

CHAPTER 6 : SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 6.1 : OBJECTIVES

The objectives of this Chapter are:

- (a) to protect human, animal or plant life or health in the territory of each Party;
- (b) to facilitate bilateral trade and to provide a framework to address sanitary and phytosanitary matters that may affect directly or indirectly trade between Parties;
- (c) to strengthen cooperation between Singaporean and Peruvian government agencies having responsibility for matters covered by this Chapter and to deepen mutual understanding of each Party's regulations and procedures; and
- (d) where applicable, to strengthen collaboration between the Parties in relevant international organizations implementing agreements or developing international standards, guidelines and recommendations referred to matters covered by this Chapter.

ARTICLE 6.2 : DEFINITIONS

For the purpose of this Chapter:

1. **relevant international organizations** refers to the organizations mentioned in the SPS Agreement;
2. **SPS** means sanitary and phytosanitary;
3. **SPS Agreement** refers to the WTO Agreement on the Application of Sanitary and Phytosanitary Measures;
4. **trade between the Parties** refers to trade in goods produced, processed or manufactured in the territory of the Parties; and
5. the definitions under Annex A of the SPS Agreement shall apply to this Chapter.

ARTICLE 6.3 : SCOPE

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

- (a) all SPS standards related to goods traded between the Parties;
- (b) assessments of manufacturers or manufacturing processes on goods exported from one Party to the other Party; and
- (c) assessments of official control, inspection and approval systems related to SPS measures operated by the Parties.

2. This Chapter does not apply to standards, technical regulations and conformity assessment procedures as defined in the WTO Agreement on Technical Barriers to Trade which are covered by Chapter 7 (Technical Barriers to Trade).

ARTICLE 6.4 : RIGHTS AND OBLIGATIONS

The Parties reaffirm and incorporate in this Chapter their existing rights and obligations with respect to each other under the SPS Agreement.

ARTICLE 6.5 : TRADE FACILITATION

1. The Parties shall cooperate and jointly identify work in the field of sanitary and phytosanitary measures with a view to facilitating trade between the Parties. In particular, the Parties shall seek to identify initiatives that are appropriate for the particular issues or sectors. Such initiatives may include cooperation on regulatory issues, such as unilateral recognition of equivalence, harmonisation or other cooperative arrangements.

2. At the request of the other Party, each Party shall give favourable consideration to any sector-specific proposal that the other Party makes for consideration under this Chapter.

ARTICLE 6.6 : HARMONIZATION

The Parties shall, where appropriate, endeavour to work towards harmonization of their respective sanitary and phytosanitary measures, in accordance with Article 3 of the SPS Agreement, taking into account relevant international standards, guidelines and recommendations.

ARTICLE 6.7 : EQUIVALENCE

1. The Parties recognise that the principle of equivalence as set down in Article 4 of the SPS Agreement, as applied to SPS measures, has mutual benefits for both exporting and importing countries.
2. The Parties shall follow the procedures for determining the equivalence of SPS measures developed by the SPS Committee and the Codex Alimentarius Commission, the World Organization of Animal Health and the International Plant Protection Convention, as amended from time to time.
3. The Parties shall give favourable consideration to accepting the equivalence of each other's SPS measures, in order to ease the trade of the products subject to SPS measures and foster mutual confidence between the respective competent authorities.
4. Compliance by an exported product with a SPS standard that has been accepted as equivalent to a SPS standard of the importing Party shall not remove the need for that product to comply with any other relevant mandatory requirements of the importing Party.
5. Whenever an agreement on recognition of the equivalence is in process of negotiation and no final approval is achieved, the Parties should neither stop nor apply sanitary and/or phytosanitary measures more restrictive than those in force in their mutual trade, except where sanitary or phytosanitary emergencies arise or threaten to arise for a Party.

ARTICLE 6.8 : RISK ASSESSMENT AND DETERMINATION OF THE APPROPRIATE LEVEL OF SANITARY OR PHYTOSANITARY PROTECTION

1. SPS measures will be based on an assessment, in line with the circumstances of the risks existing for human, animal and plant life and health, taking into account the risk assessments guidelines developed by the relevant international organizations, so that the measures adopted may reach the appropriate level of protection.
2. When a Party decides to make a re-evaluation of a risk assessment of a product for which there is a fluid and regular trade, said Party shall not interrupt the trade of the products affected except in the case of a sanitary or phytosanitary emergency situation.

ARTICLE 6.9 : RECOGNITION OF PEST OR DISEASE FREE AREAS AND AREAS OF LOW PEST OR DISEASE PREVALENCE

1. The importing Party shall decide, in a time frame agreed by the Parties, on the request made by the exporting Party to recognize its condition of pest or disease-free area or of low pest or disease prevalence, with the aim of facilitating bilateral trade.
2. In case of international recognition of pest or disease-free areas and areas of low pest or disease prevalence made by the relevant international organizations, the importing Party, on request and in an expeditious way, shall give favourable consideration to recognize those areas of the exporting Party as pest or disease-free areas and areas of low pest or disease prevalence.

ARTICLE 6.10 : CONTROL, INSPECTION AND APPROVAL PROCEDURES

1. The application of control, inspection and approval procedures shall be based on the risk associated with the goods imported and shall be performed in accordance with Annex C of the SPS Agreement and the international standards, guidelines and recommendations established by the relevant international organizations.
2. Parties shall not restrict access to its market through control, inspection and approval procedures, without due technical justification.

ARTICLE 6.11 : TRANSPARENCY

1. The Parties undertake to notify their proposed SPS measures to the contact points of the other Party at least sixty (60) days before they are adopted.
2. In cases of urgency or duly justified emergency, the Parties may adopt the measures and rules specified in paragraph 1, without observing the time frame established. In these cases, the Party shall notify the adopted measure to the other Party within five (5) days of its adoption.
3. In any event, the Party adopting or willing to adopt the measure shall give the other Party the possibility of making comments on the measure and shall take into account these comments.
4. Whenever there is a notification of non-compliance of imported products with a SPS measure properly adopted, the Parties shall cooperate to solve the problem. Unless specifically required by its laws or policies, the importing Party shall not suspend trade based on one shipment, but shall contact the exporting Party to ascertain how the problem has occurred. The Parties shall consult on what remedial action might be

taken by the exporting Party to ensure that further shipments do not infringe the measure.

ARTICLE 6.12 : COORDINATORS

1. To facilitate the implementation of this Chapter and cooperation between the Parties, each Party shall designate a Coordinator, who shall be responsible for coordinating with competent SPS authorities and interested persons in the Party's territory and communicating with the other Party's Coordinator in all matters pertaining to this Chapter. The Coordinators' functions shall include:

- (a) monitoring the implementation and administration of this Chapter;
- (b) enhancing communication between the Parties' competent SPS authorities and shall seek to facilitate a Party's response to written request for information from the other Party in print or electronically without undue delay, and in any case within thirty (30) days from the date of the request and at no cost or at reasonable cost;
- (c) facilitating information exchange so as to enhance mutual understanding of each Party's SPS measures and the regulatory processes that relate to those measures and their impact on trade in such goods between the Parties;
- (d) promptly addressing any bilateral SPS issues that a Party raises to enhance cooperation and consultation between the Parties to facilitate trade between the Parties;
- (e) reviewing progress on addressing SPS matters that may arise between the Parties' competent SPS authorities;
- (f) establishing technical working groups, as required. The technical working groups may consist of expert-level representatives of the Parties as agreed, which shall identify, address, and attempt to resolve technical and scientific issues arising from this Chapter;
- (g) promoting the development and review of implementing arrangements on technical matters including harmonization, equivalence, control, inspection and approval procedures which further elaborate the provisions of this Chapter in order to facilitate trade between the Parties;

- (h) reviewing and assessing progress of each Party's priority market access interests, and, where agreed as necessary, amend implementing arrangements; and
- (i) strengthening technical cooperation in sanitary and phytosanitary matters.

2. The Coordinators shall normally carry out their functions through agreed communication channels such as telephone, fax, e-mails, whichever is most expedient in the discharge of their functions. Nevertheless, in technical issues like notifications of pest interceptions, pest risk assessments or others, the contact between the competent SPS authorities can be made directly, with due communication to the Coordinators.

ARTICLE 6.13 : JOINT COMMITTEE

1. The Parties shall establish a Joint Committee consisting of representatives of the Parties which will meet when necessary to deal with any matter that cannot be clarified or resolved through the Coordinators.
2. The Joint Committee shall be co-chaired by the Coordinators of the Parties. The Joint Committee shall comprise representatives of both Parties' competent trade and SPS authorities.

ARTICLE 6.14 : TECHNICAL COOPERATION

The Parties shall endeavour to develop a work programme and mechanisms for co-operative activities in the areas of technical assistance and capacity building to address plant, animal and public health and food safety issues of mutual interest.

ARTICLE 6.15: CONSULTATION AND DISPUTE SETTLEMENT

1. In the event that a Party considers that a SPS measure affecting trade between the Parties warrants a technical consultation, it may request that technical consultations be held under the Joint Committee, with a view to share information and increase mutual understanding about the specific SPS measure under consultations and to identify a workable and practical solution that would facilitate trade. The other Party shall respond promptly to any request for technical consultations.
2. The technical consultations shall be held within thirty (30) days of the request, unless the Parties agree otherwise, and may be conducted via teleconference, video-conference, or through any other means, as mutually determined by the Parties.

3. Matters arising under this Chapter that cannot be settled through consultations may be forwarded by the complaining Party to the dispute settlement mechanism of the Agreement.

ARTICLE 6.16 : FINAL PROVISIONS

1. Nothing in this Chapter shall limit the authority of a Party to determine the level of protection it considers necessary for the protection of, *inter alia*, human health or safety, animal or plant life or health. In pursuance of this, each Party retains all authority to interpret its laws, regulations and administrative provisions.

2. For the purposes of Article 6.12 (Coordinators), the Coordinator in:

(a) Peru shall be

Ministry of Foreign Trade and Tourism
Viceministry of Foreign Trade
Calle Uno Oeste N° 50, Urb. Córpac, San Isidro
Tel: (51 1) 513 6100

or its successor or its designated contact point; and

(b) Singapore shall be

Ministry of Trade and Industry
Trade Division
100 High Street #09-01 The Treasury
Singapore 179434
Tel: (65) 6225 9911
Fax: (65) 6332 7260
E-mail: mti_email@mti.gov.sg

or its successor or its designated contact point.