

AGREEMENT  
BETWEEN NEW ZEALAND AND THE EUROPEAN COMMUNITY  
ON SANITARY MEASURES APPLICABLE TO TRADE  
IN LIVE ANIMALS AND ANIMAL PRODUCTS

AGREEMENT

between New Zealand and the European Community  
on sanitary measures applicable to trade in live animals and animal products

NEW ZEALAND,

of the one part, and

THE EUROPEAN COMMUNITY,

of the other part,

hereinafter referred to as "the Parties";

WHEREAS the Parties acknowledge that their systems of sanitary measures are intended to provide comparable health assurances;

REAFFIRMING their commitment to the rights and obligations established under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (hereinafter referred to as "the SPS Agreement");

DESIRING to facilitate trade in live animals and animal products between New Zealand and the European Community (hereinafter referred to as "the Community") while safeguarding public and animal health and thereby meeting consumer expectations in relation to the wholesomeness of food products;

DESIRING to resolve other veterinary issues applicable to trade in live animals and animal products between New Zealand and the Community;

RESOLVED to take the fullest account of the risk of spread of animal infection and disease and the measures put in place to control and eradicate such infections and diseases, and in particular to avoid disruptions to trade,

HAVE AGREED AS FOLLOWS:

#### ARTICLE 1

##### Objective

The objective of this Agreement is to facilitate trade in live animals and animal products between the Community and New Zealand by establishing a mechanism for the recognition of equivalence of sanitary measures maintained by the two Parties consistent with the protection of public and animal health, and to improve communication and cooperation on sanitary measures.

## ARTICLE 2

### General provisions

The provisions set out in this Agreement shall apply in respect of trade between the Community and New Zealand in live animals and animal products.

The jointly determined arrangements for the application of this Agreement by the Parties are set out in the Annexes.

## ARTICLE 3

### Multilateral obligations

Nothing in this Agreement or the Annexes shall limit the rights or obligations of the Parties pursuant to the Agreement establishing the World Trade Organisation and its Annexes, and in particular the SPS Agreement.

## ARTICLE 4

### Scope

1. The scope of this Agreement shall be limited initially to the sanitary measures applied by either Party to the live animals and animal products listed in Annex I, except as provided for in paragraphs 2 and 3.

2. Unless otherwise specified under the provisions set out in the Annexes to this Agreement and without prejudice to Article 11, this Agreement shall not apply to sanitary measures related to food additives (all food additives and colours), sanitary stamps, processing aids, flavours, irradiation (ionization), contaminants (including microbiological standards), transport, chemicals originating from the migration of substances from packaging materials, labelling of foodstuffs, nutritional labelling, medicated feeds and premixes.

3. The Parties may also agree to apply the principles of this Agreement to address veterinary issues other than sanitary measures applicable to trade in live animals and animal products.

4. The Parties may agree to modify this Agreement in the future to extend the scope to other sanitary or phytosanitary measures affecting trade between the Parties.

## ARTICLE 5

### Definitions

For the purposes of this Agreement the following definitions shall apply:

- (a) Live animals and animal products: means the live animals and animal products covered by the provisions listed in Annex I;
- (b) Sanitary Measures: means sanitary measures as defined in Annex A, paragraph 1, of the SPS Agreement falling within the scope of this Agreement;

- (c) Appropriate Level Of Sanitary Protection: means the level of protection as defined in Annex A, paragraph 5, of the SPS Agreement;
- (d) Region: means "zones" and "regions" as defined in the Animal Health Code of the Office International des Epizooties;
- (e) Responsible Authorities:
  - (i) New Zealand - the authorities described in Part A of Annex II;
  - (ii) European Community - the authorities described in Part B of Annex II.

## ARTICLE 6

### Adaptation to regional conditions

1. The Parties recognize for trade between them regional freedom from the animal diseases specified in Annex III.
2. Where one of the Parties considers that it has a special status with respect to a specific disease, it may request recognition of this status. The Party concerned may also request additional guarantees in respect of imports of live animals and animal products appropriate to the agreed status. The guarantees for specific diseases shall be specified in Annex V.

3. Without prejudice to paragraph 2, the importing Party shall recognize regionalization decisions taken in accordance with criteria as defined in Annex IV as the basis for trade from a Party within which an area is affected by one or more of the diseases listed in Annex III.

## ARTICLE 7

### Equivalence

1. The recognition of equivalence requires an assessment and acceptance of:
  - the legislation, standards and procedures, as well as the programmes in place to allow control and to ensure domestic and importing countries' requirements are met;
  - the documented structure of the relevant responsible authority(ies), their powers, their chain of command, their modus operandi and the resources available to them;
  - the performance of the relevant responsible authority in relation to the control programme and assurances.

In this assessment, the Parties shall take account of experience already acquired.

2. Equivalence shall be applied in relation to sanitary measures for live animal or animal product sectors, or parts of sectors, in relation to legislation, inspection and control systems, parts of systems, or in relation to specific legislation, inspection and/or hygiene requirements.

## ARTICLE 8

### Determination of equivalence

1. In reaching a determination of whether a sanitary measure applied by an exporting Party achieves the importing Party's appropriate level of sanitary protection, the Parties shall follow a process that includes the following steps:

- (i) the identification of the sanitary measure(s) for which recognition of equivalence is sought;
- (ii) the explanation by the importing Party of the objective of its sanitary measure(s), including an assessment, as appropriate to the circumstances, of the risk, or risks, that the sanitary measure(s) is intended to address, and identification by the importing Party of its appropriate level of sanitary protection;
- (iii) the demonstration by the exporting Party that its sanitary measure(s) achieves the importing Party's appropriate level of sanitary protection;
- (iv) the determination by the importing Party of whether the Exporting Party's sanitary measure(s) achieves its appropriate level of sanitary protection;
- (v) the importing Party shall accept the sanitary measure(s) of the exporting Party as equivalent if the exporting Party objectively demonstrates that its measure(s) achieve the importing Party's appropriate level of protection.



2. Where equivalence has not been recognised, trade may take place under the conditions required by the importing Party to meet its appropriate level of protection as set out in Annex V. The exporting Party may agree to meet the importing Party's conditions, without prejudice to the result of the process set out in paragraph 1.

## ARTICLE 9

### Recognition of sanitary measures

1. Annex V lists those sectors, or parts of sectors, for which, at the date of entry into force of this Agreement, the respective sanitary measures are recognized as equivalent for trade purposes. The Parties shall take the necessary legislative/administrative actions to implement recognition of equivalence to allow trade on that basis within 3 months.

2. Annex V also lists those sectors, or parts of sectors, for which the Parties apply differing sanitary measures and have not concluded the assessment provided for in Article 7. Based on the process described in Articles 7 and 8, the actions set out in Annex V shall be taken to enable the assessment to be completed by the indicative dates indicated therein. The Parties shall take the necessary legislative/administrative actions to implement recognition of equivalence within three months of the date of recognition. Pending recognition, trade shall take place under the conditions set out in Annex V.

3. Each consignment of live animals or animal products for which equivalence has been recognized presented for import will be accompanied, unless not required, by an official health certificate, the model attestation for which is prescribed in Annex VII. The Parties may jointly determine principles or guidelines for certification. Any such principles shall be included in Annex VII.

## ARTICLE 10

### Verification

1. To maintain confidence in the effective implementation of the provisions of this Agreement, each Party shall have the right to carry out audit and verification procedures of 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 the inspection and audit programmes; and
- (b) on-the-spot checks.

These procedures shall be carried out in accordance with the provisions of Annex VI.

2. Each Party shall also have the right to carry out frontier checks on consignments on importation, the results of which form part of the verification process.

3. For the Community:

- the Community shall carry out the audit and verification procedures provided for in paragraph 1,
- the Member States shall carry out the frontier checks provided for in paragraph 2.

4. For New Zealand, the New Zealand authorities shall carry out the audit and verification procedures and frontier checks provided for in paragraphs 1 and 2.

5. Upon the mutual consent of the Parties to this Agreement, either Party may:

- (a) share the results and conclusions of its audit and verification procedures and frontier checks with countries that are not parties to this Agreement, or
- (b) use the results and conclusions of the audit and verification procedures and frontier checks of countries that are not parties to this Agreement.

## ARTICLE 11

### Frontier checks and inspection fees

1. The frequencies of frontier checks, as referred to in Article 10(2), on imported live animals and animal products shall be as set out in Annex VIII A. The Parties may amend the frequencies, within their responsibilities, as appropriate as a result of progress made in accordance with Annex V and Annex IX, or as a result of other actions or consultations provided for in this Agreement.

2. The physical checks applied shall be based on the risk associated with such importations.

3. In the event that the checks reveal non-conformity with the relevant standards and/or requirements, the action taken by the importing Party should be based on an assessment of the risk involved. Wherever possible, the importer or his representative shall be given access to the consignment and the opportunity to contribute any relevant information to assist the importing Party in taking a final decision.

4. Inspection fees may be collected for the costs incurred in frontier checks. Provisions in relation to inspection fees are prescribed in Annex VIII B.

## ARTICLE 12

### Notification

1. The Parties shall notify each other of:
  - significant changes in health status such as the presence and evolution of diseases in Annex III within 24 hours;
  - findings of epidemiological importance with respect to diseases which are not in Annex III or new diseases without delay;

- any additional measures beyond the basic requirements of their respective sanitary measures taken to control or eradicate animal disease or protect public health, and any changes in preventative policies, including vaccination policies.

2. The notifications referred to in paragraph 1 shall be made in writing to the contact points established in accordance with Article 15(4).

3. In cases of serious and immediate concern with respect to public/animal health, oral notification shall be made to the contact points established in accordance with Article 15(4), and written confirmation should follow within 24 hours.

4. Where either Party has serious concerns regarding a risk to animal or public health, consultations regarding the situation shall, on request, take place as soon as possible, and in any case within 14 days. Each Party shall endeavour in such situations to provide all the information necessary to avoid a disruption in trade, and to reach a mutually acceptable solution.

## ARTICLE 13

### Safeguard clause

Without prejudice to Article 12, and in particular paragraph 4, either Party may, on serious public or animal health grounds, take provisional measures necessary for the protection of public or animal health. These measures shall be notified within 24 hours to the other Party and, on request, consultations regarding the situation shall be held within 14 days. The Parties shall take due account of any information provided through such consultations.

## ARTICLE 14

The principles of this Agreement shall also be applied to address outstanding issues falling within its scope affecting trade between the Parties in live animals and animal products as listed in Annex IX. Modifications shall be made to this Annex and, as appropriate, the other Annexes, to take account of progress made and new issues identified.

## ARTICLE 15

### Information exchange and submission of scientific research and data

1. The Parties shall exchange information relevant to the implementation of this Agreement on a uniform and systematic basis, to provide assurance, engender mutual confidence and demonstrate the efficacy of the programmes controlled. Where appropriate, achievement of these objectives may be enhanced by exchanges of officials.
2. The information exchange on changes in their respective sanitary measures, and other relevant information, shall include:
  - opportunity to consider proposals for changes in regulatory standards or requirements which may affect this Agreement in advance of their finalization. Where either Party considers it necessary, proposals may be dealt with in accordance with Article 16(3);

- briefing on current developments affecting trade in live animals and animal products;
  - information on the results of the verification procedures provided for in Article 10.
3. The Parties shall provide for the submission of scientific papers or data to the relevant scientific fora to substantiate their views/claims. Such evidence shall be evaluated by the relevant scientific fora in a timely manner, and the results of that examination shall be made available to both Parties.
4. The contact points for this exchange of information are set out in Annex X.

## ARTICLE 16

### Joint Management Committee

1. A Joint Management Committee (hereinafter referred to as "the Committee") consisting of representatives of the Parties shall be established, which shall consider any matters relating to the Agreement and shall examine all matters which may arise in relation to its implementation. The Committee shall meet within one year of the entry into force of this Agreement, and at least annually thereafter. The Committee may also address issues out of session by correspondence.

2. The Committee shall, at least once a year, review the Annexes to this Agreement, notably in the light of progress made under the consultations provided for under this Agreement. Modifications to the Annexes will be jointly determined.

3. The Parties may agree to establish Technical Working Groups consisting of expert-level representatives of the Parties, which shall identify and address technical and scientific issues arising from this Agreement.

When additional expertise is needed, the Parties may also establish ad hoc Technical or Scientific Working Groups, whose membership need not be restricted to representatives of the Parties.

#### ARTICLE 17

##### Territorial application

The territorial application of this Agreement shall be as follows:

- (a) the Community: to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty;
- (b) New Zealand: to all territorial areas of New Zealand. However this Agreement shall not apply to Tokelau.



## ARTICLE 18

### Final provisions

1. This Agreement shall be approved by the Parties in accordance with their respective procedures.

This Agreement shall enter into force on the first day of the month following the date on which the Parties notify each other in writing that the procedures mentioned in the preceding sub-paragraph have been completed.<sup>2</sup>

2. Each Party shall implement the commitments and obligations arising from this Agreement in accordance with its internal procedures.

3. Either Party may at any time propose amendments to this Agreement. Any agreed amendments shall enter into force on the first day of the month following the date on which the Parties notify each other in writing that their respective internal procedures for the approval of amendments have been completed.

4. Either Party may denounce this Agreement by giving at least 6 months' notice in writing. In such an event, the Agreement shall come to an end on the expiry of the period of notice.

5. This Agreement shall be drawn up in two copies in the English language, each of these texts being equally authentic.

Done at Brussels on the seventeenth day of December in the year one thousand nine hundred and ninety-six.

For New Zealand

*Nigel Fyfe*

Nigel Fyfe

For the European Community

*Ivan Yates*

Ivan Yates

*F. Fischler*

Franz Fischler