**Canadian discussion paper for the Strategic Planning Group (SPG)**

**on the development of CPM Recommendations**

At the Eighth session of the Commission on Phytosanitary Measures (CPM-8), two CPM Recommendations, one on aquatic plants and one on internet trade (E-commerce) of plants, were proposed for adoption by the CPM[[1]](#footnote-1). Many contracting parties welcomed these CPM Recommendations and agreed that, in principle, these were issues that should be addressed by National Plant Protection Organizations. Some members expressed a need for careful consideration in taking a decision on these issues. It was also noted by the Chairperson that some members sought additional consultation before moving forward, as they felt they had not had sufficient time to reflect on the proposals and that CPM Recommendations have a high profile.

Canada and several other member countries understand that CPM Recommendations have a similar status as standards in relation to the WTO-SPS Agreement. Also, it should be noted that many member countries have in place established mechanisms for internal consultation on plant health issues that could affect them nationally, hence the need for appropriate consultation. As new important plant health issues are being addressed through CPM Recommendations, this should be taken into account in the various stages of the development and adoption of CPM Recommendations

**Background on CPM Recommendations**

* IPPC Article XI, 2(g) states that: “The functions of the Commission on Phytosanitary Measures shall be to promote the full implementation of the objectives of the Convention and, in particular, to:
	+ Adopt such recommendations for the implementation of the Convention as necessary.”
* At CPM-3 (2008) the proposal on how decisions could be presented in a consistent manner and numbered in a way that could be tracked for later review, change or deletion was introduced. It was noted that decisions were contained in Commission reports and report appendices, which could be hard to track.
* It was indicated that procedural decisions would not fall into the category of Recommendations and would continue to be added to the IPPC Procedure Manual.
* Two CPM working groups discussed this issue and felt that criteria on the development and adoption of IPPC Recommendations should be developed. It was also noted that Recommendations should be published on the IPP independently from the Commission reports.
* At CPM-4 (2009), a paper outlining a proposal for the presentation of adopted CPM Recommendations was presented. It outlined the discussion on this topic that had taken place in the Commission Bureau and the Informal Working Group on Strategic Planning and Technical Assistance (SPTA) and described the different types of matters that are put forward to the Commission for agreement, adoption or decision. The paper proposed that:
	+ Decisions on long-term operational matters be named “Recommendations”;
	+ A harmonized format for these “Recommendations” be used; and
	+ "Recommendations” be recorded in a separate section of the IPPC Procedure Manual and posted separately on the International Phytosanitary Portal (IPP).
* In addition, CPM-4 notedthat existing CPM procedures provide a process for the development and adoption of CPM Recommendations as follows:
* A document is presented to the annual meeting of the CPM in accordance with Rule V of the Rules of Procedure of the CPM *(note: rule V relates to agenda and documents for the meeting)*;
* The CPM considers the document and decides whether it should be adopted as a Recommendation;
* If a document needs further review, the CPM decides to send it to the appropriate body depending on the content. The revised document is sent to the next meeting of the CPM for further consideration and adoption; and
* Adopted Recommendations are numbered and formatted by the Secretariat, and added to the compiled CPM Recommendations.

Appendix 1 provides an excerpt of the 2011 IPPC Procedure Manual, consisting of Section 2.8 *Commission Recommendations*. This section provides the format for CPM Recommendations, which was adopted at CPM-4 (2009).

**Current situation**

CPM-5 (2010) discussed and noted that a CPM Recommendation would be adopted when CPM *agrees* or *decides*:

1. something that is relevant to the ongoing activities of all contracting parties in the area of plant protection, in accordance with and within the context of the IPPC. These are activities that are carried out in the territory of the contracting parties or by the contracting parties, e.g. the IPPC Recommendation on the replacement or reduction of the use of methyl bromide as a phytosanitary measure.
2. something that is relevant to the ongoing activities of all contracting parties and the IPPC Secretariat in the area of plant protection, in accordance with the IPPC. These are activities that are carried out by both the contracting parties and the IPPC Secretariat, e.g. the agreement on the role of IPPC Contact Points.

The CPM process for developing and adopting Recommendations is much more flexible than the process for adopting ISPMs. This allows the CPM to consider the appropriate presentation for a given decision or agreement once the subject has been sufficiently analyzed and developed. A CPM Reccommendation would be adopted when CPM agrees or decides to something that is relevant to the ongoing activities of all contracting parties in the area of plant protection, in accordance with and within the context of the IPPC.

CPM Recommendations do not prescribe specific requirements to contracting parties regarding the establishment of phytosanitary measures.

In 2012, the SPG discussed the classification of CPM documents and concluded that CPM Recommendations are **decisions and agreements made by the CPM, according to existing procedures and are intended to promote or achieve the objectives of the IPPC**. **These decisions and agreements may consist of directions, guidance, or calls to action to the contracting parties or the Secretariat or both, on matters that may not be appropriately or effectively expressed as an ISPM, on which phytosanitary measure(s) are based**. An excerpt from the 2012 SPG report is provided in Appendix 2.

**Existing CPM Recommendations**

In 2009, CPM-4 requested the Secretariat to identify any previous decision from the Interim Commission on Phytosanitary Measures (ICPM) or CPM that should be presented as a CPM Recommendation. A paper presented at CPM-5 (2010) identified six decisions which would qualify as CPM Recommendations and it was proposed that these would be reviewed, with a view to updating them. These decisions, now considered as CPM Recommendations, are presented below, but it is to be noted that there is no indication that a follow up was done for their review as per the CPM-5 request.

* Recommendation concerning information exchange (ICPM-2/1999)
* Recommendations concerning LMOs, biosecurity and alien invasive species (ICPM-3/2001)
* Threats to biodiversity posed by alien species: actions within the framework of the IPPC (ICPM-7/2005)
* The role of IPPC Contacts Points (CPM-1/2006)
* Replacement and reduction of the use of methyl bromide as a phytosanitary measure (CPM-3/2008, superseding ICPM-5/1)

Note: background information on these Recommendations is provided in appendix 3.

**Recommendations in the context of the WTO-SPS Agreement**

The WTO-SPS Agreement applies to all sanitary and phytosanitary measures which may, directly or indirectly, affect international trade. Article 3 (c)[[2]](#footnote-2) of the SPS Agreement includes provisions related to the harmonization of sanitary and phytosanitary measures based on international standards, guidelines or recommendation, where they exist.

The WTO-SPS Agreement recognizes the normative work done by the three sisters (i.e. IPPC, Codex Alimentarius (Codex) and World Organization for Animal Health (OIE)) as the benchmark on which members of these organizations should base their sanitary and phytosanitary measures. Measures taken by WTO members that conform to international standards, guidelines or recommendations are presumed to be consistent with the relevant provisions of the SPS Agreement and GATT 1994.

Under the WTO-SPS Agreement, Recommendations appear to have a similar status as international standards and guidelines, but the current procedures for the development and review of Recommendations is not felt to be equally rigorous as what is in place for standards. The WTO‑SPS Committee, in case of a dispute, would consider all decisions and adopted documents from the CPM, irrespective of their title or format

**Recommendations in the context of other International Standard Setting Bodies**

The *Procedures used by the OIE to set standards and recommendations for international trade, with a focus on the terrestrial and aquatic animal health codes* provides an overview of the procedures used by the OIE to set standards and recommendations, using an established procedure. Both the *Terrestrial Code* and the *Aquatic Code* contain science-based recommendations for disease reporting, prevention and control and for assuring safe international trade in terrestrial and aquatic animals and their products. Recommendations are specific texts, which are included in these codes and are developed by *ad hoc* groups of experts. The normal cycle for the adoption of new texts in the codes is two years, including two to four 60 day consultation periods for members to comment. There are currently four specialist commissions at the OIE and one of their tasks is to determine how to incorporate scientific recommendations into the new or revised standards.

With respect to food safety, Codex refers to standards and related texts, which include guidelines, recommendations and codes of practice. The procedures for the elaboration of Codex standards and related texts are spelled out in the Codex Procedural manual, and involve a uniform process comprising eight steps, including two opportunities for comment by members of the Commission and interested international organizations.

However, in addition to these texts, the Codex Commission also adopts scientific recommendations on specific issues. Recommendations are developed by general subject commissions and usually included in meeting reports, and could be used in case of a dispute between two members.

The 22nd session of the Codex Alimentarius Commission (1997) requested the Codex Secretariat to write to the chair of the WTO-SPS Committee in order to obtain clarification on how the Committee would “differentiate standards, guidelines and other recommendations” in relation to the SPS Agreement. Although the SPS Committee made it clear that it cannot formally interpret the provisions of the SPS Agreement, the response of the Chair of the SPS Committee included the following views:

* the Agreement does not differentiate between the terms “standards’, “guidelines” or “recommendations”; and
* how a text would be applied depended on its substantive content rather than on the category of the text.

The letter WTO-SPS Committee response to the Codex Secretariat is provided in Appendix 4. The views expressed in this letter indicate that, with respect to the WTO-SPS Agreement, Codex recommendations carry the same weight than other Codex texts (i.e. standards and guidelines).

It is expected that these views could be applied in the context of CPM Recommendations, therefore supporting the need for rigorous and transparent procedures for the development of CPM Recommendations.

**Suggested actions for discussion at SPG (2013)**

It is proposed that the procedure for CPM recommendations be reviewed in order to clarify the various stages of their development and provide flexibility for contracting parties to consult on issues addressed through CPM recommendations, ultimately facilitating the adoption of future CPM Recommendations. In order to stimulate discussion by the SPG, the following questions are proposed:

* What issues trigger the development of a CPM Recommendation and what, if any, are the current prioritization mechanisms?
* For consistency, the identification of a central point of contact within the Secretariat could be considered to coordinate the overall process of CPM Recommendations.
* Could the process for the development and adoption of CPM Recommendations be further clarified, in particular to provide a predictable consultation period, and associated Contracting Party notification process within the CPM recommendation procedure?

**Appendix 1**

**Excerpt from the IPPC 2011 Procedure Manual**

**2.8 Commission recommendations**

At the CPM-3 (2008) the proposal on how decisions could be presented in a consistent manner and numbered in a way that could be tracked for later review, change or deletion was introduced. It was noted that decisions were contained in Commission reports and report appendices, which could be hard to track.

It was indicated that procedural decisions would not fall into the category of recommendations and would continue to be added to the Procedure Manual.

Two working groups discussed this issue and felt that criteria on the development and adoption of IPPC recommendations should be developed at the earliest opportunity.

The CPM-3 (2008):

1. *Considered* the format for Commission recommendations regarding long term operational and administrative recommendations;

2. *Requested* the further development of the proposal and format, taking into consideration the comments made by the Commission.

**2.8.1 Replacement or reduction of methyl bromide as a phytosanitary measure**

The CPM-3 (2008) discussed whether it was appropriate to adopt the draft as a policy, a recommendation or an ISPM. Two working groups were held. The working group recommended adopting the document as an IPPC Recommendation with a reference in the text to IPPC Article XI.2(g), which refers to the adoption of recommendations for the implementation of the Convention as necessary. The working group also indicated that the recommendation should be published on the IPP independently from the Commission reports. The working group finally suggested that once criteria on the development and adoption of IPPC recommendations were developed, it may be necessary to review the format of the methyl bromide recommendation.

The CPM-3 (2008):

1. *Adopted* IPPC Recommendation: *Replacement or reduction of the use of methyl bromide as a phytosanitary measure* (Appendix 6), and *agreed* that its format would be reviewed once criteria for IPPC recommendations were available.

At the CPM-4 (2009) the paper outlining a proposal for the presentation of adopted Commission recommendations was presented. It outlined the discussion on this topic that had taken place in the Commission Bureau and the SPTA and described the different types of matters that are put forward to the Commission for agreement, adoption or decision.

The paper proposed that decisions on long-term operational matters be named “Recommendations”, that a harmonized format for these “Recommendations” be used and that such "Recommendations” be recorded in a separate section of the IPPC Procedure Manual and that they be posted separately on the International Phytosanitary Portal.

The CPM-4 (2009)

1. *Adopted* the format as presented in Appendix 22, noting that the new format does not change the way in which agreement is reached on Commission recommendations.

2. *Noted* that existing Commission procedures provide a process for the development and adoption of Commission recommendations. This process involves:

- a document is presented to the annual meeting of the Commission in accordance with Rule V of the Rules of Procedure of the Commission;

- the Commission considers the document and decides whether it should be adopted as a recommendation;

- if a document needs further review, the Commission decides to send it to the appropriate body depending on the content. The revised document is sent to the next meeting of the Commission for further consideration and adoption;

- adopted recommendations are numbered and formatted by the Secretariat and added to the compiled Commission Recommendations.

|  |
| --- |
| **2.8.2 Format of Commission Recommendations**CPM Recommendation [CPM-x/y] Title: [A title which provides an indication of the subject matter, e.g. Role of IPPC contact points] Background: [Information to provide context and a reference to the Commission report paragraph and appendix where the text can also be found.] Addressed to: [Contracting parties or National Plant Protection Organizations or the Secretariat or a combination of these, depending on the subject matter.] Recommendation: [The text of the recommendation should have action verbs, such as note, agree, decide, urge in the part of the recommendation which enunciates it. It may have subheadings to indicate a separation between different elements of the recommendation, as appropriate.] Recommendation(s) superseded by the above: [The recommendation should identify when a previous recommendation or decision is superseded by the present one or should state that the recommendation was repealed and provide the Commission reference.]  |

At the CPM-5 (2010) the paper prepared by the Commission Chairperson was presented. The paper highlighted Interim Commission and Commission decisions which could be envisaged as Commission Recommendations, and provided the format for such recommendations. The paper listed the 6 decisions which could become Commission recommendations. It was proposed that these recommendations would be reviewed, with a view to updating them.

The CPM-5 (2010):

1. *Considered* the previous discussions, considerations and decisions regarding Commission Recommendations.

2. *Noted* the scope of Commission Recommendations.

3. *Agreed* to revoke the ICPM-5 (2003) decision on the recommendation on the future of methyl bromide for phytosanitary purposes and agreed that it has been replaced by the IPPC Recommendation on replacement or reduction of the use of methyl bromide as a phytosanitary measure adopted by the CPM-3 (2008).

4. *Requested* the Secretariat to review the remaining Interim Commission and Commission decisions (paragraph 19 of the Commission Document CPM 2010/3) with a view to updating them, if required, and to present them to the next Commission for approval as CPM-6 (2011) Recommendations.

5. *Requested* the Secretariat to publish the Commission Recommendation CPM-3/2008 on Replacement or reduction of the use of methyl bromide as a phytosanitary measure prominently on the IPP independently from the report of the CPM-3 (2008).

**Appendix 2**

**Classification of CPM documents (SPG 2012/07)**

**CPM Recommendations:**

**Objectives:** CPM recommendations are decisions and agreements made by the CPM, according to existing procedures (as noted by CPM-4. See CPM-4 report, section 13.9, paragraph 193.3) and are intended to promote or achieve the objectives of the IPPC. These decisions and agreements may consist of directions, guidance, or calls to action to the contracting parties or the Secretariat or both, on matters that may not be appropriately or effectively expressed as an ISPM, on which phytosanitary measure(s) are based.

**References:** CPM-4 and 5

**Authorship:** Relevant parties

**Oversight:** IPPC Secretariat

**Process:** The CPM process for developing and adopting Recommendations is much more flexible than the process for adopting ISPMs. This allows the CPM to consider the appropriate presentation for a given decision or agreement once the subject has been sufficiently analyzed and developed. A CPM Recommendation would be adopted when CPM agrees or decides to something that is relevant to the ongoing activities of all contracting parties in the area of plant protection, in accordance with and within the context of the IPPC.

**Appendix 3**

**Background information on existing CPM Recommendations**

**CPM Recommendation ICPM-2/1**

**Information Exchange**

This Recommendation was adopted at ICPM-2 in 1999 (see report of ICPM-2, paragraph 20 and Appendix X). It provides specific recommendations regarding the role of the ICPM members and the Secretariat in information exchange. The recommendation stresses the importance of information exchange and especially the communication of information in electronic formats. It also recommends country participation on linguistic issues on proposed ISPMs.

**CPM Recommendation ICPM-3/1**

**Living Modified Organisms, Biosecurity and Alien Invasive Species**

This Recommendation was adopted at ICPM-3 in 2001 (see report of ICPM-3, paragraph 34 & Appendix XIII). It provides specific recommendations regarding the role of the IPPC, the ICPM members and the Secretariat in regard to living modified organisms and alien invasive species. The decisions and recommendations also provide guidelines for the communication and cooperation with the Convention on Biological Diversity.

**CPM Recommendation ICPM-7/1**

**Threats to Biodiversity posed by Alien Species: Actions within the Framework of the IPPC**

This Recommendation was adopted at ICPM-7 in 2005 (see report of ICPM-7, paragraph 148). It provides recommendations regarding many possible actions in relation to invasive alien species, including plants that are invasive alien species. It also provides support to further collaboration between the Secretariats of the IPPC and the Convention on Biological Diversity.

**CPM Recommendation CPM-1/1**

**The Role of IPPC Contact Points**

This Recommendation was adopted at CPM-1 in 2006 (see report of CPM-1, paragraph 152 & Appendix XVIII). It provides guidance on the role, competence and functions of IPPC contact points in contracting parties.

**CPM Recommendation CPM-3/1 (superseding CPM Recommendation ICPM-5/1)**

**Replacement or reduction of the use of methyl bromide as a phytosanitary measure**

This Recommendation was adopted by CPM-3 as a Recommendation (see report of the CPM-3, paragraph 80 and Appendix 6). It provides guidance to National Plant Protection Organizations (NPPOs) on the replacement of or reduction in the use of methyl bromide as a phytosanitary measure in order to reduce emissions of methyl bromide.

Note: This Recommendation had been developed originally as an International Standard on Phytosanitary Measures (ISPM). This included that the Recommendation was drafted in an ISPM format and was submitted for member consultation.

1. CPM 2013/17Rev1 Proposed CPM Recommendations Based on Implementation Review and Support System Studies <https://www.ippc.int/publications/proposed-cpm-recommendations-based-implementation-review-and-support-system-studies> [↑](#footnote-ref-1)
2. The WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) <http://www.wto.org/english/tratop_e/sps_e/spsagr_e.htm#fnt4> [↑](#footnote-ref-2)