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| International plant protection convention |
| Market Access Guide |
| Final revised draft  August 2012 |
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This paper presents a market access guide as a component of the National Phytosanitary Capacity Building Strategy 2010 adopted by the Commission on Phytosanitary Measures of the International Plant Protection Convention. The work represented herein has been prepared and reviewed by contracting parties, regional plant protection organizations, donors, international organizations and phytosanitary experts from seven FAO regions. It is consistent with the agreed definition of National Phytosanitary Capacity and the CPM adopted strategy.

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# Acronyms

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| **CPM** | Commission on Phytosanitary Measures |
| **FAO** | Food and Agriculture Organization of the United Nations |
| **IPPC** | International Plant Protection Convention |
| **ISPM** | International Standard for Phytosanitary Measures |
| **NPPO** | National Plant Protection Organization |
| **PRA** | Pest Risk Analysis |
| **RPPO** | Regional Plant Protection Organization |
| **SPS** | WTO Agreement on the Application of Sanitary and Phytosanitary Measures |
| **WTO** | World Trade Organization of the United Nations |
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# Definitions

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| area | An officially defined country, part of a country or all or parts of several countries. |
| 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. |
| commodity | A type of plant, plant product, or other article being moved for trade or other purpose. |
| country of origin | Country where the plants from which the plant products are derived were grown. |
| endangered area | An area where ecological factors favour the establishment of a pest whose presence in the area will result in economically important loss. |
| entry | Movement through a point of entry into an area. |
| establishment (of a pest) | Perpetuation for the foreseeable future, of a pest within an area after entry. |
| equivalence | The situation where, for a specified pest risk, different phytosanitary measures achieve a contracting party’s appropriate level of protection. |
| measure (phytosanitary) | 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. |
| harmonization | The establishment, recognition and application by different countries of phytosanitary measures based on common standards. |
| International Standard for Phytosanitary Measures | An international standard adopted by the Conference of FAO or the Commission of Phytosanitary Measures, established under the IPPC. |
| introduction (of a pest) | The entry of a pest resulting in its establishment. |
| non-quarantine pest | Pest that is not a quarantine pest for an area. |
| 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 the management of regulated non-quarantine pests. |
| pathway | Any means that allows the entry or spread of a pest. |
| 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. |
| 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. |
| pest risk assessment  (for quarantine pests) | Evaluation of the probability of the introduction and spread of a pest and the associated potential economic consequences. |
| pest risk management  (for quarantine pests) | Evaluation and selection of options to reduce the risk of introduction and spread of a pest. |
| plants | Living plants and parts thereof, including seeds and germplasm. |
| 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. |
| pest risk | The probability of introduction and spread of a pest and the magnitude of the associated potential economic consequences. |
| pest risk management | Evaluation and selection of options to reduce the risk of introduction and spread of a pest. |
| PRA area | area in relation to which a pest risk analysis is conducted. |
| spread of a pest | Expansion of the geographical distribution of a pest within an area. |
| Transparency | The principle of making available, at the international level, phytosanitary measures and their rationale. |
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# Purpose of a guide to market access negotiations for NPPOs

In today’s global environment of increasing population, industrialisation, globalisation, advanced transportation and outsourcing, international trade is on a strong upward trend and agricultural products including food for human and animal consumption are now sourced from many different areas and countries of the world. Also planting material for propagation is increasingly transported between countries for reasons of food security and the establishment of sustainable forests, as well as for recreational and ornamental purposes.

Along with increased international trade in plants and plant products comes the increased risk of the introduction and spread of pests and diseases harmful to native and introduced plant species. The challenge for quarantine officials and plant health experts in any country is to facilitate international movement of people, goods and services while ensuring that national biosecurity is not compromised.

From a plant health perspective, anything that can provide the means by which a pest can cross international boundaries attracts the attention of national authorities responsible for protecting the health of plants and the environment within their territories.

Gaining market access in such an environment can be a challenging prospect for any country seeking new markets for their agricultural products.

In today’s climate of diminishing resources, it is unlikely that any quarantine administration has the staff and other resources to permit the intensive inspection of 100% of arriving passengers, plants and plant products at the national border. And clearly, zero risk is unattainable. As a result today’s trend is towards the utilisation of risk-based principles of risk assessment, management and communication involving a multilayered, pro-active approach rather than sole reliance on border inspection.

The purpose of the guide is to describe a process that can be followed to gain market access with least hindrance to trade but at the same time preventing the spread of pests and diseases into new areas.

The guide covers the following areas:

* rights and obligations as they apply to trade in plants and plant products
* a practical guide to achieving market access
* maintaining trade

While there are many traded goods that can be the means by which pests cross international boundaries, this guide focuses on plants and plant products traded commercially in international markets (grains, seeds, fruits, vegetables, cut flowers, etc.) that are most commonly at the centre of market access negotiations. Throughout the text they will be referred to simply as the ‘commodity’, which is consistent with the glossary of phytosanitary terms (ISPM 5, 2010) that defines a commodity as a type of plant, plant product or other article being moved for trade or other purpose. It will not specifically consider plants and plant products that are genetically modified, are biological control agents or are other beneficial organisms, although the principles covered in this guide will have broad application. Specific information on these groups can be found in international standards for phytosanitary measures, including ISPM No. 3 (2005) and ISPM No. 11(2004).

The country seeking access will be referred to as ‘the country of origin’, and the country to which access is sought will be referred to as ‘ the destination country’.

# Rights and Obligations – the regulatory framework

## 2.1 The World Trade Organisation[[1]](#footnote-1)

### 2.1.1 Overview

The regulatory framework that governs international trade comes under the broad umbrella of the World Trade Organisation (WTO) that was established in 1995 as a forum for governments to negotiate trade agreements, to facilitate trade between countries and to reduce impediments to trade. It is the only global international organization dealing with the rules of trade between nations. The goal of the WTO is to help producers of goods and services, exporters, and importers conduct their business.

The WTO’s overriding objective is to help trade flow smoothly, freely, fairly and predictably.

It does this by:

* Administering WTO trade agreements
* Acting as a forum for trade negotiations
* Handling trade disputes
* Monitoring national trade policies
* Technical assistance and training for developing countries
* Cooperation with other international organizations

The WTO is the successor to the General Agreement of Tariffs and Trade (GATT) that was established in the wake of the Second World War. After the war, countries recognised the need for negotiating lower customs duty rates and other trade barriers to facilitate trade in goods. GATT was the forum for these negotiations and the text of the General Agreement spelled out important rules, including those relating to non-discrimination.

The GATT is comprised of negotiations that were held between 1947 and 1994, and the resulting trading system from these negotiations is referred to as the General Agreement on Tariffs and Trade or GATT.

Significantly, the Uruguay Round of negotiations held between 1986 and 1994 created the WTO that now has about 150 members and accounts for about 95% of world trade. About 30 other countries are negotiating access.

The WTO’s rules – the agreements – are the result of negotiations between the member countries. Importantly, decisions are made by the entire membership, typically by consensus. The current set of agreements is comprised of the outcomes of the 1986-94 negotiations, called the Uruguay Round, which included a major revision of the original General Agreement on Tariffs and Trade (GATT).

Over three quarters of WTO members are developing or least-developed countries. All WTO Agreements contain special provision for them, including longer time periods to implement agreements and commitments, measures to increase their trading opportunities and support to help them build the infrastructure for WTO work, handle disputes, and implement technical standards.

Technical assistance and training provided by the WTO for developing and least-developed countries, includes around 100 technical cooperation missions to developing countries annually. The WTO also holds on average three trade policy courses each year in Geneva for government officials. Regional seminars are held regularly in all regions of the world with a special emphasis on African countries. Training courses are also organized in Geneva for officials from countries in transition from central planning to market economies.

The WTO has set up reference centres in over 100 trade ministries and regional organizations in capitals of developing and least-developed countries. Computers are provided at these centres with internet access to enable ministry officials to keep abreast of events in the WTO in Geneva through online access to the WTO’s immense database of official documents and other material. Efforts are also being made to help countries that do not have permanent representatives in Geneva.

Since 1995, the updated GATT has become the WTO’s umbrella agreement for trade in goods. It has annexes dealing with specific sectors such as agriculture and textiles, and with specific issues such as state trading, product standards, subsidies and actions taken against dumping.

GATT is now the WTO’s principal rule-book for trade in goods. The Uruguay Round also created new rules for dealing with trade in services, relevant aspects of intellectual property, dispute settlement, and trade policy reviews. The complete set runs to some 30,000 pages consisting of about 30 agreements and separate commitments (called schedules) made by individual members in specific areas such as lower customs duty rates and services.

At the heart of the system – known as the multilateral trading system – are the WTO’s agreements, negotiated and signed by a large majority of the world’s trading nations, and ratified by their parliaments. These agreements are the legal ground-rules for international commerce. Essentially, they are contracts, guaranteeing member countries important trade rights. They also bind governments to keep their trade policies within agreed limits to everybody’s benefit.

### 2.1.2 The multilateral trading system

Through agreements, WTO members operate a non-discriminatory trading system that spells out their rights and their obligations. Each country receives guarantees that its exports will be treated fairly and consistently in other countries’ markets. Each promises to do the same for imports into its own market. The system also gives developing countries some flexibility in implementing their commitments.

The system’s overriding purpose is to help trade flow as freely as possible — so long as there are no undesirable side effects — because this is important for economic development and well-being. That partly means removing obstacles. It also means ensuring that individuals, companies and governments know what the trade rules are around the world, and giving them the confidence that there will be no sudden changes of policy. In other words, the rules have to be ‘transparent’ and predictable.

Where trade disputes arise, the WTO offers a procedure for resolving trade quarrels under the Dispute Settlement Understanding that is vital for enforcing the rules and therefore for ensuring that trade flows smoothly. Countries bring disputes to the WTO if they think their rights under the agreements are being infringed. Judgements by specially-appointed independent experts are based on interpretations of the agreements and individual countries’ commitments.

The dispute settlement system encourages countries to settle their differences through consultation. Failing that, they can follow a carefully mapped out, stage-by-stage procedure that includes the possibility of a ruling by a panel of experts, and the chance to appeal the ruling on legal grounds. Confidence in the system is borne out by the number of cases brought to the WTO – around 300 cases in eight years compared to the 300 disputes dealt with during the entire life of GATT (1947-94).

The WTO has also adopted a Trade Policy Review Mechanism with the purpose of improving transparency, and creating a greater understanding of the policies that countries are adopting, and to assess their impact. Many members also see the reviews as constructive feedback on their policies.

All WTO members must undergo periodic scrutiny, each review containing reports by the country concerned and the WTO Secretariat.

While the original GATT applied to agricultural trade, it contained loopholes in allowing countries to use some non-tariff measures such as import quotas, and to subsidize. Agricultural trade became highly distorted, especially with the use of export subsidies, which would not normally be allowed for industrial products. To ensure fairer markets for farmers the Uruguay Round produced the first multilateral agreement dedicated to the agricultural sector. It was a significant first step towards order, fair competition and a less distorted sector.

### 2.1.3 The Agreement on Agriculture

The Uruguay Round of the trade negotiations resulted in four main elements of the Agreement on Agriculture:

* The Agreement on Agriculture itself;
* the concessions and commitments Members are to undertake on market access, domestic support and export subsidies;
* the Agreement on Sanitary and Phytosanitary Measures (SPS Agreement); and
* the Ministerial Decision concerning Least-Developed and Net Food-Importing Developing countries.

Overall, the results of the negotiations provide a framework for the long-term reform of agricultural trade and domestic policies over the years to come. It makes a decisive move towards the objective of increased market orientation in agricultural trade. The rules governing agricultural trade are strengthened which will lead to improved predictability and stability for importing and exporting countries alike.

The Uruguay Round agreement included a commitment to continue the reform through new negotiations. These negotiations, as required by the Agriculture Agreement were launched in 2000, and the 2001 Ministerial Conference in Doha set out tasks, including negotiations, for a wide range of issues concerning developing countries. Some people call the new negotiations the Doha Development Round.

## 2.2 The Sanitary and Phytosanitary (SPS) Agreement

### Overview

The WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement; WTO, 1994) is an agreement on how governments can apply food safety and animal and plant health measures while facilitating trade.

With regard to plant health, the SPS Agreement allows countries to set their own standards to protect their economy or environment from damage due to the entry, establishment or spread of pests of plants. At the same time it encourages them to use international standards, guidelines and recommendations, where they exist, when developing their sanitary and phytosanitary measures (Article 3 of the SPS Agreement).

The SPS Agreement also states that measures must be science-based and not used for the purpose of trade protection. It requires that phytosanitary measures be based on an assessment of the risk to human, animal or plant health, taking into account risk assessment techniques developed by the relevant international organisations, and that they should be technically justified.

The WTO recognises the International Plant Protection Convention (IPPC) as the relevant international standard setting body for plant health and it encourages its members to harmonise their sanitary and phytosanitary measures on the basis of international standards. In this way, international standards that are adopted under the IPPC set out the basic internationally agreed elements for the establishment of harmonised plant health standards and phytosanitary measures.

The SPS Agreement recognises the right of WTO member countries to determine the level of SPS protection they deem appropriate, and to take the necessary measures to protect human, animal or plant life or health within their territory from pests and diseases, as well as to prevent other damage from pests within a member’s territory. Sanitary (human and animal health) and phytosanitary (plant health) measures (SPS measures) typically apply to trade in or movement of animal-based and plant-based goods within or between countries. The SPS Agreement applies to all SPS measures that may directly or indirectly affect international trade.

Importantly, the Agreement recognises that developing country Members, and in particular least-developed country Members may encounter special difficulties in complying with the sanitary and phytosanitary measures of importing Members. Consequently, where the appropriate level of sanitary or phytosanitary protection allows scope for the phased introduction of new sanitary or phytosanitary measures, longer time-frames for compliance should be accorded so as to maintain opportunities for exports. Furthermore, there are provisions in the Agreement that enable time-limited exceptions in whole or in part from obligations under this Agreement, taking into account the financial, trade and development needs of developing countries.

### Rights and obligations

Key provisions of the SPS Agreement identify the rights and obligations of WTO Members in the application of sanitary and phytosanitary measures in a trade environment. The following list provides brief summaries of such rights and obligations:

* WTO members have the right to determine the level of SPS protection (Appropriate Level of Protection or ALOP) they deem appropriate.
* An importing Member has the sovereign right to take measures to achieve the level of protection it deems appropriate to protect human, animal or plant life or health within its territory.
* An SPS measure must be based on scientific principles and not be maintained without sufficient scientific evidence.
* An importing Member shall avoid arbitrary or unjustifiable distinctions in levels of protection, if such distinctions result in discrimination or a disguised restriction on international trade.
* An SPS measure must not be more trade restrictive than required to achieve an importing Member’s ALOP, taking into account technical and economic feasibility.
* An SPS measure should be based on an international standard, guideline or recommendation where these exist, unless there is a scientific justification for a measure which results in a higher level of SPS protection to meet the importing Member’s ALOP.
* An SPS measure conforming to an international standard, guideline or recommendation is deemed to be necessary to protect human, animal or plant life or health, and to be consistent with the SPS Agreement.
* Where an international standard, guideline or recommendation does not exist or where, in order to meet an importing Member’s ALOP, a measure needs to provide a higher level of protection than accorded by the relevant international standard, such a measure must be based on a risk assessment; the risk assessment must take into account available scientific evidence and relevant economic factors.
* Where the relevant scientific evidence is insufficient, an importing Member may provisionally adopt SPS measures on the basis of available pertinent information. In such circumstances, Member’s shall seek to obtain the additional information necessary for a more objective assessment of risk, and review the SPS measure accordingly within a reasonable period of time.
* An importing Member shall accept the measures of other countries as equivalent, if it is objectively demonstrated that the measures meet the importing Member’s ALOP.
* SPS measures must be adapted to the SPS characteristics of the area from which the product originated and to which the product is destined. WTO Member’s are also required to recognise the concepts of pest/disease-free areas and areas of low pest/disease prevalence.

## The International Plant Protection Convention[[2]](#footnote-2)

### Overview

In parallel to the emergence of the WTO, there was increasing concern that developing trade could lead to the introduction and spread of pests of plants and plant products into territories and countries previously considered to be free of such pests. As early as 1881, the concept of international plant protection gained recognition when five countries signed an agreement to control the spread of grape phylloxera (*Phylloxera vasatrix*), a North American aphid that was accidentally introduced into Europe around 1865 and subsequently devastated much of Europe’s grape-growing regions.

Such events set precedence to the International Convention for the Protection of Plants, which was signed in Rome in 1929. This was followed in 1951 by the adoption of the International Plant Protection Convention (the IPPC) by the Food and Agriculture Organization (FAO) of the United Nations. The IPPC came into force in April 1952, was revised in 1979 and again in 1997, superseding all previous international plant protection agreements.

In particular the SPS Agreement identifies the IPPC as the organization providing international standards for measures implemented by governments to protect their plant resources from harmful *pests* (phytosanitary measures) while ensuring that phytosanitary measures are technically justified and are not used as unjustified barriers to international trade.

The IPPC is a legally binding international agreement aimed at the protection of the world’s plant resources from the introduction and spread of pests. The purpose of the Convention is to secure common and effective action to prevent the spread and introduction of pests (including insects, pathogens and plants as pests) of plants and plant products and to promote appropriate measures for their control. While the main targets of the IPPC are plants and plant products moving in international trade, the IPPC also covers anything else that can act as a vector for the spread of pests of plants, such as containers, soil, used vehicles and machinery, and packaging material.

Countries that have ratified the IPPC are referred to as contracting parties. Over 80% of the countries in the world are contracting parties to the IPPC. Contracting parties agree to cooperate with one another in their attempts to prevent the international spread of pests of plants. This includes exchanging information on pests of plants, providing technical and biological information necessary for pest risk analysis, and participation in any special campaigns for combating pests. Countries that have not ratified the IPPC (non-contracting parties) often also uphold the Convention, and are encouraged to do so.

Importantly, the 1989 Uruguay Round of the GATT recognized the IPPC as the official standard setting organization for the SPS agreement. A major update of the Convention followed in 1997. The revised Convention strengthened the IPPC through the provision of a mechanism for developing and adopting International Standards for Phytosanitary Measures (ISPMs), and aligned it with the SPS Agreement of the WTO.

ISPMs are the means by which contracting parties can harmonize their phytosanitary requirements. The development and subsequent implementation of standards not only reduces the numbers of pests moved by the international movement of commodities but what is also important, greatly facilitates trade. For the majority of developing countries where the main exports are plants and plant products, market access is critical for sustainable development and poverty alleviation. International standards also provide a technical basis for countries to protect both cultivated plants and wild flora from introduced pests. This is of significant importance as introduced pests can harm agriculture, threaten food security and damage wild flora and ecosystems.

The IPPC currently has 177 signatories. All contracting parties share the aim of protecting cultivated and wild plants by preventing the introduction and spread of pests.

From its inception the IPPC has played an important role in international trade of plants and plant products. Contracting parties strive to ensure that their exports are not the means of introducing new pests to the territories of their trading partners and that the measures they have in place for plant protection are technically justified. To this end, the Convention defines the rights and obligations of parties, which include the right to take phytosanitary measures, but also limits those rights to what is necessary and justified; taking into account potential damage to plant health and economic consequences.

***From an import point of view***, contracting parties may apply phytosanitary measures only where such measures are necessary to prevent the introduction and/or spread of quarantine pests or to limit the economic impact of regulated non-quarantine pests. Contracting parties shall apply phytosanitary measures in a transparent and non-discriminatory manner and they agree that phytosanitary restrictions will be used only where technically justified and not in lieu of barriers to protect an industry from competition. The Convention allows contracting parties to gain assurance, through phytosanitary certification, that imports are not the means of introducing new pests into their territories.

***From an export point of view,*** contracting parties shall make arrangements to ensure that their exports are not the source of new pests into their trading partners’ territories and that their exports meet the import requirements of the importing country.

### IPPC Governance

The Commission on Phytosanitary Measures (CPM) is the governing body of the IPPC. The CPM’s mission is – cooperation between nations in protecting the world’s cultivated and natural plant resources from the spread and introduction of pests of plants, while minimizing interference with the international movement of goods and people.

The CPM meets annually and is directed between sessions by the CPM Bureau, which is a seven-member elected executive body of the CPM. The purpose of the Bureau is to provide guidance to the CPM on the strategic direction, financial and operational management of its activities in cooperation with the IPPC Secretariat and with others as approved by the CPM. The CPM has published a Business Plan (2007-2011), that has since been updated by a Strategic Framework (2012-2019). Both documents can be found on the IPPC website.

The Secretariat of the International Plant Protection Convention (IPPC) was established in 1992 by FAO in recognition of the increasing role of the IPPC in international standard setting. It was established to improve effectiveness in implementation of the Convention and is responsible for coordinating core activities under the IPPC work program, which includes:

* Standard Setting (the development of international standards for phytosanitary measures);
* Information Exchange (the provision of information required by the IPPC and the facilitation of information exchange between contracting parties); and
* Technical Assistance (the provision of technical assistance, especially for capacity building, to facilitate the implementation of the IPPC.

The IPPC Secretariat is the key body for administration and facilitation of the work of the international phytosanitary community. By coordinating information exchange between parties and publishing relevant information, the Secretariat helps ensure that the Convention’s principle of transparency is put into practice. The dissemination of dependable and timely information is an enormous task and calls for close cooperation between the IPPC and the national and regional plant protection organisations.

### National Plant Protection Organisations (NPPOs)

Under the IPPC, each contracting party shall make provision, to the best of its ability, for an official national plant protection organization to be established by government as an official service to discharge the functions of the IPPC (IPPC, 1997, Article IV).

In their principal roles, NPPOs:

* are responsible for issuing phytosanitary certificates;
* manage surveillance for pest outbreaks and control of pests;
* conduct inspection and, if necessary, disinfestation of traded consignments of plants and plant products;
* ensure phytosanitary security of consignments from certification until export;
* establish and protect pest free areas;
* undertake pest risk analyses for the development of phytosanitary measures.

The last-mentioned three roles provide a clear definition of the responsibilities detailed in the 1997 revision of the Convention. The New Revised Text makes clear the importance of NPPOs in implementing the updated concepts of the Convention at a national level. Pest risk analysis (PRA), for example, is a modern phytosanitary practice that provides the technical justification for the application of phytosanitary measures.

The IPPC requires that each contracting party shall submit to the IPPC Secretary a description of its official national plant protection organization and of changes made to that organization. Upon request, a contracting party shall also provide a description of its organizational arrangements for plant protection to other contracting parties. To facilitate information exchange between the IPPC and contracting parties, each country has a designated official contact point. The contact point is the official spokesperson on IPPC issues in each government, and shares with other spokespersons and with the Secretariat information, experience and expertise to strengthen regional and international phytosanitary capacity.

Importantly, the NPPOs are the organizations that put the precepts of the Convention into action. They implement the phytosanitary regulations issued by their governments. They issue phytosanitary certificates, when required, confirming that exporters have met the importing country’s requirements. Some of an NPPO’s roles may be performed by personnel delegated by the NPPO to undertake particular tasks under its authority.

### Regional Plant Protection Organisations (RPPOs)

Contracting parties also cooperate with each other within their regions through RPPOs.

An RPPO is an inter-governmental organization functioning as a coordinating body for NPPOs at a regional level. There are currently ten RPPOs, including:

* Asian and Pacific Plant Protection Commission (APPPC) – South East Asia, Indian subcontinent, Australia and New Zealand
* Communidad Andina de Naciones (CAN) – Andean community
* Comité Regionale de Sanidad Vegetal para el Cono Sur (COSAVE) – Southern cone of South America
* Caribbean Plant Protection Commission (CPPC) – Caribbean Islands and Central America
* European and Mediterranean Plant Protection Organization (EPPO) – Europe and Mediterranean
* Inter-African Phytosanitary Council (IAPSC) – Africa
* Near East Plant Protection Organization (NEPPO) – Algeria, Egypt, Jordan, Libya, Malta, Morocco, Pakistan, Sudan, Syria and Tunisia (Iran, Mauritania, Yemen – signed but not ratified)
* North American Plant Protection Organization (NAPPO) – Canada, North America, Mexico
* Organismo Internacional Regional de Sanidad Agropecuaria (OIRSA) – Central America
* Pacific Plant Protection Organization (PPPO) – Southwest Pacific Islands

RPPOs each have their own independent statutes and they conduct their own regional programs. They may also develop regional standards, but such standards should also be consistent with the principles of the Convention. They may also deposit these standards with the Commission for consideration as candidates for international standards for phytosanitary measures if they are more broadly applicable.

RPPOs function as the coordinating bodies for the regional areas encompassed and participate in various activities to achieve the objectives of the Convention. Where appropriate, they gather and disseminate information. Importantly, they also cooperate with the Secretary and the Commission in developing international standards.

RPPOs meet annually at a meeting coordinated by the IPPC Secretariat, which is referred to as a Technical Consultation. Reports of these meetings can be found at the IPPC website.

## International Standards for Phytosanitary Measures (ISPMs)

### Overview

Under the principles of plant quarantine as related to international trade, the IPPC recognizes that countries, in order to prevent the introduction of quarantine pests into their territories, may exercise their sovereign right to utilize phytosanitary measures to regulate the entry of plants and plant products and other materials capable of harbouring plant pests. However, such phytosanitary measures, whenever possible, shall be based on international standards, guidelines and recommendations developed within the framework of the IPPC.

ISPMs are the standards, guidelines and recommendations recognized as the basis for phytosanitary measures applied by Members of the World Trade Organization under the SPS Agreement.

Contracting parties cooperate and provide input into the development of ISPMs, which are adopted by the CPM after development over a period of time through an agreed and defined process of draft development and country consultation.

The ISPMs embody the rights and obligations member countries can exercise to prevent the introduction and spread of pests while at the same time facilitating trade.

All member countries unanimously agree that ISPMs are effective in managing pest risks and allowing safer trade. NPPOs use the ISPMs as the basis for their national phytosanitary regulations.

Because they will have an impact on trade, it is important for everyone involved in trade in plants and plant products to understand how these regulations can affect them.

Currently, there are 39 ISPMs that have been approved by the CPM and 34 of which are published on the IPPC web site.

ISPM No. 1 (2006) is a key reference standard that describes phytosanitary principles for the protection of plants and the application of phytosanitary measures in international trade.

The principles are related to the rights and obligations of contracting parties to the IPPC. They should be considered collectively, in accordance with the full text of the IPPC, and not interpreted individually.

The **basic principles** elaborated in the standard are:

1. **Sovereignty**
   1. With the aim of preventing the introduction of quarantine pests into their territories, it is recognized that countries may exercise the sovereign right to utilize phytosanitary measures to regulate the entry of plants and plant products and other materials capable of harbouring plant pests.
2. **Necessity**
   1. Countries shall institute restrictive measures only where such measures are made necessary by phytosanitary considerations, to prevent he introduction of quarantine pests.
3. **Managed risk**
   1. Phytosanitary measures should be based on a policy of managed risk, recognizing that risk of the spread and introduction of pests always exists when importing plants, plant products and other regulated articles.
4. **Minimal impact**
   1. Phytosanitary measures shall be consistent with the pest risk involved, and shall represent the least restrictive measures available, which result in the minimum impediment to the international movement of people, commodities and conveyances.
5. **Transparency**
   1. Countries shall publish and disseminate phytosanitary prohibitions, restrictions and requirements and, on request, make available the rationale for such measures.
6. **Harmonization**
   1. Phytosanitary measures shall be based, whenever possible, on international standards, guidelines and recommendations, developed within the framework of the IPPC.
7. **Non-discrimination**
   1. Phytosanitary measures should be applied without discrimination between countries of the same phytosanitary status. For a particular quarantine pest, phytosanitary measures should be no more stringent when applied to imported goods than measures applied to the same pest within the territory of the importing country.
8. **Technical justification**
   1. Phytosanitary measures should be technically justified based on an appropriate pest risk analysis or, where applicable, another comparable examination and evaluation of available scientific information.
9. **Cooperation**
   1. Countries should cooperate to prevent the spread and introduction of pests of plants and plant products, and to promote measures for their official control.
10. **Equivalence of phytosanitary measures**
    1. Importing countries should recognize alternative phytosanitary measures proposed by exporting countries as equivalent when those measures are demonstrated to achieve the appropriate level of protection determined by the importing country.
11. **Modification** 
    1. Modification of phytosanitary measures should be determined on the basis of new or updated pest risk analysis or relevant scientific information. Countries should not arbitrarily modify phytosanitary measures.

This standard, in addition to the 12 basic principles listed above, also describes 17 operational principles related to the establishment, implementation and monitoring of phytosanitary measures, and to the administration of official phytosanitary systems. The operational principles are: pest risk analysis, pest listing, recognition of pest free areas and areas of low pest prevalence, official control of regulated pests, systems approach, surveillance, pest reporting, phytosanitary certification, phytosanitary integrity and security of consignments, prompt action, emergency measures, provision of a national plant protection organization (NPPO), dispute settlement, avoidance of undue delays, notification of non-compliance, information exchange and technical assistance.

All other ISPMs approved by the CPM provide guidance to contracting parties in adopting phytosanitary measures aimed at protecting wild and cultivated plants by preventing the introduction and spread of pests.

Although ISPMs are internationally agreed to and adopted, they are meant to be guidelines and their use is not mandatory within the framework of the IPPC. In addition, their interpretation and application on a national level varies from country to country. This variation is illustrated by the many different national systems and procedures that exist for carrying out PRA. Countries often take slightly different approaches to implementing the standards while still staying true to their intent. ISPMs are designed to be a framework and countries use that framework as a basis for their own national systems that may arrange the guidelines into a protocol or similar system, often adding additional elements to meet their needs.

# Achieving market access – a practical guide

## Components of a market access proposal

Gaining access to a new market for a plant commodity can in some circumstances involve a relatively straightforward process, while in other circumstances the process can be quite protracted. The complexity of the process will reflect to a large extent the nature and the level of phytosanitary risk the destination country might be exposed to, and whether regulatory measures are available to address that risk.

The initiation of the process whereby a country considers a request for market access usually takes the form of a written submission from the relevant government authority of the country of origin to the counterpart agency of the destination country. However, in some cases it may simply take the form of a request for an import permit from one country to another originating from industry or from government sources.

The amount of information that is included in the request for market access is at the discretion of the applicant. However, the recipient government authority will assess the information provided and usually seek supplementary information that will assist them in identifying any phytosanitary risks that could be associated with the proposed imports. In some instances, procedures for applications for market access can be found for specific countries on the websites of their relevant government authorities.

Information that is commonly requested by countries upon receipt of a market access proposal includes:

**Information about the proposed commodity/plants**

Scientific name; common name; variety/cultivar name; plant parts to be exported; susceptibility or resistance to pests; proposed end use; other export destinations

**Information about the production area**

States, regions, province, districts etc.; climate description of production area; area maps; amount proposed for export

**Information about production and cultivation**

Specific pest management; surveillance programs and certification schemes; product sourced from area officially certified pest free by NPPO; internal legislative restrictions; production, harvesting method and harvesting period

**Information about pests associated with the proposed commodity**

Scientific names, synonyms and common names; classification; hosts and plant parts affected; symptoms/damage; distribution; prevalence; control measures

**Information about post harvest management**

Packing methods; inspection procedures; post harvest disinfestation/disinfection treatments; storage conditions; transportation; security

**Current export program**

Field inspection; sampling; export destinations; current phytosanitary certification procedures and additional declarations

**Results of pest risk analysis (PRA) carried out in other countries**

**Copies of relevant references**

The country of origin may choose to include detailed information as part of their original market access submission and/or confirm their intention to cooperate to the fullest practical extent in the provision of further technical and biological information in response to requests via the official contact point. Such a gesture not only confirms an intention to establish and work as party to a cooperative arrangement but also is an acknowledgement of the obligations of contracting parties under the IPPC (Articles VIII.1(c) and VIII.2 of IPPC, 1997).

Once the submission is lodged with the target country, a consultation phase between both parties will most likely follow.

## A team approach

At the outset, the government agency responsible for seeking market access needs to pay careful attention to establishing and developing a dedicated team of experts, including staff that are available or, where necessary, are contracted from other agencies or institutions. Recognizing the role of NPPO as the official service established by governments to discharge the functions of the IPPC (IPPC, 1997, Article IV) the expert team will need to work closely with the NPPO or may be established within that service. The primary tasks of the team will be to:

* develop a work program for the market access proposal
* establish and develop links with industry and other government representatives
* gather information and compile a dossier
* prepare the market access submission
* prepare consultation briefings
* consider results of risk analysis by destination country
* manage research of technical issue
* recommend policy and operation of regulatory requirements
* review and monitor trading system

The primary criteria for the selection of members of the market access team should be to ensure that the team members collectively provide an appropriate balance of experience and expertise in:

* Risk analysis as it relates to plant health
* Science and regulation
* Plant pests and diseases
* Industry and commercial processes and practices
* Other disciplines relevant to the market access proposal

A team leader selected from the membership should have leadership qualities, be experienced in government policy development and have broad understanding of the disciplines covered by the other team members.

The number of team members will depend on the expertise required and may vary as the workload fluctuates during different stages of the work program. While it is necessary to start with a core group with the best skill set, and if possible maintain that group throughout the program to create an environment of professional stability, there are benefits in having as large a team as possible within organizational constraints. Within a large group, there is always back-up support, when another member is otherwise occupied or must leave the team for other reasons. Often critical skill shortages need to be overcome and taking a long-term view to training, mentoring and professional development within a team environment can help. Professional exchanges with other countries can provide short-term solutions to expertise gaps while developing closer working relations with other responsible government agencies and NPPOs. There is little doubt that individuals working as part of a team can fast-track professional development, and instituting a training and development structure within the team can also be useful in attracting enthusiastic and promising members and potential members. Competent administrative and secretarial support for the team is also essential.

An immediate task of the market access team, as indicated above is to establish and develop links with groups and individuals who have an active interest in the market access proposal including industry representatives, importers, exporters, freight handlers, grower organizations, individual growers, other government agencies, academics, research agencies, NPPOs and RPPOs. Frequently, the initiative to seek market access for a commodity in a target destination country originates through producer groups or commercial operators, importers/exporters.

At this stage, it would be wise to have assurance that the market access proposal is underpinned by a production and marketing plan developed and supported through industry groups. The plan should include reliable information on the capacity of the industry to service the nominated destination market with a reliable supply of the nominated commodity. Furthermore, the plan should also include reliable data on the demand for the commodity in the destination country.

While it is not the responsibility of a government agency seeking market access to determine that the relevant sections of industry are committed to a production and marketing plan, such assurances will no doubt strengthen the position of the applicant agency in the negotiation process.

## Gathering information and compiling a dossier

Information gathering is an essential activity for any market access endeavor and its importance cannot be over-estimated. From the outset of considering the feasibility of gaining access to a specific market, to the later possibility of having to assess the determination of a complex pest risk analysis (PRA) by the responsible government agencies of the destination country; access to complete, current and accurate information is essential. Ideally, a complete set of information should be included in a dossier and held in a central and secure location, updated as new information becomes available.

The market access team should take responsibility for gathering the information, with the team administrator given responsibility for compiling the dossier and ensuring security.

A basic, yet essential set of information about the destination country, similar to that listed in 3.1 above, should be should be included in the dossier. This will enable the situation in both countries to be compared, noting differences between such things as:

* the production of plant and plant products in the destination country, that may be the same as or related botanically to the proposed export
* production conditions and climate
* pest occurrence, importance and official control programs

More extensive and detailed information will be required if the destination country determines that the proposed imports present a phytosanitary risk and will require phytosanitary measures to manage that risk. The SPS Agreement and the IPPC require measures necessary to manage that risk be based on international standards or on pest risk analysis (PRA). In the absence of relevant international standards and/or a current PRA, the destination country is required to proceed with a PRA to establish a basis for taking regulatory measures. The PRA process is covered in more detail in section 3.6 of this guide.

Should this situation arise, the country of origin may proceed to review the basis of the resulting PRA determination to ensure it meets the requirements of the SPS Agreement and the IPPC in that the PRA:

* is based on sound science
* is structured and transparent
* provides an estimation of phytosanitary risk based on the best information available
* identifies risk management options to reduce the risk to an acceptable level

This process of review is covered in more detail in section 3.7 of this guide.

The sourcing of information required to determine that the process followed is science-based, objective, defensible and transparent is a task that will continue for the duration of the market access program.

In addition to the scientific and technical information gathered to support the market access program, other essential information will need to be included in the dossier. This information should include:

* market access work program
* market access submission
* information exchanges with the destination country
* consultation briefings and reports (including with and between government and industry stakeholders, the destination country, NPPOs, RPPOs and the IPPC etc.)
* meeting reports
* contact lists (stakeholders, scientists, national/international experts etc.)
* scientific and technical reference lists
* frequently used websites (IPPC home/secretariat/portal; RPPOs etc.)
* industry production and marketing plan (if available)

## Preparation and submission of a market access proposal

Preparation for the submission of a market access proposal involves a sequence of interrelated activities, including:

* establishment of a market access team
* documentation of the market access work program
* engagement with industry and government stakeholders
* establishment of a dossier containing scientific and technical information and other items listed in section 3.3

Once this preparatory work is completed, a written submission from the relevant government authority of the country of origin can be forwarded to the counterpart agency of the destination country requesting market access for the specific commodity. At the discretion of the applicant, supporting information concerning the commodity might be included with the submission (see section 3.1). As part of the submission a request for early consultation and a commitment to work cooperatively to reach a mutually satisfactory outcome could be added.

## Consultation between parties

Under the IPPC (IPPC, 1998), member countries recognize the necessity for international cooperation in controlling pests of plants and plant products and in preventing their international spread, and especially their introduction into endangered areas. Accordingly, contracting parties agree they shall cooperate with one another to the fullest practicable extent in achieving the aims of the convention, and shall in particular:

* Cooperate in the exchange of information on plant pests, particularly the reporting of occurrence, outbreak or spread of pests that may be of immediate or potential danger, in accordance with such procedures as may be established by the Commission (Article VIII 1(a) in IPPC, 1998);
* Cooperate to the extent practicable, in providing technical and biological information necessary for pest risk analysis (Article VIII 1(c) in IPPC, 1998).

As a consequence, through the exchange of information, both parties engaged in the market access proposal can have access to the pest profiles in both countries for comparative purposes. The country of origin has the additional responsibility of providing more extensive information as might be required if the destination country finds it necessary to do a pest risk analysis.

While the country of origin has the added responsibility of providing additional information as necessary for a PRA, the destination country shall institute only phytosanitary measures that are technically justified, consistent with the pest risk involved, represent the least restrictive measures available, and result in minimum impediment to the international movement of people, commodities and conveyances (Article VIII 1(c) in IPPC, 1998). Under such circumstances, the country of origin has the opportunity to make a substantial contribution to the PRA process by providing accurate and comprehensive information to achieve outcomes from the PRA that are consistent with Article VIII 1(c).

Meaningful consultation should be initiated between NPPOs of the two countries and continue for the duration of the PRA process as information is gathered and analysed. As the analysis progresses, information gaps may be identified necessitating further enquiries or research.

A further layer of consultation within the country of origin whereby the Market Access Team engages with government and industry stakeholder groups is essential to keep everyone fully informed and to ensure the quality of information provided to the destination country is comprehensive, current and accurate.

## Evaluation of the proposal by the importing country

### 3.6.1 Introduction

Evaluation of the proposal by the destination country will broadly determine whether or not imports of the commodity will be approved and whether or not specific conditions must be met to achieve and maintain market access.

However, in reaching this determination the destination country must follow a systematic process to evaluate:

* whether there is a risk of plant pests entering their territories if the commodity is imported;
* whether it may be necessary to take measures to reduce this risk; and if so,
* which measures are most appropriate and the strength of such measures.

The process that provides the rationale for this determination is known as a ‘pest risk analysis’ (PRA),, which is a rigorous science-based process that has been developed under the IPPC and is consistent with obligations regarding the WTO-SPS Agreement.

In accordance with the IPPC, it is applied to pests of cultivated and wild flora; it does not cover the analysis of risks beyond the scope of the IPPC (ISPM 2, 2007).

While relevant aspects of the PRA process are dealt with here, it is beyond the scope of this guide to provide extensive detail. The reader is referred to key references that include the IPPC standards, (particularly ISPM 2, 2007; ISPM 7, 2007 and ISPM 11, 2004), and to the IPPC Pest Risk Analysis Training Manual (IPPC, 2007), that describe the PRA process in detail and should be read in conjunction with this guide.

### Overview of the PRA process

The initial response by a destination country to a proposal seeking market access for a commodity, is to consider the necessity to initiate a PRA on the basis that the importation of the commodity could be a plant pest in its own right, and/or could be a potential pathway by which plant pests could enter endangered areas in the destination country.

A PRA is defined (in ISPM 5, 2011) as ‘the process of evaluating biological or other scientific and economic evidence to determine whether an organism is a pest, whether it should be regulated, and the strength of any phytosanitary measures to be taken against it’. By this definition, there are three stages in the process (1) are there organisms associated with the proposed commodity import that are plant pests, (2) should they be regulated, and (3) what appropriate regulatory measures can be taken.

Again by definition (in ISPM 5, 2011), an organism is ‘any biotic entity capable of reproduction or replication in its naturally occurring state’. Consequently, a PRA is essentially a generic process that can be followed for ‘an organism’, which can include all types of plants, insects, other animals, fungi, bacteria, nematodes and viruses.

The three stages of the process (IPPC, 2007a) are:

PRA Stage 1: Initiation. This stage involves identifying the reason for the PRA and identifying the pest(s) and pathway(s) that may be considered for PRA in relation to the PRA area.

PRA Stage 2: Pest risk assessment. In this stage, the information on the pests or pest groups identified in Stage 1 is gathered and evaluated. The results are used to decide whether risk management is required. Also the endangered area within the PRA area is identified.

PRA Stage 3: Pest risk management. This stage determines appropriate management options to reduce the risks identified in Stage 2 to an acceptable level.

In conducting a PRA, the obligations established in the IPPC should be taken into account (ISPM 2, 2007). Those of particular relevance to the PRA process include:

* Cooperation in the provision of information (Section 1.9 of ISPM 1, 2006.)
* Minimal impact (Section 1.4 of ISPM 1, 2006.)
* Transparency (Section 1.5 of ISPM 1, 2006.)
* Harmonization (Section 1.6 of ISPM 1, 2006.)
* Non-discrimination (Section 1.7 of ISPM 1, 2006.)
* Avoidance of undue delay (Section 2.14 of ISPM 1, 2006.)

Information gathering, documentation and risk communication (ISPM 2, 2007) are important activities that are carried out throughout the PRA process. PRA is an iterative rather than a linear process because, in conducting the entire analysis, it may be necessary to go back and forth between various stages.

It is also important to be aware, that as pointed out in the IPPC PRA training manual (IPPC, 2007), the PRA can stop during or after any one of the three stages, depending on the conclusions reached. Reasons to end the process can include the following: - concerns about the risk no longer exist; - all associated risks are considered acceptable; - existing management measures are deemed to be sufficient and; - the activity generating the risk ceases.

### Stages of a PRA

#### PRA Stage 1: Initiation

While there are a number of ways a PRA can be initiated (detailed in ISPM 2, 2007), the situation covered by this guide focuses on the initiation point being the identification of organisms and pathways that may be considered for pest risk assessment in relation to an identified PRA area. The trigger to initiate the process in this situation is a request for market access submitted by a country of origin to a destination country. In effect, a request to consider market access for a commodity is the same as a request to consider a pathway.

Once the process has been initiated, the destination country is required to identify the pests and pathways that are of concern that should be considered for risk assessment in relation to the identified PRA area.

The initiation stage involves four steps:

* Determination whether an organism is a pest
* Defining the PRA area
* Evaluating any previous PRA
* Conclusion of the initiation stage

Before proceeding with these steps, it is necessary for the destination country to compile a list of organisms that are likely to be associated with the pathway and are of possible regulatory concern.

At the same time, information is needed to support identification of each organism and its potential economic impact, which includes its impact on the natural environmental.

The first step in the initiation stage of determining whether an organism is a pest involves a screening process for each organism that takes into account indicators covering a range of characteristics that by inference would suggest an organism may be a pest. ISPM 2 (ISPM 2, 2007) includes the following examples of indicative characteristics:

* Previous history of successful establishment in new areas
* Phytopathogenic characteristics
* Phytophagous characteristics
* Presence detected in connection with observations of injury to plants, beneficial organisms etc. before any clear causal link has been established
* Belonging to taxa (family or genus) commonly containing known pests
* Capable of acting as a vector for known pests
* Adverse effects on non-target organisms beneficial to plants (such as pollinators or predators of plant pests

The second step in the initiation stage, defining the PRA area is by definition, an area in relation to which a pest risk analysis is conducted (ISPM 5, 2010). The area to which the PRA refers here, has to be clearly defined by the destination country. It may be the whole or part of a country or several countries. Whereas information may be gathered from a wider geographical area, the analysis of establishment, spread and economic impact should relate only to the defined PRA area (ISPM 2, 2007). It is useful to define the PRA area as precisely as possible so that the relevant phytosanitary characteristics of the area can be considered in subsequent stages of the analysis.

The third step in the initiation stage involves the evaluation of any previous PRA. ISPM 2 (ISPM 2, 2007) recommends that before performing a new PRA, a check should be made to determine whether the organism(s), pest(s) or pathways have been subjected to a previous PRA. If so, the existing analysis should be reviewed to determine whether the circumstances and information may have changed and whether it may be relevant to the PRA area defined.

Investigating existing PRAs of similar organisms, pests or pathways may also be useful but cannot substitute for a PRA.

The final step in the initiation stage concludes stage 1 of the PRA. During this stage, pests and pathways of concern will have been identified as candidates for further assessment in Stage 2 of the PRA.

If there are no pests or pathways that need further assessment, the PRA can be stopped at this point and imports of the commodity can be approved.

#### PRA Stage 2: Pest risk assessment

In this stage, the information on the pest or pest group identified in Stage 1 is evaluated.

The destination country is required to categorize pests to determine whether the criteria for a quarantine pest or a non-quarantine regulated pest are satisfied. The risk assessment is then continued for quarantine pests with an evaluation of the probability of pest entry, establishment and spread, and of the potential economic consequences (ISPM 11, 2004).

The results are used to decide whether risk management is required.

The pest risk assessment stage involves three interrelated steps (ISPM 11, 2004):

* Pest categorization
* Assessment of the probability of introduction and spread
* Assessment of potential economic consequences (including environmental impacts).

The first step in the assessment stage, pest categorisation, is a classification phase to group pests identified in Stage 1 as either ‘quarantine pests’, or not. The objective of pest categorisation is, therefore, to screen what may be a large and unmanageable list of potential quarantine pests, before progressing to a more in-depth examination within the risk assessment proper.

The screening procedure is based on the following five criteria:

* *Identity of the pest.* The identity of the pest should be clearly defined to ensure that the assessment is being performed on a distinct organism. Where a vector is involved, the vector may be considered a pest to the extent it is associated with the causal organism and is required for transmission of the pest.
* *Presence or absence in the endangered area.* The pest should be absent from all or part of the endangered area.
* *Regulatory status.* If the pest is present but not widely distributed in the PRA area, it should be under official control or expected to be under official control in the near future.
* *Potential for establishment and spread in the PRA area.* Evidence should be available to support the conclusion that the pest could become established or spread in the PRA area.
* *Potential for economic consequences in the endangered area.* There should be clear evidence that the pest is likely to have an unacceptable economic impact (including environmental impact) in the PRA area.

The second step in the assessment stage, the probability of introduction and spread, involves determining the probability that a quarantine pest will enter the destination country as a result of trade in a given commodity, be distributed to an endangered area, establish on a suitable host plant and subsequently spread in the PRA area.

The assessment of the probability of introduction and spread is based primarily on biological considerations and should be expressed in terms of the most suitable data and the methods most suitable for analysis. The overall probability may be expressed qualitatively or quantitatively, and may be expressed by comparison with results obtained from PRAs of other pests. The reader is referred to ISPM No, 11 (2004) for more extensive detail of this stage of a PRA.

The final step in the assessment stage, assessment of potential economic consequences, is guided by Article 5.3 of the SPS Agreement (WTO, 1994) that states:

“Members shall take into account as relevant economic factors: the potential damage in terms of loss of production or sales in the event of entry, establishment or spread of a pest or disease; the costs of control or eradication in the territory of the importing Member; and the relevant cost-effectiveness of alternative approaches to limiting risks.”

ISPM No. 11 (2004) provides guidance on factors to consider when assessing potential economic consequences, including environmental consequences. It encourages obtaining information on areas where a pest currently occurs and comparing this situation with the PRA area. Case histories concerning comparable pests can also be usefully considered.

ISPM No. 11 (2004) also provides guidance in identifying pest effects and the analysis of economic consequences associated with the introduction and establishment of a pest. Where possible it is useful to describe the output of the assessment in monetary terms. However, qualitative or quantitative measures can also be used.

At the conclusion of the pest risk assessment stage, a quantitative or qualitative estimate of the probability of introduction of a pest or pests, and a corresponding estimate of economic consequences (including environmental consequences) will have been obtained and documented or an overall rating could have been assigned.

Nevertheless, it is acknowledged that deriving such estimates can involve many uncertainties. In particular, the estimations extrapolate from the situation where the pest actually occurs to the hypothetical situation in the PRA area. Consequently, it is important that the areas of uncertainty and the degree of uncertainty in the assessments are well documented, and where expert judgement has been used, is clearly identified. This is necessary for transparency when these estimates, with associated uncertainties, are utilized in the pest risk management stage of the PRA. The consideration of areas of uncertainty may also be useful for identifying and prioritizing research needs.

As a result of the pest risk assessment:

* all or some of the categorized pests may be considered appropriate for pest risk management;
* for each pest, all or part of the PRA area may be identified as an endangered area;
* a quantitative or qualitative estimate of the probability of introduction of a pest(s), and a corresponding estimate of the economic consequences, will have been obtained; or
* an overall rating may have been assigned.

#### PRA Stage 3: Pest risk management

Overall risk is determined by the examination of the outputs of the assessments of the probability of introduction and the economic impact (ISPM 11, 2004). If the risk is found to be unacceptable, then the first step in risk management is to identify possible phytosanitary measures that will reduce the risk to, or below and acceptable level.

The last stage in the PRA process is pest risk management; the process of determining appropriate management options to reduce the risks identified in Stage 2, pest risk assessment, to an acceptable level.

There are many concepts and definitions of risk and what constitutes risk. However, in the context of a PRA, risk is considered to consist of two major components; the probability or likelihood of a pest entering, establishing and spreading in an endangered PRA area; and the consequences or impacts of this event. The two components are combined to give an overall estimate of the risk.

Although methods for quantifying risk do exist, in a plant protection context, this can be very difficult to achieve. Consequently, pest risk is often described in qualitative terms. Similarly, ‘level of risk’ is frequently a descriptive or qualitative measure (e.g. the pest presents a low risk, or introduction of the pest is very unlikely to occur). Precise quantification of pest risk, or elements contributing to overall pest risk, may be appropriate under some circumstances, but on the whole, a qualitative approach to describing level of pest risk is adequate, provided the rationale used is consistent and transparent.

Some countries have gone further and have established national guidelines for estimating overall risk and interpreting those findings to determine acceptability (or not) of the identified risk. This approach may become more widespread as member countries become more experienced and proficient in the PRA process. However, at the present time this approach is not widespread.

Following on from the pest risk assessment stage of the PRA, for those pests that have been identified as presenting unacceptable risks, the conclusions from the pest risk assessment are used to support decisions on the strength and nature of the measures to be used to reduce the risks to acceptable levels. Because some risk of introduction of a quarantine pest always exists, IPPC member countries agree to a policy of risk management when formulating phytosanitary measures (ISPM 1, 2006). In implementing this policy countries should decide on what level of risk is acceptable to them.

The SPS Agreement (WTO, 1994) provides guidance to determine the ‘appropriate level of sanitary and phytosanitary protection (ALOP) as follows:

…. “the level of protection deemed appropriate by the member establishing a sanitary and phytosanitary measure to protect human, animal or plant life or health within its territory”.

While it is the sovereign right of a country to determine its own ALOP, in practice it is achieved by establishing phytosanitary measures and applying them consistently in trade.

##### Identification of possible risk management options

In proceeding with Stage 3 of the PRA process, the initial step is to identify possible risk management measures which could be used to reduce the risks to acceptable levels including, where available, measures set by international standard setting bodies.

Appropriate measures should be chosen based on their effectiveness in reducing probability of introduction of the pest. This choice should be based on the following considerations, which include several of the phytosanitary principles of the IPPC that relate to international trade (ISPM 1, 2006):

* *Phytosanitary measures shown to be cost-effective and feasible:* the benefit from the use of phytosanitary measures is that the pest will not be introduced and the PRA area will, consequently, not be subjected to the potential economic consequences. The cost-benefit analysis for each of the minimum measures found to provide acceptable security may be estimated. Those measures with and acceptable benefit-to-cost ratio should be considered.
* *Principle of ‘minimal impact’:* Measures should not be more trade restrictive than necessary. Measures should be applied to the minimum area necessary for the effective protection of the endangered area.
* *Principle of ‘equivalence’:* if different phytosanitary measures with the same effect are identified, they should be accepted as alternatives.
* *Principle of ‘non-discrimination’:* If the pest under consideration is established in the PRA area but of limited distribution and under official control, the phytosanitary measures in relation to import should not be more stringent than those applied within the PRA area. Likewise, phytosanitary measures should not discriminate between exporting countries of the same phytosanitary status.

Measures that are commonly applied to commodities in trade can be classified into broad categories, which relate to the pest status of the pathway in the country of origin.

Suggested categories include the option of measures:

* *to prevent or reduce infestations in the growing crop,* e.g., pest management practices, monitoring, etc.
* to *ensure that the area, place, or site of production is free from the pest,* e.g., surveillance and monitoring, treatments, etc.
* *for consignments and commodities,* e.g., post-harvest treatments, inspections, etc.
* *for other types of pathways,* e.g., certification of packing materials, transportation pathways, etc.
* *within the importing country for preventing or reducing crop infestation ,* e.g., inspection at the point of entry, end-use restriction, treatments, etc.
* *concerning the prohibition or restriction of commodities*
* *for phytosanitary certification or other compliance measure*

Extensive information dealing with the identification and the rules of application of risk management options, which is beyond the scope of this report, can be found in key references including ISPMs No. 2, No. 4, Nos. 6 to 14, and Nos. 22 to 24. Other ISPMs, such as ISPM No. 18 (2003) provide guidance on treatments for specific pests or groups of pests. Much of this information is also integrated in the IPPC pest risk analysis training manual (IPPC, 2007).

##### Conclusion of pest risk management

The results of the pest risk management procedure will be either that:

* no measures are identified which are considered appropriate; or
* one or more options have been identified that lower the risk associated with the pest(s) to an acceptable level.

These management options form the basis of phytosanitary regulations or requirements.

### Gathering information

The destination country is required to gather all the information necessary to complete the PRA. Importantly, as pointed out in the IPPC PRA training manual (IPPC, 2007), the quality and completeness of the information gathered relating to the PRA will dictate how well the analyst is able to properly assess the risk and therefore make appropriate management decisions or recommendations.

A primary source of information is the country of origin NPPO, who is required to provide information specified in the IPPC, including:

* list of regulated pests (Article VII.2(i). IPPC, 1997)
* pest status (Article VII.2(j). IPPC, 1997)
* technical and biological information necessary for pest risk analysis (to the extent practicable) (Article VIIId.1(c). IPPC, 1997)

ISPM No. 8 (1998) provides guidance in describing and reporting pest status, and ISPM No. 19 (2003) provides procedures for the preparation, maintenance and making available lists of regulated pests.

Furthermore, the NPPO at the country of origin is often uniquely placed to provide specific technical and biological information that can be of assistance to the process and influence the outcome of PRAs, and should take the opportunity to do so.

In addition to the information provided by the country of origin NPPO, other sources of scientific information may include:

* Published scientific literature, such as reference books and journals
* Previous PRAs (national and international) and PRAs of similar pests and pathways
* Official files, published and unpublished reports and other correspondence from plant health and quarantine authorities, information from RPPOs
* Pest or commodity databases (e.g. CAB International Crop Protection Compendium) and other abstract compilation services
* Climate data, maps and models
* Crop production data from the PRA area
* Pest and disease interception databases from quarantine authorities
* Data on control or mitigation measures
* Pest records and pest reports
* Reference collections of plants, insect pests and plant pathogens of agricultural importance
* Trade data
* Expert judgement (consultation with botanists, entomologists, nematologists, plant pathologists, plant health and quarantine officers, climatologists, risk analysts etc.)
* National IPPC contact points
* Environmental impact assessments
* Internet and online information sources

Throughout the PRA process, information will be actively gathered and analysed as required to reach recommendations and conclusions. As the analysis progresses, information gaps may be identified requiring further enquiries or research. Where information is insufficient or inconclusive, expert judgement may be used if appropriate.

### Documenting the process

The IPPC and the principle of *‘transparency’* require that countries should, on request, make available the rationale for phytosanitary requirements. Consequently, the entire PRA process, from initiation to pest risk management should be sufficiently documented so that when a review or a dispute arises, the sources of information and rationale used in reaching the management decision can be clearly demonstrated (ISPM 11, 2005). A well-documented PRA has additional benefits in providing a valuable record of the process that can be easily communicated or updated when necessary and may also serve a useful resource for future PRAs on related issues.

Documenting a PRA has two levels (ISPM 2, 2007):

* Documenting the general PRA process
* Documenting each analysis made

The NPPO should preferably document procedures and criteria of the general PRA process.

Documenting each specific PRA requires that the entire process should be sufficiently documented so that the sources of information and rational for management decisions can be clearly demonstrated. However, a PRA does not necessarily need to be long and complex. A short and concise PRA may be sufficient provided justifiable conclusions can be reached after completing only a limited number of steps in the PRA process.

The main elements to be documented are listed in ISPM 2 (2007) and include:

* purpose of the PRA
* identity of the organism
* PRA area
* biological attributes of the organism and evidence of ability to cause injury
* for quarantine pests: pest, pathways, endangered area
* sources of information
* nature and degree of uncertainty and measures envisaged to compensate for uncertainty
* for pathway-initiated analysis; commodity description and categorized pest list
* evidence of economic impact, which includes environmental impact
* conclusions of pest risk assessment (probabilities and consequences)
* decisions and justifications to stop the PRA process
* pest risk management: phytosanitary measures identified, evaluated and recommended
* date of completion and the NPPO responsible for the analysis, including appropriate names of authors, contributors and reviewers.

An example of a PRA format is included in the IPPC PRA training manual (Appendix 2 in IPPC, 2007).

### Risk communication

Risk communication as considered in ISPM No. 2 (2007), is an important and integral part of the PRA process that is meant to reconcile the views of all parties who have an interest and some stake in all stages of the analysis.

It is generally recognized as an interactive process that encourages the exchange of information between the NPPO of the destination country and stakeholders including regulators, scientists, politicians and individuals in the private sector involved with the production, processing and marketing of the commodity or related commodities at the centre of the analysis.

It is important to recognize that a well-planned and executed risk communication strategy will draw together wide-ranging views of all stakeholders for careful consideration throughout the PRA process. According to ISPM 2 (2007), it is meant to:

* achieve a common understanding of the pest risks
* develop credible risk management options
* develop credible and consistent regulations and policies to deal with pest risks
* promote awareness of the phytosanitary issues under consideration.

At the end of the PRA, evidence supporting the PRA, the proposed mitigations and uncertainties should preferably be communicated to stakeholders and other interested partied, including other contracting parties, RPPOs and NPPOs, as appropriate.

Although ISPMs make no specific mention of the country of origin participating in risk communication, it would obviously be important for that country to seek as much involvement as possible throughout the process. While active involvement in this respect may be limited, the NPPO of the destination country is required, on request, to supply information about the completion of individual analysis, and if possible the anticipated time frame, taking into account avoidance of undue delay (section 2.14 of ISPM 1, 2006).

## Consideration of the risk analysis results

When the destination country has completed the PRA, as long as the process followed has met the requirements of the IPPC and the SPS agreement, a fully documented analysis should be available for consideration by the country of origin.

Under the principle of transparency of sanitary and phytosanitary regulations in Annex B of the SPS Agreement (WTO, 1994) the notification procedures require that whenever an international standard, guideline or recommendation does not exist or the content of a proposed sanitary or phytosanitary regulation is not substantially the same as the content of an international standard, guideline or recommendation, and if the regulation may have a significant effect on trade of other Member countries, Members shall:

* Publish a notice at an early stage in such a manner as to enable interested Members to become acquainted with the proposal to introduce a particular regulation;
* Notify other Members, through the Secretariat, of the products to be covered by the regulation together with a brief indication of the objective and rationale of the proposed regulation. Such notifications shall take place at an early stage, when amendments can still be introduced and comments taken into account;
* Without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take the comments and the results of the discussions into account.

Consequently, the country of origin (and other interested Member countries) can proceed to review the PRA and provide comments back to the destination country in sufficient time for the comments to be considered and amendments to be introduced taking into account the results of any discussions of the comments.

With the purpose of ensuring the most appropriate terms of trade a comprehensive consideration of the PRA by the country of origin should be done to determine whether the main elements of the PRA have been addressed and documented in a structured, science-based and transparent manner.

The main elements to consider in the PRA, are listed in ISPM 11(2004) as:

* Scope and purpose of the PRA
* Pest, pest list, pathways, PRA area, endangered area
* Sources of information
* Categorized pest list
* Conclusions of pest risk assessment including probability and consequences
* Pest risk management options identified and selected

In reviewing each of these elements, issues should be recorded where there is some doubt regarding decisions or conclusions reached because:

* Decisions and conclusions are not supported by the scientific, technical and economic information used in the PRA (incomplete, unreliable, not directly relevant, out of date etc.)
* Different interpretations can be reached considering the same scientific, technical and economic information used in the PRA
* The scientific, technical and economic information is weakened by uncertainty that should be acknowledged in the PRA

All issues recorded during the process of reviewing the PRA should be fully documented. Careful consideration should also be given to identifying specific issues to submit to the destination country in writing, requesting that comments regarding the issues be taken into account in finalizing the PRA and seeking an opportunity for them to be discussed at an earlier time.

## Researching scientific, technical and economic issues

After reviewing the PRA and subsequently advising the destination country of issues they consider should be taken into account in finalizing the PRA process, the country of origin may choose to initiate independent research to address areas of scientific, technical or economic concern.

Research of limited duration aimed at providing urgent additional scientific, technical or economic information could possibly be completed and taken into account by the destination country prior to finalising the PRA process. Research of a more extensive nature, could nevertheless justify a review of the conditions of trade after they come into effect.

In order to address issues identified during the review process, two areas of research should be explored:

* Research aimed at providing additional scientific, technical or economic information to be taken into account in situations where results reported in the PRA were not supported by the information used, either because it was incomplete, unreliable, not directly relevant, out of date, or for some other reason.
* Research aimed at refining implementation of risk management options including identification and evaluation of alternative measures. Export simulation trials may also be done to determine the efficacy of measures under consideration.

Other areas of research may be identified in discussions between the NPPOs and agreement reached on how the research might be conducted.

## Engaging in bilateral negotiations

All countries that are signatories to the IPPC have opportunities to participate regularly in formal multilateral meetings, including the annual meeting of the CPM in Rome, at the annual Technical Consultation among RPPOs and at meetings of RPPOs convened within their respective regions. While opportunities are often taken for bilateral discussions ‘in the margins’ of such fora, such discussions will have secondary importance to the overall purpose of the main meetings.

Although there are no formal procedures for bilateral meetings, such meetings are commonly held on an annual or as-needs basis between countries that have developed a history of trade. The common purpose of such meetings is to gain reciprocal access to each other’s markets for commodities they wish to export. As trade develops, each country increases its understanding of the pest status, the production and marketing environment and the regulatory framework of the country into which it is exporting. It is likely over time this will strengthen the trading relationship between the two countries and lead to the development of harmonized risk management strategies.

The opportunities that can flow from a positive bilateral trading partnership are generally favorable and should encourage countries negotiating access into a new market for one or more commodities to consider engaging in bilateral negotiations with the long-term view of developing a strong trade relationship.

## Review by visiting delegations to the exporting country

When the PRA is nearing completion, it is very likely that the destination country will request one or more visits to the country of origin, particularly where the results of the PRA require that phytosanitary measures need to be implemented prior to export or during shipment of the commodity. It is also in the interests of the country of origin to encourage such visits.

From the perspective of the destination country, the main purpose of the visit will be to view first-hand how the measures will be implemented and what procedures will be in place to:

* ensure measures are effective,
* detect non-conformity; and
* take corrective action.

From the perspective of the country of origin, the opportunity should be taken to host the visiting delegation on a tour of the production areas where the commodity will be sourced and subsequently through the handling, packaging and transport chain to the point of export. Phytosanitary management procedures should be identified and demonstrated at points where they occur throughout the chain. Industry stakeholders, producers, exporters, shipping agents etc. should be involved with planning and participate in the tour at appropriate times.

If the country of origin has instigated research to clarify concerns about the quality of the information used in the PRA, to refine risk management procedures or to evaluate alternative risk management options, a review of the progress of this research should be included in the itinerary for the visiting delegation.

Once the visiting delegation has departed, the NPPO should prepare a report including details of the visit and any decisions or commitments that resulted. A copy of the report should be forwarded to the destination country NPPO requesting confirmation that it represented an accurate account of the visit. Copies of the report and any related correspondence should be included in the market access dossier.

## Confirmation of the terms of trade

The terms of trade, comprising phytosanitary requirements, restrictions and prohibitions, for importing commodities can be confirmed as soon as the recommendations of PRA have been finalized.

Prior to finalizing the recommendations of the PRA, the NPPO of the destination country must be satisfied that the risk analysis process has been followed in accordance with the requirements of the WTO and IPPC. In particular, due consideration has been given to all comments received through consultation with stakeholders and other interested parties and, where appropriate, recommendations have been modified. The NPPO should also ensure that the final document is structured, science-based and transparent and clearly identifies the sources of information and the rationale used in reaching the management decisions.

Having accepted that the PRA is finalized, the NPPO is required to follow official notification procedures (Article VII 2 (b) and 2 (c) in IPPC, 1997) and publish the phytosanitary requirements, restrictions and prohibitions and forward them to any contracting party or parties they believe may be directly affected by such measures; and on request, make available to any contracting party the rationale for phytosanitary requirements, restrictions and prohibitions.

A further responsibility of the NPPO is to initiate the process of drafting basic laws that may be required to update phytosanitary legislation providing legal authority for implementing requirements of the terms of trade.

## Commencement of trade

In certain situations, when the country of origin has considered the determination of the import policy and the related terms of trade it may consider the determination is unacceptable and proceed to pursue a course of dispute settlement. This course of action is discussed further in Section 4.3 of this guide. However, in most situations, the country of origin will proceed to take the necessary steps to initiate and develop an export trade.

Acceptance of the terms of trade will require the NPPO of the country of origin to take legal responsibility to provide assurance to the NPPO of the destination country that consignments of the commodity meet the phytosanitary import requirements of that country. Phytosanitary certification is the instrument of assurance used by NPPOs.

Article V.2(a) of the IPPC stipulates how phytosanitary certificates should be issued:

“Inspection and other related activities leading to the issuance of phytosanitary certificates shall be carried out only by or under the authority of the official national plant protection organization. The issuance of phytosanitary certificates shall be carried out by public officers who are technically qualified and duly authorized by the official national plant protection organization to act on its behalf and under its control with such knowledge and information available to those officers that the authorities of importing contracting parties may accept the phytosanitary certificates with confidence as dependable document.”

According to ISPM 7 (2011) the NPPO of the country of origin has the sole authority to undertake phytosanitary certification and should establish a management system to deal with the legislative and administrative requirements. ISPM 7 (2011) provides details of the following requirements.

Legal authority extends to assuming sole authority by legislative or administrative means to conduct, develop and maintain a phytosanitary system related to exports in accordance with Article IV.2(a) of the IPPC.

The administrative responsibilities include all legislative and administrative details related to phytosanitary certification are satisfied and are able to:

* identify a person or office within the NPPO responsible for the phytosanitary certification system
* identify the duties and communication channels of all personnel involved in phytosanitary certification
* employ or authorize personnel who have appropriate qualifications and skills
* ensure that adequate and sustained training is provided
* ensure that adequate personnel and resources are available.

As regards operational responsibilities, the NPPO should have the capability to undertake a range of functions related to phytosanitary certification, including:

* establishing and maintaining a record-keeping system
* produce operational instructions to ensure phytosanitary import requirements are met
* perform, supervise or audit the required phytosanitary systems
* verify that appropriate phytosanitary procedures have been established and correctly applied
* perform surveys and monitoring and control activities to confirm phytosanitary status attested in phytosanitary certificates
* complete and issue phytosanitary certificates
* ensure the phytosanitary security of consignments after phytosanitary certification prior to export
* investigate and take corrective action (if appropriate) on notification of non-compliance

In order to administer the considerable responsibilities of the NPPO, essential resources and infrastructure need to be available including skilled and experienced personnel capable of the duties and responsibilities of conducting phytosanitary certification activities. In situations where government staff is limited, the NPPO can outsource expertise, providing this does not involve a conflict of interest and the external expertise is responsible to the NPPO.

The NPPO must also ensure that adequate equipment, materials and facilities are available to carry out the phytosanitary certification procedures.

The final requirement of an effective phytosanitary certification system is a system for documenting the relevant procedures applied and maintaining records. The system should allow the traceability of phytosanitary certificates and the related consignments. The system should also allow verification of compliance with the phytosanitary import requirements.

Trade will commence when the first consignment of the commodity is forwarded to the destination country. A phytosanitary certificate must accompany the consignment or be transmitted by mail or other means, or where agreed between countries, NPPOs may use electronic phytosanitary certificates.

ISPM 12 (2011) provides details of the requirements and guidelines for the preparation and issuance of phytosanitary certificates.

# 4. Maintaining trade

## Compliance with the terms of trade

To maintain trade, the NPPO of the country of origin must ensure the procedures introduced to meet the phytosanitary import requirements of the destination country are correctly applied in all situations.

As regards phytosanitary certification the NPPO is required to exercise due diligence in operating the export certification system and ensuring the accuracy of the information and additional declarations accompanying the phytosanitary certificate (ISPM 1, 2006).

The IPPC makes provision for contracting parties to report significant instances of non-compliance of consignments with phytosanitary import requirements, including those related to documentation or to report appropriate emergency action, which is taken on the detection in the imported consignment of an organism posing a potential phytosanitary threat. The destination country NPPO is required to notify the NPPO of the country of origin as soon as possible regarding significant instances of non-compliance and emergency actions applied to imported consignments. The notification should identify the nature of non-compliance in such a way that the NPPO of the country of origin may investigate and make the necessary corrections. The NPPO of the destination country may request a report of the results of such investigations.

Notifications are provided by the destination country to the country of origin to identify significant failures of consignments to comply with specified phytosanitary import requirements or to report emergency measures taken on the detection of a pest posing a potential threat. The use of notifications for other purposes is voluntary, but in all instances should only be undertaken with the aim of international cooperation to prevent the introduction and/spread of regulated pests (IPPC, Articles I and VIII). In the case of non-compliance the notification is intended to help in investigating the cause of non-compliance, and to facilitate steps to avoid recurrence.

As regards emergency action, the destination country should investigate the new or unexpected phytosanitary situation to justify the emergency actions taken. Any such action should be evaluated as soon as possible to ensure that its continuance is technically justified. If continuance of actions is justified, phytosanitary measures of the destination country should be adjusted, published and transmitted to the country of origin (ISPM 13, 2001).

## Reviewing and amending the terms of trade

Once trade has commenced and developed onto a commercial footing, data will begin to accumulate providing an indication of the success or otherwise of the agreed terms of trade. Importantly, phytosanitary measures can be monitored and data analysed as it becomes available.

Where the results of analysis of trade data provide new information regarding risk management or where other new and relevant scientific information becomes available, a review of the PRA may determine that the risk management measures adopted require some modification. Under such circumstances, the IPPC is clear in its directions, that “contracting parties shall, as conditions change, and as new facts become available, ensure that phytosanitary measures are promptly modified or removed if found to be unnecessary” (IPPC, Article VII.2(h)).

Results of independent research or research by the country of origin into alternative risk management measures can also provide the opportunity for review and amendment to the terms of trade with destination countries required under Article 1.10 of ISPM 1 (2006) to recognize alternative phytosanitary measures proposed by the country of origin when those measures are demonstrated to achieve the appropriate level of protection determined by the destination country. ISPM 24 (2005) provides guidance in the determination and recognition of phytosanitary measures that are equivalent in such situations.

Mutual recognition of the importance of equivalence of phytosanitary measures is an important element in establishing and maintaining a close and positive trading relationship between countries. Where bilateral meetings are part of this arrangement, it can be opportune to agree to a schedule of regular reviews regarding trade in specific commodities.

## Settlement of disputes

Throughout the process of negotiating and achieving market access and later to a phase of maintaining trade through compliance with the terms of trade and reviewing and amending the terms of trade in response to changing circumstances, situations invariably arise when the country of origin will wish to question or challenge actions taken by the destination country; especially regarding phytosanitary regulatory requirements restricting imports of commodities.

In such situations, guidance from the IPPC (Article XIII.1) requires that the “contracting parties concerned shall consult among themselves as soon as possible with a view to resolving the dispute” and in most situations through bilateral negotiations the matters are resolved. However, where disagreements cannot be settled in this manner, the parties in dispute have recourse to dispute settlement under complementary mechanisms of the IPPC (Article XIII of the IPPC) and the WTO SPS Agreement (Article XI).

The history of trade disputes shows that contracting parties to the WTO have usually used the dispute settlement mechanisms provided for by the WTO. However, this can be a relatively time consuming and expensive procedure, and hence, has generally been the reserve of the most serious and complex trade issues. Mindful of these concerns, the IPPC perceived the need for a less expensive, yet effective system that could deal with the majority of less onerous phytosanitary trade issues. Consequently, the IPPC has included dispute settlement procedures under Article XIII of the new revised text.

Building upon this initiative, the CPM developed a dispute settlement system, providing for procedures and administrative support, to assist contracting parties in resolving disputes and to implement to process set out in Article XIII. The IPPC has now published a brief guide to the dispute settlement system (IPPC, 2006b), and a more detailed manual (IPPC, 2006a) providing rules and procedures for their implementation. Administrative support is provided through a subsidiary body known as the Subsidiary Body on Dispute Settlement (SBDS) that is specifically devoted to overseeing, administering and supporting the IPPC’s dispute settlement procedures.

Under the procedures, where the dispute cannot be resolved through bilateral negotiations, the contracting party or parties concerned may request the Director-General of FAO to appoint a committee of experts to consider the question of dispute, in accordance with the rules detailed in the IPPC dispute settlement manual (IPPC, 2006a).

The main benefits of the IPPC dispute settlement system, listed in the guide (IPPC, 2006b), are:

* it offers dispute settlement processes at a different level from those offered by the World Trade Organization (WTO) and therefore offers complementary alternative processes for IPPC contracting parties;
* it operates at a technical level. The disputing parties have the opportunity to resolve their differences at this level instead of using potentially more complex legal processes of other dispute settlement systems;
* it offers a range of mechanisms that contracting parties can select from to deal with their specific dispute;
* it has the potential to be less costly than other dispute settlement systems;
* it has the potential to allow resolution of disputes more quickly than other dispute settlement systems – recognizing that most IPPC mechanisms do not provide binding decisions;
* it offers support to disputing parties from the Secretariat, subject to available resources, and from the SBDS. This may take the form of advice on how to use the system and facilitating the efforts of parties to resolve their dispute.

Following the IPPC dispute settlement system, in cases where a phytosanitary dispute arises, contracting parties are encouraged to consult with the IPPC Secretariat concerning the range of dispute settlement procedures that are available and what might be appropriate for the dispute in question. Once the contracting parties have agreed on the procedure, the Secretariat will usually be able to facilitate further arrangements.

Where a committee of experts is appointed by the Director-General of FAO, at the completion of its deliberations a report is prepared summarizing the technical aspects of the dispute and recommending how it may be resolved. Importantly, the recommendations are not binding on the parties involved, but could become the basis for renewed consideration of the matter.

If the phytosanitary trade dispute remains unresolved after using the technically-oriented procedures under the IPPC, contracting parties might consider using the WTO dispute settlement procedures. So while the outcomes of the IPPC may not be legally binding, the results are likely to have significant weight if the issue is taken to the WTO, particularly if the issue is related to the use of international standards (ISPMs) under the IPPC.

It needs to be borne in mind that the WTO dispute settlements are legally binding and can have serious economic and political consequences. For that reason, the IPPC encourages governments to at least begin with technical consultation with the aim of dispute avoidance.

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1. The majority of the text in this section is taken directly from the WTO website to ensure the accuracy of the information provided. However, some simplification has been used to keep the information relevant to the purpose of this guide and as such cannot be taken as a legal interpretation of the agreements adopted by the WTO. [↑](#footnote-ref-1)
2. The majority of the text in this section is taken directly from the IPPC website to ensure the accuracy of the information provided. However, some simplification has been used to keep the information relevant to the purpose of this guide. [↑](#footnote-ref-2)