

CHAPTER 4

SANITARY AND PHYTOSANITARY MEASURES

Article 4.1

Objectives

The objectives of this Chapter are to protect human, animal, or plant life or health in the territory of the Parties, and to provide a framework to address any bilateral sanitary and phytosanitary (“SPS”) matters so as to facilitate and increase trade between the Parties.

Article 4.2

Scope

1. This Chapter shall apply to all SPS measures of a Party that may, directly or indirectly, affect trade between the Parties.
2. This Chapter shall not apply to standards, technical regulations and conformity assessment procedures as defined in the TBT Agreement which are covered by Chapter 5 (Technical Barriers to Trade).
3. Nothing in this Chapter shall limit the rights or obligations of the Parties pursuant to the SPS Agreement.

Article 4.3

Definitions

For the purposes of this Chapter:

- (a) “**SPS measure**” means any measure referred to in paragraph 1, Annex A of the SPS Agreement; and
- (b) The Parties may agree on other definitions for the application of this Chapter taking into consideration the glossaries and definitions of relevant international organisations, such as the *CODEX Alimentarius Commission* (“Codex Alimentarius”), the *World Organisation for Animal Health* (“OIE”) and under the *International Plant Protection Convention* (“IPPC”).

Article 4.4

Rights and Obligations

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

Article 4.5 General Principles

When implementing this Chapter, each Party:

- (a) shall not apply its SPS measure in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade;
- (b) shall ensure that any SPS measure is applied only to the extent necessary to protect human, animal or plant life or health, is based on scientific principles and is not maintained without sufficient scientific evidence; and
- (c) will neither use the procedures established under this Chapter nor any requests for additional information, to delay, without scientific and technical justification, access to its market.

Article 4.6 Competent Authorities

1. The competent authorities of the Parties responsible for the implementation of this Chapter are set out in this Article. The Parties shall notify each other of any change in their respective competent authorities.
2. The competent authority for:

- (a) Sri Lanka shall be:

Director General of Agriculture
Department of Agriculture
Peradeniya
Sri Lanka
Fax: (0094) 812 388333
Phone: (0094) 812 388331
Email: dgagriculture@gmail.com

Director General Department of Animal Production and Health
Sri Lanka Animal Quarantine and Inspection Services
P.O. Box 13
Peradeniya
Sri Lanka
Fax: (0094) 112 448683
Phone: (0094) 812 388195 ; (0094) 112448683
Email: dgdaph@sltnet.lk ; caqocolombo@sltnet.lk

Director General of Health Services

Chief Food Authority
Ministry of Health, Nutrition, and Indigenous Medicine
“Suwasiripaya” No. 385, Rev. Baddegama Wimalawansa Thero Mawatha
Colombo – 10 Sri Lanka
Phone: (0094) 112 694860
Email: dghs@health.gov.lk

Director General of Sri Lanka Standards Institution
No. 17, Victoria Place, Elvitigala Mawatha
Colombo 08, Sri Lanka
Phone: (0094) 112 671567
Email: dg@sli.lk

(b) Singapore shall be:

Agri-Food & Veterinary Authority of Singapore or its successor
Address: 52 Jurong Gateway Road #14-00, Singapore 608550
Fax: (65) 63341381
Email: WTO_Contact@ava.gov.sg
Web: www.ava.gov.sg

Article 4.7 **Trade Facilitation**

The Parties shall co-operate and jointly identify work in the field of SPS measures with a view to facilitating trade between the Parties. In particular, the Parties shall seek to identify initiatives that are appropriate for particular issues or sectors.

Article 4.8 **Transparency**

1. The Parties reaffirm their transparency obligations under the SPS Agreement.
2. Each Party shall publish all SPS measures in force on a website. Where possible, and upon request, the Parties shall provide information regarding the measures in English.
3. In any event, each Party shall electronically notify to the other Party's Contact Point or Enquiry Point its proposed SPS measures notifications to the WTO, at the same time the Party submits such notifications to the WTO Secretariat in accordance with the SPS Agreement.
4. Unless urgent problems of human, animal or plant life or health protection arise or threaten to arise, or the measure is of a trade-facilitating nature, a Party shall normally allow a period of at least sixty (60) days for the other Party to provide comments on the proposed measure after it makes a notification under paragraph 3 of this Article.

5. Upon request of a Party, the other Party shall communicate the import requirements that apply for the import of specific products within fifteen (15) days.
6. Each Party shall notify in writing to the other Party within two (2) days, of any serious or significant human, animal or plant life or health risk, including any food emergencies, that have arisen within that Party.
7. Where a Party has serious concerns regarding any risk to human, animal or plant life or health, affecting commodities for which trade takes place between the Parties, technical discussions regarding the situation shall, upon request, take place as soon as possible. In this case, each Party shall endeavour to provide in due time all necessary information to avoid any disruptions to trade.

Article 4.9 Emergency Measures

1. In case of serious human, animal or plant life or health risk, the importing Party may take, without previous notification, measures necessary to protect human, animal or plant life or health. For consignments in transport between the Parties, the importing Party shall consider the most suitable and proportional solution in order to avoid unnecessary disruptions to trade.
2. The Party taking the measures shall inform the other Party as soon as possible and in any case no later than twenty-four (24) hours after the adoption of the measure.
3. Upon request of either Party and in accordance with the provisions of paragraphs 3, 5 and 6 of Article 4.8 (Transparency), the Parties shall hold consultations regarding the situation within fifteen (15) days of the notification. 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.
4. Either Party may request for any information related to the SPS situation and any measures adopted. The other Party shall answer as soon as the requested information is available.

Article 4.10 Equivalence

1. The Parties recognise that the principle of equivalence, as set out in Article 4 of the SPS Agreement, has mutual benefits for both exporting and importing countries.
2. The importing Party shall accept the SPS measures of the exporting Party as equivalent if the exporting Party objectively demonstrates that its measures achieve the importing Party's appropriate level of SPS protection. To facilitate a determination of equivalence,

a Party shall, upon request, advise the other Party of the objective of any relevant SPS measures. A determination of equivalence may be made in relation to a single measure, group of measures or on a systems-wide basis.

3. The determination of equivalence requires an objective, risk-based assessment or evaluation by the importing Party of the existing, revised or proposed measures. The legislative and administrative systems, other factors such as the performance of the relevant competent authorities and any other necessary assessments or tests may be considered.
4. In determining the equivalence of SPS measures, the Parties shall take into account guidance developed by the WTO SPS Committee and the Codex Alimentarius, the OIE and the IPPC, as amended from time to time.
5. Upon request of the exporting Party for an equivalence assessment, and upon submission of sufficient information, the importing Party shall assess the exporting Party's measures to determine if the measures are able to meet the importing Party's appropriate level of SPS protection.
6. The Parties shall give favourable consideration to accepting the equivalence of each other's SPS measures, in order to ease trade of the products subject to SPS measures and foster mutual confidence between the respective competent authorities.
7. Any agreement or arrangement on acceptance of equivalence of the exporting party's SPS measures which may be concluded between the Parties shall be annexed to this Agreement and shall apply to trade between them.
8. Compliance by an exported product with an SPS standard that has been accepted as equivalent to an SPS standard of the importing Party shall not remove the need for that product to comply with any other relevant mandatory requirements of the importing Party.
9. Whenever an agreement on recognition of the equivalence is in process of negotiation and no final approval is achieved, the Parties should neither stop nor apply SPS measures more restrictive than those in force in their mutual trade, except where SPS emergencies arise or threaten to arise for a Party.

Article 4.11

Import Requirements

1. The importing Party shall ensure that its import conditions are applied to products imported from the exporting Party in a non-discriminatory manner and are based on an assessment of the risks to human, animal, or plant life.

2. Any fees imposed for the procedures on products imported from the exporting Party shall be equitable in relation to any fees charged on like domestic products and should be no higher than the actual cost of the service.
3. The importing Party shall have the right to carry out import checks on products imported from the exporting Party for the purposes of implementing SPS measures.
4. The import checks carried out on products imported from the exporting Party shall be based on the SPS risk associated with such importation. They shall be carried out without undue delay and with a minimum effect on trade between the Parties.
5. The information on the frequencies of import checks carried out on products imported from the exporting Party shall be made available upon request. The importing Party may amend the frequencies of physical checks within their responsibilities, as appropriate, as a result of:
 - (a) on-site checks;
 - (b) import checks; or
 - (c) other actions or consultations provided for in this Chapter.
6. In the event that the import checks reveal non-conformity with the relevant standards and/or requirements of the importing Party, any action taken by the importing Party should be proportionate to the SPS risk involved.

Article 4.12 **Co-ordinators**

1. To facilitate the implementation of this Chapter and co-operation between the Parties, each Party shall designate a Co-ordinator, who shall be responsible for co-ordinating with competent authorities in the Party's territory and communicating with the other Party's Co-ordinator on all matters pertaining to this Chapter.
2. The Co-ordinators' functions shall include:
 - (a) enhancing communication between the Parties' competent authorities, including by seeking to facilitate a Party's response to written requests for information from the other Party in print or electronically without undue delay, and in any case within thirty (30) days from the date of receipt of the request and at no cost or at reasonable cost;
 - (b) facilitating information exchange so as to enhance mutual understanding of each Party's SPS measures and the regulatory processes that relate to those measures and their impact on trade in such goods between the Parties;

- (c) promptly addressing any bilateral SPS issues that a Party raises to enhance cooperation and consultation between the Parties to facilitate trade between the Parties; and
 - (d) simultaneously informing the contact points set out in Article 17.16 (Contact Points) of Chapter 17 (Institutional, General and Final Provisions) of any communication between the Parties.
- 3. The Co-ordinators may communicate through teleconference, videoconference, or any other means, as mutually determined by the Parties.
- 4. Each Party shall notify the other Party promptly of any change in their Co-ordinators or any amendment to the details of relevant officials.
- 4. For the purposes of this Article, the Co-ordinator for:
 - (a) Sri Lanka shall be:

Department of Commerce
4th Floor,
Rakshana Mandiraya
21, Vauxhall Street
Colombo 02, Sri Lanka
Email: fortrade@doc.gov.lk ; spssrilanka@doc.gov.lk

or its successor.
 - (b) Singapore shall be:

Ministry of Trade and Industry,
Trade Division,
100 High Street # 09-01, The Treasury,
Singapore 179434
Tel: (65) 6225 9911
Fax: (65) 6332 7260
Email: mti_email@mti.gov.sg

or its successor.

Article 4.13

Joint Sub-Committee on Sanitary and Phytosanitary (“SPS”) Measures and Technical Barriers to Trade (“TBT”)

- 1. The Parties hereby establish the Joint Sub-Committee on Sanitary and Phytosanitary Measures and Technical Barriers to Trade (“Joint Sub-Committee”), comprising

representatives from the relevant authorities of each Party. The Joint Sub-Committee shall be co-ordinated by the co-ordinators from both Parties specified in this Chapter.

2. The functions of this Joint Sub-Committee may include the following:
 - (a) reviewing the functioning of and work done by the Co-ordinators of the SPS and TBT Chapters;
 - (b) strengthening technical co-operation and communication on SPS and TBT issues to enhance the relationship between the Parties;
 - (c) consulting on agendas, issues, and positions for meetings covering SPS and/or TBT issues in relevant WTO Committees and International Organisations;
 - (d) arranging the establishment of *ad hoc* working groups as mutually agreed by the Parties;
 - (e) monitoring the progress of work programmes and the implementation of Article 4.14 (Cooperation) and Article 4.16 (Sectoral Annexes); and
 - (f) other functions mutually agreed by the Parties.
3. Each Party shall ensure the participation of its representatives with responsibility for the items in the agenda for each meeting of the Joint Sub-Committee. Upon mutual agreement, the Parties may invite representatives from industry, business associations or other relevant organisations to participate in parts of the meetings of the Joint Sub-Committee on a case by case basis.
4. The Joint Sub-Committee shall meet at least once every two (2) years unless the Parties agree otherwise. Meetings may be conducted in person, by teleconference, by videoconference, or any other means as mutually agreed by the Parties. The Parties may avail themselves of the opportunity to meet in conjunction with other FTA related meetings or in the margins of international meetings, where possible.
5. The Parties shall inform each other of any significant changes in the structure, organisation and division of responsibility within its competent authorities or co-ordinators.

Article 4.14

Co-operation

1. The Parties may enter into mutual recognition arrangements (“MRAs”) to strengthen their co-operation in the field of SPS measures with a view to increasing the mutual understanding of their respective systems and facilitating access to their respective markets.

2. The Parties shall endeavour to develop a work programme and mechanisms for cooperative activities in the areas of technical assistance and capacity building to address plant, animal and public health and food safety issues of mutual interest. In particular, the Parties shall consider, *inter alia*, the following activities:
 - (a) conducting training workshops,
 - (b) conducting studies and symposiums, and
 - (c) exchanging of officials and experts
3. The financial arrangements to cover expenses for the cooperative activities undertaken shall be mutually agreed upon by the Parties on a case by case basis subject to the availability of funds.

Article 4.15

Certification

1. Each consignment of animals, animal products, animal by-products, plants, plant products or other related goods shall be accompanied with the relevant official SPS certificates, if necessary, that are based on international standards-setting bodies as defined by the WTO SPS Agreement.
2. Additional certifications and declarations shall be provided by the relevant competent authorities whenever required by the importing Party.

Article 4.16

Sectoral Annexes

1. The Parties may conclude as appropriate, Sectoral Annexes, including MRAs, on product sectors which shall provide the implementing arrangements for such sectors.
2. A Sectoral Annex on the import requirements of specified food products is attached to this Agreement as Annex 4-A (Sectoral Annex on Food Products).
3. A Sectoral Annex shall minimally include:
 - (a) provisions on scope and coverage; and
 - (b) applicable laws, regulations and administrative provisions i.e. mandatory requirements of each Party concerning the scope and coverage.
4. The Parties shall:
 - (a) specify and communicate to each other the applicable articles or annexes contained in the mandatory requirements set out in the Sectoral Annexes;

- (b) exchange information concerning the implementation of the mandatory requirements specified in the Sectoral Annexes; and
 - (c) notify each other of any scheduled changes in their respective mandatory requirements as and when they are made.
5. Unless otherwise provided for, a Sectoral Annex concluded pursuant to paragraph 1 of this Article shall enter into force on the first day of the second month following the date on which the Parties have exchanged notes confirming the completion of their respective procedures for the entry into force of that Sectoral Annex.
6. A Party may terminate an MRA in its entirety by giving the other Party one (1) year's advance notice in writing unless otherwise stated in the relevant Sectoral Annex. However, a Party shall continue to accept the results of conformity assessment or equivalence for the duration of the notice period.
7. Where urgent problems of safety, health, consumer or environment protection or national security arise or threaten to arise for a Party, that Party may suspend the operation of any Sectoral Annex, in whole or in part, immediately. In such a case, the Party shall immediately advise the other Party of the nature of the urgent problem, the products covered and the objective and rationale of the suspension.

Article 4.17

Final Provisions

Nothing in this Chapter shall limit the authority of a Party to determine the level of protection it considers necessary for the protection of, *inter alia*, human health or safety, animal or plant life or health or the environment. In pursuance of this, each Party retains all authority to interpret its laws, regulations and administrative provisions.