

CHAPTER 6: SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 6.1

Objectives

The objectives of this Chapter are to:

- (a) uphold and enhance implementation of the SPS Agreement and applicable international standards, guidelines and recommendations developed by relevant international organisations;
- (b) facilitate trade in all products between the Parties through seeking to resolve trade access issues, while protecting human, animal or plant life or health in the territory of the Parties;
- (c) provide a means to strengthen cooperation and consultation between the Parties on bilateral sanitary and phytosanitary matters and on food standards, including through the development of implementing arrangements on equivalence and other agreed matters of interest to the Parties; and
- (d) strengthen collaboration between the Parties in relevant international bodies implementing agreements or developing international standards, guidelines and recommendations relevant to the matters covered by this Chapter.

ARTICLE 6.2

Scope

1. This Chapter shall apply to all sanitary or phytosanitary measures of a Party that may, directly or indirectly, affect trade between the Parties, in particular involving agricultural and food products.
2. This Chapter shall apply to food standards which are SPS measures and Chapter 7 shall apply to food standards which are not SPS measures. Notwithstanding the above, Articles 6.5 to 6.10 of this Chapter shall apply to all food standards.

ARTICLE 6.3

Definitions

For the purposes of this Chapter:

- (a) “appropriate level of sanitary or phytosanitary protection” shall have the same meaning as in Annex A, paragraph 5 of the SPS Agreement;
- (b) “relevant international organisations” include the Codex Alimentarius Commission (Codex), the World Organisation for Animal Health (OIE), and the relevant international and regional organisations operating within the framework of the International Plant Protection Convention (IPPC);
- (c) “sanitary or phytosanitary measure” (SPS measure) shall have the same meaning as in Annex A, paragraph 1 of the SPS Agreement;
- (d) “urgent problem of health protection” means a situation where there is a clearly identified risk of serious health effects on human, animal or plant life or health arising from the importation of a product or products into the customs territory of a Party.

ARTICLE 6.4

International Obligations

- 1. The Parties reaffirm their existing rights and obligations with respect to each other under the SPS Agreement.
- 2. Nothing in this Chapter shall prevent a Party from adopting, implementing or maintaining measures necessary to achieve its appropriate level of protection for human, animal or plant life or health consistent with its rights and obligations under the SPS Agreement.

ARTICLE 6.5

Competent Authorities and Contact Points

- 1. Recognising the importance of close and effective working relationships between the Parties in giving effect to the objectives of this Chapter, the Parties shall promote communication to enhance present and future relationships between their competent authorities.
- 2. The competent authorities for matters within the scope of this Chapter as at the date of entry into force of this Agreement are:

- (a) in the case of New Zealand, the Ministry of Agriculture and Forestry and the New Zealand Food Safety Authority; and
- (b) in the case of Thailand, the Ministry of Agriculture and Cooperatives.

3. The competent authorities shall designate contact points for communication on all matters arising under this Chapter. Each Party shall notify the other promptly of any changes to the competent authorities or contact points. As at the date of entry into force of this Agreement, the contact point for Thailand shall be the National Bureau of Agricultural Commodity and Food Standards; and for New Zealand, the contact points shall be the New Zealand Food Safety Authority and Biosecurity New Zealand.

4. Each Party shall provide notice to the contact points of the other Party of new or proposed changes to its SPS measures and food standards, as far in advance as practicable before the changes come into effect, where these are likely to affect, directly or indirectly, trade between the Parties.

ARTICLE 6.6

Urgent Problems of Health Protection

A Party may, in response to an urgent problem of health protection which arises or threatens to arise, take measures necessary for the protection of human, animal or plant life or health. In such circumstances, the Party shall provide notice to the contact points of the other Party of such changes to its SPS measures and food standards within 1 day of the changes coming into effect, where these are likely to affect, directly or indirectly, trade between the Parties. The Parties shall consult expeditiously regarding the situation with a view to minimising disruption to trade. The Parties shall take due account of any information provided through such consultations.

ARTICLE 6.7

Situations of Non-Compliance

The Parties shall cooperate where there is a notification of non-compliance of imported consignments for products subject to SPS measures or food standard requirements, drawing on the guidelines of relevant international organisations where available. In particular, where such non-compliance arises, the importing Party shall notify as soon as possible the exporting Party of the consignment details. Unless specifically required by its laws, regulations or policies, the importing Party shall avoid suspending trade based on one shipment, but in the first instance shall contact the exporting Party to ascertain how the problem has occurred. The Parties shall consult on what remedial action might be taken by the exporting Party to ensure that further shipments are not affected.

ARTICLE 6.8

Joint SPS Committee

The Parties shall establish a Joint SPS Committee consisting of representatives of the Parties. The Joint SPS Committee shall consider any matters relating to the implementation of this Chapter, and shall:

- (a) establish technical working groups, as required;
- (b) meet in person within one year of the entry into force of this Agreement and at least annually thereafter or as mutually agreed by the Parties. It may meet via teleconference, video conference, or through any other means, as mutually determined by the Parties. The Committee may also address issues through correspondence;
- (c) initiate, develop and review implementing arrangements on technical matters including harmonisation, equivalence, control, inspection and approval procedures which further elaborate the provisions of this Chapter in order to facilitate trade between the Parties, particularly in agricultural and food products; and
- (d) review and assess progress of each Party's priority market access interests, and, where agreed as necessary, amend implementing arrangements.

ARTICLE 6.9

Technical Working Groups

Technical working groups may consist of expert-level representatives of the Parties as agreed, and shall identify, address and attempt to resolve technical and scientific issues arising from this Chapter. In cases where these issues are not able to be resolved at the level of the established technical working group, they shall be reported to the Joint SPS Committee in order to reach a mutually acceptable resolution with the least disruption to trade.

ARTICLE 6.10

Consultations

1. In the event that a Party considers that an SPS measure or food standard affecting trade between it and the other Party warrants consultations, it may, through the contact point, request that consultations be held. The other Party shall respond promptly to any request for consultations.

2. The consultations shall be held within 21 days of the request, unless the Parties determine otherwise, and may be conducted via teleconference, video conference, or through any other means, as mutually determined by the Parties.

3. The purpose of such consultations is to share information and increase mutual understanding, with a view to resolving any concerns about the specific SPS measure or food standard that is the subject of the consultations, consistent with the rights and obligations of the Parties under the WTO Agreement.

ARTICLE 6.11

Other Cooperation

The Parties shall explore opportunities for further cooperation, collaboration, and information exchange on SPS matters including technical assistance at the bilateral, regional and multilateral levels consistent with the provisions of this Chapter.

ARTICLE 6.12

Confidentiality

Information exchanged under this Chapter may include non-public information exempt from public disclosure under the respective laws and regulations of the Parties. Information that is not appropriate for public dissemination shall be identified by the relevant Party and is only to be shared according to the procedures and policies of the Parties as permitted by their respective laws. Neither Party shall disclose such information without the consent of the owner of that information.

ARTICLE 6.13

Dispute Settlement

1. Matters arising under this Chapter that cannot be settled through consultations under Article 6.10 of this Chapter may be forwarded by either Party for consideration by the CEP Joint Commission.

2. Without prejudice to the rights of the Parties under the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes*, Chapter 17 on Dispute Settlement shall not apply to the provisions of this Chapter.