

CHAPTER 7

SANITARY AND PHYTOSANITARY MEASURES

Article 7.1: Definitions

For the purposes of this Chapter:

competent authorities mean those authorities within each Party recognised by the national government as responsible for developing and administering sanitary and phytosanitary measures within that Party;

international standards, guidelines and recommendations shall have the same meaning as set out in paragraph 3 of Annex A to the SPS Agreement; and

sanitary or phytosanitary measure shall have the same meaning as set out in paragraph 1 of Annex A to the SPS Agreement.

Article 7.2: Objectives

The objectives of this Chapter are to:

- (a) protect human, animal or plant life or health in the territory of each Party while facilitating bilateral trade;
- (b) provide greater transparency in and deepen understanding of the application of each Party's laws, regulations and procedures relating to sanitary and phytosanitary measures;
- (c) strengthen communication, consultation and cooperation between the Parties and particularly between the Parties' competent authorities which are responsible for matters covered by this Chapter; and
- (d) enhance practical implementation of the principles and disciplines contained within the SPS Agreement.

Article 7.3: Scope

This Chapter shall apply to all sanitary and phytosanitary measures of a Party that may, directly or indirectly, affect trade between the Parties.

Article 7.4: General Provisions

1. Each Party affirms its rights and obligations with respect to each other under the SPS Agreement.
2. The Parties commit to apply the principles of the SPS Agreement in the development, application or recognition of any sanitary or phytosanitary measures with the intent to facilitate trade between them, while protecting human, animal or plant life or health in the territory of each Party. The Parties also recognise the importance of ensuring that their respective sanitary and phytosanitary measures are based on scientific evidence in accordance with the SPS Agreement.

Article 7.5: Equivalence

1. The Parties recognise that the principle of equivalence as provided for under Article 4 of the SPS Agreement, has mutual benefits for both exporting and importing countries.
2. The Parties shall follow the procedures for determining the equivalence of SPS measures and standards developed by the WTO SPS Committee and relevant international standard setting bodies in accordance with Annex A of the SPS Agreement, as amended from time to time.
3. Compliance by an exported product that has been accepted as equivalent to SPS measures and standards of the importing Party shall not remove the need for that product to comply with any other relevant mandatory requirements of the importing Party.

Article 7.6: Adaptation to Regional Conditions

1. The Parties recognise that adaptation to regional conditions including regionalisation, zoning and compartmentalisation is an important means to facilitate trade. To that end, each Party shall take into account, as appropriate, relevant guidelines, standards and recommendations, developed by the WTO SPS Committee and other relevant international standard setting bodies, in accordance with Annex A of the SPS Agreement.
2. The Parties shall give positive consideration to cooperation on matters relating to the recognition of pest- or disease-free areas, and areas of low pest or disease prevalence in accordance with Article 6 of the SPS Agreement with the objective of acquiring confidence in the procedures followed by each Party for the recognition of pest- or disease-free areas, and areas of low pest or disease prevalence.

Article 7.7: Competent Authorities and Contact Points

1. Each Party shall provide the other Party with a description of its competent authorities and their division of responsibilities.
2. Each Party shall provide the other Party with a contact point to facilitate distribution of requests or notifications made in accordance with this Chapter.
3. Each Party shall ensure the information provided under paragraphs 1 and 2 is kept up to date.

Article 7.8: Transparency and Notification

1. The Parties recognise the value of transparency in the adoption and application of sanitary and phytosanitary measures, including through the sharing of information about their respective sanitary and phytosanitary measures.
2. Each Party shall notify changes to its sanitary and phytosanitary measures, including the development and adoption of a regulation, in accordance with Annex B of the SPS Agreement and relevant decisions of the WTO SPS Committee by using the WTO SPS notification submission system as a means of notifying the other Party at an early stage, allowing comments from the other Party in writing, discussing these comments on request of the other Party, and taking the comments and results of the discussion into account.
3. A Party shall normally allow at least 60 days for the other Party to provide written comments on the proposed measure after it makes the notification under paragraph 2. If feasible and appropriate, the notifying Party should allow more than 60 days. The notifying Party shall consider any reasonable request from the other Party to extend the comment period. On request of the other Party, the notifying Party shall respond to the written comments of the other Party in an appropriate manner.
4. The Parties recognise that paragraphs 2 and 3 are subject to the flexibilities for notification provided in Annex B of the SPS Agreement, including in cases where urgent problems of human, animal or plant life or health protection arise or threaten to arise for a Party.

Article 7.9: Cooperation

1. Each Party shall explore opportunities for further cooperation, collaboration and information exchange with the other Party on sanitary and phytosanitary matters of mutual interest in accordance with the objectives of this Chapter.

2. In relation to paragraph 1, each Party shall endeavour to coordinate with regional or multilateral work programmes with the objective of avoiding unnecessary duplication and to maximise the benefits from the application of resources.
3. The Parties agree to further explore how they can strengthen cooperation on the provision of technical assistance especially in relation to trade facilitation.

Article 7.10: Technical Consultations

1. If a Party considers that there is a disruption to trade on sanitary and phytosanitary grounds, it may request technical consultations with the other Party on an urgent basis with a view to facilitating trade.
2. On receiving a request under paragraph 1, the other Party shall promptly provide any requested information and respond to questions pertaining to the matter, and if requested, enter into consultations within 30 days of receiving such a request. The Parties shall make every effort to reach a mutually satisfactory resolution through consultations within 60 days of receiving a request for consultations, or a timeline agreed upon by the Parties.

Article 7.11: SPS Sub-Committee

1. The Parties hereby agree to establish a Sub-Committee on Sanitary and Phytosanitary Matters (SPS Sub-Committee), consisting of representatives from the relevant government agencies of each Party.
2. The SPS Sub-Committee shall meet within one year of the date of entry into force of this Agreement and annually thereafter, unless the Parties otherwise agree.
3. The SPS Sub-Committee may set up subsidiary working groups, as agreed between the Parties.
4. The SPS Sub-Committee shall agree its terms of reference and the terms of reference of subsidiary working groups established under paragraph 3 as soon as possible after the date of entry into force of this Agreement, but no later than the conclusion of the first meeting of the SPS Sub-Committee. The terms of reference may be amended at any time by written agreement of the Parties.
5. The SPS Sub-Committee shall review the progress made by the Parties in implementing their commitments under this Chapter.
6. The SPS Sub-Committee may consider proposals for technical cooperation activities on sanitary and phytosanitary matters and perform any other function set out

in its terms of reference in accordance with paragraph 4, unless the Parties otherwise agree.

7. Subsidiary working groups may meet to make decisions bilaterally implementing the commitments under this Chapter relating to agriculture, food, fisheries, forestry, and sanitary and phytosanitary policy matters and measures. Each working group shall provide to the SPS Sub-Committee updates on the status of their work.

8. Decisions and records of meetings held under this Article shall be agreed by the Parties. Meetings may occur in person, by teleconference, by video conference, or through any other means as mutually determined by the Parties.

9. The SPS Sub-Committee shall report to the Committee on Trade in Goods or a subsidiary body established by it.

Article 7.12: Non-Application of Chapter 20 (Consultations and Dispute Settlement)

Chapter 20 (Consultations and Dispute Settlement) shall not apply to any matter arising under this Chapter.