



PLANT PROTECTION AGREEMENT FOR THE ASIA AND PACIFIC REGION

**Revised Agreement Incorporating Amendments approved by the FAO Council
in November 1999**

(Except Amendments Relating to the South American Leaf Blight of Hevea)¹

PREAMBLE

The Contracting Governments,

- desiring, through cooperative action, to prevent the introduction into and spread within the Asia and Pacific Region of plant pests and to take measures for their control;
- taking fully into account the need to protect plant, human and animal health and the environment;
- taking note of the results of the Uruguay Round of Multilateral Trade Negotiations, in particular the Agreement on the Application of Sanitary and Phytosanitary Measures; and
- recognizing the need for the harmonization of phytosanitary measures,

have concluded the following Agreement, within the framework of Article XIV of the Constitution of the Food and Agriculture Organization of the United Nations, as a supplementary agreement under the International Plant Protection Convention :

ARTICLE I

Purpose and Responsibility

1. The Contracting Governments, with the purpose of securing common and effective action in preventing the introduction and spread of pests of plants and plant products, promoting appropriate measures for their control, and facilitating trade while protecting the sustainability of agriculture and protecting plant, human and animal health and the environment, undertake to adopt the legislative, technical and administrative measures specified in this Agreement.

2. Each Contracting Government shall assume responsibility, without prejudice to obligations assumed under other international agreements, for the fulfilment within its territory of all requirements under this Agreement.

¹ This document consists of the text of the Agreement as currently in force and amendments approved by the FAO Council in November 1999 other than amendments related to the South American leaf blight of Hevea. Amendments adopted by the Commission in 1983 to provide for an autonomous budget but not yet in force are included in footnotes to this document but are not reflected in the text.

3. Where appropriate, the provisions of this Agreement may be deemed by Contracting Governments 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

In this Agreement and in Appendix B hereto, the following terms shall have the meaning hereby assigned to them, except where the context otherwise requires:

“Asia and Pacific Region” (hereinafter called ‘The Region’) – all territories in Asia, east of the western boundary of Pakistan and of the western boundary of China and south of the northern boundary of China and west of the eastern boundary of China, together with all those territories in the Pacific Ocean, the South China Sea and the Indian Ocean situated wholly or partly in the area bounded by longitude 100° East, latitude 45° South, longitude 130° West, latitude 38° North to the point of its intersection with the eastern coast of China;

“Commission” - the Asia and Pacific Plant Protection Commission established in pursuance of Article III of this Agreement;

“Control” – suppression, containment or eradication of a pest population;

“Genetically modified organism” - an organism in which the genome of the organism has been modified by any one or more of the following means:

- by inserting genetic material produced outside a cell into a vector, so as to enable the genetic material to be incorporated into the (host) organism to produce new combinations of genetic material;
- directly introducing into an organism, genetic material prepared outside it;
- fusing two or more cells beyond the taxonomic family to form live cells to produce new combinations of genetic material.

For the purposes of this definition, “organism” means any biological entity capable of transferring or replicating its genetic material, including sterile organisms, viruses and viroids;

“International standards” - international standards established under the International Plant Protection Convention or under the auspices of its Secretariat;

“Introduction” - the entry of a pest resulting in its perpetuation, for the foreseeable future, within an area after entry;

“Official” – established, authorized or performed by a national plant protection organization;

“Organization” - the Food and Agriculture Organization of the United Nations;

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

“Pest free area” – an area in which a specific pest does not occur as demonstrated by scientific evidence and in which, as appropriate, this condition is being officially maintained;

“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;

“Regulated article” - any plant, plant product, storage place, packing, conveyance, container, soil or 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 Government;

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

“Treatment”- officially authorized procedure for the killing, removal or rendering infertile of pests.

ARTICLE III

Establishment of the Asia and Pacific Plant Protection Commission

The Contracting Governments hereby establish a regional Commission, to be known as the Asia and Pacific Plant Protection Commission.

ARTICLE IV

Functions of the Commission

1. The functions of the Commission shall include:
 - (a) the determination of procedures and arrangements necessary for the implementation of this Agreement and the making of recommendations to the Contracting Governments accordingly;
 - (b) the review of the state of plant protection in the region and the need for action to prevent the introduction and spread of pests;
 - (c) the promotion of appropriate measures to prevent the introduction and spread of pests of plants and plant products, and to control pests, including the use of

- integrated pest management, as appropriate, eradication and the establishment of Pest free areas and areas of low pest prevalence and the application of phytosanitary measures in relation to genetically modified organisms;
- (d) the development and adoption of Regional Standards, including the development of pest risk analyses, and the identification of pests for common action and recognition of pest free areas and areas of low pest prevalence;
 - (e) assistance in the development of International Standards to be adopted within the framework of the International Plant Protection Convention;
 - (f) the review of the status of integrated pest management and the promotion of its implementation within the Region;
 - (g) the harmonization of pesticide regulation;
 - (h) the collection, collation and dissemination of information on plant protection in the region as decided by the Commission;
 - (i) the coordination and, as appropriate, the arrangement for training of human resources;
 - (j) the promotion and development of multilateral and, as appropriate, bilateral arrangements to further the objectives of this Agreement;
 - (k) coordination of the work of the sub-commissions and consideration of matters of regional concern arising from that work; and
 - (l) the resolution of technical issues .²

ARTICLE V

Procedures of the Commission

1. Each Contracting Government shall be represented on the Commission and shall have one vote.³ A majority of the Contracting Governments shall constitute a quorum.
2. The Contracting Governments 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

² Text added pursuant to amendments adopted in 1983 but not yet in force:

- (m) the adoption of the programme of activities and the budget for the ensuing financial period, and their transmission to the Director- General for submission to the Council of the Organization prior to implementation.

³ Text added pursuant to amendments adopted in 1983 but not yet in force:

However, a contracting Government which is in arrears in the payment of its financial contributions to the Commission, shall have no vote if the amount of its arrears equals or exceeds the amount of the contributions due from it for the two preceding financial years.

majority of the Contracting Governments present and voting, except as otherwise provided in this Agreement.

3. The Commission shall meet whenever convened by the Chairperson of the Commission after consultation with the Director-General of the Organization. The Chairperson shall convene the Commission at least once every two years or when so requested by at least one third of the Contracting Governments.

4. The Commission shall elect from amongst the delegates a Chairperson who shall serve for a period of two years. The Chairperson shall be eligible for re-election.

5. Expenses incurred by delegates of Contracting Governments in attending sessions of the Commission shall be determined and paid by their respective Governments. The Director-General of the Organization shall appoint and provide the secretariat of the Commission from the staff of the Organization who shall serve only during the sessions of the Commission. The expenses of the secretariat of the Commission shall be determined and paid by the Organization.⁴

6. The Commission shall establish its own rules of procedures.

ARTICLE VI

Sub-commissions

1. The Commission may establish regional sub-commissions. Criteria for membership of regional sub-commissions shall include ecogeographic zoning, crops, pests, geographical proximity, defensible quarantine regions and trade relationships.

2. A Contracting Government may be member of more than one sub-commission.

3. A sub-commission shall provide a forum for consultation and cooperation on plant protection matters affecting the members of the sub-commission and, in addition to any special functions conferred on it by this Agreement, shall exercise, as appropriate, the functions of the Commission on those matters, with the exception of the adoption of regional standards.

4. A sub-commission may recommend regional standards for adoption by the Commission.

⁴ This paragraph deleted pursuant to amendments adopted in 1983 but not yet in force.

ARTICLE VII

Secretariat

1. The Director-General of the Organization shall appoint and provide the secretariat of the Commission from the staff of the Organization.
2. In the event that the Commission has its own autonomous budget, the Director-General shall appoint the Secretary of the Commission with the approval of the Commission.
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 Agreement and shall report thereon to the Commission.
4. The secretariat shall cooperate with the sub-commissions in achieving the aims of the Agreement.

ARTICLE VIII

Regional and Sub-regional Standards

1. The Contracting Governments agree to cooperate in the development of regional and sub-regional standards in accordance with the procedures adopted by the Commission.
2. Regional standards shall be adopted by the Commission by consensus.
3. Sub-regional standards shall be adopted by the sub-commission concerned by consensus and shall be reported to the Commission.
4. Regional and sub-regional standards shall be consistent with the principles of the International Plant Protection Convention.
5. Contracting Governments should take into account, as appropriate, standards adopted under this Agreement when undertaking activities related to this Agreement.

ARTICLE IX

International Cooperation

The Commission shall cooperate with the bodies established under the International Plant Protection Convention, with regional plant protection organizations established under that Convention and, as appropriate, other relevant international organizations to the fullest practicable extent in achieving the aims of this Agreement, and shall in particular:

- 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;

- participate, in so far as is practicable, in any special campaigns for combating pests that may seriously threaten crop production and need international action to meet the emergencies; and
- as appropriate, cooperate with the Secretary of the International Plant Protection Convention and its Commission, in particular, in developing international standards.

ARTICLE X⁵

Reserved

ARTICLE XI⁶

Reserved

⁵ Text added pursuant to amendments adopted in 1983 but not yet in force:

Finance

1. Each Member of the Commission undertakes to contribute its share of the biennial budget, as approved by the Commission by a two-thirds majority of its Members at the session to be convened by the Director-General of the Organization at least once every two years in accordance with paragraph 3 of Article II. The contribution of each Member shall be divided into two equal instalments, one of which shall be payable at the beginning of the first year of the biennium, and the other at the beginning of the second year.
2. Where a Contracting Government becomes a Member of the Commission in the course of a biennium, its contribution for that biennium shall be determined in accordance with principles established by the Commission.
3. Contributions shall be made in cash and shall be payable in currencies to be determined by the Commission after consultation with each Member and with the concurrence of the Director-General of the Organization.
4. Contributions from Members, as well as any supplementary contributions from Members or donations from other sources made to the Commission in order to support specific activities, shall be placed in one or more trust funds administered by the Director-General in conformity with the Financial Regulations of the Organization.
5. At the end of each financial period, any uncommitted balance in the Commission's budget shall be available to finance activities carried out in the following financial period.
6. In addition to making their contributions provided for in paragraph 1 or supplementary contributions in accordance with paragraph 4 of this Article, Members of the Commission may establish a national fund into which they may pay moneys in their national currency or in other currencies to be used for implementing the Commission's programmes and projects. Any such national fund shall be administered by the Member concerned.

⁶ Text added pursuant to amendments adopted in 1983 but not yet in force:

Expenses

1. The Director-General of the Organization shall appoint and provide the secretariat of the Commission from the staff of the Organization. The expenses of the Commission shall be paid out of its budget, with the exception of those relating to such staff and facilities as may be borne by the Organization within the limits of the biennial budget prepared by the Director-General of the Organization and approved by the Conference of the Organization.
2. Expenses incurred by representatives of Contracting Governments in attending sessions of the Commission shall be determined and paid by their respective governments.

ARTICLE XII

Regulated Pests

1. To assist in the undertaking of cooperative action on regulated pests, sub-commissions may compile data sheets, undertake pest risk analyses and develop standards to provide guidance on appropriate phytosanitary measures.
2. For the purpose of preventing the introduction of pests into a sub-region, each sub-commission may establish lists of pests regulated by the countries in the sub-region. For regulated pests included in such lists that are of common concern to countries in a sub-region, each Contracting Government in the sub-region concerned should take into account, as appropriate, with respect to the importation of plants, plant products or other regulated articles from anywhere outside the sub-region, such standards as may be adopted by the sub-commission concerned, without prejudice to such additional measures as the importing Contracting Government may require.

ARTICLE XIII

Measures to Prevent the Spread of Pests Within the Region

For the purpose of preventing the spread of pests within the Region, each Contracting Government should take into account, as appropriate, with respect to the importation into its territory of any plants, plant products or any other regulated articles, from another territory within the Region, such standards as may be adopted by the Commission, without prejudice to such additional measures as the importing Contracting Government may require.

ARTICLE XIV

Measures to Exclude South American Leaf Blight of Hevea from the Region

In view of the importance of the Hevea rubber industry in the Region, and of the danger of introducing the destructive South American leaf blight (*Dothidella ulei*) of the Hevea rubber tree, the Contracting Governments shall take the measures specified in Appendix B to this Agreement. Appendix B to this Agreement may be modified by a decision of the Commission taken unanimously.

ARTICLE XV

Settlement of Disputes

1. If any dispute arises regarding the interpretation or implementation of this Agreement, or regarding action taken by any Contracting Government under this Agreement, the Contracting Governments concerned shall make every effort to settle the dispute amicably through consultations and/or negotiations between them, or such other peaceful methods of dispute resolution as they may choose.
2. If the dispute cannot be resolved by the means referred to in paragraph 1, it shall, upon the request of any of the Contracting Governments concerned be

submitted to the Commission, which may consider the matter in accordance with such rules and procedures as it may establish, and which may offer to the Contracting Governments concerned other facilities for resolving the dispute.

3. If the dispute cannot be resolved by the means referred to in paragraphs 1 and 2, the Contracting Government or Governments concerned may request the Director-General of FAO to appoint a committee of experts to consider the matter in dispute, in accordance with rules and procedures that may be established by the Commission. Such rules and procedures shall be consistent with any rules and procedures on dispute settlement established under, or in connection with, the International Plant Protection Convention.
4. This Committee shall include representatives designated by each Contracting Government concerned. The Committee shall consider the matter in dispute, taking into account all documents and other forms of evidence submitted by the Contracting Governments 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 Governments concerned. The report may also be submitted, upon its request, to the competent body of the international organization responsible for resolving trade disputes.
5. The Contracting Governments agree that the recommendations of such a committee, while not binding in character, will become the basis for renewed consideration by the Contracting Governments concerned of the matter out of which the disagreement arose.
6. The Contracting Governments concerned shall share the expenses of the experts.
7. 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, that may be applicable to a dispute within the meaning of this Article.

ARTICLE XVI

Rights and Obligations of Contracting Governments not Parties to the International Plant Protection Convention

Nothing in the International Plant Protection Convention shall affect the rights and obligations under this Agreement of Contracting Governments that are not parties to the Convention.

ARTICLE XVII

Amendment

1. Any proposal by a Contracting Government for the amendment of this Agreement, except Appendix B, shall be communicated to the Director-General of the Organization.
2. Any proposed amendment of this Agreement received by the Director-General of the Organization shall be presented to a session of the Commission for approval.
3. Notice of any proposed amendment of this Agreement shall be transmitted to the Contracting Governments by the Director-General of the Organization 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. Amendments of this Agreement shall be adopted by the Commission by a two-thirds majority vote of the Contracting Governments present and voting and shall be subject to approval by the Council of the Organization.
5. Any amendment of this Agreement approved by the Council of the Organization shall come into force for all Contracting Governments as from the thirtieth day after acceptance by two thirds of the Contracting Governments. Any amendment involving new obligations for Contracting Governments, however, shall come into force in respect of each Contracting Government, after its acceptance by two thirds of the Contracting Governments, only on acceptance by it and as from the thirtieth day after such acceptance.
6. The instruments of acceptance of amendments shall be deposited with the Director-General of the Organization. The effective date of acceptance shall be the date of such deposit. The Director-General of the Organization shall inform all Contracting Governments of the receipt of acceptances and the entry into force of amendments.

ARTICLE XVIII

Signature and Adherence

1. The Government of any State situated in the Region, or any Government which is responsible for the international relations of a territory or territories in the Region, may become a party to this Agreement, by either
 - (a) signature; or
 - (b) signature subject to ratification followed by such ratification; or
 - (c) adherence.

Governments may not subject their signature, ratification or adherence to any reservation.

2. This Agreement, the text of which was approved by the Council of the Organization on 26 November 1955, shall be open for signature until 30 June 1956 or until the date of its entry into force in conformity with the provisions of Article XIX paragraph 1, whichever date is the later. The Director-General of the Organization shall immediately inform all signatory parties of the signature of this Agreement by any other Government. Ratification shall be effected by the deposit of an instrument of ratification with the Director-General of the Organization and shall become effective as from the date of deposit.

3. This Agreement shall be open for adherence as from 1 July 1956 or from the date of its entry into force in conformity with the provisions of Article XIX, paragraph 1, whichever date is the later. Adherence shall be effected by the deposit of an instrument of adherence with the Director-General of the Organization and shall become effective as from the date of deposit.

4. The Director-General of the Organization shall immediately inform all signatory and adhering Governments of the deposit of an instrument of ratification or of adherence.

ARTICLE XIX

Entry into force

1. This Agreement shall come into force as soon as three Governments have become parties to it, either by signature, or by signature subject to ratification followed by such ratification.

2. The Director-General of the Organization shall notify all signatory Governments of the date of entry into force of this Agreement.

ARTICLE XX

Denunciation and Termination

1. Any Contracting Government may, at any time after the expiration of one year from the date on which it became a party to the Agreement, or from the date on which the Agreement entered into force, whichever is the later, denounce this Agreement by notification addressed to the Director-General of the Organization, who shall at once inform all signatory and adhering Governments of the denunciation.

2. The denunciation shall take effect one year from the date of receipt of the notification by the Director-General of the Organization.

3. This Agreement shall automatically be terminated should the parties to it become fewer than three as the result of denunciations.

IN WITNESS WHEREOF the undersigned, duly authorized to that effect, have signed this Agreement on behalf of their respective Governments on the dates appearing opposite their signatures.

Done at Rome on the twenty-seventh day of February one thousand nine-hundred and fifty six in two copies in the English, French and Spanish languages, which languages shall be equally authoritative. The text of this Agreement shall be authenticated by the Chairperson of the Council of the Organization and the Director-General of the Organization. After expiry of the period during which the Agreement is open for signature, in accordance with Article XVIII, paragraph 2, one copy of the Agreement shall be deposited with the Secretary-General of the United Nations and the other in the archives of the Organization. Additional copies of this text shall be certified by the Director-General of the Organization and furnished to all Governments parties to the Agreement, with the indication of the date on which it has come into force.

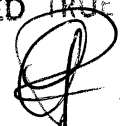
APPENDIX B***MEASURES TO EXCLUDE SOUTH AMERICAN LEAF BLIGHT
OF HEVEA FROM THE REGION**

1. In this Appendix -
 - (a) "the American tropics" means those parts of the continent of America, including adjacent islands, which are bounded by the Tropic of Capricorn (latitude 23 1/2°S) and the Tropic of Cancer (latitude 23 1/2°N) and the meridians of longitude 30°W and 120°W, and includes the part of Mexico north of the Tropic of Cancer;
 - (b) "Competent Authority" means the officer or Government Department or other agency, which each Contracting Government recognizes as its authority for the purpose of this Appendix.
2. Each Contracting Government shall prohibit by law the importation into its territory or territories of any plant or plants of the genus *Hevea* from outside the Region, unless
 - (a) the importation is made for scientific purpose; and
 - (b) written permission has been granted for each consignment of plant or plants by the Competent Authority of the importing territory or territories and the importation is in accordance with such special conditions as may be imposed by the Competent Authority in granting such permission; and
 - (c) the plant or plants have been disinfected and freed of any original soil in the country of origin in a manner acceptable to the Competent Authority of the importing territory and are free from pests and diseases, and each consignment of plant or plants is accompanied or covered by a certificate to the effect that the above requirements have been fulfilled, and signed by an appropriate authority in the country of origin; and
 - (d) each consignment is addressed to and is received by the Competent Authority of the importing territory.

*** Note of the Depositary: Annex A has been deleted as a result of the present amendments to the Agreement. This Annex is referred to as "Annex B" for the purpose of consistency with the Agreement as now in force.**

3. Each Contracting Government shall prohibit by law the importation into its territory or territories of any plant or plants of the genus *Hevea* capable of further growth or propagation (excluding seed) from the American tropics or from any other country in which South American leaf blight (*Dothidella ulei*) is present, unless, in addition to the requirements of paragraph 2 of this Appendix, at a place approved by the Competent Authority of the importing territory and situated outside the Region and outside the American tropics and any other country in which South American leaf blight (*Dothidella ulei*) is present, such plant or plants have been grown for an adequate period at a plant quarantine station for *Hevea* and each consignment of such plant or plants is accompanied or covered by a certificate to the effect that the above requirements have been fulfilled, and signed by the officer-in-charge of such quarantine station.
4. Each Contracting Government shall prohibit by law the importation into its territory or territories of any seed of any plant of the genus *Hevea* from the American tropics or from any other country in which South American leaf blight (*Dothidella ulei*) is present, unless, in addition to the requirements of paragraph 2 of this Appendix, such seed, having been examined and again disinfected at a place approved by the Competent Authority of the importing territory and situated outside the Region and outside the American tropics and any other country in which South American leaf blight (*Dothidella ulei*) is present, has been repacked with new packing materials in new containers, and unless each consignment of such seed is accompanied or covered by a certificate to the effect that the above requirements have been fulfilled, and signed by the officer-in-charge of these operations.
5. Each Contracting Government shall prohibit by law the importation into its territory or territories of any plant or plants of the genus *Hevea* not capable of further growth or propagation (such as fresh or dried herbarium specimens); unless, in addition to the requirements of sub-paragraphs (a), (b) and (d) of paragraph 2 of this Appendix, the Competent Authority of the importing country is satisfied that such plant or plants are required for a legitimate special purpose and that such plant or plants have been sterilized in the country of origin by a method satisfactory to the said Competent Authority.
6. Each Contracting Government shall prohibit by law the importation into its territory or territories of any plant or plants other than the genus *Hevea*, capable of further growth or propagation and originating in the American tropics or in any other country in which South American leaf blight (*Dothidella ulei*) is present, unless written permission has been granted for each consignment of such plant or plants by the Competent Authority of the importing territory or territories and the importation is in accordance with such special conditions as may be imposed by the Competent Authority in granting such permission.
7. The Competent Authority of any territory or territories into which any plant or plants of the genus *Hevea* are imported for further growth or propagation shall ensure that such plant or plants are grown under control for such period as will ensure that such plant or plants are free from all pests and diseases before they are released.

CERTIFIED TRUE COPY



Legal Counsel

Date: 05/10/2005