



**The Risk Management Proposal Associated with the Review
and Amendment of the Import Health Standard
for Sea Containers (from All Countries)**

FOR PUBLIC CONSULTATION

3rd of April 2019



Disclaimer

This Risk Management Document does not constitute, and should not be regarded as, legal advice from the New Zealand (NZ) Ministry for Primary Industries (MPI). While every effort has been made to ensure the information in this document is accurate, MPI 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:

Plants and Pathways Directorate
Ministry for Primary Industries
PO Box 2526 Wellington 6140
New Zealand
Email: standards@mpi.govt.nz

© Crown Copyright - Ministry for Primary Industries

Submissions

MPI invites comment from interested parties on the proposed amendments to the Import Health Standard for Sea Containers (from all countries). The proposed changes are supported by this discussion document which is a Risk Management Proposal. An Import Health Standard “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 has developed this proposal based on best assessment of the best available scientific evidence regarding risk associated with this pathway. 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 amendments in Import Health Standard requirements or a question asked in this document (referencing section numbers or subjects as applicable);
- where possible, reasons, data and supporting published references to support comments are requested; and
- the use of examples to illustrate particular points is encouraged.

The amendments proposed in this document are intended to update the Import Health Standard to ensure that the biosecurity risks associated with the importation of sea containers are managed in response to commercial practices and changing scientific knowledge.

MPI encourages respondents to these documents 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.

Please send submissions to: standards@mpi.govt.nz, or if 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 3rd of June 2019.



Plants and Pathways Directorate
Ministry for Primary Industries
PO Box 2526 Wellington 6140
New Zealand
Email: standards@mpi.govt.nz

Submissions received by the closure date will be considered during the development of the final versions of the Import Health Standard. Submissions received after the closure date may be held on file for consideration when the Import Health 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



Table of Contents

Information on the Consultation Process for the Import Health Standard for Sea Containers from the 3rd of April 2019	5
1. Purpose	5
2. Background	5
2.1 Background information on the Brown Marmorated Stink Bug (BMSB)	5
3. Timing and Consultation	5
4. Background and Context to Consultation	5
4.1 International regulation of risk goods	5
4.2 Domestic regulation of risk goods	6
5. Biosecurity Risk Associated with BMSB in Sea Containers from Italy	6
5.1 Import risk analyses regarding BMSB and inanimate pathways	6
6. Changes Proposed in the 2019 Draft Version of the Import Health Standard	7
6.1 Changes proposed for sea containers from Italy	7
6.2.1 Mandatory treatment for containerised cargo from Italy prior to arrival in New Zealand.	8
6.2.2 Inspection on-arrival instead of mandatory treatment before arrival in New Zealand	8
6.2.3 Where mandatory treatment or inspection does not apply to sea containers	9
6.2.4 Emergency treatment on-arrival in New Zealand	10
6.3 Treatments	10



Information on the Consultation Process for the Import Health Standard for Sea Containers from the 3rd of April 2019

1. Purpose

The purpose of this document is to:

- provide relevant background information about the Import Health Standard for Sea Containers from all countries (the Import Health Standard);
- clarify the proposed amendments to the requirements for the Import Health Standard;
- provide the rationale for the proposed Import Health Standard amendments and how they manage risk; and to
- seek feedback on the proposed Import Health Standard amendments to importing requirements.

2. Background

2.1 Background information on the Brown Marmorated Stink Bug (BMSB)

Halyomorpha halys or BMSB has the potential to become a significant problem in agriculture and horticulture in NZ due to its biology, phenology and current global distribution if not prevented from entering and establishing (Fraser et al 2017, MPI 2012, and MPI 2015a). BMSB has become widespread and is a major horticultural and human nuisance pest in Italy, and the USA. BMSB is estimated to have established in Italy in 2009 and has now become an important agricultural and nuisance pest across Italy and other European countries since 2015 with significant population increases and additional spread per year. The natural range of BMSB is China, Japan, Korea and Taiwan where competition and natural predators appear to generally keep the population low and from becoming a serious problem with inanimate objects. However, problems were experienced with BMSB in late 2017 and into 2018 with containerised risk goods from Italy, and new and used vehicles and machinery from Japan on roll-on/roll-off vessels

3. Timing and Consultation

The proposed Import Health Standard for Sea Containers has been released for consultation on the 3rd of April 2019 and will remain open for consultation until the 3rd of June 2019. The Import Health Standard for Sea Containers is planned for finalisation in June 2019 and implementation will begin on the 1st of September 2019 (the start of the next BMSB risk season).

4. Background and Context to Consultation

4.1 International regulation of risk goods

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 embodies and promotes the use of science-based risk assessments to manage the risks associated with the international movement of goods. "The SPS Agreement will continue to guide how NZ 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 NZ's strict controls are justified to countries that challenge them." Balance in Trade [online reference ISBN 978-0-478-33881-2].



4.2 Domestic regulation of risk goods

The NZ biosecurity system is regulated through the Biosecurity Act 1993 (the Act). Section 22 of the Act describes an Import Health Standard and requires all risk goods (including inanimate items such as Sea Containers) entering NZ to be covered by one. MPI is the NZ government Ministry responsible for maintaining biosecurity standards for the effective management of risks associated with the importation of risk goods into NZ (Part 3, Biosecurity Act 1993). MPI is committed to the principles of transparency and evidence-based technical justification for all phytosanitary measures, new and amended, imposed on importing pathways. MPI periodically reviews Import Health Standards, related documents and other standards so that the legal requirements are clear and that information is consistently presented and easy as possible to understand.

5. Biosecurity Risk Associated with BMSB in Sea Containers from Italy

5.1 Import risk analyses regarding BMSB and inanimate pathways

The biosecurity risk associated with BMSB in the container pathway was documented in the 2012 MPI Pest Risk Analysis (MPI 2012). Overwintering BMSB adults commonly were reported as aggregating in narrow dark spaces such as on the sides of houses and other man made items such as sea containers before moving inside to find shelter in the northern hemisphere autumn and winter. This behaviour facilitates BMSB transportation in and on the sea container (and associated cargo) pathway.

Border and post-border interceptions have shown BMSBs ability to repeatedly enter New Zealand with interceptions associated with sea containers and their cargo. Containers holding a range of cargo (including machinery and vehicles) are imported into New Zealand in large numbers from BMSB risk countries such as Italy. Interceptions have been restricted to northern hemisphere late autumn and early spring period (from November to March)

An import risk analysis for vehicles and machinery published in 2007 also demonstrated that many different pests and types of contaminants (including BMSB) could be associated with sea containers holding imported vehicles and machinery as cargo (MAF 2007). It was concluded that given their cryptic nature, small aggregations and individual BMSB were likely to go unnoticed during routine container inspections and during loading. In addition, the use of visual inspection alone had limited effectiveness for detecting mobile or hidden organisms associated with such inanimate or inorganic commodities, especially with loaded containers. The import risk analysis concluded that:

- Biosecurity risk depends on the conditions and locations where containers, equipment, machinery and vehicles were used and stored prior to export to New Zealand.
- Used inorganic commodities present a higher biosecurity risk than new inanimate commodities.
- Vehicles and machinery inside sea containers present a higher risk than empty shipping containers due to the fact that:
 1. Machinery and vehicles are complex and provide different niches and a range of habitats for BMSB (which can make detection using inspection alone much more difficult).
 2. Used machinery and vehicles have a longer period of time and greater opportunities for infestation by BMSB through ordinary daily use than new machinery and vehicles.

This led MPI to issue a revised Import Health Standard for Vehicles, Machinery and Equipment (<https://www.biosecurity.govt.nz/importing/vehicles-and-machinery/>) in August 2018 (in parallel with Sea container management) where specific treatment or management requirements were implemented for BMSB for break-bulk and containerised consignments of such risk good cargo. MPI intends to align the similar requirement for containers with vehicles, machinery and equipment from a revised range of Schedule 3 countries under the Import Health Standard for Sea Containers from All Countries and the Import Health Standard for Vehicles, Machinery and Equipment to provide consistency.



6. Changes Proposed in the 2019 Draft Version of the Import Health Standard

6.1 Changes proposed for sea containers from Italy

Under Section 2.3: Sea Containers from Italy, changes to requirements and associated guidance has been proposed as follows (changes are underlined):

- Section 2.3 (2):
(2). For all sea containers that are exported from Italy on or after the 1st of September and arrive on or before the 30th of April of any year:
 - a) Sea containers must be treated for BMSB in accordance with *Approved Biosecurity Treatments* by an MPI-Approved Offshore Treatment Provider before arrival in New Zealand.
- or
- b) Sea containers may be inspected by an MPI Inspector instead of treatment where:
 - i) The importer has notified MPI that the sea container contains cargo that the importer considers is sensitive and would be damaged by the treatments for Brown Marmorated Stink Bug (BMSB) specified in the *MPI Approved Biosecurity Treatments*; and
 - ii). A CTO has determined that treatment may damage the cargo.

Guidance

Note 1: Examples of sensitive commodities include:

- Agricultural Compounds/Veterinary Medicines;
- Food for human consumption (including beverages);
- Fresh produce;
- Live animals;
- Leather goods (apparel and furniture)
- Pet food;
- Pharmaceutical products;
- Polyurethane foam products;
- Refrigerated goods;
- Seed for sowing; and
- Textiles (including yarn).

Note 2: After authorised MPI inspection for sensitive cargo has been conducted, MPI may require additional risk mitigation actions where non-compliance is found such as the consignment being treated, re-shipped or destroyed. Where treatment is agreed, it is at the importer's risk and expense.

Note 2: MPI is likely to deny discharge of all untreated sea containers and cargo from Italy from arriving vessels (when the cargo is not considered by a CTO to be sensitive to treatment).

Note 3: Clause 2.3 (2): as above, does not apply to sea containers and cargo from Italy when:

a). Sea containers holding vehicles, machinery and equipment only (and no other types of cargo). This is because requirements for vehicles, machinery and equipment (as specified in the *Import Health Standard for Vehicles, Machinery and Equipment*) have requirements that are additional or different to those for other sea containers and cargo (that is under this Import Health Standard). These requirements negate the need for additional treatment of the container.

or

b). Sea containers originating from a country other than Italy are trans-shipped through an Italian port before arriving in New Zealand provided that:
(i). the fully sealed sea container remains closed during trans-shipping;



or

(ii). upon arrival at an Italian port, non-fully sealed sea containers such as flat racks, open-side, open-top and soft-top sea containers must be segregated from other untreated cargo; and remain at that port for a maximum duration of 120 hours only.

6.2 Rationale for the Proposed Changes to the Import Health Standard

6.2.1 Mandatory treatment for containerised cargo from Italy prior to arrival in New Zealand.

Section 2.3 (2) a: The main change in the Import Health Standard is that all containerised risk goods from Italy must now be treated (as per *MPI Approved Biosecurity Treatments* by an approved treatment provider) before arrival in New Zealand. The reasons for removing the ability for containerised cargo from Italy to be treated on arrival in New Zealand are that:

1. One of MPI's core principles is that biosecurity risk management including treatment must occur offshore wherever possible (and especially for high risk pests such as BMSB) which keeps the risk offshore.
2. MPI interception data from 2014 through to the end of 2018 shows that BMSB numbers are increasing significantly each year across cargo (break-bulk and containers) and vessels.
3. MPI interception data confirms that cargo from Italy provides the highest BMSB risk of any country in association with containers and cargo (including cargo previously considered to be low risk). This led to the previous emergency management of BMSB from Italy in containers (using Chief Technical Officer Directions in 2017 and 2018, and the 2018 modifications to the Import Health Standard).
4. Where possible, there should be consistency between similar Import Health Standards for managing BMSB, and it is proposed that there is alignment between revised Import Health Standards for Sea Containers and the one for Vehicles, Machinery and Equipment. Therefore, it is considered important to align requirements for containerised cargo of all kinds from Italy with a similar proposal for vehicles and machinery from the current and new Schedule 3 countries (Canada, Europe and the USA) and with that of Japan.
5. MPI analysis reports that approximately 94% of containers from the current Schedule 3 countries (including Italy) are treated on arrival in New Zealand. For 2018, this number came to approximately 48,300, whereas there are approximately 3,700 containers holding all kinds of cargo from Italy during the risk season from the 1st of September until the 30th of April. Operationally, the treatment systems and service providers at the places of first arrival in New Zealand are over capacity for conducting treatment work for biosecurity reasons. This situation places pressure on treatment systems and treatment service providers that can contribute to increase risk due to delays and could also result in short-cuts being taken. There is a risk to New Zealand when treating containers on arrival in New Zealand as they have to be opened to assess the ability for cargo to be treated, and to facilitate fumigation or heat treatment for required monitoring purposes. As such, there is the possibility that BMSB could escape as the container doors are opened and before treatment begins. This is because BMSB can fly and live ones are highly likely to have finished hibernation and become more active on arrival with warmer temperatures in New Zealand during the BMSB risk season from the beginning of September through to the end of April. By removing the option to treat Italian containers on arrival, MPI has an improved operational ability to cope with the biosecurity management of break-bulk cargo, and containers from other origins.

6.2.2 Inspection on-arrival instead of mandatory treatment before arrival in New Zealand

Section 2.3 (2) b: There have been some minor word changes to this clause in this section (as above). MPI will not require offshore treatment for containerised cargo where an importer advises MPI in advance of arrival that the cargo inside a container is sensitive to treatment (meaning it will be damaged or ruined); and an MPI Chief Technical Officer agrees with this. There are a range of commodities that are known to negatively react with Methyl bromide or Sulfuryl fluoride, or are not able to be treated due to residues or excessive absorption. Heat treatment and/or the process associated with heat treatment may also adversely affect the commodity. For example, unwrapping or warming the commodities such as chilled food to the required temperature will



effectively ruin them or eliminate any kind of shelf life. In this situation, MPI can conduct an inspection of the sensitive cargo instead of treatment at the place of first arrival or at a suitable transitional facility under controlled conditions.

Given this situation, an MPI Chief Technical Officer considers inspection to be an appropriate mitigation measure under an appropriate inspection regime rather than using approved treatments on the basis that the treatment processes and/or treatment may damage the commodity, product or packaging, or even be ineffective in reaching the required parameters for killing BMSB.

Examples of such commodities include:

- Agricultural Compounds/Veterinary Medicines;
- Food for human consumption (including beverages);
- Fresh produce;
- Live animals;
- Leather goods (apparel and furniture)
- Pet food;
- Pharmaceutical products;
- Polyurethane foam products;
- Refrigerated goods;
- Seed for sowing; and
- Textiles (including yarn).

The MPI Chief Technical Officer in using "inspection" conducted by an MPI Inspector is aligning with the International Plant Protection Convention and the International Standard for Phytosanitary Measures 23 which recognises inspection as an internationally appropriate mitigation measure. Sea Containers are unlike complex vehicles and machinery where treatment is required due to the inability effectively inspect for BMSB. Cargo of this nature does not typically provide the same sort of hiding spots for BMSB aggregations, making inspection a more effective tool for mitigating risk. Furthermore, it should also be considered that where MPI has an extensive history of compliance when inspecting specific commodities, a randomised inspection regime may be implemented that reflects the level of compliance and this regime should only require an appropriate percentage of such containers to be inspected.

6.2.3 Where mandatory treatment or inspection does not apply to sea containers

Section 2.3 (3) has changed in structure although not in intent. Previously 2.3 (3) specified situations where mandatory treatment or inspection did not apply to specific sea containers. In particular, containers holding vehicles, machinery and equipment are covered by requirements specified in the Import Health Standard for Vehicles, Machinery and Equipment. In addition, fully sealed containers that are trans-shipped through Italian ports from other countries do not have to be treated or inspected if they remain sealed while transiting through Italy or non-fully sealed containers such as flat racks, open-side, open-top and soft-top sea containers are segregated from other untreated cargo; and have only remained at an Italian port for a maximum duration of 120 hours only. This information is predominantly guidance and as such has been slightly re-worded and included in a Guidance Box.

The Guidance Box includes 3 notes as follows:

Guidance

Note 1. Examples of sensitive commodities include:

- Agricultural Compounds/Veterinary Medicines;
- Food for human consumption (including beverages);
- Fresh produce;
- Live animals;
- Leather goods (apparel and furniture)
- Pet food;



- Pharmaceutical products;
- Polyurethane foam products;
- Refrigerated goods;
- Seed for sowing; and
- Textiles (including yarn).

Note 2: After authorised MPI inspection for sensitive cargo has been conducted, MPI may require additional risk mitigation actions where non-compliance is found such as the consignment being treated, re-shipped or destroyed. Where treatment is agreed, it is at the importer's risk and expense.

Note 3: MPI is likely to deny all other untreated sea containers and cargo from Italy from being unloaded from arriving vessels (when the cargo is not considered by a CTO to be sensitive to treatment).

Note 4: Clause 2.3 (2): as above, does not apply to sea containers and cargo from Italy when:

a). Sea containers holding vehicles, machinery and equipment only (and no other types of cargo). This is because requirements for vehicles, machinery and equipment (as specified in the *Import Health Standard for Vehicles, Machinery and Equipment*) have requirements that are additional or different to those for other sea containers and cargo (that is under this Import Health Standard). These requirements negate the need for additional treatment of the container.

or

b). Sea containers originating from a country other than Italy are trans-shipped through an Italian port before arriving in New Zealand provided that:

(i). the fully sealed sea container remains closed during trans-shipping;

or

(ii). upon arrival at an Italian port, non-fully sealed sea containers such as flat racks, open-side, open-top and soft-top sea containers must be segregated from other untreated cargo; and remain at that port for a maximum duration of 120 hours only.

Due to the creation of the Guidance Box and reformatting, the previous Section 2.3 (4) becomes Section 2.3 (3). This is as follows:

2.3 (3): After treatment of sea containers, all reasonable and practicable steps must be taken to prevent the contamination of treated sea containers with BMSB.

6.2.4 Emergency treatment on-arrival in New Zealand

The only other containerised cargo that will possibly be permitted to be re-treated on arrival is for emergency purposes, and only where this is operationally practical. For example, where consignments of cargo from Italy have valid treatment certification but live pests are found on arrival in New Zealand. This indicates that the consignment was not treated properly or there was another reason why the treatment was not effective. A similar situation occurs where a consignment of cargo has been treated by an approved treatment operator in Italy and while in transit to New Zealand, MPI suspends or cancels approval for the MPI-Approved Offshore Treatment Provider for some reason. This leads MPI to question the validity of the treatment conducted for the consignment and both of these situations necessitate re-treatment on arrival in New Zealand as an emergency measure. Where consignments cannot be effectively or safely treated, MPI will require destruction or re-shipment.

6.3 Treatments

Treatment used for containers are specified in MPI Standard: *Approved Biosecurity Treatments*. Treatment specified for sea containers and vehicles, machinery and equipment have not changed significantly since implementation in 2018. The types of treatment available (including application and efficacy data) for sea containers and vehicles, machinery and equipment were specified in detail in the MPI Risk Management Proposal issued in 2018 (Risk Management Proposal Associated with the Review of the Import Health Standard



for Vehicles, Machinery and Equipment for the Management of the Brown Marmorated Stink Bug and Other High-Profile Pests. 25 May 2018). This document is available on request from MPI.

REFERENCES

Fraser, D., Kumar, S and Aguilar, G. 2017. Mapping the potential Global Range of the Brown Marmorated Stink Bug, *Halyomorpha halys*, with Particular Reference to New Zealand. *Climate* 5, 75, 2017.

MAF 2007. Import Risk Analysis: Vehicles and Machinery. Ministry of Agriculture and Forestry. 382 pp. <https://www.mpi.govt.nz/document-vault/2893>

MPI 2012. Risk analysis of *Halyomorpha halys* (Brown Marmorated Stink Bug) on all pathways. Ministry for Primary Industries. 57 pp. www.mpi.govt.nz/document-vault/2909

MPI 2015a. Technical advice on the establishment potential of Brown Marmorated Stink Bug in the New Zealand autumn/winter period. Technical advice.

MPI 2018. Risk Management Proposal Associated with the Review of the Import Health Standard for Vehicles, Machinery and Equipment for the Management of the Brown Marmorated Stink Bug and Other High-Profile Pests. 25 May 2018.