

CHAPTER 5 SANITARY AND PHYTOSANITARY MEASURES

Article 5.1 : Objectives

The objectives of this Chapter are to:

- (a) enhance the Parties' implementation of the SPS Agreement, taking into account international standards, guidelines and recommendations developed by relevant international organizations;
- (b) minimize negative effects on bilateral trade while protecting human, animal or plant life or health in the territories of the Parties; and
- (c) strengthen technical cooperation and consultations between the competent authorities of the Parties.

Article 5.2 : Scope and Definitions

1. This Chapter shall apply to the adoption or enforcement of all sanitary and phytosanitary (hereinafter referred to as "SPS") measures of a Party which may, directly or indirectly, affect bilateral trade between the Parties.

2. For the purposes of this Chapter:

- (a) **SPS Agreement** means the *Agreement on the Application of Sanitary and Phytosanitary Measures* in Annex 1A to the WTO Agreement; and
- (b) the definitions contained in Annex A to the SPS Agreement shall apply.

Article 5.3 : General Provisions

1. The Parties reaffirm their existing rights and obligations with respect to each other under the SPS Agreement, taking into account international standards, guidelines and recommendations developed by relevant international organizations.

2. Neither Party shall apply its SPS measures as an arbitrary or unjustifiable discrimination or a disguised restriction on trade between the Parties.

Article 5.4 : Technical Cooperation

1. The Parties agree to explore the opportunity for technical cooperation in SPS areas, with a view to enhancing the mutual understanding of the regulatory systems of the Parties, building capacity of the Parties, acquiring confidence between competent authorities of the Parties, and minimizing the negative effects on bilateral trade.
2. The Parties shall give due consideration to cooperation relating to SPS issues. Such cooperation, which shall be on mutually agreed terms and conditions, may include, but is not limited to:
 - (a) furthering exchange of experience and cooperation in the development and application of domestic SPS measures as well as international standards;
 - (b) strengthening cooperation with respect to, *inter alia*, risk analysis methodology, disease or pest control methods, and laboratory testing techniques;
 - (c) developing exchange programs for relevant officials of competent authorities, for the purposes of building capacity and confidence of the Parties regarding animal disease and plant pest management;
 - (d) exchanging information, upon request of a Party, on outbreak of any significant animal disease or incident related to food safety, and follow-up measures including related domestic regulations and their explanations;
 - (e) enhancing cooperation and exchange of experience between the WTO SPS Enquiry Points of the Parties;
 - (f) carrying out joint research and sharing the result of such research in SPS areas including animal disease, plant pest and food safety; and
 - (g) any other cooperative activity mutually agreed by the Parties.

Article 5.5 : Committee on Sanitary and Phytosanitary Measures

1. For the purposes of effective implementation and operation of this Chapter, the Parties hereby agree to establish a Committee on Sanitary and Phytosanitary Measures (hereinafter referred to as the “Committee”) comprising representatives of each Party’s competent authorities of SPS matters.
2. The Committee’s functions shall include:
 - (a) monitoring the implementation of this Chapter;
 - (b) providing a forum to exchange relevant information regarding each Party’s SPS measures, which may, directly or indirectly, affect trade between the Parties;

- (c) conducting consultations on and review of any matter relating to the development or application of SPS measures that affect, or may affect, trade between the Parties, and if necessary, upon request of a Party, giving positive consideration to establishing technical working group, within a reasonable period of time, on the basis of terms and conditions to be agreed by the Committee;
- (d) enhancing mutual understanding of each Party's SPS measures and the regulatory processes related to those measures;
- (e) identifying, discussing and reviewing technical cooperation between the Parties including the cooperative efforts in international fora; and
- (f) carrying out other functions mutually agreed by the Parties.

3. Each Party shall ensure that appropriate representatives with responsibility for SPS matters participate in the Committee meetings, and all decisions made by the Committee shall be by mutual agreement.

4. The Committee shall meet in person within one year from the date of entry into force of this Agreement and at least once annually thereafter or at any time mutually determined by the Parties. The meetings may be conducted via teleconference, via videoconference, or through other means as mutually agreed by the Parties.

5. In order to find the most effective way to implement the SPS Agreement, with respect to SPS measures adopted by a Party affecting bilateral trade, upon request of the other Party, the Parties shall, if necessary, enter into consultations on the basis of terms and conditions to be agreed by the Committee, within a reasonable period of time from the date of the request, with a view to seeking to address SPS matters of mutual interest of the Parties.

6. The Parties shall establish the Committee not later than 90 days after the date of entry into force of this Agreement through an exchange of letters identifying the primary representative of each Party to the Committee and establishing the Committee's terms of reference.

7. With a view to coordinating the Committee meetings and providing a means of information exchange within a reasonable period of time, the Parties shall designate the following contact points, ensuring the provided information is kept up to date:

- (a) for Korea, the Ministry of Agriculture, Food and Rural Affairs; and
- (b) for Viet Nam, the Ministry of Agriculture and Rural Development;

or their respective successors.

Article 5.6 : Dispute Settlement

The provisions of Chapter 15 (Dispute Settlement) shall not apply to any matter arising under this Chapter.