

5. Replace Chapter 5 (Sanitary and Phytosanitary Measures) with:

CHAPTER 5

SANITARY AND PHYTOSANITARY MEASURES

Article 1 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 each Party;
- (b) provide greater transparency in and understanding of the application of each Party's regulations and procedures relating to sanitary and phytosanitary measures;
- (c) strengthen co-operation among the competent authorities of the Parties which are responsible for matters covered by this Chapter; and
- (d) enhance practical implementation of the principles and disciplines contained within the SPS Agreement.

Article 2 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 3 Definitions

For the purposes of this Chapter:

- (a) **competent authorities** means those authorities within each Party recognised by the national government as responsible for developing and administering the various sanitary and phytosanitary measures within that Party;
- (b) **international standards, guidelines and recommendations** shall have the same meaning as set out in paragraph 3 of Annex A to the SPS Agreement;
- (c) **sanitary or phytosanitary measure** shall have the same meaning as set out in paragraph 1 of Annex A to the SPS Agreement; and
- (d) **SPS Agreement** means the *Agreement on the Application of Sanitary and Phytosanitary Measures* in Annex 1A to the WTO Agreement.

Article 4 General Provisions

1. Each Party affirms its rights and obligations with respect to each other Party under the SPS Agreement.
2. Each Party commits to apply the principles of the SPS Agreement in the development, application or recognition of any sanitary or phytosanitary measure with the intent to facilitate trade among the Parties while protecting human, animal or plant life or health in the territory of each Party.

Article 5 Equivalence

1. The Parties shall strengthen co-operation on equivalence in accordance with the SPS Agreement and relevant international standards, guidelines and recommendations, in order to facilitate trade among the Parties.

2. To facilitate trade, the competent authorities of the relevant Parties may develop equivalence arrangements and make equivalence decisions, in particular in accordance with Article 4 of the SPS Agreement and with the guidance provided by the relevant international standard setting bodies and by the WTO Committee on Sanitary and Phytosanitary Measures established pursuant to Article 12 of the SPS Agreement.

3. A Party shall, upon request, enter into negotiations with the aim of achieving bilateral recognition arrangements of the equivalence of specified sanitary or phytosanitary measures.

Article 6 Competent Authorities and Contact Points

1. Each Party shall provide each other Party with a description of its competent authorities and their division of responsibilities.

2. Each Party shall provide each other Party with a contact point to facilitate distribution of requests or notifications made in accordance with this Chapter.

3. Each Party shall ensure the information provided under Paragraphs 1 and 2 is kept up to date.

Article 7 Notification

1. Each Party acknowledges the value of exchanging information on its sanitary or phytosanitary measures.

2. Each Party agrees to provide timely and appropriate information directly to the contact points of the relevant Parties where a:

- (a) change in animal or plant health status may affect existing trade;

- (b) significant sanitary or phytosanitary non-compliance associated with an export consignment is identified by the importing Party; and
- (c) provisional sanitary or phytosanitary measure against or affecting the exports of another Party is considered necessary to protect human, animal or plant life or health within the importing Party.

3. The exporting Party should, to the extent possible, endeavour to provide information to the importing Party if the exporting Party identifies that an export consignment which may be associated with a significant SPS risk has been exported.

Article 8

Co-operation

1. Each Party shall explore opportunities for further co-operation, collaboration and information exchange with the other Parties on sanitary and phytosanitary matters of mutual interest consistent with the objectives of this Chapter.

2. In relation to Paragraph 1, each Party shall endeavour to co-ordinate with regional or multilateral work programmes with the objective of avoiding unnecessary duplication and to maximise the benefits from the application of resources.

3. Each Party agrees to further explore how it can strengthen co-operation on the provision of technical assistance especially in relation to trade facilitation.

4. Any two Parties may, by mutual agreement, co-operate on adaptation to regional conditions in accordance with the SPS Agreement and relevant international standards, guidelines and recommendations, in order to facilitate trade between the Parties.

Article 9 Consultations

Where a Party considers that a sanitary or phytosanitary measure affecting trade between it and another Party warrants further discussion, it may, through the contact points, request a detailed explanation of the sanitary or phytosanitary measure and if necessary, request to hold consultations in an attempt to resolve any concerns on specific issues arising from the application of the sanitary or phytosanitary measure. The other Party shall respond promptly to any requests for such explanations, and if so requested, shall enter into consultations, within 30 days from the date of the request. The Parties to the consultations shall make every effort to reach a mutually satisfactory resolution through consultations within 60 days from the date of the request, or a timeline mutually agreed upon by the consulting Parties. Should the consultations fail to achieve resolution, the matter shall be forwarded to the FTA Joint Committee.

Article 10 Meetings Among the Parties on Sanitary and Phytosanitary Matters

1. The Parties hereby establish a Sub-Committee on Sanitary and Phytosanitary Matters (the "SPS Sub-Committee"), consisting of representatives from the relevant government agencies of each Party. The SPS Sub-Committee shall meet within one year of the entry into force of this Agreement and thereafter as mutually determined by the Parties.

2. The SPS Sub-Committee shall review the progress made by the Parties in implementing their commitments under this Chapter and may set up subsidiary working groups, as agreed between or among the relevant Parties, to consider specified issues relating to this Chapter.

3. Competent authorities of any two Parties may meet to make decisions bilaterally implementing the commitments under this Chapter. Each Party shall provide to the SPS Sub-Committee updates on the status of their work.

4. Subject to Paragraph 1, meetings under this Article shall occur as and when mutually determined by the relevant Parties and all decisions and/or records made shall be by mutual agreement of the relevant Parties. Meetings may occur in person, by teleconference, by video conference, or through any other means as mutually determined by the Parties.

Article 11
Non-Application of Chapter 20 (Consultations and
Dispute Settlement)

Chapter 20 (Consultations and Dispute Settlement) shall not apply to any matter arising under this Chapter.