INTERNATIONAL STANDARDS FOR PHYTOSANITARY MEASURES

GUIDELINES ON THE CONCEPT OF EQUIVALENCE OF PHYTOSANITARY MEASURES AND ITS APPLICATION IN INTERNATIONAL TRADE
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INTRODUCTION

SCOPE
This standard describes the principles and requirements that apply to the concept of equivalence of phytosanitary measures. It also describes a procedure for equivalence determinations in international trade.

REFERENCES
Guidelines for regulating wood packaging material in international trade, 2002. ISPM No. 15. FAO, Rome.

DEFINITIONS

commodity A type of plant, plant product, or other article being moved for trade or other purpose [FAO, 1990; revised ICPM, 2001]
consignment A quantity of plants, plant products and/or other articles being moved from one country to another and covered, when required, by a single phytosanitary certificate (a consignment may be composed of one or more commodities or lots) [FAO, 1990; revised ICPM, 2001]
emergency action A prompt phytosanitary action undertaken in a new or unexpected phytosanitary situation [ICPM, 2001]
equivalence (of phytosanitary measures)** The situation where, for a specified pest risk, different phytosanitary measures achieve a contracting party’s appropriate level of protection.
fumigation Treatment with a chemical agent that reaches the commodity wholly or primarily in a gaseous state [FAO, 1990; revised FAO, 1995]
IPPC International Plant Protection Convention, as deposited in 1951 with FAO in Rome and as subsequently amended [FAO 1990; revised ICPM, 2001]
ISPM International Standard for Phytosanitary Measures [CEPM, 1996; revised ICPM, 2001]
inspection Official visual examination of plants, plant products or other regulated articles to determine if pests are present and/or to determine compliance with phytosanitary regulations [FAO, 1990; revised FAO, 1995; formerly inspect]

1 Terms marked with (*) are new; terms marked with (**) are revised
pest | Any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant products [FAO, 1990; revised FAO, 1995; IPPC, 1997]

pest risk assessment (for quarantine pests) | Evaluation of the probability of the introduction and spread of a pest and of the associated potential economic consequences [FAO, 1995; revised ISPM No 11, 2001]

phytosanitary measure (agreed interpretation) | Any legislation, regulation or official procedure having the purpose to prevent the introduction and/or spread of quarantine pests, or to limit the economic impact of regulated non-quarantine pests [FAO, 1995; revised IPPC, 1997; ICPM, 2002]

The agreed interpretation of the term phytosanitary measure accounts for the relationship of phytosanitary measures to regulated non-quarantine pests. This relationship is not adequately reflected in the definition found in Article II of the IPPC (1997).

PRA | Pest Risk Analysis [FAO, 1995; revised ICPM, 2001]

regulated pest | A quarantine pest or a regulated non-quarantine pest [IPPC, 1997]

required response | A specified level of effect for a treatment [ISPM No. 18, 2003]

surveillance | An official process which collects and records data on pest occurrence or absence by survey, monitoring or other procedures [CEPM, 1996]

systems approach(es) | The integration of different pest risk management measures, at least two of which act independently, and which cumulatively achieve the appropriate level of phytosanitary protection [ISPM No. 14, 2002]

treatment | Officially authorized procedure for the killing, inactivation or removal of pests, or for rendering pests infertile or for devitalization [FAO, 1990, revised FAO, 1995; ISPM No. 15, 2002; ISPM No. 18, 2003]
OUTLINE OF REQUIREMENTS

Equivalence generally applies to cases where phytosanitary measures already exist for a specific pest associated with a trade in a specific commodity. Equivalence determinations are based on the specified pest risk and equivalence may apply to individual measures, a combination of measures or integrated measures in a systems approach.

An equivalence determination normally involves a sequential process of information exchange and evaluation and is generally an agreed procedure between importing and exporting contracting parties. Information is provided in a form that allows the evaluation of existing and proposed measures for their ability to meet the importing contracting party’s appropriate level of protection.

The exporting contracting party may request information from the importing contracting party on how its current measures achieve its appropriate level of protection. The exporting contracting party may propose an alternative measure, indicating how these measures achieve the required level of protection and this is evaluated by the importing contracting party. In some cases, such as where technical assistance is provided, importing contracting parties may make proposals for alternative phytosanitary measures. Contracting parties should endeavour to undertake equivalence determinations and resolve any differences within a reasonable period of time.
REQUIREMENTS

1. General Considerations

Equivalence is described as general principle no. 7 in ISPM No. 1: Principles of plant quarantine as related to international trade: "Equivalence: Countries shall recognize as being equivalent those phytosanitary measures that are not identical but which have the same effect".

Contracting parties recognize that alternative phytosanitary measures can achieve their appropriate level of protection. In addition, equivalence is described in Article 4 of the WTO-SPS Agreement. Therefore, while not formalized under the title of “equivalence”, there is widespread application of equivalence in current phytosanitary practices. It should be noted that equivalence is described in Article 4 of the WTO-SPS Agreement. Furthermore, the concept of equivalence and the obligation of contracting parties to observe the principle of equivalence is an integral element in existing ISPMs. For example, section 10 of ISPM No. 14 (The use of integrated measures in a systems approach for pest risk management) states: "Countries share the obligation to observe the principle of equivalence by considering risk management alternatives that will facilitate safe trade.”.

Equivalence may be applied for:
- an individual measure,
- a combination of measures, or
- integrated measures in a systems approach,

to manage a specified pest risk and achieve a contracting party’s appropriate level of protection/acceptable level of risk. In the case of a systems approach, alternative measures may be proposed for consideration as equivalent to one or more of the integrated measures. Equivalence requests are normally for commodities rather than for individual consignments.

The evaluation for equivalence of phytosanitary measures may not be limited to an assessment of the measure alone, but may also involve consideration of aspects of the export certification system (see ISPM No. 7: Export certification system) or other factors associated with the implementation of pest risk management measures (see ISPM No. 11: Pest risk analysis for quarantine pests including analysis of environmental risks and living modified organisms, 2004, and ISPM No. 14: The use of integrated measures in a systems approach for pest risk management).

This standard provides guidelines for situations where an importing contracting party has a phytosanitary measure in place, or is proposing a new measure, and an exporting contracting party proposes an alternative measure to achieve the importing contracting party’s appropriate level of protection/acceptable level of risk. The alternative measure is then evaluated for equivalence. In some cases importing contracting parties list a number of phytosanitary measures that are considered to achieve their appropriate level of protection/acceptable level of risk. These measures may differ in the extent to which they achieve or exceed the contracting party’s appropriate level of protection/acceptable level of risk. The evaluation of the equivalence of such measures listed by the importing contracting party is not the primary subject of this standard.

Although equivalence is generally a bilateral process between importing and exporting contracting parties, contracting parties are encouraged to include two or more equivalent measures for regulated articles as part of their import regulations. This allows for taking into account different or changing phytosanitary situations in exporting countries. It may also be a multilateral process in the context of ISPMs. Multilateral arrangements for comparing alternative measures take place as part of the standard setting process of the IPPC, for example the measures approved in ISPM No 15: Guidelines for regulating wood packaging material in international trade.

2. General Principles and Requirements

2.1. Sovereign authority

As part of a contracting party’s sovereign authority to regulate plants, plant products and other regulated articles (Article VII.1 of the IPPC, 1997), an importing contracting party may consider and evaluate the equivalence of phytosanitary measures.

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2.2. **Other relevant principles of the IPPC**

In equivalence evaluations, contracting parties should take into account the following principles:

- minimal impact (Article VII.2g of the IPPC, 1997)
- modification (Article VII.2h of the IPPC, 1997)
- transparency (Articles VII.2b, 2c, 2i and VIII.1a of the IPPC, 1997)
- harmonization (Article X.4 of the IPPC, 1997)
- cooperation (Preamble, Article I.1 and Articles VIII and IX of the IPPC, 1997)
- risk analysis (Articles II and VI.1b of the IPPC, 1997)
- managed risk (Article VII.2a and 2g, of the IPPC, 1997)
- non-discrimination (Article VI.1a of the IPPC, 1997).

2.3 **Agreed procedure**

Contracting parties should agree on a procedure to determine equivalence. This may be based on the procedure described in section 4 of this standard or another agreed procedure.

2.4 **Information exchange**

Contracting parties have obligations under the IPPC to provide and exchange information, which should be made available for equivalence determinations. This includes making available, on request, the rationale for phytosanitary requirements (Article VII.2c of the IPPC, 1997) and cooperating to the extent practicable in providing technical and biological information necessary for pest risk analysis (Article VIII of the IPPC, 1997). Contracting parties should aim to limit any data requests associated with an evaluation of equivalence to those which are necessary in order to minimize administrative burdens.

2.5 **Timeliness**

Contracting parties should endeavour to determine the equivalence of phytosanitary measures and resolve any differences within a reasonable period of time.

2.6 **Technical assistance**

In accordance with Article XX of the IPPC (1997), importing contracting parties are encouraged to consider providing technical assistance if requested by an exporting contracting party. This may include helping to identify and develop equivalent measures.

2.7 **Non-disruption of trade**

A submission of a request for recognition of equivalence should not in itself alter the way in which trade occurs.

3. **Specific Requirements**

3.1 **Existing measures**

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 measure(s) that is intended to achieve the importing contracting party’s appropriate level of protection/acceptable level of risk. However, importing contracting parties may also offer alternative measure(s) for the exporting contracting party to consider.

Where new commodities are presented for importation and no measures exist, contracting parties should refer to ISPM No. 11 (*Pest risk analysis for quarantine pests including analysis of environmental risks and living modified organisms, 2004*) and ISPM No. 21 (*Pest risk analysis for regulated non-quarantine pests*) for the normal PRA procedure.

3.2 **Specific pests and commodities**

The process of comparing alternative phytosanitary measures for the purpose of determining their equivalence usually relates to a specific commodity export and specified regulated pest(s) identified through risk analysis.
3.3 **Technical basis for comparison**
To facilitate discussions on equivalence the importing contracting party should, on request, provide information describing how its existing measure(s) reduce the risk of the specified pest and how the measure(s) achieve its appropriate level of protection/acceptable level of risk. This information may be provided in either quantitative or qualitative terms. Such information should assist the exporting contracting party in understanding the existing measure(s). It may also help the exporting contracting party to explain how its proposed alternative measure(s) reduces the pest risk and achieves the importing contracting party’s appropriate level of protection/acceptable level of risk.

3.4 **Pest risk analysis**
Assessments of equivalence should be risk based, using an evaluation of available scientific information, either through PRA or by evaluation of the existing measures and the proposed measures. Although the alternative measures require to be examined, a new pest risk assessment may not necessarily be required.

3.5 **Demonstration of equivalence**
Consideration of alternative measures and their potential equivalence normally depends on information and data supplied by the exporting contracting party. The exporting contracting party has the responsibility to demonstrate that the alternative measures reduce the specified pest risk and that they achieve the appropriate level of protection of the importing contracting party. In some cases (e.g. as described in section 3.1), however, importing contracting parties may propose alternative measure(s) for the exporting contracting party to consider. This information may be qualitative and/or quantitative as long as comparison is possible.

The determination of the equivalence of phytosanitary measures depends on a number of factors. These may include the effect of the measure as demonstrated in laboratory or field conditions, results of experience in their practical application and factors affecting the implementation of the measure (e.g. the policies and procedures of the contracting party). These may include the effect of the measure as demonstrated in laboratory or field conditions, results of experience in their practical application and factors affecting the implementation of the measure (e.g. the policies and procedures of the contracting party). For example, the acceptance of a proposal measure may depend on factors such as availability/approval of the technology, phytotoxicity, and operational and economic feasibility. The information is used by the importing contracting party to assess the contribution of the alternative measure in reducing the pest risk to an acceptable level.

3.6 **Knowledge of the phytosanitary systems of contracting parties**
Where trade in plants and plant products is already established between contracting parties, this provides knowledge about and experience with the exporting contracting party’s phytosanitary systems (e.g. legal, surveillance, inspection, certification, incidents of non-compliance etc.). This is an essential part of cooperation between contracting parties in trading plants and plant products so that confidence is developed between the importing and exporting parties. This knowledge and experience should strengthen confidence between parties and assist if necessary with the evaluation of an equivalence proposal.

In the case of contracting parties that have no or little previous history of significant trade in plants and plant products, information concerning the procedures of the exporting contracting party may be sought by the importing contracting party. The determination of equivalence for specific phytosanitary measures may include, as part of the evaluation, consideration of the exporting contracting party’s phytosanitary systems or programmes that support those measures.

3.7 **Provision of access**
In order to support an importing contracting party’s consideration of an equivalence request, the exporting contracting party should facilitate access by the importing contracting party to relevant sites to conduct any reviews, inspections or verifications for an equivalence determination.
3.8 Comparison of existing and proposed measures
When comparing existing and proposed measures, importing and exporting contracting parties should assess the ability of the measures to reduce a specified pest risk. The proposed measure(s) should be assessed for its ability to achieve the importing contracting party’s appropriate level of protection/acceptable level of risk. In cases where the effects of both the existing measure(s) and the proposed measure(s) are expressed in the same way (i.e. the same type of required response), the effects may be compared directly for their ability to reduce the pest risk. For example, a fumigation treatment and a cold treatment may be compared for their effects based on mortality.

Where measures are expressed differently, they may be difficult to compare directly. In such cases, the proposed measures should be assessed for their ability to achieve the importing contracting party’s required level of protection. This may require data to be converted or extrapolated so that common units are used before comparison is possible. For example, effects such as mortality and low pest prevalence may be compared if considered in relation to pest freedom at an agreed level of confidence (for example per shipment or per year).

3.9 Additional factors for determining the equivalence of phytosanitary measures

3.10 Monitoring and review
After the recognition of equivalence and to provide continued confidence in the equivalence arrangements, contracting parties should implement the same review and monitoring procedures as for similar phytosanitary measures.

3.11 Non-discrimination in the application of the equivalence of phytosanitary measures
An importing contracting party which recognizes the equivalence of alternative phytosanitary measures of an exporting contracting party should ensure that it acts in a non-discriminatory manner both with regard to applications from third countries for recognition of equivalence applying to the same or similar measures, and with regard to the equivalence of any domestic measures.

The principle of non-discrimination requires that when equivalence of phytosanitary measures is granted for one exporting contracting party, this should also apply to contracting parties with the same commodity or pest. Phytosanitary measures should always be considered in the context of the pest status and phytosanitary regulatory system of the exporting contracting party, including the policies and procedures.

If equivalence is recognized by the importing contracting party, implementation should be achieved by amendment to the import regulations of the importing contracting party, to facilitate transparency.

4. Procedure for Equivalence Determination
The procedure that trading partners utilise may vary depending on the circumstances. However, the interactive procedure described below is recommended for assessing phytosanitary measures that are proposed as equivalent.

Recommended steps are:

4.1 The exporting contracting party communicates its interest in an equivalence determination to its trading partner, indicating the specific commodity, the regulated pest(s) of concern and the current and proposed alternative measures. At the same time it may request from the importing contracting party the technical justification for existing the measure(s).

4.2 The importing contracting party should describe its current measures in terms that will help to facilitate a comparison with alternative phytosanitary measures. To the best of its ability, the information provided by the importing contracting party should include the following:
a) the purpose of the phytosanitary measures, including identification of the specific pest risk(s) that the measures are intended to mitigate
b) to the extent possible, how the current phytosanitary measures achieve the importing contracting party’s appropriate level of protection/acceptable level of risk
c) the technical justification for the current phytosanitary measures, including the PRA where appropriate
d) any additional information that may assist the exporting contracting party in demonstrating that the proposed measures achieve the importing contracting party’s appropriate level of protection/acceptable level of risk.

4.3 The exporting contracting party makes a request for equivalence of phytosanitary measures. The exporting contracting party should submit its request in a form suitable for comparison with the information provided by the importing contracting party and which therefore facilitates the necessary evaluation by the importing contracting party. This should include the following elements:
   a) a description of the proposed alternative measures
   b) the purpose of the measures
   c) to the extent possible, the contribution of the proposed alternative measures in achieving the importing contracting party’s appropriate level of protection/acceptable level of risk
   d) information on how the measures were evaluated (e.g. laboratory testing, statistical analysis, practical operational experience). The performance of the measures in practice
   e) a comparison between the proposed alternative measures and the importing contracting party’s current measures for same pest risk and
   f) information on technical and operational feasibility of the proposed alternative measures.

4.4 The importing contracting party receives and evaluates the proposed alternative phytosanitary measures, taking into account:
   a) the submission from the exporting contracting party, including supporting information regarding the effectiveness of the proposed alternative measures
   b) the degree to which the alternative phytosanitary measures achieves its appropriate level of protection/acceptable level of risk, either on the basis of qualitative or quantitative information
   c) information regarding the method, action and operation of the proposed alternative phytosanitary measures in preventing or reducing the specified pest risk
   d) the operational and economic feasibility of adopting the proposed alternative phytosanitary measures.

During the review process further clarification may be required. Additional information and/or access to operational procedures may be requested by the importing contracting party in order to complete the assessment. The exporting contracting party should respond to any technical concerns raised by the importing contracting party by providing relevant information and/or providing access to relevant information or sites to facilitate reviews, inspections or other verifications necessary for making an equivalence determination.

4.5 The importing contracting party should notify the exporting contracting party of its decision and provide, upon request, an explanation and technical basis for its determination as quickly as possible.

4.6 In the event of a rejection of the request for equivalence, efforts should be made to resolve differences of opinion through bilateral dialogue.

4.7 If equivalence is recognized by the importing contracting party, to facilitate transparency implementation should be achieved by amendment to the import regulations and any associated procedures of the importing contracting party. This should be completed as quickly as possible.

4.8 An audit and monitoring procedure may be established and included in the plan or arrangement which implements any recognized equivalence measures or programmes.