

CHAPTER 5

SANITARY AND PHYTOSANITARY MEASURES

Article 5.1: Definitions

For purposes of this Chapter:

the definitions provided in Annex A of the SPS Agreement shall apply;

relevant definitions developed by Codex Alimentarius Commission, the World Organization for Animal Health, and the *International Plant Protection Convention* shall be taken into account;

Competent Authorities means those authorities within each Party recognised by the national government as responsible for developing and administering the sanitary and phytosanitary measures within that Party; and

emergency measure means a sanitary or phytosanitary measure that is applied by an importing Party to an exporting Party to address an urgent problem of human, animal or plant life or health protection that arises or threatens to arise in the Party applying the measure.

Article 5.2: Objectives

The objectives of this Chapter are to protect human, animal, and plant life or health while facilitating trade by minimising the negative effects on trade among both Parties, to enhance cooperation, communication and transparency between the Parties, and to ensure that the Parties' sanitary and phytosanitary measures are based on scientific principles.

Article 5.3: Scope

1. This Chapter shall apply to all sanitary and phytosanitary measures of each Party that may, directly or indirectly, affect trade between the Parties.
2. Nothing in this Chapter prevents a Party from adopting or maintaining halal requirements for food and food products in accordance with its respective laws and regulations.

Article 5.4: General Provisions

1. The Parties affirm their rights and obligations under the SPS Agreement.
2. Nothing in this Chapter shall limit the rights or obligations of the Parties pursuant to the SPS Agreement.

Article 5.5: Emergency Measures

1. If a Party adopts an emergency measure that is necessary for the protection of human, animal or plant life or health and that may have an effect on trade, that Party shall promptly notify the exporting Party in writing through the Contact Point designated under Annex 5-A or already established communication channels of the Parties.
2. The exporting Party may request discussions with the Party adopting an emergency measure referred to in paragraph 1. Such discussions shall be held as soon as practicable. Each Party participating in the discussions shall endeavour to provide relevant information and shall take due account of any information provided through the discussions.
3. If a Party adopts an emergency measure, that Party shall review that measure within a reasonable period of time or on request of the exporting Party. The importing Party may, if necessary, request relevant information and the exporting Party shall endeavour to provide the relevant information to assist the importing Party in its review of the adopted emergency measure. The importing Party shall provide the result of the review to the exporting Party upon request. If the emergency measure is maintained after the review, the importing Party should review the measure periodically based on the most recent available information, and upon request, shall explain the reason for the continuation of the emergency measure.

Article 5.6: Transparency

1. The Parties recognise the importance on transparency as set out in Annex B of the SPS Agreement.

2. In implementing this Article, each Party shall take into account relevant guidance of the WTO SPS Committee and international standards, guidelines, and recommendations on transparency in pursuit of enhancing mutual understanding of each Party's sanitary and phytosanitary measures and their application.

3. The Parties shall exchange information on matters related to the development and application of sanitary and phytosanitary measures that affect or may affect, trade between the Parties with a view to minimising their negative trade effects.

4. An exporting Party shall provide timely and appropriate information to an importing Party where there is a significant change in animal or plant health status or food safety issue in that exporting Party that may affect trade.

Article 5.7: Cooperation and Capacity Building

1. The Parties shall explore opportunities for further cooperation, including capacity building, technical assistance, technical consultation, collaboration and information exchange, on sanitary and phytosanitary matters of mutual interest, consistent with this Chapter, subject to the availability of appropriate resources.

2. In undertaking cooperation activities, the Parties shall endeavour to coordinate bilaterally on work programmes to maximise the use of resources.

3. The Parties are encouraged to share information and the experiences of their cooperation activities.

Article 5.8: Competent Authorities and Contact Points

1. Upon the entry into force of this Agreement, each Party shall designate a Contact Point to facilitate communication on matters covered by this Chapter and promptly notify the other Party no later than 30 days after the entry into force of this Agreement.

2. For purposes of implementing this Chapter, the Competent Authorities and Contact Points of the Parties shall be those listed in Annex 5-A.

3. Each Party shall notify the other Party of any changes to Competent Authorities or Contact Point of any significant changes in the structure, organisation and division of responsibility within its Competent Authorities or Contact Point.

Article 5.9: Non-Application of Dispute Settlement

Chapter 17 (Dispute Settlement) shall not apply to any matter arising under this Chapter.

Annex 5-A Competent Authorities and Contact Points

For purposes of this Chapter, the Competent Authorities and Contact Points of each Party are as follows:

1. For the Republic of Korea:

(a) Competent Authorities

- (i) the Ministry of Agriculture, Food and Rural Affairs (MAFRA) and the Animal and Plant Quarantine Agency (APQA) or its successor;
- (ii) the Ministry of Ocean and Fisheries (MOF), the National Fishery Products Quality Management Service (NFQS) and the National Institute of Fisheries Science (NIFS) or its successor; and
- (iii) the Ministry of Food and Drug Safety (MFDS) or its successor.

(b) Contact Point

the Ministry of Agriculture, Food and Rural Affairs (MAFRA), or its successor.

2. For Malaysia:

(a) Competent Authorities

- (i) the Department of Agriculture (DOA) under Ministry of Agriculture and Food Security or its successor;
- (ii) the Department of Fisheries (DOF) under Ministry of Agriculture and Food Security or its successor;
- (iii) the Department of Veterinary Services (DVS) under Ministry of Agriculture and Food Security or its successor; and

(iv) the Food Safety and Quality Programme (FSQP) under Ministry of Health or its successor.

(b) Contact Point

the Ministry of Agriculture and Food Security (MAFS) or its successor.