

CHAPTER 7

SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 7.1

Objectives

The objectives of this Chapter are to:

- (a) facilitate bilateral trade and access to respective markets for goods falling under the scope of this Chapter and furthering the implementation of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (hereinafter referred to as the “SPS Agreement”);
- (b) facilitate information exchange and technical cooperation between the Parties, and enhance mutual understanding of each Party’s regulatory system; and
- (c) strengthen cooperation between the Parties in the field of sanitary and phytosanitary measures.

ARTICLE 7.2

Affirmation

Except as otherwise provided for in this Chapter, the SPS Agreement shall apply between the Parties and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 7.3

Scope and Definitions

1. This Chapter applies to sanitary and phytosanitary measures which may, directly or indirectly, affect trade between the Parties.
2. The definitions in Annex A of the SPS Agreement shall apply to this Chapter.

ARTICLE 7.4

Harmonisation

To harmonise sanitary and phytosanitary measures as broadly as possible, the Parties shall base their sanitary and phytosanitary measures on international standards, guidelines and recommendations established by the Codex Alimentarius Commission (CAC), the World Organisation for Animal Health (OIE), and the relevant international regional organisations operating within the framework of the International Plant Protection Convention (IPPC) where they exist or their completion is imminent.

ARTICLE 7.5

Adaptation to Regional Conditions

1. The Parties agree that issues related to the adaptation of zones with different sanitary and phytosanitary status and that affect or may affect trade between them shall be addressed in accordance with Article 6 of the SPS Agreement.
2. The Parties take note of the Guidelines to further the Practical Implementation of Article 6 of the Agreement on the Application of Sanitary and Phytosanitary Measures (G/SPS/48) adopted by the WTO Committee on Sanitary and Phytosanitary Measures and of relevant standards developed by OIE and IPPC.
3. In case of an event affecting the sanitary or phytosanitary status of a pest-free or disease-free area or an area of low pest or disease prevalence, the Parties shall do their utmost for re-establishing such status based on risk assessments taking into account relevant international standards, guidelines and recommendations.

ARTICLE 7.6

Inspection and Certification Systems

1. The Parties agree to further enhance their cooperation in the field of assessment of inspection and certification systems. The importing Party shall take into account the Codex Alimentarius Committee on Food Import and Export Inspection and Certification Systems standards and guidelines.
2. The assessment tools shall as a rule be audits of all or part of an exporting Party's official inspection and certification system, including the ability of the competent authority to enforce and take action based on adequate legislation. These audits may also encompass inspections of a representative percentage of the facilities seeking access to the export market.
3. The need to perform on-site inspections shall be justified.
4. Mutually agreed corrective actions, timeframes and follow-up verification procedures shall be clearly established and documented in the assessment report.

ARTICLE 7.7

Technical Cooperation

1. With a view to increasing mutual understanding of the respective regulatory systems, enhancing capacity building and facilitating bilateral trade in agricultural products and food, and improving their sanitary and phytosanitary systems, the Parties shall strengthen technical cooperation in the field of sanitary and phytosanitary measures.
2. The Parties have concluded a side agreement pursuant to Article 7.11 to further this Article.

ARTICLE 7.8

Measures at the Border

Where a Party detains, at a port of entry, goods exported from the other Party due to a perceived failure to comply with sanitary or phytosanitary requirements, the reasons for the detention shall be promptly notified to the importer or his or her representative.

ARTICLE 7.9

Sub-Committee on Sanitary and Phytosanitary Measures

1. A Sub-Committee on sanitary and phytosanitary measures (hereinafter referred to as the “SPS Sub-Committee”) is hereby established under the Joint Committee.
2. The functions of the SPS Sub-Committee shall be:
 - (a) monitoring the implementation of this Chapter;
 - (b) coordinating technical cooperation activities;
 - (c) facilitating technical consultations pursuant to Article 7.10;
 - (d) identifying areas for enhanced cooperation, including giving favourable consideration to any specific proposal made by either Party;
 - (e) establishing a dialogue between competent authorities in accordance with the objectives of this Chapter;
 - (f) initiating side agreements where appropriate pursuant to Article 7.11;
 - (g) coordinating the implementation of side agreements pursuant to Article 7.11;
 - (h) consulting on any issue prior to meetings of relevant international organisations, if appropriate;
 - (i) carrying out other functions mutually agreed by the Parties; and
 - (j) carrying out other tasks assigned to it by the Joint Committee.
3. The SPS Sub-Committee shall be co-chaired and meet once a year, unless otherwise agreed by the Parties. The SPS Sub-Committee meetings may be conducted by any agreed method on a case by case basis and may be combined with those of the TBT Sub-Committee established under Article 6.7.
4. The SPS Sub-Committee shall keep up to date a work programme and keep track of its activities.
5. The SPS Sub-Committee may establish ad hoc working groups to accomplish specific tasks.
6. The SPS Sub-Committee shall report on its work to the Joint Committee.

7. The contact points as referred to in Article 7.12 shall be responsible for setting the agenda and organising the meetings. The SPS Sub-Committee shall include representatives of the authorities of each Party with expertise in the areas to be discussed.

8. Upon mutual agreement, the Parties may invite representatives from industry, business associations or other relevant organisations to participate in parts of the meetings of the SPS Sub-Committee on a case by case basis.

ARTICLE 7.10

Technical Consultations

Technical consultations under the auspices of the SPS Sub-Committee shall be held at the written request of the Party, which considers that the other Party has taken a measure which is likely to create, or has created, an unnecessary obstacle to trade. Such consultations shall take place within 60 days, or within 20 days in case of urgent matters, from the request with the objective of finding mutually acceptable solutions. Such consultations may be conducted by any agreed method on a case by case basis.⁷

ARTICLE 7.11

Side Agreements

Pursuant to and in conjunction with this Agreement, the Parties have concluded a side agreement to implement this Chapter. The Parties may conclude further side agreements in the future.

ARTICLE 7.12

Contact Points

1. The Parties shall exchange names and addresses of contact points for matters related to this Chapter in order to facilitate communication and the exchange of information.

2. The Parties shall notify each other of any significant changes in the structures and responsibilities of the authorities acting as contact points.

⁷ It is understood that technical consultations pursuant to this paragraph shall be without prejudice to the rights and obligations of the Parties under Chapter 15 or under the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes.