
5) An inspection was carried out in the presence of a representative of the competent authority.
6) During the inspection, the pig farmer provided all the requested information: livestock records, stock and financial records are checked. No non-compliances could be found. No sampling was carried out.
7) **No blocking because the suspicion could not be "substantiated" by indicators/evidence**

Case studies (type 2)

Unblock in case of absence of NC affecting integrity

Decertify lot / suspend or withdraw certificate if …

Document

8) At CB level, there was no clear hypothesis to explain the high number of piglets/sow per year
9) Exchange of information with the competent authority resulted in the idea to organise a "double check" of the same operator for common aspects
10) In mutual agreement, the Food Safety Agency and the organic CB both verified the farm records as regards entry and departure of live animals.
11) As a result of two inspections, it became clear that the farmer kept a double set of records: one for each type of control. This clarified that non-organic pigs entered the farm and immediately left as "organic"
12) To proof the falsification of the "organic" livestock records, an expert accountant has been contacted.
13) A thorough analysis of the entire bookkeeping of a fiscal year has been subject to the expert analysis.
14) As a result, bookkeeping mistakes had been identified and used by the CB to apply the catalogue of measures and immediately suspend the organic certification.
15) The fraud was based on the introduction of conventional pigs who had been transported for slaughtering as organic in another MS "covered" by the farmers organic certificate and transport documents.
16) The fraud remained undetected due to lack of exchange of information and different monitoring tools in different member states as regards movement of living (organic) animals.

Case studies (type 2)

Document

Exchange of information

16) Nevertheless, the pig farmer appealed and went to court.
17) Several years after the initial suspicion of the inspector the once very big organic pig farm was closed.
18) Lesson learnt:
    -Official investigations are part of official controls. Cooperation with other stakeholders of the official control system against fraudsters is usually a good idea
    -Unannounced inspections are good but CBs should anticipate what to do if/when the operator intentionally but subtly refuses to cooperate
    -Blocking products of suspected operators is not always a good strategy to collect evidence because of the time pressure
    -Sampling and testing are not always the "ultimate" solutions to proof fraud
    -Focus on the critical points and intensify controls on that: in this case record keeping by the inspector as regards the number of boxes for sows to give birth and count the piglets at various moments (at birth, after weaning etc)
    -In case of fraud cases, respect procedures

Official investigations: legal bases

	EU		Non-EU (compliance cfr Art 46)	
	Suspicion due to X	General suspicion	Suspicion due to X	General suspicion
Substantiated info about …	Presence: 848.29.1 279.2	Suspicion of compliance: 2017/625 Art 14 & 137 2018/848 Art 41.1 2021/279 Art 8 + Ann I	Presence: 848.29.1 279.2	Suspicion of compliance: 1698.22
Blocking	848.29.1b	848.41.1b	848.29.1b	1698.22.1b
Aim of the investigation … & collecting obj evidence	Determine Source & Cause: 848.29.1a 279.2 (625.14)	Verify compliance: 848.41.1a 625.14 & 137	Determine Source & Cause: 848.29.1a 279.2 (1698.11)	Verify Compliance: 1698.22.1a 1698.11
Unblock in case of absence of NC affecting integrity	Reference to 848.29 in 848.41 => 848.41.2 applies	848.41.2 279.8 + Ann I	Reference to 848.29 in 1698.22.1 => 1698.22.2 applies	1698.22.2
Decertify lot / suspend or withdraw certificate if …	848.29.2	848.42	848.29.2	1698.23
Document	848.29.6		848.29.6	
Exchange of information	848.29.3 (operator > blocking) 848.29.9 (MS - Commission) 848.43 279.9 + Ann II	848.41.1b (operator < blocking) 848.43 279.9 + Ann II	848.29.3 (operator > blocking) 1698.20 1698.21 + Ann III	1698.20 1698.21 + Ann III 1698.22 (operator < blocking)

Lunch break

MINISTRY OF AGRICULTURE
AND FOOD INDUSTRY
OF THE REPUBLIC OF MOLDOVA

With support from

Federal Ministry
of Food
and Agriculture

by decision of the
German Bundestag

Official investigations: Case study from Ukraine

Official investigations: Type 1

Case study 2:

A well known organic farmer (somewhere in the EU) has been contacted by a potato processing company (producer of chips) with the request to grow organic potatoes and sell the potatoes.

Despite his lack of experience with organic potatoe production, the organic farmer accepts the contract.

By way of routine sampling, in July, the inspector takes leaf samples from the potatoe plants.

Ten days later, the lab result indicates the presence of mancozeb…

Case studies (type 1)

1) Inspector of an accredited CB took samples of leaves of potatoe plants
2) The sample (A) was shipped to the accredited lab
3) The lab reported back to the CB (mancozeb).
4) The QM of the CB informed the inspector who took the sample for a first reaction
5) The sampling record was available
6) The first impression was that **it is likely that the farmer has applied mancozeb but it can also be drift**
7) Together with the certifying officer, it was decided that an **on-site inspection is needed**.
8) The QM informed the farmer of the analytical result and offers the possibility for an analysis of the counter sample (B).
9) The farmer requested the analysis of the B sample
10) The lab confirmed the presence of mancozeb
11) The harvest was not due soon, **no need to block**

Substantiated info about …
Blocking
Aim of the investigation … & collecting objective evidence
Unblock in case of absence of NC affecting integrity
Decertify lot / suspend or withdraw certificate if …
Document
Exchange of information

Case studies (type 1)

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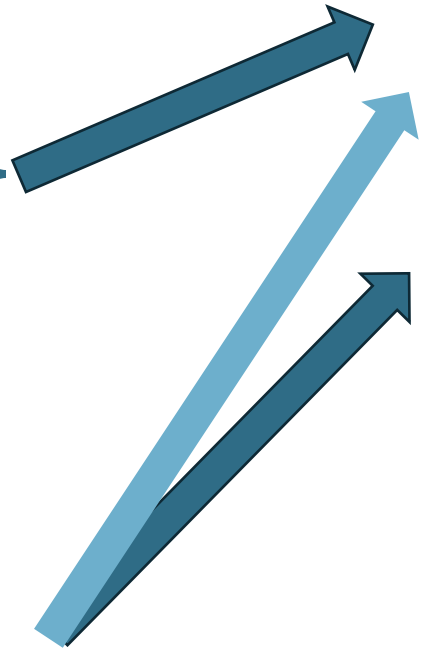

- Substantiated info about …
- Blocking
- Aim of the investigation … & collecting objective evidence
- Unblock in case of absence of NC affecting integrity
- Decertify lot / suspend or withdraw certificate if …
- Document
- Exchange of information

Case studies (type 1)

12) Inspector organises an unannounced inspection
13) Field visit: the potatoes have been planted in a field adjacent to a small river
14) The variety was Agria (suitable for organic production and production of crisps)
15) The farmer had plant protection products based on Cu, authorised for use in organic production
16) The summer has been warm and wet, increasing the pressure of fungi attacks on the leaves (blight, phytophtora)
17) The farmer signed a contract with the buyer including an agreed amount, realistic for organic production (taking into account agronomic practices as regards planting distance but monoculture)
18) Field records were present but no records regarding the use of plant protection products
19) Source & cause?

Substantiated info about …
Blocking
Aim of the investigation … & collecting objective evidence
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→

- Substantiated info about …
- Blocking
- Aim of the investigation … & collecting objective evidence
- Unblock in case of absence of NC affecting integrity
- Decertify lot / suspend or withdraw certificate if …
- Document
- Exchange of information

Case studies (type 1)

19) Source & cause?
20) No neighbouring potatoe fields
21) Commonly used to control a wide range of pathogens incl blight and scab in potatoe and other crops
22) Volatile
23) Non-systemic (contact fungicide)
24) Potatoe variety: Agria
    "suitable" for organic production due to natural resistance, fit for long term storage, transport and processing (link)
25) After intensive questioning by the inspector, the farmer admitted having used a plant protection product containing mancozeb due to risk of losing the harvest due to risk for disease
26) Cu based plant protection could not be used because of the proximity of surface water, leaving the organic farmer without plant protection

Substantiated info about …
Blocking
Aim of the investigation … & collecting objective evidence
Unblock in case of absence of NC affecting integrity
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Exchange of information

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- Substantiated info about …
- Blocking
- Aim of the investigation … & collecting objective evidence
- Unblock in case of absence of NC affecting integrity
- Decertify lot / suspend or withdraw certificate if …
- Document
- Exchange of information

Official investigations: Type I

Case study 3:

A well known organic farmer (somewhere in the EU) wants to sell his organic chicory in Switzerland.

Due to the Biosuisse requirement for the roots, he signs an agreement with a supplier to buy Biosuisse chicory roots.

By way of routine sampling, in November, the inspector takes samples of the chicory roots, still in the palloxes supplied by the chicory root producer.

Ten days later, the lab result indicates the presence of iprodione…

Case studies (type 1)

1) Inspector of an accredited CB took samples of chicory roots in storage and original crates
2) The sample (A) was shipped to the accredited lab
3) The lab reported back to the CB (iprodione).
4) The QM of the CB informed the inspector who took the sample for a first reaction
5) The sampling record was available
6) The first impression was that **it is unlikely that the farmer has applied iprodione**
7) Together with the certifying officer, it was decided that an **on-site inspection is not needed**.
8) The QM informed the farmer of the analytical result and offers the possibility for an analysis of the counter sample (B).
9) The farmer requested the analysis of the B sample
10) The lab confirmed the presence of iprodione
11) The farmer agreed to **block** and not start to force the roots

Case studies (type 1)

12) The CB of the chicory producer decides that an inspection makes no sense and contacts the CB of the root producer
13) The CB of the root producer organises a field visit and communicates back that the roots have been sold immediately after harvest
14) The roots have been transported for washing and sorting to a certified operator for preparation of organic products by the same CB
15) After arrival, the roots have been transported on a conveyor belt without being sprayed with iprodione because of PCM and after cleaning
16) The washed and sorted roots have been packed in wooden crates that have been stored in the facilities before the waste water from the cleaning has been removed
17) Due to piling up of the crates, the waste water ran down and contaminated the roots in the palloxes underneath
18) Source & cause?

Case studies (type 1)

18) Source & cause?
19) The CB of the root producer decides that this could not be foreseen by the operator and confirms compliance of the products
20) The chicory root producer is subject to residue free raw materials from Biosuisse and remains responsible and liable for the chicory roots which cannot be labelled with reference to Biosuisse.
21) The chicory root producer does not have enough time to obtain an alternative packaging material for sale as conventional and sells unpacked fresh chicory at the farm gate
22) The chicory root producer stopped producing organic chicory for Switzerland and diversified his organic production activity to another crop

Questions & answers

Summary

Type 1

1) Substantiation of information about presence:
   -focus on the relevance of the product/substance combination
   -block (before asking operator's comments)
2) First evaluation of possible sources and causes
3) Combine into hypotheses and determine type of investigation
   -on-site if use/commingling
   -desk if environmental contamination/natural presence
4) Collect objective evidence
   -direct and indirect evidence confirming the most likely hypothesis
5) Decide what to do with products and operators concerned
   -decertify and/or suspend/withdraw
   -release as organic
6) Exchange information

Type 2

1) Substantiation of information about non-compliance:
   -focus on the reality and plausibility
2) First assumptions if not realistic or plausible
3) Combine into hypotheses and determine how to collect objective evidence
   -on-site
   -unannounced
   -intensified
4) Block (after evaluating operator's comments)
5) Collect objective evidence
   -direct evidence confirming the mechanism
6) Decide what to do with products and operators concerned
   -decertify and/or suspend/withdraw
   6) Exchange information

Possibilities for Follow-up
Overall aims:
-strengthening the network and
-improve competence

Type 1 & 2: Actions

1) More reading?
2) More transparent reporting?
3) More discussion?
4) More and better cross-border cooperation?
5) Focus on better tools to ensure traceability of livestock?
6) More focus on precautionary measures ?
7) …

Type 1: Topics

1) Identification of risks: how to?
2) Appropriate and proportionate precautionary measures: when is it "enough" ?
3) Reporting: best practices
4) Sampling
5) Designated laboratories
6) Database and analysis of data (cfr EOCC TF Residues)
7) Phosphonic acid

Type 2: Topics

1) Collecting objective evidence in case of suspicion of severe irregularities
2) Cross checks
3) Mass balance and traceability checks
4) Plausibility checks
5) Unannounced inspections
6) Create a pool of external experts
7) …




Thank you for your attention

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MINISTRY OF AGRICULTURE
AND FOOD INDUSTRY
OF THE REPUBLIC OF MOLDOVA

South Eastern Europe SWG RRD
Regional Rural Development Standing Working Group

GFA CONSULTING GROUP
General Agent BMEL
Berlin Office

With support from

Federal Ministry of Food and Agriculture

by decision of the German Bundestag

Organic Working Group, APD SEE, 18 December, 2024