



COMMISSION ON PHYTOSANITARY MEASURES

Twelfth Session

Incheon, Republic of Korea , 5-11 April 2017

**Conceptual Challenges in Standards Development in Terms of
Implementation - Discussion paper on the Use of a Certificate of
compliance**

Agenda item 16

Prepared by the IPPC Secretariat

I. BACKGROUND

1. The Standards Committee (SC) is discussing the concept of compliance certification schemes and the use of a certificate of compliance by National Plant Protection Organizations (NPPOs) and situations where such a concept could apply (e.g. as an alternative to a phytosanitary certificate (PC)). Using such certificates is intended to reduce the burden on NPPOs in managing day-to-day operations for reduction of pest risk in commodities moving internationally. A certificate of compliance was first proposed in a draft International Standard for Phytosanitary Measures (ISPM) on *International movement of wood products and handicrafts made from wood* (2008-008) submitted to the SC by an Expert Working Group (EWG). The use of a certificate of compliance goes well beyond this single draft and the SC agreed that discussion on this concept by Contracting Parties would be useful.

2. The purpose of this document is to facilitate discussion on the concept and feasibility of establishing harmonized terms and requirements for using a certificate of compliance by NPPOs when delegating authority to a third party that would fulfill necessary pest risk management requirements on behalf of the NPPO, and under the supervision of NPPO. This concept is not new and such certificates are currently being used worldwide when certifying treatments for implementation of the ISPM 15 (*Regulation of wood packaging material in international trade*), as well as under different bilateral agreements between contracting parties. Examples of such certificates are described in this paper.

II. PROPOSAL

3. The use of a certificate of compliance, if agreed by the Commission for Phytosanitary Measures (CPM), would establish the terms and requirements for inclusion in the draft ISPM on *International Movement of Wood Products and Handicrafts made from Wood* (2008-008). Additionally, the requirements for the use of such certificates could potentially be used in other ISPMs and be considered in more detail in the development of an ISPM on *Authorization of entities to perform phytosanitary actions* (2014-002).

4. The main provision for a certificate of compliance is to ensure the fulfilment of the ultimate responsibility of NPPOs for the overall certification scheme; an authorized entity (a third party) performing actions on behalf of its NPPO would be accountable for the day-to-day operational aspects to ensure that their product complies with the requirements for this product which would be established in an ISPM.

5. The NPPO of the exporting country would be responsible for:

- establishing a system of authorization or registration of operators to assess and certify the compliance of commodities with the certification requirements stated in ISPMs¹; this system should be based on criteria established by the NPPO that would have to be met by entities in order to be registered; the registered operators are then the entities authorized to issue the certificates of compliance, monitoring (including periodical audits) the activities conducted by the authorized or registered entities in accordance with ISPM 7 (*Phytosanitary certification system*);
- suspending or revoking the authorizations or registrations in cases where entities no longer meet the criteria for the authorization or registration;
- inspecting consignments moving in international trade in accordance with ISPM 23 (Guidelines for inspection);
- notifying the NPPO of the importing country of any issue of non-compliance with the certification scheme.

6. The authorized entities would be responsible for:

- developing operational and self-monitoring procedures that ensure that the commodities they certify comply with the certification requirements;
- ensuring that phytosanitary measures are undertaken in compliance with certification requirements and keeping appropriate records as required by their NPPO;
- maintaining compliance with the NPPO's registration or accreditation system while authorized;
- notifying the authorizing NPPO of any issue of non-conformity with the qualifying requirements for an entity to be authorized.

7. The certification system could contain a model certificate (see example in Appendix 1) that may depict an official NPPO symbol (e.g. NPPO logo or government mark) to help prevent the unauthorized use of the certificate of compliance.

¹ This is similar to the system of registration of operators treating wood packaging material under ISPM 15.

Example of a compliance certification scheme in the draft ISPM on *International movement of wood products and handicrafts made from wood (2008-008)*

8. The concept of a compliance certification scheme was proposed by the EWG drafting the ISPM on *International movement of wood products and handicrafts made from wood (2008-008)* in September 2014.

9. The EWG considered the following options available for sharing the responsibility of managing the risks associated with the international movement of wood and bamboo products and handicrafts²:

Option 1: A compliance certification scheme

10. The NPPO of the exporting country is responsible for ensuring that the risks potentially associated with wood and bamboo products are managed in compliance with the ISPM and appropriately documented. The NPPO of the importing country is responsible for reporting non-compliances back to the NPPO of the exporting country when they occur. This scheme would allow NPPOs to authorize entities to issue certificates of compliance for commodities that comply with the certification requirements.

Option 2: Bilateral agreement and phytosanitary certification

11. The NPPOs of the exporting and importing countries negotiate a bilateral agreement for the trade that is based upon the risks and management options identified in the ISPM. This may involve the use of pest risk analysis and phytosanitary certification as per existing ISPMs (ISPM 2 (Framework for pest risk analysis), ISPM 7, ISPM 11 (Pest risk analysis for quarantine pests) and ISPM 12 (Phytosanitary certificates)).

Option 3: Risk mitigation on arrival in the country of destination

12. The NPPO of the exporting country takes little responsibility, while the NPPO of the importing country applies a phytosanitary treatment or inspects the products on arrival and mitigates any identified risk.

13. The EWG agreed that while options 2 and 3 were already open to countries, option 1 would be a new option providing internationally agreed guidance to reduce pest risks that potentially requires less NPPO resources to implement than the other options. The EWG noted that all three options would be open to NPPOs if technically justified.

Advantages of a compliance certification scheme

14. The EWG discussed at length the value of a compliance certification scheme or the use of labels (option 1) as alternatives to the use of phytosanitary certificates (option 2).

15. The EWG agreed that in most circumstances the use of labels may not be any more advantageous than using documentation. The use of documentation has several advantages over labels as it allows for automated or electronic clearance systems between exporting and importing countries. The use of labels has one significant disadvantage, in that the value of the goods may be negatively impacted by the required defacing to ensure the labels are easily visible for inspection.

16. Option 2 requires the NPPO to issue phytosanitary certificates for the products. Given the high volume and high frequency nature of the trade in products and handicrafts made from wood or bamboo,

² EWG report (September 2014): <https://www.ippc.int/en/publications/2623/>

if the use of phytosanitary certificates was promoted as an option it would add greatly to the work of the NPPOs, potentially overwhelming many and disrupting trade.

Disadvantages of a compliance certification scheme

17. The main disadvantage of a compliance certification scheme (option 1) versus phytosanitary certification (option 2) could be an increased potential for non-compliance due to the less-stringent oversight by the NPPO of the exporting country. To minimize non-compliance under the certification schemes, a performance monitoring system with the correction action plans should be established.

Implementation details

18. The EWG discussed who would be responsible for product certification in the compliance verification process. The EWG agreed that the responsibility for certification should fall to the operators who have control of the phytosanitary status of the commodities in their process. For instance, if the producer manufactures a product from treated wood, then the producer certifies the product; if the treatment provider treats the finished product then the treatment provider certifies the product.

19. The EWG discussed what information should be included in the certificate of compliance and came to the following conclusions:

- The certificate should contain the country of origin, the name of the entity authorized to issue the certificate, a unique certificate number, the description of the commodity, and the date the certificate was issued.
- The certificate should contain an authorization identification, which the EWG considered could be a number or a code, allocated by the NPPO to the entity authorized to issue the certificate.
- The certificate should also contain a declaration that the products comply with the ISPM on *International movement of wood products and handicrafts made from wood* (2008-008).
- The certificate should contain a description of the type or types of treatments applied.

20. The EWG discussed the use of a symbol on the certificate which is owned by the NPPO. Some countries require this to enable them to control the use of the certificates while others do not, based on the form of their legislation. Therefore the option for use of an NPPO symbol on the certificate should be included.

21. The EWG discussed the use of the word “certificate” and the potential for this to be confused with a phytosanitary certificate. The EWG considered that an alternative name may reduce this confusion such as harmonized certificate, certificate of compliance, wood and bamboo products certificate. The EWG settled on the use of the term “certificate of compliance” however the SC considered a more appropriate term may be “certificate of treatment” as only NPPOs certify for compliance.

22. To avoid the use of unsuitable certificate formats or the proliferation of many certificate formats, the EWG agreed that it should be recommended to NPPOs that they develop and approve a certificate template and post this on the IPP where all NPPOs would have access.

23. The SC subsequently discussed some of the conceptual issues related to the certification system at their May 2016 meeting³. The SC agreed that moving towards such a certificate was in principle a

³ SC May 2016 Report:

https://www.ippc.int/static/media/files/publication/en/2016/06/Report_SC_May_2016_XXVIII_2016-05-24.pdf

logical and necessary step, but that several significant conceptual, technical and implementation-related challenges connected with the certificate, would need to be addressed including:

- how to identify the categories of products to be covered;
- whether it should address only bulk trade;
- by whom it would be issued;
- how to ensure compliance.

24. Several aspects still need to be resolved, for example: until what stage should the certificate accompany the product, or does each item need a certificate and if so, then in circumstances where a certificate is used for bulk consignments the individual objects may have to get a separate document or other certification means at a later stage when the bulk consignment is split up, etc.

25. During their email discussion, the SC members involved raised some other queries about the concept of a compliance certification scheme, e.g. could it undermine the concept of harmonisation already achieved with PCs, is it better to develop a standardized format of certificates so that the use of counterfeit certificates or the proliferation of many certificate formats can be avoided and how can the NPPOs of importing countries quickly check whether the certifying entity is actually authorised? Taking into consideration the lack of quality or reliability of internet access in some countries or at points of inspection, it could be very difficult for inspectors to check the authenticity and validity of a certificate of compliance. In this case the intention of the introduction of a compliance certification scheme to reduce the burden of the NPPOs in issuing certificates would finally add much to the burden of certificate checking.

26. The SC noted that the FAO Legal and Ethics Services confirmed that it was legally possible to use a “Certificate of Compliance” in the IPPC framework provided that the ISPM introducing it:

- lays out specific certification requirements;
- identifies the categories of products to which the certification would apply; and
- defines compliance assessment procedure and identifies the entities (e.g. the national plant protection organization (NPPO) or authorized certifying entities) that are entitled to issue a certificate of compliance. NPPOs would be ultimately responsible for the issuance and use of the certificate of compliance.

27. The SC agreed that it would be beneficial to study the technical and implementation challenges more closely and suggested that a request for an IRSS study or survey be made.

Alternative certification schemes currently in use

28. The authors note that a number of countries or regions require phytosanitary-related documentation in a manner similar to that proposed for a certificate of compliance. The following are a selected few examples for reference:

1. EU Plant Passport Regime⁴

29. The EU Commission Directive 92/105/EEC of 3 December 1992 established a degree of standardization for plant passports to be used for the movement of certain plants, plant products or other objects within the Community, and established the detailed procedures related to the issuing of such plant passports and the conditions and detailed procedures for their replacement.

⁴EU Plant Passport Regime: http://ec.europa.eu/food/plant/plant_health_biosecurity/trade_eu_en

30. The directive noted that instead of the phytosanitary certificate used in international trade between the EU Member States, a plant passport adapted to the type of product must be attached to the plants, to their packaging or to the vehicle transporting them, to ensure its free movement throughout the Community or those parts thereof for which it is valid. The plant passport shall consist of an official label and an accompanying document containing the information required by the directive. Responsible official bodies shall ensure that the producer, person or importer applies to them for the authority to issue a plant passport, or for the replacement of a plant passport.

2. New Zealand Sea Container Declaration⁵

31. The New Zealand NPPO requires that any imported sea container must be accompanied by a quarantine declaration verifying that it has been inspected by the packing or exporting facility before being exported to New Zealand and is free from contamination. The declaration should be completed and signed by a manager of the packing or exporting facility.

3. AFAS Fumigation Certificate⁶

32. Under the Australian Fumigation Accreditation Scheme (AFAS), the fumigation provider must issue a certificate indicating the fumigation was successful and conformed to the AFAS standard. The fumigation provider is accredited to issue the certificate by the country NPPO under AFAS.

4. USDA Mill Certification Program⁷

33. The United States Department of Agriculture (USDA) has initiated Memorandums of Understanding (MOUs) with numerous lumber grading agencies, who provide the oversight of Mill Certification Programs. Two of the MOUs allow participating lumber mills to issue their own certification for kiln dried coniferous lumber going to the Member States of the European Union.

34. The participating lumber grading agencies formulate, publish, and maintain grading rules, and provide inspection facilities for softwood under an industry standard. The USDA conducts biannual audits and random inspections of each lumber grading agency for which an MOU is signed and of its participating lumber mills, to confirm ongoing compliance with the program.

5. DAWR Manufacturing Certificate⁸

35. The Australian Department of Agriculture and Water Resources (DAWR) in some circumstances allows for the use of a manufacturer's or exporter's declaration as documented confirmation of compliance with the phytosanitary import requirements. Manufacturer's or exporter's declarations will only be accepted from the company that manufactured/produced the goods and may be issued by the individual manufacturing site or head office within the country of export.

36. The manufacturer's or exporter's declaration must:

⁵ New Zealand Sea Container Declaration: <http://www.mpi.govt.nz/document-vault/1195>

⁶AFAS Fumigation Certificate:
<http://www.agriculture.gov.au/SiteCollectionDocuments/biosecurity/import/general-info/qftp/afas-fumi-standard.pdf>

⁷ USDA Export Manual:
https://www.aphis.usda.gov/import_export/plants/manuals/domestic/downloads/xpm.pdf

⁸ DAWR Minimum documentation and import declaration requirements policy:
<http://www.agriculture.gov.au/SiteCollectionDocuments/biosecurity/import/general-info/documentary-requirements/minimum-document-requirements-policy.pdf>

- unless otherwise specified have been issued no more than six months prior to assessment by the department;
- contain the correct statement/s as required by the import conditions;
- be specific to the product and consignment;
- include the individual name and company title and, where possible, be endorsed with a company stamp.

III. Decisions

37. The CPM is invited to:

- 1) *Discuss* the concept and use of a certificate of compliance and decide on one of the following three options:
 - **Option A:** CPM does not approve further work on the concept of the use of certificates of compliance for use in ISPMs and requests the Standards Committee (SC) to develop draft ISPMs accordingly.
 - **Option B:** CPM approves the concept of the use of certificates of compliance for use in ISPMs. CPM invites the SC to continue with the use of this concept in the draft ISPMs and proceed with the use of such a certificate in the draft ISPM International movement of wood products and handicrafts made from wood (2008-008) as a pilot case.
 - **Option C:** CPM considers insufficient information is available and requests the IPPC Secretariat to consider conducting a study (possibly through the Implementation, Review and Support System) on the current understanding, use and viability of an alternative compliance certification schemes for use in ISPMs. The results of this study would be presented to the CPM via the SPG who would recommend the next steps.

APPENDIX 1: Proposed model for the “certificate of compliance” for a commodity

“certificate of compliance” for [named commodities]	
Country of certification:	
Name of the producer or treatment provider authorized to issue the certificate:	Certificate no.:
Date of certification:	NPPO or company symbol (stamp or mark)
Type of treatment:	
Description of the commodities:	NPPO identification number of the authorized producer or treatment provider:
The commodities included in this consignment have been treated by the producer or treatment provider identified in this certificate, who is authorized by [name of national plant protection organization] in accordance with ISPM X	