

CHAPTER 6

SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 6.1

Scope

This Chapter applies to sanitary and phytosanitary measures as defined in Annex A to the SPS Agreement which may, directly or indirectly, affect trade between the Parties.

ARTICLE 6.2

Incorporation of the SPS Agreement

The SPS Agreement applies to this Chapter and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*. The State Parties agree to take due account of decisions adopted by consensus within the framework of the WTO Committee on Sanitary and Phytosanitary Measures.

ARTICLE 6.3

International Standards

For the purposes of this Chapter, “international standards” means the standards, guidelines and recommendations of the Codex Alimentarius Commission, the WOHAI and the International Plant Protection Convention (IPPC).

ARTICLE 6.4

Consultations

1. Upon request of a State Party, which considers that a sanitary or phytosanitary measure, or a draft measure, of another State Party has created, or is likely to create, an obstacle to trade, consultations shall be held with the objective of finding a mutually acceptable solution.
2. If an exporting State Party considers that a sanitary or phytosanitary measure, or a draft measure, that is planned to be adopted by a regional integration scheme in which another State Party participates or has agreed to harmonise its domestic laws and regulations with, is likely to create an obstacle to trade, that State Party may bring their concerns to the attention of the importing State Party. Upon request of a State Party, the State Parties shall hold consultations and seek possible ways to address the matter.

3. Upon request of a State Party, consultations shall be held on the procedures and criteria employed when conducting import checks by an importing State Party of products of an exporting State Party
4. Consultations shall take place within 30 days from the receipt of the request by the contact point. In case of perishable goods, consultations between the competent authorities shall be held without undue delay. Such consultations may be held by any method agreed by the consulting State Parties. The Joint Committee shall be informed of the consultations.
5. In case an emergency measure is applied, consultations shall be held without undue delay upon request of a State Party. The State Parties shall exchange comments and information on the measure and its justification.
6. Consultations under this Article shall be without prejudice to Chapter 15 (Dispute Settlement).

ARTICLE 6.5

Import Checks

1. The State Parties shall carry out import checks and border controls as expeditiously as possible in a manner that is no more trade-restrictive than necessary. Import checks shall be carried out taking international standards into account.
2. In case products or consignments are rejected as a result of non-compliance with sanitary and phytosanitary import requirements at the import check, the importing State Party shall notify the exporting State Party of the results of the import checks as soon as possible and normally within five working days from the date of rejection. Upon request, the importing State Party shall provide the exporting State Party with the factual basis and scientific justification as soon as possible.
3. If import checks reveal non-compliance with the relevant sanitary and phytosanitary import requirements, the action taken by the competent authorities of the importing State Party shall be, in accordance with its domestic laws and regulations, justified, based on the identified non-compliance and no more trade-restrictive than required to achieve the importing State Party's appropriate level of sanitary or phytosanitary protection.
4. Goods subject to random and routine import checks should not be detained pending test results.
5. If a State Party detains a product at the border due to a perceived risk, it shall take a decision on clearance as soon as possible and make every effort to avoid deterioration of perishable goods.
6. If a State Party rejects a product at a port of entry, it shall ensure that appropriate legal procedures exist for the importer (the person responsible for the consignment) or his or her representative to appeal the decision.

ARTICLE 6.6

Certificates

1. Official certificates, where required, should be in line with international standards.
2. A State Party which introduces or modifies a certificate shall inform the other State Parties of the proposed new or revised certificate, in English, as soon as possible. The State Party shall provide the factual basis and justification of the new or modified certificate and give the other State Parties sufficient time to adapt to the new requirements, except in emergency cases, provided they are scientifically justified.

ARTICLE 6.7

Approval of Products and Establishments for Imports of Products of Animal Origin

5. The importing State Party may require an assessment of the exporting State Party and its competent authority in order to allow imports from a specific category of food of animal origin. The State Parties agree to use system audits as their preferred assessment method. System audits shall be conducted in accordance with the SPS Agreement and relevant international standards, guidelines and recommendations.¹ The State Parties shall justify the need to use a plant-by-plant approach for the approval of establishments.
6. If necessary and justified, the importing State Party may conduct an inspection or audit of an establishment for the purposes of verifying that the establishment complies with its sanitary requirements.
7. The costs incurred in carrying out the audit shall be borne by the importing State Party, unless the State Parties concerned decide otherwise.
8. If the importing State Party requires a list of establishments, the competent authorities of the exporting State Party shall ensure that lists of establishments are drawn up, kept up-to-date and notified to the importing State Party.² The competent authorities of the exporting State Party shall guarantee that the listed establishments comply with relevant requirements of the importing State Party or with requirements that have been determined to be equivalent with those requirements.
9. The importing State Party shall publish, without undue delay, the approved categories of food of animal origin and/or lists of establishments from the other State Parties and keep this information up to date. The legal basis and procedures for the approval of categories of food of animal origin and/or lists of establishments shall also be made publicly available.

¹ In particular, standards and guidelines developed by the Codex Alimentarius Committee on Food Import and Export Inspection and Certification Systems (CAC/GL 26-1997).

² The EFTA States participate in the European Internal Market. The EU's lists of Non-EU Countries Authorised Establishments are also valid for the EFTA States.

10. Upon request of a State Party which considers that the approval of specific categories of food of animal origin or lists of establishments is likely to create, or has created, an obstacle to trade, consultations shall be held in accordance with Article 6.4 (Consultations).

ARTICLE 6.8

Cooperation

With a view to increasing mutual understanding of their respective systems and facilitating access to their respective markets, the State Parties shall strengthen their cooperation. Such cooperation may include, but shall not be limited to:

- (a) collaboration between the relevant scientific institutions that provide the State Parties with scientific advice and risk analysis;
- (b) bilateral technical cooperation, on mutually agreed terms and conditions, to improve the State Parties' sanitary and phytosanitary measures, and related activities, including research, process technology, among others;
- (c) exchange of positions, where possible, in regional or multilateral fora in which international sanitary and phytosanitary standards, guidelines or recommendations are developed or related aspects are negotiated in particular in international standard setting bodies recognised in the framework of the SPS Agreement; and
- (d) exchange of information on the procedures employed when conducting import checks on verifications of compliance with sanitary and phytosanitary requirements.

ARTICLE 6.9

Transparency and Notifications

1. The State Parties reaffirm their international transparency obligations and agree to notify:

- (a) any draft sanitary and phytosanitary measures, in accordance with the SPS Agreement;
- (b) animal health status changes, such as the outbreaks of exotic diseases, diseases, infections and infestations listed by the WOAH in its Terrestrial and Aquatic Codes or sanitary warnings on food products, within 24 hours from the confirmation of the problem; and
- (c) phytosanitary status changes according to the provisions of the IPPC, such as the occurrence, outbreak or spread of pests that may be of immediate or potential danger, if possible within 72 hours from their verification.

2. In case a State Party does not fulfil the obligations under paragraph 1, it shall notify the respective sanitary and phytosanitary measure to the other State Parties.
3. Each State Party shall ensure that all sanitary and phytosanitary measures in force are publicly available on an official website. Upon request, a State Party shall provide supplementary information regarding import requirements, as far as practicable in English.
4. In every case of adoption of a sanitary or phytosanitary emergency measure affecting trade between the Parties, the State Party adopting the measure shall immediately notify the other State Parties.

ARTICLE 6.10

Equivalent Treatment

Upon request of a State Party, another State Party shall, without undue delay, consider extending to each other equivalent³ treatment related to sanitary and phytosanitary measures which the State Parties concerned apply, according to their domestic laws and regulations, to the EU or its member states.

ARTICLE 6.11

Contact Points and Competent Authorities

1. The State Parties shall exchange names and addresses of their single contact point in order to facilitate the implementation of this Chapter.
2. Upon entry into force of this Agreement, each State Party shall provide the other State Parties with the name of its official competent authorities.⁴ Such information shall also include a description of the distribution of competences between the respective authorities.
3. Each State Party shall notify any substantial change in structure, organisation and division of responsibilities of its competent authorities and contact points to the other State Parties.

³ For the purposes of this Article, the term “equivalent” shall not be understood as having the same meaning as the term “equivalence” according to the SPS Agreement.

⁴ For the purposes of this Chapter, “the official competent authorities” means the authorities of the State Parties that according to the respective domestic laws and regulations have been empowered to enforce the domestic laws and regulations of a State Party falling within the scope of this Chapter to ensure compliance with the requirements of this Chapter, or any other authority to which such authority has delegated that power.