

CHAPTER 5

SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 5.1: OBJECTIVES

The objectives of this Chapter are to:

- (a) protect human, animal or plant life or health in the Parties' territories while minimizing negative effects on trade between the Parties;
- (b) provide means to address the sanitary and phytosanitary (hereinafter referred to as "SPS") matters arising from bilateral trade between the Parties in an efficient manner; and
- (c) enhance cooperation and communication between the competent authorities of the Parties.

ARTICLE 5.2: SCOPE

This Chapter shall apply to all SPS measures of a Party that may, directly or indirectly, affect trade between the Parties.

ARTICLE 5.3: RIGHTS AND OBLIGATIONS

The Parties affirm their rights and obligations under the SPS Agreement taking into account standards, guidelines or recommendations from the Codex Alimentarius Commission, the *International Plant Protection Convention* (hereinafter referred to as the "IPPC"), and the World Organization for Animal Health (hereinafter referred to as the "OIE").

ARTICLE 5.4: COOPERATION

1. The Parties shall strengthen cooperation in implementing the SPS Agreement, taking into account the decisions and recommendations of the WTO Committee on Sanitary and Phytosanitary Measures.
2. The Parties shall strengthen their cooperation in the field of SPS matters with a view to increasing mutual understanding of their respective systems and minimizing negative effects on bilateral trade.
3. In particular, the Parties shall seek to identify, develop, and promote cooperative activities through consultations in the Committee on Sanitary and Phytosanitary Matters, established in Article 5.6, subject to the availability of appropriated resources of the Parties.
4. Further to paragraphs 1 through 3, cooperative activities of the Parties shall

include, but not be limited to:

- (a) furthering exchange of experience and cooperation in the development and application of domestic SPS measures as well as international standards;
- (b) strengthening cooperation with respect to, *inter alia*, risk analysis methodology, disease or pest control methods, laboratory testing techniques, and exchange of information on domestic regulations;
- (c) enhancing cooperation and exchange of experience between the WTO SPS Enquiry Points of the Parties;
- (d) carrying out joint research and sharing the result of such research in SPS areas including animal disease, plant pest and food safety; and
- (e) any other cooperative activity mutually agreed by the Parties.

5. The competent authorities of the Parties or several of them may work together with the aim of enhancing regulatory understanding with regard to each Party's SPS requirements for certain products of export interest, and strengthen their capacity and confidence, taking into account the interest of each authority. On this ground, the Parties may discuss their work plan and if necessary, the necessity of a subsidiary working group.

ARTICLE 5.5: INFORMATION EXCHANGE

1. Each Party shall ensure that any information or explanation upon request of the other Party pursuant to this Chapter is communicated within a period agreed by the Parties.

2. The Parties shall exchange relevant information with each other through the competent SPS authorities, in a timely manner, regarding serious non-compliance of SPS requirements which results in rejection by the importing Party.

3. Upon request, each Party shall provide an explanation of the risk analysis process and required information for the risk analysis. The importing Party shall inform the status of its risk analysis process, upon request of the exporting Party. If the result of risk analysis allows the importation of goods from the exporting Party, the importing Party shall proceed with the administrative or legislative process within a reasonable period of time.

ARTICLE 5.6: COMMITTEE ON SANITARY AND PHYTOSANITARY MATTERS

1. The Parties hereby establish a Committee on Sanitary and Phytosanitary Matters (hereinafter referred to as the "Committee") comprising representatives of each Party's competent authorities who have responsibility for SPS matters.

2. The objective of the Committee is to discuss matters related to the development or application of SPS measures that affect, or may affect, trade between the Parties. For this purpose, the Committee shall:

- (a) monitor the implementation of this Chapter;
- (b) enhance mutual understanding of each Party's SPS measures;
- (c) strengthen communication and cooperation between the Parties' competent authorities responsible for the matters covered by this Chapter;
- (d) exchange information regarding SPS measures, which may affect trade between the Parties including regulations, procedures, approval of exporting establishments, or any change in sanitary status of a Party;
- (e) discuss issues, positions, and agendas for meetings of the WTO Committee on Sanitary and Phytosanitary Measures, the Codex Alimentarius Commission, the OIE, the relevant international and regional organizations operating within the framework of the IPPC, and other international and regional forum on food safety and on human, animal, or plant life or health;
- (f) consult on SPS matters related to the development or application of SPS measures that affect, or may affect, trade between the Parties, or arising under this Chapter;
- (g) consider, if necessary, upon request of a Party, establishing a subsidiary working group for technical discussion with the aim of seeking to address SPS matters of mutual interest to the Parties. The meeting of such working group shall take place within a period agreed by the Parties and may be conducted by electronic means;
- (h) coordinate cooperative activities on SPS matters referred to in Article 5.4; and
- (i) carry out other functions as may be assigned by the Parties.

3. The Committee may establish terms of reference for the conduct of its work.

4. Unless the Parties otherwise agree, the Committee shall meet every two years. Meetings may be conducted in person or by any technological means available to the Parties.

5. Each Party shall ensure that appropriate representatives with responsibility for SPS matters participate in the Committee meetings.

6. The Committee shall be coordinated by the following contact points:

- (a) for Korea, the Ministry of Agriculture, Food and Rural Affairs;

- (b) for Costa Rica, the Ministry of Foreign Trade (Ministerio de Comercio Exterior);
- (c) for El Salvador, the Ministry of Economy (Ministerio de Economía);
- (d) for Honduras, the Secretariat of Economic Development (Secretaría de Desarrollo Económico);
- (e) for Nicaragua, the Ministry of Development, Industry and Commerce (Ministerio de Fomento, Industria y Comercio); and
- (f) for Panama, the Ministry of Commerce and Industries (Ministerio de Comercio e Industrias),

or their successors.

ARTICLE 5.7: DISPUTE SETTLEMENT

Neither Party shall have recourse to Chapter 22 (Dispute Settlement) for any matter arising under this Chapter.