

Chapter 6

Sanitary and Phytosanitary Measures

Article 57: Objectives

The objectives of this Chapter are to:

- (a) facilitate trade between the Parties, while protecting human, animal or plant life or health in the territory of the Parties;
- (b) uphold and enhance the implementation of the SPS Agreement and applicable international standards, guidelines and recommendations developed by relevant international organizations; and
- (c) provide means to improve communication and consultation to resolve sanitary and phytosanitary issues in an efficient manner.

Article 58: Scope

This Chapter applies to all SPS measures of a Party that may, directly or indirectly, affect trade between the Parties.

Article 59: Definitions

For purposes of this Chapter:

- (a) the definitions in Annex A of the SPS Agreement and the definitions provided in the glossary of harmonized terms of the relevant international organizations shall apply to this Chapter; and
- (b) relevant international organizations refers to the organizations mentioned in the SPS Agreement, namely the International Plant Protection Convention (IPPC), the *Codex Alimentarius* (Codex) and the World Organization for Animal Health (OIE).

Article 60: Reaffirmation of Rights and Obligations

1. The Parties reaffirm their rights and obligations under the SPS Agreement. The Parties agree to follow the principles of scientific justification, harmonization, equivalence and regionalization of the SPS Agreement when developing relevant SPS measures. Nothing in this Chapter shall prevent a Party from adopting or maintaining SPS measures in accordance with its rights and obligations under the SPS Agreement.

2. The Parties recognize and apply the decisions on the application of the SPS Agreement adopted by the WTO Committee on Sanitary and Phytosanitary Measures (hereinafter “WTO/SPS Committee”).

Article 61: Regionalization

The Parties recognize the principle of regionalization, as provided in Article 6 of the SPS Agreement, as a tool to properly and actively resolve issues of concern to each other, taking into account the appropriate criteria or guidelines developed by the relevant international organizations and decisions adopted by the WTO/SPS Committee.

Article 62: Equivalence

1. The Parties recognize that the principle of equivalence as set out in Article 4 of the SPS Agreement, as applied to SPS measures, produces mutual benefits for both Parties. The importing Party shall give positive consideration to accepting the SPS measures of the exporting Party as equivalent, if the exporting Party objectively demonstrates to the importing Party that its measures achieve the importing Party's appropriate level of sanitary or phytosanitary protection.

2. For the recognition of equivalence, the Parties should take into account international standards, guidelines and recommendations developed by the relevant international organizations and decisions adopted by the WTO/SPS Committee, where relevant to the particular case.

Article 63: Risk Analysis

1. The Parties recognize that risk analysis is an important tool for ensuring that SPS measures have scientific basis. The Parties shall ensure that their SPS measures are based on an assessment, as appropriate to the circumstances, of the risks to human, animal or plant life or health as provided in Article 5 of the SPS Agreement, and take into account the risk assessment techniques developed by the relevant international organizations.

2. The importing Party shall give priority consideration to market access requests of the exporting Party by undertaking as soon as possible the risk analysis in a manner consistent with the domestic legislation of the importing Party. For this purpose, the competent authorities of the Parties will maintain close communications and good working relationships at each stage of the risk analysis process in order to facilitate it and to avoid undue delay. The exporting Party shall provide the necessary information required by the importing Party for the risk assessment.

3. At the end of the risk analysis process, evidence supporting the risk analysis, remaining uncertainties and risk management proposals shall be communicated to the exporting Party.

4. If an exporting Party submits multiple market access requests to the importing Party, the exporting Party should identify its priority among these requests and this will be taken into account by the importing Party.

5. If a protocol of sanitary and/or phytosanitary requirements is needed based on risk analysis, the competent authorities of the Parties shall enter into negotiations as soon as possible, with the aim of adopting the protocol. The establishment, review and amendment of the protocol by the competent authorities will be in accordance with the provisions of this Chapter and the SPS Agreement. In this sense, the protocol shall be scientifically justified, and shall not constitute a disguised restriction on trade.

Article 64: Control, Inspection and Approval Procedures

Control, inspection and approval procedures shall be carried out in accordance with the provisions of Article 8 and Annex C of the SPS Agreement.

Article 65: Transparency

1. The Parties shall notify each other electronically through their respective WTO/SPS Enquiry Points of their proposed SPS measures that may affect trade between the Parties, in accordance with relevant provisions of the SPS Agreement. Each Party shall allow at least 60 days for the other Party to present comments on any notifications except where urgent problems of health protection arise or threaten to arise. This comment period is encouraged to be extended when the WTO/SPS Committee recommends a longer period. Each Party shall provide the full text of its notified SPS measures to the other Party within 5 working days after receiving the written request.

2. The Parties shall ensure that all adopted SPS measures are published and available to the other Party upon request and at no cost.

3. The Parties agree to strengthen information exchange cooperation between their WTO/SPS Enquiry Points and contact points established in Annex 5 (Contact Points for Sanitary and Phytosanitary Matters), including sharing, when available, translated English versions of the full texts of the adopted SPS measures as well as relevant information.

4. The exporting Party shall take effective measures to prevent and avoid sanitary and phytosanitary risks in bilateral trade, including notification in a timely manner to the importing Party of possible risks associated with its exports. Both Parties should encourage their competent authorities to enhance cooperation in this field and sign cooperative agreements if needed.

5. The importing Party shall notify the exporting Party in a timely manner of any problems that might occur with products imported from the exporting Party, the measure to be taken and its justifications, through the contact points established in Annex 5 (Contact Points for Sanitary and Phytosanitary Matters).

Article 66: Technical Cooperation

1. The Parties agree to strengthen bilateral technical cooperation on sanitary and phytosanitary issues, with a view to enhancing the mutual understanding of the regulatory systems of the Parties and facilitating access to

each other's markets, with respect to, *inter alia*, laboratory testing techniques, disease/pest control methods and risk analysis methodology. The Parties agree to explore cooperation programs on technical assistance and capacity building, including but not limited to training programs and exchange visits.

2. Both Parties agree to encourage their WTO/SPS Enquiry Points to work in the following areas:

- (a) providing assistance in English translation;
- (b) providing information for specific products; and
- (c) providing information on relevant regulations and documents.

Article 67: Committee on Sanitary and Phytosanitary Matters

1. The Parties hereby establish a Committee on Sanitary and Phytosanitary Matters (hereinafter "SPS Committee"), comprising representatives of each Party who have responsibility for sanitary and phytosanitary matters.

2. The SPS Committee shall convene its first meeting not later than 1 year after the date of entry into force of this Agreement and meet once every 2 years or at any time agreed by the Parties, in presence or through teleconference, videoconference, or any other means agreed by the Parties.

3. At its first meeting, the SPS Committee shall establish rules of procedure to guide its operation.

4. The SPS Committee shall have the following functions:

- (a) to facilitate and monitor the implementation of this Chapter;
- (b) to promote and facilitate communication, information exchange between the competent authorities with a view to enhancing mutual understanding of each Party's SPS measures and the regulatory processes that relate to those measures;
- (c) to provide a forum for discussions on sanitary and phytosanitary issues that affect, or may affect, trade between the Parties;
- (d) to coordinate technical cooperation programs on sanitary and phytosanitary matters;
- (e) to enhance communication and cooperation in international organizations related to sanitary and phytosanitary matters;
- (f) to establish *ad hoc* working groups in accordance with its terms of reference, when necessary;

- (g) to review this Chapter in light of developments under the SPS Agreement; and
 - (h) other functions mutually agreed by the Parties.
5. The SPS Committee shall be coordinated by:
- (a) in the case of China, the Department of International Cooperation, General Administration of Quality Supervision, Inspection and Quarantine, or its successor; and
 - (b) in the case of Costa Rica, the Directorate for the Application of International Trade Agreements of the Ministry of Foreign Trade (*Dirección de Aplicación de Acuerdos Comerciales Internacionales del Ministerio de Comercio Exterior*), or its successor.
6. In order to facilitate daily communication, the Parties designate contact points in the competent authorities. For detailed information, see Annex 5 (Contact Points for Sanitary and Phytosanitary Matters).