

CHAPTER FIVE

SANITARY AND PHYTOSANITARY MEASURES

Article 5.1: Objective

The objective of this Chapter is to protect human, animal or plant life or health in the Parties' territories while facilitating trade by minimizing the negative effects on trade between the Parties.

Article 5.2: Scope

This Chapter shall apply to all Sanitary and Phytosanitary (hereinafter referred to as "SPS") measures of the Parties, which may, directly or indirectly, affect trade between the Parties.

Article 5.3: Definitions

The definitions in Annex A of the Agreement on the Application of Sanitary and Phytosanitary Measures, contained in Annex 1A to the WTO Agreement (hereinafter referred to as the "SPS Agreement") are incorporated into and made part of this Chapter, *mutatis mutandis*.

Article 5.4: General Provisions

The Parties reaffirm their rights and obligations with respect to each other under the SPS Agreement taking into account relevant decisions of the WTO SPS Committee and international standards, guidelines and recommendations.

Article 5.5: Risk Assessment

1. Without prejudice to Article 5 of the SPS Agreement, the Parties shall endeavor to give due consideration to a request for risk assessment of the other Party.

2. Risk assessment on a Party's sanitary and phytosanitary measures shall be conducted and evaluated by the relevant agencies of each Party. The risk assessment will be in accordance with the provisions of this Chapter and the SPS Agreement.

Article 5.6: Regionalization

The Parties recognize the concepts of regional conditions, including pest- or disease-free area and shall take into account the relevant decisions of the WTO SPS Committee and international standards, guidelines, and recommendations.

Article 5.7: Equivalence

1. Each Party shall accept the SPS measures of the other Party as equivalent to its own if the exporting Party objectively demonstrates to the other Party that its measure achieves the other Party's appropriate level of protection. For this purpose, reasonable access shall be given, upon request, to the importing Party for inspection, testing and other relevant procedures.

2. Equivalence may be recognised in relation to:

- (a) An individual measure;
- (b) A group of measures; or
- (c) A system applicable to a sector, sub-sector, commodities or a group of commodities.

3. As regards recognition of equivalence the Parties shall follow the process mutually agreed between the parties. This process shall include an objective demonstration of equivalence by the exporting Party and an objective assessment of the request by the importing Party. This assessment may include inspections or verification.

4. Upon request of the exporting Party concerning recognition of equivalence as set out in paragraph 2 of this Article the Parties shall within a reasonable period of time initiate the consultation process which includes the steps agreed between the parties.

Article 5.8: Transparency and Exchange of Information

1. The Parties shall pursue transparency as regards sanitary and phytosanitary measures applicable to trade, with a view to enhancing mutual understanding of each Party's sanitary and phytosanitary measures and their application.
2. 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.
3. 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 5.9: Technical Cooperation

1. The Parties agree to explore the opportunity for technical cooperation in SPS areas, with a view to enhancing the mutual understanding of the regulatory systems of the Parties and minimizing the negative effects on bilateral trade.
2. Each Party, on request, shall give due consideration to cooperation in relation to SPS issues and enhance consultation on sanitary and phytosanitary matters through contact points.

Article 5.10: Contact Points

For purposes of facilitating implementation and communication on SPS matters of this Article, the Parties shall designate Contact Points as follows:

- (a) for Korea, the Ministry of Agriculture, Food and Rural Affairs; and
- (b) for Georgia, the Ministry of Environmental Protection and Agriculture

Article 5.11: Dispute Settlement

Neither Party shall have recourse to Chapter Sixteen (Dispute Settlement) for any matter arising under this Article.