

Chapter VII

Sanitary and Phytosanitary Measures

Article 53 Objectives

The objectives of this Chapter are to:

- (a) promote and facilitate the trade of animals, products of animal origin, plants and products of vegetal origin between the Parties, protecting at the same time public health, animal and vegetable health;
- (b) improve between the Parties the implementation of the SPS Agreement;
- (c) provide a forum to approach bilateral sanitary and phytosanitary measures, to solve the problems of trade that from them derives, and to expand trade opportunities; and
- (d) provide mechanisms of communication and cooperation to resolve sanitary and phytosanitary issues in a prompt and efficient manner.

Article 54 Scope and Coverage

1. This Chapter applies to all sanitary and phytosanitary measures of a Party which may, directly or indirectly, affect trade between the Parties.
2. The Parties shall ensure that the memoranda and protocols which will be amended or agreed in the future by competent authorities shall be in accordance with the principles and disciplines stipulated in this Chapter.

Article 55 Competent Authorities

1. The competent authorities of the Parties are the authorities competent for the application of the measures of this Chapter, as provided in paragraph 10 of Article 58.
2. The Parties will communicate any significant change in the structure, organization and division of the competent authorities.
3. For the suitable implementation of the Chapter, bilateral contact between the homologous sanitary and phytosanitary agencies will be promoted and strengthened.

Article 56 General Provisions

1. The Parties reaffirm their rights and obligations with respect to each other under the SPS Agreement, which is considered as an integral part of this text, specially that relates to:
 - (a) each Party will ensure that its sanitary and phytosanitary measures do not arbitrarily or unjustifiably discriminate between its own and that of the other Party;
 - (b) the Parties will tend to harmonize in the highest possible degree their sanitary and phytosanitary measures;
 - (c) these measures must have a scientific base, either through the adoption of an international norm, or by means of risk assessment;
 - (d) these measures will adapt to regional conditions; and
 - (e) these measures should be established in a transparent form, notified opportunely and reasonable period of time should be granted for their coming into effect except otherwise prescribed by the SPS Agreement.

2. In accordance with the provisions of the SPS Agreement, the Parties have the right to establish or maintain their sanitary and phytosanitary measures as their domestic legislation, for the protection of human, animal and plant life or health.

3. For the purpose of trade facilitation, access shall be given, upon request, to the importing Party for inspection, testing and other relevant procedures that may include:

(a) inspection and quarantine of the shipments of plants and animals and their respective products;

(b) verification on the procedures of certification and control, and production processes of the other Party; and

(c) the results of these verifications will be informed in writing to the other Party, in a reasonable period of time, giving sufficient time for the implementation of the corrective measures.

Article 57 Transparency

1. The Parties agree the full implementation of Article 7 of the SPS Agreement in accordance with the provisions of Annex B of the SPS Agreement.

2. The Parties shall work towards increasing the information exchange, including the rule-making procedures for the establishment of the sanitary and phytosanitary measures that needs to be undertaken as well as information regarding noncompliance with sanitary and phytosanitary requirements of importing Party without undue delay.

3. The Parties will opportunistically exchange information related to the sanitary and phytosanitary condition in their territories and will provide the necessary information to develop risk assessment and equivalence processes.

4. The sanitary and phytosanitary enquiry points of the Parties established under the SPS Agreement, shall set up a bilateral mechanism for further communication and transparency. The Parties shall provide upon request a copy of the full text of the proposed regulation notified and allow at least 60 days for comments.

Article 58 Committee on Sanitary and Phytosanitary Matters

1. The Parties hereby agree to establish a Committee on Sanitary and Phytosanitary Matters composed of each Party's representatives who have responsibility for sanitary and phytosanitary matters.

2. The Parties shall establish the Committee in a period not longer than one year after the date of entry into force of this Agreement through an exchange of letters identifying the primary representatives of each Party to the Committee.

3. The objectives of the Committee shall be to ensure the achievement of the objectives stated in this Chapter.

4. The Committee shall seek to enhance any present or future relationship between the Parties' agencies with responsibility for sanitary and phytosanitary matters.

5. The Committee shall provide a forum for:

(a) enhancing mutual understanding of each Party's sanitary and phytosanitary measures and the regulatory processes related to those measures;

(b) consulting on matters related to the development or application of sanitary and phytosanitary measures that affect, or may affect, trade between the Parties;

(c) consulting on issues, positions, and agendas for meetings of the WTO SPS Committee, the various Codex committees (including the *Codex Alimentarius Commission*), the *International Plant Protection Convention*, the *World Organization for Animal Health*, and other international and regional fora on food safety and human, animal, and plant health;

- (d) coordinating technical cooperation programs on sanitary and phytosanitary matters;
- (e) improving bilateral understanding related to specific implementation issues concerning the SPS Agreement;
- (f) reviewing progress on addressing sanitary and phytosanitary matters that may arise between the Parties' agencies with responsibility for such matters; and
- (g) holding consultations on the disputes concerning sanitary and phytosanitary matters, which will constitute consultations under Article 82 of this Agreement.

6. The Committee shall meet at least once a year unless the Parties otherwise agree.

7. The Committee shall perform its work in accordance with the terms of reference established at its first meeting. The Committee may revise the terms of reference and may develop procedures to guide its operation.

8. Each Party shall ensure that appropriate representatives with responsibility for the development, implementation, and enforcement of sanitary and phytosanitary measures from its relevant trade and regulatory agencies or ministries participate in meetings of the Committee. The official agencies and ministries of each Party responsible for such measures shall be set out in the Committee's terms of reference.

9. The Committee may agree to establish *ad hoc* technical working groups in accordance with the Committee's terms of reference.

10. The Committee shall be coordinated by:

(a) in the case of China, the Director General of Inspection & Quarantine Clearance Department of General Administration of Quality Supervision Inspection and Quarantine (AQSIQ), or its representative; and

(b) in the case of Chile, the General Director of the General Directorate for International Economics Affairs (*Dirección General de Relaciones Económicas Internacionales*) of the Ministry of Foreign Affairs, or its representative.

Article 59 Definitions

1. For purposes of this Chapter, SPS Agreement means the *Agreement on the Application of Sanitary and Phytosanitary Measures*, which is part of the WTO Agreement.

2. The definitions in Annex A of the SPS Agreement will be applied in the implementation of this Chapter.