

Chapter 7 Sanitary and Phytosanitary Measures

Article 7.1 Objectives

The objectives of this Chapter are to:

- (a) promote and facilitate the trade of animals, products of animal origin, plants and products of vegetal origin between the Parties, protecting at the same time public health, animal and vegetable health;
- (b) improve between the Parties the implementation of the SPS Agreement;
- (c) provide a forum to address bilateral sanitary and phytosanitary measures, to solve the problems of trade that from them derives, and to expand trade opportunities;
- (d) provide mechanisms of communication and cooperation to resolve sanitary and phytosanitary issues in a prompt and efficient manner; and
- (e) ensure that procedures for the establishment of sanitary and phytosanitary measures between the Parties are transparent and are applied without undue delay.

Article 7.2 Scope and Definitions

1. This Chapter shall apply to all SPS measures of a Party that may, directly or indirectly, affect trade between the Parties.
2. For the purposes of this Chapter, the definitions in Annex A to the SPS Agreement shall apply.

Article 7.3 Affirmation

Except as otherwise provided for in this Chapter, the SPS Agreement shall apply between the Parties and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

Article 7.4 Risk Analysis

1. The Parties recognize that risk analysis is an important tool for ensuring that SPS measures have scientific basis. The Parties shall ensure that their SPS measures are based on an assessment of the risks to human, animal or plant life or health as provided in Article 5 of the SPS Agreement, taking into account the risk assessment techniques

developed by the relevant international organizations.

2. The importing Party shall give priority consideration to market access requests of the exporting Party by undertaking as soon as possible the risk analysis in a manner consistent with the domestic legislation of the importing Party. For this purpose, the competent authorities of the Parties will maintain close communications and good working relationships at each stage of the risk analysis process in order to facilitate it and to avoid undue delay. The exporting Party shall provide the necessary information required by the importing Party for the risk assessment.

3. At the end of the risk analysis process, evidence supporting the risk analysis, remaining uncertainties, and risk management proposals shall be communicated to the exporting Party.

4. If an exporting Party submits multiple market access requests to the importing Party, the exporting Party should identify its priority among these requests, and this will be taken into account by the importing Party.

5. If a protocol of sanitary and/or phytosanitary requirements is needed based on risk analysis, the competent authorities of the Parties shall enter into negotiations as soon as possible, with the aim of adopting the protocol. The establishment, review and amendment of the protocol by the competent authorities will be in accordance with the provisions of this Chapter and the SPS Agreement. In this sense, the protocol shall be scientifically justified, and shall not constitute a disguised restriction on trade.

Article 7.5 Regionalisation

1. The Parties shall accept the principle of regionalisation provided for in the SPS Agreement.

2. The Parties take note of the Guidelines to further the Practical Implementation of Article 6 of the Agreement on the Application of Sanitary and Phytosanitary Measures (G/SPS/48) adopted by the WTO Committee on Sanitary and Phytosanitary Measures and of relevant standards developed by World Organization for Animal Health (WOAH) and International Plant Protection Convention (IPPC).

Article 7.6 Harmonization

In accordance with Article 3 of the SPS Agreement and the Decisions for the implementation of the said Article adopted by the WTO/SPS Committee, the Parties shall work on the harmonization of their respective sanitary and phytosanitary measures, taking into account standards, guidelines and recommendations developed by the relevant international organizations.

Article 7.7 Equivalence

1. Each Party shall accept the sanitary or phytosanitary measures of the other Party as equivalent, if the other Party objectively demonstrates to the Party that its measures achieve the Party's appropriate level of sanitary and phytosanitary protection.

2. For the recognition of equivalence, the Parties should take into account international standards, guidelines and recommendations developed by the relevant international organizations and decisions adopted by the WTO/SPS Committee, where relevant to the particular case.

Article 7.8 Control, Inspection and Approval Procedures

Control, inspection and approval procedures shall be carried out in accordance with the provisions of Article 8 and Annex C of the SPS Agreement.

Article 7.9 Transparency

1. The Parties agree the full implementation of Article 7 of the SPS Agreement in accordance with the provisions of Annex B of the SPS Agreement.

2. The Parties shall make endeavor to exchange information on, including but not limited to, SPS measures, pest status and noncompliance cases. The English version of the full text of the adopted SPS measures, when available, should be provided.

3. The sanitary and phytosanitary enquiry points of the Parties established under the SPS Agreement shall set up a bilateral mechanism for further communication and transparency. The Parties shall provide upon request a copy of the full text of the proposed regulation notified and allow at least 60 days for comments.

4. The Parties shall communicate, upon request of a Party, the status of the procedure for the authorization of the import of specific products.

Article 7.10 Technical Cooperation

The Parties agree to strengthen bilateral technical cooperation on sanitary and phytosanitary issues, with a view to enhancing the mutual understanding of the regulatory systems of the Parties and facilitating access to each other's markets.

Article 7.11 Committee on Sanitary and Phytosanitary Measures

1. A Committee on sanitary and phytosanitary measures (hereinafter referred to as the "SPS Committee") is hereby established under the Free Trade Commission.

2. The functions of the SPS Committee shall be:

- (a) monitoring the implementation of this Chapter;
- (b) coordinating technical cooperation activities;
- (c) facilitating technical consultations;
- (d) identifying areas for enhanced cooperation, including giving favorable consideration to any specific proposal made by either Party;
- (e) establishing a dialogue between competent authorities in accordance with the objectives of this Chapter;
- (f) consulting on any issue prior to meetings of relevant international organizations, if appropriate; and
- (g) carrying out other functions mutually agreed by the Parties.

3. The SPS Committee shall meet once a year, unless otherwise agreed by the Parties. The SPS Committee meetings may be conducted by any agreed method on a case by case basis.

4. The SPS Committee may establish ad-hoc working groups to accomplish specific tasks.

Article 7.12 Technical Consultations

1. When a Party considers that a sanitary or phytosanitary measure is affecting trade with the other Party, it may request that technical consultations to be held under the SPS Committee, with a view to sharing information and increasing mutual understanding

about the specific sanitary or phytosanitary measure under consultation and to identify a practical solution that would facilitate trade. The other Party shall respond as early as possible to any request for technical consultations.

2. The technical consultations shall be held, in a term of 30 working days after the date of receipt of the request, unless the Parties agree otherwise, and may be conducted via teleconference, video conference, or through any other means mutually agreed by the Parties.

Article 7.13 Contact Points and Competent Authorities

1. Each Party shall establish a contact point which shall have responsibility for coordinating the implementation of this Chapter. The contact points will be:

- (a) for China, the Department of International Cooperation of the General Administration of Customs; and
- (b) for Ecuador, Ministry of Production, Foreign Trade, Investment and Fisheries.

2. For the purposes of this Chapter, the competent authorities on Sanitary and Phytosanitary Measures are:

For China:

The General Administration of Customs, or its successor.

For Ecuador:

a) Agency for Plant and Animal Health Regulation and Control (AGROCALIDAD), or its successor;

b) National Agency for Sanitary Regulation, Control and Surveillance (ARCSA), or its successor; and

c) Ministry of Production, Foreign Trade, Investment and Fisheries (MPCEIP), or its successor through the Undersecretary for Quality and Safety.