

INTERNATIONAL PLANT PROTECTION
CONVENTION (IPPC)

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

INTERNATIONAL PLANT PROTECTION CONVENTION (IPPC), ADOPTED AT THE CONFERENCE OF THE FOOD AND AGRICULTURE ORGANIZATION (FAO) OF THE UNITED NATIONS AT ROME ON NOVEMBER 17, 1997



MARCH 23, 2000.—Convention was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate.

U.S. GOVERNMENT PRINTING OFFICE

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *March 23, 2000.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to acceptance, I transmit herewith the revised International Plant Protection Convention (IPPC), adopted at the Conference of the Food and Agriculture Organization (FAO) of the United Nations at Rome on November 17, 1997. In accordance with Article XIII of the existing IPPC, the revised text will enter into force for all contracting parties 30 days after acceptance by two-thirds of the contracting parties.

The revisions are designed to bring the IPPC into line with modern practices and concepts, and to establish new mechanisms to promote the development and adoption of international phytosanitary standards.

It is my hope that the Senate will give prompt and favorable consideration to this Convention, and give its advice and consent to acceptance by the United States, subject to the two proposed understandings set forth in the accompanying report, at the earliest possible date.

WILLIAM J. CLINTON.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, February 10, 2000.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you the revised International Plant Protection Convention (IPPC), done at Rome on November 17, 1997. I recommend that the revised IPPC be transmitted to the Senate for its advice and consent to acceptance, subject to the proposed understandings set forth in this report.

The IPPC, a multilateral convention which entered into force internationally in 1952 and for the United States in 1972, is aimed at promoting international cooperation to control and prevent the spread of harmful plant pests. The IPPC serves, together with regional plant protection organizations and national plant protection organizations, to develop international plant health standards, promote harmonization of plant quarantine activities with emerging standards, facilitate the dissemination of phytosanitary information, and support plant health assistance to developing countries. The United States has been a leading force in furthering the work of the IPPC. A 1979 revision of the original IPPC (the "existing IPPC") entered into force in 1991.

In 1995, after the adoption of the World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures (the "SPS Agreement"), which identified the organizations operating within the framework of the IPPC as relevant international organizations in the field of sanitary and phytosanitary protection, a consensus developed among the IPPC parties to revise the IPPC text. An important impetus for the revision was to bring the existing IPPC into alignment with the SPS Agreement, which calls for the harmonization of sanitary and phytosanitary measures among countries on the basis of the development of international standards, including within the framework of the IPPC. The revised IPPC was adopted November 17, 1997, by the Conference of the Food and Agriculture Organization (FAO) of the United Nations.

The revised IPPC is intended to clarify existing procedures, update terms and definitions, and strengthen the ability of IPPC parties to develop phytosanitary standards. Standard setting has become a fundamental need for U.S. agriculture. It is necessary to create a stable international trade system that balances the need for protection against pest risks and the need for predictability and fairness in international trade practices. American farmers who are interested in exporting their products to foreign markets would

benefit significantly from such a trade system. The revised IPPC is meant to be interpreted consistently with the SPS Agreement and not to limit the rights or obligations of the parties to that agreement.

Article XIII, paragraph 4 of the existing IPPC provides that

[a]ny such proposed amendment of this Convention shall require the approval of the Conference of FAO and shall come into force as from the thirtieth day after acceptance by two-thirds of the contracting parties. Amendments involving new obligations for contracting parties, however, shall come into force in respect of each contracting party only on acceptance by it * * *

The Conference of FAO approved a Conference Report during the November 1997 meeting at which the revised IPPC was adopted. That report stated

that the Conference decided that the amendments would not involve new obligations for contracting parties. Consequently, once adopted, the amendments would come into force, for all contracting parties, after acceptance by two-thirds of the Contracting Parties.

As of this date, 8 of the 111 IPPC parties have deposited instruments of acceptance of the revised IPPC with the Director-General of FAO.

The following is an article-by-article summary of the significant provisions of the revised IPPC:

Article I sets forth the purpose of the revised IPPC and the responsibilities of the parties. The parties undertake to adopt the legislative, technical and administrative measures specified in the revised IPPC and in supplementary agreements, with the purpose of securing common and effective action to prevent the spread and introduction of pests of plants and plant products, and to promote appropriate measures for their control. Each party assumes responsibility for the fulfillment within its territory of requirements under the revised IPPC, "without prejudice to obligations assumed under other international agreements." Thus, the parties have made it clear that the requirements imposed upon them by the revised IPPC do not relieve them of obligations they have assumed under other international agreements.

Article II defines certain key terms for purposes of the revised IPPC.

Article III makes it clear that nothing in the revised IPPC overrides the rights or obligations of the parties under relevant international agreements, which would include the SPS Agreement. In this regard, the FAO Conference Report concerning the revised IPPC contained the following explanatory statement:

With reference to Article III of this Convention, nothing in this Convention, and in particular in Articles VI or VII thereof, shall be interpreted as limiting the rights or obligations of the contracting parties to this Convention under the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement).

The U.S. delegation to the plenary of the FAO Conference also provided an interpretative statement on the revised text of the IPPC, a copy of which is enclosed for the Senate's information.

Article IV requires each party to make provision, to the best of its ability, for an official national plant protection organization and outlines the responsibilities of such an organization. Some of the more significant responsibilities include: the issuance of phytosanitary certificates; the inspection of plants and plant products moving in international traffic; the protection of endangered areas and the designation, maintenance and surveillance of pest free areas; and the conduct of pest risk analyses. Each party must also make provision, to the best of its ability, for: the distribution within its territory of information regarding regulated pests and the means of their prevention and control; research and investigation in the field of plant protection; the issuance of phytosanitary regulations; and the performance of such other functions as may be required for the implementation of the Convention.

Article V requires the parties to make arrangements for phytosanitary certification with the objective of ensuring that exports are in conformity with the certifying statements to be made pursuant to the model certificates in the Annex to the revised IPPC. Inspection and other related activities leading to the issuance of certificates shall be carried out only by or under the authority of the official national plant protection organization. These certificates should be completed taking into account relevant international standards. Parties may, but are not required to, accept the electronic equivalent of phytosanitary certificates. Each party also undertakes not to require phytosanitary certificates that are inconsistent with the model certificates.

Article VI provides that a party may require phytosanitary measures for quarantine pests and regulated non-quarantine pests, provided that such measures are not more stringent than measures applied to the same pests within its own territory and limited to what is technically justified and necessary to protect plant health. This article restates in greater detail the parties' obligations, set forth in Article VI(2) of the existing IPPC, to have a technical basis for requiring phytosanitary measures and not to impose such requirements arbitrarily. The United States intends that nothing in this article will be interpreted or implemented to limit the rights of the United States under relevant international agreements, in particular the SPS Agreement, including the right to maintain control, inspection, and approval procedures consistent with its obligations under that Agreement. In order to make the U.S. view clear to the other parties, it is recommended that the following understanding be included in the U.S. instrument of acceptance:

Nothing in the amended International Plant Protection Convention (IPPC) is to be interpreted in a manner inconsistent with, or alters the terms or effect of, the World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) or other relevant international agreements. In implementing the amended IPPC, the United States will be guided by the SPS Agreement and other relevant international agreements, and in particular will interpret Arti-

cles VI and VII of the amended IPPC in a manner that is consistent with the SPS Agreement, including Article 5 thereof.

Article VI also prohibits the parties from requiring phytosanitary measures for non-regulated pests. This article would not, however, preclude the United States from restricting the importation of “invasive” pests in order to protect plant life or health or the environment. If an “invasive” pest is injurious to plant life or health or the environment, it could be regulated as a quarantine pest or a regulated non-quarantine pest. Nor would this article preclude the United States from restricting the importation of an “invasive” pest in order to protect human or animal life or health. The term “pest” is defined in Article II of the revised IPPC as “any species, strain or biotype of plant, animal or pathogenic agent *injurious to plants or plant products*” (emphasis added). The scope of both the existing and the revised IPPC is the protection of plant life and health and the environment. Therefore, neither the existing IPPC nor the revised IPPC prohibits the parties from taking any action with regard to pests that could harm human or animal life or health. (The protection of human and animal health falls within the domain of the Codex Alimentarius Commission and the International Office of Epizootics (OIE), not the IPPC.) In order to make the U.S. view clear to the other parties, it is recommended that the following understanding be included in the U.S. instrument of acceptance:

Nothing in the amended IPPC limits the authority of the United States, consistent with the SPS Agreement, to take sanitary or phytosanitary measures against any pest to protect human, animal or plant life or health or the environment.

Article VII sets forth requirements in relation to imports. Paragraph 1 provides that parties shall have sovereign authority to regulate, in accordance with applicable international agreements, such as the SPS Agreement, the entry of plants and plant products and other regulated articles into their territories. Paragraph 2 provides that, in order to minimize interference with international trade, the parties undertake, *inter alia*, to: (1) refrain from taking phytosanitary measures unless they are made necessary by phytosanitary considerations and are technically justified; (2) publish phytosanitary requirements, restrictions and prohibitions immediately upon their adoption and transmit them to any party believed to be directly affected by such measures; (3) ensure that unnecessary phytosanitary measures are promptly modified or removed as conditions change; (4) establish and update lists of regulated pests and make such lists available; (5) conduct surveillance for pests and develop and maintain adequate information on pest status; and (6) institute only phytosanitary measures that are technically justified, consistent with the pest risk involved and represent the least restrictive measures available. This last undertaking is an elaboration of Article VI(2)(a) of the existing IPPC, which requires the parties, in order to minimize interference with international trade, to ensure that any phytosanitary measures taken are made necessary by phytosanitary considerations. In

keeping with the first proposed U.S. understanding set forth above, the term “least restrictive measures available” in the revised IPPC is meant to be interpreted in the same manner as the term “not more trade-restrictive than required” in Article 5.6 (including the accompanying footnote) of the SPS Agreement.

Paragraph 3 of Article VII provides that a party may apply measures, which must be technically justified, to pests which may not be capable of establishment but which could cause economic damage if they gained entry. Paragraph 4 provides that parties may apply measures to consignments in transit through their territories where such measures are technically justified and necessary to prevent the introduction or spread of pests. Paragraph 5 provides that importing parties may make special provision, subject to adequate safeguards, for the importation of plants, plant products, other regulated articles, and plant pests, for the purpose of scientific research or education. Paragraph 6 provides that a party may take appropriate emergency action on the detection or report of a pest posing a potential threat to its territories. Such emergency action is to be promptly reported to any parties concerned, the IPPC Secretariat, and any applicable regional plant protection organization.

Article VIII provides for international cooperation by the parties, particularly in the exchange of information on plant pests, in any special campaigns for combating pests, and in providing technical and biological information necessary for pest risk analysis. Under the existing IPPC, the parties furnish information on plant pests to FAO, which then distributes it; whereas, under the revised IPPC, the parties will cooperate in the exchange of such information in accordance with such procedures as may be established by the Commission on Phytosanitary Measures (the “Commission”), established under Article XI of the revised IPPC (see below). Each party is also required to designate a contact point for the exchange of information connected with the implementation of the Convention.

Article IX provides for the establishment of regional plant protection organizations in appropriate areas. Several such organizations already exist, including the North American Plant Protection Organization (NAPPO), to which the United States belongs. The regional plant protection organizations are to function as the coordinating bodies in the areas covered; gather and disseminate information; cooperate with the Secretary of the Commission in achieving the objectives of the Convention; and, where appropriate, cooperate with the Secretary and the Commission in developing international standards.

Article X provides that the parties agree to cooperate in the development of international standards to be adopted by the Commission. IPPC parties have historically cooperated in the formulation and dissemination of standards, guidelines, and recommendations, and the United States has actively participated in this work. Paragraph 4 provides that parties should take international standards into account, as appropriate, when undertaking activities related to the Convention. Article X does not require parties to adopt or follow such standards.

Article XI provides for the establishment of a Commission on Phytosanitary Measures within the FAO framework and sets forth the functions of the Commission. The Commission, which is a decision-making body, is expected to serve as the vehicle for developing global phytosanitary standards as well as promoting implementation of the other basic objectives of the Convention. The functions of the Commission include, *inter alia*: reviewing the state of plant protection in the world and the need for action to control the international spread of pests and their introduction into endangered areas; establishing the necessary institutional arrangements and procedures for the development and adoption of international standards, and adopting such standards; and establishing rules and procedures for the resolution of disputes between parties. Membership in the Commission is open to all parties. The Commission will work to make decisions by consensus, failing which decisions will be made by a two-thirds majority of the parties present and voting.

Article XII creates a Secretariat to assist in the effective implementation of the revised IPPC. It sets forth the duties and responsibilities of the Secretary of the Commission, who will be appointed by the Director-General of FAO. The functions that will be carried out by the Secretariat initially will be funded through existing allocations to FAO's Plant Production and Protection Division and will cause no immediate increases in funding obligations.

Article XIII outlines a procedure for the settlement of disputes that may arise out of the operation of the revised IPPC. The provisions of this article are very similar to the provisions found in Article IX of the existing IPPC. If a party considers that any action by another party is in conflict with its obligations under the revised IPPC, these parties consult among themselves with a view to resolving the dispute. If the dispute cannot be resolved through consultations, a concerned party may request the Director-General of FAO to appoint a committee of experts to consider the question in dispute. The recommendations of this committee, while not binding, will become the basis for renewed consideration of the matter by the parties concerned. The revised IPPC adds a new paragraph stating that the dispute settlement procedures under the IPPC shall be complementary to and not in derogation of the dispute settlement procedures provided for in other international agreements dealing with trade matters.

Article XIV, which is identical to Article X of the existing IPPC, provides for the termination and replacement of certain prior conventions.

Article XV indicates that a party may declare that the revised IPPC will extend to any or all of its territories by communicating to the Director-General of FAO a declaration to that effect.

Article XVI authorizes the parties to enter into supplementary agreements for the purpose of meeting special problems of plant protection that need particular attention or action. Any such supplementary agreement shall come into force for each party after acceptance in accordance with the provisions of the supplementary agreement. This article also sets forth certain requirements that are applicable to any supplementary agreement, *e.g.*, that it con-

form to the principles of transparency, non-discrimination, and the avoidance of disguised restrictions on international trade.

Article XVII retains provisions from the existing IPPC concerning the treaty's entry into force. It also specifies that the IPPC is open for adherence by nonsignatory states and member organizations of FAO. Adherence is to be effected by the deposit of an instrument of adherence with the Director-General of FAO, who notifies all parties of that deposit.

Article XVIII calls on the parties to encourage non-IPPC parties to accept the Convention and to apply phytosanitary measures consistent with the provisions of the Convention and any international standards adopted thereunder.

Article XIX provides that the authentic languages of the Convention will be all the official languages of FAO (English, Spanish, French, Chinese and Arabic) and specifies the types of documents that must be in at least one of the official languages of FAO.

Article XX provides that the parties agree to promote the provision of technical assistance to parties, especially those that are developing states, either bilaterally or through the appropriate international organizations.

Article XXI outlines the procedures for an amendment of the Convention. Any proposed amendment requires the approval of the Commission and comes into force as from the thirtieth day after acceptance by two-thirds of the parties. Amendments involving new obligations for parties, however, will come into force with respect to each party only after acceptance by it. As stated above, the parties at the Conference that adopted the revised IPPC considered that it would not create new obligations, so the revised IPPC will enter into force for all parties on the thirtieth day after acceptance by two-thirds of the parties. This article also sets forth procedures for the amendment of the model phytosanitary certificates (such amendments become effective 90 days after notification to the parties of their approval by the Commission) and addresses the effect of such amendments on the previous version of the certificates.

Article XXII, as does Article XVII, contains residual provisions from the existing Convention concerning its initial entry into force. It also has the effect that, once the revised Convention has come into force, it will enter into force for each state or member organization of FAO thereafter from the date of deposit of its instrument of ratification or adherence.

Article XXIII states that denunciation of the Convention by a party takes effect one year from the date of receipt of the notification by the Director-General of FAO.

The Annex contains a revised Model Phytosanitary Certificate that incorporates some of the clarifications made in the revised IPPC. The existing IPPC requires a party to certify that a given shipment or consignment has been inspected and is considered to be "free from quarantine pests, and practically free from other injurious pests; and * * * conform[s] with the current phytosanitary regulations of the importing country." The ambiguity of the undefined term "other injurious pests" was an important impetus for modernizing the existing model certificate to ensure that certification requirements are transparent and technically justified.

Under the revised IPPC, this requirement has been replaced with a requirement that a party certify that a shipment or consignment is considered to be free from the quarantine pests, specified by the importing contracting party and to conform with the current phytosanitary requirements of the importing contracting party including those for regulated non-quarantine pests.

The term "other injurious pests" in the existing IPPC has been replaced with the clearer, defined term "regulated non-quarantine pests." In addition, the model certificate in the revised IPPC contains an optional certification by the exporter that a shipment or consignment has been inspected and "deemed to be practically free from other pests," *i.e.*, pests other than quarantine or regulated non-quarantine pests.

The Annex also contains a Model Phytosanitary Certificate for Re-Export. When plant or plant products are being re-exported, this certificate is used to satisfy the importing contracting party that the shipment conforms with its current phytosanitary requirements. The version of this certificate in the revised IPPC has not been substantially changed from the version in the existing IPPC.

Existing legislation, *i.e.*, the Plant Quarantine Act, 7 U.S.C. 151 *et seq.*, the Federal Plant Pest Act, 7 U.S.C. 150aa *et seq.*, the Federal Noxious Weed Act, 7 U.S.C. 2801 *et seq.*, and the Federal Seed Act, 7 U.S.C. 1551 *et seq.*, provides sufficient authority to implement U.S. obligations under the revised IPPC. Therefore, no new legislation is necessary for the United States to accept the revised IPPC. Furthermore, implementation of the revised IPPC will not require any increase in appropriations.

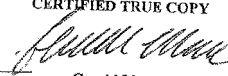
Accordingly, I recommend that the revised IPPC be transmitted to the Senate as soon as possible for its advice and consent to acceptance by the United States, subject to the proposed understandings set forth in this report.

Respectfully submitted,

MADELEINE ALBRIGHT.

Enclosure: As stated.

CERTIFIED TRUE COPY



Gerald Moore
Legal Counsel

11 August 1999



INTERNATIONAL PLANT PROTECTION CONVENTION

(New Revised Text approved by the FAO Conference
at its 29th Session - November 1997)

PREAMBLE

The contracting parties,

- *recognizing* 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;
- *recognizing* that phytosanitary measures should be technically justified, transparent and should not be applied in such a way as to constitute either a means of arbitrary or unjustified discrimination or a disguised restriction, particularly on international trade;
- *desiring* to ensure close coordination of measures directed to these ends;
- *desiring* to provide a framework for the development and application of harmonized phytosanitary measures and the elaboration of international standards to that effect;
- *taking into account* internationally approved principles governing the protection of plant, human and animal health, and the environment; and
- *noting* the agreements concluded as a result of the Uruguay Round of Multilateral Trade Negotiations, including the Agreement on the Application of Sanitary and Phytosanitary Measures;

have agreed as follows:

ARTICLE I

Purpose and responsibility

1. With the purpose of securing common and effective action to prevent the spread and introduction of pests of plants and plant products, and to promote appropriate measures for their control, the contracting parties undertake to adopt the legislative, technical and administrative measures specified in this Convention and in supplementary agreements pursuant to Article XVI.
2. Each contracting party shall assume responsibility, without prejudice to obligations assumed under other international agreements, for the fulfilment within its territories of all requirements under this Convention.
3. The division of responsibilities for the fulfilment of the requirements of this Convention between member organizations of FAO and their member states that are contracting parties shall be in accordance with their respective competencies.

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4. Where appropriate, the provisions of this Convention may be deemed by contracting parties to extend, in addition to plants and plant products, to storage places, packaging, conveyances, containers, soil and any other organism, object or material capable of harbouring or spreading plant pests, particularly where international transportation is involved.

ARTICLE II

Use of terms

1. For the purpose of this Convention, the following terms shall have the meanings hereunder assigned to them:

“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;

“Commission” - the Commission on Phytosanitary Measures established under Article XI;

“Endangered area” - an area where ecological factors favour the establishment of a pest whose presence in the area will result in economically important loss;

“Establishment” - perpetuation, for the foreseeable future, of a pest within an area after entry;

“Harmonized phytosanitary measures” - phytosanitary measures established by contracting parties based on international standards;

“International standards” - international standards established in accordance with Article X, paragraphs 1 and 2;

“Introduction” - the entry of a pest resulting in its establishment;

“Pest” - any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant products;

“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;

“Phytosanitary measure” - any legislation, regulation or official procedure having the purpose to prevent the introduction and/or spread of pests;

“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;

“Plants” - living plants and parts thereof, including seeds and germplasm;

“Quarantine pest” - a pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled;

“Regional standards” - standards established by a regional plant protection organization for the guidance of the members of that organization;

“Regulated article” - any plant, plant product, storage place, packaging, conveyance, container, soil and any other organism, object or material capable of harbouring or spreading

pests, deemed to require phytosanitary measures, particularly where international transportation is involved;

“Regulated non-quarantine pest” - a non-quarantine pest whose presence in plants for planting affects the intended use of those plants with an economically unacceptable impact and which is therefore regulated within the territory of the importing contracting party;

“Regulated pest” - a quarantine pest or a regulated non-quarantine pest;

“Secretary” - Secretary of the Commission appointed pursuant to Article XII;

“Technically justified” - justified on the basis of conclusions reached by using an appropriate pest risk analysis or, where applicable, another comparable examination and evaluation of available scientific information.

2. The definitions set forth in this Article, being limited to the application of this Convention, shall not be deemed to affect definitions established under domestic laws or regulations of contracting parties.

ARTICLE III

Relationship with other international agreements

Nothing in this Convention shall affect the rights and obligations of the contracting parties under relevant international agreements.

ARTICLE IV

General provisions relating to the organizational arrangements for national plant protection

1. Each contracting party shall make provision, to the best of its ability, for an official national plant protection organization with the main responsibilities set out in this Article.

2. The responsibilities of an official national plant protection organization shall include the following:

- a) the issuance of certificates relating to the phytosanitary regulations of the importing contracting party for consignments of plants, plant products and other regulated articles;
- b) the surveillance of growing plants, including both areas under cultivation (*inter alia* fields, plantations, nurseries, gardens, greenhouses and laboratories) and wild flora, and of plants and plant products in storage or in transportation, particularly with the object of reporting the occurrence, outbreak and spread of pests, and of controlling those pests, including the reporting referred to under Article VIII paragraph 1(a);
- c) the inspection of consignments of plants and plant products moving in international traffic and, where appropriate, the inspection of other regulated articles, particularly with the object of preventing the introduction and/or spread of pests;

New Revised Text of the International Plant Protection Convention

- d) the disinfection or disinfection of consignments of plants, plant products and other regulated articles moving in international traffic, to meet phytosanitary requirements;
 - e) the protection of endangered areas and the designation, maintenance and surveillance of pest free areas and areas of low pest prevalence;
 - f) the conduct of pest risk analyses;
 - g) to ensure through appropriate procedures that the phytosanitary security of consignments after certification regarding composition, substitution and reinfestation is maintained prior to export; and
 - h) training and development of staff.
3. Each contracting party shall make provision, to the best of its ability, for the following:
- a) the distribution of information within the territory of the contracting party regarding regulated pests and the means of their prevention and control;
 - b) research and investigation in the field of plant protection;
 - c) the issuance of phytosanitary regulations; and
 - d) the performance of such other functions as may be required for the implementation of this Convention.
4. Each contracting party shall submit a description of its official national plant protection organization and of changes in such organization to the Secretary. A contracting party shall provide a description of its organizational arrangements for plant protection to another contracting party, upon request.

ARTICLE V

Phytosanitary certification

1. Each contracting party shall make arrangements for phytosanitary certification, with the objective of ensuring that exported plants, plant products and other regulated articles and consignments thereof are in conformity with the certifying statement to be made pursuant to paragraph 2(b) of this Article.
2. Each contracting party shall make arrangements for the issuance of phytosanitary certificates in conformity with the following provisions:
 - a) Inspection and other related activities leading to 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 documents.

- b) Phytosanitary certificates, or their electronic equivalent where accepted by the importing contracting party concerned, shall be as worded in the models set out in the Annex to this Convention. These certificates should be completed and issued taking into account relevant international standards.
 - c) Uncertified alterations or erasures shall invalidate the certificates.
3. Each contracting party undertakes not to require consignments of plants or plant products or other regulated articles imported into its territories to be accompanied by phytosanitary certificates inconsistent with the models set out in the Annex to this Convention. Any requirements for additional declarations shall be limited to those technically justified.

ARTICLE VI

Regulated pests

1. Contracting parties may require phytosanitary measures for quarantine pests and regulated non-quarantine pests, provided that such measures are:
 - a) no more stringent than measures applied to the same pests, if present within the territory of the importing contracting party; and
 - b) limited to what is necessary to protect plant health and/or safeguard the intended use and can be technically justified by the contracting party concerned.
2. Contracting parties shall not require phytosanitary measures for non-regulated pests.

ARTICLE VII

Requirements in relation to imports

1. With the aim of preventing the introduction and/or spread of regulated pests into their territories, contracting parties shall have sovereign authority to regulate, in accordance with applicable international agreements, the entry of plants and plant products and other regulated articles and, to this end, may:
 - a) prescribe and adopt phytosanitary measures concerning the importation of plants, plant products and other regulated articles, including, for example, inspection, prohibition on importation, and treatment;
 - b) refuse entry or detain, or require treatment, destruction or removal from the territory of the contracting party, of plants, plant products and other regulated articles or consignments thereof that do not comply with the phytosanitary measures prescribed or adopted under subparagraph (a);
 - c) prohibit or restrict the movement of regulated pests into their territories;

- d) prohibit or restrict the movement of biological control agents and other organisms of phytosanitary concern claimed to be beneficial into their territories.

2. In order to minimize interference with international trade, each contracting party, in exercising its authority under paragraph 1 of this Article, undertakes to act in conformity with the following:

- a) Contracting parties shall not, under their phytosanitary legislation, take any of the measures specified in paragraph 1 of this Article unless such measures are made necessary by phytosanitary considerations and are technically justified.
- b) Contracting parties shall, immediately upon their adoption, publish and transmit phytosanitary requirements, restrictions and prohibitions to any contracting party or parties that they believe may be directly affected by such measures.
- c) Contracting parties shall, on request, make available to any contracting party the rationale for phytosanitary requirements, restrictions and prohibitions.
- d) If a contracting party requires consignments of particular plants or plant products to be imported only through specified points of entry, such points shall be so selected as not to unnecessarily impede international trade. The contracting party shall publish a list of such points of entry and communicate it to the Secretary, any regional plant protection organization of which the contracting party is a member, all contracting parties which the contracting party believes to be directly affected, and other contracting parties upon request. Such restrictions on points of entry shall not be made unless the plants, plant products or other regulated articles concerned are required to be accompanied by phytosanitary certificates or to be submitted to inspection or treatment.
- e) Any inspection or other phytosanitary procedure required by the plant protection organization of a contracting party for a consignment of plants, plant products or other regulated articles offered for importation, shall take place as promptly as possible with due regard to their perishability.
- f) Importing contracting parties shall, as soon as possible, inform the exporting contracting party concerned or, where appropriate, the re-exporting contracting party concerned, of significant instances of non-compliance with phytosanitary certification. The exporting contracting party or, where appropriate, the re-exporting contracting party concerned, should investigate and, on request, report the result of its investigation to the importing contracting party concerned.
- g) Contracting parties shall institute only phytosanitary measures that are technically justified, consistent with the pest risk involved and represent the least restrictive measures available, and result in the minimum impediment to the international movement of people, commodities and conveyances.
- h) 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.
- i) Contracting parties shall, to the best of their ability, establish and update lists of regulated pests, using scientific names, and make such lists available to the

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Secretary, to regional plant protection organizations of which they are members and, on request, to other contracting parties.

- j) Contracting parties shall, to the best of their ability, conduct surveillance for pests and develop and maintain adequate information on pest status in order to support categorization of pests, and for the development of appropriate phytosanitary measures. This information shall be made available to contracting parties, on request.

3. A contracting party may apply measures specified in this Article to pests which may not be capable of establishment in its territories but, if they gained entry, cause economic damage. Measures taken against these pests must be technically justified.

4. Contracting parties may apply measures specified in this Article to consignments in transit through their territories only where such measures are technically justified and necessary to prevent the introduction and/or spread of pests.

5. Nothing in this Article shall prevent importing contracting parties from making special provision, subject to adequate safeguards, for the importation, for the purpose of scientific research, education, or other specific use, of plants and plant products and other regulated articles, and of plant pests.

6. Nothing in this Article shall prevent any contracting party from taking appropriate emergency action on the detection of a pest posing a potential threat to its territories or the report of such a detection. Any such action shall be evaluated as soon as possible to ensure that its continuance is justified. The action taken shall be immediately reported to contracting parties concerned, the Secretary, and any regional plant protection organization of which the contracting party is a member.

ARTICLE VIII

International cooperation

1. The contracting parties shall cooperate with one another to the fullest practicable extent in achieving the aims of this Convention, and shall in particular:

- a) cooperate in the exchange of information on plant pests, particularly the reporting of the 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;
- b) participate, in so far as is practicable, in any special campaigns for combatting pests that may seriously threaten crop production and need international action to meet the emergencies; and
- c) cooperate, to the extent practicable, in providing technical and biological information necessary for pest risk analysis.

2. Each contracting party shall designate a contact point for the exchange of information connected with the implementation of this Convention.

ARTICLE IX**Regional plant protection organizations**

1. The contracting parties undertake to cooperate with one another in establishing regional plant protection organizations in appropriate areas.
2. The regional plant protection organizations shall function as the coordinating bodies in the areas covered, shall participate in various activities to achieve the objectives of this Convention and, where appropriate, shall gather and disseminate information.
3. The regional plant protection organizations shall cooperate with the Secretary in achieving the objectives of the Convention and, where appropriate, cooperate with the Secretary and the Commission in developing international standards.
4. The Secretary will convene regular Technical Consultations of representatives of regional plant protection organizations to:
 - a) promote the development and use of relevant international standards for phytosanitary measures; and
 - b) encourage inter-regional cooperation in promoting harmonized phytosanitary measures for controlling pests and in preventing their spread and/or introduction.

ARTICLE X**Standards**

1. The contracting parties agree to cooperate in the development of international standards in accordance with the procedures adopted by the Commission.
2. International standards shall be adopted by the Commission.
3. Regional standards should be consistent with the principles of this Convention; such standards may be deposited with the Commission for consideration as candidates for international standards for phytosanitary measures if more broadly applicable.
4. Contracting parties should take into account, as appropriate, international standards when undertaking activities related to this Convention.

ARTICLE XI**Commission on Phytosanitary Measures**

1. Contracting parties agree to establish the Commission on Phytosanitary Measures within the framework of the Food and Agriculture Organization of the United Nations (FAO).
2. The functions of the Commission shall be to promote the full implementation of the objectives of the Convention and, in particular, to:

- a) review the state of plant protection in the world and the need for action to control the international spread of pests and their introduction into endangered areas;
 - b) establish and keep under review the necessary institutional arrangements and procedures for the development and adoption of international standards, and to adopt international standards;
 - c) establish rules and procedures for the resolution of disputes in accordance with Article XIII;
 - d) establish such subsidiary bodies of the Commission as may be necessary for the proper implementation of its functions;
 - e) adopt guidelines regarding the recognition of regional plant protection organizations;
 - f) establish cooperation with other relevant international organizations on matters covered by this Convention;
 - g) adopt such recommendations for the implementation of the Convention as necessary; and
 - h) perform such other functions as may be necessary to the fulfilment of the objectives of this Convention.
3. Membership in the Commission shall be open to all contracting parties.
4. Each contracting party may be represented at sessions of the Commission by a single delegate who may be accompanied by an alternate, and by experts and advisers. Alternates, experts and advisers may take part in the proceedings of the Commission but may not vote, except in the case of an alternate who is duly authorized to substitute for the delegate.
5. The contracting parties shall make every effort to reach agreement on all matters by consensus. If all efforts to reach consensus have been exhausted and no agreement is reached, the decision shall, as a last resort, be taken by a two-thirds majority of the contracting parties present and voting.
6. A member organization of FAO that is a contracting party and the member states of that member organization that are contracting parties shall exercise their membership rights and fulfil their membership obligations in accordance, *mutatis mutandis*, with the Constitution and General Rules of FAO.
7. The Commission may adopt and amend, as required, its own Rules of Procedure, which shall not be inconsistent with this Convention or with the Constitution of FAO.
8. The Chairperson of the Commission shall convene an annual regular session of the Commission.
9. Special sessions of the Commission shall be convened by the Chairperson of the Commission at the request of at least one-third of its members.

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10. The Commission shall elect its Chairperson and no more than two Vice-Chairpersons, each of whom shall serve for a term of two years.

ARTICLE XII

Secretariat

1. The Secretary of the Commission shall be appointed by the Director-General of FAO.
2. The Secretary shall be assisted by such secretariat staff as may be required.
3. The Secretary shall be responsible for implementing the policies and activities of the Commission and carrying out such other functions as may be assigned to the Secretary by this Convention and shall report thereon to the Commission.
4. The Secretary shall disseminate:
 - a) international standards to all contracting parties within sixty days of adoption;
 - b) to all contracting parties, lists of points of entry under Article VII paragraph 2(d) communicated by contracting parties;
 - c) lists of regulated pests whose entry is prohibited or referred to in Article VII paragraph 2(i) to all contracting parties and regional plant protection organizations;
 - d) information received from contracting parties on phytosanitary requirements, restrictions and prohibitions referred to in Article VII paragraph 2(b), and descriptions of official national plant protection organizations referred to in Article IV paragraph 4.
5. The Secretary shall provide translations in the official languages of FAO of documentation for meetings of the Commission and international standards.
6. The Secretary shall cooperate with regional plant protection organizations in achieving the aims of the Convention.

ARTICLE XIII

Settlement of disputes

1. If there is any dispute regarding the interpretation or application of this Convention, or if a contracting party considers that any action by another contracting party is in conflict with the obligations of the latter under Articles V and VII of this Convention, especially regarding the basis of prohibiting or restricting the imports of plants, plant products or other regulated articles coming from its territories, the contracting parties concerned shall consult among themselves as soon as possible with a view to resolving the dispute.
2. If the dispute cannot be resolved by the means referred to in paragraph 1, the contracting party or parties concerned may request the Director-General of FAO to appoint a

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committee of experts to consider the question in dispute, in accordance with rules and procedures that may be established by the Commission.

3. This Committee shall include representatives designated by each contracting party concerned. The Committee shall consider the question in dispute, taking into account all documents and other forms of evidence submitted by the contracting parties concerned. The Committee shall prepare a report on the technical aspects of the dispute for the purpose of seeking its resolution. The preparation of the report and its approval shall be according to rules and procedures established by the Commission, and it shall be transmitted by the Director-General to the contracting parties concerned. The report may also be submitted, upon its request, to the competent body of the international organization responsible for resolving trade disputes.

4. The contracting parties agree that the recommendations of such a committee, while not binding in character, will become the basis for renewed consideration by the contracting parties concerned of the matter out of which the disagreement arose.

5. The contracting parties concerned shall share the expenses of the experts.

6. The provisions of this Article shall be complementary to and not in derogation of the dispute settlement procedures provided for in other international agreements dealing with trade matters.

ARTICLE XIV

Substitution of prior agreements

This Convention shall terminate and replace, between contracting parties, the International Convention respecting measures to be taken against the *Phylloxera vastatrix* of 3 November 1881, the additional Convention signed at Berne on 15 April 1889 and the International Convention for the Protection of Plants signed at Rome on 16 April 1929.

ARTICLE XV

Territorial application

1. Any contracting party may at the time of ratification or adherence or at any time thereafter communicate to the Director-General of FAO a declaration that this Convention shall extend to all or any of the territories for the international relations of which it is responsible, and this Convention shall be applicable to all territories specified in the declaration as from the thirtieth day after the receipt of the declaration by the Director-General.

2. Any contracting party which has communicated to the Director-General of FAO a declaration in accordance with paragraph 1 of this Article may at any time communicate a further declaration modifying the scope of any former declaration or terminating the application of the provisions of the present Convention in respect of any territory. Such

modification or termination shall take effect as from the thirtieth day after the receipt of the declaration by the Director-General.

3. The Director-General of FAO shall inform all contracting parties of any declaration received under this Article.

ARTICLE XVI

Supplementary agreements

1. The contracting parties may, for the purpose of meeting special problems of plant protection which need particular attention or action, enter into supplementary agreements. Such agreements may be applicable to specific regions, to specific pests, to specific plants and plant products, to specific methods of international transportation of plants and plant products, or otherwise supplement the provisions of this Convention.

2. Any such supplementary agreements shall come into force for each contracting party concerned after acceptance in accordance with the provisions of the supplementary agreements concerned.

3. Supplementary agreements shall promote the intent of this Convention and shall conform to the principles and provisions of this Convention, as well as to the principles of transparency, non-discrimination and the avoidance of disguised restrictions, particularly on international trade.

ARTICLE XVII

Ratification and adherence

1. This Convention shall be open for signature by all states until 1 May 1952 and shall be ratified at the earliest possible date. The instruments of ratification shall be deposited with the Director-General of FAO, who shall give notice of the date of deposit to each of the signatory states.

2. As soon as this Convention has come into force in accordance with Article XXII it shall be open for adherence by non-signatory states and member organizations of FAO. Adherence shall be effected by the deposit of an instrument of adherence with the Director-General of FAO, who shall notify all contracting parties.

3. When a member organization of FAO becomes a contracting party to this Convention, the member organization shall, in accordance with the provisions of Article II paragraph 7 of the FAO Constitution, as appropriate, notify at the time of its adherence such modifications or clarifications to its declaration of competence submitted under Article II paragraph 5 of the FAO Constitution as may be necessary in light of its acceptance of this Convention. Any contracting party to this Convention may, at any time, request a member organization of FAO that is a contracting party to this Convention to provide information as to which, as between the member organization and its member states, is responsible for the implementation of any

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particular matter covered by this Convention. The member organization shall provide this information within a reasonable time.

ARTICLE XVIII

Non-contracting parties

The contracting parties shall encourage any state or member organization of FAO, not a party to this Convention, to accept this Convention, and shall encourage any non-contracting party to apply phytosanitary measures consistent with the provisions of this Convention and any international standards adopted hereunder.

ARTICLE XIX

Languages

1. The authentic languages of this Convention shall be all official languages of FAO.
2. Nothing in this Convention shall be construed as requiring contracting parties to provide and to publish documents or to provide copies of them other than in the language(s) of the contracting party, except as stated in paragraph 3 below.
3. The following documents shall be in at least one of the official languages of FAO:
 - a) information provided according to Article IV paragraph 4;
 - b) cover notes giving bibliographical data on documents transmitted according to Article VII paragraph 2(b);
 - c) information provided according to Article VII paragraph 2(b), (d), (i) and (j);
 - d) notes giving bibliographical data and a short summary of relevant documents on information provided according to Article VIII paragraph 1(a);
 - e) requests for information from contact points as well as replies to such requests, but not including any attached documents;
 - f) any document made available by contracting parties for meetings of the Commission.

ARTICLE XX

Technical assistance

The contracting parties agree to promote the provision of technical assistance to contracting parties, especially those that are developing contracting parties, either bilaterally or through the appropriate international organizations, with the objective of facilitating the implementation of this Convention.

ARTICLE XXI**Amendment**

1. Any proposal by a contracting party for the amendment of this Convention shall be communicated to the Director-General of FAO.
2. Any proposed amendment of this Convention received by the Director-General of FAO from a contracting party shall be presented to a regular or special session of the Commission for approval and, if the amendment involves important technical changes or imposes additional obligations on the contracting parties, it shall be considered by an advisory committee of specialists convened by FAO prior to the Commission.
3. Notice of any proposed amendment of this Convention, other than amendments to the Annex, shall be transmitted to the contracting parties by the Director-General of FAO not later than the time when the agenda of the session of the Commission at which the matter is to be considered is dispatched.
4. Any such proposed amendment of this Convention shall require the approval of the Commission and shall come into force as from the thirtieth day after acceptance by two-thirds of the contracting parties. For the purpose of this Article, an instrument deposited by a member organization of FAO shall not be counted as additional to those deposited by member states of such an organization.
5. Amendments involving new obligations for contracting parties, however, shall come into force in respect of each contracting party only on acceptance by it and as from the thirtieth day after such acceptance. The instruments of acceptance of amendments involving new obligations shall be deposited with the Director-General of FAO, who shall inform all contracting parties of the receipt of acceptance and the entry into force of amendments.
6. Proposals for amendments to the model phytosanitary certificates set out in the Annex to this Convention shall be sent to the Secretary and shall be considered for approval by the Commission. Approved amendments to the model phytosanitary certificates set out in the Annex to this Convention shall become effective ninety days after their notification to the contracting parties by the Secretary.
7. For a period of not more than twelve months from an amendment to the model phytosanitary certificates set out in the Annex to this Convention becoming effective, the previous version of the phytosanitary certificates shall also be legally valid for the purpose of this Convention.

ARTICLE XXII**Entry into force**

As soon as this Convention has been ratified by three signatory states it shall come into force among them. It shall come into force for each state or member organization of FAO ratifying or adhering thereafter from the date of deposit of its instrument of ratification or adherence.

ARTICLE XXIII

Denunciation

1. Any contracting party may at any time give notice of denunciation of this Convention by notification addressed to the Director-General of FAO. The Director-General shall at once inform all contracting parties.
2. Denunciation shall take effect one year from the date of receipt of the notification by the Director-General of FAO.

ANNEX

Model Phytosanitary Certificate

No. _____

Plant Protection Organization of _____
TO: Plant Protection Organization(s) of _____**I. Description of Consignment**Name and address of exporter: _____
Declared name and address of consignee: _____
Number and description of packages: _____
Distinguishing marks: _____
Place of origin: _____
Declared means of conveyance: _____
Declared point of entry: _____
Name of produce and quantity declared: _____
Botanical name of plants: _____

This is to certify that the plants, plant products or other regulated articles described herein have been inspected and/or tested according to appropriate official procedures and are considered to be free from the quarantine pests specified by the importing contracting party and to conform with the current phytosanitary requirements of the importing contracting party, including those for regulated non-quarantine pests.

They are deemed to be practically free from other pests.*

II. Additional Declaration**III. Disinfestation and/or Disinfection Treatment**Date _____ Treatment _____ Chemical (active ingredient) _____
Duration and temperature _____
Concentration _____
Additional information _____

	Place of issue _____
(Stamp of Organization)	Name of authorized officer _____
	Date _____
	(Signature)

No financial liability with respect to this certificate shall attach to _____ (name of Plant Protection Organization) or to any of its officers or representatives.*

* Optional clause

Model Phytosanitary Certificate for Re-Export

No. _____

Plant Protection Organization
 of _____ (contracting party of re-export)
 TO: Plant Protection Organization(s)
 of _____ (contracting party(ies) of import)

I. Description of Consignment

Name and address of exporter: _____
 Declared name and address of consignee: _____
 Number and description of packages: _____
 Distinguishing marks: _____
 Place of origin: _____
 Declared means of conveyance: _____
 Declared point of entry: _____
 Name of produce and quantity declared: _____
 Botanical name of plants: _____

This is to certify that the plants, plant products or other regulated articles described above _____ were imported into (contracting party of re-export) _____ from _____ (contracting party of origin) covered by Phytosanitary Certificate No. _____, *original certified true copy of which is attached to this certificate; that they are packed repacked in original *new containers, that based on the original phytosanitary certificate and additional inspection , they are considered to conform with the current phytosanitary requirements of the importing contracting party, and that during storage in _____ (contracting party of re-export), the consignment has not been subjected to the risk of infestation or infection.

* Insert tick in appropriate boxes

II. Additional Declaration**III. Disinfestation and/or Disinfection Treatment**

Date _____ Treatment _____ Chemical (active ingredient) _____
 Duration and temperature _____
 Concentration _____
 Additional information _____

(Stamp of Organization) Place of issue _____
 Name of authorized officer _____
 Date _____ (Signature)

No financial liability with respect to this certificate shall attach to _____ (name of Plant Protection Organization) or to any of its officers or representatives.**

** Optional clause

