

2. Chapter Five (Sanitary and Phytosanitary Measures) is hereby replaced with the following:

“CHAPTER FIVE

SANITARY AND PHYTOSANITARY MEASURES

SECTION A

GENERAL PROVISIONS

ARTICLE 5.1

Objectives

The objectives of this Chapter are to:

- (a) protect human, animal and plant life or health in the territory of each Party while facilitating trade between the Parties;
- (b) ensure that each Party’s SPS measures do not create unjustified barriers to trade;
- (c) reinforce and build on the implementation of the SPS Agreement, and promote the implementation of relevant international standards, guidelines and recommendations;
- (d) enhance transparency and understanding in relation to each Party’s SPS measures and their implementation;
- (e) promote resolution of SPS issues that may affect trade between the Parties;
- (f) enhance communication and cooperation between the Parties on relevant SPS issues;
- (g) support and enhance cooperation between the Parties in the Codex Alimentarius Commission (hereinafter referred to as the “Codex”), the World Organisation for Animal Health (hereinafter referred to as the “WOAH”) and the International Plant Protection Convention (hereinafter referred to as the “IPPC”) to develop international standards, guidelines and recommendations on food safety, animal health, and plant health;
- (h) enhance cooperation between the Parties, multilaterally and bilaterally, in the protection and improvement of animal welfare, including in relation to the connection between improved health and welfare of animals; and

- (i) enhance cooperation between the Parties, multilaterally and bilaterally, to reduce the development and spread of antimicrobial resistance, and promote the reduction in unnecessary use of antimicrobial agents.

ARTICLE 5.2

Scope

1. This Chapter applies to all SPS measures of a Party that may, directly or indirectly, affect trade between the Parties.
2. This Chapter also includes provisions regarding animal welfare and antimicrobial resistance.

ARTICLE 5.3

Definitions

1. For the purposes of this Chapter:

competent authority means each Party's authority responsible for measures and matters referred to in this Chapter;

relevant international organisations means the organisations referred to in Annex A, paragraph 3 of the SPS Agreement;

SPS means sanitary or phytosanitary;

SPS Agreement means the *Agreement on the Application of Sanitary and Phytosanitary Measures* in Annex 1A to the WTO Agreement; and

WTO SPS Committee means the Committee on Sanitary and Phytosanitary Measures, established under Article 12 of the SPS Agreement.

2. For the purposes of this Chapter, the following definitions shall apply:

- (a) the definitions in Annex A of the SPS Agreement;
- (b) the definitions adopted under the auspices of the Codex;
- (c) the definitions adopted under the auspices of the WOH; and
- (d) the definitions adopted under the auspices of the IPPC.

3. Further to paragraph 2, in the event of an inconsistency between the definitions set out in the SPS Agreement and the definitions adopted under the auspices of the Codex, the WOH, and the IPPC, the definitions set out in the SPS Agreement shall prevail.

ARTICLE 5.4

Rights and Obligations

1. The Parties affirm their rights and obligations under the SPS Agreement.
2. Nothing in this Agreement shall affect the rights and obligations of each Party under the SPS Agreement.

ARTICLE 5.5

Competent Authorities and Contact Points

1. Each Party shall, upon the entry into force of this Agreement, notify the other Party of its list of competent authorities. The notification shall include the respective roles, responsibilities, and contact information of such authorities.
2. Each Party shall, upon the entry into force of this Agreement, designate and notify the other Party of a contact point to facilitate any communication between the Parties relating to this Chapter.
3. Each Party shall promptly notify the other Party of any changes to the information provided pursuant to this Article.

SECTION B

SPS MEASURES

ARTICLE 5.6

Adaptation to Regional Conditions

1. The Parties acknowledge that the adaptation of SPS measures to recognise regional conditions, including through the application of concepts such as pest- or disease-free areas, areas of low pest or disease prevalence, zoning, pest-free places of production, and pest-free production sites, is an important means of minimising any negative effects on trade.
2. Each Party shall apply the concepts set out in paragraph 1 in accordance with the SPS Agreement, taking into account relevant guidance of the WTO SPS Committee and relevant international standards, guidelines and recommendations.
3. The Parties shall cooperate on the recognition of regional conditions with the objective of acquiring confidence in the procedures followed by each Party for the determination of regional conditions. In doing so, the Parties shall promote information sharing in this area and

on related matters. An audit required in relation to the recognition of regional conditions shall be carried out in accordance with Article 5.9.

4. If the importing Party undertakes an assessment of risk that may result in the importing Party establishing or maintaining SPS measures applicable to the exporting Party, the importing Party shall take into consideration any relevant regional conditions in the territory of the exporting Party, if this information is provided by the exporting Party, including:

- (a) for sanitary measures applicable to the exporting Party, any disease-free area, area of low disease prevalence, zone, or any other similar area established by the exporting Party and a relevant official disease status recognised by the WOA; or
- (b) for phytosanitary measures applicable to the exporting Party, any pest-free area, pest-free place of production, pest-free production site, or area of low pest prevalence established by the exporting Party.

5. If requested by the importing Party, the exporting Party shall provide:

- (a) for sanitary regional conditions, an explanation of the basis of the regional conditions and supporting data based on the relevant WOA standards; or
- (b) for phytosanitary regional conditions, an explanation of the basis of the regional conditions and supporting data based on the relevant IPPC standards.

6. If the importing Party determines that the information provided by the exporting Party is sufficient, it shall initiate an assessment and, make a decision within a reasonable period of time as to whether it can accept the exporting Party's determination of regional conditions.

7. If the importing Party has accepted the exporting Party's determination of regional conditions, the exporting Party shall notify the importing Party of a proposed modification to those regional conditions. Following that notification, the importing Party shall continue to accept the exporting Party's determination of regional conditions and allow trade to continue, if the importing Party is satisfied that its appropriate level of protection will be maintained.

8. If the importing Party adopts a measure that recognises specific regional conditions of an exporting Party, the importing Party shall implement the measure within a reasonable period of time and inform the exporting Party without undue delay when trade can commence.

9. If the evaluation of the evidence provided by the exporting Party does not result in a decision to recognise the regional conditions of the exporting Party, the importing Party shall provide the exporting Party with the rationale for its decision within a reasonable period of time and, on request, hold discussions.

10. If there is an incident that results in the importing Party modifying or revoking a decision recognising the regional conditions of the exporting Party, the importing Party shall, on request, endeavour to cooperate with the exporting Party and assess whether the decision can be reinstated.

ARTICLE 5.7

Equivalence

1. The Parties acknowledge the importance of the recognition of equivalence of SPS measures. In determining equivalence of an individual measure, group of measures, or measures on a systems-wide basis, each Party shall consider the relevant guidance of the WTO SPS Committee and relevant international standards, guidelines and recommendations.
2. The importing Party shall recognise the equivalence of SPS measures of the exporting Party, even if the measures differ from its own, if the exporting Party objectively demonstrates to the importing Party that its measures achieve the importing Party's appropriate level of protection.
3. The Parties recognise that the importing Party determines whether an SPS measure meets its appropriate level of protection.
4. The importing Party shall provide to the exporting Party the rationale for its determination.
5. In order to strengthen cooperation on equivalence, the Parties may, under the Committee on Sanitary and Phytosanitary Measures (hereinafter referred to as the "SPS Committee") established under Article 15.2.1 (Specialised Committees), consider establishing a procedure for recognition of equivalence based on the relevant guidance of the WTO SPS Committee and relevant international standards, guidelines and recommendations.

ARTICLE 5.8

Import Requirements

1. Without prejudice to the rights and obligations of each Party under the SPS Agreement and this Agreement, the importing Party shall apply its import requirements to the entire territory of the exporting Party in a consistent manner.
2. With regard to its import requirements, each Party shall take into account the principles set out in the relevant guidance of the WTO SPS Committee, and the relevant international standards, guidelines and recommendations.
3. The importing Party shall make publicly available its general SPS import requirements related to goods.
4. Each Party shall ensure that all of its SPS control, inspection, assessment, and approval procedures affecting trade between the Parties are undertaken and completed without undue delay, including, if necessary, audits and the necessary legislative or administrative steps to complete the approval procedure.
5. On reasonable request, the importing Party shall make available to the exporting Party:

- (a) all SPS import requirements relating to the import of a specific good, unless that information is publicly available, within a reasonable period of time following receipt of the request; and
 - (b) the status of an application by the exporting Party to establish or modify import requirements, within a reasonable period of time following receipt of the request.
- 6. For the purposes of establishing the specific SPS import requirements relating to a good, the exporting Party shall, on request:
 - (a) provide all relevant available information required by the importing Party; and
 - (b) in accordance with Article 5.9, give reasonable access to the importing Party to conduct audits.
- 7. If a risk assessment is required in the process of determining import requirements, a Party shall, on request, provide the other Party with the outcomes of that risk assessment within a reasonable period of time after the risk assessment has been finalised.
- 8. The Parties shall, under the SPS Committee and in accordance with the respective laws and regulations of each Party, consider establishing a procedure for the approval of establishments or facilities situated in the territory of the exporting Party.
- 9. Without prejudice to Article 5.13, the importing Party shall not refuse or prevent the importation of a good of the exporting Party solely for the reason that it is undertaking a review of its SPS measure if the importing Party permitted the importation of that good from the exporting Party when the review was initiated.
- 10. Each Party shall endeavour to avoid unnecessary duplication and administrative burden with respect to any documentation, information, or action that it requires from the other Party during its approval process.

ARTICLE 5.9

Audit

- 1. For the purpose of attaining and maintaining confidence in the exporting Party's regulatory control programme, the importing Party may carry out an audit¹ of all or part of that regulatory control programme of the exporting Party's competent authority.
- 2. The Parties shall assist each other to carry out audit procedures.

¹ For greater certainty, for the purposes of this Chapter, an audit may include a desk assessment and virtual, remote, or physical audits.

3. Prior to the commencement of an audit, the competent authorities of the Parties shall exchange information on the objectives and scope of the audit and other matters related specifically to its commencement.
4. Each Party shall carry out audits in accordance with the SPS Agreement, taking into account the relevant guidance of the WTO SPS Committee and relevant international standards, guidelines and recommendations.
5. Each Party shall endeavour to limit the frequency and number of audit visits and only carry out a subsequent audit related to the same product in duly justified circumstances. In those circumstances, the importing Party shall provide the exporting Party with an explanation of the reason for the audit.
6. The importing Party shall provide the exporting Party with the opportunity to comment in writing on the findings of an audit. The importing Party shall take those comments into account before reaching its conclusions and taking any action in relation to the audit. The importing Party shall, within a reasonable period of time, provide the exporting Party with a written report setting out its conclusions.
7. Measures taken as a consequence of an audit shall be based on the risks identified and shall not be more trade restrictive than necessary to achieve the importing Party's appropriate level of protection.
8. Each Party shall ensure, in accordance with its respective laws and regulations, that procedures are in place to prevent the disclosure of confidential information that is acquired during the audit process.

ARTICLE 5.10

Certification

1. If a Party requires import certification, it shall take into account the relevant guidance of the WTO SPS Committee and relevant international standards, guidelines and recommendations.
2. The Parties may decide to specify or implement further guidance, procedures, and requirements in relation to export certification.
3. The Parties shall promote the implementation of electronic certification and other technologies to facilitate trade, as appropriate.

ARTICLE 5.11

Import Checks

1. The importing Party may carry out import checks based on the SPS risks associated with imports. These checks shall be carried out without undue delay and with minimum trade-disrupting effects.
2. If import checks reveal non-compliance with the relevant import requirements, the action taken by the importing Party shall be based on an assessment of the risk involved and shall not be more trade restrictive than required to achieve the importing Party's appropriate level of protection.
3. The importing Party shall notify the importer or its representative of a non-compliant consignment and of the reason for non-compliance, and shall endeavour, subject to its laws and regulations, to provide the importer or its representative with an opportunity for a review of the decision. In any review the importing Party carries out, it shall consider any relevant information submitted in a timely manner to assist the review, and it shall carry out the review within a reasonable period of time.
4. If the importing Party determines that there is a significant, sustained, or recurring pattern of non-compliance with an SPS measure, the importing Party shall notify the exporting Party of the non-compliance.

ARTICLE 5.12

Transparency and Exchange of Information

1. In implementing this Article, each Party shall:
 - (a) pursue transparency as regards SPS measures applicable to trade; and
 - (b) take into account the relevant guidance of the WTO SPS Committee and relevant international standards, guidelines and recommendations.
2. Each Party shall promptly notify the other Party of any:
 - (a) significant change in animal disease status in its territory, such as the presence or evolution of a disease listed in the WOAHP list of terrestrial and aquatic animal diseases;
 - (b) finding of epidemiological importance with respect to an animal disease which is not listed in the WOAHP list of terrestrial and aquatic animal diseases, or which is an emerging disease;
 - (c) occurrence, outbreak, or spread of plant pests in its territory, in accordance with the relevant IPPC standards;

- (d) significant change in a plant pest or animal disease management, control, or eradication policy or practice that may affect trade between the Parties; or
 - (e) significant food safety issue related to a good traded between the Parties.
3. The Parties shall endeavour to exchange information, through their designated contact points on other relevant issues including:
- (a) changes to a Party's SPS measures and approval procedures that may affect trade between the Parties;
 - (b) on reasonable request, information on matters related to the development and application of SPS measures that affect, or may affect, trade between the Parties, with a view to minimising any negative effects; and
 - (c) information that may enhance mutual understanding of the Parties' SPS measures and their application.
4. Unless the SPS Committee decides otherwise, if the information referred to in paragraphs 2 or 3 has been made available via notification to the WTO, or to the relevant international organisations in accordance with its relevant rules, the requirement in those paragraphs is deemed to be fulfilled.
5. Each Party shall provide a reasonable interval between the date it publishes a final SPS measure and the date on which that measure takes effect, unless the measure is intended to address an urgent problem of human, animal or plant life or health protection, or the measure is of a trade-facilitating nature.

ARTICLE 5.13

Emergency Measures

1. If a Party adopts an emergency SPS measure necessary for the protection of human, animal or plant life or health, that Party shall notify the other Party of the measure through its contact point as soon as possible.
2. On the request of the other Party, a Party adopting an emergency SPS measure shall engage in technical consultations pursuant to Article 5.14. The Parties shall endeavour to hold technical consultations within 10 days of the receipt of the request, and in any case, shall hold the consultations as soon as possible following receipt of the request. The Party that adopts the emergency SPS measure shall take into consideration any information provided by the other Party in response to the notification and during the technical consultations. Technical consultations shall be carried out in order to avoid unnecessary disruptions to trade, and the Parties may consider options to facilitate the implementation of the measures, or to replace the measures.
3. On the request of the other Party, the Party that adopts an emergency SPS measure shall provide its objective and rationale for that measure.

4. If a consignment is being transported between the Parties at the time the emergency SPS measure is adopted, the importing Party shall, when making its decision with respect to that consignment, consider any information that has been promptly provided by the exporting Party.

ARTICLE 5.14

Technical Consultations

1. If a Party considers that an SPS measure or draft SPS measure within the scope of this Chapter, or its implementation, is inconsistent with this Chapter, it may, through its contact point, request that technical consultations be held.

2. Unless the Parties determine otherwise, these technical consultations shall be held within 30 days of the receipt of the request. Consultations may be conducted by electronic or any other means, as mutually determined by the Parties.

3. The purpose of these technical consultations is to share information and increase mutual understanding, with a view to resolving any concerns about the specific measure that is the subject of the consultations within a reasonable period of time.

4. If the Parties have already established mechanisms other than those referred to in this Article to address the concerns, they shall make use of them to the extent practicable in order to avoid unnecessary duplication.

SECTION C

ANIMAL WELFARE AND ANTIMICROBIAL RESISTANCE

ARTICLE 5.15

Animal Welfare

1. The Parties recognise that animals are sentient beings² and that the keeping of animals comes with a responsibility for their wellbeing. The Parties also recognise the connection between the improved health of animals, improved welfare of animals, and sustainable food production systems.

2. The Parties affirm the right of each Party to set its policies and priorities for the protection and improvement of animal welfare and to adopt, maintain, or modify its laws, regulations, and policies in this area.

3. The Parties shall cooperate in the field of animal welfare. To this end, the Parties shall:

² As defined in each Party's respective animal welfare laws and regulations.

- (a) exchange information, expertise, and experiences in the field of animal welfare with the aim of improving understanding of each other's approaches and regulatory systems;
- (b) cooperate on the implementation of the WOAHA animal welfare standards;
- (c) cooperate in relevant international fora in the development of animal welfare standards, in particular with respect to the stunning and slaughter of animals; and
- (d) cooperate in relevant international fora to promote the improvement of animal welfare standards.

4. The Parties hereby establish a Joint Working Group on Animal Welfare (hereinafter referred to as "Joint Working Group") composed of government representatives of each Party responsible for animal welfare matters. The Joint Working Group shall be co-chaired by one representative of each Party. The Joint Working Group shall report to the SPS Committee. The Joint Working Group shall act as a forum for cooperation pursuant to this Article.

5. The Joint Working Group shall provide a forum for:

- (a) cooperation on initiatives of mutual interest to the Parties in relation to animal welfare;
- (b) reviewing developments in animal welfare;
- (c) promoting high animal welfare practices;
- (d) information sharing pursuant to this Article; and
- (e) performing any other functions related to animal welfare as the Parties may decide.

6. The Joint Working Group shall meet on an ad hoc basis, as decided by the Parties. The Joint Working Group may meet by electronic or other means as decided by the Parties.

ARTICLE 5.16

Antimicrobial Resistance

1. The Parties recognise that antimicrobial resistance ("AMR") is an urgent problem and a serious global threat to human and animal health. The Parties also recognise that the nature of AMR requires a transnational and One Health approach, in line with the *World Health Organization* (hereinafter referred to as the "WHO") *Global Action Plan on Antimicrobial Resistance*, acknowledging the interdependencies between trade, animal health, human health, plant health, and the environment, and the implications for food safety and food security.

2. The Parties shall endeavour to promote the:
 - (a) reduction in unnecessary use of antimicrobial agents for veterinary medical use in the rearing of animals for food production; and
 - (b) prohibition of the use of antimicrobial agents as growth promoters in animals internationally.
3. Each Party shall endeavour to carry out and, as appropriate, update their respective national action plans and strategies aiming to promote the prudent and responsible use of, and to reduce the unnecessary use of, antimicrobial agents in animal rearing.
4. The Parties shall endeavour to cooperate in the relevant international organisations, and in other relevant bodies (including the WHO, the United Nations Environment Programme, and the Food and Agriculture Organization of the United Nations), on the further development of codes, guidelines, standards, recommendations, and other initiatives aiming to promote the prudent and responsible use of antimicrobial agents. Each Party shall endeavour to support the implementation of internationally agreed codes, guidelines, standards, recommendations, and initiatives.
5. The Parties support efforts towards the global harmonisation of AMR surveillance and data collection.
6. The Parties shall, as appropriate, exchange information, experiences, and expertise in the field of combating AMR, and identify common views, interests, priorities, and policies in this area.

SECTION D

INSTITUTIONAL PROVISIONS

ARTICLE 5.17

SPS Committee

1. The SPS Committee shall be composed of government representatives of each Party responsible for SPS matters.
2. The SPS Committee shall:
 - (a) monitor the implementation of, and consider any matter related to, this Chapter;
 - (b) provide an opportunity for the identification, prioritisation, discussion, and resolution of SPS issues;
 - (c) facilitate the elimination of unnecessary SPS barriers to trade between the Parties;

- (d) develop and recommend any proposals for amendments to this Chapter to the Trade Committee;
- (e) maintain a written record of the discussions between the Parties on their work and decisions made by the SPS Committee; and
- (f) report as needed on its activities to the Trade Committee.

3. The SPS Committee may:

- (a) identify opportunities for greater cooperation activities relevant to this Chapter;
- (b) provide opportunities to identify initiatives to strengthen bilateral technical cooperation relevant to this Chapter;
- (c) discuss, at an early stage, a new SPS measure being considered, or a change to, or a proposed change to, an SPS measure being considered;
- (d) facilitate improved understanding between the Parties on the implementation of the SPS Agreement and promote cooperation between the Parties on SPS issues in multilateral fora, including the WTO SPS Committee, and relevant international organisations, as appropriate;
- (e) provide a forum to exchange information on each Party's SPS regulatory system;
- (f) establish technical working groups comprising expert-level representatives of the Parties to address specific SPS issues, or any other issues arising from this Chapter;
- (g) discuss any matter relating to animal welfare;
- (h) discuss any matter relating to antimicrobial resistance; and
- (i) perform any other tasks or functions relevant to this Chapter as the Parties may decide.

4. A Party may refer any SPS issue or matter arising under this Chapter to the SPS Committee and the SPS Committee shall consider the issue as soon as possible.

5. The SPS Committee shall meet within one year of the date of entry into force of this Agreement, and thereafter on an annual basis, unless the Parties decide otherwise. The SPS Committee may decide to meet by electronic means, and it may also address issues out of session by correspondence.

6. On entry into force of this Agreement, each Party shall designate and inform the other Party, in writing, of a contact point to coordinate the SPS Committee meetings in accordance with Article 5.5.

7. Unless the Parties decide otherwise, the SPS Committee shall establish its rules of procedure at its first meeting. The SPS Committee may revise its rules of procedure at any time.

8. The SPS Committee shall take decisions and make recommendations by mutual consent.

ARTICLE 5.18

Dispute Settlement

Neither Party may have recourse to Chapter Fourteen (Dispute Settlement) for any matter arising under this Chapter.”