

SPECIFICATION No. X

Title or proposed title: Guidelines for Analysis of Diversion from Intended Use

Reason for the standard:

Diversion from intended use (DFIU) affects many high-volume, high-value commodities traded regionally and internationally. Harmonized guidance on diversion from intended use is needed to 1) ensure there is a rational basis for measures for commodities that have multiple end-uses with varying degrees of risk; 2) prevent DFIU after importation and 3) select appropriate measures when DFIU is an issue. While intended use and diversion from intended use are mentioned in the IPPC and in several ISPMs (e.g. ISPM 11, ISPM 32), there is no conceptual guidance that explains to contracting parties how to assess risk, ensure rational relationship between risk and strength of measures, or manage risk in cases of diversion from intended use. The lack of harmonized guidance has resulted in ad-hoc solutions by trading partners, and in at least one regional trade dispute.

Diversion from intended use is currently being discussed/considered as an issue in the development of several IPPC commodity-specific standards: e.g., grain, seed, cut flowers. It may be preferable to develop broad conceptual guidance on managing the risk of diversion from intended use, rather than commodity-by-commodity guidance, to ensure that guidance is comprehensive and consistently applied for different commodity types.

Relevance to fulfillment of the NAPPO Strategic Plan:

Developing harmonized guidance on diversion from intended use aligns with the NAPPO strategic plan in the following areas:

Harmonize plant protection activities designed to facilitate safe trade

- Develop priority regional standards and other NAPPO documents, based on the latest available scientific and technical information, of highest relevance to the NAPPO member countries.

Contribute leadership in the international phytosanitary community

- Identify emerging plant health policy issues from outside of the NAPPO region which have the potential to affect its member countries and consider the need for action.

Scope and purpose:

This standard will provide harmonized guidance, applicable to both importing and exporting countries, on 1) how to account for the risk from diversion from intended use when applying phytosanitary measures; 2) how to manage/prevent DFIU after importation and 3) how to select appropriate measures when DFIU is an issue.

The scope of the standard will apply to:

- commonly traded commodities capable of being consumed or vegetatively propagated and other cases where diversion from intended use has implications for the strength of phytosanitary measures
- intentional (planting commodities intended for consumption) and unintentional diversion (e.g., grain spillage)
- all pathways where diversion from an intended to an unintended use may occur (e.g., consumption, planting, processing or others that may be identified by EG).

Tasks:

The EG will undertake the following tasks when developing a standard on diversion from intended use:

- Review existing standards
- Review published literature, meeting reports, dispute documents and discussion papers dealing with diversion
- Examine examples of commodities susceptible to diversion from intended use
- Examine intentional v. unintentional diversion
- Examine diversion of entire consignments v. partial diversion of consignments
- Clarify the role of risk assessment as the basis for phytosanitary measures for DFIU
- Examine situations where risk assessment for DFIU is necessary and situations where it is not
- Develop harmonized guidance that would enable analysts to assess the likelihood, magnitude, and consequences of diversion. Guidance should treat specific issues that may arise in the assessment of risk of DFIU:
 - data needs and availability
 - uncertainty associated with DFIU
 - how to consider the risk from both intended and unintended pathways when assigning a risk ranking
- How to consider the risk from both intended and unintended pathways when imposing measures
- Examine measures at entry or in the importing country to restrict the uses of an imported consignment, including legal or contractual obligations on the importer, import authorization, compliance agreements, labelling of consignments, increased inspections where the potential for diversion exists.
- Develop harmonized guidance for selecting measures when DFIU is an issue
- Other issues as identified by the EG
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Expertise:

- Plant health specialists and pest risk analysts with experience relating to commodities for consumption that can be vegetatively propagated and are commonly diverted e.g., grains, pulses, potatoes Risk managers with experience relating to phytosanitary measures for grains, pulses, potatoes
- Plant health regulators from importing and exporting countries with experience in trade issues concerning diversion from intended use and understanding of relevant WTO/SPS, IPPC disciplines and principles

Participants:

To be determined

Approval:
xxxx

References:

IPPC. 1997. *International Plant Protection Convention*. Rome, IPPC, FAO.

IPPC. December 6-8, 2011. *Open-ended workshop on the international movement of grain*. Vancouver, British Columbia, Canada. IPPC, FAO.

ISPM 11. 2013. *Pest risk analysis for quarantine pests*. Rome, IPPC, FAO.

ISPM 12. 2011. *Phytosanitary certificates*. Rome, IPPC, FAO.

ISPM 16. 2016. *Regulated non-quarantine pests: Concept and application*. Rome, IPPC, FAO.

ISPM 32. 2009. *Categorization of commodities according to their pest risk*. Rome, IPPC, FAO.

RSPM 40. 2014. *Principles of Pest Risk Management for the Import of Commodities*. Ottawa, NAPPO.

NAPPO Discussion document: Diversion from Intended Use.