

**DRAFT LAW**  
**ON SANITARY AND PHYTOSANITARY REGULATIONS**

**Rev.3**

**26 March 2015**

## PREAMBLE

[*Considering* the obligations of the Agreement on the Application of Sanitary and Phytosanitary Measures on Members of the World Trade Organization and other international obligations undertaken by the Republic of Liberia;

*Desiring* to improve the human health, animal health, and phytosanitary situation in the Republic of Liberia;

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

*Desiring* to create a framework of rules to guide the development, adoption, and enforcement of sanitary and phytosanitary measures in the Republic of Liberia in line with a harmonized approach to international standards, guidelines, and recommendations developed by the relevant international organizations, including the Codex Alimentarius Commission, the World Organisation for Animal Health (OIE), and the relevant international and regional organizations operating within the framework of the International Plant Protection Convention, in order to minimize their negative effects on trade;

*Considering* the rights and responsibilities of the Government of Liberia to take necessary measures 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 countries where the same conditions prevail or a disguised restriction on international trade;

the Government of Liberia promulgates this Law:

## PART I

### Article 1: Scope

This Law applies to all official measures taken by the Republic of Liberia whose purpose is to protect:

1. human or animal health from food-borne risks;
2. human health from animal- or plant-carried diseases;
3. animals and plants from pests or diseases; and
4. the territory of a country from damage caused by pests.

### Article 2: Definitions

1. The following definitions apply to this Law:

#### 1.1. Sanitary or phytosanitary measure:

##### 1.1.1. Any measure applied:

- 1.1.1.1. to protect animal or plant life or health within the territory of the Republic of Liberia from risks arising from the entry, establishment, or spread of pests, diseases, disease-carrying organisms, or disease-causing organisms;
- 1.1.1.2. to protect human or animal life or health within the territory of the Republic of Liberia from risks arising from additives, contaminants, toxins, or disease-causing organisms in foods, beverages, or feedstuffs;
- 1.1.1.3. to protect human life or health within the territory of the Republic of Liberia from risks arising from diseases carried by animals, plants, or products thereof, or from the entry, establishment or spread of pests; or
- 1.1.1.4. to prevent or limit other damage within the territory of the Republic of Liberia from the entry, establishment, or spread of pests.

##### 1.1.2. Sanitary or phytosanitary measures include all relevant laws, decrees, regulations, requirements, and procedures including, *inter alia*:

- 1.1.2.1. end product criteria;
- 1.1.2.2. processes and production methods;
- 1.1.2.3. testing, inspection, certification, and approval procedures;
- 1.1.2.4. quarantine treatments including relevant requirements associated with the transport of animals or plants, or with the materials necessary for their survival during transport;

- 1.1.2.5. provisions on relevant statistical methods, sampling procedures, and methods of risk assessment; and
- 1.1.2.6. packaging and labelling requirements directly related to food safety.
- 1.2. Harmonization: The establishment, recognition, and application of common sanitary and phytosanitary measures by different countries.
- 1.3. International standards, guidelines and recommendations:
  - 1.3.1. 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;
  - 1.3.2. for animal health and zoonoses, the standards, guidelines, and recommendations developed under the auspices of the International Office of Epizootics;
  - 1.3.3. 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
  - 1.3.4. for matters not covered by the above organizations, appropriate standards, guidelines, and recommendations promulgated by other relevant international organizations to which the Republic of Liberia may accede.
- 1.4. Risk assessment: The evaluation of the likelihood of entry, establishment, or spread of a pest or disease within the territory of the Republic of Liberia 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.
- 1.5. Appropriate level of sanitary or phytosanitary protection: The level of protection deemed appropriate by the Republic of Liberia when establishing a sanitary or phytosanitary measure to protect human, animal, or plant life or health within its territory.
- 1.6. Pest- or disease-free area: An area, whether all or part of the Republic of Liberia, as identified by the competent authorities, in which a specific pest or disease does not occur. A pest- or disease-free area may surround, be surrounded by, or be adjacent to an area in which a specific pest or disease is known to occur but is subject to control measures such as the establishment of protection, surveillance and buffer zones which will confine or eradicate the pest or disease in question.
- 1.7. Area of low pest or disease prevalence: An area, whether all or part of the Republic of Liberia, 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.

## PART II – Administration

### Article 3

1. By regulation the Government of Liberia shall mandate the competent body or bodies that are responsible to conduct inspection procedures for all products within the scope of this Law that are the subject of sanitary or phytosanitary regulations. The Government of Liberia may establish, by legislations, other bodies with such competencies as circumstances may require.
2. The following competent bodies and administrative processes are hereby established:
  - 2.1. [PLEASE ELABORATE the body or bodies responsible for proposing, elaborating, adopting, and administering the sanitary and phytosanitary systems with respect to:
    - 2.1.1. plants, including forests,
    - 2.1.2. animals, including livestock and fisheries,
    - 2.1.3. food safety, and
    - 2.1.4. other areas IF ANY.]
3. The above listed competent administrative bodies have the following powers and responsibilities with respect to sanitary and phytosanitary inspection procedures;
  - 3.1. the inspection of plants, animals, or food products – as the case may be – that are under cultivation, in the wild, in storage, or in transit in order to report the existence, outbreak, and spread of pests;
  - 3.2. the inspection of consignments of plants, animals, or food products – as the case may be – designated for import or export from the country;
  - 3.3. the inspection of storage and transport facilities for plants, animals, or food products – as the case may be;
  - 3.4. the disinfection of consignments (either directly or through oversight) of plants, animals, or food products – as the case may be; and
  - 3.5. the control of waste being disposed of from aircraft and ships or from premises which process or wash imported materials and by-products from plants, animals, or food products – as the case may be – in order to ensure that no threat to agricultural resources or the environment is caused.
4. Inspectors acting under the aegis of a competent administrative body enumerated in this Law shall have the following powers:

- 4.1. to enter and search any area or premises and require any person to produce any documentation required under the law;
  - 4.2. to inspect, examine, and make copies of such documentation, or take extracts of registers or records and seize the same;
  - 4.3. to stop and search any person, baggage, packaging, conveyance, or any other regulated article, upon entry into, movement within, or exit from the country;
  - 4.4. to stop the distribution, sale, or use of any plant, plant product or any other regulated article, which the inspector has reason to believe is harboring a regulated pest, for a specific time period; and
  - 4.5. to seize, destroy, detain, treat, or otherwise dispose of any plants, plant products, or other regulated articles, or order that any such action be taken
5. the laboratory scheme; and
  6. the establishment and functioning of the advisory protection boards for animal and plant health.

### PART III – Plant Health

#### Article 4

1. The Government of Liberia, as a member of the International Plant Protection Convention (IPPC), shall abide by its international commitments in the IPPC in the elaboration, adoption, and application of sanitary and phytosanitary measures impacting on the sphere of plant health.
2. The Government of Liberia, through its competent bodies in the area of plant health as laid out in Part II of this Law, shall ensure that its sanitary and phytosanitary measures impacting on the sphere of plant health are fully in line with relevant international standards, guidelines, best practices, and recommendations, as appropriate and including those promulgated under the IPPC.
3. In order to abide by the commitments in paragraphs 1 and 2 of this Article, the Government of Liberia shall only promulgate sanitary and phytosanitary measures impacting on the sphere of plant health in accordance with the rules and procedures set forth for all sanitary and phytosanitary measures in Part VI below.

#### Article 5

1. To the extent that other laws of the Government of Liberia impacting on the sphere of plant health conflict with the provisions of this Law, such conflicting provisions of those other laws (but only such conflicting provisions, which are severable from the remainder of the provisions of the law in question) are hereby repealed.

2. The laws of the Government of Liberia impacting on the sphere of plant health referenced in paragraph 1 of this Article include, but are not limited to, the following:
  - 2.1. Chapter 1 on “Plant and Animal Quarantine” of Title 3 of the Liberian Code of Laws Revised (“Agriculture Law”) of 1966;
  - 2.2. the Act Adopting the Environment Protection and Management Law of Liberia of 2003; and
  - 2.3. the Act creating the Forestry Development Authority of 1976.

#### PART IV – Animal Health

##### Article 6

1. The Government of Liberia, as a member of the World Organisation for Animal Health (OIE) and through its competent bodies in the area of animal health as laid out in Part II of this Law, shall ensure that the elaboration, adoption, and application of sanitary and phytosanitary measures impacting on the sphere of animal health are fully in line with relevant international standards, guidelines, best practices, and recommendations, as appropriate and including those promulgated by the OIE.
2. In order to abide by the commitments in paragraph 1 of this Article, the Government of Liberia shall only promulgate sanitary and phytosanitary measures impacting on the sphere of animal health in accordance with the rules and procedures set forth for all sanitary and phytosanitary measures in Part VI below.

##### Article 7

1. To the extent that other laws of the Government of Liberia impacting on the sphere of animal health conflict with the provisions of this Law, such conflicting provisions of those other laws (but only such conflicting provisions, which are severable from the remainder of the provisions of the law in question) are hereby repealed.
2. The laws of the Government of Liberia impacting on the sphere of animal health referenced in paragraph 1 of this Article include, but are not limited to, the following:
  - 2.1. Chapter 1 on “Plant and Animal Quarantine” of the Agriculture Law of 1966;
  - 2.2. Chapter 2 on “The National Livestock Artificial Insemination Act” of the Agriculture Law of 1966; and
  - 2.3. the Animal Disease Law [TO BE DRAFTED AND PROMULGATED].

## PART V – Food Safety

### Article 8

3. The Government of Liberia, as a member of the World Health Organization (WHO) and the Food and Agriculture Organization (FAO) Codex Alimentarius Commission (CAC) and through its competent bodies in the area of food safety as laid out in Part II of this Law, shall ensure that the elaboration, adoption, and application of sanitary and phytosanitary measures impacting on the sphere of food safety are fully in line with relevant international standards, guidelines, best practices, and recommendations, as appropriate and including those promulgated by the CAC.
4. In order to abide by the commitments in paragraph 1 of this Article, the Government of Liberia shall only promulgate sanitary and phytosanitary measures impacting on the sphere of food safety in accordance with the rules and procedures set forth for all sanitary and phytosanitary measures in Part VI below.

### Article 9

1. To the extent that other laws of the Government of Liberia impacting on the sphere of food safety conflict with the provisions of this Law, such conflicting provisions of those other laws (but only such conflicting provisions, which are severable from the remainder of the provisions of the law in question) are hereby repealed.
2. The laws of the Government of Liberia impacting on the sphere of food safety referenced in paragraph 1 of this Article include, but are not limited to, the following:
  - 2.1. Title 33 of the Liberian Code of Laws Revised (“Public Health Law”).



## PART VI – Sanitary and Phytosanitary Measures

### Article 10 – Regulations

1. In the elaboration, adoption, and application of sanitary and phytosanitary regulations by the Government of Liberia, any competent central or local government body, as listed in Part II of this Law, or non-governmental or other recognized bodies, shall respect the following principles:
  - 1.1. The Government of Liberia shall ensure that any sanitary or phytosanitary measure is:
    - 1.1.1. applied only to the extent necessary to protect human, animal, or plant life or health,
    - 1.1.2. based on scientific principles and
    - 1.1.3. not maintained without sufficient scientific evidence, subject to paragraph 4 below.
  - 1.2. Sanitary and phytosanitary measures shall not arbitrarily or unjustifiably discriminate between countries where identical or similar conditions prevail, including between the territory of the Republic of Liberia and that of other countries.
  - 1.3. Sanitary and phytosanitary measures shall not be applied in a manner which would constitute a disguised restriction on international trade.
2. The Government of Liberia shall base its sanitary or phytosanitary measures on international standards, guidelines or recommendations, where they exist.
3. The Government of Liberia 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 that it has determined to be appropriate.
4. In cases where relevant scientific evidence is insufficient, the Government of Liberia 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 countries. In such circumstances, the relevant authorities of the Government of Liberia 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.

### Article 11 – Risk Assessment

1. The Government of Liberia shall ensure that its 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.

- 1.1. In the assessment of risks, the competent authorities of the Government of Liberia, as listed in Part II of this Law, shall take into account:
  - 1.1.1. available scientific evidence;
  - 1.1.2. relevant processes and production methods;
  - 1.1.3. relevant inspection, sampling, and testing methods;
  - 1.1.4. prevalence of specific diseases or pests;
  - 1.1.5. existence of pest- or disease-free areas;
  - 1.1.6. relevant ecological and environmental conditions; and
  - 1.1.7. quarantine or other treatment.
- 1.2. 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, relevant authorities of the Government of Liberia shall take into account as relevant economic factors:
  - 1.2.1. 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;
  - 1.2.2. the costs of control or eradication in its territory; and
  - 1.2.3. the relative cost-effectiveness of alternative approaches to limiting risks.
- 1.3. The Government of Liberia, when determining the appropriate level of sanitary or phytosanitary protection, shall take into account the objective of minimizing negative trade effects.
2. When establishing or maintaining sanitary or phytosanitary measures to achieve the appropriate level of sanitary or phytosanitary protection, relevant authorities of the Government of Liberia 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.

## PART VII – Transparency

### Article 12

1. In order to achieve the maximum possible level of transparency and accountability, all central and local governmental or non-governmental bodies, and any other recognized bodies, shall follow the procedural requirements of due process as outlined in this Article.
2. The Enquiry and Notification Authority (ENA), located within the Ministry of Agriculture is hereby established.
3. With regards to sanitary and phytosanitary regulations of the Government of Liberia, the ENA has the following duties:

- 1.1. Coordination: The ENA shall function as a centralized authority to coordinate the activities of elaborating, adopting, and applying sanitary and phytosanitary regulations by relevant any central or local governmental or non-governmental bodies or any other recognized bodies of the Government of Liberia. The ENA shall coordinate with relevant bodies of the Government of Liberia, as necessary, to ensure that the elaboration, adoption, and application of sanitary and phytosanitary regulations in the Republic of Liberia are consistent with its international obligations, including the provisions of this Article.
- 1.2. Publication of sanitary and phytosanitary regulations: As soon as feasible and in accordance with the international obligations of the Republic of Liberia, the ENA shall publish proposed sanitary and phytosanitary regulations to allow domestic and international public and private interested stakeholders to review and comment on the proposed regulations. This publication shall be made in an Official Gazette as well as on the webpage of the ENA, without prejudice to other means of publication such as newspapers or webpages of other central or local governmental or non-governmental bodies or other recognized bodies.
- 1.3. Comment Period: The ENA shall allow for comments by interested stakeholders during a period not less than 60 calendar days from the date of publication or circulation to WTO Members, whichever is later.
- 1.4. Comments: The ENA shall establish the format for comments by interested stakeholders.
  - 1.4.1. The ENA shall communicate comments to the relevant central or local governmental or non-governmental body or other recognized body so that it shall take into account in the adoption of sanitary and phytosanitary regulations any timely and responsive comments received from interested stakeholders.
  - 1.4.2. Comments shall be published on the webpage of the ENA, unless such comments contain confidential information. In the case that comments contain confidential information, a non-confidential summary shall be published.
  - 1.4.3. When comments are not taken into account by the relevant central or local governmental or non-governmental body or other recognized body, that body shall provide reasons for its decision and communicate those reasons to the ENA for publication on the ENA webpage.
  - 1.4.4. Notification to the WTO: After publication, the ENA shall communicate proposed sanitary and phytosanitary regulations to the WTO Secretariat to allow for timely notification to WTO Members.
- 1.5. Information: The ENA shall provide answers to all reasonable questions from interested stakeholders as well as for the provision of relevant documents regarding:
  - 1.5.1. any sanitary or phytosanitary regulations adopted or proposed within the territory of the Republic of Liberia;
  - 1.5.2. any control and inspection procedures, production, and quarantine treatment, pesticide tolerance and food additive approval procedures, which are operated within the territory of the Republic of Liberia;

- 1.5.3. risk assessment procedures, factors taken into consideration, as well as the determination of the appropriate level of sanitary or phytosanitary protection;
  - 1.5.4. the membership and participation of the Republic of Liberia, 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 related to sanitary and phytosanitary regulations, and the texts of such agreements and arrangements.
2. All relevant authorities involved in the elaboration, adoption, or application of sanitary and phytosanitary regulations shall communicate to the ENA draft sanitary and phytosanitary regulations for publication and notification.
3. In exceptional circumstances, where urgent and serious problems of safety, health, environmental protection arise or threaten to arise, the following procedures apply:
  - 3.1. The Ministry of Agriculture may approve sanitary and phytosanitary regulations without following the procedures set out in this Article, provided that a regulation is published on the websites of the Ministry of Agriculture and the ENA detailing the content of the sanitary and phytosanitary regulation along with a full explanation of the nature of the emergency and risks involved.
  - 3.2. The ENA shall immediately notify the WTO Secretariat and publish a notification of the opening of a comment period.
  - 3.3. The relevant central or local governmental or non-governmental body or other recognized body shall take into account the comments and review the sanitary and phytosanitary regulation as appropriate.
4. Notwithstanding paragraph 3 of this Article, no sanitary and phytosanitary regulation can be approved and applied unless the procedures described in this Article are followed.

## PART VIII – Control, Inspection and Approval Procedures

### Article 13

1. By regulation, the competent authorities of the Government of Liberia, as listed in Part II of this Law, shall determine the requirements of each inspection procedure, including:
  - 1.1. such procedures shall be undertaken and completed without undue delay within 30 days and in no less favorable manner for imported products than for like Liberian products;
  - 1.2. the standard processing period of each procedure shall be published on the websites of the Ministry of Agriculture, the ENA, official Gazette, and in various newspapers and the anticipated processing period shall be communicated to the applicant upon request; when receiving an application, the competent body promptly shall examine the completeness of the documentation and inform the applicant in a precise and complete manner of all deficiencies; the competent body shall transmit 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 shall proceed as far as practicable with the procedure if the applicant so requests; and that upon request, the applicant shall be informed of the stage of the procedure, with any delay being explained;
  - 1.3. information requirements shall be 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;
  - 1.4. the confidentiality of information about imported products arising from or supplied in connection with control, inspection and approval shall be respected in a way no less favourable than for Liberian products and in such a manner that legitimate commercial interests are protected;
  - 1.5. any requirements for control, inspection, and approval of individual specimens of a product shall be limited to what is reasonable and necessary;
  - 1.6. any fees imposed for the procedures on imported products shall be equitable in relation to any fees charged on like Liberian products or products originating in any other Member and should be no higher than the actual cost of the service;
  - 1.7. in the siting of facilities used in the procedures and the selection of samples for assessment, imported products shall receive treatment no less favourable than like Liberian products so as to minimize the inconvenience to applicants, importers, exporters, or their agents; and
  - 1.8. 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 shall be limited to what is necessary to determine whether adequate confidence exists that the product still meets the regulations concerned.
  - 1.9. These procedures shall be undertaken by the ENA

2. The competent body shall respect the confidentiality of information about products originating in the territories of other countries arising from or supplied in connection with such inspection procedures in the same way as for Liberian products and in such a manner that legitimate commercial interests are protected, while allowing for non-confidential summaries where applicable.
3. The Government of Liberia shall maintain a procedure to review complaints concerning the operation or results of a conformity assessment procedure and to take corrective action when a complaint is justified.
  - 3.1. [ESTABLISH AN ENTITY SEPARATE AND INDEPENDENT FROM THE ENTITY CONDUCTING THE CONFORMITY ASSESSMENT PROCEDURE].
  - 3.2. [LIST STEPS IN THIS PROCESS AND RELEVANT PROCEDURES.]

## PART IX – Offences and Penalties

[THIS IS NECESSARY TO THE EXTENT THAT ANY PERSON MAY TRY TO EVADE CONTROLS OR PROVIDE FALSE INFORMATION, AND THUS THIS SECTION NEEDS TO BE ELABORATED BY LIBERIAN LEGAL AND LAW ENFORCEMENT OFFICIALS.]

### Article 14

1. The following acts by individual or corporate persons shall constitute offenses under this Law [CONSIDER RELEVANT ASPECTS OF LIBERIAN CRIMINAL / ADMINISTRATIVE LAW APPLICABLE TO THIS PART]:
  - 1.1. importing or exporting plants, animals, or food products or other regulated articles without the proper documentation or through an unapproved port of entry;
  - 1.2. obstructing or hindering an inspector in the performance of his or her official functions or failing to comply with an inspector's instruction;
  - 1.3. knowingly or recklessly providing false information to a representative of a competent administrative body listed in this Law
  - 1.4. breaking the seal on a sealed container containing plants, animals, or food products or other regulated articles except in the presence of an inspector;
  - 1.5. intentionally permitting or causing the introduction or spread of a harmful pest; and
  - 1.6. failing to safeguard the phytosanitary security of a consignment after issuance of a phytosanitary certificate.

### Article 15

[INCLUDE RELEVANT AND APPROPRIATE PENALTIES SUCH AS FINES, ETC.]