

APPENDIX 1

NEW CHAPTER 5 (SANITARY AND PHYTOSANITARY MEASURES)

CHAPTER 5  
SANITARY AND PHYTOSANITARY MEASURES

**Article 5.1: OBJECTIVES**

The objectives of this Chapter are to:

- (a) facilitate trade between the Parties while protecting human, animal or plant life or health in their territories;
- (b) ensure transparency in and deepen mutual understanding of the application of each Party's Sanitary and Phytosanitary Measures (hereinafter referred to as "SPS measures")
- (c) strengthen cooperation between the Parties; and
- (d) facilitate implementation of the principles of the *Agreement on the Application of Sanitary and Phytosanitary Measures* in Annex 1A of the WTO Agreement (hereinafter referred to as "the SPS Agreement").

**Article 5.2: SCOPE**

This Chapter shall apply to all SPS measures of the Parties, which may, directly or indirectly, affect trade between the Parties.

**Article 5.3: DEFINITIONS**

For purposes of this Chapter, the definitions in Annex A of the SPS Agreement shall apply.

**Article 5.4: AFFIRMATION OF THE SPS AGREEMENT**

The Parties affirm their rights and obligations with respect to each other under the SPS Agreement.



#### **Article 5.5: RISK ASSESSMENT**

The Parties shall ensure that their SPS measures are based on an assessment, as appropriate to the circumstances, 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.

#### **Article 5.6: HARMONIZATION**

1. The Parties shall make their best endeavour to base their SPS measures on international standards, guidelines, or recommendations where they exist.

2. The Parties shall strengthen communications, cooperation, and coordination with each other, where appropriate, in the *International Plant Protection Convention* (IPPC), the *Codex Alimentarius Commission* (Codex) and the *World Organisation for Animal Health* (WOAH).

#### **Article 5.7: REGIONALIZATION**

The Parties recognise the principles of regionalisation and its implementation as provided for in Article 6 of the SPS Agreement and the relevant standards and guidelines established by the relevant international organisations.

#### **Article 5.8: 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. Upon request, a Party shall, without undue delay, enter into consultation with the aim of achieving bilateral recognition arrangements on the equivalence of specified sanitary or phytosanitary measures. The recognition of equivalence under such bilateral recognition arrangements may be with respect to a single measure, a group of measures, or on a systems-wide basis.

3. As part of the consultation for equivalence recognition, on request of the exporting Party, the importing Party shall explain and provide: (a) the rationale and objective of its measures; and (b) the specific risks its measures are intended to address.

4. The exporting Party shall provide necessary information in order for the importing Party to commence an equivalence assessment. Once the assessment



commences, the importing Party shall, upon request, and without undue delay, explain the process and provide the plan for making an equivalence determination.

5. The consideration by a Party of a request from another Party for recognition of the equivalence of its measures with regard to a specific product, or group of products, shall not be in itself a reason to disrupt or suspend ongoing imports from the Party of the product or products in question.

#### **Article 5.9: TRANSPARENCY**

1. Each Party affirms its commitment to ensure that information regarding proposed new or amended SPS measures is made available in accordance with the notification obligations of the SPS Agreement.

2. Each Party shall make available the full text of its notified SPS measures, in available languages, to the requesting Party within 15 working days after receiving the written request.

3. Each Party shall allow at least 60 days following the notification of its proposed sanitary and phytosanitary measures to WTO for the other Party to present comments except where risks to human, animal or plant life or health arising or threatening to arise warrant urgent actions.

4. Each Party shall endeavour to take into consideration the comments of the other Party and provide responses to these comments upon request in reasonable timeframe.

5. An importing Party shall provide timely and appropriate information to the other Party through the contact points designated under Article 5.13 (Contact Points) or already established communication channels of the Parties, where there is significant or recurring sanitary or phytosanitary noncompliance associated with exported consignments identified by the importing Party.

#### **Article 5.10: TECHNICAL COOPERATION**

1. The Parties agree to strengthen technical cooperation on SPS issues, including information exchange on its sanitary and/or phytosanitary import requirements for commodities subject to sanitary and phytosanitary control, with a view to enhancing the mutual understanding of the regulatory systems of the Parties and facilitating access to each other's market.

2. Each Party, on request, shall give due consideration to cooperation in relation to SPS issues.



#### Article 5.11: TECHNICAL CONSULTATIONS

Where a Party considers that a sanitary or phytosanitary measure is affecting its trade with the other Party, it may request to hold technical consultations with the other Party in an attempt to resolve any concerns on specific issues arising from the application of the sanitary and phytosanitary measure. The requested Party shall respond promptly to any reasonable request for such consultation. The consulting Parties shall make every effort to reach a mutually satisfactory resolution.

#### Article 5.12: SANITARY AND PHYTOSANITARY SUB-COMMITTEE

1. For the purposes of the effective implementation and operation of this Chapter, the Parties hereby establish a Sub-Committee on Sanitary and Phytosanitary Matters (hereinafter referred to as the "SPS Sub-Committee"), composed of representatives from relevant government authorities of the Parties responsible for sanitary and phytosanitary measures.
2. The functions of the SPS Sub-Committee are:
  - (a) to monitor the implementation of this Chapter;
  - (b) to consult on SPS issues of mutual interests;
  - (c) to enhance communication and cooperation on sanitary and phytosanitary matters;
  - (d) to carry out other functions as agreed by the Parties; and
  - (e) to make recommendations and report to the FTA Joint Commission.
3. The SPS Sub-Committee shall be co-chaired and meet once a year, except as otherwise agreed by the Parties.

The SPS Sub-Committee may conduct the meeting in person, or through any other means mutually agreed.

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

**Article 5.13: CONTACT POINTS**

1. Each Party shall designate a contact point who shall, for that Party, have the responsibility for coordinating the implementation of this Chapter. The contact points will be:

- (a) for Georgia, Legal Entity of Public Law – National Food Agency or its successor; and
- (b) for China, General Administration of Customs of the People's Republic of China or its successor.

2. Each Party shall provide the other Party with the name of the designated contact point and the contact details of the relevant officials in that organization, including telephone, facsimile, email, and any other relevant details.

3. Each Party shall notify the other Party promptly of any change in its contact point or any amendment to the details of the relevant officials.

