

CHAPTER FIVE

SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 5.1

Objective

1. The objective of this Chapter is to minimise the negative effects of sanitary and phytosanitary measures on trade while protecting human, animal or plant life or health in the Parties' territories.
2. Furthermore, this Chapter aims to enhance cooperation between the Parties on animal welfare issues, taking into consideration various factors such as livestock industry conditions of the Parties.

ARTICLE 5.2

Scope

This Chapter applies to all sanitary and phytosanitary measures of a Party that may, directly or indirectly, affect trade between the Parties.

ARTICLE 5.3

Definition

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

ARTICLE 5.4

Rights and Obligations

The Parties affirm their existing rights and obligations under the SPS Agreement.

ARTICLE 5.5

Transparency and Exchange of Information

The Parties shall:

- (a) pursue transparency as regards sanitary and phytosanitary measures

applicable to trade;

- (b) enhance mutual understanding of each Party's sanitary and phytosanitary measures and their application;
- (c) exchange information on matters related to the development and application of sanitary and phytosanitary measures that affect, or may affect, trade between the Parties with a view to minimising their negative trade effects; and
- (d) communicate, upon request of a Party, the requirements that apply to the import of specific products.

ARTICLE 5.6

International Standards

The Parties shall:

- (a) cooperate, at the request of a Party, to develop a common understanding on the application of international standards in areas which affect, or may affect trade between them with a view to minimising negative effects on trade between them; and
- (b) cooperate in the development of international standards, guidelines and recommendations.

ARTICLE 5.7

Import Requirements

1. The general import requirements of a Party shall apply to the entire territory of the other Party.
2. Additional specific import requirements may be imposed on the exporting Party or parts thereof based on the determination of the animal or plant health status of the exporting Party or parts thereof made by the importing Party in accordance with the SPS Agreement, the Codex Alimentarius Commission, the World Organisation for Animal Health (hereinafter referred to as the "OIE") and the International Plant Protection Convention (hereinafter referred to as the "IPPC") guidelines and standards.

ARTICLE 5.8

Measures Linked to Animal and Plant Health

1. The Parties shall recognise the concept of pest- or disease-free areas and areas of low pest or disease prevalence, in accordance with the SPS Agreement, OIE and IPPC standards, and shall establish an appropriate procedure for the recognition of such areas, taking into account any relevant international standard, guideline or recommendation.
2. When determining such areas, the Parties shall consider factors such as geographical location, ecosystems, epidemiological surveillance and the effectiveness of sanitary or phytosanitary controls in such areas.
3. The Parties shall establish close cooperation on the determination of pest- or disease-free areas and areas of low pest or disease prevalence with the objective of acquiring confidence in the procedures followed by each Party for the determination of such areas. The Parties shall endeavour to complete this confidence-building activity within about two years from the entry into force of this Agreement. The successful completion of the confidence-building cooperation shall be confirmed by the Committee on Sanitary and Phytosanitary Measures referred to in Article 5.10.
4. When determining such areas, the importing Party shall in principle base its own determination of the animal or plant health status of the exporting Party or parts thereof on the information provided by the exporting Party in accordance with the SPS Agreement, OIE and IPPC standards, and take into consideration the determination made by the exporting Party. In this connection, if a Party does not accept the determination made by the other Party, the Party not accepting the determination shall explain the reasons and shall be ready to enter into consultations.
5. The exporting Party shall provide necessary evidence in order to objectively demonstrate to the importing Party that such areas are, and are likely to remain, pest- or disease-free areas and areas of low pest or disease prevalence, respectively. For this purpose, reasonable access shall be given, upon request, to the importing Party for inspection, testing and other relevant procedures.

ARTICLE 5.9

Cooperation on Animal Welfare

The Parties shall:

- (a) exchange information, expertise and experiences in the field of animal welfare and adopt a working plan for such activities; and
- (b) cooperate in the development of animal welfare standards in international fora, in particular with respect to the stunning and slaughter of animals.

ARTICLE 5.10

Committee on Sanitary and Phytosanitary Measures

1. The Committee on Sanitary and Phytosanitary Measures established pursuant to Article 15.2.1 (Specialised Committees) may:

- (a) develop the necessary procedures or arrangements for the implementation of this Chapter;
- (b) monitor the progress of the implementation of this Chapter;
- (c) confirm the successful completion of the confidence-building activity referred to in Article 5.8.3;
- (d) develop procedures for the approval of establishments for products of animal origin and, where appropriate, of production sites for products of plant origin; and
- (e) provide a forum for discussion of problems arising from the application of certain sanitary or phytosanitary measures with a view to reaching mutually acceptable alternatives. In this connection, the Committee shall be convened as a matter of urgency, at the request of a Party, so as to carry out consultations.

2. The Committee shall be comprised of representatives of the Parties and shall meet once a year on a mutually agreed date. The venue of meetings shall also be mutually agreed. The agenda shall be agreed before the meetings. The chairmanship shall alternate between the Parties.

ARTICLE 5.11

Dispute Settlement

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