

CHAPTER 6

SANITARY AND PHYTOSANITARY MEASURES

Article 6.1: Definitions

For the purposes of this Chapter:

- (a) the definitions in Annex A of the SPS Agreement are incorporated into this Chapter and shall form part of this Chapter, *mutatis mutandis*, and
- (b) the relevant definitions developed by the World Organization for Animal Health (WOAH), International Plant Protection Convention (IPPC), and Codex Alimentarius Commission (CODEX), shall apply in the implementation of this Chapter.

Article 6.2: Objectives

The objectives of this Chapter are to:

- (a) facilitate trade among the Parties while protecting human, animal, or plant life or health in the territory of the Parties;
- (b) enhance implementation of the SPS Agreement and applicable international standards, guidelines, and recommendations developed by relevant international organisation (WOAH, IPPC, and CODEX);
- (c) provide means to improve communication, cooperation and resolution of sanitary and phytosanitary issues between the Parties;
- (d) increase mutual understanding of the regulations and procedures of each Party relating to the implementation of sanitary and phytosanitary measures;
- (e) strengthen communication, consultation, and cooperation between the Parties, and particularly between their competent authorities and contact points;
- (f) ensure that sanitary or phytosanitary measures implemented by a Party do not create unnecessary barriers to trade;
- (g) enhance transparency in and understanding of the application of each Party's sanitary and phytosanitary measures; and
- (h) encourage the development and adoption of science-based international standard, guidelines, and recommendations, and promote their implementation by the Parties.

Article 6.3: Scope

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

Article 6.4: General Provisions

1. The Parties reaffirm and incorporate their rights and obligations relating to sanitary and phytosanitary measures under the SPS Agreement, *mutatis mutandis*.
2. The Parties shall apply the principles of the SPS Agreement in the development, application, or recognition of any sanitary and phytosanitary measures, while protecting human, animal, or plant life or health in the territory of each Party.

Article 6.5: Equivalence

1. The Parties recognize that the application of equivalence, as set out in Article 4 of the SPS Agreement, is an important tool for facilitating trade for the mutual benefit of the Parties.
2. On request, the Parties may enter into technical consultations with the aim of achieving bilateral recognition of the equivalence of specified sanitary and phytosanitary measures, in line with the principle of equivalence in the SPS Agreement, standards, guidelines, and recommendations, developed by the WTO Committee on Sanitary and Phytosanitary Measures (WTO Committee on SPS) and relevant international organizations, consistent with Annex A to the SPS Agreement.

Article 6.6: Adaptation to Regional Conditions

The Parties recognize that the principle of adaptation to regional conditions, as set out in Article 6 of the SPS Agreement, is an important mean to facilitate trade. To that end, each Party shall take into account, as appropriate, standards, guidelines, and recommendations, developed by the WTO Committee on SPS and relevant international organizations, consistent with Annex A to the SPS Agreement.

Article 6.7: Risk Analysis

1. The Parties recognize the principle of risk assessment, as set out in Article 5 of the SPS Agreement.
2. The initiation of a risk assessment process shall not interrupt the existing bilateral trade of that product, except in the case of a justified emergency situation.

3. When conducting risk assessment, each Party shall take into account decisions and recommendations adopted by the WTO Committee on SPS and international standards, guidelines, and recommendations from CODEX, WOA, and IPPC.

4. The Parties shall consider risk management options that are not more trade restrictive than required to achieve the objectives of this Chapter, as set out in Article 6.2 (Objectives).

Article 6.8: Emergency Measure

1. If a Party adopts an emergency measure that is necessary for the protection of human, animal, or plant life or health, the Party shall promptly notify the other Party of that measure through the primary representatives and the relevant contact points referred to in Article 6.15. (Competent Authorities and Contact Points).

2. The Party may request a discussion with the other Party adopting an emergency measure. That discussion shall be held as soon as practicable. Each Party participating in the discussion shall endeavour to provide relevant information and shall take due account of any information provided through the discussion.

3. If a Party adopts an emergency measure referred to in paragraph 1, it shall ensure that the emergency measure is not maintained without scientific evidence and shall review the scientific basis of that measures within a reasonable period of time, or promptly on the request of the other Party, and make available the results of the review to the other Party on request. If the emergency measure is maintained after the review, because the reason for its adoption remains, the Party should review the measure periodically.

Article 6.9: Transparency and Exchange Information

1. The Parties recognize the value of sharing information about their sanitary and phytosanitary measures and of providing the opportunity to comment on their proposed sanitary and phytosanitary measures.

2. The Parties confirm their commitment to implement the transparency provisions set out in the Article 7, Annex B to the SPS Agreement and relevant decisions and recommendations on transparency adopted by the WTO Committee on SPS.

3. The Parties shall inform in a timely and appropriate manner in writing through the contact points and competent authorities established in Article 6.15 (Competent Authorities and Contact Points) of any significant SPS and food safety issue or change in the sanitary and phytosanitary status in their territory that is relevant to existing trade among them.

Article 6.10: Audit

1. An audit¹ may be systems-based and conducted to assess the effectiveness of the regulatory controls of the competent authorities of the exporting Party to provide the required assurances and meet the sanitary and phytosanitary measures of the importing Party.
2. Prior to the commencement of an audit, the importing Party and exporting Party involved shall exchange information on the objective and scope of the audit and including other matters previously agreed.
3. The importing Party shall provide the exporting Party with an opportunity to comment on the finding of an audit and take that comment into account before making its conclusions and taking any action. The importing Party shall provide a report or its summary, setting out its conclusions in writing to the exporting Party within a reasonable period of time. The importing Party shall inform the exporting Party if a request is required to provide that report or summary.

Article 6.11: Certification

1. The Parties recognize that assurances with respect to sanitary or phytosanitary requirements may be provided through means other than certificates and that different systems, according to international standards established within the framework of the SPS Agreement, may be capable of meeting the same sanitary or phytosanitary objective.
2. Where certification is required for trade in a good, the importing Party shall ensure that certification requirements are applied only to the extent necessary to protect human, animal, or plant life or health.
3. Without prejudice to each Party's right to import controls, the importing Party shall accept sanitary or phytosanitary certificates² issued by the competent authorities of the exporting Party that are in compliance with the regulatory requirements of the importing Party.
4. The Parties shall promote the application of electronic certification and other technology to facilitate trade.

Article 6.12: Import Checks

1. Import checks, conducted in accordance with the laws, regulations, and, sanitary and phytosanitary requirements of the importing Party, shall be based on the sanitary and phytosanitary risk associated with importations. In the event that import checks reveal a non-compliance, the final decision or action taken by the importing Party shall be appropriate to the sanitary and phytosanitary risk associated with the importation of the non-compliant product.

¹ For greater certainty, an audit may include desk assessments and virtual, remote, or physical audits.

² In accordance with the guidelines established by the reference international organizations within the framework of the SPS Agreement.

2. If an importing Party prohibits or restricts the importation of a good of an exporting Party on the basis of non-compliance of that good found during an import check, the importing Party shall notify the importer or its representatives and, if the importing Party considers necessary, the exporting Party of such non-compliance.

3. When significant or recurring sanitary or phytosanitary non-compliance associated with exported consignments is identified by the importing Party, the Party concerned shall, on request of other Party, discuss the non-compliance to ensure that appropriate remedial actions are taken to reduce such non-compliance.

Article 6.13: Consultations

1. On request of a Party for consultations on any matter arising under this Chapter, the Parties shall agree to enter into consultations by notifying the contact points and competent authorities established in Article 6.15 (Competent Authorities and Contact Points).

2. Consultations shall be carried out by the Parties, under the Committee on Sanitary and Phytosanitary as referred to in Article 6.14 (Committee on Sanitary and Phytosanitary Measures), within 30 days of the receipt of a request, unless agreed otherwise. Those consultations may be conducted through teleconference, videoconference or any other means agreed upon by the Parties.

Article 6.14: Committee on Sanitary and Phytosanitary Measures

1. The Parties hereby establish a Committee on Sanitary and Phytosanitary Measures (Committee on SPS) with the objective of ensuring the implementation of this Chapter.

2. For the purposes of the effective implementation and operation of this Chapter, the Committee on SPS shall be a forum for:

- (a) enhancing mutual understanding of the sanitary and phytosanitary measures of each Party and the regulatory processes that relate to those measures;
- (b) discussing on matters related to the development or application of sanitary and phytosanitary measures that may, directly or indirectly, affect human, animal and plant health and trade between the Parties;
- (c) addressing any bilateral issues arising from the implementation of sanitary and phytosanitary measures between the Parties;
- (d) reviewing progress on addressing sanitary and phytosanitary measures that may arise between the competent authorities, from the implementation of sanitary and phytosanitary measures between the Parties;
- (e) coordinating technical cooperation programs on sanitary and phytosanitary measures;

- (f) consulting on issues, relating to the meetings of the WTO Committee on SPS, CODEX, WOA, and IPPC;
- (g) improving bilateral understanding related to specific implementation issues concerning the SPS Agreement;
- (h) enhancing cooperation between the Parties; and
- (i) informing to the Committee on National Treatment and Market Access for Goods on the implementation of this Chapter.

3. The Committee on SPS shall comprise and be co-chaired by representatives of the competent authorities of each Party responsible for sanitary and phytosanitary measures, as established in Article 6.15 (Competent Authorities and Contact Points).

4. Unless agreed otherwise by the Parties, the Committee on SPS shall meet annually in person, via teleconference, videoconference or through any other means as agreed by the Parties.

5. The Committee on SPS shall establish its own rules of procedures during its first meeting to guide its operation. These rules may be revised or further developed at any time.

Article 6.15: Competent Authorities and Contact Points

1. The Parties shall designate the contact points and competent authorities responsible for the implementation of the measures referred to this Chapter.

2. The Parties shall exchange information on the application of sanitary and phytosanitary measures with regard to regulations, standards, and procedures through designated competent authorities and contact points.

3. Each Party shall provide the other Party with a written description of the sanitary and phytosanitary responsibilities of its competent authorities or the contact points within each of these authorities, and the name and contact information of its primary representatives. Each Party shall keep this information up to date.

Article 6.16: Cooperation

1. The Parties shall cooperate on sanitary and phytosanitary matters to protect human, animal, aquatic animals and plant life, or health through their respective competent authorities.

2. The Parties shall explore opportunities for cooperation and collaboration in any SPS issues, technical assistance, best practices, joint research, and other areas of mutual interest.