

**DRAFT**  
**SUBJECT TO LEGAL REVIEW FOR ACCURACY, CLARITY, AND CONSISTENCY**  
**MARCH 1, 2004**

**CHAPTER SEVEN**  
**SANITARY AND PHYTOSANITARY MEASURES**

**ARTICLE 7.1 : OBJECTIVES**

The objectives of this Chapter are to protect human, animal, or plant life or health in the Parties' territories, enhance the Parties' implementation of the SPS Agreement, provide a forum for addressing bilateral sanitary and phytosanitary matters, resolve trade issues, and thereby expand trade opportunities

**ARTICLE 7.2 : SCOPE AND COVERAGE**

This Chapter applies to all sanitary and phytosanitary measures of a Party that may, directly or indirectly, affect trade between the Parties.

**ARTICLE 7.3 : GENERAL PROVISIONS**

1. Further to Article 1.1.2, the Parties affirm their existing rights and obligations with respect to each other under the SPS Agreement.
2. Neither Party may have recourse to dispute settlement under this Agreement for any matter arising under this Chapter.

**ARTICLE 7.4 : COMMITTEE ON SANITARY AND PHYTOSANITARY MATTERS**

1. The Parties hereby establish a Committee on Sanitary and Phytosanitary Matters ("Committee") comprised of representatives of each Party who have responsibility for sanitary and phytosanitary matters.
2. The Parties shall identify the primary representative of each Party to the Committee and establish the Committee's operating procedures not later than 30 days after the date of entry into force of this Agreement.
3. The objectives of the Committee shall be to enhance each Party's implementation of the SPS Agreement, protect human, animal, or plant life or health, enhance consultation and cooperation on sanitary and phytosanitary matters, and facilitate trade between the Parties.

**DRAFT**  
**SUBJECT TO LEGAL REVIEW FOR ACCURACY, CLARITY, AND CONSISTENCY**  
**MARCH 1, 2004**

4. The Committee shall seek to enhance any present or future relationships between the Parties' agencies with responsibility for sanitary and phytosanitary matters.
5. The mandate of the Committee shall be to:
  - (a) enhance mutual understanding of each Party's sanitary and phytosanitary measures and the regulatory processes that relate to those measures;
  - (b) improve bilateral understanding related to specific implementation issues concerning the SPS Agreement;
  - (c) review progress on and as appropriate, resolve through mutual consent, sanitary and phytosanitary matters that may arise between the Parties' agencies with responsibility for such matters; and
  - (d) consult on:
    - (i) matters related to the development or application of sanitary and phytosanitary measures that affect, or may affect, trade between the Parties;
    - (ii) issues, positions, and agendas for meetings of the WTO SPS Committee, the *Codex Alimentarius Commission* and its subsidiary bodies, the International Plant Protection Convention, the International Office of Epizootics, and other international and regional fora on food safety and human, animal, and plant health; and
    - (iii) technical cooperation activities on sanitary and phytosanitary matters.
6. The Committee shall meet within 45 days of the date of entry into force of this Agreement, and subsequently at least once a year thereafter, unless the Parties agree otherwise. The Committee shall inform the Joint Committee established under Article 21.1 (Joint Committee) of the results of each meeting.
7. The Committee shall perform its work in accordance with its operating procedures, which it may revise at any time.
8. Each Party shall ensure that the appropriate representative with responsibility for the development, implementation, and enforcement of sanitary and phytosanitary measures from its relevant trade and regulatory agencies participate in meetings of the Committee.

**DRAFT**  
**SUBJECT TO LEGAL REVIEW FOR ACCURACY, CLARITY, AND CONSISTENCY**  
**MARCH 1, 2004**

9. The Parties hereby establish a Standing Technical Working Group on Animal and Plant Health Measures as set out in Annex 7-A.

10. The Committee may agree to establish additional technical working groups in accordance with the Committee's mandate.

**ARTICLE 7.5 : DEFINITIONS**

For the purposes of this Chapter, **sanitary or phytosanitary measure** means any measure referred to in Annex A, paragraph 1, of the SPS Agreement.

**DRAFT**  
**SUBJECT TO LEGAL REVIEW FOR ACCURACY, CLARITY, AND CONSISTENCY**  
**MARCH 1, 2004**

**ANNEX 7-A**  
**STANDING TECHNICAL WORKING GROUP ON ANIMAL AND PLANT HEALTH MEASURES**

**SECTION A : ESTABLISHMENT OF THE STANDING TECHNICAL WORKING GROUP**  
**ON ANIMAL AND PLANT HEALTH MEASURES**

1. Pursuant to Article 7.4.9, the Parties have established a Standing Technical Working Group on Animal and Plant Health Measures (the “Working Group”), with a view to facilitating trade to the greatest extent possible, while preserving the rights of the Parties to protect animal or plant life or health in their respective territories and respecting the regulatory systems, risk assessment and policy development processes of each Party.
2. The Working Group shall be co-chaired by the chief administrators of the Australian Government’s Department of Agriculture, Fisheries and Forestry’s Biosecurity Australia, or its successor organizations with comparable responsibilities, and the United States Department of Agriculture’s Animal and Plant Health Inspection Service, or its successor organizations with comparable responsibilities.
3. Members of the Working Group shall include the co-chairs of the Committee on Sanitary and Phytosanitary Matters established under Article 7.4 and representatives of appropriate regulatory agencies of each Party.
4. The Working Group shall provide a forum for:
  - (a) resolving specific bilateral animal and plant health matters with a view to facilitating trade and, where possible, achieving consensus on scientific issues;
  - (b) engaging, at the earliest appropriate point in the risk assessment and regulatory processes of each Party, in scientific and technical exchange and cooperation regarding animal and plant health matters that may, directly or indirectly, affect the trade of either Party; and
  - (c) considering specific measures or sets of measures likely to affect, directly or indirectly, trade between the Parties that are designed to protect animal or plant life or health within the territory of the importing Party from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms.
5. The Working Group shall recognize that the respective agencies of the Parties responsible for sanitary and phytosanitary matters are undertaking, at any given time, a range

**DRAFT**  
**SUBJECT TO LEGAL REVIEW FOR ACCURACY, CLARITY, AND CONSISTENCY**  
**MARCH 1, 2004**

of risk analyses and policy development work on matters relating to animal and plant health, which may be of mutual interest to the Parties. The Working Group shall undertake, as part of its regular agenda, to update its members on the progress of bilateral work, complementing and without prejudice to exchanges in other fora, including the annual plant and animal health bilateral dialogues.

6. The Working Group shall agree on a work program, including issues that shall be the subject of specific work plans, in accordance with Section B of this Annex, taking into account the resource constraints of each Party, and in such a manner that the Working Group's agenda balances the needs of both Parties, including through identifying and addressing the priority needs of each Party.

7. The Working Group shall establish operating procedures within 45 days of the date of entry into force of this Agreement.

8. The co-chairs may agree to appoint sub-groups that include, where necessary, subject area specialists from within or outside their respective agencies to consider particular technical issues related to sanitary and phytosanitary matters.

9. The co-chairs of the Working Group shall confer on the progress of matters on the Working Group's agenda, including specific work plans established in accordance with Section B, by telephone, electronic mail or in person every two months. The co-chairs will submit annual reports summarizing the Working Group's progress to the Committee on Sanitary and Phytosanitary Matters established under Article 7.4.

**SECTION B : DEVELOPMENT OF SPECIFIC WORK PLANS**

10. Either Party may refer a matter of particular interest or concern to the Working Group to establish a specific work plan to address specific sanitary and phytosanitary measures, projects or issues affecting, directly or indirectly, bilateral trade. The requesting Party shall provide the Working Group with technical information in support of its preferred approach for resolving the matter.

11. Within 60 days of a Party's referral, the Working Group shall develop a specific work plan to conduct technical and scientific exchanges on the matter with a view to reaching consensus on resolution of the issue. The work plan shall identify specific activities to be carried out by the Working Group, including, as appropriate, on:

**DRAFT**  
**SUBJECT TO LEGAL REVIEW FOR ACCURACY, CLARITY, AND CONSISTENCY**  
**MARCH 1, 2004**

- (a) the scope and approach proposed for a risk assessment, and the expertise required for the assessment (including the use of experts from outside the responsible agency);
- (b) the technical issues, including hazards, to be addressed in a risk assessment;
- (c) the biology and transmission of pests and diseases subject to regulatory control and the type or range of risk mitigation measures that may be available to deal with those pests and diseases;
- (d) the risk assessment, including the provision of the full risk analysis report at the appropriate point in the responsible Party's process;
- (e) matters that may be referred by either Party to an independent scientific peer review or for other independent scientific input; and
- (f) mutually agreeable mitigation measures, where possible.

12. The Working Group shall establish a timetable for completing the work plan. All technical information shall be exchanged and considered promptly.