

食品安全檢驗與動植物防疫檢疫措施協定叢書（一）

# 食品安全檢驗與動植物防疫檢疫措施協定

AGREEMENT ON THE APPLICATION OF  
SANITARY AND PHYTOSANITARY MEASURES

農委會動植物防疫檢疫局 印行

# 序

食品安全檢驗與動植物防疫檢疫(Sanitary and Phytosanitary Measures, SPS)是國際間通行的重要措施，目的在避免或減少因農產品貿易流通而導致外來動植物疫病蟲害之入侵、立足或蔓延之機會，及防範食品、飲料或飼料中之添加物、污染物等的潛在風險，以保護境內國民及動植物的生命或健康，及維護自然生態環境。

為達到上述目的，並防範SPS措施對國際農產品貿易造成限制性的影響，前關稅暨貿易總協定(GATT)之會員國經多年協商後達成協議，制定「食品安全檢驗與動植物防疫檢疫措施協定」，列入世界貿易組織(WTO)成立協定之一，並於1995年1月1日正式生效。

我國加入世界貿易組織後，除享有會員權益外，亦必須履行會員義務，遵循SPS協定及相關之國際規範。任何WTO會員若對我國採行之SPS措施提出諮商要求時，我國必須依該協定條文及相關國際標準，與該等會員進行雙邊或多邊之檢驗檢疫技術諮商。

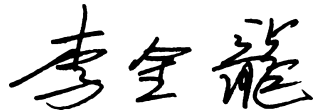
鑒於SPS協定之重要性，及因應我國推動加入WTO之急切需要，行政院農業委員會曾於民國八十四年將該協定予以翻譯，並發行單行本，而該中譯本亦經納入經濟部所彙編之「烏拉圭回合多邊貿易談判協定(中英對照本)」中。惟因該初版作業時間匆促，翻譯內容未臻完善，本局爰有修正再版的構想。

本局為使我國相關政府機構、產學各界及全國的農友瞭解此一重要協定及相關國際規範包括國際植物保護公約、國際動物衛生法典相關國際標準等之內容，特規劃出版中文譯本之「食品安全檢驗與動植物防疫檢疫措施協定叢書」，邀請專家學者參與編譯，並修正再版SPS協定中譯本，期藉此叢書，使相關人員熟悉SPS協定之條文精神及各項國際標準之原則與準則，充分認識現行國際規範，以妥善運用對我國有利之協定條文及國際標準，俾維護我國之農業生產安全，並在對外諮商中掌握談判優勢，保障我國應有的權益。

本叢書系列由本局同仁策劃編譯工作，並邀請國立台灣大學昆蟲學系教授陳秋男及相關領域專家參與譯稿作業。舉凡名詞翻譯、文句潤飾、譯詞統一及語氣之流暢等，均係參與人員字斟句酌、集思廣益的成果，而叢書之設計與編印，亦蒙相關人員之辛勤付出，始得出版問世，在此一併致謝。

本局施政目標之一為建立符合國際規範之動植物防疫檢疫及農產品衛生安全之檢驗體系，本叢書之出版，期能增進與提昇相關工作之效能及水準，促進目標之達成。

動植物防疫檢疫局局長

Handwritten signature in black ink, reading '李全龍' (Li Jialong).

二〇一一年十二月

## **AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES**

### **Members,**

Reaffirming that no Member should be prevented from adopting or enforcing measures necessary to protect human, animal or plant life or health, subject to the requirement that these measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Members where the same conditions prevail or a disguised restriction on international trade;

Desiring to improve the human health, animal health and phytosanitary situation in all Members;

Noting that sanitary and phytosanitary measures are often applied on the basis of bilateral agreements or protocols;

Desiring the establishment of a multilateral framework of rules and disciplines to guide the development, adoption and enforcement of sanitary and phytosanitary measures in order to minimize their negative effects on trade;

Recognizing the important contribution that international standards, guidelines and recommendations can make in this regard;

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## 會員

再度肯定各會員為保護人類、動物或植物的生命或健康，可採取或執行必要措施，惟此等措施之實施，不得對處於相同條件下之會員間構成恣意或無理的歧視，或對國際貿易形成隱藏性的限制；

咸欲改進所有會員國內的人民、動物健康及植物之衛生情況；

鑒於食品安全檢驗與動植物防疫檢疫（以下譯文簡稱檢驗與防檢疫）措施通常係基於雙邊協定或議定書而實施；

咸欲建立一多邊架構的規則與紀律，以指導檢驗與防檢疫措施之研訂、採用與執行，俾將貿易的負面影響減至最小；

咸認國際間各種標準、準則與建議等能在這方面做出重大貢獻；

Desiring to further the use of harmonized sanitary and phytosanitary measures between Members, on the basis of international standards, guidelines and recommendations developed by the relevant international organizations, including the Codex Alimentarius Commission, the International Office of Epizootics, and the relevant international and regional organizations operating within the framework of the International Plant Protection Convention, without requiring Members to change their appropriate level of protection of human, animal or plant life or health;

Recognizing that developing country Members may encounter special difficulties in complying with the sanitary or phytosanitary measures of importing Members, and as a consequence in access to markets, and also in the formulation and application of sanitary or phytosanitary measures in their own territories, and desiring to assist them in their endeavours in this regard;

Desiring therefore to elaborate rules for the application of the provisions of GATT 1994 which relate to the use of sanitary or phytosanitary measures, in particular the provisions of Article XX(b) <sup>(1)</sup>;

Hereby agree as follows:

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(1) In this Agreement, reference to Article XX(b) includes also the chapeau of that Article.

咸欲以包括食品標準委員會、國際畜疫會及在國際植物保護公約架構中運作的相關國際性與區域性組織所研訂的國際標準、準則與建議為基礎，在不要求各會員改變其保護人類、動物或植物生命或健康之適當水準的前提下，促進各會員間使用調和的檢驗及防檢疫措施；

咸認開發中國家會員可能會在遵循進口國家的檢驗或防檢疫措施方面遭遇特殊困難，致難以進入市場，同時其在制定與執行國內檢驗或防檢疫措施時也會有困難，咸欲對開發中國家會員於此方面的努力提供協助；

因此咸欲對一九九四年關稅暨貿易總協定 (GATT 1994) 中有關實施檢驗或防檢疫措施之規定，尤其是第二十條第 (b) 款條文<sup>(1)</sup>，制定適用之規則；

茲同意如下：

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註 1：於本協定中，凡涉及第二十條第 (b) 款者，亦包括該條文的前言部分。

## **Article 1**

### **General Provisions**

1. This Agreement applies to all sanitary and phytosanitary measures which may, directly or indirectly, affect international trade. Such measures shall be developed and applied in accordance with the provisions of this Agreement.
2. For the purposes of this Agreement, the definitions provided in Annex A shall apply.
3. The annexes are an integral part of this Agreement.
4. Nothing in this Agreement shall affect the rights of Members under the Agreement on Technical Barriers to Trade with respect to measures not within the scope of this Agreement.

## **Article 2**

### **Basic Rights and Obligations**

1. Members have the right to take sanitary and phytosanitary measures necessary for the protection of human, animal or plant life or health, provided that such measures are not inconsistent with the provisions of this Agreement.
2. Members shall ensure that any sanitary or phytosanitary 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, except as provided for in paragraph 7 of Article 5.



## 第一條

### 一般規定

1. 本協定適用所有可能直接或間接影響國際貿易的檢驗與防檢疫措施。該等措施皆應依據本協定之規定來研訂與實施。
2. 就本協定之目的，附件 A 提供的定義應予適用。
3. 所有附件皆為本協定完整的部分。
4. 本協定內容不應影響會員在技術性貿易障礙協定中所享有非屬本協定範疇之各項措施的權利。

## 第二條

### 基本權利與義務

1. 會員有權為保護人類、動物或植物的生命或健康需要，採行各種檢驗與防檢疫措施，只要該等措施不與本協定之規定不一致。
2. 會員應保證任一檢驗或防檢疫措施之實施，係以保護人類、動物或植物的生命或健康之需要程度為限，且應基於科學原理，若無充分的科學證據即不應維持該措施，惟依第五條第七項之規定者不在此限。

3. Members shall ensure that their sanitary and phytosanitary measures do not arbitrarily or unjustifiably discriminate between Members where identical or similar conditions prevail, including between their own territory and that of other Members. Sanitary and phytosanitary measures shall not be applied in a manner which would constitute a disguised restriction on international trade.
4. Sanitary or phytosanitary measures which conform to the relevant provisions of this Agreement shall be presumed to be in accordance with the obligations of the Members under the provisions of GATT 1994 which relate to the use of sanitary or phytosanitary measures, in particular the provisions of Article XX(b).

## **Article 3**

### **Harmonization**

1. To harmonize sanitary and phytosanitary measures on as wide a basis as possible, Members shall base their sanitary or phytosanitary measures on international standards, guidelines or recommendations, where they exist, except as otherwise provided for in this Agreement, and in particular in paragraph 3.
2. Sanitary or phytosanitary measures which conform to international standards, guidelines or recommendations shall be deemed to be necessary to protect human, animal or plant life or health, and presumed to be consistent with the relevant provisions of this Agreement and of GATT 1994.

3. 會員應保證其檢驗與防檢疫措施不會在有相同或類似情況之會員間，包括其境內及其他會員境內之間，造成恣意或無理的歧視。檢驗與防檢疫措施之實施不應構成對國際貿易的隱藏性限制。
4. 符合本協定相關條款的檢驗或防檢疫措施應被認定為符合會員在GATT 1994 中有關行使檢驗與防檢疫措施規定之義務，特別是第二十條第(b) 款條文所規定之義務。

### 第三條 調 和

1. 為儘可能廣泛調和檢驗與防檢疫措施，會員應根據現有的國際標準、準則與建議，訂定其檢驗或防檢疫措施，若本協定另有規定，特別是符合本條第三項之規定者不在此限。
2. 凡符合國際標準、準則或建議之檢驗或防檢疫措施應視為是保護人類、動物或植物的生命或健康之所需，且應被認定為符合本協定及 GATT 1994 之相關規定。

3. Members may introduce or maintain sanitary or phytosanitary measures which result in a higher level of sanitary or phytosanitary protection than would be achieved by measures based on the relevant international standards, guidelines or recommendations, if there is a scientific justification, or as a consequence of the level of sanitary or phytosanitary protection a Member determines to be appropriate in accordance with the relevant provisions of paragraphs 1 through 8 of Article 5.<sup>(2)</sup> Notwithstanding the above, all measures which result in a level of sanitary or phytosanitary protection different from that which would be achieved by measures based on international standards, guidelines or recommendations shall not be inconsistent with any other provision of this Agreement.

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(2) For the purposes of paragraph 3 of Article 3, there is a scientific justification if, on the basis of an examination and evaluation of available scientific information in conformity with the relevant provisions of this Agreement, a Member determines that the relevant international standards, guidelines or recommendations are not sufficient to achieve its appropriate level of sanitary or phytosanitary protection.

3. 若具有科學上的正當理由，或會員確定其依據第五條第一項至第八項而實施之檢驗和防檢疫保護水準係屬允當，則該會員可在檢驗或防檢疫措施上，引用或維持比相關國際標準、準則或建議較高的保護水準<sup>(2)</sup>。惟無論上述規定為何，凡檢驗或防檢疫措施之保護水準與依據國際標準、準則或建議所制定者有所不同時，該措施仍不應與本協定中之其他條款規定不一致。

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註2：就第三條第三項之目的而言，會員若依據現有的科學資訊進行符合本協定相關規定的查核與評估，認為相關的國際標準、準則或建議並不足以達到適當的檢驗或防檢疫保護水準時，即為在科學上具正當理由。

4. Members shall play a full part, within the limits of their resources, in the relevant international organizations and their subsidiary bodies, in particular the Codex Alimentarius Commission, the International Office of Epizootics, and the international and regional organizations operating within the framework of the International Plant Protection Convention, to promote within these organizations the development and periodic review of standards, guidelines and recommendations with respect to all aspects of sanitary and phytosanitary measures.
5. The Committee on Sanitary and Phytosanitary Measures provided for in paragraphs 1 and 4 of Article 12 (referred to in this Agreement as the “Committee”) shall develop a procedure to monitor the process of international harmonization and coordinate efforts in this regard with the relevant international organizations.

## **Article 4**

### **Equivalence**

1. Members shall accept the sanitary or phytosanitary measures of other Members as equivalent, even if these measures differ from their own or from those used by other Members trading in the same product, if the exporting Member objectively demonstrates to the importing Member that its measures achieve the importing Member’s appropriate level of sanitary or phytosanitary protection. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures.

4. 會員應就其資源所及之範圍，全力參與相關國際組織與其附屬單位之運作，尤其是食品標準委員會、國際畜疫會及在國際植物保護公約架構內運作的國際性與區域性組織，以在此等組織中促進所有有關檢驗與防檢疫措施之各種標準、準則與建議之研訂及定期檢討。
5. 依第十二條第一項和第四項規定所設置的食品安全檢驗與動植物防疫檢疫措施委員會（本協定中簡稱“委員會”）應研訂出一套程序以監督國際調和化之進行，並協調相關國際組織共同推動之。

## 第四條

### 同等效力

1. 若出口會員客觀地向進口會員證明其檢驗或防檢疫措施達到進口會員要求之適當的檢驗或防檢疫保護水準，則即使此等措施有異於該進口會員或進行同一產品貿易之其他會員所採行者，進口會員亦應對其他會員的檢驗或防檢疫措施視為與該會員採行者具同等效力而接受之。為此目的，出口會員應在進口會員要求時提供合理管道，俾便進口會員進行檢驗、測試或其他相關程序。

2. Members shall, upon request, enter into consultations with the aim of achieving bilateral and multilateral agreements on recognition of the equivalence of specified sanitary or phytosanitary measures.

## **Article 5**

### **Assessment of Risk and Determination of the Appropriate Level of Sanitary or Phytosanitary Protection**

1. Members shall ensure that their sanitary or phytosanitary measures are based on an assessment, as appropriate to the circumstances, of the risks to human, animal or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations.
2. In the assessment of risks, Members shall take into account available scientific evidence; relevant processes and production methods; relevant inspection, sampling and testing methods; prevalence of specific diseases or pests; existence of pest — or disease — free areas; relevant ecological and environmental conditions; and quarantine or other treatment.
3. In assessing the risk to animal or plant life or health and determining the measure to be applied for achieving the appropriate level of sanitary or phytosanitary protection from such risk, Members shall take into account as relevant economic factors: the potential damage in terms of loss of production or sales in the event of the entry, establishment or spread of a pest or disease; the costs of control or eradication in the territory of the importing Member; and the relative cost-effectiveness of alternative approaches to limiting risks.



2. 會員在接獲諮商請求時應進行諮商，俾就認可特定檢驗或防檢疫措施之同等效力達成雙邊與多邊協定。

## 第五條

### 風險評估及適當的檢驗或 防檢疫保護水準之決定

1. 會員應保證其檢驗或防檢疫措施，係在適合狀況下依據對人類、動物或植物生命或健康的風險所做評估而制定，並將相關國際組織所研訂的風險評估技術納入考量。
2. 會員在進行風險評估時應考量現有科學證據；相關的加工與生產方法；相關的檢驗、取樣與測試方法；特定疫病蟲害的流行；害蟲或疫病非疫區的存在；相關的生態與環境條件；以及檢疫或其他處理措施。
3. 會員在評估動物或植物生命或健康所面臨的風險，及決定採行可達適當的檢驗或防檢疫保護水準之措施以防範該風險時，應考量相關經濟因素，例如：因害蟲或疫病入侵、立足或傳播所造成的可能損害，亦即生產或銷售的損失；在進口會員境內進行防治或撲滅作業的費用；以及抑制風險之替代方法的相對成本效益。

4. Members should, when determining the appropriate level of sanitary or phytosanitary protection, take into account the objective of minimizing negative trade effects.
5. With the objective of achieving consistency in the application of the concept of appropriate level of sanitary or phytosanitary protection against risks to human life or health, or to animal and plant life or health, each Member shall avoid arbitrary or unjustifiable distinctions in the levels it considers to be appropriate in different situations, if such distinctions result in discrimination or a disguised restriction on international trade. Members shall cooperate in the Committee, in accordance with paragraphs 1, 2 and 3 of Article 12, to develop guidelines to further the practical implementation of this provision. In developing the guidelines, the Committee shall take into account all relevant factors, including the exceptional character of human health risks to which people voluntarily expose themselves.
6. Without prejudice to paragraph 2 of Article 3, when establishing or maintaining sanitary or phytosanitary measures to achieve the appropriate level of sanitary or phytosanitary protection, Members shall ensure that such measures are not more trade-restrictive than required to achieve their appropriate level of sanitary or phytosanitary protection, taking into account technical and economic feasibility.<sup>(3)</sup>

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(3) For purposes of paragraph 6 of Article 5, a measure is not more trade-restrictive than required unless there is another measure, reasonably available taking into account technical and economic feasibility, that achieves the appropriate level of sanitary or phytosanitary protection and is significantly less restrictive to trade.

4. 會員在決定其適當的檢驗或防檢疫保護水準之際，宜兼顧減小貿易負面影響的目標。
5. 為達到應用適當的檢驗或防檢疫保護水準觀念的一致性，以防範人類、動物與植物生命或健康風險，會員在不同情況下所採行之適當保護水準，應避免恣意或無理的區別，而導致歧視或對國際貿易造成隱藏性的限制。會員應依據第十二條第一項、第二項和第三項規定，在委員會內合作研訂出落實執行本項規定的準則，而該委員會在研訂準則時應考量所有相關因素，包括人們自願地置身於健康風險的特性。
6. 在不影響第三條第二項規定之前提下，會員於制定或維持達成適當保護水準的檢驗或防檢疫措施時，應在考量技術與經濟可行性下，保證該等措施對貿易的限制以不超過達成適當的檢驗或防檢疫保護水準為限<sup>(3)</sup>。

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註3：就第五條第六項的目的而言，在考量技術與經濟可行性之前提下，除非有另一合理可得措施可達成適當的檢驗和防檢疫保護水準，且明顯對貿易較少限制，否則原措施即被認為未超過所需的貿易限制。

7. In cases where relevant scientific evidence is insufficient, a Member may provisionally adopt sanitary or phytosanitary measures on the basis of available pertinent information, including that from the relevant international organizations as well as from sanitary or phytosanitary measures applied by other Members. In such circumstances, Members shall seek to obtain the additional information necessary for a more objective assessment of risk and review the sanitary or phytosanitary measure accordingly within a reasonable period of time.
8. When a Member has reason to believe that a specific sanitary or phytosanitary measure introduced or maintained by another Member is constraining, or has the potential to constrain, its exports and the measure is not based on the relevant international standards, guidelines or recommendations, or such standards, guidelines or recommendations do not exist, an explanation of the reasons for such sanitary or phytosanitary measure may be requested and shall be provided by the Member maintaining the measure.

7. 如相關的科學證據不充分時，會員可依現有有關資訊，包括相關國際組織及其他會員的檢驗或防疫檢疫措施資訊，暫時採行某些檢驗或防疫檢疫措施。惟在此情況下，會員應設法取得更多必要之資訊以進行客觀的風險評估，並應在合理期限內檢討該檢驗或防疫檢疫措施。
8. 當一會員有理由認為另一會員所引用或維持之某一特定檢驗或防疫檢疫措施對其出口造成限制或潛在性限制，而該措施並非依據國際標準、準則或建議而制訂，或該等國際標準、準則或建議並不存在時，可要求維持該項檢驗或防疫檢疫措施的會員提供說明其理由。

## **Article 6**

### **Adaptation to Regional Conditions, Including Pest- or Disease-Free Areas and Areas of Low Pest or Disease Prevalence**

1. Members shall ensure that their sanitary or phytosanitary measures are adapted to the sanitary or phytosanitary characteristics of the area — whether all of a country, part of a country, or all or parts of several countries — from which the product originated and to which the product is destined. In assessing the sanitary or phytosanitary characteristics of a region, Members shall take into account, inter alia, the level of prevalence of specific diseases or pests, the existence of eradication or control programmes, and appropriate criteria or guidelines which may be developed by the relevant international organizations.
2. Members shall, in particular, recognize the concepts of pest- or disease-free areas and areas of low pest or disease prevalence. Determination of such areas shall be based on factors such as geography, ecosystems, epidemiological surveillance, and the effectiveness of sanitary or phytosanitary controls.
3. Exporting Members claiming that areas within their territories are pest- or disease-free areas or areas of low pest or disease prevalence shall provide the necessary evidence thereof in order to objectively demonstrate to the importing Member that such areas are, and are likely to remain, pest- or disease-free areas or areas of low pest or disease prevalence, respectively. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures.

## 第六條

### **區域性條件之適應： 包括害蟲或疫病之非疫區及低流行疫區**

1. 會員應保證其檢驗或防檢疫措施可適合產品來源地區與產品輸往地區的檢驗或防檢疫特性，不論該地區為一國的全部、一國的一部分或數國之全部或一部分。在評估一地區的檢驗或防檢疫特性時，會員應特別考量特定疫病蟲害的流程度，有無撲滅或防治計畫，及可由相關國際組織研訂之適當基準或準則。
2. 會員尤應認知害蟲或疫病之非疫區與低流行疫區的觀念，該等地區的認定應依據如地理、生態系、流行病學的監測及檢驗或防檢疫控制之有效性等因素而定。
3. 出口會員宣稱其國境為害蟲或疫病非疫區或低流行疫區時，應提出必要的證據，俾客觀地向進口會員證明該等地區確為並可維持為害蟲或疫病之非疫區或低流行地區。就此目的，出口會員在進口會員要求下應提供合理的管道，俾其進行檢驗、測試和其他相關程序。

## **Article 7**

### **Transparency**

Members shall notify changes in their sanitary or phytosanitary measures and shall provide information on their sanitary or phytosanitary measures in accordance with the provisions of Annex B.

## **Article 8**

### **Control, Inspection and Approval Procedures**

Members shall observe the provisions of Annex C in the operation of control, inspection and approval procedures, including national systems for approving the use of additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs, and otherwise ensure that their procedures are not inconsistent with the provisions of this Agreement.

## **Article 9**

### **Technical Assistance**

1. Members agree to facilitate the provision of technical assistance to other Members, especially developing country Members, either bilaterally or through the appropriate international organizations. Such assistance may be, *inter alia*, in the areas of processing technologies, research and infrastructure, including in the establishment of national regulatory bodies, and may take the form of advice, credits, donations and grants, including for the purpose of seeking technical expertise, training and equipment to allow such countries to adjust to, and comply with, sanitary or phytosanitary measures necessary to achieve the appropriate level of sanitary or phytosanitary protection in their export markets.



## 第七條 透明化

會員應依附件 B 之規定就其檢驗或防檢疫措施的相關變更提出通知，並應提供有關檢驗或防檢疫措施之資訊。

## 第八條 管制、檢驗與核可程序

會員應遵守附件 C 之規定以執行管制、檢驗及核可等程序，包括核可添加物的使用，或研訂食品、飲料或飼料中污染物容許量的國家制度；否則應保證其程序與本協定之規定並無不一致。

## 第九條 技術協助

1. 會員同意經由雙邊或適當的國際組織，促進對其他會員，特別是對開發中國家會員提供技術協助。該等協助可特別涵蓋加工技術、研究與基礎設施包括設置國家管制機構等範圍，並可以顧問、貸款、捐贈和獎助等方式提供包括技術性專業知能、訓練與設備之協助，使該等國家可調整與遵循必要的檢驗或防檢疫措施，以達到其出口市場之適當的檢驗或防檢疫保護水準。

2. Where substantial investments are required in order for an exporting developing country Member to fulfil the sanitary or phytosanitary requirements of an importing Member, the latter shall consider providing such technical assistance as will permit the developing country Member to maintain and expand its market access opportunities for the product involved.

## **Article 10**

### **Special and Differential Treatment**

1. In the preparation and application of sanitary or phytosanitary measures, Members shall take account of the special needs of developing country Members, and in particular of the least-developed country Members.
2. Where the appropriate level of sanitary or phytosanitary protection allows scope for the phased introduction of new sanitary or phytosanitary measures, longer time-frames for compliance should be accorded on products of interest to developing country Members so as to maintain opportunities for their exports.
3. With a view to ensuring that developing country Members are able to comply with the provisions of this Agreement, the Committee is enabled to grant to such countries, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement, taking into account their financial, trade and development needs.
4. Members should encourage and facilitate the active participation of developing country Members in the relevant international organizations.

2. 當開發中的出口會員為履行進口會員的檢驗或防疫要求而需進行相當的投資時，進口國應考慮提供技術協助，俾開發中國家會員能維持與擴展相關產品進入市場的機會。

## 第十條

### 特殊與差別待遇

1. 會員在研訂與實施檢驗或防疫措施時，應考量開發中國家會員，尤其是最低度開發國家會員的特別需求。
2. 當適當的檢驗或防疫保護水準容許階段性地引進新的檢驗或防疫措施時，對利益攸關的產品，宜給予開發中會員較長的遵循緩衝時程，俾維持其出口機會。
3. 為確保開發中國家會員能符合本協定的各項規定，委員會有權在經該等國家要求時，並在考量其財政、貿易與發展之需求下，准許該等國家得就本協定之部分或全部條款之義務，享有特定及有時限的例外。
4. 會員宜鼓勵並促進開發中國家會員積極參與相關的國際組織。

## **Article 11**

### **Consultations and Dispute Settlement**

1. The provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Dispute Settlement Understanding shall apply to consultations and the settlement of disputes under this Agreement, except as otherwise specifically provided herein.
2. In a dispute under this Agreement involving scientific or technical issues, a panel should seek advice from experts chosen by the panel in consultation with the parties to the dispute. To this end, the panel may, when it deems it appropriate, establish an advisory technical experts group, or consult the relevant international organizations, at the request of either party to the dispute or on its own initiative.
3. Nothing in this Agreement shall impair the rights of Members under other international agreements, including the right to resort to the good offices or dispute settlement mechanisms of other international organizations or established under any international agreement.

## **Article 12**

### **Administration**

1. A Committee on Sanitary and Phytosanitary Measures is hereby established to provide a regular forum for consultations. It shall carry out the functions necessary to implement the provisions of this Agreement and the furtherance of its objectives, in particular with respect to harmonization. The Committee shall reach its decisions by consensus.

## 第十一條

### 諮商與爭端解決

1. 除非本協定中另有特別規定，本協定下的諮商與爭端解決適用爭端解決瞭解書中闡明與適用的 GATT 1994 第二十二條與第二十三條之規定。
2. 當本協定下的爭端涉及科學或技術問題時，仲裁小組應向經與爭端之各方諮商後選定的專家徵詢意見。為此目的，仲裁小組可視情形在爭端的任一方請求下，或小組自動地設置一技術專家諮議小組，或諮詢相關國際組織。
3. 本協定不影響各會員在其它國際協定的權利，包括向其他國際組織或在任一國際協定設置的斡旋或爭端解決機構訴求之權利。

## 第十二條

### 行政管理

1. 茲設置「食品安全檢驗與動植物防疫檢疫措施委員會」以提供定期的諮商論壇。委員會應執行其功能以履行本協定之規定及促成其目標，特別是調和的功能。委員會之決議應採共識決。

2. The Committee shall encourage and facilitate ad hoc consultations or negotiations among Members on specific sanitary or phytosanitary issues. The Committee shall encourage the use of international standards, guidelines or recommendations by all Members and, in this regard, shall sponsor technical consultation and study with the objective of increasing coordination and integration between international and national systems and approaches for approving the use of food additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs.
3. The Committee shall maintain close contact with the relevant international organizations in the field of sanitary and phytosanitary protection, especially with the Codex Alimentarius Commission, the International Office of Epizootics, and the Secretariat of the International Plant Protection Convention, with the objective of securing the best available scientific and technical advice for the administration of this Agreement and in order to ensure that unnecessary duplication of effort is avoided.

2. 委員會應鼓勵並促使其會員之間就特定檢驗或防檢疫問題舉行個別諮商或談判。委員會應鼓勵全體會員使用國際標準、準則或建議，並應支持技術諮商與研究，以增進國際與各國在對食品添加物使用之核可或食品、飲料與飼料污染物容許量訂定之制度及作法間之協調及整合。
3. 委員會應與檢驗及防檢疫保護相關之國際組織保持密切聯繫，尤其是食品標準委員會、國際畜疫會與國際植物保護公約秘書處，以在執行本協定之行政管理上獲取最適用的科學性與技術性意見，以及避免行政上不必要的重複。

4. The Committee shall develop a procedure to monitor the process of international harmonization and the use of international standards, guidelines or recommendations. For this purpose, the Committee should, in conjunction with the relevant international organizations, establish a list of international standards, guidelines or recommendations relating to sanitary or phytosanitary measures which the Committee determines to have a major trade impact. The list should include an indication by Members of those international standards, guidelines or recommendations which they apply as conditions for import or on the basis of which imported products conforming to these standards can enjoy access to their markets. For those cases in which a Member does not apply an international standard, guideline or recommendation as a condition for import, the Member should provide an indication of the reason therefor, and, in particular, whether it considers that the standard is not stringent enough to provide the appropriate level of sanitary or phytosanitary protection. If a Member revises its position, following its indication of the use of a standard, guideline or recommendation as a condition for import, it should provide an explanation for its change and so inform the Secretariat as well as the relevant international organizations, unless such notification and explanation is given according to the procedures of Annex B.
5. In order to avoid unnecessary duplication, the Committee may decide, as appropriate, to use the information generated by the procedures, particularly for notification, which are in operation in the relevant international organizations.



4. 委員會應研訂一套程序，以監督國際調和化過程與國際標準、準則或建議之使用。為此，委員會宜配合相關國際組織，建立一份委員會認定對貿易具有重大衝擊的檢驗或防檢疫措施的清單。此份清單宜包括由各會員所指明作為進口條件或符合國際標準之產品享有進入其市場所依據的國際標準、準則或建議。若會員不使用某一國際標準、準則或建議作為進口條件時，則該會員應指出不使用的理由，尤其應說明其是否認為該項標準尚未嚴格到足以提供適當的檢驗或防檢疫保護水準。如果一會員在表明使用某一標準、準則或建議做為進口條件後修訂其立場，則除非依據附件 B 規定之程序提出通知與說明，否則該會員應提出該項變更的說明，並通知秘書處以及相關的國際組織。
5. 為避免不必要的重複，委員會於適當時，可決定使用由相關國際組織作業程序所產生的資訊，特別是為通知之用者。

6. The Committee may, on the basis of an initiative from one of the Members, through appropriate channels invite the relevant international organizations or their subsidiary bodies to examine specific matters with respect to a particular standard, guideline or recommendation, including the basis of explanations for non-use given according to paragraph 4.
7. The Committee shall review the operation and implementation of this Agreement three years after the date of entry into force of the WTO Agreement, and thereafter as the need arises. Where appropriate, the Committee may submit to the Council for Trade in Goods proposals to amend the text of this Agreement having regard, *inter alia*, to the experience gained in its implementation.

6. 委員會得依據任一會員提出的動議，透過適當的管道邀請相關國際組織或其附屬機構，查驗和某一特定標準、準則或建議有關之特殊事宜，包括依第四項所提出的不使用國際標準之說明依據。
7. 委員會應在 WTO 協定生效起三年後檢討本協定的運作與執行，爾後並視需要再行檢討。適當時，委員會得就執行本協定所獲經驗，向商品貿易理事會提出修正本協定內容之建議案。

## **Article 13**

### **Implementation**

Members are fully responsible under this Agreement for the observance of all obligations set forth herein. Members shall formulate and implement positive measures and mechanisms in support of the observance of the provisions of this Agreement by other than central government bodies. Members shall take such reasonable measures as may be available to them to ensure that non-governmental entities within their territories, as well as regional bodies in which relevant entities within their territories are members, comply with the relevant provisions of this Agreement. In addition, Members shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such regional or non-governmental entities, or local governmental bodies, to act in a manner inconsistent with the provisions of this Agreement. Members shall ensure that they rely on the services of non-governmental entities for implementing sanitary or phytosanitary measures only if these entities comply with the provisions of this Agreement.

## 第十三條

### 執行

會員有遵守本協定所有義務之責任。各會員應制訂並執行明確的措施及機制以輔導中央政府以外機構遵守本協定各項規定。會員應採取合理可行的措施，以確保其境內之非政府單位及區域性機構中具有會員身分之有關成員，均遵從本協定的相關條款。此外，各會員不得採取相關措施，以致有直接或間接要求或鼓勵該等區域性機構、非政府單位或地方政府機關，以與本協定的條款不一致的方式行事。會員應確保唯有非政府單位在遵從本協定條款之情形下，方依賴該等單位提供執行檢驗或防檢疫措施的服務。

## **Article 14**

### **Final Provisions**

The least-developed country Members may delay application of the provisions of this Agreement for a period of five years following the date of entry into force of the WTO Agreement with respect to their sanitary or phytosanitary measures affecting importation or imported products. Other developing country Members may delay application of the provisions of this Agreement, other than paragraph 8 of Article 5 and Article 7, for two years following the date of entry into force of the WTO Agreement with respect to their existing sanitary or phytosanitary measures affecting importation or imported products, where such application is prevented by a lack of technical expertise, technical infrastructure or resources.

## 第十四條

### 最終條款

最低度開發國家會員，得自WTO 協定正式生效日期起，延後五年實施本協定中會影響進口或進口產品之檢驗或防檢疫措施的相關條款。其他開發中國家會員，若因缺乏技術性專業知識、基礎設施或資源時，得自WTO 協定正式生效日期起，延後兩年施行本協定中除第五條第八項和第七條以外會影響進口或進口產品之檢驗或防檢疫措施的規定。

## **ANNEX A**

### **DEFINITIONS <sup>(4)</sup>**

1. Sanitary or phytosanitary measure — Any measure applied:
  - (a) to protect animal or plant life or health within the territory of the Member from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;
  - (b) to protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;
  - (c) to protect human life or health within the territory of the Member from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; or
  - (d) to prevent or limit other damage within the territory of the Member from the entry, establishment or spread of pests.

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(4) For the purpose of these definitions, “animal” includes fish and wild fauna; “plant” includes forests and wild flora; “pests” include weeds; and “contaminants” include pesticide and veterinary drug residues and extraneous matter.



## 附件 A

### 定義<sup>(4)</sup>

1. 檢驗或防檢疫措施 - 係指適用於下列項目之任何措施：
  - (a) 保護會員境內動物或植物生命或健康，以防範因害蟲、疫病、帶病體或病原體的入侵、立足或傳播而導致的風險；
  - (b) 保護會員境內人類或動物生命或健康，以防範因食品、飲料或飼料中的添加物、污染物、毒素、或病原體而導致的風險；
  - (c) 保護會員境內人類生命或健康，以防範因動物、植物或動植物產品所攜帶的疾病或因疫病害蟲入侵、立足或傳播所導致的風險；或
  - (d) 防範或限制在會員境內因疫病害蟲入侵、立足或傳播而造成的其它損害。

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註4：就此定義的目的而言，「動物」包括魚類及野生動物；「植物」包括森林與野生植物；「有害生物」包括雜草；「污染物」包括農藥與動物用藥之殘留物與外加物質。

Sanitary or phytosanitary measures include all relevant laws, decrees, regulations, requirements and procedures including, inter alia, end product criteria; processes and production methods; testing, inspection, certification and approval procedures; quarantine treatments including relevant requirements associated with the transport of animals or plants, or with the materials necessary for their survival during transport; provisions on relevant statistical methods, sampling procedures and methods of risk assessment; and packaging and labelling requirements directly related to food safety.

2. Harmonization—The establishment, recognition and application of common sanitary and phytosanitary measures by different Members.
3. International standards, guidelines and recommendations
  - (a) for food safety, the standards, guidelines and recommendations established by the Codex Alimentarius Commission relating to food additives, veterinary drug and pesticide residues, contaminants, methods of analysis and sampling, and codes and guidelines of hygienic practice;
  - (b) for animal health and zoonoses, the standards, guidelines and recommendations developed under the auspices of the International Office of Epizootics;
  - (c) for plant health, the international standards, guidelines and recommendations developed under the auspices of the Secretariat of the International Plant Protection Convention in cooperation with regional organizations operating within the framework of the International Plant Protection Convention; and

檢驗或防檢疫措施包括所有相關法律、政令、規定、要件和程序，特別是包括最終產品的標準；加工與生產方法；測試、檢驗、發證與核可程序；檢疫處理，包括有關動物或植物運輸或運輸中維持動植物生存所需材料的規定；相關統計方法、取樣程序與風險評估方法的規定；以及與食品安全有直接關係的包裝與標示規定。

2. 調和 - 係指不同會員制定、承認與施行共同的檢驗與防檢疫措施。
3. 國際標準、準則與建議
  - (a) 就食品安全而言，係指由食品標準委員會針對食品添加物、動物用藥品與農藥殘留物、污染物、分析與採樣方法及衛生實務法規與準則所建立的標準、準則與建議；
  - (b) 就動物健康與人畜共同傳染病而言，係指在國際畜疫會主導下所研訂的標準、準則與建議；
  - (c) 就植物健康而言，係指由國際植物保護公約秘書處與在公約架構內運作的區域性組織合作研訂的國際標準、準則與建議；以及

- (d) for matters not covered by the above organizations, appropriate standards, guidelines and recommendations promulgated by other relevant international organizations open for membership to all Members, as identified by the Committee.
4. Risk assessment — The evaluation of the likelihood of entry, establishment or spread of a pest or disease within the territory of an importing Member according to the sanitary or phytosanitary measures which might be applied, and of the associated potential biological and economic consequences; or the evaluation of the potential for adverse effects on human or animal health arising from the presence of additives, contaminants, toxins or disease-causing organisms in food, beverages or feedstuffs.
  5. Appropriate level of sanitary or phytosanitary protection — The level of protection deemed appropriate by the Member establishing a sanitary or phytosanitary measure to protect human, animal or plant life or health within its territory.

NOTE: Many Members otherwise refer to this concept as the “acceptable level of risk”.

6. Pest- or disease-free area — An area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest or disease does not occur.

- (d) 就上述組織所未涵蓋之事務而言，係指由對所有會員開放入會申請的其他相關國際組織所頒布而為委員會承認的適當標準、準則與建議。
4. 風險評估 - 係指某一進口會員依據可能採行的檢驗或防檢疫措施，對某一害蟲或疫病之入侵並在其境內立足或傳播的可能性，以及對其所伴隨的潛在生物與經濟之影響所進行的評估；或指對來自食品、飼料與飲料中存在之添加物、污染物、毒素或病原體而可能導致對人類或動物健康之潛在不良影響的評估。
  5. 適當的食品安全檢驗或動植物防疫檢疫保護水準 - 係指為保障其境內的人類、動物或植物生命或健康而制定某一檢驗或防檢疫措施的會員所認為適當的保護水準。  
註：許多會員另以「可接受的風險水準」指稱這種觀念。
  6. 害蟲或疫病之非疫區 - 係指被主管機關認定為未發生某一特定害蟲或疫病之地區，不論其為整個國家、一個國家的一部分、或數個國家的全部或一部分。

NOTE: A pest- or disease-free area may surround, be surrounded by, or be adjacent to an area — whether within part of a country or in a geographic region which includes parts of or all of several countries -in which a specific pest or disease is known to occur but is subject to regional control measures such as the establishment of protection, surveillance and buffer zones which will confine or eradicate the pest or disease in question.

7. Area of low pest or disease prevalence — An area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest or disease occurs at low levels and which is subject to effective surveillance, control or eradication measures.

## **Annex B**

### **Transparency Of Sanitary And Phytosanitary Regulations**

#### **Publication of regulations**

1. Members shall ensure that all sanitary and phytosanitary regulations<sup>(5)</sup> which have been adopted are published promptly in such a manner as to enable interested Members to become acquainted with them.

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(5) Sanitary and phytosanitary measures such as laws, decrees or ordinances which are applicable generally.

註：一害蟲或疫病之非疫區可以包圍另一地區，或被該地區圍繞或毗鄰，無論該地區係某一國家之一部分，或是包括數個國家之部分或全部的一個地理區域。而該地區已知發生一特定害蟲或疫病，但已採行區域性防治措施，如可限制或撲滅該害蟲或疫病之防疫、監控及建立緩衝區等措施。

7. 害蟲或疫病低流行區 - 係指被主管機關認定某一特定害蟲或疫病屬低度發生，並經進行有效監控、防治或撲滅措施的地區。該低流行區可為整個國家、一個國家的一部分、或數個國家的全部或部分地區。

## 附件 B

### 檢驗與防檢疫法規的透明化

#### 法規公布

1. 會員應保證迅速公布所有業經通過的檢驗與防檢疫法規<sup>(5)</sup>，俾利益關切的會員得以熟知。

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註 5：檢驗與防檢疫措施包括可普遍適用的法律、政令或命令等。

2. Except in urgent circumstances, Members shall allow a reasonable interval between the publication of a sanitary or phytosanitary regulation and its entry into force in order to allow time for producers in exporting Members, and particularly in developing country Members, to adapt their products and methods of production to the requirements of the importing Member.

### **Enquiry points**

3. Each Member shall ensure that one enquiry point exists which is responsible for the provision of answers to all reasonable questions from interested Members as well as for the provision of relevant documents regarding:
  - (a) any sanitary or phytosanitary regulations adopted or proposed within its territory;
  - (b) any control and inspection procedures, production and quarantine treatment, pesticide tolerance and food additive approval procedures, which are operated within its territory;
  - (c) risk assessment procedures, factors taken into consideration, as well as the determination of the appropriate level of sanitary or phytosanitary protection;
  - (d) the membership and participation of the Member, or of relevant bodies within its territory, in international and regional sanitary and phytosanitary organizations and systems, as well as in bilateral and multilateral agreements and arrangements within the scope of this Agreement, and the texts of such agreements and arrangements.



2. 除了緊急情況外，會員應在某一檢驗或防檢疫法規之公布與生效日期間給予一段合理的緩衝時間，以使出口會員，尤其是開發中國家會員的廠商有時間調整其產品與生產方法，以符合該進口會員的規定。

### **查詢點**

3. 會員應保證設置一個查詢點，負責答覆來自利益關切會員所提出的合理問題，及提供下列的相關文件：
  - (a) 其境內採行或擬行的任何檢驗或防檢疫法規；
  - (b) 其境內施行的管制與檢驗程序、生產與檢疫處理、農藥殘留容許量與食品添加物之核可程序；
  - (c) 風險評估程序、考慮因素、以及對適當的檢驗與防檢疫保護水準之決定；
  - (d) 會員或其境內的相關機構在國際性與地區性檢驗與防檢疫組織與體制之會員資格與參加情形，及在本協定範圍內所簽署之雙邊與多邊協定與協議及該等協定與協議的本文。

4. Members shall ensure that where copies of documents are requested by interested Members, they are supplied at the same price (if any), apart from the cost of delivery, as to the nationals <sup>(6)</sup> of the Member concerned.

### **Notification procedures**

5. Whenever an international standard, guideline or recommendation does not exist or the content of a proposed sanitary or phytosanitary regulation is not substantially the same as the content of an international standard, guideline or recommendation, and if the regulation may have a significant effect on trade of other Members, Members shall:
  - (a) publish a notice at an early stage in such a manner as to enable interested Members to become acquainted with the proposal to introduce a particular regulation;
  - (b) notify other Members, through the Secretariat, of the products to be covered by the regulation together with a brief indication of the objective and rationale of the proposed regulation. Such notifications shall take place at an early stage, when amendments can still be introduced and comments taken into account;

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(6) When “nationals” are referred to in this Agreement, the term shall be deemed, in the case of a separate customs territory Member of the WTO, to mean persons, natural or legal, who are domiciled or who have a real and effective industrial or commercial establishment in that customs territory.

4. 會員應保證當利益關切的會員要求文件的影本時，除運費外，應以供給本國國民<sup>(6)</sup>的相同價格（若有訂價）供應。

## 通知程序

5. 凡未有某一國際標準、準則或建議，或擬制定的檢驗或防檢疫法規內容在實質上未與某一國際標準、準則或建議內容相同，且該法規可能顯著影響其他會員之貿易時，會員應：
  - (a) 提早通知俾使利益關切會員可熟知此特定法規草案；
  - (b) 透過秘書處通知其他會員該法規草案所要涵蓋的產品，並扼要指出該法規草案的目的與理由。該等通知應儘早發布，俾法規仍可及時修正並考慮各方意見；

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註6：本協定所稱「國民」，在屬一WTO個別關稅領域會員情況下，係指於該關稅領域內設有住所，或在該領域內擁有一實質有效的工業或商業設施之自然人或法人。

- (c) provide upon request to other Members copies of the proposed regulation and, whenever possible, identify the parts which in substance deviate from international standards, guidelines or recommendations;
  - (d) without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take the comments and the results of the discussions into account.
- 6. However, where urgent problems of health protection arise or threaten to arise for a Member, that Member may omit such of the steps enumerated in paragraph 5 of this Annex as it finds necessary, provided that the Member:
  - (a) immediately notifies other Members, through the Secretariat, of the particular regulation and the products covered, with a brief indication of the objective and the rationale of the regulation, including the nature of the urgent problem(s);
  - (b) provides, upon request, copies of the regulation to other Members;
  - (c) allows other Members to make comments in writing, discusses these comments upon request, and takes the comments and the results of the discussions into account.
- 7. Notifications to the Secretariat shall be in English, French or Spanish.

- (c) 應其他會員要求而提供法規草案影本，並儘可能指出該法案中實質偏離國際標準、準則或建議之處。
  - (d) 在不歧視下，容許其他會員有合理的時間提出書面意見，應會員要求討論該等意見，並將該等意見與討論結果列入考量。
6. 當一會員突然遭遇到健康保護的緊急問題或有威脅發生時，該會員若認屬必要，可省略本附件第五項列舉的步驟，惟該會員必須：
- (a) 立即透過秘書處向其他會員通知該特別法規與其所涵蓋的產品，並扼要指出該法規的目的與理由，包括問題的緊急性；
  - (b) 應其他會員之要求提供該法規影本；
  - (c) 容許其他會員提出書面意見，應會員要求討論該等意見，並將該等意見與討論結果列入考量。
7. 向秘書處遞交的通知應是英文、法文或西班牙文。

8. Developed country Members shall, if requested by other Members, provide copies of the documents or, in case of voluminous documents, summaries of the documents covered by a specific notification in English, French or Spanish.
9. The Secretariat shall promptly circulate copies of the notification to all Members and interested international organizations and draw the attention of developing country Members to any notifications relating to products of particular interest to them.
10. Members shall designate a single central government authority as responsible for the implementation, on the national level, of the provisions concerning notification procedures according to paragraphs 5, 6, 7 and 8 of this Annex.

### **General reservations**

11. Nothing in this Agreement shall be construed as requiring:
  - (a) the provision of particulars or copies of drafts or the publication of texts other than in the language of the Member except as stated in paragraph 8 of this Annex; or
  - (b) Members to disclose confidential information which would impede enforcement of sanitary or phytosanitary legislation or which would prejudice the legitimate commercial interests of particular enterprises.

8. 若其他會員提出要求時，已開發國家會員應提供文件影本，若文件數量鉅大，則以英文、法文或西班牙文之特別通知提供該文件的摘要。
9. 秘書處應迅速將通知影本發給所有會員與利益關切的國際組織，並提醒開發中國家會員，注意有關對具有特別利害關係的產品之任何通知。
10. 會員應指定一中央政府機構以負責執行與本附件第五項、第六項、第七項與第八項相關之通知程序。

## **一般保留條款**

11. 本協定應不得被據以要求：
  - (a) 除本附件第八項說明外，以會員本國以外的語言提供草案的細節或影本或通知內容；或
  - (b) 會員公開可能妨礙檢驗或防檢疫法規的執行或會侵害特定企業合法商業利益的機密資訊。

## **ANNEX C**

### **CONTROL, INSPECTION AND APPROVAL PROCEDURES <sup>(7)</sup>**

1. Members shall ensure, with respect to any procedure to check and ensure the fulfilment of sanitary or phytosanitary measures, that:
  - (a) such procedures are undertaken and completed without undue delay and in no less favourable manner for imported products than for like domestic products;
  - (b) the standard processing period of each procedure is published or that the anticipated processing period is communicated to the applicant upon request; when receiving an application, the competent body promptly examines the completeness of the documentation and informs the applicant in a precise and complete manner of all deficiencies; the competent body transmits as soon as possible the results of the procedure in a precise and complete manner to the applicant so that corrective action may be taken if necessary; even when the application has deficiencies, the competent body proceeds as far as practicable with the procedure if the applicant so requests; and that upon request, the applicant is informed of the stage of the procedure, with any delay being explained;

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(7) Control, inspection and approval procedures include, inter alia, procedures for sampling, testing and certification.



## 附件 C

### 管制、檢驗與核可程序<sup>(7)</sup>

1. 關於查核並確保履行檢驗或防檢疫措施的任何程序，各會員應保證：
  - (a) 該等程序如期執行與完成，並以不偏惠本國相同產品方式對待進口產品；
  - (b) 公布各項程序的標準作業時間，或經申請人要求時，將預期處理時間通知申請人；收到申請時，主管機關應迅速檢驗文件的完整性，並以精確與完整的方式將不齊備處通知申請人；主管機關應儘快以精確與完整的方式，將辦理結果通知申請人，使申請人於必要時可予更正；即使申請案不齊備，主管機關經申請人提出要求時，應依程序儘可能處理；受到要求時，應告知申請人處理程序到達的階段，若有延誤則一併說明之。

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註 7：所稱管制、檢驗與核可程序尤包括取樣、測試及發證程序。

- (c) information requirements are limited to what is necessary for appropriate control, inspection and approval procedures, including for approval of the use of additives or for the establishment of tolerances for contaminants in food, beverages or feedstuffs;
- (d) the confidentiality of information about imported products arising from or supplied in connection with control, inspection and approval is respected in a way no less favourable than for domestic products and in such a manner that legitimate commercial interests are protected;
- (e) any requirements for control, inspection and approval of individual specimens of a product are limited to what is reasonable and necessary;
- (f) any fees imposed for the procedures on imported products are equitable in relation to any fees charged on like domestic products or products originating in any other Member and should be no higher than the actual cost of the service;
- (g) the same criteria should be used in the siting of facilities used in the procedures and the selection of samples of imported products as for domestic products so as to minimize the inconvenience to applicants, importers, exporters or their agents;

- (c) 要求提供資訊事項僅限於管制、檢驗與核可程序所需之適當程度，包括對添加物使用的核可，或食品、飲料或飼料中污染物之容許量的訂定；
- (d) 對進口產品因管制、檢驗與核可程序而產生或所提供相關資訊之機密性，應以不偏惠本國產品，並能保障合法商業利益的方式予以尊重；
- (e) 對個別產品之樣品的管制、檢驗與核可之任何要求，應以合理與必要為限；
- (f) 凡對進口產品徵收的手續規費，宜與本國的相同產品，或源自其他任何會員的產品所徵收者相同，而且不得高於服務的實際成本；
- (g) 程序中所使用的設施位置及進口產品的取樣之基準，宜與該國內產品者相同，以減少申請人、進口商、出口商或其代理人的不便；

- (h) whenever specifications of a product are changed subsequent to its control and inspection in light of the applicable regulations, the procedure for the modified product is limited to what is necessary to determine whether adequate confidence exists that the product still meets the regulations concerned; and
- (i) a procedure exists to review complaints concerning the operation of such procedures and to take corrective action when a complaint is justified.

Where an importing Member operates a system for the approval of the use of food additives or for the establishment of tolerances for contaminants in food, beverages or feedstuffs which prohibits or restricts access to its domestic markets for products based on the absence of an approval, the importing Member shall consider the use of a relevant international standard as the basis for access until a final determination is made.

2. Where a sanitary or phytosanitary measure specifies control at the level of production, the Member in whose territory the production takes place shall provide the necessary assistance to facilitate such control and the work of the controlling authorities.
3. Nothing in this Agreement shall prevent Members from carrying out reasonable inspection within their own territories.

- (h) 凡產品的規格，依適用的法規進行管制與檢驗後發現需要變更時，則處理該修改後產品的程序，應以確認該產品是否仍然符合有關法規為限；
- (i) 設置辦法以審查有關執行該等程序的申訴案件，並在認定申訴屬正當後採取更正行動。

凡進口會員實施某一制度核可食品添加物的使用或食品、飲料或飼料污染物容許量之訂定，以禁止或限制未經核可的產品進入其本國市場時，該進口會員在制定最終標準前，應考慮使用相關國際標準做為進口的基礎。

2. 凡某一檢驗或防檢疫措施指定在生產階段進行管制時，則在其境內進行該項生產的會員應提供必要的協助，以利該項管制之進行與主管機關之作業。
3. 本協定不應阻礙會員在其境內實施合理的檢驗。

食品安全檢驗與動植物防疫檢疫措施協定叢書（一）

## 食品安全檢驗與動植物防疫檢疫措施協定

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