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Продовольственная и
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Объединенных Наций

Organización de las
Naciones Unidas para la
Alimentación y la Agricultura

منظمة
الغذية والزراعة
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COMMISSION ON PHYTOSANITARY MEASURES

Fourteenth Session

Rome, 1-5 April 2019

**Conceptual challenges in standards development in terms of
implementation - Authorization of entities to perform phytosanitary actions**

Agenda item 10.4

**Prepared by the IPPC Secretariat with input from the SC Chair and the
Steward of the ISPM**

I. Introduction

1. The topic for the development of an ISPM on Authorization of non-NPPO entities to perform phytosanitary actions (2014-002) was recommended to the standard setting work programme in 2013¹ by the Standards Committee (SC), and added by the CPM-9 in 2014².

2. The Specification was submitted for consultation in 2014 and modified based on comments of CPs. The SC approved Specification 65³ (Authorization of entities to perform phytosanitary actions) at their May 2016⁴ meeting. An expert working group convened in 2017⁵ and drafted the ISPM, which was reviewed and approved for consultation in 2018⁶ by the SC.

¹ 2013-05 Report of the Standards Committee: <https://www.ippc.int/en/publications/2202/>

² CPM - 09 Final Report (2014): <https://www.ippc.int/en/publications/2513/>

³ Specification 65: <https://www.ippc.int/en/publications/82244/>

⁴ 2016-05 Report of the Standards Committee: <https://www.ippc.int/en/publications/82530/>

⁵ 2017-06 Report of the EWG on Authorization of entities to perform phytosanitary actions: <https://www.ippc.int/en/publications/84758/>

⁶ 2018-05 Report of the Standards Committee: <https://www.ippc.int/en/publications/85924/>

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3. At the IPPC Regional Workshop for Central and Eastern Europe and Central Asia⁷ in 2018 some participants expressed their concerns with the ISPM draft Authorization of entities to perform phytosanitary actions (2014-002).

4. It was also noted that authorization except the issuance of phytosanitary certificates was provided for by the Convention itself and reflected in a number of ISPM. Comments and proposals on draft standards sent for the first consultation were recorded and submitted during consultation.

5. 977 comments⁸ were submitted during the 2018 consultation period⁹. Although the topic was added to the standard setting work programme by the CPM-9 in 2014, some CPs did not support the development of the draft standard being concerned that phytosanitary security is compromised if commercial entities will discharge NPPO functions, while several Contracting Parties (CPs) expressed support for its development and proposed improvements to the text.

6. The Strategic Planning Group (SPG) at their 2018 meeting considered the IPPC Strategic Framework for 2020-2030 and the development agenda that includes objective 4: Developing Guidance on the Use of Third Party Entities. It was mentioned that the authorization of third party entities remains controversial. The main concern was that it could be perceived as reducing the authority of the National Plant Protection Organizations (NPPOs) and RPPOs. As a consequence the SPG decided to adjust the wording of the IPPC Strategic Framework 2020-2030 to clarify that the purpose is not to promote authorization but to provide guidance to NPPOs if decide to authorize third parties, the objective being to improve quality and harmonize actions amongst NPPOs. It was agreed during the discussions at the SPG that NPPOs remain the main authority to ensure that authorization of any entity to undertake phytosanitary tasks is transparent and effective.

II. Correspondence from the Russian Federation

7. The Federal Service for Veterinary and Phytosanitary Surveillance (Rosselkhozadzor) presented its concerns to the IPPC Secretariat in a letter on the 13 December 2018. They consider that quarantine phytosanitary control is a public function that serves to preserve the phytosanitary security of a country by setting and controlling the implementation of phytosanitary requirements. The delegation of these tasks to private entities is considered to endanger this phytosanitary security. It is considered that the private entities to be authorized are not committed to ensure phytosanitary security but to realise profit, and this might affect the food safety and the economy of a country. The delegation of authority is also feared to weaken the position of the NPPO and the relevance of their work.

8. The Russian Federation is against the provisions of the draft ISPM on Authorization of entities to perform phytosanitary actions, and deems necessary to cease work on developing this standard.

9. The IPPC Secretariat invited the CP to raise their concerns at the CPM-14 and discuss possible solutions.

III. Discussion

10. The purpose of this document is to facilitate discussion on the concept and feasibility of establishing harmonized terms and requirements for authorising entities to carry out phytosanitary actions on behalf of the NPPO and under the supervision of NPPO.

11. The Convention is clear, that the issuance of phytosanitary certificates is carried out by authorized public officers only. The possibility to authorize other entities to undertake phytosanitary

⁷ Report of the IPPC RW for CEECA: <https://www.ippc.int/en/publications/86682/>

⁸ Compiled Comments- 2018 First Consultation: Draft ISPM: Authorization of entities to perform phytosanitary actions: <https://www.ippc.int/en/publications/86514/>

⁹ Draft ISPM 2018 to first Consultation: Authorization of entities to perform phytosanitary actions: <https://www.ippc.int/en/publications/86143/>

actions is established in the IPPC under Article V.2(a): “Inspection and other related activities leading to issuance of phytosanitary certificates shall be carried out only by or under the authority of the official national plant protection organization. The issuance of phytosanitary certificates shall be carried out by public officers who are technically qualified and duly authorized by the official national plant protection organization to act on its behalf and under its control with such knowledge and information available to those officers that the authorities of importing CPs may accept the phytosanitary certificates with confidence as dependable documents.”.

12. The use of authorization is highlighted in several ISPMs. ISPM 7 (*Phytosanitary certification system*) states that: “Except for the issuance of phytosanitary certificates non-governmental personnel may be authorized by the NPPO to perform specified certification functions. To be authorized, such personnel should be qualified and skilled, and responsible to the NPPO. To ensure independence in their exercise of official functions, they should be subject to restrictions and obligations equivalent to those for government officials and have no conflict of interest (e.g. financial or otherwise) that may affect the outcome.” Similarly, ISPM 20 (*Guidelines for a phytosanitary import regulatory system*) elaborates on the systems for authorization of non-NPPO personnel: “NPPOs may authorize, under their control and responsibility, other government services, nongovernmental organizations, agencies or persons to act on their behalf for certain defined functions. In order to ensure that the requirements of the NPPO are met, operational procedures are required. In addition, procedures should be developed for the demonstration of competency and for audits, corrective actions, system review and withdrawal of authorization.”

13. It is entirely under the authority of each NPPO to decide whether or not to authorize entities to perform specific phytosanitary actions as stated by the text of the draft standard: “An NPPO should determine whether to authorize entities to perform phytosanitary actions”. If the NPPO decides to authorize entities, it is also its decision to determine which entity is authorized and for which specific phytosanitary actions. With the authorization, the phytosanitary action is performed by the entity but the responsibility remains with the NPPO.

14. Taking into consideration that authorization of entities is applied by many NPPOs, the standard aims to provide harmonised guidance on how to set up authorization that results in phytosanitary actions that are delivered with integrity, transparency, and that enable the authorization of entities that are accountable to the NPPO for these action to ensure that phytosanitary security is maintained, consistent with the provisions of the Convention and a number of ISPMs. The ISPM should also foster confidence among NPPOs when specific phytosanitary actions are performed by other entities, by ensuring the entity is properly authorized and that appropriate governance, assurances and verifications are implemented by the authorizing NPPO.

15. During the first consultation of the draft ISPM on authorization, some contacting parties also commented that legal advice should be sought during development of this draft ISPM on what actions may be delegated to authorized entities, within the terms of Article V of the IPPC and in particular the expression “under the authority of”.

16. Another significant comment that was raised during first consultation of the draft ISPM on authorization is that there is lack of clarity on whether audits and supervision should always be performed by the NPPO itself or if it can also be delegated to a legal entity and to how many levels. CPs have indicated that further clarity is needed on this concept. Some CPs have proposed that authorization to audit or supervise could be covered in the standard to be developed under the topic “Audits in the phytosanitary context (2015-014)”. An expert working group is scheduled to meet in June 2019 to draft the ISPM on “Audits in the phytosanitary context”.

17. According to the standard setting procedure, the draft ISPM on the authorization of entities to perform phytosanitary actions (2014-002) is undergoing review based on CP’s comments and concerns provided during the consultation period, and the standard is revised accordingly. The revised draft is scheduled to be discussed by the Standards Committee Working Group (SC-7) in May 2019 and to be presented once again to CPs once approved for the second consultation.

18. Guidance from CPM on how to proceed with the development of the draft ISPM on the Authorization of entities to perform phytosanitary actions (2014-002) is requested.

19. The Implementation and Capacity Development Committee (IC) has approved the topics for the Implementation, Review and Support System (IRSS) Third Cycle (2018-2021) and these include a desk study on the delegation of NPPO functions in the context of third party authorization.

IV. Decisions

20. The CPM is invited to:

- 1) *Discuss* the concept and use of authorization of entities and
- 2) Provide guidance on how to proceed with the development of the draft ISPM on the Authorization of entities to perform phytosanitary actions (2014-002)