

## ARTICLE 68

### Amendment to this Chapter and its Annexes

The Partnership Council may amend this Chapter and its Annexes.

## CHAPTER 3

### SANITARY AND PHYTOSANITARY MEASURES

## ARTICLE 69

### Objectives

The objectives of this Chapter are to:

- (a) protect human, animal and plant life or health in the territories of the Parties while facilitating trade between the Parties;
- (b) further the implementation of the SPS Agreement;
- (c) ensure that the Parties' sanitary and phytosanitary ("SPS") measures do not create unnecessary barriers to trade;

- (d) promote greater transparency and understanding on the application of each Party's SPS measures;
- (e) enhance cooperation between the Parties in the fight against antimicrobial resistance, promotion of sustainable food systems, protection of animal welfare, and on electronic certification;
- (f) enhance cooperation in the relevant international organisations to develop international standards, guidelines and recommendations on animal health, food safety and plant health; and
- (g) promote implementation by each Party of international standards, guidelines and recommendations.

## ARTICLE 70

### 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 lays down separate provisions regarding cooperation on animal welfare, antimicrobial resistance and sustainable food systems.

## ARTICLE 71

### Definitions

1. For the purposes of this Chapter, the following definitions apply:
  - (a) the definitions contained in Annex A of the SPS Agreement;
  - (b) the definitions adopted under the auspices of the Codex Alimentarius Commission (the "Codex");
  - (c) the definitions adopted under the auspices of the World Organisation for Animal Health (the "OIE"); and
  - (d) the definitions adopted under the auspices of the International Plant Protection Convention (the "IPPC").
2. For the purposes of this Chapter, the following definitions apply:
  - (a) "import conditions" means any SPS measures that are required to be fulfilled for the import of products; and

(b) "protected zone" for a specified regulated plant pest means an officially defined geographical area in which that pest is not established in spite of favourable conditions and its presence in other parts of the territory of the Party, and into which that pest is not allowed to be introduced.

3. The Trade Specialised Committee on Sanitary and Phytosanitary Measures may adopt other definitions for the purposes of this Chapter, taking into consideration the glossaries and definitions of the relevant international organisations, such as the Codex, OIE and IPPC.

4. The definitions under the SPS Agreement prevail to the extent that there is an inconsistency between the definitions adopted by the Trade Specialised Committee on Sanitary and Phytosanitary Measures or adopted under the auspices of the Codex, the OIE, the IPPC and the definitions under the SPS Agreement. In the event of an inconsistency between definitions adopted by the Trade Specialised Committee on Sanitary and Phytosanitary Measures and the definitions set out in the Codex, OIE or IPPC, the definitions set out in the Codex, OIE or IPPC shall prevail.

## ARTICLE 72

### Rights and obligations

The Parties reaffirm their rights and obligations under the SPS Agreement. This includes the right to adopt measures in accordance with Article 5(7) of the SPS Agreement.

## ARTICLE 73

### General principles

1. The Parties shall apply SPS measures for achieving their appropriate level of protection that are based on risk assessments in accordance with relevant provisions, including Article 5 of the SPS Agreement.
2. The Parties shall not use SPS measures to create unjustified barriers to trade.
3. Regarding trade-related SPS procedures and approvals established under this Chapter, each Party shall ensure that those procedures and related SPS measures:
  - (a) are initiated and completed without undue delay;
  - (b) do not include unnecessary, scientifically and technically unjustified or unduly burdensome information requests that might delay access to each other's markets;
  - (c) are not applied in a manner which would constitute arbitrary or unjustifiable discrimination against the other Party's entire territory or parts of the other Party's territory where identical or similar SPS conditions exist; and
  - (d) are proportionate to the risks identified and not more trade restrictive than necessary to achieve the importing Party's appropriate level of protection.

4. The Parties shall not use the procedures referred to in paragraph 3, or any requests for additional information, to delay access to their markets without scientific and technical justification.
5. Each Party shall ensure that any administrative procedure it requires concerning the import conditions on food safety, animal health or plant health is not more burdensome or trade restrictive than necessary to give the importing Party adequate confidence that these conditions are met. Each Party shall ensure that the negative effects on trade of any administrative procedures are kept to a minimum and that the clearance processes remain simple and expeditious while meeting the importing Party's conditions.
6. The importing Party shall not put in place any additional administrative system or procedure that unnecessarily hampers trade.

#### ARTICLE 74

##### Official certification

1. Where the importing Party requires official certificates, the model certificates shall be:
  - (a) set in line with the principles as laid down in the international standards of the Codex, the IPPC and the OIE; and
  - (b) applicable to imports from all parts of the territory of the exporting Party.

2. The Trade Specialised Committee on Sanitary and Phytosanitary Measures may agree on specific cases where the model certificates referred to in paragraph 1 would be established only for a part or parts of the territory of the exporting Party. The Parties shall promote the implementation of electronic certification and other technologies to facilitate trade.

## ARTICLE 75

### Import conditions and procedures

1. Without prejudice to the rights and obligations each Party has under the SPS Agreement and this Chapter, the import conditions of the importing Party shall apply to the entire territory of the exporting Party in a consistent manner.
2. The exporting Party shall ensure that products exported to the other Party, such as animals and animal products, plants and plant products, or other related objects, meet the SPS requirements of the importing Party.
3. The importing Party may require that imports of particular products are subject to authorisation. Such authorisation shall be granted where a request is made by the relevant competent authority of the exporting Party which objectively demonstrates, to the satisfaction of the importing Party, that the authorisation requirements of the importing Party are fulfilled. The relevant competent authority of the exporting Party may make a request for authorisation in respect of the entire territory of the exporting Party. The importing Party shall grant such requests on that basis, where they fulfil the authorisation requirements of the importing Party as set out in this paragraph.

4. The importing Party shall not introduce authorisation requirements which are additional to those which apply at the end of the transition period, unless the application of such requirements to further products is justified to mitigate a significant risk to human, animal or plant health.
5. The importing Party shall establish and communicate to the other Party import conditions for all products. The importing Party shall ensure that its import conditions are applied in a proportionate and non-discriminatory manner.
6. Without prejudice to provisional measures under Article 5(7) of the SPS Agreement, for products, or other related objects, where a phytosanitary concern exists, the import conditions shall be restricted to measures to protect against regulated pests of the importing Party and shall be applicable to the entire territory of the exporting Party.
7. Notwithstanding paragraphs 1 and 3, in the case of import authorisation requests for a specific product, where the exporting Party has requested to be examined only for a part, or certain parts, of its territory (in the case of the Union, individual Member States), the importing Party shall promptly proceed to the examination of that request. Where the importing Party receives requests in respect of the specific product from more than one part of the exporting Party, or, where further requests are received in respect of a product which has already been authorised, the importing Party shall expedite completion of the authorisation procedure, taking into account the identical or similar SPS regime applicable in the different parts of the exporting Party.



8. Each Party shall ensure that all SPS control, inspection and approval procedures are initiated and completed without undue delay. Information requirements shall be limited to what is necessary for the approval process to take into account information already available in the importing Party, such as on the legislative framework and audit reports of the exporting Party.

9. Except in duly justified circumstances related to its level of protection, each Party shall provide a transition period between the publication of any changes to its approval procedures and their application to allow the other Party to become familiar with and adapt to such changes. Each Party shall not unduly prolong the approval process for applications submitted prior to publication of the changes.

10. In relation to the processes set out in paragraphs 3 to 8, the following actions shall be taken:

(a) as soon as the importing Party has positively concluded its assessment, it shall promptly take all necessary legislative and administrative measures to allow trade to take place without undue delay;

(b) the exporting Party shall:

(i) provide all relevant information required by the importing Party; and

(ii) give reasonable access to the importing Party for audit and other relevant procedures.

- (c) the importing party shall establish a list of regulated pests for products, or other related objects, where a phytosanitary concern exists. That list shall contain:
  - (i) the pests not known to occur within any part of its own territory;
  - (ii) the pests known to occur within its own territory and under official control;
  - (iii) the pests known to occur within parts of its own territory and for which pest free areas or protected zones are established; and
  - (iv) non-quarantine pests known to occur within its own territory and under official control for specified planting material.

11. The importing Party shall accept consignments without requiring that the importing Party verifies compliance of those consignments before their departure from the territory of the exporting Party.

12. A Party may collect fees for the costs incurred to conduct specific SPS frontier checks, which should not exceed the recovery of the costs.

13. The importing Party shall have the right to carry out import checks on products imported from the exporting Party for the purposes of ensuring compliance with its SPS import requirements.

14. The import checks carried out on products imported from the exporting Party shall be based on the SPS risk associated with such importations. Import checks shall be carried out only to the extent necessary to protect human, animal or plant life and health, without undue delay and with a minimum effect on trade between the Parties.

15. Information on the proportion of products from the exporting Party checked at import shall be made available by the importing Party upon request of the exporting Party.

16. If import checks reveal non-compliance with the relevant import conditions the action taken by the importing Party must be based on an assessment of the risk involved and not be more trade restrictive than required to achieve the Party's appropriate level of SPS protection.

## ARTICLE 76

### Lists of approved establishments

1. Whenever justified, the importing Party may maintain a list of approved establishments meeting its import requirements as a condition to allow imports of animal products from these establishments.

2. Unless justified to mitigate a significant risk to human or animal health, lists of approved establishments shall only be required for the products for which they were required at the end of the transition period.

3. The exporting Party shall inform the importing Party of its list of establishments meeting the importing Party's conditions which shall be based on guarantees provided by the exporting Party.

4. Upon a request from the exporting Party, the importing Party shall approve establishments which are situated in the territory of the exporting Party, based on guarantees provided by the exporting Party, without prior inspection of individual establishments.

5. Unless the importing Party requests additional information and subject to guarantees being provided by the exporting party, the importing Party shall take the necessary legislative or administrative measures, in accordance with its applicable legal procedures, to allow imports from those establishments without undue delay.

6. The list of the approved establishments shall be made publicly available by the importing Party.

7. Where the importing Party decides to reject the request of the exporting Party to accept adding an establishment to the list of approved establishments, it shall inform the exporting Party without delay and shall submit a reply, including information about the non-conformities which led to the rejection of the establishment's approval.

## ARTICLE 77

### Transparency and exchange of information

1. Each Party shall pursue transparency as regards SPS measures applicable to trade and shall for those purposes undertake the following actions:
  - (a) promptly communicate to the other Party any changes to its SPS measures and approval procedures, including changes that may affect its capacity to fulfil the SPS import requirements of the other Party for certain products;
  - (b) enhance mutual understanding of its SPS measures and their application;
  - (c) exchange information with the other Party on matters related to the development and application of SPS measures, including the progress on new available scientific evidence, that affect, or may affect, trade between the Parties with a view to minimising negative trade effects;
  - (d) upon request of the other Party, communicate the conditions that apply for the import of specific products within 20 working days;
  - (e) upon request of the other Party, communicate the state of play of the procedure for the authorisation of specific products within 20 working days;

- (f) communicate to the other Party any significant change to the structure or organisation of a Party's competent authority;
- (g) on request, communicate the results of a Party's official control and a report that concerns the results of the control carried out;
- (h) on request, communicate the results of an import check provided for in case of a rejected or a non-compliant consignment; and
- (i) on request, communicate, without undue delay, a risk assessment or scientific opinion produced by a Party that is relevant to this Chapter.

2. Where a Party has made available the information in paragraph 1 via notification to the WTO's Central Registry of Notifications or to the relevant international standard-setting body, in accordance with its relevant rules, the requirements in paragraph 1, as they apply to that information, are fulfilled.

## ARTICLE 78

### Adaptation to regional conditions

1. The Parties shall recognise the concept of zoning including disease or pest-free areas, protected zones and areas of low disease or pest prevalence and shall apply it to the trade between the Parties, in accordance with the SPS Agreement, including the guidelines to further the practical implementation of Article 6 of the SPS Agreement (WTO/SPS Committee Decision G/SPS/48) and the relevant recommendations, standards and guidelines of the OIE and IPPC. The Trade Specialised Committee on Sanitary and Phytosanitary Measures may define further details for these procedures, taking into account any relevant SPS Agreement, OIE and IPPC standards, guidelines or recommendations.
2. The Parties may also agree to cooperate on the concept of compartmentalisation as referred to in Chapters 4.4 and 4.5 of the OIE Terrestrial Animal Health Code and Chapters 4.1 and 4.2 of the OIE Aquatic Animal Health Code.
3. When establishing or maintaining the zones referred to in paragraph 1, the Parties shall consider factors such as geographical location, ecosystems, epidemiological surveillance and the effectiveness of SPS controls.

4. With regard to animals and animal products, when establishing or maintaining import conditions upon the request of the exporting Party, the importing Party shall recognise the disease-free areas established by the exporting Party as a basis for consideration towards the determination of allowing or maintaining the import, without prejudice to paragraphs 8 and 9.

5. The exporting Party shall identify the parts of its territory referred to in paragraph 4 and, if requested, provide a full explanation and supporting data based on the OIE standards, or in other ways established by the Trade Specialised Committee on Sanitary and Phytosanitary Measures, based on the knowledge acquired through experience of the exporting Party's relevant authorities.

6. With regard to plants, plant products, and other related objects, when establishing or maintaining phytosanitary import conditions on request of the exporting Party, the importing Party shall recognise the pest-free areas, pest-free places of production, pest-free production sites, areas of low pest prevalence and protected zones established by the exporting Party as a basis for consideration towards the determination to allow or maintain the import, without prejudice to paragraphs 8 and 9.

7. The exporting Party shall identify its pest-free areas, pest-free places of production, pest-free production sites and areas of low pest prevalence or protected zones. If requested by the importing Party, the exporting Party shall provide a full explanation and supporting data based on the International Standards for Phytosanitary Measures developed under the IPPC, or in other ways established by the Trade Specialised Committee on Sanitary and Phytosanitary Measures, based on the knowledge acquired through experience of the exporting Party's relevant phytosanitary authorities.



8. The Parties shall recognise disease-free areas and protected zones which are in place at the end of the transition period.
9. Paragraph 8 shall also apply to subsequent adaptations to the disease-free areas and protected zones (in the case of the United Kingdom pest-free areas), except in cases of significant changes in the disease or pest situations.
10. The Parties may carry out audits and verifications pursuant to Article 79 to implement paragraphs 4 to 9 of this Article.
11. The Parties shall establish close cooperation with the objective of maintaining confidence in the procedures in relation to the establishment of disease- or pest-free areas, pest-free places of production, pest-free production sites and areas of low pest or disease prevalence and protected zones, with the aim to minimise trade disruption.
12. The importing Party shall base its own determination of the animal or plant health status of the exporting Party or parts thereof on the information provided by the exporting Party in accordance with the SPS Agreement, OIE and IPPC standards, and take into consideration any determination made by the exporting Party.
13. Where the importing Party does not accept the determination made by the exporting Party as referred to in paragraph 12 of this Article, the importing Party shall objectively justify and explain to the exporting Party the reasons for that rejection and, upon request, hold consultations, in accordance with Article 80(2).

14. Each Party shall ensure that the obligations set out in paragraphs 4 to 9, 12 and 13 are carried out without undue delay. The importing Party will expedite the recognition of the disease or pest status when the status has been recovered after an outbreak.

15. Where a Party considers that a specific region has a special status with respect to a specific disease and which fulfils the criteria laid down in the OIE Terrestrial Animal Health Code Chapter 1.2 or the OIE Aquatic Animal Health Code Chapter 1.2, it may request recognition of this status. The importing Party may request additional guarantees in respect of imports of live animals and animal products appropriate to the agreed status.

## ARTICLE 79

### Audits and verifications

1. The importing Party may carry out audits and verifications of the following:
  - (a) all or part of the other Party's authorities' inspection and certification system;
  - (b) the results of the controls carried out under the exporting Party's inspection and certification system.

2. The Parties shall carry out those audits and verifications in accordance with the provisions of the SPS Agreement, taking into account the relevant international standards, guidelines and recommendations of the Codex, OIE or IPPC.

3. For the purposes of carrying out such audits and verifications, the importing Party may conduct audits and verifications by means of requests of information from the exporting Party or audit and verification visits to the exporting Party, which may include:

- (a) an assessment of all or part of the responsible authorities' total control programme, including, where appropriate, reviews of regulatory audit and inspection activities;
- (b) on-the-spot checks; and
- (c) the collection of information and data to assess the causes of recurring or emerging problems in relation to exports of products.

4. The importing Party shall share with the exporting Party the results and conclusions of the audits and verifications carried out pursuant to paragraph 1. The importing Party may make these results publicly available.

5. Prior to the commencement of an audit or verification, the Parties shall discuss the objectives and scope of the audit or verification, the criteria or requirements against which the exporting Party will be assessed, and the itinerary and procedures for conducting the audit or verification which shall be laid down in an audit or verification plan. Unless otherwise agreed by the Parties, the importing Party shall provide the exporting Party with an audit or verification plan at least 30 days prior to the commencement of the audit or verification.

6. The importing Party shall provide the exporting Party the opportunity to comment on the draft audit or verification report. The importing Party shall provide a final report in writing to the exporting Party normally within two months from the date of receipt of those comments.

7. Each Party shall bear its own costs associated with such an audit or verification.

## ARTICLE 80

### Notification and consultation

1. A Party shall notify the other Party without undue delay of:

- (a) a significant change to pest or disease status;
- (b) the emergence of a new animal disease;
- (c) a finding of epidemiological importance with respect to an animal disease;

- (d) a significant food safety issue identified by a Party;
- (e) any additional measures beyond the basic requirements of their respective SPS measures taken to control or eradicate animal disease or protect human health, and any changes in preventive policies, including vaccination policies;
- (f) on request, the results of a Party's official control and a report that concerns the results of the control carried out; and
- (g) any significant changes to the functions of a system or database.

2. If a Party has a significant concern with respect to food safety, plant health, or animal health, or an SPS measure that the other Party has proposed or implemented, that Party may request technical consultations with the other Party. The requested Party should respond to the request without undue delay. Each Party shall endeavour to provide the information necessary to avoid a disruption to trade and, as the case may be, to reach a mutually acceptable solution.

3. Consultations referred to in paragraph 2 may be held via telephone conference, videoconference, or any other means of communication mutually agreed on by the Parties.

## ARTICLE 81

### Emergency measures

1. If the importing Party considers that there is a serious risk to human, animal or plant life and health, it may take without prior notification the necessary measures for the protection of human, animal or plant life and health. For consignments that are in transit between the Parties, the importing Party shall consider the most suitable and proportionate solution to avoid unnecessary disruptions to trade.
2. The Party taking the measures shall notify the other Party of an emergency SPS measure as soon as possible after its decision to implement the measure and no later than 24 hours after the decision has been taken. If a Party requests technical consultations to address the emergency SPS measure, the technical consultations must be held within 10 days of the notification of the emergency SPS measure. The Parties shall consider any information provided through the technical consultations. These consultations shall be carried out in order to avoid unnecessary disruptions to trade. The Parties may consider options for the facilitation of the implementation or the replacement of the measures.
3. The importing Party shall consider, in a timely manner, information that was provided by the exporting Party when it makes its decision with respect to consignments that, at the time of adoption of the emergency SPS measure, are being transported between the Parties, in order to avoid unnecessary disruptions to trade.

4. The importing Party shall ensure that any emergency measure taken on the grounds referred to in paragraph 1 of this Article is not maintained without scientific evidence or, in cases where scientific evidence is insufficient, is adopted in accordance with Article 5(7) of the SPS Agreement.

## ARTICLE 82

### Multilateral international fora

The Parties agree to cooperate in multilateral international fora on the development of international standards, guidelines and recommendations in the areas under the scope of this Chapter.

## ARTICLE 83

### Implementation and competent authorities

1. For the purposes of the implementation of this Chapter, each Party shall take all of the following into account:

- (a) decisions of the WTO SPS Committee;
- (b) the work of the relevant international standard setting bodies;

- (c) any knowledge and past experience it has of trading with the exporting Party; and
- (d) information provided by the other Party.

2. The Parties shall, without delay, provide each other with a description of the competent authorities of the Parties for the implementation of this Chapter. The Parties shall notify each other of any significant change to these competent authorities.

3. Each Party shall ensure that its competent authorities have the necessary resources to effectively implement this Chapter.

## ARTICLE 84

### Cooperation on animal welfare

1. The Parties recognise that animals are sentient beings. They also recognise the connection between improved welfare of animals and sustainable food production systems.

2. The Parties undertake to cooperate in international fora to promote the development of the best possible animal welfare practices and their implementation. In particular, the Parties shall cooperate to reinforce and broaden the scope of the OIE animal welfare standards, as well as their implementation, with a focus on farmed animals.



3. The Parties shall exchange information, expertise and experiences in the field of animal welfare, particularly related to breeding, holding, handling, transportation and slaughter of food-producing animals.
4. The Parties shall strengthen their cooperation on research in the area of animal welfare in relation to animal breeding and the treatment of animals on farms, during transport and at slaughter.

## ARTICLE 85

### Cooperation on antimicrobial resistance

1. The Parties shall provide a framework for dialogue and cooperation with a view to strengthening the fight against the development of antimicrobial resistance.
2. The Parties recognise that antimicrobial resistance is a serious threat to human and animal health. Misuse of antimicrobials in animal production, including non-therapeutic use, can contribute to antimicrobial resistance that may represent a risk to human life. The Parties recognise that the nature of the threat requires a transnational and One Health approach.
3. With a view to combating antimicrobial resistance, the Parties shall endeavour to cooperate internationally with regional or multilateral work programmes to reduce the unnecessary use of antibiotics in animal production and to work towards the cessation of the use of antibiotics as growth promoters internationally to combat antimicrobial resistance in line with the One Health approach, and in compliance with the Global Action Plan.

4. The Parties shall collaborate in the development of international guidelines, standards, recommendations and actions in relevant international organisations aiming to promote the prudent and responsible use of antibiotics in animal husbandry and veterinary practices.

5. The dialogue referred to in paragraph 1 shall cover, inter alia:

- (a) collaboration to follow up existing and future guidelines, standards, recommendations and actions developed in relevant international organisations and existing and future initiatives and national plans aiming to promote the prudent and responsible use of antibiotics and relating to animal production and veterinary practices;
- (b) collaboration in the implementation of the recommendations of OIE, WHO and Codex, in particular CAC-RCP61/2005;
- (c) the exchange of information on good farming practices;
- (d) the promotion of research, innovation and development;
- (e) the promotion of multidisciplinary approaches to combat antimicrobial resistance, including the One Health approach of the WHO, OIE and Codex.

## ARTICLE 86

### Sustainable food systems

Each Party shall encourage its food safety, animal and plant health services to cooperate with their counterparts in the other Party with the aim of promoting sustainable food production methods and food systems.

## ARTICLE 87

### Trade Specialised Committee on Sanitary and Phytosanitary Measures

The Trade Specialised Committee on Sanitary and Phytosanitary Measures shall supervise the implementation and operation of this Chapter and have the following functions:

- (a) promptly clarifying and addressing, where possible, any issue raised by a Party relating to the development, adoption or application of sanitary and phytosanitary requirements, standards and recommendations under this Chapter or the SPS Agreement;
- (b) discussing ongoing processes on the development of new regulations;
- (c) discussing as expeditiously as possible concerns expressed by a Party with regard to the SPS import conditions and procedures applied by the other Party;

- (d) regularly reviewing the Parties' SPS measures, including certification requirements and border clearance processes, and their application, in order to facilitate trade between the Parties, in accordance with the principles, objectives and procedures set out in Article 5 of the SPS Agreement. Each Party shall identify any appropriate action it will take, including in relation to the frequency of identity and physical checks, taking into consideration the results of this review and based on the criteria laid down in Annex 10 of this Agreement;
- (e) exchanging views, information, and experiences with respect to the cooperation activities on protecting animal welfare and the fight against antimicrobial resistance carried out under Articles 84 and 85;
- (f) on request of a Party, considering what constitutes a significant change in the disease or pest situation referred to in Article 78(9);
- (g) adopting decisions to:
  - (i) add definitions as referred to in Article 71;
  - (ii) define the specific cases referred to in Article 74(2);
  - (iii) define details for the procedures referred to in Article 78(1);
  - (iv) establish other ways to support the explanations referred to in Article 78(5) and (7).