



Discussion Document - IHS for Air Containers from Any Country

Review of the Import Health Standard for Air Containers from Any Country

FOR PUBLIC CONSULTATION

November 2015

Draft for Consultation

**Biosecurity and Environment Group
Plants, Food & Environment
Ministry for Primary Industries
Pastoral House
25 The Terrace
PO Box 2526
Wellington 6140
New Zealand
Tel: +64 4 894 0100
Fax: +64 4 894 0662
Email: standards@mpi.govt.nz**

Disclaimer

This discussion document does not constitute, and should not be regarded as, legal advice. While every effort has been made to ensure the information in this document is accurate, the Ministry for Primary Industries does not accept any responsibility or liability whatsoever for any error of fact, omission, interpretation or opinion that may be present, however it may have occurred.

Requests for further copies should be directed to:

Biosecurity and Environment Group
Plants, Food & Environment
Ministry for Primary Industries
PO Box 2526
Wellington 6140
New Zealand

Email: standards@mpi.govt.nz

Submissions

The Ministry for Primary Industries (MPI) invites comment from interested parties on the proposed changes to the Import Health Standard: *Air Containers from All Countries*. The proposed changes are supported by this discussion document.

An import health standard (IHS) “specifies requirements to be met for the effective management of risks associated with importing risk goods, including risks arising because importing the goods involves or might involve an incidentally imported new organism” (section 22(1) Biosecurity Act 1993).

MPI seeks comment on the proposed change to the IHS: *Air Containers from All Countries*. MPI has developed this discussion based on the best available scientific evidence and assessment of this evidence. If you disagree with the measures proposed to manage the risks, please provide either data or published references to support your comments. This will enable MPI to consider additional evidence which may change how risks are proposed to be managed.

The following points may be of assistance in preparing comments:

- wherever possible, comments should be specific to a particular change in IHS requirements or a question asked in this document (referencing section numbers or commodity names as applicable);
- where possible, reasons, data and supporting published references to support comments are requested;
- the use of examples to illustrate particular points is encouraged.

The amendments proposed in this discussion document are intended to update the IHS to ensure that the biosecurity risks associated with air containers from all countries are managed in response to changing scientific knowledge and commercial practices.

MPI encourages respondents to forward comments electronically. Please include the following in your submission:

- the title of the consultation document in the subject line of your email;
- your name and title (if applicable);
- your organisation's name (if applicable); and
- your address.

Send submissions to: standards@mpi.govt.nz, however, should you wish to forward submissions in hard copy format (writing), please send them to the following address to arrive by close of business on the **26 February 2016**.

Biosecurity and Environment Group
Plant, Food and Environment Directorate
Ministry for Primary Industries
PO Box 2526, Wellington
Fax 04 894 0733

Submissions received by the closure date will be considered during the development of the final version of the standard. Submissions received after the closure date may be held on file for consideration when the standard is subsequently reviewed.

Official Information Act 1982

Please note that submitted documents are public information. These documents may be the subject of requests for information under the Official Information Act 1982 (OIA). The OIA specifies that information is to be made available to requesters unless there are sufficient grounds for withholding it, as set out in the OIA. Submitters may wish to indicate grounds for withholding specific information contained in their submission, such as the information is commercially sensitive or they wish personal information to be withheld. Any decision to withhold information requested under the OIA is reviewable by the Ombudsman.

© Crown Copyright - Ministry for Primary Industries

Contents

Disclaimer	iii
Submissions	iii
Official Information Act 1982	iv
Introduction	1
Purpose	1
Background	1
Context	1
International	1
Domestic	2
Summary of Biosecurity Risk	2
Proposed Amendments to the IHS	3
Transitional Facility Requirements for Air Containers	3
New IHS for Air Container from All Countries	3
Revocation of the IHS: 152.07.011 Air Containers from Any Country	4
References	5
Appendix 1: Extract from the Draft Guidance Document to the Standard for Transitional Facilities for General Uncleared Risk Goods, TFGEN-GD	6

INTRODUCTION

PURPOSE

1. The purpose of this document is to provide a summary and technical justification for the proposed amendments to the import health standard (IHS)152.07.011: *Air Containers from Any Country*.

BACKGROUND

1. MPI is reviewing all standards and guidance documents so that the legal requirements are clear and that information is consistently presented and easy to understand.
2. The changes resulting from the review of the *IHS: Air Containers from Any Country* (hereafter referred to as the IHS), are intended to effectively manage regulated pests and contamination associated with air containers. The amendments are also intended to be efficient and provide appropriate requirements for risk management prior to loading in the country of origin and, where applicable, on-arrival in New Zealand.

CONTEXT

International

3. Where possible, phytosanitary import requirements are aligned with international standards, guidelines, and recommendations as per New Zealand's obligations under Article 3.1 of the World Trade Organisation (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) (WTO, 1995), and section 23(4)(c) of the Biosecurity Act 1993.
4. Whilst there is no international standard for air containers there is international concern regarding the biosecurity risk associated with air containers and aircraft pathways. A specification to develop an international standard (Specification 52¹, drafted in 2010 and revised in June 2013) has been developed following a report from the International Civil Aviation Organization (ICAO). The report summarised the feedback received from 38 countries (including New Zealand) with specific pest movement noted to have occurred. The WTO and SPS Agreements set in place rules that protect each country's sovereign right to take the measures necessary to protect the life or health of its people, animals, and plants while at the same time facilitating trade. It

¹ IPPC Specification 52

- International Civil Aviation Organization 2004. Report by the Council on progress in implementation of resolution A33-18: Preventing the introduction of invasive alien species, A35-WP/12 EC/4 19/5/04 http://www.icao.int/Meetings/AMC/MA/Assembly%2035th%20Session/wp012_en.pdf
- International Civil Aviation Organization 2007. Implementation of resolution A35-19: Preventing the introduction of invasive alien species. http://www.icao.int/Meetings/AMC/MA/Assembly%2036th%20Session/wp019_en.pdf

embodies and promotes the use of science-based risk assessments to manage the risks associated with the international movement of goods. Specifically;

5. "The SPS Agreement will continue to guide how New Zealand sets standards and makes decisions related to biosecurity. In particular, it will be important to maintain the standards of transparency and scientific rigour required by the SPS Agreement, and to make decisions as quickly as possible. This will encourage other countries to comply with the rules of the SPS Agreement, and also demonstrate that New Zealand's strict controls are justified to countries that challenge them." Balance in Trade [online reference ISBN 978-0-478-33881-2.]

Domestic

6. The New Zealand biosecurity system is regulated through the Biosecurity Act 1993. Section 22 of the Act describes an IHS and requires all risk goods (including in-animates such as air and sea containers) entering New Zealand to be covered by one.
7. The Ministry for Primary Industries (MPI) is the government authority responsible for maintaining biosecurity standards for the effective management of risks associated with the importation of risk goods into New Zealand (Part 3, Biosecurity Act 1993).
8. MPI is committed to the principles of transparency and evidence-based technical justification for all phytosanitary measures, new and amended, imposed on importing pathways.

SUMMARY OF BIOSECURITY RISK

9. There are numerous examples where contaminated aircraft and air containers have been linked directly or indirectly to the introduction of a new pest in a country. Examples include:
 - i. the introduction of red imported fire ant (*Solenopsis invicta*) found in 2001 at Auckland International Airport. The incursion in 2001 cost New Zealand over \$1.5M to eradicate;
 - ii. the wide spread invasion within Europe of pests such as the Western corn root worm (*Diabrotica virgifera*) originating from five different areas of North America. The pest established in Europe over a 4 year period through the air pathway.
10. The following plates (1-4) show examples of contaminated air containers that have arrived into New Zealand.



Plates 1-4: Contamination of air containers from left to right: fresh beans, eels, blood, fresh pear.

11. To reduce biosecurity risk to New Zealand, a system is required that delivers clean containers without an onerous documentation or resourcing requirement. Any system must take into account the volume and frequency of the circulation of air containers through the air container pathway as well as being compliant with the Biosecurity Act 1993. The proposed approach below is similar to that of the IHS for sea containers².

PROPOSED AMENDMENTS TO THE IHS

12. The IHS has been revised and migrated into the new MPI Requirements & Guidance format to improve layout, consistency and to clarify legal requirements.
13. MPI proposes to:
- i. remove the requirements specific to transitional facilities;
 - ii. create a new IHS for Air Containers from All Countries;
 - iii. revoke the current import health standard, *152.07.011 Air Containers from Any Country*.
14. A guidance document or the 'how to achieve the requirements of the standard' will be guided by feedback provided and a series of workshops proposed in February 2016.
15. Guidance has also been included in the Draft Guidance Document to the Standard for Transitional Facilities for General Uncleared Risk Goods. An extract of information relevant to air containers is attached in Appendix 1.

Transitional Facility Requirements for Air Containers

16. Transitional facility requirements for air containers were included in the proposed amendments to the standard for General Transitional Facilities for Uncleared Goods and the associated guidance document (<https://mpi.govt.nz/news-and-resources/consultations/draft-general-transitional-facilities-for-uncleared-risk-goods-standard-and-guidance-documents/>).

New IHS for Air Container from All Countries

17. The following requirements are included in the proposed new IHS for Air Containers from All Countries:
- i. Container and packaging documentation;
 - ii. Containers and packaging to be clean and free from pests and contaminants;
 - iii. Methods of confirming that containers are clean and free from contamination; and
 - iv. A list of pests and contaminants

² Gadgill, P.D., Bulman, S., Crabtree, R., Watson, R., O'Neil, J., Glassey, K. 2000. Significance to New Zealand Forestry of contaminants on the external surfaces of shipping containers NZ Journal of Forestry Science 30(3): 341-358.

Gadgill, P.D., Bulman L.S., Glassey, K.L. 1999. Quarantine Risk Associated with Air Cargo Containers 1999.

Container and packaging documentation

18. The airway bill for airfreight provides information to MPI for targeted evaluations of the biosecurity risk associated with air freight. This requirement has been formally documented in the proposed new IHS.

Containers and packaging to be clean and free from pests and contaminants

19. The requirement for clean containers is proposed to be extended to include a requirement for associated packaging to be clean.

Methods of confirming that containers are clean and free from contamination

20. Confirmation that containers are clean and free from contamination is important for biosecurity clearance. It is the intention of the proposed new IHS to provide flexible options to gain biosecurity clearance. The options include:
- confirmation from an accredited person; or
 - confirmed through a MPI approved system; or
 - an inspection by a MPI inspector.
21. The proposed new IHS allows an accredited person or someone supervised by an accredited person, to unpack an air container and provide confirmation that the air container and associated packaging is free from pests and contaminants listed in Schedule 3 (Pest and Contaminants List) of the draft IHS.
22. An accredited person (under Section 103 of the Biosecurity Act) is able to release air containers through the freight pathway after confirming freedom from pests and contaminants. It is proposed that an accredited person confirms to MPI that an air container meets the requirements of Schedule 3 (Pest and Contaminants List) of the new draft IHS. Confirmation may be by exception reporting (e.g. all air containers are clear of pests and contaminants except for those reported to the inspector); or other means agreed between MPI and an operator.
23. A MPI approved system is one that ensures the air container is free of pests and contaminants and may be agreed between MPI and an airline or their agent.
24. Where an air container is **not** unpacked by an accredited person or under an MPI approved system then an inspector must clear the air container. This applies to:
- in transit air containers; or
 - air containers to be repaired; or
 - international air containers that are forwarded onto domestic flights; or
 - air containers travelling long distances between transitional facilities; or
 - as deemed by the inspector.

List of Pests and Contaminants

25. The proposed new IHS includes in Schedule 3, a list of pests and contaminants. The types of pests and contaminants that MPI has biosecurity concerns about include animals, aquatic organisms, plants and seeds, micro-organisms and soil. This list clearly provides information on thresholds and allowable limits.

Revocation of the IHS: 152.07.011 Air Containers from Any Country

26. The biosecurity risk associated with air containers is expected to be managed by the requirements set out in the draft standard for Transitional Facilities for General Uncleared Risk Goods and the proposed new IHS: Air Containers from All Countries. Therefore, the IHS:152.07.011 Air Containers from Any Country, will be revoked when the proposed new standard is issued.

REFERENCES

Balance in Trade [<http://www.biosecurity.govt.nz/files/biosec/policy-laws/intl/sps/resources/new-zealand/balance-in-trade.pdf>]

Biosecurity Act 1993. <http://www.legislation.govt.nz/default.aspx>.

Gadgill, P.D., Bulman, S., Crabtree, R., Watson, R., O'Neil, J., Glassey, K. 2000. Significance to New Zealand Forestry of contaminants on the external surfaces of shipping containers NZ Journal of Forestry Science 30(3): 341-358.

Gadgill, P.D., Bulman L.S., Glassey, K.L. 1999. Quarantine Risk Associated with Air Cargo Containers 1999.

International Civil Aviation Organization 2004. Report by the Council on progress in implementation of resolution A33-18: Preventing the introduction of invasive alien species, A35-WP/12 EC/4 19/5/04 http://www.icao.int/Meetings/AMC/MA/Assembly%2035th%20Session/wp012_en.pdf

International Civil Aviation Organization 2007. Implementation of resolution A35-19: Preventing the introduction of invasive alien species. http://www.icao.int/Meetings/AMC/MA/Assembly%2036th%20Session/wp019_en.pdf

SPS-Agreement. 1995. *Agreement on Sanitary and Phytosanitary Measures*. Geneva: World Trade Organisation.

APPENDIX 1: Extract from the Draft Guidance Document to the Standard for Transitional Facilities for General Uncleared Risk Goods, TFGEN-GD

6.1 Air container TFs

- (1) This section provides further guidance for TF Operators operating TFs for holding, inspecting and/or unpacking air containers and best practice recommendations on how TF Operators may meet the requirements of the standard. TF Operators for air container TFs should manage risks associated with air containers on arrival at the TF, and mitigate risks for air containers transported to other TFs before biosecurity clearance for other approved purposes. Such management should also be in accordance with the TF Manual and other authorisation from an Inspector.
- (2) TF Operators should be familiar with the IHS for importation of Air Containers from All Countries (MPI-AIRCON-ALL) to be aware of mandatory requirements. This standard may be found on the MPI website at: <http://www.mpi.govt.nz/importing/border-clearance/>. The outcome required by MPI-AIRCON-ALL is that air containers imported into New Zealand are free from regulated contaminants and pests.

6.1.1 Importation of air containers into NZ

- (1) Air containers are imported into New Zealand for the purpose of holding containerised commercial air freight or passenger baggage (uncleared risk goods), and they are also covered under separate IHSs. MPI-AIRCON-ALL specifies that containerised passenger baggage may only be imported into any airport approved as a POFA. These uncleared risk goods must remain airside in the designated TF for holding passenger baggage until provided with biosecurity clearance via the passenger pathway. This standard is available at the MPI website at: <http://www.mpi.govt.nz/importing/border-clearance/places-of-first-arrival/>
- (2) Under the requirements for a POFA, commercial freight may only be imported into a limited number of specified airports and the authorisation and movement of commercial freight in air containers is limited to the terms agreed under each airport's POFA approval for TF Operators and TFs.
- (3) MPI-AIRCON-ALL requires that air container TFs must be in close proximity (< 5 km) from the POFA at which the air containers were landed.

6.1.2 Transportation of air containers to TFs

- (1) MPI-AIRCON-ALL also requires that transportation of air containers from the "airside" TF at the POFA to another "landside" TF must be conducted by an MPI approved transport operator nominated by the TF Operator and listed in the TF Manual. Transportation may only follow a designated route from the POFA to the TF taking note of written authorisation from MPI or authorisation under an approved (written) system. Proposals for establishment of new importation systems should be forwarded to the local MPI office for consideration. In addition, any containers transported to a TF should be transported in a manner that secures the cargo within and prevents any spillage of uncleared risk goods from occurring during transit.
- (2) Air containers returning to "airside" from "landside" TFs should be transported using an agreed route and do not require further inspection. However, air containers that do not return to "airside" from "landside" TFs (such as being sent to non-TF premises to be loaded for export out of New Zealand) are required under MPI-AIRCON-ALL to receive clearance from MPI and receive a written BACC before leaving the TF located at the POFA.

6.1.3 The physical operation of air container TFs

- (1) A sealed (asphalt, concrete or similar) hard stand area which can be easily cleaned and maintained should be provided by the TF Operator for placing air containers and to provide an unloading area. This sealed area should be big enough to have a minimum of 3 metres clearance around the air containers or stacks of them, or use another effective method of segregation. This area should be kept completely clear of debris, rubbish or vegetation (the intent is to deny an easy refuge for pests or organisms that may be in or on the container). Note: This area should not be located on a public footpath or road.
- (2) Where unchecked air containers (under authorisation from MPI) are delivered, unloaded or stored at a TF, there should be the ability to physically separate uncleared air containers from previously cleared containers or other non-risk goods. The distance for separation should be at least one metres on all sides for an air container (or stack of them) until the AP check has taken place. Unchecked air containers (empty or loaded) should be kept in the designated hard-stand area until they have been officially checked by an AP or an Inspector.
- (3) Air containers that have been externally checked and cleaned (as required) can be removed from the sealed TF storage area (if immediate unpacking is not required) and can be stacked as close as required to other previously checked and cleared containers. Loaded air containers should go to a TF (as authorised) for checking/inspection and unpacking and this should be conducted as soon as possible. Note: Any open drains within 5 metres of air containers at any TF should be covered during checking and unloading to prevent the possibility of any live pests from escaping.

6.1.4 Unpacking air containers at TFs

- (1) MPI-AIRCON-ALL requires that all imported air containers must be unpacked at a TF in the presence of an AP or Inspector (for specific uncleared risk goods) and an AP must meet all relevant requirements of the standard and MPI-AIRCON-ALL. MPI-AIRCON-ALL requires that all air container checks completed by an AP where regulated contaminants or pests are found must be recorded electronically or using an approved system and the records kept for MPI audit purposes.

6.1.5 Unpacking air containers

- (1) An AP should be present on delivery or as soon as possible after air containers are delivered, and should check the containers externally (the underside excluded) for contamination and pests after delivery to the TF, during unpacking (where internal surfaces, uncleared risk goods and any wood packaging are checked for compliance), and when empty (a final internal check should be conducted). TF Operator should have enough APs available to ensure biosecurity risks associated with air containers and uncleared risk goods are managed appropriately. APs do not need to be an employee at the TF but should be currently approved for checking and managing containers. An AP may work at more than one TF Operator and TF.

6.1.6 TF inspection areas and equipment

- (1) The TF should have enough holding or storage space to contain any uncleared air containers and uncleared risk goods. There should also be equipment available for the inspection of any uncleared risk goods (such as fresh produce) by an Inspector. The TF inspection area for uncleared risk goods should be located adjacent or near to the designated risk goods storage area and should provide:
 - Bright lighting (1000 Lux intensity or greater is recommended).

- (2) The TF should have suitable equipment for dealing with biosecurity contaminants, pests and waste associated with air containers and uncleared risk goods such as:
- A torch (or powerful portable light source).
 - A broom, brush and pan (or other suitable cleaning equipment).
 - A dual-action insecticide (having both knock-down and residual action properties such as tetramethrin 4g/l for knock down and permethrin 1g/l for residual) are available for use by APs. These canisters should be available for immediate use as the air container is being opened. Examples of some suitable sprays are available on the MPI website at: <http://www.biosecurity.govt.nz/border/transitional-facilities/permethrin-sprays.htm>.
 - A solid biosecurity bin (such as a wheelie bin) with a tight fitting lid for biosecurity waste or a large storage unit (such as a sea container for holding dunnage etc.) prior to disposal.
 - An appropriate inspection bench for the type of TF that is approved (stainless steel or similar construction with a raised edge of 5mm to 10 mm is recommended) to prevent contaminants or uncleared risk goods from spilling during inspection.
- (3) Other equipment for the inspection of uncleared risk goods could be required depending on the nature of the imported material (such as fresh produce). It is recommended that TF Operators refer to other sections in this document for examples of specialised equipment necessary for inspecting specific types of imported goods where necessary.

6.1.7 Record keeping

In addition to the records for air containers and risk goods mentioned in section 5.7, MPI recommends that a database system should be used and records of the information kept for each air container sent to a TF including:

- Confirmation that internal and external checks were conducted (dates and times).
- Names of the AP who conducted the above checks.
- Record of contaminants found and how and when MPI was notified.
- Any remedial action taken or record of online declaration.