CONCEPT NOTE: PURPOSE, STATUS AND CONTENT OF ISPMS

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Introduction

The discussions on the content of International Standards for Phytosanitary Measures (ISPMs) in the Standards Committee (SC) have shown increasing consensus on what should be included in an ISPM. Yet, some SC members have felt that some draft ISPMs do not provide specific enough direction to national plant protection organizations (NPPO). It was suggested that this should be considered further and a concept note on the nature of a standard be developed. This is undertaken below, pursuing the view that the purpose and status of ISPMs as specified in the Convention and the Sanitary and Phytosanitary (SPS) Agreement determines which sort of topics, content and level of detail is appropriate for ISPMs.

1. The purpose of ISPMs

The International Plant Protection Convention (IPPC) is an agreement that, at its core, describes how contracting parties should interact in order to prevent the international spread of pests while allowing for the safe international trade of plants and plant products. The core ‘rules of interaction’ for individual contracting parties are specified in Articles IV through VIII[[1]](#footnote-1), i.e.:

* Art. IV: General provisions on the organizational arrangements for national plant protection
* Art. V: Phytosanitary certification
* Art. VI: Regulated pests
* Art. VII: Requirements in relation to imports
* Art. VIII: International cooperation,
* and in Art. X (4) on the use of ISPMs.

ISPMs, addressed to the contracting parties, expand those ‘rules of interaction’ at a far greater level of detail. ISPM requirements should lead to each contracting parties developing phytosanitary measures that are harmonized, cf.

* the Convention’s preamble point 4:

*“[The contracting parties] desiring to provide a framework for the development and application of harmonized phytosanitary measures and the elaboration of international standards to that effect;…”*

and

* the Convention’s Art. II, whereby

*“harmonized phytosanitary measures” are “phytosanitary measures established by contracting parties based on international standards”.*

The IPPC in Article X (1 and 2) details the procedures for developing ISPMs:

1. *The contracting parties agree to cooperate in the development of international standards in accordance with the procedures adopted by the Commission.*
2. *International standards shall be adopted by the Commission.*

The Convention also provides for the IPPC Secretariat being responsible for implementing the Commission on Phytosanitary Measures (CPM) policies and activities, including standard setting, and the CPM has adopted a standard setting procedure. A total of almost 40 ISPMs (and a number of diagnostic protocols and phytosanitary treatments) have been adopted by the CPM to date.

In summary, ISPMs are the exclusive IPPC documents whereby contracting parties, through the adoption at CPM, agree on specific requirements for their interacting, with the objective of preventing the international spread of pests while allowing for the safe international trade of plants and plant products.

1. Status of ISPMs

According to IPPC

The legal status of ISPMs is indicated in IPPC Art. X (4), stating that:

*“Contracting parties should take into account, as appropriate, international standards when undertaking activities related to this Convention”.*

Whereas rules of the Convention is contractual, ISPMs are not immediately binding for contracting parties, and contracting parties are not legally obliged to implement them. However, following Art. I (2), there is a strong expectation that ISPMs be implemented by contracting parties:

*“Each contracting party shall assume responsibility, without prejudice to obligations assumed under other international agreements, for the fulfillment within its territories of all requirements under this Convention.”*

ISPMs are *agreed* instruments adopted by CPM. Therefore, contracting parties have the moral obligation to implement them. This is in contrast to various other kinds of publications issued in the IPPC domain[[2]](#footnote-2).

According to WTO/SPS

The SPS agreement recognizes ISPMs as the exclusive instruments of harmonization for plant health. Therefore, the closer any national phytosanitary measure follows the requirements set out in an ISPM, the less challengeable is that measure in any dispute with other countries, cf.:

I) SPS Agreement Art. 3, (1), (2) and (4):

*“1. To harmonize sanitary and phytosanitary measures on as wide a basis as possible, Members shall base their sanitary or phytosanitary measures on international standards, guidelines or recommendations, where they exist, except as otherwise provided for in this Agreement, and in particular in paragraph 3.”*

*“2. Sanitary or phytosanitary measures which conform to international standards, guidelines or recommendations shall be deemed to be necessary to protect human, animal or plant life or health, and presumed to be consistent with the relevant provisions of this Agreement and of GATT 1994.”*

*“4. Members shall play a full part, within the limits of their resources, in the relevant international organizations and their subsidiary bodies, in particular the Codex Alimentarius Commission, the International Office of Epizootics, and the international and regional organizations operating within the framework of the International Plant Protection Convention, to promote within these organizations the development and periodic review of standards, guidelines and recommendations with respect to all aspects of sanitary and phytosanitary measures.”*

II) Annex A Definitions, point (3) c:

*“3. International standards, guidelines and recommendations…*

*(c) for plant health, the international standards, guidelines and recommendations developed under the auspices of the Secretariat of the International Plant Protection Convention in cooperation with regional organizations operating within the framework of the International Plant Protection Convention;”*

1. Content of ISPMs

Requirements described in an ISPM concerns a topic of importance to contracting parties. The purpose and status of ISPMs have important implications for what can be deemed as the appropriate topic, content and level of details of an ISPM, as explained below.

3.1 Topic

In evaluating a proposal for a new ISPM topic the most immediate criteria is whether there is a need for *global* *harmonization*, i.e. an *agreement* among all contracting parties, on the particular topic. I.e., would the *harmonization* on that particular topic contribute to preventing the international spread of pests while allowing for the safe international trade of plants and plant products? If not, an ISPM is not the appropriate option, and instead the development of non-harmonized guidance material may be pursued. The development of such material should neither rely on resources earmarked for ISPMs, nor would it require such rigorous development and adoption processes.

As an example, the formerly proposed topic on a detailed, per-commodity class methodological guideline for inspection was repealed following the Standards Committee’s further analysis concluding that global harmonization of such methodologies was not needed. Acknowledging that some countries may want access to inspiring, state-of-art methods descriptions from other countries, the Standards Committee suggested that such guidance may be made available in other forms than as an ISPM.

Measures of domestic concern only (i.e. where the arranging of procedures or facilities in a country do not interfere with or affect interactions with other countries) do not need harmonization. I.e., there is no need that the approx. 180 contracting parties should spent time and resources on agreeing such measures, and no need for any one country to have to align with arrangements of other countries.

As an example, it may be questioned whether ISPM 34 on ‘Design and operation of post-entry quarantine stations for plants’ should really have been produced as an ISPM, - irrespective of all the useful information it contains.

3.2 Content

The core purpose of any ISPM is the description of *requirements* that can be transformed (or directly implemented) by countries into phytosanitary measures, including phytosanitary import requirements.

Requirements may prescribe any procedure, action or factor for which global harmonization is deemed appropriate. Requirements in ISPMs may be expressed in various ways with differing level of obligations[[3]](#footnote-3), such as: ‘countries should carry out…’, ‘countries should consider…’, ‘countries should notify…’, ‘countries should not require…’, ‘countries may decide…’, ‘the operator shall immediately report…’ etc. etc.

Included as requirements may be the listing of particular risk factors or existing management practices that contracting parties should consider when establishing phytosanitary measures.

The Glossary (ISPM 5) definition refers to ISPMs being for “common and repeated use”. Only information sufficient to achieve this purpose should be provided in an ISPM, and it should not provide extensive background information or give training instructions. Similarly, ISPMs should not merely describe various (best) practices, but should formulate requirements.

As an example, at the recommendation from the Standards Committee, CPM decided to assign the text on ‘Fruit fly trapping’ the status as only an Appendix to ISPM 26, i.e. being for reference purposes only and not a prescriptive part of the standard, because the text focuses on detailed descriptions on the characteristics of a multitude of trap types.

The format used in ISPMs currently includes:

* an administration section which may include information on the body approving the standard and the date of establishing the standard
* a brief scope of the standard
* an introductory section containing an outline (summary) of the standard, references used and a list of special terms, with definitions, used in the standard, as well as a background section explaining the need for and context of the standard
* most importantly, the *requirements* sections, divided into subsections often including:
* the general requirements
* the risk basis for action
* management requirements – these may include positive actions or avoidance provisions
* operational requirements
* the specific technical requirements
* recording or documentation provisions
* audit or verification requirements
* non-compliance notifications or corrective actions.

These subsections in some standards might not appear in this order or under these headings.

3.3 Level of detail

The level of detail used in ISPMs for describing requirements varies widely among ISPMs depending on the topic, and within each ISPM depending on the particular issue at stake. The level of detail for describing requirements should match what is necessary and feasible in order to fulfil the objective of preventing the spread of pests and facilitating safe trade.

Thus, on one hand, ISPMs should prescribe tangible measures sufficiently detailed to reach the desired level of harmonization. On the other hand, ISPMs should not strive at a level of detail beyond what is necessary. A certain leeway is necessary for adapting to local circumstances and to future technological developments.

As an example, the 2013 revision of Annex I to ISPM 15 retained the minimum, continuous 56oC/30 minutes treatment as the indispensable requirement, whilst NPPOs are required to consider a long range of other factors potentially affecting the actual treatment efficacy. Yet, the Annex wisely does not include details as regards e.g. the air flow rate or air humidity, initial wood moisture or geometry of wood stacks. Such details may be found in a prospective explanatory document to ISPM 15.

1. Quality of ISPMs

ISPMs should be of high quality and science based[[4]](#footnote-4). The Standards Committee shall ensure that ISPMs are technically based, have scientific integrity, follow the principles and policies of the CPM, and are written in a simple, clear and focused language.

Reflecting that ISPMs provide the foundation for harmonized phytosanitary measures, high-quality texts must be ensured for:

* easing the immediate understanding of the content
* easing the contracting parties’ transforming ISPMs into phytosanitary measures and implementing ISPMs
* easing translation into languages
* avoiding or alleviating disputes among contracting parties on the meaning of texts
* creating respect for the IPPC in other international bodies and national organizations.

ISPMs must therefore be:

* correct (not containing objective errors)
* precise (unambiguous and providing sufficient information in sufficient detail)
* concise (avoiding repetitive as well as lengthy tutorial wording)
* consistent (avoiding textual conflicts of meaning and using consistent terminology, including agreed terms as of the Glossary of ISPM 5).

Developing high-quality ISPMs is inevitably an intense, long and resource demanding process with contracting parties, regions and the IPPC. However, the process is in itself stimulating for valuable discussions for the global development of the plant health domain. Furthermore, for everybody involved, the development process serves as a tutorial on the functioning of plant health systems.

1. An agreed glossary and consistent wording in ISPMs

As stated in ISPM 5, the purpose of the agreed IPPC glossary is:

*“to increase clarity and consistency in the use and understanding of terms and definitions which are used by contracting parties for official phytosanitary purposes, in phytosanitary legislation and regulations, as well as for official information exchange.”*

As stated in the ISPM 5 scope, ISPM contains:

*“terms and definitions with specific meaning for phytosanitary systems worldwide…. developed to provide a harmonized internationally agreed vocabulary associated with the implementation of the IPPC and ISPMs”.*

The consistent use of harmonized terminology in ISPMs, as well as in national legislation and bilateral trade agreements, is an indispensable element of text quality and clarity.

1. The use of ISPMs

In providing norms for contracting parties’ interaction, ISPMs are playing a crucial role in promoting the mutual trust between countries. This role may be deemed successful when phytosanitary measures minimize the international spread of pests and adequately protect plants, when import requirements remain fair, justified and non-discriminatory, and when exports actually comply with import requirements. Successful development is supported by increasing ISPM-based global harmonization of, for example:

* phytosanitary import regulatory systems
* export certification systems
* surveillance procedures
* PRA methodologies
* requirements for PFA, ALPP and PFPoP
* procedures for the notification and reporting of pest status and non-compliance
* terminology, and, increasingly,
* of specific measures for particular pathways and pests.

Bilateral agreements are increasingly being built upon ISPM concepts and terminology. Global harmonization based upon ISPMs potentially leads to less trade disputes and easier resolutions of any disputes.

In developing ISPMs, the prevention of pest spread is a shared objective of all contracting parties. On the other hand, importing countries (in defending their interest for maximum phytosanitary protection) and exporting countries (in defending their interest for trade opportunities) may perceive that their short-term interests are conflicting. However, both sides should acknowledge the benefits of meeting in the ISPM development process for agreeing on non-arbitrary, non-discriminating, multilateral, and therefore more robust and less challengeable phytosanitary measures.

Recommendations to the SC:

The SC is invited to:

1. *agree* to the purpose, status and concept of standards as laid out in this paper
2. *ask* the Secretariat to include the paper on *the purpose, status and concept of standards* as an annex to the IPPC Style Guide and *encourage* expert drafting groups to use this guidance when drafting standards.

1. The remaining articles rather deal with administrative issues and collective activities and bodies, in support of those core provisions. [↑](#footnote-ref-1)
2. Many ISPMs in their introductory part are presented as ‘providing guidance to the NPPO’. The use of the word ‘guidance’ is attempting to express that ISPMs are not legally binding. This unfortunately leads to some potential confusion with the term ‘guidance material’ used about non-ISPM material produced in the IPPC domain, such as technical manuals etc. [↑](#footnote-ref-2)
3. The CPM at several occasions has discussed how to express different levels of obligations, e.g. by using the words ‘shall’, ‘should’, ‘may’ and ‘must’, cf. the IPPC Style Guide for standards and meeting documents, p. 30: <https://www.ippc.int/sites/default/files/documents/20140304/ippcstyleguide_2014-03-04_201403041127--796.95%20KB.pdf> [↑](#footnote-ref-3)
4. Cf. the IPPC Procedural manual. [↑](#footnote-ref-4)