

## **Rules of Passenger Quarantine in International Health Regulations (2005)**

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From Chinese version, pp, 515-524

### **Abstract**

In modern democratic countries, freedom to travel is one of the basic rights of the people. Only with due reason can the country limit people's freedom of travel through legislation, both nationally and internationally. Recently, international traffic is more convenient, and passengers and goods travel rapidly. Thus, if a disease outbreak occurs without proper and immediate control, the disease may spread with the goods and passengers, causing an interregional or worldwide epidemic. For this reason, the World Health Organization (WHO) amended the "International Sanitary Regulations" (ISR) in 1969 and changed its name to the "International Health Regulations" (IHR), as well as directed its focus on international integration of disease control to prevent the spread of disease. In 2005, World Health Assembly (WHA) adopted the newly amended IHR and made this multilateral treaty open to members. IHR (2005) became effective on June 15, 2007. Highlights of this amendment include: (1) to adopt a standard guideline that assists competent authorities in determining if they are facing a "Public Health

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Received: July 25, 2008; Accepted: Aug 1, 2008.

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Emergency of International Concerns” (PHEIC) to avoid a gap in epidemic control during the spread of an unknown disease, excluding the traditional enumeration of diseases which shall be notified; and (2) to loosen restrictions for the State Party in limiting people’s freedom during emergencies, but also to promote the protection of human rights.

This article reviews the rules of passenger quarantine in IHR (2005), which may be applied to Taiwan by amending the Communicable Disease Control Act of Taiwan. Included are fictional examples to illustrate the measures taken for passengers departing from countries with wide-spread communicable diseases. While the quarantine of goods, animals and plants are imperative, this article focuses solely on the regulations over passengers.

**Keywords:** International Health Regulations, quarantine, disease control

## Introduction

In modern democratic countries, freedom to travel is one of the basic rights of the people. Only with due reason can the country limit people’s freedom of traveling through legislation, both nationally and internationally. For instance, a country can limit people’s freedom to travel to prevent the spread of disease through people, as well as the goods and plants carried via these people.

Recently, international traffic is increasingly more convenient. Because passengers and goods travel rapidly, disease may also spread through these means. If a disease outbreak occurs in a country without proper and immediate control, it may spread with goods and passengers and become an interregional or worldwide epidemic. For this reason, World Health Organization (WHO) amended the “International Sanitary Regulations” (ISR) in 1969 and changed its name to the “International Health Regulations” (IHR), with a focus on international

integration of disease control to avoid the spread of disease. In 2005, World Health Assembly (WHA) adopted a newly amended IHR and made this multilateral treaty open to members. IHR (2005) became effective on June 15, 2007. Highlights of this amendment include: (1) to adopt a standard guideline that assists competent authorities in determining if they are facing a “Public Health Emergency of International Concerns” (PHEIC) to avoid a gap in epidemic control during the spread of an unknown disease, excluding the traditional enumeration of diseases which shall be notified; and (2) to loosen restrictions for the State Party in limiting people’s freedom during emergencies, but also to promote the protection of human rights[1].

This article reviews the rules of passenger quarantine in IHR (2005), which may be applied to Taiwan by amending the Communicable Disease Control Act of Taiwan. Included are fictional examples to illustrate the measures taken for passengers departing from countries with wide-spread communicable diseases. While the quarantine of goods, animals and plants are imperative, this article focuses solely on the regulations over passengers.

### **Passenger Quarantine in International Health Regulations (2005)**

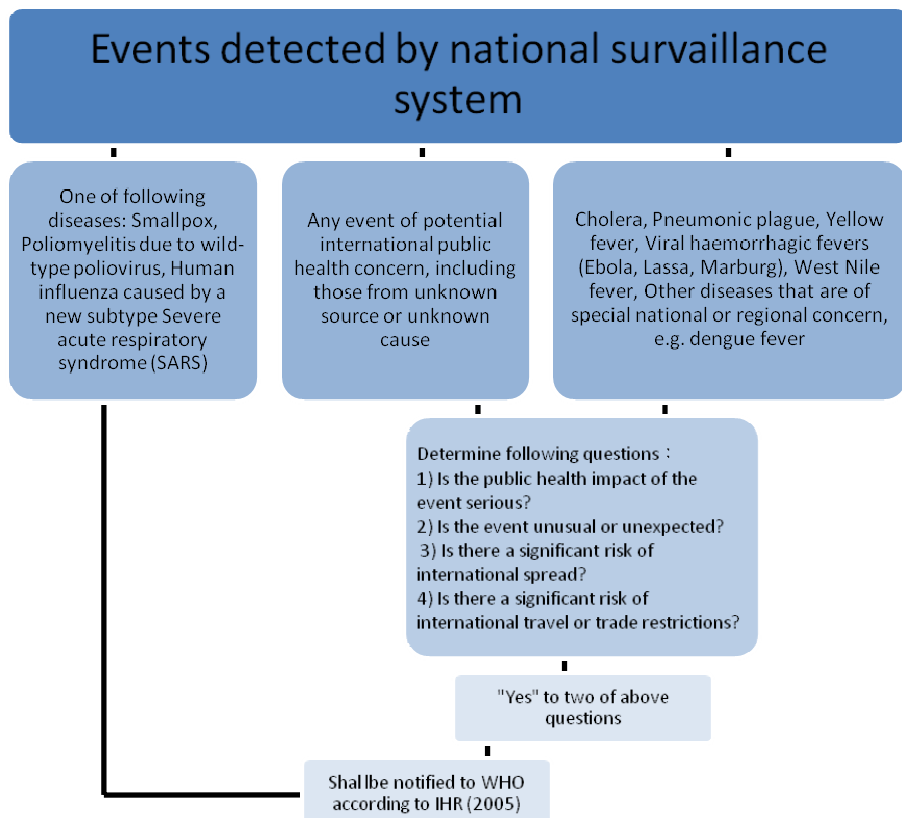
The latest IHR has two types of regulations to prevent disease spreading with international traveling passengers. The first is the “core capacity” statute that member states must develop or maintain, while the second states that measures may be taken according to national regulations, which are based on IHR (2005), in an emergency or under normal circumstances. These are discussed below:

#### **1. Required core capacity of the member states, mandatory liabilities of the member states, and the power of WHO:**

Member states must enhance the national disease surveillance system and

emergency response abilities, as well as establish a notification system. These requirements are specified in Article 5 and Article 13 of IHR (2005), which declares that each state party shall develop, strengthen, and maintain the capacity to detect, assess, notify, and report events, from the country's basic level to central competent authority, as soon as possible but no later than five years from the entry into force of these Regulations for that State Party. The competent authority shall establish a 48-hour assessment and notification system according to Annex 1 of IHR (2005), that once there is a PHEIC occurrence, competent authority can assess and respond during the first event and report to WHO[2].

When there is a public health incidence, the State Party shall assess if this event should be reported to WHO to abide by the instructions from Annex 2 of IHR (2005). Its main criteria are as follow: 1) any cases of unusual or unexpected Smallpox, Poliomyelitis due to wild-type poliovirus, and Human influenza caused by a new subtype Severe acute respiratory syndrome (SARS) and may have serious public health impact, shall be notified at once, or; 2) Cholera, Pneumonic plague, Yellow fever, Viral haemorrhagic fevers (Ebola, Lassa, Marburg), West Nile fever, and other diseases that are of special national or regional concern, e.g. dengue fever, and any event of potential international public health concern should be notified if they meet two of following questions: 1) Is the public health impact of the event serious? 2) Is the event unusual or unexpected? 3) Is there a significant risk of international spread? 4) Is there a significant risk of international travel or trade restrictions? The flowchart is as followed (Fig 1).



**Fig 1. Flowchart of assessing whether an event shall be notified to WHO[3]**

According to IHR (2005), member states shall finish the assessment process in 48 hours and notify WHO in 24 hours if needed. Conversely, if WHO receives a public health risk report from a source other than a formal notification or consultation, WHO may ask related member states to verify such information according to Article 9 and 10. Based on notifications, consultations or verifications, if WHO determines such event is a “PHEIC”, the Director-General shall issue a temporary recommendation regarding goods and passengers that member states can follow, which may include reviewing documents (e.g. health

document or travel history reviews) and taking health measures (e.g. medical examination, vaccination, isolation, quarantine treatment or denial for departure or entry). If the Direct-General determines that a certain public health risk is a long-term threat, then he must take routine or periodically measures and can issue standing recommendations in accordance with Article 53[4].

If there is a serious disease spreading throughout Taiwan, WHO shall be notified through the process delineated in Fig.1. However, because Taiwan is not a member state of WHO, the notification process may be blocked. A possible process for Taiwan is to report its situation to its neighboring country China, where the competent authority of China can then notify WHO in accordance with IHR (2005) Article 6. If Taiwan notifies WHO directly, WHO may treat this notification as “reports from sources other than notifications or consultations” in accordance with Article 9 and request neighboring member state China to verify such report and then reply. After verification, WHO can issue an adequate recommendation according to the seriousness of the event to its member state China, then other countries may take measures according to the recommendation to passengers’ departing from Taiwan and China ( e.g. reviewing of health documents, denial of entry, compulsory medical examination, public health observation, or isolation etc). However, all possible routines will be difficult to execute when the political situation remains tense between Taiwan and China, which is a main reason for Taiwan to urgently seek to join WHO.

## **2. Specific regulations of member states**

One of the most important goals of international disease control is to implement measures for disease control that have a minimal effect on international traffic. On the same note, when it comes to passengers, issues of human rights and freedom are always of first concern. Thus, IHR always limits passenger

intrusion to a minimum. According to Article 31 of IHR, invasive medical examination, vaccination, or other prophylaxis shall not be required as a condition of entry of any traveler to the territory of a State Party; if it is necessary to take medical examinations, they must be the least invasive and intrusive methods used that would still achieve the public health objective; however if there is evidence of an imminent public health risk with the passenger, member states may deny entry of the passenger or take compulsory health measures. This main idea is also expressed in IHR Article 43: when States Parties are implementing health measures, in accordance with their relevant national law and obligations under international law and in response to specific public health risks or public health emergencies of international concern, such measures shall not be more invasive or intrusive to persons than reasonably available alternatives that would achieve the appropriate level of health protection. This illustrates the fact that IHR allows member states to decide to what extent of health measure they want to take, but it is still limited to reasonability, necessity, as well as minimal invasiveness and intrusiveness. In addition, Article 32 states that, in implementing health measures under these Regulations, States Parties shall treat travelers with respect for their dignity, human rights, and fundamental freedoms, while also taking into consideration the gender, sociocultural, ethnic, or religious concerns of travelers. When implementing quarantine, isolation, and medical examination, member states must meet the basic needs of travelers and respect while communicating with them[4].

Another highlight of this IHR amendment is extending respect for passengers not only to physical person freedom, but also to personal data. Under the definition of IHR, “personal data” means any information relating to an identified or identifiable natural person. Article 23 of IHR states a State Party may

require information concerning the traveler's destination so that the traveler may be contacted for public health purposes, or information concerning traveler's travel history to verify if a traveler is an infected suspect; also can take non-invasive medical examinations including the requirement of questionnaires on the health of travelers. Article 35 provides that except travelers seeking temporary or permanent residence, no health documents, other than those provided for under these Regulations or in recommendations issued by WHO, shall be required in international traffic. Once competent authorities acquire personal data under IHR, Article 45 declares that processing of such data shall be kept confidential and anonymous, as well as fair, adequate, relevant and not excessive in relation to that purpose[5].

If there is a serious disease spreading, measures that member states can take are not limited to the stated light restrain or intrusion on person or personal data, but can extend to the level required to respond to such an event, where there is strict restraint on people's freedom to travel. In other words, restrictions may be made on departure or entry in certain areas or certain compulsory health measure may be taken with passengers coming from or going to certain area, e.g. compulsory vaccination for passengers from affected area or isolation for a period of time. However, these compulsory measurements must follow the recommendation of WHO in principle, except when there are special reasons and the event was first reported to WHO but still must meet the requirement of "reasonable". (Article 43)[1]

Fig 2 displays the flowchart of reporting public health events and corresponding actions that may be taken by related states.





**Fig 2. Flowchart of reporting public health events and corresponding actions that may be taken by related states**

In addition, Tab 1 displays recommendations WHO may issue in accordance with different levels of public health risks:

**Tab 1 Recommendations WHO may issue in accordance with different levels of public health risks**

No specific health measures are advised	<div>Risk level</div>
Review travel history in affected areas	
Review proof of medical examination and any laboratory analysis	
Require medical examinations	
Review proof of vaccination or other prophylaxis	
Require vaccination or other prophylaxis	
Place suspect persons under public health observation	
Implement quarantine or other health measures for suspect persons	
Implement isolation and treatment where necessary of affected persons	
Implement tracing of contacts of suspect or affected persons	
Refuse entry of suspect and affected persons	
Refuse entry of unaffected persons to affected areas	
Implement exit screening and/or restrictions on persons from affected areas	

**Passenger quarantine regulations in Taiwan**

Although Taiwan has become a member of WTO with the name “Separate Customs Territory of Taiwan, Penghu, Kimmen and Matsu” (in short, “Chinese

Taipei”), Taiwan is not so fortunate in the public health area. During the SARS epidemic, Taiwan had an opportunity to participate in WHO seminars. However, our application of become an observer in WHA was set aside again, which serves as a great block and threat in exchanging international public health information and cooperation of Taiwan. Although it is unfortunate that Taiwan cannot obtain membership of WHO with any name, Taiwan still must follow international trends as we are still a member of this world. As a result, Taiwan amended the Communicable Disease Control Act (CDCA) in 2007 in order to network with international disease control works. This amendment basically followed regulations accepted by WHO, codified power and responsibilities of competent authorities of every level, and arranged detailed duties of related authorities. There are regulations in the principle of quarantine in Article 58 to 60, which allows authorized competent authority to exercise the Regulations Governing Quarantine at Ports when deemed necessary.

Articles related to passenger quarantine in Regulations Governing Quarantine at Ports can be found in Chapter 3, and this Regulation is also amended to comply with IHR (2005). At the departure or arrival of passengers, competent authority can require passengers to cooperate with following measures: (1) Provide relevant information for contact; (2) Provide history of traveling, history of contact and diseases, health documents, immunization certificate, reports and forms related to communicable diseases, or other relevant information; (3) Accept medical examination; (4) Accept immunization or other preventive measures; and (5) Accept collection of specimens for laboratory testing, referral for medical care, or other quarantine measures[6]. Also, rules of human rights in IHR (2005) and protection requirements of personal data are codified. We believe that regulations in Taiwan can follow international regulations, but whether these

regulations can be enforced and whether interactions with other countries can be fluent still need observations.

Assuming if Japan has been declared as an affected area, traffic between Taiwan and Japan must take quarantine measures recommended by WHO in principle. Unless Japan considers that it is necessary to refuse entry of unaffected persons, Taiwan still cannot restrict travel to Japan. On the other hand, as for passengers departing from Japan, unless there are other considerations, Taiwan must follow recommendation made by WHO to take measures with these passengers. If passengers refuse to cooperate, Taiwan can refuse their entry in accordance with Article 17(2) of Regulations Governing Quarantine at Ports[7].

Additionally, if a great epidemic of a certain highly commutable disease with a high death rate is promptly reported to WHO, a temporary recommendation is issued to Taiwan by WHO. If such disease is a known disease and has definite methods to detect or to cure, WHO may issue recommendations in accordance with methods needed to detect such disease. In contrast, if such epidemic is an unknown disease, or there is no definite method to detect, to cure or to cut its transmission routine, WHO may issue recommendations with wider and stricter restrictions. Under this circumstance, airports may take certain detection measures or health measures to ensure the health of passengers at departure. Likewise, at arrival, destination country may take measures recommended by WHO in principle, e.g. take non-invasive examinations like IR thermometer or visual examination. If an epidemic in Taiwan worsens, passengers from Taiwan may be isolated for a period of time to ensure that they are not infected. If the destination country takes measures stricter than recommended by WHO, unless there are reasonable causes and are reported to WHO, general passengers are not required to accept these measures. Additionally, if airport takes proper health

measures, passengers may be charged with a fee. This is allowed by IHR (2005), but there should be only one tariff and without any discrimination. (Article 40) [1].

## **Conclusion**

Under the strong influence of the IHR (2005), the Commutable Disease Control Act and Regulations Governing Quarantine at Ports of Taiwan have amended to comply with it. On the legal side, regulations of Taiwan comply with international regulations, and Taiwan meets the core capacity requirements. Although IHR (2005) declares rule of universal application in Article 3, it is unfortunate that Taiwan still unable to become observer of WHA in 2008. As a result, Taiwan is blocked from directly reporting incidences to WHO in accordance with IHR. Additionally, there is limited rapid information exchange with other countries, thus forming a gap in promoting disease control. Taiwan has a surveillance system that complies with international standards, but disease control is constantly changing. Ultimately, we hope competent authorities can uphold their responsibility to immediately respond to public health events in order to protect people's health.

## **Acknowledgement**

Collection and arrangement of references of this paper is assisted by Cheng, Yao-Cheng, a graduate school student of financial law department of Fu-Jen Catholic University. We appreciate his work on this paper.

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