

CHAPTER SEVEN

SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 7.1 : OBJECTIVES

The objectives of this Chapter are to protect human, animal, or plant life or health in the Parties' territories, enhance the Parties' implementation of the SPS Agreement, provide a forum for addressing bilateral sanitary and phytosanitary matters, resolve trade issues, and thereby expand trade opportunities.

ARTICLE 7.2 : SCOPE AND COVERAGE

1. This Chapter applies 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 7.3 : AFFIRMATION OF THE SPS AGREEMENT

Further to Article 1.1.2, the Parties affirm their existing rights and obligations with respect to each other under the SPS Agreement.

ARTICLE 7.4 : COMMITTEE ON SANITARY AND PHYTOSANITARY MATTERS

1. The Parties hereby establish a Committee on Sanitary and Phytosanitary Matters ("Committee"), comprising representatives of each Party who have responsibility for sanitary and phytosanitary matters.
2. Each Party shall identify its primary representative on the Committee and the Parties shall establish the Committee's operating procedures not later than 30 days after the date of entry into force of this Agreement.
3. The objectives of the Committee shall be to enhance each Party's implementation of the SPS Agreement, protect human, animal, or plant life or health, enhance consultation and cooperation between the Parties on sanitary and phytosanitary matters, and facilitate trade between the Parties.
4. The Committee shall seek to enhance and complement existing and future relationships between the Parties' agencies responsible for sanitary and phytosanitary matters.

5. The mandate of the Committee shall be to:
- (a) enhance mutual understanding of each Party's sanitary and phytosanitary measures and the regulatory processes that relate to those measures;
 - (b) improve mutual understanding of specific issues relating to the implementation of the SPS Agreement;
 - (c) review progress on and, as appropriate, resolve through mutual consent, sanitary and phytosanitary matters that may arise between the Parties' agencies responsible for such matters; and
 - (d) consult on:
 - (i) matters related to the development or application of sanitary and phytosanitary measures that affect, or may affect, trade between the Parties;
 - (ii) issues, positions, and agendas for meetings of the WTO SPS Committee, the *Codex Alimentarius Commission* and its subsidiary bodies, the *International Plant Protection Convention*, the *International Office of Epizootics*, and other international and regional fora on food safety and human, animal, or plant health; and
 - (iii) technical cooperation activities on sanitary and phytosanitary matters.
6. Each Party shall ensure that the appropriate representatives responsible for the development, implementation, and enforcement of sanitary and phytosanitary measures from its relevant trade and regulatory agencies participate in meetings of the Committee.
7. The Committee shall meet within 45 days after the date of entry into force of this Agreement, and at least once a year thereafter, unless the Parties otherwise agree. The Committee shall inform the Joint Committee established under Article 21.1 (Joint Committee) of the results of each meeting.
8. The Committee shall perform its work in accordance with its operating procedures, which it may revise at any time.
9. The Parties hereby establish a Standing Technical Working Group on Animal and Plant Health Measures, as set out in Annex 7-A.

10. The Committee may establish additional technical working groups in accordance with its mandate.

ARTICLE 7.5 : DEFINITIONS

For the purposes of this Chapter, **sanitary or phytosanitary measure** means any measure referred to in Annex A, paragraph 1, of the SPS Agreement.

ANNEX 7-A

STANDING TECHNICAL WORKING GROUP ON ANIMAL AND PLANT HEALTH MEASURES

SECTION A : ESTABLISHMENT OF THE STANDING TECHNICAL WORKING GROUP ON ANIMAL AND PLANT HEALTH MEASURES

1. The Parties establish a Standing Technical Working Group on Animal and Plant Health Measures (“Working Group”), with a view to facilitating trade between the Parties to the greatest extent possible while preserving each Party’s right to protect animal or plant life or health in its territory and respecting each Party’s regulatory systems and risk assessment and policy development processes.
2. The Working Group shall be co-chaired by the chief administrators of the Australian Government Department of Agriculture, Fisheries and Forestry’s Biosecurity Australia and the United States Department of Agriculture’s Animal and Plant Health Inspection Service (“APHIS”), or the respective successor organizations with comparable responsibilities.
3. Members of the Working Group shall include each Party’s primary representative on the Committee on Sanitary and Phytosanitary Matters established under Article 7.4 and representatives of appropriate regulatory agencies of each Party.
4. The Working Group shall provide a forum for:
 - (a) resolving specific bilateral animal and plant health matters with a view to facilitating trade between the Parties and, whenever possible, achieving consensus on scientific issues;
 - (b) engaging, at the earliest appropriate point in each Party’s risk assessment and regulatory processes, in scientific and technical exchange and cooperation regarding animal and plant health matters that may, directly or indirectly, affect the trade of either Party; and
 - (c) considering specific measures or sets of measures likely to affect, directly or indirectly, trade between the Parties that are designed to protect animal or plant life or health within the territory of the importing Party from risks arising from the entry, establishment, or spread of pests, diseases, disease-carrying organisms or disease-causing organisms.
5. The Working Group shall recognise that each Party’s agencies responsible for sanitary and phytosanitary matters are undertaking, at any particular time, a range of risk analyses and policy development work on matters relating to animal and plant health that may be of mutual interest to the Parties. The Working Group shall undertake, as part of its regular agenda, to update its members on the progress of

work related to bilateral trade, complementing and without prejudice to exchanges in other fora, including the annual bilateral dialogues between APHIS and Biosecurity Australia on plant and animal health matters.

6. The Working Group shall establish a work program, including issues that shall be the subject of specific work plans, in accordance with Section B of this Annex, taking into account the resource constraints of each Party and the need to develop an agenda that balances the needs of both Parties, including through identifying and addressing the priority needs of each Party.

7. The Working Group shall establish operating procedures within 45 days of the date of entry into force of this Agreement.

8. The co-chairs may agree to appoint sub-groups that include, if necessary, subject area specialists from within or outside their respective agencies to consider particular technical issues.

9. The co-chairs shall confer every two months (unless otherwise agreed) on the progress of matters on the Working Group's agenda, including specific work plans established in accordance with Section B, by telephone, electronic mail, or in person. The co-chairs shall submit annual reports to the Committee on Sanitary and Phytosanitary Matters summarising the Working Group's progress.

Section B : Development of Specific Work Plans

1. Either Party may request that the Working Group establish a specific work plan to address a specific sanitary and phytosanitary measure, project, or issue of particular interest or concern affecting, directly or indirectly, trade between the Parties. The requesting Party shall provide the Working Group with technical information in support of its preferred approach for resolving the matter.

2. Within 60 days after it receives a request, the Working Group shall develop a specific work plan to conduct technical and scientific exchanges on the matter with a view to reaching consensus on resolution of the issue. The work plan shall identify specific activities to be carried out by the Working Group, including, as appropriate, on:

- (a) the scope and approach proposed for a risk assessment, and the expertise required for the assessment (including the use of experts from outside each Party's agencies responsible for sanitary and phytosanitary matters);
- (b) the technical issues, including hazards, to be addressed in a risk assessment;
- (c) the biology and transmission of pests and diseases subject to regulatory control and the type or range of risk mitigation measures that may be available to deal with those pests and diseases;

- (d) the risk assessment, including the provision of the full risk analysis report at the appropriate point in the process of each Party's responsible agencies;
- (e) matters that may be referred by either Party to an independent scientific peer review or for other independent scientific input; and
- (f) mutually agreeable mitigation measures, where possible.

3. The Working Group shall establish a timetable for completing the work plan. The Parties shall exchange and consider all technical information promptly.