

programmes for Standards, Technical Regulations and Conformity Assessment Procedures Chapters in such ASEAN FTAs.

5. The ACCSQ shall take the necessary actions to ensure effective implementation of the ASEAN Sectoral Mutual Recognition Arrangements and ASEAN Harmonised Regulatory Regimes.

## **CHAPTER 8 SANITARY AND PHYTOSANITARY MEASURES**

### **Article 79 Objectives**

The objectives of this Chapter are to:

- (a) facilitate trade between and among Member States while protecting human, animal or plant life or health in each Member State;
- (b) provide a framework and guidelines on requirements in the application of sanitary and phytosanitary measures among Member States, particularly to achieve commitments set forth in the ASEAN Economic Community Blueprint;
- (c) strengthen co-operation among Member States in protecting human, animal or plant life or health; and
- (d) facilitate and strengthen implementation of this Chapter in accordance with the principles and disciplines in the *Agreement on the Application of Sanitary and Phytosanitary Measures* contained in Annex 1A to the WTO Agreement and this Agreement.

### **Article 80 Definitions**

For the purposes of this Chapter:

- (a) **international standards, guidelines and recommendations** shall have the same meaning as in Annex A of paragraph 3 to the *SPS Agreement*;

- (b) **sanitary or phytosanitary measures** shall have the same meaning as in Annex A of paragraph 1 to the *SPS Agreement*; and
- (c) **SPS Agreement** means the *Agreement on the Application of Sanitary and Phytosanitary Measures* contained in Annex 1A to the WTO Agreement.

## **Article 81**

### **General Provisions and Obligations**

1. The provisions of this Chapter apply to all sanitary and phytosanitary measures of a Member State that may, directly or indirectly, affect trade between and among Member States.
2. Member States affirm their rights and obligations with respect to each other under the *SPS Agreement*.
3. Each Member State commits 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 and among Member States while protecting human, animal or plant life or health in each Member State.
4. In the implementation of their sanitary or phytosanitary measures, Member States agree to be guided, where applicable, by relevant international standards, guidelines and recommendations developed by international organisations such as, the Codex Alimentarius Commission (Codex), the World Organisation for Animal Health (OIE), the International Plant Protection Convention (IPPC) and ASEAN.
5. Member States hereby agree that the laws, regulations, and procedures for application of SPS measures in their respective territories shall be listed in Annex 9, which form an integral part of this Agreement. Member States hereby agree to ensure that their respective national sanitary and phytosanitary laws, regulations and procedures as listed in Annex 9 are readily available and accessible to any interested Member States.
6. Any change to national sanitary and phytosanitary laws, regulations and procedures shall be subject to Article 11.

**Article 82**  
**Implementation and Institutional Arrangements**

1. For effective implementation of this Chapter, an ASEAN Committee on Sanitary and Phytosanitary Measures (AC-SPS) shall be established to conduct committee meetings at least once a year among Member States.
2. The functions of the AC-SPS shall be to:
  - (a) facilitate exchange of information on such matters as occurrences of sanitary or phytosanitary incidents in the Member States and non-Member States, and change or introduction of sanitary and phytosanitary-related regulations and standards of the Member States, which may, directly or indirectly, affect trade between and among Member States;
  - (b) facilitate co-operation in the area of sanitary or phytosanitary measures including capacity building, technical assistance and exchange of experts, subject to the availability of appropriated funds and the applicable laws and regulations of each Member State;
  - (c) endeavour to resolve sanitary and phytosanitary matters with a view to facilitate trade between and among Member States. The AC-SPS may establish *ad hoc* task force to undertake science-based consultations to identify and address specific issues that may arise from the application of sanitary or phytosanitary measures; and
  - (d) submit regular reports of developments and recommendations in the implementation of this Chapter to the AFTA Council, through SEOM for further action.
3. Each Member State shall establish a contact point for effective communication and co-operation. The list of respective designated contact points appears in Annex 10.
4. Each Member State shall ensure the information in Annex 10 is updated.

**Article 83**  
**Notification under Emergency Situation**

1. Each Member State acknowledges the value of exchanging information, particularly in an emergency situation on food safety crisis, interception, control of pests and/or disease outbreaks and its sanitary or phytosanitary measures.
2. Member States shall immediately notify all contact points and the ASEAN Secretariat should the following situations occur:
  - (a) in case of food safety crisis, pest or disease outbreaks; and
  - (b) provisional sanitary or phytosanitary measures against or affecting the exports of the other Member States are considered necessary to protect the human, animal or plant life or health of the importing Member State.
3. The exporting Member State should, to the extent possible, endeavour to provide information to the importing Member State if the exporting Member State identifies that an export consignment which may be associated with a significant sanitary or phytosanitary risk has been exported.

#### **Article 84** **Equivalence**

1. Each Member State shall initiate and further strengthen co-operation on equivalence in accordance with the *SPS Agreement* and relevant international standards, guidelines and recommendations, in order to facilitate trade between and among the Member States.
2. To facilitate trade, Member States may develop equivalence arrangements and recommend equivalence decisions, in particular in accordance with Article 4 of the *SPS Agreement* and with the guidance provided by the relevant international and regional standard setting bodies namely Codex, OIE, IPPC and ASEAN and by the Committee on Sanitary and Phytosanitary Measures established in accordance with Article 12 of the *SPS Agreement*.
3. Each Member State shall, upon request, enter into consultations with the aim of achieving bilateral and/or regional recognition arrangements of the equivalence of specified sanitary or phytosanitary measures.

## **Article 85**

### **Co-operation**

1. Each Member State shall explore opportunities for further co-operation, technical assistance, collaboration and information exchange with other Member States on sanitary and phytosanitary matters of mutual interest consistent with the objectives of this Chapter and the commitments set forth in the ASEAN Economic Community Blueprint.
2. Member States shall further strengthen co-operation for the control and eradication of pests and disease outbreaks, and other emergency cases related to sanitary or phytosanitary measures as well as to assist other Member States to comply with SPS requirements.
3. In implementing the provisions of paragraph 1 of this Article, Member States shall co-ordinate their undertakings with the activities conducted in the regional and multilateral context, with the objectives of avoiding unnecessary duplication and maximising efficiency of efforts of the Member States in this field.
4. Any two (2) Member States may, by mutual agreement, co-operate on adaptation to regional conditions including the concept of pests and disease free areas and areas of low pests or disease prevalence, in accordance with the *SPS Agreement* and relevant international standards, guidelines and recommendations, in order to facilitate trade between the Member States.

## **CHAPTER 9**

### **TRADE REMEDY MEASURES**

## **Article 86**

### **Safeguard Measures**

Each Member State which is a WTO member retains its rights and obligations under Article XIX of GATT 1994, and the *Agreement on Safeguards* or Article 5 of the *Agreement on Agriculture*.

## **Article 87**

### **Anti-dumping and Countervailing Duties**

1. Member States affirm their rights and obligations with respect to each other relating to the application of anti-dumping under Article VI of GATT 1994 and the *Agreement on Implementation of Article VI of General Agreement on Tariffs and Trade 1994* as contained in Annex 1A to the WTO Agreement.