

## **CHAPTER 6**

### **SANITARY AND PHYTOSANITARY MEASURES**

#### **Article 6.1: Definitions**

1. For the purposes of this Chapter:
  - (a) **Competent Authorities** mean those recognised by each Party as responsible for developing, implementing and administering the SPS measures within its territory as listed in Annex 6A.
  - (b) **SPS Agreement** means the *WTO Agreement on the Application of Sanitary and Phytosanitary Measures* (SPS Agreement).
2. The Parties may agree on other definitions for the application of this Chapter, taking into consideration the glossaries and definitions used by the relevant international organisations, such as the CODEX Alimentarius Commission (**CODEX**), World Organisation for Animal Health (**WOAH**), and the International Plant Protection Convention (**IPPC**).
3. The definitions contained in Annex A of the SPS Agreement shall apply.

#### **Article 6.2: Objectives**

The objectives of this Chapter are to:

- (a) enhance practical implementation of the principles and disciplines contained within the SPS Agreement and applicable international standards, guidelines and recommendations developed by relevant international organisations;
- (b) facilitate trade between the Parties and ensure that SPS measures imposed by each Party do not create unnecessary obstacles to trade while protecting human, animal or plant life or health in the territory of each Party; and
- (c) provide a means to strengthen communication, cooperation and resolution on SPS issues that affect trade between the Parties and other agreed matters of interest to the Parties, taking into account the different levels of development between the Parties.

### **Article 6.3: Scope**

This Chapter shall apply to the preparation, adoption and application of all SPS measures of a Party which may directly or indirectly affect the bilateral trade of the Parties.

### **Article 6.4: General Provisions**

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

### **Article 6.5: SPS Contact Points**

1. For the purpose of facilitating communication on SPS trade-related matters, the Parties agree to establish Contact Points as follows:

- (a) For Viet Nam, Viet Nam SPS Office, the Ministry of Agriculture and Rural Development, or its successor; and
- (b) For Israel, the Ministry of Economy and Industry, Foreign Trade Administration, or its successor.

2. For the purpose of implementing the provisions of this Agreement, the Parties agree to share information related to Competent Authorities of each Party with responsibility for sanitary and phytosanitary measures, listed in Annex 6A (Competent Authorities).

3. The Parties shall ensure the information provided under paragraphs 1 and 2 (including Annex 6A) are kept up to date.

### **Article 6.6: Adaptation to Regional Conditions**

1. The Parties recognise the concept of adaptation to regional conditions as set out in Article 6 of the SPS Agreement, and shall take into account the relevant guidance of the SPS Agreement and the relevant international standard-setting bodies.

2. The Parties shall endeavour to cooperate on the recognition of pest- and disease-free areas, and areas of low pest or disease prevalence with the objective of acquiring confidence in the procedures followed by each Party for the recognition of pest- and disease-free areas, and areas of low pest- and low disease prevalence.

### **Article 6.7: Equivalence**

1. The Parties recognise that the application of the equivalence principle set out in Article 4 of the SPS Agreement is an important tool for trade facilitation and has mutual benefits for both exporting and importing countries.
2. Equivalence can be accepted for a specific SPS measure or measures related to a certain product or category of products, or on a system-wide basis.
3. The importing Party shall accept the sanitary and phytosanitary measures of the exporting Party as equivalent if the exporting Party objectively demonstrates that its measures achieve the importing Party's appropriate level of sanitary and phytosanitary protection. To facilitate a determination of equivalence, a Party shall, on request, advise the other Party of the objective of any relevant sanitary or phytosanitary measures.
4. The Parties shall initiate the consultation process of equivalence determination within a reasonable period of time. The determination of equivalence shall be finalised after the demonstration of equivalence of the proposed measures by the exporting Party.
5. In case of multiple requests from the exporting Party, the Parties shall agree within the Committee referred to in Article 6.10 (Sub-Committee on SPS) on order of priority in which they shall initiate the process. The importing Party shall endeavour to prioritise the requests for equivalence in respect of those products which it has historically imported from the exporting Party.
6. The consideration by a Party of a request from the other Party for recognition of the equivalence of its measures with regard to a specific product shall not in itself be a reason to disrupt or suspend ongoing imports from that Party of the product in question. When an equivalence determination is made, it shall be formally recorded and applied to the trade between the Parties in the relevant area.
7. For the purpose of ensuring that sanitary and phytosanitary measures of the exporting Party consistently meet the importing Party's requirements, the exporting Party shall, upon request, allow the auditing of its systems including procedures of inspection and testing by the exporting Party.

#### **Article 6.8: Procedure of Listing Establishments**

1. After the initiation of the exporting Party, subject to each Party's internal procedures and processes, and upon request of the importing Party, the exporting Party shall inform the importing Party of its list of establishments which comply with the importing Party's requirements for approval and for which satisfactory sanitary guarantees have been provided.
2. Upon request of the exporting Party, the importing Party shall approve within 45 working days the list of establishments referred to in paragraph 1, without prior inspection of individual establishments.

3. If the importing Party requests additional information, the time period referred to in paragraph 2 shall be extended by up to 30 working days. Following the approval of the list of establishments, the importing Party shall take necessary measures, in accordance with its applicable legal procedures, to allow the importation of products concerned.

4. If the importing Party rejects the request for approval, it shall inform without delay the exporting Party of the reasons upon which that rejection was based.

5. The Competent Authority of the importing Party has the right to suspend or withdraw the import approval of an individual or several establishments in the event of fundamental non-compliance. The importing Party will inform the exporting Party of such decision.

#### **Article 6.9: Communication and Exchange of Information**

1. The Parties acknowledge the value of exchanging information on their respective SPS measures.

2. Each Party shall provide timely and appropriate information directly to both Contact Point and Competent Authorities of the other Party, in accordance with its WTO obligations:

- (a) where any changes in its sanitary and phytosanitary status, including important epidemiological findings, may affect the trade between the Parties;
- (b) on results of import checks in case of rejected or non-compliant consignments; or
- (c) on results of verification procedures, such as inspections or on site audits.

#### **Article 6.10: Sub-Committee on SPS**

1. The Parties shall establish a Sub-Committee on SPS measures (“the SPS Sub-Committee”), under the Joint Committee described in Article 13.1 (Establishment of the Joint Committee) of this Agreement, to facilitate cooperation and to consider any matter relating to the implementation of this Chapter.

2. The Sub-Committee’s functions shall include:

- (a) developing the necessary procedures or arrangements for the implementation of this Chapter;

- (b) monitoring the implementation of this Chapter;
  - (c) providing a forum to exchange information, expertise, and experience in the field of SPS matters and for discussion of problems arising from the application of certain sanitary or phytosanitary measures with a view to reaching mutually acceptable solutions and promptly addressing any matters that may create unnecessary obstacles to trade among the Parties; and
  - (d) carrying out any other functions as mutually agreed by the Parties.
3. In addition, the Sub-Committee's functions may include:
- (a) promoting the use of international standards by Parties in their respective adoption and application of SPS measures; and
  - (b) identifying, initiating and reviewing technical assistance projects and activities among the Parties.
4. The Parties may inform each other through the SPS Sub-Committee of decisions related to the authorization of imports, exchange of information, transparency, recognition of regionalization, equivalency and alternative measures, and any other matter referred to in the above paragraphs.
5. The SPS Sub-Committee shall consist of appropriate representatives of each Party with responsibility for SPS measures and all decisions made by the Sub-Committee shall be by mutual agreement.
6. The SPS Sub-Committee may establish technical working groups as required to undertake specific tasks.
7. The SPS Sub-Committee shall meet in person within one year from the date of entry into force of this Agreement and annually thereafter, when practicable, as mutually determined by the Parties. Meetings may be conducted via teleconference, video conference, or through other means as mutually agreed by the Parties.

#### **Article 6.11: Technical Cooperation**

1. The Parties agree to explore the opportunity for technical cooperation in SPS areas, with a view to enhance their understanding the other Party's regulatory systems, build capacities of the Parties, foster confidence between Competent Authorities of the Parties, and minimize 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 the 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 the 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 or the Competent Authorities of the Parties;
- (f) considering potential 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 6.12: Consultations**

1. Where a Party considers that a SPS measure affecting trade between the Parties warrants further discussion, it may, through the Contact Point, request a full explanation of the SPS measure and if necessary, request to hold consultations to resolve the issue. The other Party shall respond in a timely manner to any request for such explanations or consultations.

2. The Parties shall make every effort to resolve the issue through consultations on a timeline mutually agreed upon by both sides. Should the consultations fail to achieve resolution, the matter shall be forwarded to the Joint Committee referred to in Article 13.1 (Establishment of the Joint Committee).

### **Article 6.13: Emergency Measures**

1. Emergency measures imposed by an importing Party shall be notified in writing to the other Party through the Competent Authorities of the exporting country within two working days of the decision to implement them along with the associated reasons including any serious or significant human, animal or plant life or health risk, food emergencies that could affect the commodities for which trade takes place. Upon request, consultations between the Competent Authorities shall be held within 10 working days of the notification. All communication shall also be forwarded to the designated Contact Points. The Parties shall consider any information provided through such consultations.

2. The importing Party shall consider the information provided by the exporting Party, in a timely manner, when making decisions with respect to consignments that, at the time of adoption of emergency measures, are being transported between the Parties. The importing Party shall consider the most suitable and proportional solution in order to avoid unnecessary disruptions to trade.

## **ANNEX 6A**

### **Competent Authorities**

For the purposes of this Chapter, Competent Authority means:

1. For Viet Nam:

In the case of Viet Nam, Competent Authorities in control of sanitary and phytosanitary issues is shared between governmental agencies. In this respect the following applies:

- (a) Ministry of Agriculture and Rural Development is responsible for animal and plant health, or its successors;
- (b) Ministry of Health, Ministry of Agriculture and Rural Development, Ministry of Industry and Trade, in accordance with their respective competences, are responsible for food safety for human consumption, or their successors.

2. For the State of Israel:

- (a) Plant Protection and Inspection Services (“PPIS”), Ministry of Agriculture and Rural Development, or its successor;
- (b) Veterinary Services & Animal Health (“IVSAH”), Ministry of Agriculture and Rural Development, or its successor;
- (c) The National Food Service – Ministry of Health, or its successor;
- (d) The Institute for Supervision and Standards of Medicinal Products of the Ministry of Health – Ministry of Health, or its successor.