

CHAPTER 6

SANITARY AND PHYTOSANITARY MEASURES

Article 6.1

Definitions

1. For the purposes of this Chapter, the definitions in Annex A of the *SPS Agreement* are incorporated into and made part of this Chapter, *mutatis mutandis*.
2. The relevant definitions developed by Codex Alimentarius Commission (“Codex”), the World Organization for Animal Health (“OIE”) and under the framework of the *International Plant Protection Convention* (“IPPC”) shall apply in the implementation of this Chapter.

Article 6.2

Objectives

The objectives of this Chapter are to:

- (a) facilitate bilateral trade between the Parties, while protecting human, animal or plant life or health in the Area of each Party;
- (b) uphold and enhance implementation of the *SPS Agreement* and applicable international standards, guidelines and recommendations developed by Codex, OIE and under the framework of the IPPC;
- (c) provide a means to resolve, where possible, problems arising from sanitary and phytosanitary measures that may affect trade, and to expand trade opportunities;
- (d) provide a means to improve communication, consultation and cooperation between the Parties on sanitary and phytosanitary matters; and
- (e) strengthen collaboration between the Parties in relevant international bodies that develop international standards, guidelines and recommendations relevant to the matters covered by this Chapter.

Article 6.3

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 6.4

Rights and Obligations

The Parties affirm their rights and obligations with respect to each other under the *SPS Agreement*.

Article 6.5

Transparency and Exchange of Information

1. The Parties confirm their commitments to implementing the transparency provisions set out in Article 7 and Annex B of the *SPS Agreement* and relevant Decisions and Recommendations on transparency adopted by the WTO Committee on Sanitary and Phytosanitary Measures.
2. Each Party shall notify the other in a timely and appropriate manner in writing through the contact points of any significant food safety issue or change in animal health, plant health or pest status in its Area that is relevant to existing trade.

Article 6.6

Equivalence

Each Party may make determinations of equivalence consistent with the *SPS Agreement* and in particular with its Article 4, relevant Decisions and Recommendations on equivalence adopted by the WTO Committee on Sanitary and Phytosanitary Measures, and relevant international standards, guidelines and recommendations from the relevant international organisations stated in the *SPS Agreement*.

Article 6.7

Adaptation to Regional Conditions

Each Party may make determinations in relation to regionalisation, pest-free areas, areas of low pest prevalence, zoning and compartmentalisation consistent with the *SPS Agreement* and in particular with its Article 6, relevant Decisions and Recommendations adopted by the WTO Committee on Sanitary and Phytosanitary Measures, and relevant international standards, guidelines and recommendations from the relevant international organisations stated in the *SPS Agreement*.

Article 6.8

Cooperation

1. The Parties agree to cooperate to facilitate the implementation of this Chapter.
2. The Parties may explore opportunities for further cooperation, collaboration and information exchange on sanitary or phytosanitary matters of mutual interest consistent with this Chapter, including in relevant international standard-setting bodies.

Article 6.9

Competent Authorities and Contact Points

1. The competent authorities responsible for the implementation of the measures referred to in this Chapter are listed in Annex 6.9.1
2. The contact points that have the responsibility relating to communications between the Parties under this Chapter are set out in Annex 6.9.2.
3. The Parties shall inform each other of any significant change in the structure, organisation and division of responsibility of the competent authorities or contact points.

Article 6.10

Sub-Committee on Sanitary and Phytosanitary Measures

1. The Parties hereby establish a Sub-Committee on Sanitary and Phytosanitary Measures (“Sub-Committee on SPS”) under the Committee on Trade in Goods.
2. The Sub-Committee on SPS shall be comprised of representatives of each Party who have responsibilities for the development, implementation and enforcement of sanitary and phytosanitary measures.
3. The objective of the Sub-Committee on SPS is to facilitate effective implementation of this Chapter by providing a forum for:
 - (a) enhancing mutual understanding of each Party’s sanitary and phytosanitary measures and the regulatory processes related to those measures;
 - (b) discussing matters related to the development or application of sanitary and phytosanitary measures of a Party that may, directly or indirectly, affect human, animal and plant health and trade between the Parties;
 - (c) addressing any bilateral issues arising from the implementation of sanitary and phytosanitary measures between the Parties;
 - (d) reviewing progress on addressing bilateral issues arising from the implementation of sanitary and phytosanitary measures between the Parties;
 - (e) coordinating technical cooperation programmes on sanitary and phytosanitary measures;
 - (f) exchanging views on issues relating to the meetings of the WTO Committee on Sanitary and Phytosanitary Measures, Codex, OIE and IPPC; and

- (g) holding consultations on the disputes concerning sanitary and phytosanitary matters.³
4. The Sub-Committee on SPS may meet at such venues and time as may be agreed by the Parties.
5. The Sub-Committee on SPS may meet in person, unless both Parties mutually agree otherwise, in which case it may meet via teleconference, videoconference or any other means that allow the fulfilment of its objectives.
6. The terms of reference of the Sub-Committee on SPS shall be determined in its first meeting.
7. The Sub-Committee on SPS shall seek to enhance and ensure cooperation between the Parties' agencies with responsibility for sanitary and phytosanitary measures.
8. The Sub-Committee on SPS shall report its activities to the Committee on Trade in Goods.

Article 6.11

Consultations

1. At the request of a Party for consultations on any matter arising under this Chapter, the Parties shall enter into consultations. A request for consultations shall be made through the contact points listed in Annex 6.9.2
2. Consultations shall be carried out within 30 days of receiving the request for consultations given by the requesting Party, unless otherwise agreed by the Parties. Such consultations may be conducted via teleconference, videoconference or any other means agreed by the Parties.
3. The consultations under this Article shall be without prejudice to the rights and obligations of the Parties under Chapter 17 (Dispute Settlement) or under the *WTO Dispute Settlement Understanding*.

³ It is understood that consultations held pursuant to paragraph 3(g) shall be without prejudice to the rights and obligations of the Parties under Chapter 17 (Dispute Settlement) or under the *WTO Dispute Settlement Understanding*.