

**INTERNATIONAL STANDARDS FOR  
PHYTOSANITARY MEASURES**

**GUIDELINES FOR A PHYTOSANITARY IMPORT  
REGULATORY SYSTEM**



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## 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. In this standard any reference to legislation, regulation, procedure, measure or action is a reference to *phytosanitary* legislation, regulation etc. unless otherwise specified.

### REFERENCES

- Agreement on the Application of Sanitary and Phytosanitary Measures*, 1994. World Trade Organization, Geneva.
- Code of conduct for the import and release of exotic biological control agents*, 1996. ISPM No. 3, FAO, Rome.
- Determination of pest status in an area*, 1998. ISPM No. 8, FAO, Rome.
- Export certification system*, 1997. ISPM No. 7, FAO, Rome.
- Glossary of phytosanitary terms*, 2003. ISPM No. 5, FAO, Rome.
- Guidelines for pest risk analysis*, 1996. ISPM No. 2, FAO, Rome.
- Guidelines for the notification of non-compliance and emergency action*, 2001. ISPM No. 13, FAO, Rome.
- Guidelines for surveillance*, 1998. ISPM No. 6, FAO, Rome.
- Guidelines on lists of regulated pests*, 2003. ISPM No. 19, FAO, Rome.
- International Plant Protection Convention*, 1997. FAO, Rome.
- Pest risk analysis for quarantine pests*, 2001. ISPM No. 11, FAO, Rome.
- Principles of plant quarantine as related to international trade*, 1995. ISPM No. 1, FAO, Rome.
- Requirements for the establishment of pest free areas*, 1996. ISPM No. 4, FAO, Rome.
- Requirements for the establishment of pest free places of production and pest free production sites*, 1999. ISPM No. 10, FAO, Rome.

### DEFINITIONS<sup>1</sup>

area of low pest prevalence	An area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest occurs at low levels and which is subject to effective surveillance, control or eradication measures [IPPC, 1997]
biological control agent	A natural enemy, antagonist or competitor, and other self-replicating biotic entity used for pest control [ISPM N° 3, 1996]
commodity	A type of plant, plant product, or other article being moved for trade or other purpose [FAO, 1990; revised ICPM, 2001]
compliance procedure (for a consignment)	Official procedure used to verify that a consignment complies with stated phytosanitary requirements [CEPM, 1999]
consignment	A quantity of plants, plant products and/or other articles being moved from one country to another and covered, when required, by a single phytosanitary certificate (a consignment may be composed of one or more commodities or lots) [FAO, 1990; revised ICPM, 2001]

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<sup>1</sup> Terms marked with an (\*) are new or revised

consignment in transit	A consignment that is not imported into a country but passes through it to another country, subject to official procedures which ensure that it remains enclosed, and is not split up, not combined with other consignments nor has its packaging changed [FAO, 1990; revised CEPM, 1996; CEPM 1999; ICPM, 2002 formerly <i>country of transit</i> ]
detention	Keeping a consignment in official custody or confinement for phytosanitary reasons (see quarantine) [FAO, 1990; revised FAO, 1995; CEPM, 1999]
emergency action	A prompt phytosanitary action undertaken in a new or unexpected phytosanitary situation [ICPM, 2001]
entry (of a consignment)	Movement through a point of entry into an area [FAO, 1995]
entry (of a pest)	Movement of a pest into an area where it is not yet present, or present but not widely distributed and being officially controlled [FAO, 1995]
infestation (of a commodity)	Presence in a commodity of a living pest of the plant or plant product concerned. Infestation includes infection [CEPM, 1997; revised CEPM, 1999]
inspection	Official visual examination of plants, plant products or other regulated articles to determine if pests are present and/or to determine compliance with phytosanitary regulations [FAO, 1990; revised FAO, 1995; formerly <i>inspect</i> ]
inspector	Person authorized by a National Plant Protection Organization to discharge its functions [FAO, 1990]
intended use	Declared purpose for which plants, plant products, or other regulated articles are imported, produced, or used [ISPM N° 16, 2002]
interception (of a consignment)	The refusal or controlled entry of an imported consignment due to failure to comply with phytosanitary regulations [FAO, 1990; revised FAO, 1995]
introduction	The entry of a pest resulting in its establishment [FAO, 1990; revised FAO, 1995; IPPC, 1997]
IPPC	International Plant Protection Convention, as deposited in 1951 with FAO in Rome and as subsequently amended [FAO, 1990; revised ICPM, 2001]
monitoring	An official ongoing process to verify phytosanitary situations [CEPM, 1996]
NPPO	National Plant Protection Organization [FAO, 1990; ICPM, 2001]
official	Established, authorized or performed by a National Plant Protection Organization [FAO, 1990]

official control	The active enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of eradication or containment of quarantine pests or for the management of regulated non-quarantine pests (see Glossary Supplement No. 1) [ICPM, 2001]
packaging materials*	Product used in supporting, protecting or carrying a commodity [ISPM No. , 200- (the present ISPM, when adopted)]
pathway	Any means that allows the entry or spread of a pest [FAO, 1990; revised FAO, 1995]
pest	Any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant products [FAO, 1990; revised FAO, 1995; IPPC, 1997]
pest categorization	The process for determining whether a pest has or has not the characteristics of a quarantine pest or those of a regulated non-quarantine pest [ISPM No. 11, 2001]
Pest Free Area	An area in which a specific pest does not occur as demonstrated by scientific evidence and in which, where appropriate, this condition is being officially maintained [FAO, 1995]
pest free place of production	Place of production in which a specific pest does not occur as demonstrated by scientific evidence and in which, where appropriate, this condition is being officially maintained for a defined period [ISPM No. 10, 1999]
Pest Risk Analysis	The process of evaluating biological or other scientific and economic evidence to determine whether a pest should be regulated and the strength of any phytosanitary measures to be taken against it [FAO, 1995; revised IPPC, 1997]
phytosanitary action	An official operation, such as inspection, testing, surveillance or treatment, undertaken to implement phytosanitary regulations or procedures [ICPM, 2001]
Phytosanitary Certificate	Certificate patterned after the model certificates of the IPPC [FAO, 1990]
phytosanitary legislation	Basic laws granting legal authority to a National Plant Protection Organization from which phytosanitary regulations may be drafted [FAO, 1990; revised FAO, 1995]
phytosanitary measure (agreed interpretation)	Any legislation, regulation or official procedure having the purpose to prevent the introduction and/or spread of quarantine pests, or to limit the economic impact of regulated non-quarantine pests [FAO, 1995; revised IPPC, 1997; ICPM, 2002]
<i>The agreed interpretation of the term phytosanitary measure accounts for the relationship of phytosanitary measures to regulated non-quarantine pests. This relationship is not adequately reflected in the definition found in Article II of the IPPC (1997).</i>	

phytosanitary procedure	Any officially prescribed method for implementing phytosanitary regulations including the performance of inspections, tests, surveillance or treatments in connection with regulated pests [FAO, 1990; revised FAO, 1995; CEPM, 1999; ICPM, 2001]
phytosanitary regulation	Official rule to prevent the introduction and/or spread of quarantine pests, or to limit the economic impact of regulated non-quarantine pests, including establishment of procedures for phytosanitary certification [FAO, 1990; revised FAO, 1995; CEPM, 1999; ICPM, 2001]
plant products	Unmanufactured material of plant origin (including grain) and those manufactured products that, by their nature or that of their processing, may create a risk for the introduction and spread of pests [FAO, 1990; revised IPPC, 1997; formerly <i>plant product</i> ]
planting (including replanting)	Any operation for the placing of plants in a growing medium, or by grafting or similar operations, to ensure their subsequent growth, reproduction or propagation [FAO, 1990; revised CEPM, 1999]
plants	Living plants and parts thereof, including seeds and germplasm [FAO, 1990; revised IPPC, 1997]
PRA	Pest Risk Analysis [FAO 1995; revised ICPM 2001]
pre-clearance	Phytosanitary certification and/or clearance in the country of origin, performed by or under the regular supervision of the National Plant Protection Organization of the country of destination [FAO, 1990; revised FAO, 1995]
prohibition	A phytosanitary regulation forbidding the importation or movement of specified pests or commodities [FAO, 1990; revised FAO, 1995]
quarantine	Official confinement of regulated articles for observation and research or for further inspection, testing and/or treatment [FAO, 1990; revised FAO, 1995; CEPM, 1999]
quarantine pest	A pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled [FAO, 1990; revised FAO, 1995; IPPC 1997]
Regional Plant Protection Organization	An intergovernmental organization with the functions laid down by Article IX of the IPPC [FAO, 1990; revised FAO, 1995; CEPM, 1999; formerly <i>plant protection organization (regional)</i> ]
regulated article	Any plant, plant product, storage place, packaging, conveyance, container, soil and any other organism, object or material capable of harbouring or spreading pests, deemed to require phytosanitary measures, particularly where international transportation is involved [FAO, 1990; revised FAO, 1995; IPPC, 1997]

regulated non-quarantine pest	A non-quarantine pest whose presence in plants for planting affects the intended use of those plants with an economically unacceptable impact and which is therefore regulated within the territory of the importing contracting party [IPPC, 1997]
regulated pest	A quarantine pest or a regulated non-quarantine pest [IPPC, 1997]
restriction	A phytosanitary regulation allowing the importation or movement of specified commodities subject to specific requirements [CEPM, 1996, revised CEPM, 1999]
RNQP	Regulated non-quarantine pest [ISPM No. 16, 2002]
RPPO	Regional Plant Protection Organization [FAO, 1990; revised ICPM, 2001]
spread	Expansion of the geographical distribution of a pest within an area [FAO, 1995]
systems approach(es)	The integration of different pest risk management measures, at least two of which act independently, and which cumulatively achieve the appropriate level of phytosanitary protection [ISPM N° 14, 2002]
test	Official examination, other than visual, to determine if pests are present or to identify pests [FAO, 1990]
treatment	Officially authorized procedure for the killing, inactivation or removal of pests, or for rendering pests infertile or for devitalization [FAO, 1990, revised FAO, 1995; ISPM No. 15, 2002; ISPM No. 18, 2003]

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

In operating an import regulatory system, the NPPO has a number of responsibilities. These include the responsibilities identified in Article IV.2 of the IPPC (1997) 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 an import regulatory system are:

- a regulatory framework of phytosanitary legislation, regulations and 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 an import regulatory system. This regulatory framework is further described in Section 4.

The NPPO is the official service responsible for the operation and/or oversight (organization and management) of the 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 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 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 (1997) and the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures (WTO-SPS Agreement), affect the structure and implementation of import regulatory systems. These include effects on the drafting and adoption of import regulations, the application of regulations, and the operational activities arising from regulations.

The drafting, adoption and application of regulations require recognition of certain principles and concepts including:

- transparency
- sovereignty
- necessity
- non-discrimination
- minimal impact
- harmonization

- technical justification (such as through pest risk analysis)
- consistency
- managed risk
- modification
- emergency action and provisional measures
- equivalence
- pest free areas and areas of low pest prevalence.

In particular, the phytosanitary procedures and 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' import regulatory systems and may cooperate in the exchange of information for the benefit of members.

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

## **4. Regulatory Framework**

The issuing of regulations is a government (contracting party) responsibility (Article IV.3c of the IPPC, 1997). 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 measures (conditions)
- 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.

Contracting parties have obligations to make their regulations available according to Article VII.2b of the IPPC, 1997; 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 harboring 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>2</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 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 Measures for consignments to be imported

The regulations should specify the measures with which imported consignments<sup>3</sup> of plants, plant products and other regulated articles should comply. These measures may be general, applying to all types of commodities, or the measures may be specific, applying to specified commodities from a particular origin. Measures may be required prior to entry, at entry or post entry. Systems approaches may also be used when appropriate.

Measures required in the exporting country, which the NPPO of the exporting country may be required to certify (in accordance with ISPM No. 7: *Export 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(s) prior to export
- 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.

Measures that may be required during shipment include:

- cold treatment
- maintenance of consignment integrity.

Measures that may be required at the point of entry include:

- documentation checks
- verification of consignment integrity

<sup>2</sup> Pests *per se* and biological control agents do not fall within the definition of 'regulated articles' (Article II.1 of the IPPC, 1997). However, where there is technical justification, they may be subjected to phytosanitary measures (IPPC, 1997; Article VI with respect to regulated pests, and Article VII.1c and VII.1d) and for the purposes of this standard may be considered as regulated articles.

<sup>3</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.

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

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).

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Other 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
- preclearance.

The import regulatory system should make provision for the evaluation and possible acceptance of alternative 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 No. 3: *Code of conduct for the import and release of exotic biological control agents*) 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 (according to ISPM No. 4: *Requirements for the establishment of pest free areas*), areas of low pest prevalence and official control programmes within their country. Import regulations may be required to protect or sustain such designations within the importing country. However such measures should respect the principle of non-discrimination.

Import regulations should recognise 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 recognise these measures as equivalent where appropriate. It may be necessary to make provision within 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 authorization**

General authorizations may be used:

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

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

**Specific authorization**

Specific 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 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 other 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 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**

According to ISPM No. 5 (*Glossary of phytosanitary terms*), consignments in transit are not imported. However, the import regulatory system may be extended to cover consignments in transit and to establish technically justified measures to prevent the introduction and/or spread of pests (Article VII.4 of the IPPC, 1997). Measures may be required to track consignments, to verify their integrity and/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 import regulatory system should include provisions for action to be taken in the case of non-compliance or for emergency action (Article VII.2f of the IPPC, 1997; detailed information is contained in ISPM No. 13: *Guidelines for the notification of non-compliance and emergency action*), taking into consideration the principle of minimal impact.

Actions which may be taken when an imported consignment or other regulated articles, does not comply with regulations 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
- refusal of entry (i.e. reshipment)
- destruction (such as incineration).

Detection of a non-compliance or an incident requiring emergency action may result in a revision of the 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, 1997), 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 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 an Import Regulatory System**

The NPPO is responsible for the operation and/or oversight (organization and management) of the import regulatory system (see also Section 2, third paragraph). This responsibility arises in particular from Article IV.2 of the IPPC, 1997.

#### **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 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 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 government (contracting party) responsibility (Article IV.3c of the IPPC, 1997). Consistent with this responsibility, governments may make the development and/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 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 No. 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 pest risk analysis (PRA) is required to determine if pests should be regulated and the strength of phytosanitary measures to be taken against them (ISPM No. 11 Rev. 1: *Pest risk analysis for quarantine pests including analysis of environmental risks*)[reference to ISPM-- for PRA for RNQPs to be added, if adopted at ICPM6]. 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 and/or its intended use. Regulated pests should be listed (according to ISPM No. 19: *Guidelines on lists of regulated pests*) and lists of regulated pests should be made available (Article VII.2i of the IPPC, 1997). 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 checking**

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

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 preclearance 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 checking at import**

There are three basic elements to compliance checking:

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

Compliance checking of 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.

The NPPO is responsible for, and should undertake, the phytosanitary inspections, but may delegate these or other checks to other services or agencies (such as Customs).

Compliance checks should be done promptly (Article VII.2d and VII.2e of the IPPC, 1997). Where possible, checks should be done in cooperation with other agencies involved with the regulation of imports, such as Customs, so as to minimise 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 phytosanitary 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 pre-determined objectives.

##### *5.1.5.2.2 Sampling*

Samples may be taken from consignments for the purposes of phytosanitary inspection, or for subsequent laboratory testing, or for reference purposes.

#### 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 infestations
- 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 No. 13: *Guidelines for the notification of non-compliance and emergency action*.

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

Examples where phytosanitary action may be justified regarding non-compliance with 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 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 and/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 action will vary with the circumstances and should be the minimum necessary to counter the risk identified. Administrative errors such as incomplete Phytosanitary Certificates may be resolved through liaison with the exporting NPPO. 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.

*Refusal of entry or destruction* - The consignment may be refused or 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 a RNQP, action should be consistent with domestic measures and limited to bringing the pest level in the consignment, where feasible, into compliance with the required tolerance, 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 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 regulated consignments or other regulated articles in which their presence is not anticipated and for which no measures have been specified
- as contaminants of conveyances, storage places or other places involved with imported commodities.

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 phytosanitary threat. 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(s) or other measure(s) 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. In such cases, the NPPO should carry out identification to a taxonomic level that justifies 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, etc.), 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(s) of regulated pests, noting the identification problem and the basis for requiring 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 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 exporting countries understand the basis for phytosanitary actions taken against their products on import and to facilitate corrections in export systems. Systems are needed for the collection and transmission of such information.

#### **5.1.6.4 Withdrawal or modification of 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 regulation, or institute an emergency or provisional measure with modified entry procedures or a prohibition. 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, 1997) including the:

- provision of an official contact point
- notification of specified points of entry
- publication and transmission of lists of regulated pests, phytosanitary requirements, restrictions and prohibitions
- notification of non-compliance and emergency action (ISPM No. 13: *Guidelines for the notification of non-compliance and emergency action*)
- provision of the rationale for phytosanitary measures, on request
- provision of information for PRA.

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 regulations**

Proposals for new or revised 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 RPPO(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 an 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” without calling on formal international dispute-settlement procedures (Article XIII.1 of the IPPC, 1997).

### **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, 1997).

#### **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 import regulatory system
- the 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 No. 19: *Guidelines on lists of regulated pests*.

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, testing 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 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 No. 11 Rev.1: *Pest risk analysis for quarantine pests including analysis of environmental risks*, 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 measures used to maintain the PFA or area of low pest prevalence)
- records of inspection, sampling and testing
- non-compliance and emergency action (in accordance with ISPM No. 13: *Guidelines for the notification of non-compliance and emergency action*).

If appropriate, records may be kept of imported consignments:

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

### 7. Communication

The NPPO should ensure it has communication procedures to contact importers and appropriate industry representatives within their own country, NPPOs of exporting countries and the Secretariats of the IPPC and the RPPO(s) of which they are a member.

### 8. Review Mechanism

#### 8.1 System review

The NPPO should periodically review its 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.