

Template for comments - Draft ISPMs for country consultation, 2004

DRAFT ISPM: GUIDELINES ON THE CONCEPT OF EQUIVALENCE OF PHYTOSANITARY MEASURES AND ITS APPLICATION IN INTERNATIONAL TRADE

Please use this table for sending country comments to the IPPC Secretariat (ippc@fao.org). See instructions on how to use this template at the end of the table. Following these will greatly facilitate the compilation of comments and the work of the Standards Committee

1. Section	2. Country	3. Type of comment	4. Location	5. Proposed rewording	6. Explanation
<i>GENERAL COMMENTS</i>					
<i>SPECIFIC COMMENTS</i>					
TITLE OF THE DRAFT	USA	Technical/substantive		Guidelines on reaching a determination of equivalence of phytosanitary measures	The IPPC has made equivalence one of its major trade-related principles for some time. The major contribution of this standard is to advise contracting parties on how to go about reaching a judgement of equivalence, rather than expounding on the concept itself. The suggested change better reflects what is in the standard.
INTRODUCTION					
SCOPE					
REFERENCES					
DEFINITIONS	USA	T/S	Appropriate level of risk	Change to “appropriate level of protection/acceptable level of risk” with a new definition –“ The level of protection deemed appropriate by the country establishing a phytosanitary measure to protect plant life or health within its territory”	This change has been made to so the definition aligns more closely with the language in the WTO/SPS Agreement. This will help prevent confusion and conflict in the international terminology, especially a controversial and difficult term which has been agree to among countries under the WTO Agreement. Also, the phrase, “appropriate level of protection/acceptable level of risk” is used throughout the standard.
	USA	T/S	Equivalence	Change to read, “The situation where, for a specified pest risk, different phytosanitary measure(s) proposed by the exporting contracting party achieve the importing contracting party’s appropriate level of protection/acceptable level of risk”	This makes explicit the notion that the alternative measures which may be offered by the exporting country must meet the importing country’s appropriate level of protection. This revised definition prevents confusion about whose appropriate level of protection must be met and better reflects the actual process described in this standard.

<p>OUTLINE OF REQUIREMENTS</p>	<p>USA</p>	<p>T/S</p>	<p>Add a new 3rd paragraph</p>	<p>A judgment of equivalence requires an assessment of phytosanitary measures to determine their effectiveness in mitigating a specified pest risk(s)—identified through a Pest Risk Analysis (ISPM No. 11). Moreover, the determination of equivalence of measures may include an evaluation of the exporting contracting party’s phytosanitary systems or programs that support implementation of those measures.</p>	<p>This proposed paragraph brings into focus two key underlying principles which are found throughout the draft ISPM, including:</p> <ol style="list-style-type: none"> 1. judgments of equivalence and examination of measures are based on risk assessment principles and processes (see sections 3.2 and 3.4); and, 2. phytosanitary measures must be considered in the context of the exporting country’s phytosanitary regulatory system (see fifth paragraph under section 1 and sections 3.6, 3.7, 3.9, 3.11, 4.3, and 4.4).
<p>REQUIREMENTS</p> <p>1. General Considerations</p>	<p>USA</p>	<p>Editorial</p>	<p>Move the 3^d sentence from paragraph 2 to the 2nd sentence in paragraph 1</p>	<p>Change to read, “Furthermore, the concept of equivalence and the obligation of contracting parties to observe the principle of equivalence is an integral element in other existing ISPMs.</p>	<p>We believe the wording flows better with the change and have removed the example in the interest of brevity and simplification.</p>

2. General Principles and Requirements	USA	Editorial	Add a new paragraph after the 5 th paragraph. Moved from 3.1, 1 st paragraph	Equivalence generally applies to cases where the importing contracting party has already established measures for the trade concerned. However, it may also apply where new measures are proposed by the importing contracting party. Usually an exporting contracting party presents an alternative measures(s) that is intended to achieve the importing contracting party's appropriate level of protection/acceptable level of risk. In some cases, such as where technical assistance is being provided, importing contracting parties may propose alternative measure(s) for the exporting contracting party to consider.	This language was moved from section 3.1. We believe it fits better here.
2.1 Sovereign authority	USA	Editorial	Add a new last paragraph. Moved from 3.1, second paragraph.	“Where new commodities are presented for importation and no measures are in place , contracting parties should refer to ISPM No. 11	This change makes it clear that the text means measures in place in the country of origin, rather than measure that may exist in other countries, such as research
2.1 Sovereign authority	USA	T/C and editorial	Modify paragraph	The importing contracting party has the sovereign right to set the level of protection it deems appropriate in relation to plant life and health in its territory, including the right to make decisions relating to determinations of equivalence.	This paragraph emphasizes the sovereignty of the importing country in equivalence decisions. The obligation to consider equivalence is presented under new point 2.3
2.2 Other relevant principles of the IPPC					
2.3 Agreed procedure	USA	T/C and editorial	Add a new 2.3 and change 2.3 to 2.4	Entry into consultations Contracting parties should, upon request, enter into consultations with the aim of facilitating a judgement of equivalence.	This links to 2.1

2.4 Information exchange	USA	T/C and editorial	<p>Add a new 2.5. Moved language from 3.3</p> <p>Add a new sentence at end</p> <p>Add a new 2.6. Moved language from 3.5</p> <p>Change 2.4 to 2.7</p> <p>Add a sentence to the end</p>	<p>2.5 Technical basis for comparison To facilitate discussions on equivalence the importing contracting party should, on request, provide information describing how its existing measure(s) limit or reduce the risk of the specified pest and how they determined that the measure(s) achieve its appropriate level of protection/acceptable level of risk. This information.....</p> <p>A transparent description of the importing country's basis for determining that the phytosanitary measure(s) achieve its appropriate level of protection/acceptable level of risk is necessary to ensure that the importing country is not acting in a discriminatory manner by requiring the exporting country to satisfy unjustifiably more stringent criteria to demonstrate the efficacy of proposed alternative measures.</p> <p>2.6 Technical justification of equivalence Consideration of alternative measures and their potential equivalence</p> <p>2.7 Information exchange</p> <p>The exporting contracting party bears the burden of providing data and technical information in response to requests for technical information.</p>	<p>These seems more like a General Principle/Requirement</p> <p>This makes it clearer that the exporting contracting party needs to supply additional information when requested to keep the process moving.</p>
2.5 Timeliness	USA	T/C and editorial	Change 2.5 to 2.8	2.8 Timelines	
2.6 Technical assistance	USA	T/C and editorial	Change 2.6 to 2.9	2.9 Technical assistance	
2.7 Non-disruption of trade	USA	T/C and editorial	Delete		This seems like new principle that is not used anywhere else in standards and not directly related to the issue of the standard which is the determination of equivalence.

3. Specific Requirements	USA	T/C and editorial	Remaining points in 3 have been rearranged into 4 paragraphs	<p>The determination of equivalence of phytosanitary measures.....</p> <p>Add “limit or” before reduce in last sentence</p> <p>When comparing existing and proposed measures, importing and exporting contracting parties should assess the ability of the measures to limit or reduce a specified pest risk.</p> <p>Also, add “limit or” before “reduce to second to the last sentence</p> <p>Where measures are expressed differently, they may be difficult.....</p> <p>When determining equivalence, a comparison of specific technical</p>	<p>Text from 3.5</p> <p>Text from 3.8 , 1st paragraph</p> <p>Text from 3.8, 2nd paragraph</p> <p>Text from 3.9</p>
		Editorial	Last sentence of paragraph change “factors” to “practical considerations”	For example, the final acceptance of a proposed measure may depend on practical considerations such as availability/approval of the technology, unintended effects of the proposed measure (e.g. phytotoxicity) , and operational economic feasibility.	Change for clarify
3.1 Existing measures	USA	T/C and editorial	Text Moved		
3.2 Specific pests and commodities	USA	T/C and editorial	Renumber as 2.10	2.10 Specific pests and commodities	
3.3 Technical basis for comparison	USA	T/C and editorial	Text Moved		
3.4 Pest risk analysis	USA	T/C and editorial	Renumber as 2.11	2.11 Pest risk analysis	
3.5 Technical justification of equivalence	USA	T/C and editorial	Text Moved		

3.6 Knowledge of the phytosanitary systems of contracting parties	USA	T/C and editorial	Renumber as 2.12	2.12 Knowledge of the	
3.7 Provision of access	USA	T/C and editorial	Renumber as 2.13	2.13 Provision of access	
3.8 Comparison of existing and proposed measures	USA	T/C and editorial	Text Moved		
3.9 Additional factors for determining the equivalence of phytosanitary measures	USA	T/C and editorial	Text Moved		
3.10 Assurance through audits and monitoring	UA	T/C and editorial	Text Moved		
3.11 Non-discrimination in the application of the equivalence of phytosanitary measures	USA	T/C and editorial	Renumber as 2.14	2.15 Non-discrimination	
4 Procedure for Equivalence Determination					
4.1	USA	T/C	Add an additional sentence at the end of the paragraph	To streamline the process, the exporting contracting party may also provide data on a phytosanitary measure or proposed phytosanitary equivalents at this time.	
4.2					
4.3	USA	Editorial	Change first sentence	The exporting contracting party demonstrates its case for equivalence of phytosanitary measures.	For clarification
4.4	USA	T/C	Add another point	e. relevant international standards	
4.5					
4.6					
4.7					
4.8					

INSTRUCTIONS FOR THE USE OF THE TEMPLATE

Tables of comments will be compiled so that all country comments on each section (or even paragraph) will appear together. The compiled tables will be transmitted to the SC (and added to the IPP).

Please do not add or delete columns and do not change their width.

Title of the columns and expected content:

1. SECTION

- This gives the titles of sections as they appear in the draft, plus a row for general comments. If changes are proposed for titles of sections, they should be made in the column "proposed rewording".
- **There should be no empty cell in this column**
- General comments apply to the entirety of the standard. Specific comments apply to a defined section of the draft, which should be clearly identified.
- If several comments are made on several paragraphs of a same section, it is suggested that one or several row(s) should be added. The titles of the section should be repeated in the new rows
- If there is no comment on one section, the other cells in the row should be left empty or the entire row should be deleted.

2. COUNTRY

- To facilitate compilation of comments, the country name should be indicated in every row for which a comment is being made
- **There should be no empty cell in this column.**

3. TYPE OF COMMENTS

For each comment on specific sections of the text, governments are requested to clearly indicate if the comment is considered to refer to:

- a technical/substantive issue with the content of the standard.
- an editorial issue
- a translation issue.

Technical/substantive issue

These are the comments which suggest changes to the meaning of the standard, if the concepts expressed or the technical content is wrong in the view of the country commenting. They cover conceptual problems, scientific errors, technical adjustments etc. Rewording should be proposed and detailed explanations should be given to facilitate understanding and review by the Standards Committee.

Editorial issue

The ideas expressed are thought to be correct, but the wording could be improved (spelling, vocabulary used, grammar or structure of the sentence) to clarify or simplify the text. **The meaning must not be changed.** Examples:

- A term appears in the text and is thought to be needed in the definitions section of the standard.
- A sentence needs to be changed to make it consistent with wording used elsewhere in the text.
- A clearer word which does not change the meaning could be used
- The language used could be simplified

Note: Any change, although minor, which might change the meaning of the text is not editorial and should be classified as technical.

Translation issue

This is limited to points for which the English version is thought to be correct, but appears wrongly translated in the French or Spanish versions. Examples:

- A term of the Glossary used in the English has not been given its proper Glossary equivalent in the language concerned
- A technical term has not been translated with its proper technical equivalent in the plant protection framework
- A quote from another document should have been taken directly from the document concerned but has been retranslated.

4. LOCATION

The place where the comment applies in the section concerned should be clearly identified. It should refer to the text as circulated for country comments. To facilitate compilation of countries tables, it is suggested that governments refer to titles, paragraphs, sentences, indents with a standard wording to be used as indicated in the table below. Do not use "page" or "line" as these may vary depending on the word processor used. Examples:

Comment regarding	Wording to be used	Further specification of location
Title of the section	Title	
Rewording of the second paragraph of the section	Para 2	
Rewording of the fourth sentence of the 3rd paragraph of the section	Para 3, sentence 4	
Rewording of the 6th indent of paragraph 4	Para 4, indent 6	
Addition of a new indent after indent 2 in paragraph 7	Para 7, indent 2	Add after indent 2: ...
Addition of a new indent after the last of a list	Para 7, last indent	Add last indent
Addition of a new paragraph after paragraph 4	Para 4	Add new paragraph after para 4: ...

5. PROPOSED REWORDING

- Rewording should always be proposed for any changes thought necessary to the text. As relevant, modifications to the current text should appear as revision marks (i.e. text which is added or deleted should appear in a distinct way from unchanged text, for example text added can be underlined and delete text can be struck-through, as suggested on the example below.
- Suggestions for new paragraphs/indents should be clearly identified as such ("add....").

6. EXPLANATION

This field should always be completed and should include the justification for the comment made. Such explanations are essentials and should be sufficient for the Standard Committee to understand the comment and the proposed rewording.

EXAMPLE OF A COUNTRY'S COMMENTS AS REVISION MARKS IN THE TEMPLATE

1-Title	2-country	3- Type of comment	4. Location	5. Proposed rewording	6. Explanation
General comments	Name	-	-	The use of NPPO and contracting parties need to be considered throughout the document and made consistent with the IPPC.	
4.1.2 Measures for imported consignments	Name	editorial	Title	<u>Requirements for imported consignments</u>	Aligns with section 4, 4 th bullet
4.1.2 Measures for imported consignments	Name	1- editorial 2- technical (or in two rows if more suitable)	Para 1	The regulations should specify the <u>requirements (phytosanitary measures)</u> with which imported consignments of plants, plant products and other regulated articles should comply. These measures may be general, applying to all types of commodities, or specific, applying to <u>specified</u> commodities from a particular origin. <u>Measures</u> may be required prior to entry, at entry or post entry. Systems approaches may also be used when appropriate.	1- Align with section 4 and modified heading 2- The commodity also should be specified.
4.1.2 Measures for imported consignments	Name	editorial	Para 3, indent 1	documentary checks	clarification
4.1.2 Measures for imported consignments	Name	technical	Para 3, last indent	Add: phytosanitary inspection.	another appropriate option

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