

CHAPTER SIX

SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 6.1: OBJECTIVES

The objectives of this Chapter are to:

- (a) minimize the negative effects on trade of sanitary and phytosanitary measures while protecting human, animal, or plant life or health in the Parties' territories;
- (b) ensure that the Parties' sanitary and phytosanitary measures shall not be applied in a manner which would constitute a disguised restriction on trade between the Parties;
- (c) provide a committee to deal with matters related to sanitary and phytosanitary measures that may, directly or indirectly, affect trade between the Parties;
- (d) strengthen communication and cooperation between the Parties' competent authorities having responsibility for matters covered by this Chapter; and
- (e) deepen mutual understanding of each Party's sanitary and phytosanitary regulations and procedures.

ARTICLE 6.2: SCOPE OF APPLICATION

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

ARTICLE 6.3: AFFIRMATION OF THE SPS AGREEMENT

The Parties affirm their existing rights and obligations with respect to each other under the SPS Agreement.

ARTICLE 6.4: EQUIVALENCE

The importing Party shall accept the sanitary and phytosanitary measures of the exporting Party as equivalent, even if these measures differ from its own measures, if the exporting Party objectively demonstrates to the importing Party that its measures achieve the importing Party's appropriate level of sanitary and phytosanitary protection. For this purpose, reasonable access shall be given, upon request, to the importing Party for inspection, testing, and other relevant procedures.

ARTICLE 6.5: RISK ASSESSMENT

Without prejudice to Article 5 of the SPS Agreement, the Parties shall endeavor to give due consideration to a request for risk assessment of the other Party.

ARTICLE 6.6: ADAPTATION TO REGIONAL CONDITIONS, INCLUDING PEST- OR DISEASE-FREE AREAS AND AREAS OF LOW PEST OR DISEASE PREVALENCE

1. Each Party shall recognize the concepts of pest- or disease-free areas and areas of low pest or disease prevalence in accordance with the SPS Agreement.
2. The exporting Party claiming that areas within its territory are pest- or disease-free areas or areas of low pest or disease prevalence shall provide the necessary evidence thereof in order to objectively demonstrate to the importing Party that such areas are, and are likely to remain, pest- or disease-free areas or 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.
3. In connection with paragraphs 1 and 2, if a Party does not accept the determination on pest- or disease-free areas or areas of low pest or disease prevalence made by the other Party, the Party not accepting the determination shall explain the reasons in a timely manner.

ARTICLE 6.7: COMMITTEE ON SANITARY AND PHYTOSANITARY MATTERS

1. The Parties hereby agree to establish a Committee on Sanitary and Phytosanitary Matters comprising representatives of each Party's competent authorities who have responsibility for sanitary and phytosanitary matters.
2. The objectives of the Committee shall be to:
 - (a) enhance each Party's implementation of the SPS Agreement;
 - (b) protect human, animal, or plant life or health;
 - (c) enhance cooperation and consultation on sanitary and phytosanitary matters; and
 - (d) facilitate trade between the Parties.
3. Recognizing that the resolution of sanitary and phytosanitary matters must rely on science and risk-based assessment and is best achieved through bilateral technical cooperation and consultation, the Committee shall seek to enhance any present or future relationships between the Parties' agencies with responsibility for sanitary and phytosanitary matters. For this purpose, the Committee shall:
 - (a) monitor the implementation of this Chapter;

- (b) pursue transparency regarding sanitary and phytosanitary measures applicable to trade;
- (c) facilitate the exchange of information on matters related to the application of sanitary and phytosanitary measures that affect, or may affect, trade between the Parties;
- (d) promote coordination of technical cooperation activities related to development, implementation, and application of sanitary and phytosanitary measures;
- (e) improve mutual understanding of each Party's sanitary and phytosanitary measures and the regulatory processes related to those measures;
- (f) discuss and review issues arising from the application of sanitary and phytosanitary measures;
- (g) cooperate to develop a common understanding on the application of international standards, guidelines, and recommendations; and
- (h) deal with other issues agreed by the Parties.

4. The Parties shall adopt the Committee's terms of reference within a reasonable time following the entry into force of this Agreement.

5. The Committee shall be coordinated by:

- (a) for Korea, the *Ministry for Food, Agriculture, Forestry and Fisheries*, or its successor; and
- (b) for Peru, the *Ministry of Foreign Trade and Tourism*, or its successor.

6. The Parties will exchange the contact details of their respective coordinators referred to in paragraph 5 after the entry into force of this Agreement in order to facilitate communication with respect to the implementation of this Chapter.

7. The Committee shall meet within one year following the date of entry into force of this Agreement and thereafter every two years unless the Parties otherwise agree. The Committee may meet in person or by any technological means available to the Parties.

ARTICLE 6.8: DISPUTE SETTLEMENT

Neither Party shall have recourse to Chapter Twenty-Three (Dispute Settlement) for any matter arising under this Chapter.

ARTICLE 6.9: DEFINITIONS

For purposes of this Chapter:

SPS Agreement means the *Agreement on the Application of Sanitary and Phytosanitary Measures*, contained in Annex 1A to the WTO Agreement; and

definitions in Annex A to the SPS Agreement shall apply.