

CHAPTER 5 SANITARY AND PHYTOSANITARY MEASURES

Article 5.1 Objectives

The objectives of this Chapter are to:

- (a) facilitate bilateral trade in food, animals and plants, including their products, while protecting human, animal or plant life or health in the territory of each Party;
- (b) deepen mutual understanding of each Party's laws, regulations and procedures relating to sanitary and phytosanitary measures;
- (c) enhance implementation by the Parties of the SPS Agreement; and
- (d) strengthen communication, consultation and cooperation between the Parties on sanitary and phytosanitary issues.

Article 5.2 Scope

1. This Chapter shall apply to all sanitary and phytosanitary measures of a Party that may, directly or indirectly, affect trade between the Parties.
2. Neither Party may have recourse to dispute settlement under this Agreement for any matter arising under this Chapter.

Article 5.3 Definitions

For the purposes of this Chapter:

- (a) **sanitary and phytosanitary measures** means any measure referred to in Annex A, paragraph 1 of the SPS Agreement; and
- (b) **competent authorities** means those authorities which are accountable for the implementation of matters within the scope of this Chapter.

Article 5.4 Affirmation of the SPS Agreement

The Parties affirm their rights and obligations with respect to each other under the SPS Agreement and agree that this Chapter does not limit these rights and obligations.

Article 5.5

Information Exchange

1. Acknowledging the value of exchanging information in a timely manner relating to their respective sanitary and phytosanitary measures and ensuring transparency in the implementation of such measures, each Party shall facilitate the exchange of information on their respective sanitary and phytosanitary regimes.
2. In particular, each Party shall:
 - (a) establish a contact point for sanitary and phytosanitary measures;
 - (b) provide to the contact point of the other Party a list of its competent authorities and notify the contact point of the other Party of any significant changes in the structure, organisation and division of responsibility within its administration relevant to this Chapter; and
 - (c) provide to the contact point of the other Party a copy of notifications made in accordance with the SPS Agreement of new or revised sanitary and phytosanitary measures including measures imposed in response to an urgent threat to human, animal or plant life or health.

Article 5.6

Cooperation in Implementation of the SPS Agreement

1. The Parties shall cooperate to enhance implementation of the SPS Agreement, including through:
 - (a) exchanging information relating to their implementation of the SPS Agreement; and
 - (b) strengthening collaboration between the Parties in their involvement in the work of relevant international bodies that develop international standards, guidelines and recommendations relevant to the matters covered by this Chapter.
2. Each Party agrees to give consideration to the issues of regionalisation and equivalence, if raised by the other Party, in accordance with the SPS Agreement, in order to facilitate trade between the Parties.

Article 5.7

Consultative Arrangements

1. The Parties note the existence of the Malaysia-Australia Agricultural Cooperation Working Group (MAACWG) and its subsidiary working groups.
2. To enhance these existing arrangements, the Parties agree to establish an SPS Working Group consisting of representatives of the competent authorities of the Parties and any other relevant representatives of the Parties.

3. The SPS Working Group shall provide a forum for consideration of any matter relating to the implementation of this Chapter, including:

- (a) exchanging information on each Party's sanitary and phytosanitary measures and the regulatory processes that relate to those measures;
- (b) improving bilateral understanding related to specific implementation issues concerning the SPS Agreement;
- (c) considering, where appropriate, sanitary and phytosanitary matters that may arise between the Parties; and
- (d) exploring and enhancing opportunities for further cooperation and exchange of information of mutual interest on matters relating to SPS measures.

4. The SPS Working Group shall meet annually, or as otherwise agreed by the Parties, to promote the objectives set out in Article 5.1 (Objectives).

5. The SPS Working Group shall report to the FTA Joint Commission or a subsidiary body established by it.

6. The Parties agree to enter into urgent consultations at the request of either Party where trade is disrupted on sanitary and phytosanitary grounds, with a view to facilitating trade and minimising the impact of the disruption.