

**DRAFT ADMINISTRATIVE REGULATION
ESTABLISHING AN ENQUIRY AND NOTIFICATION AUTHORITY
FOR SANITARY AND PHYTOSANITARY MEASURES**

10 July 2015

Article 1: General Rules

WHEREAS, Title 3, Liberia Code of Laws Revised (Agriculture Law) Chapter 1, Plant and Animal Quarantine, Section 4(3) which empowers the Minister to promulgate reasonable rules and regulations pertaining to the control of importation and exportation of living plants and animals of every descriptions and in any as are necessary in his opinion to protect the agriculture and food supply of the Republic;

WHEREAS, Liberia is in the process of becoming a member of the World Trade Organization (WTO) and wishes to abide by all of the rules set by the WTO; and

WHEREAS, Article 15.2 of the WTO Agreement on Sanitary and Phytosanitary mandates each member to create enquiry points, which is able to respond to all reasonable enquiries from other members and interested parties in other members and to provide the relevant documents regarding technical regulations, standards adopted, any risk assessment procedures, etc.

NOW THEREFORE, issues the following Administrative Regulation

Article 2: Purpose and Scope

1. This Regulation is designed to establish an Enquiry and Notification Authority in line with the obligations of the World Trade Organization Agreements, to allow for the mutual sharing of information between the Government of the Republic of Liberia and the Members of the World Trade Organization and other interested stakeholders.
2. This Regulation applies to all official measures taken by the Republic of Liberia whose purpose is to protect:
 - 2.1. human or animal health from food-borne risks;
 - 2.2. human health from animal- or plant-carried diseases;
 - 2.3. animals and plants from pests or diseases; and
 - 2.4. the territory of a country from damage caused by pests.

Article 3: Definitions

1. The following definitions apply to this Regulation:

1.1. Sanitary or phytosanitary (SPS) 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. SPS 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. International standards, guidelines and recommendations:

- 1.2.1. 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;

- 1.2.2. for animal health and zoonoses, the standards, guidelines, and recommendations developed under the auspices of the World Organisation for Animal Health (OIE);
 - 1.2.3. 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
 - 1.2.4. 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 is a party or may accede.
- 1.3. 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 SPS 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.
 - 1.4. 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.
 - 1.5. 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.
 - 1.6. 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.

Article 4: Establishment of the SPS Enquiry and Notification Authority

1. The SPS Enquiry and Notification Authority (SPS ENA), located within the Ministry of Agriculture, is hereby established. The officers will be appointed by order of the Minister of Agriculture, including the Director General of the SPS ENA.

2. All central and local governmental or non-governmental bodies, or any other recognized bodies involved in the elaboration, adoption, or application of SPS measures, shall communicate to the SPS ENA the text of the draft SPS measures for publication and notification.
3. With respect to SPS measure elaborated, adopted, or applied by the Government of Liberia, the SPS ENA has the following duties:
 - 3.1. Coordination: The SPS ENA shall function as a centralized authority to coordinate the activities of elaborating, adopting, and applying SPS measures by relevant central or local governmental or non-governmental bodies or any other recognized bodies of the Government of Liberia to ensure that such actions are consistent with its international obligations.
 - 3.2. Publication of SPS measures: As soon as the text of SPS measures is received, the SPS ENA shall publish draft SPS measures to allow domestic and international public and private interested stakeholders to review and comment on the draft regulations. This publication shall be made in the Liberia Official Gazette as well as on the webpage of the SPS ENA, without prejudice to other means of publication such as newspapers or webpages of the other relevant central and local governmental or non-governmental bodies, or other recognized bodies.
 - 3.3. Together with the publication, the SPS ENA shall notify the draft SPS measures to WTO Secretariat for its circulation to WTO members.
 - 3.4. Comment Period: The SPS 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.
 - 3.5. Comments: The SPS ENA shall establish the format for comments by interested stakeholders and publish the same in accordance with paragraph 3.2 of this Article.
 - 3.5.1. The SPS ENA shall communicate any timely and responsive comments received from interested stakeholders to the relevant central and local governmental or non-governmental body, or other recognized body, so that it shall take them into account in the adoption of SPS measures.
 - 3.5.2. Comments shall be published on the webpage of the SPS ENA, unless such comments contain confidential information. In the case that comments contain confidential information, a non-confidential summary, to be provided by the interested stakeholder, shall be published.
 - 3.5.3. Upon request by an interested stakeholder to the SPS ENA, the competent body shall provide reasons for its decision with respect to the comments received from that stakeholder.

- 3.6. Information: The SPS ENA shall provide answers to all reasonable questions from interested stakeholders as well as for the provision of relevant documents regarding:
- 3.6.1. any SPS measure adopted or proposed within the territory of the Republic of Liberia;
 - 3.6.2. 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;
 - 3.6.3. risk assessment procedures, factors taken into consideration, as well as the determination of the appropriate level of sanitary or phytosanitary protection;
 - 3.6.4. 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 SPS measures, and the texts of such agreements and arrangements.
4. In exceptional circumstances, where urgent and serious problems of safety, health, environmental protection, or national security arise or threaten to arise, the following procedures apply:
- 4.1. A body of the Government of Liberia may approve SPS measures without following the procedures set out in this Article, provided that an official act or decree is published in the Liberian Official Gazette detailing the content of the SPS measure along with a full explanation of the nature of the emergency and risks involved.
 - 4.2. The SPS ENA shall immediately notify the WTO Secretariat and publish a notification of the opening of a comment period according to the procedures in paragraph 3 of this Article.
 - 4.3. The relevant central and local governmental or non-governmental body, or other recognized body shall take into account the comments and review the SPS measure as appropriate.
5. In discharging its duties, the SPS ENA shall also examine the drafts of SPS measures in order to ensure that the following principles are abided by, consistent with Liberia's international legal obligations:
- 5.1. The Government of Liberia shall ensure that any SPS measure is:
 - 5.1.1. applied only to the extent necessary to protect human, animal, or plant life or health,

- 5.1.2. based on scientific principles and
- 5.1.3. not maintained without sufficient scientific evidence, subject to paragraph 4 below.
- 5.2. SPS 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.
- 5.3. SPS measures shall not be applied in a manner which would constitute a disguised restriction on international trade.
- 5.4. SPS measures shall be based on international standards, guidelines or recommendations, where they exist.
- 5.5. SPS 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.
- 5.6. In cases where relevant scientific evidence is insufficient, SPS measures may be adopted on the basis of available pertinent information, including that from the relevant international organizations as well as from SPS 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 SPS measure accordingly within a reasonable period of time.
- 5.7. SPS measures shall be 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.
 - 5.7.1. SPS measures shall be based on a review of:
 - 5.7.1.1. available scientific evidence;
 - 5.7.1.2. relevant processes and production methods;
 - 5.7.1.3. relevant inspection, sampling, and testing methods;
 - 5.7.1.4. prevalence of specific diseases or pests;
 - 5.7.1.5. existence of pest- or disease-free areas;
 - 5.7.1.6. relevant ecological and environmental conditions; and

5.7.1.7. quarantine or other treatment.

5.7.2. SPS measures shall take into account the following relevant economic factors:

5.7.2.1. 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;

5.7.2.2. the costs of control or eradication in its territory; and

5.7.2.3. the relative cost-effectiveness of alternative approaches to limiting risks.

5.7.3. The appropriate level of sanitary or phytosanitary protection shall take into account the objective of minimizing negative trade effects and SPS measures shall not be more trade-restrictive than required to achieve their appropriate level of sanitary or phytosanitary protection, taking into account technical and economic feasibility.

6. Notwithstanding paragraph 4 of this Article, no SPS measure can be approved and applied unless the procedures described in this Regulation are followed.

Article 5: Responsible Person

Augustus B.G. Fahnbulleh

Tel: _____

Email: _____

Website: _____

Article 6: Effective Date

This Regulation shall become effective on the _____ day of _____ A.D. 2015.

SIGNED: _____

SEKLAU E. WILES
DEPUTY MINISTER FOR ADMINISTRATION

APPROVED: _____

HON. FLORENCE A. CHENOWETH
MINISTER OF AGRICULTURE

