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INTERNATIONAL STANDARD FOR PHYTOSANITARY MEASURES 20

ISPM 20

ENG

# Guidelines for a phytosanitary import regulatory system

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INTERNATIONAL STANDARDS FOR  
PHYTOSANITARY MEASURES

**ISPM 20**

**Guidelines for a phytosanitary import  
regulatory system**

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## Adoption

This standard was adopted by the Sixth Session of the Interim Commission on Phytosanitary Measures in March–April 2004. Annex 1 was adopted by the Commission on Phytosanitary Measures in April 2017.

## INTRODUCTION

### Scope

This standard describes the structure and operation of a phytosanitary import regulatory system and the rights, obligations and responsibilities which should be considered in establishing, operating and revising the system.

### References

The present standard refers to International Standards for Phytosanitary Measures (ISPMs). ISPMs are available on the International Phytosanitary Portal (IPP) at <https://www.ippc.int/core-activities/standards-setting/ispm>.

**IPPC.** 1997. *International Plant Protection Convention*. Rome, IPPC, FAO.

**WTO.** 1994. *Agreement on the Application of Sanitary and Phytosanitary Measures*. Geneva, World Trade Organization.

### Definitions

Definitions of phytosanitary terms used in the present standard can be found in ISPM 5 (*Glossary of phytosanitary terms*).

### Outline of Requirements

The objective of a phytosanitary import regulatory system is to prevent the introduction of quarantine pests or limit the entry of regulated non-quarantine pests with imported commodities and other regulated articles. A phytosanitary import regulatory system should consist of two components: a regulatory framework of phytosanitary legislation, phytosanitary regulations and phytosanitary procedures; and an official service, the national plant protection organization (NPPO), responsible for operation or oversight of the system. The legal framework should include legal authority for the NPPO to carry out its duties; phytosanitary measures with which imported commodities should comply; other phytosanitary measures (including prohibitions) concerning imported commodities and other regulated articles; and phytosanitary actions that may be taken when incidents of non-compliance or incidents requiring emergency action are detected. It may include phytosanitary measures concerning consignments in transit.

In operating a phytosanitary import regulatory system, the NPPO has a number of responsibilities. These include the responsibilities identified in Article IV.2 of the IPPC relating to import including surveillance, inspection, disinfestation or disinfection, the conduct of pest risk analysis, and training and development of staff. These responsibilities involve related functions in areas such as administration; audit and compliance checking; action taken on non-compliance; emergency action; authorization of personnel; and settlement of disputes. In addition, contracting parties may assign to NPPOs other responsibilities, such as regulatory development and modification. NPPO resources are needed to carry out these responsibilities and functions. There are also requirements for international and national liaison, documentation, communication and review.



## REQUIREMENTS

### 1. Objective

The objective of a phytosanitary import regulatory system is to prevent the introduction of quarantine pests or limit the entry of regulated non-quarantine pests (RNQPs) with imported commodities and other regulated articles.

### 2. Structure

The components of a phytosanitary import regulatory system are:

- a regulatory framework of phytosanitary legislation, phytosanitary regulations and phytosanitary procedures
- an NPPO that is responsible for the operation of the system.

Legal and administrative systems and structures differ among contracting parties. In particular, some legal systems require every aspect of the work of its officials to be detailed within a legal text whilst others provide a broad framework within which officials have the delegated authority to perform their functions through a largely administrative procedure. This standard accordingly provides general guidelines for the regulatory framework of a phytosanitary import regulatory system. This regulatory framework is further described in section 4.

The NPPO is the official service responsible for the operation or oversight (organization and management) of the phytosanitary import regulatory system. Other government services, such as the Customs service, may have a role (with defined separation of responsibilities and functions) in the control of imported commodities and liaison should be maintained. The NPPO often utilizes its own officers to operate the phytosanitary import regulatory system, but may authorize other appropriate government services, or non-governmental organizations, or persons to act on its behalf and under its control for defined functions. The operation of the system is described in section 5.

### 3. Rights, Obligations and Responsibilities

In establishing and operating its phytosanitary import regulatory system, the NPPO should take into account:

- rights, obligations and responsibilities arising from relevant international treaties, conventions or agreements
- rights, obligations and responsibilities arising from relevant international standards
- national legislation and policies
- administrative policies of the government, ministry or department, or NPPO.

#### 3.1 International agreements, principles and standards

National governments have the sovereign right to regulate imports to achieve their appropriate level of protection, taking into account their international obligations. Rights, obligations and responsibilities associated with international agreements as well as the principles and standards resulting from international agreements, in particular the IPPC and the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures (WTO, 1994), affect the structure and implementation of phytosanitary import regulatory systems. These include effects on the drafting and adoption of phytosanitary import regulations, the application of phytosanitary regulations, and the operational activities arising from regulations.

The drafting, adoption and application of phytosanitary regulations require recognition of certain principles and concepts such as in ISPM 1 (*Phytosanitary principles for the protection of plants and the application of phytosanitary measures in international trade*), including:

- transparency

- sovereignty
- necessity
- non-discrimination
- minimal impact
- harmonization
- technical justification (such as through pest risk analysis (PRA))
- consistency
- managed risk
- modification
- emergency action and provisional measures
- equivalence
- recognition of pest free areas and areas of low pest prevalence.

In particular, the phytosanitary procedures and phytosanitary regulations should take into consideration the concept of minimal impact and issues of economic and operational feasibility in order to avoid unnecessary trade disruption.

### **3.2 Regional cooperation**

Regional organizations, such as regional plant protection organizations (RPPOs) and regional agricultural development organizations, may encourage the harmonization of their members' phytosanitary import regulatory systems and may cooperate in the exchange of information for the benefit of members.

A regional economic integration organization recognized by FAO may have rules that apply to its members and may also have the authority to enact and enforce certain phytosanitary regulations on behalf of members of that organization.

## **4. Regulatory Framework**

The issuing of regulations is a government (contracting party) responsibility (Article IV.3(c) of the IPPC). Consistent with this responsibility, contracting parties may provide the NPPO with the authority for the formulation of phytosanitary import regulations and the implementation of the import regulatory system. Contracting parties should have a regulatory framework to provide the following:

- the specification of the responsibilities and functions of the NPPO in relation to the import regulatory system
- legal authority to enable the NPPO to carry out its responsibilities and functions with respect to the import regulatory system
- authority and procedures, such as through PRA, to determine import phytosanitary measures
- phytosanitary measures that apply to imported commodities and other regulated articles
- import prohibitions that apply to imported commodities and other regulated articles
- legal authority for action with respect to non-compliance and for emergency action
- the specification of interactions between the NPPO and other government bodies
- transparent and defined procedures and time frames for implementation of regulations, including their entry into force.

Contracting parties have obligations to make their regulations available according to Article VII.2(b) of the IPPC; these procedures may require a regulatory basis.

### **4.1 Regulated articles**

Imported commodities that may be regulated include articles that may be infested or contaminated with regulated pests. Regulated pests are either quarantine pests or regulated non-quarantine pests. All

commodities can be regulated for quarantine pests. Products for consumption or processing cannot be regulated for regulated non-quarantine pests. Regulated non-quarantine pests can only be regulated with respect to plants for planting. The following are examples of regulated articles:

- plants and plant products used for planting, consumption, processing, or any other purpose
- storage facilities
- packaging materials including dunnage
- conveyances and transport facilities
- soil, organic fertilizers and related materials
- organisms capable of harbouring or spreading pests
- potentially contaminated equipment (such as used agricultural, military and earthmoving equipment)
- research and other scientific materials
- travellers' personal effects moving internationally
- international mail including international courier services
- pests and biological control agents<sup>1</sup>.

Lists of regulated articles should be made publically available.

## **4.2 Phytosanitary measures for regulated articles**

Contracting parties should not apply phytosanitary measures to the entry of regulated articles such as prohibitions, restrictions or other phytosanitary import requirements unless such measures are made necessary by phytosanitary considerations and are technically justified. Contracting parties should take into account, as appropriate, international standards and other relevant requirements and considerations of the IPPC when applying phytosanitary measures.

### **4.2.1 Phytosanitary measures for consignments to be imported**

The phytosanitary regulations should specify the phytosanitary measures with which imported consignments<sup>2</sup> of plants, plant products and other regulated articles should comply. These phytosanitary measures may be general, applying to all types of commodities, or the measures may be specific, applying to specified commodities from a particular origin. Phytosanitary measures may be required prior to entry, at entry or post entry. Systems approaches may also be used when appropriate (see ISPM 14 (*The use of integrated measures in a systems approach for pest risk management*)).

Phytosanitary measures required in the exporting country, which the NPPO of the exporting country may be required to certify (ISPM 7 (*Phytosanitary certification system*)) include:

- inspection prior to export
- testing prior to export
- treatment prior to export
- produced from plants of specified phytosanitary status (for example grown from virus-tested plants or under specified conditions)
- inspection or testing in the growing season prior to export

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<sup>1</sup> Pests *per se* and biological control agents do not fall within the definition of “regulated articles” (Article II.1 of the IPPC). However, where there is technical justification, they may be subjected to phytosanitary measures (IPPC, Article VI with respect to regulated pests, and Article VII.1(c) and VII.1(d)) and for the purposes of this standard may be considered as regulated articles.

<sup>2</sup> For the purpose of this standard, import is considered to cover all consignments moving into the country (except in transit), including movement into free trade zones (including duty free areas and consignments in bond) and illegal consignments detained by other services.

- origin of the consignment to be a pest free place of production or pest free production site, area of low pest prevalence or pest free area
- accreditation procedures
- maintenance of consignment integrity.

Phytosanitary measures that may be required during shipment include:

- treatment (for example appropriate physical or chemical treatments)
- maintenance of consignment integrity.

Phytosanitary measures that may be required at the point of entry include:

- documentation checks
- verification of consignment integrity
- verification of treatment during shipment
- phytosanitary inspection
- testing
- treatment
- detention of consignments pending the results of testing or verification of the efficacy of treatment.

Phytosanitary measures that may be required after entry include:

- detention in quarantine (such as in a post-entry quarantine station) for inspection, testing or treatment
- detention at a designated place pending specified measures
- restrictions on the distribution or use of the consignment (for example for specified processing).

Other phytosanitary measures that may be required include:

- requirements for licences or permits
- limitations on the points of entry for specified commodities
- the requirement that importers notify in advance the arrival of specified consignments
- audit of procedures in the exporting country
- pre-clearance.

The phytosanitary import regulatory system should make provision for the evaluation and possible acceptance of alternative phytosanitary measures proposed by exporting contracting parties as being equivalent.

#### **4.2.1.1 Provision for special imports**

Contracting parties may make special provision for the import of pests, biological control agents (see also ISPM 3 (*Guidelines for the export, shipment, import and release of biological control agents and other beneficial organisms*)) or other regulated articles for scientific research, education or other purposes. Such imports may be authorized subject to the provision of adequate safeguards.

#### **4.2.1.2 Pest free areas, pest free places of production, pest free production sites, areas of low pest prevalence and official control programmes**

Importing contracting parties may designate pest free areas, areas of low pest prevalence (ISPM 4 (*Requirements for the establishment of pest free areas*), ISPM 22 (*Requirements for the establishment of areas of low pest prevalence*), ISPM 29 (*Recognition of pest free areas and areas of low pest prevalence*)) and official control programmes within their country. Phytosanitary regulations may be required to protect or sustain such designations within the importing country. However such phytosanitary measures should respect the principle of non-discrimination.

Phytosanitary import regulations should recognize the existence of such designations and those related to other official procedures (such as pest free places of production and pest free production sites) within the countries of exporting contracting parties including the facility to recognize these phytosanitary measures as equivalent where appropriate. It may be necessary to make provision within phytosanitary regulatory systems to evaluate and accept the designations by other NPPOs and to respond accordingly.

#### **4.2.2 Import authorization**

The authority to import may be provided as a general authorization or through specific authorization on a case-by-case basis.

##### **General import authorization**

General import authorizations may be used:

- when there are no specific phytosanitary import requirements
- where specific phytosanitary import requirements have been established permitting entry as set out in the regulations for a range of commodities.

General import authorizations should not require a licence or a permit but may be subject to checking at import.

##### **Specific import authorization**

Specific import authorizations, e.g. in the form of a licence or permit, may be required where official consent for import is necessary. These may be required for individual consignments or a series of consignments of a particular origin. Cases where this type of authorization may be required include:

- emergency or exceptional imports
- imports with specific, individual phytosanitary import requirements such as those with post-entry quarantine requirements or designated end use or research purposes
- imports where the NPPO requires the ability to trace the material over a period of time after entry.

It is noted that some countries may use permits to specify general import conditions. However, the development of general authorizations is encouraged wherever similar specific authorizations become routine.

#### **4.2.3 Prohibitions**

The prohibition of import may apply to specified commodities or other regulated articles of all origins or specifically to a particular commodity or other regulated article of a specified origin. The prohibition of import should be used when no alternatives for pest risk management exist. Prohibitions should be technically justified. NPPOs should make provision to assess equivalent, but less trade restrictive measures. Contracting parties, through their NPPOs where authorized, should modify their phytosanitary import regulations if such measures meet their appropriate level of protection. Prohibition applies to quarantine pests. Regulated non-quarantine pests should not be subject to prohibition but are subject to established pest tolerance levels.

Prohibited articles may be required for research or other purpose and provision may be required for their import under controlled conditions including appropriate safeguards through a system of licence or permit.

#### **4.3 Consignments in transit**

Consignments in transit are not imported. However, the phytosanitary import regulatory system may be extended to cover consignments in transit and to establish technically justified phytosanitary measures to prevent the introduction and/or spread of pests (Article VII.4 of the IPPC, ISPM 25 (*Consignments in transit*)). Measures may be required to track consignments, to verify their integrity or to confirm that they leave the country of transit. Countries may establish points of entry, routes within the country, conditions for transportation and time spans permitted within their territories.

#### **4.4 Measures concerning non-compliance and emergency action**

The phytosanitary import regulatory system should include provisions for phytosanitary action to be taken in the case of non-compliance or for emergency action (Article VII.2(f) of the IPPC; detailed information is contained in ISPM 13 (*Guidelines for the notification of non-compliance and emergency action*)), taking into consideration the principle of minimal impact.

Phytosanitary actions which may be taken when an imported consignment or other regulated articles does not comply with phytosanitary regulations and is initially refused entry include:

- treatment
- sorting or reconditioning
- disinfection of regulated articles (including equipment, premises, storage areas, means of transportation)
- direction to a particular end use such as processing
- reshipment
- destruction (such as incineration).

Detection of a non-compliance or an incident requiring emergency action may result in a revision of the phytosanitary import regulations, or in revocation or suspension of authorization to import.

#### **4.5 Other elements that may require a regulatory framework**

International agreements give rise to obligations which may require a legal base or may be implemented through administrative procedures. Arrangements that may require such procedures include:

- notification of non-compliance
- pest reporting
- designation of an official contact point
- publication and dissemination of regulatory information
- international cooperation
- revision of regulations and documentation
- recognition of equivalence
- specification of points of entry
- notification of official documentation.

#### **4.6 Legal authority for the NPPO**

In order that the NPPO can discharge its responsibilities (Article IV of the IPPC), legal authority (powers) should be provided to enable the officers of the NPPO and other authorized persons to:

- enter premises, conveyances, and other places where imported commodities, regulated pests or other regulated articles may be present
- inspect or test imported commodities and other regulated articles
- take and remove samples from imported commodities or other regulated articles, or from places where regulated pests may be present (including for analysis which may result in the destruction of the sample)
- detain imported consignments or other regulated articles
- treat or require treatment of imported consignments, or other regulated articles including conveyances, or places or commodities in which a regulated pest may be present
- refuse entry of consignments, order their reshipment or destruction
- take emergency action
- set and collect fees for import-related activities or associated with penalties (optional).

## **5. Operation of a Phytosanitary Import Regulatory System**

The NPPO is responsible for the operation or oversight (organization and management) of the phytosanitary import regulatory system (see also section 2). This responsibility arises in particular from Article IV.2 of the IPPC.

### **5.1 Management and operational responsibilities of the NPPO**

The NPPO should have a management system and resources adequate to carry out its functions.

#### **5.1.1 Administration**

The administration of the phytosanitary import regulatory system by the NPPO should ensure the effective and consistent application of phytosanitary legislation and regulations and compliance with international obligations. This may require operational coordination with other government services or government agencies involved with imports, e.g. Customs. Administration of the phytosanitary import regulatory system should be coordinated at national level but may be organized on a functional, regional or other structural basis.

#### **5.1.2 Regulatory development and revision**

The issuing of phytosanitary regulations is a contracting party responsibility (Article IV.3(c) of the IPPC). Consistent with this responsibility, contracting parties may make the development or revision of phytosanitary regulations the responsibility of their NPPO. This action may be under the initiative of the NPPO in consultation or cooperation with other authorities as appropriate. Appropriate regulations should be developed, maintained and reviewed as necessary and in compliance with applicable international agreements, through the normal legal and consultative processes of the country. Consultation and collaboration with relevant agencies as well as affected industries and appropriate private sector groups can be helpful in increasing the understanding and acceptance of regulatory decisions by the private sector and is often useful for the improvement of regulations.

#### **5.1.3 Surveillance**

The technical justification of phytosanitary measures is determined in part by the pest status of regulated pests within the regulating country. Pest status may change and this may necessitate revision of phytosanitary import regulations. Surveillance of cultivated and non-cultivated plants in the importing country is required to maintain adequate information on pest status (according to ISPM 6 (*Guidelines for surveillance*)), and may be required to support PRA and pest listing.

#### **5.1.4 Pest risk analysis and pest listing**

Technical justification such as through PRA is required to determine if pests should be regulated and the strength of phytosanitary measures to be taken against them (ISPM 11 (*Pest risk analysis for quarantine pests*); ISPM 21 (*Pest risk analysis for regulated non-quarantine pests*)). PRA may be done on a specific pest or on all the pests associated with a particular pathway (e.g. a commodity). A commodity may be classified by its level of processing or its intended use (see ISPM 32 (*Categorization of commodities according to their pest risk*)). Regulated pests should be listed (according to ISPM 19 (*Guidelines on lists of regulated pests*)) and lists of regulated pests should be made available (Article VII.2(i) of the IPPC). If appropriate international standards are available, measures should take account of such standards and should not be more stringent unless technically justified.

The administrative framework of the PRA process should be clearly documented, if possible with a time frame for the completion of individual PRAs and with clear guidance on prioritization.

#### **5.1.5 Audit and compliance procedures**

##### **5.1.5.1 Audit of procedures in the exporting country**

Phytosanitary import regulations often include specific requirements that should be done in the country of export, such as production procedures (usually during the growing period of the crop concerned) or

specialized treatment procedures. In certain circumstances, such as in the development of a new trade, the requirements may include, in cooperation with the NPPO of the exporting country, an audit in the exporting country by the NPPO of the importing country of elements such as:

- production systems
- treatments
- inspection procedures
- phytosanitary management
- accreditation procedures
- testing procedures
- surveillance.

An importing country should make known the scope of any audit. The arrangements for such audits are normally written into a bilateral agreement, arrangement or work programme associated with import facilitation. Such arrangements may extend to clearance of consignments within the exporting country for entry into the importing country which usually facilitates a minimum of procedures at entry to the importing country. These types of audit procedure should not be applied as a permanent measure and should be considered satisfied as soon as the procedures in the exporting country have been validated. This approach, in its limitation on the length of its application, may differ from ongoing pre-clearance inspections mentioned in section 5.1.5.2.1. The results of audits should be made available to the NPPO of the exporting country.

### **5.1.5.2 Compliance procedures at import**

There are three basic elements to compliance checking:

- documentary checks
- verification of consignment integrity
- phytosanitary inspection, testing etc.

Verification of compliance for imported consignments and other regulated articles may be required:

- to determine their compliance with phytosanitary regulations
- to check that phytosanitary measures are effective in preventing the introduction of quarantine pests and limiting the entry of RNQPs
- to detect potential quarantine pests or quarantine pests whose entry with that commodity was not predicted.

Phytosanitary inspections should be carried out by, or under the authority of, the NPPO.

Compliance procedures should be undertaken promptly (Article VII.2(d) and VII.2(e) of the IPPC). Where possible, compliance procedures should be carried out in cooperation with other agencies involved with the regulation of imports, such as Customs, so as to minimize interference with the flow of trade and the impact on perishable products.

#### **5.1.5.2.1 Inspection**

Inspections may be done at the point of entry, at points of transshipment, at the point of destination or at other places where imported consignments can be identified, such as major markets, provided that their integrity is maintained and that appropriate phytosanitary procedures can be carried out. By bilateral agreement or arrangement, they may also be done in the country of origin as a part of a pre-clearance programme in cooperation with the NPPO of the exporting country.

Phytosanitary inspections, which should be technically justified, may be applied:

- to all consignments as a condition of entry
- as a part of an import monitoring programme where the level of monitoring (i.e. the number of consignments inspected) is established on the basis of predicted risk.



Inspection and sampling procedures may be based on general procedures or on specific procedures to achieve predetermined objectives.

#### **5.1.5.2.2 Sampling**

Samples may be taken from consignments for the purposes of inspection, or for subsequent laboratory testing, or for reference purposes (see ISPM 31 (*Methodologies for sampling of consignments*)).

#### **5.1.5.2.3 Testing including laboratory testing**

Testing may be required for:

- identification of a visually detected pest
- confirmation of a visually identified pest
- checking of compliance with requirements concerning infestations not detectable by inspection
- checking for latent infections
- audit or monitoring
- reference purposes particularly in cases of non-compliance
- verification of the declared product.

Testing should be performed by persons experienced in the appropriate procedures and, if possible, following internationally agreed protocols. Cooperation with appropriate academic and international experts or institutes is recommended when validation of test results is needed.

### **5.1.6 Non-compliance and emergency action**

Detailed information about non-compliance and emergency action is contained in ISPM 13.

#### **5.1.6.1 Action in case of non-compliance**

Examples where phytosanitary action may be justified regarding non-compliance with phytosanitary import regulations include:

- the detection of a listed quarantine pest associated with consignments for which it is regulated
- the detection of a listed RNQP present in an imported consignment of plants for planting at a level which exceeds the required tolerance level for those plants
- evidence of failure to meet prescribed requirements (including bilateral agreements or arrangements, or import permit conditions) such as field inspection, laboratory tests, registration of producers or facilities, lack of pest monitoring or surveillance
- the interception of a consignment which does not otherwise comply with the import regulations, such as because of the detected presence of undeclared commodities, soil or some other prohibited article or evidence of failure of specified treatments
- phytosanitary certificate or other required documentation invalid or missing
- prohibited consignments or articles
- failure to meet “in-transit” measures.

The type of phytosanitary action will vary with the circumstances and should be the minimum necessary to counter the pest risk identified. Administrative errors such as incomplete phytosanitary certificates may be resolved through liaison with the NPPO of the exporting country. Other infringements may require action such as:

*Detention.* This may be used if further information is required, taking into account the need to avoid consignment damage as far as possible.

*Sorting and reconfiguring.* The affected products may be removed by sorting and reconfiguring the consignment including repackaging if appropriate.

*Treatment.* Used by the NPPO when an efficacious treatment is available.

*Destruction.* The consignment may be destroyed in cases where the NPPO considers the consignment cannot be otherwise handled.

*Reshipment.* The non-complying consignment may be removed from the country by reshipping.

In the case of non-compliance for an RNQP, action should be consistent with domestic measures and limited to bringing the pest incidence in the consignment, where feasible, into compliance with the required tolerance level, e.g. through treatment or by downgrading or reclassification where this is permitted for equivalent material produced or regulated domestically.

The NPPO is responsible for issuing the necessary instructions and for verifying their application. Enforcement is normally considered to be a function of the NPPO but other agencies may be authorized to assist.

An NPPO may decide not to apply phytosanitary action against a regulated pest or in other instances of non-compliance where phytosanitary actions are not technically justified in a particular situation, such as if there is no risk of establishment or spread (e.g. a change of intended use such as from consumption to processing or when a pest is in a stage of its life cycle which will not enable establishment or spread), or for some other reason.

### 5.1.6.2 Emergency action

Emergency action may be required in a new or unexpected phytosanitary situation, such as the detection of quarantine pests or potential quarantine pests:

- in consignments for which phytosanitary measures are not specified.
- in consignments or other regulated articles in which their presence is not anticipated and for which no phytosanitary measures have been specified.
- as contaminating pests of conveyances, storage places or other places involved with imported commodities.

Phytosanitary action similar to that required in cases of non-compliance may be appropriate. Such actions may lead to the modification of existing phytosanitary measures, or the adoption of provisional measures pending review and full technical justification.

Commonly encountered situations requiring emergency action include:

*Pests not previously assessed.* Non-listed organisms may require emergency phytosanitary actions because they may not have been previously assessed. At the time of interception, they may be categorized as regulated pests on a preliminary basis because the NPPO has a cause to believe they pose a pest risk. In such instances, it is the responsibility of the NPPO to be able to provide a sound technical basis. If provisional measures are established, the NPPO should actively pursue additional information, if appropriate with the participation of the NPPO of the exporting country, and complete a PRA to establish in a timely manner the regulated or non-regulated status of the pest.

*Pests not regulated for a particular pathway.* Emergency phytosanitary actions may be applied for pests that are not regulated with respect to particular pathways. Although regulated, these pests may not have been listed or otherwise specified because they were not anticipated for the origin, commodity, or circumstances for which the list or measure was developed. Such pests should be included on the appropriate list or within other measure if it is determined that the occurrence of the pest in the same and similar circumstances may be anticipated in the future.

*Lack of adequate identification.* In some instances, a pest may justify phytosanitary action because the pest cannot be adequately identified or is inadequately described taxonomically. This may be because the specimen has not been described (is taxonomically unknown), is in a condition which does not allow its identification, or the life stage being examined cannot be identified to the required taxonomic level. Where identification is not feasible, the NPPO should have a sound technical basis for the phytosanitary actions taken.

Where pests are routinely detected in a form that does not allow for adequate identification (e.g. eggs, early instar larvae, imperfect forms), every effort should be made to raise sufficient specimens to allow identification. Contact with the exporting country may assist with the identification or provide a presumed identification. Such pests in this state may be deemed temporarily to require phytosanitary measures. Once identification is achieved and if, on the basis of PRA, it is confirmed that such pests justify phytosanitary actions, NPPOs should add such pests to the relevant list of regulated pests, noting the identification problem and the basis for requiring phytosanitary actions. Interested contracting parties should be informed that future action will be based on a presumed identification if such forms are detected. However, such future phytosanitary action should only be taken with respect to origins where there is an identified pest risk and the possibility of the presence of quarantine pests in imported consignments cannot be excluded.

### **5.1.6.3 Reporting of non-compliance and emergency action**

The reporting of interceptions, instances of non-compliance and emergency action is an obligation for contracting parties to the IPPC so that the NPPOs of the exporting countries understand the basis for phytosanitary actions taken against their products on import and to facilitate corrective action in export systems. Systems are needed for the collection and transmission of such information.

### **5.1.6.4 Withdrawal or modification of phytosanitary regulation**

In the case of repeated non-compliance, or where a significant non-compliance or interception warranting emergency action occurs, the NPPO of the importing contracting party may withdraw the authorization (e.g. permit) allowing import, modify the phytosanitary regulation, or institute an emergency or provisional measure with modified entry procedures or a prohibition. The NPPO of the exporting country should be notified promptly of the change and rationale for this change.

### **5.1.7 Systems for authorization of non-NPPO personnel**

NPPOs may authorize, under their control and responsibility, other government services, non-governmental organizations, agencies or persons to act on their behalf for certain defined functions. In order to ensure that the requirements of the NPPO are met, operational procedures are required. In addition, procedures should be developed for the demonstration of competency and for audits, corrective actions, system review and withdrawal of authorization.

### **5.1.8 International liaison**

Contracting parties have international obligations (Articles VII and VIII of the IPPC) including the:

- provision of an official contact point
- notification of specified points of entry
- publication and transmission of lists of regulated pests, phytosanitary import requirements, and prohibitions
- notification of non-compliance and emergency action (ISPM 13)
- provision of the rationale for phytosanitary measures, on request
- provision of relevant information.

Administrative arrangements are required to ensure that these obligations are discharged efficiently and promptly.

### **5.1.9 Notification and dissemination of regulatory information**

#### **5.1.9.1 New or revised phytosanitary regulations**

Proposals for new or revised phytosanitary regulations should be published and provided to interested parties on request, allowing reasonable time for comment and implementation.

### **5.1.9.2 Dissemination of established regulations**

Established import regulations, or relevant sections of them, should be made available to interested and affected contracting parties as appropriate, to the IPPC Secretariat and to the NPPO(s) of which they are a member. Through appropriate procedures, they may also be made available to other interested parties (such as import and export industry organizations and their representatives). NPPOs are encouraged to make import regulatory information available by publication, whenever possible using electronic means including Internet websites and linkage to these via the IPPC International Phytosanitary Portal (IPP) (<http://www.ippc.int>).

### **5.1.10 National liaison**

Procedures that facilitate cooperative action, information sharing and joint clearance activities within the country should be established with relevant government agencies or services as appropriate.

### **5.1.11 Settlement of disputes**

The implementation of a phytosanitary import regulatory system may give rise to disputes with the authorities of other countries. The NPPO should establish procedures for consultation and exchange of information with other NPPOs, and for settlement of such disputes “shall consult among themselves as soon as possible” prior to considering calling on formal international dispute-settlement procedures (Article XIII.1 of the IPPC).

## **5.2 Resources of the NPPO**

Contracting parties should provide to their NPPO appropriate resources to carry out its functions (Article IV.1 of the IPPC).

### **5.2.1 Staff, including training**

The NPPO should:

- employ or authorize personnel who have appropriate qualifications and skills
- ensure that adequate and sustained training is provided to all personnel to ensure competency in the areas for which they have responsibility.

### **5.2.2 Information**

The NPPO should, as far as possible, ensure that adequate information is available to personnel, in particular:

- guidance documents, procedures and work instructions as appropriate covering relevant aspects of the operation of the phytosanitary import regulatory system
- the phytosanitary import regulations of its country
- information on its regulated pests including biology, host range, pathways, global distribution, detection and identification methods, treatment methods.

The NPPO should have access to information on the presence of pests in its country (preferably as pest lists), to facilitate the categorization of pests during pest risk analysis. The NPPO should also maintain lists of all its regulated pests. Detailed information on lists of regulated pests is contained in ISPM 19.

Where a regulated pest is present in the country, information should be maintained on its distribution, pest free areas, official control and, in the case of an RNQP, official programmes for plants for planting. Contracting parties should distribute information within their territory regarding regulated pests and the means of their prevention and control, and may assign this responsibility to their NPPOs.

### **5.2.3 Equipment and facilities**

The NPPO should ensure that adequate equipment and facilities are available for:

- inspection, sampling, testing, surveillance and consignment verification procedures

- communication and access to information (by electronic means as far as possible).

## **DOCUMENTATION, COMMUNICATION AND REVIEW**

### **6. Documentation**

#### **6.1 Procedures**

The NPPO should maintain guidance documents, procedures and work instructions covering all aspects of the operation of the phytosanitary import regulatory system. Procedures to be documented include:

- preparation of pest lists
- pest risk analysis
- where appropriate, establishment of pest free areas, areas of low pest prevalence, pest free places of production or production sites, and official control programmes
- inspection, sampling and testing methodology (including methods for maintaining sample integrity)
- action on non-compliance, including treatment
- notification of non-compliance
- notification of emergency action.

#### **6.2 Records**

Records should be kept of all actions, results and decisions concerning the regulation of imports, following the relevant sections of ISPMs where appropriate, including:

- documentation of pest risk analyses (in accordance with ISPM 11, and other relevant ISPMs)
- where established, documentation of pest free areas, areas of low pest prevalence, and official control programmes (including information on the distribution of the pests and the phytosanitary measures used to maintain the pest free area or area of low pest prevalence)
- records of inspection, sampling and testing
- non-compliance and emergency action (in accordance with ISPM 13).

If appropriate, records may be kept of imported consignments:

- with specified intended uses
- subject to post-entry quarantine or treatment procedures
- requiring follow up phytosanitary action (including trace-back), according to pest risk, or
- as necessary to manage the phytosanitary import regulatory system.

### **7. Communication**

The NPPO should ensure that it has communication procedures to contact:

- importers and appropriate industry representatives
- NPPOs of exporting countries
- the Secretariat of the IPPC
- the secretariats of the RPPOs of which it is a member.

### **8. Review Mechanism**

#### **8.1 System review**

The contracting party should periodically review its phytosanitary import regulatory system. This may involve monitoring the effectiveness of phytosanitary measures, auditing the activities of the NPPO and authorized organizations or persons, and modifying the phytosanitary legislation, regulations and procedures as required.

## **8.2 Incident review**

The NPPO should have procedures in place to review cases of non-compliance and emergency action. Such a review may lead to the adoption or modification of phytosanitary measures.

This annex was adopted by the Twelfth Session of the Commission on Phytosanitary Measures in April 2017.

This annex is a prescriptive part of the standard.

## **ANNEX 1: Arrangements for the verification of compliance of consignments by the importing country in the exporting country (2017)**

The NPPO of the importing country usually verifies compliance of consignments with phytosanitary import requirements on entry into the importing country. However, to facilitate trade logistics, contracting parties may in some cases bilaterally or multilaterally negotiate an arrangement that allows verification procedures to be performed by the NPPO of the importing country in the exporting country. Such arrangements are distinct from audits of procedures in exporting countries referred to in this standard (section 5.1.5.1).

NPPOs of the importing country and the exporting country should only establish and use a bilateral or multilateral arrangement (hereinafter referred to as an “arrangement”) for verification procedures to be performed on consignments of specified commodities in the exporting country on a voluntary and case-by-case basis and for a time period agreed by both parties.

Arrangements described in this annex should not be established as a phytosanitary measure or as a condition to allow trade.

The establishment of an arrangement may be an option to facilitate trade logistics in the following situations:

- to expedite consignment release at the destination
- when measures associated with the refusal of a consignment at the point of entry are too costly or difficult to apply
- when inspection at the point of entry adversely affects commercial packaging (e.g. the commodity is individually wrapped and destructive sampling is required) or commodity quality (e.g. the commodity is highly perishable)
- when additional infrastructure is necessary to address instances of non-compliance.

The terms of the arrangement for a particular regulated article should be developed once the phytosanitary import requirements have been set based on a pest risk analysis.

The arrangement should only include procedures to verify compliance of consignments with established and published phytosanitary import requirements for the relevant commodities in accordance with this standard and where appropriate with ISPM 23 (*Guidelines for inspection*). Consignments verified under the arrangement should not be subject to the same verification procedures again at the point of entry. The NPPO of the importing country may, however, perform other verification procedures, such as document and identity checks, at the point of entry.

Irrespective of any arrangement between the NPPOs of the importing country and the exporting country, issuance of phytosanitary certificates remains the exclusive responsibility of the NPPO of the exporting country as stated in Articles I.2, IV.2(a), IV.2(b), IV.2(c), IV.2(d), IV.2(e), IV.2(g) and V.1 of the IPPC. Any actions undertaken by the NPPO of the importing country in the exporting country under an arrangement are subject to and must comply with the legislation of the exporting country.

The following sections provide options to be considered by NPPOs in relation to arrangements for the verification of compliance of consignments by the NPPO of the importing country in the exporting country.

### **1. General Requirements for an Arrangement**

An arrangement should be developed jointly by the NPPOs of the importing country and the exporting country, in consultation with relevant stakeholders, when appropriate.

The financial aspects of the arrangement should be agreed on by the NPPOs of the importing country and the exporting country, in consultation with relevant stakeholders.

The arrangement should be subject to regular review and a mechanism may be put in place to deal with any changes that may arise. The conditions for reducing compliance verification activities and suspending or terminating the arrangement should be specified on a case-by-case basis.

## **2. Process for Establishing an Arrangement**

The steps to establish an arrangement are outlined below.

### **2.1 Proposal**

The NPPO of the importing or of the exporting country may initiate the request for an arrangement. The proposal may be a response to a need identified by the initiating NPPO or by relevant stakeholders. The proposal should specify the scope and objectives of as well as the reasons for the arrangement, and be agreed on by both NPPOs.

Factors that may be considered in the proposal include:

- timing and duration of the arrangement
- proposed verification levels and, when appropriate, sampling schemes for specified commodities and regulated pests
- criteria that could initiate review and evaluation of the arrangement
- criteria that could initiate suspension or termination of the arrangement
- availability of resources
- feasibility of programme implementation.

### **2.2 Evaluation**

The NPPO receiving the proposal for an arrangement should undertake a timely review of the proposal and prepare a response. Evaluation of the proposal should encompass any effects of the arrangement on pest risk concerns, operational and economic feasibility, and regulatory aspects.

### **2.3 Elements**

The NPPO proposing an arrangement has the primary responsibility for its development. However, on request of the proposing NPPO, the other NPPO is encouraged to assist in its development.

Elements of the arrangement that may need to be agreed between the NPPO of the importing country and the NPPO of the exporting country include:

- sampling and inspection of consignments
- adequacy of inspection facilities
- testing procedures
- verification of treatments
- verification of consignment integrity
- the time of and location for the different steps of the verification of compliance of consignments, when appropriate
- notification to the point of entry of the arrival of consignments
- whether a certificate is to accompany the phytosanitary certificate
- availability of qualified staff to implement provisions under the arrangement
- timing of the activities for the verification of compliance
- approval procedures and expense or estimated expense for growers and exporters participating in the arrangement



- accommodation, transport, work health and safety, security and other logistical aspects for the deployed officers.

The steps of the verification of compliance will be identified by the NPPOs entering into the arrangement.

## **2.4 Technical requirements**

The technical requirements for an arrangement should be determined and developed on a case-by-case basis and should be described in the arrangement.

The arrangement may include specific information on:

- legal and regulatory authorities
- phytosanitary and other relevant legislation or regulations
- roles and responsibilities (including those of NPPOs, exporters, growers and other relevant stakeholders)
- timing and duration of the activities
- regulated articles
- all regulated pests and the relevant phytosanitary measures for these pests required by the NPPO of the importing country
- phytosanitary actions such as sampling, inspection, testing, verification of treatment and verification of consignment integrity
- infrastructure and equipment used for the verification of compliance of consignments
- documentation to be maintained and provided by the NPPO of the exporting country to the NPPO of the importing country
- financial aspects
- notification of non-compliance
- corrective actions on a consignment following non-compliance
- frequency and timing of reviews of the arrangement
- criteria that could result in review, evaluation, suspension or termination of the arrangement.

## **3. Implementation of an Arrangement**

The verification of compliance described in an arrangement may be subject to implementation conditions; for example, verification may be for all exported consignments of a particular commodity or only a percentage thereof, for categories of regulated commodities or for a defined time period during the shipping season.

The activities for the verification of compliance to be implemented should be limited to those under the arrangement.

When an arrangement is in place, with verification of compliance being undertaken in the exporting country, the same verification upon import should not be required. However, other procedures undertaken in the importing country may be:

- checks of consignment documentation and identity
- inspection of consignments where packaging has been compromised and the consignments' phytosanitary integrity may have been compromised
- inspection of consignments for contaminating pests in containers
- inspection of consignments in response to an emerging pest risk that was not known at the time of inspection in the exporting country
- inspection of consignments where the arrangement allows for a phytosanitary measure after inspection in the exporting country (e.g. cold treatment for fruit flies during transport).

#### **4. Review of an Arrangement**

The effectiveness of an arrangement should be reviewed regularly to identify problems and allow their discussion and resolution in order to improve the arrangement or to determine if it could be downscaled or terminated. The frequency and timing of reviews should be described in the arrangement. Some elements of the arrangement may need to be reviewed more frequently than others.

Changes to the existing arrangement may be proposed by the NPPO of the importing country or the NPPO of the exporting country and require the agreement of both NPPOs before implementation.

#### **5. Termination of an Arrangement**

If the reasons for establishing an arrangement are no longer valid (e.g. because of changes in trade logistics between the two countries) or if the arrangement is no longer needed, the arrangement should be terminated.

Once an arrangement has been terminated, verification procedures will be conducted in the importing country.

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## IPPC

The International Plant Protection Convention (IPPC) is an international plant health agreement that aims to protect cultivated and wild plants by preventing the introduction and spread of pests. International travel and trade are greater than ever before. As people and commodities move around the world, organisms that present risks to plants travel with them.

### Organization

- ◆ There are over 180 contracting parties to the IPPC.
- ◆ Each contracting party has a national plant protection organization (NPPO) and an Official IPPC contact point.
- ◆ Nine regional plant protection organizations (RPPOs) work to facilitate the implementation of the IPPC in countries.
- ◆ IPPC liaises with relevant international organizations to help build regional and national capacities.
- ◆ The Secretariat is provided by the Food and Agriculture Organization of the United Nations (FAO).

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