**COMPILED ANNEXES TO THE ESTABLISHMENT OF CONTINENTAL FREE TRADE AREA**

**ANNEX 7**

**SANITARY AND PHYTOSANITARY MEASURES**

**Article 1**

**DEFINITIONS**

1. The definitions are set out in the following instrument shall apply to this **ANNEX:**
2. The agreement;
3. Annex A of the world Trade Organization (WTO) Agreement on the application of sanitary and phytosanitary (SPS) Measures; and
4. International standards.
5. For the purpose of this Annex, the abbreviation set out below shall have the following meaning:
6. “CAC” means Codex Alimentarius Commission
7. “IPPC” means the international Plant Protection Convention; and
8. “OIE” means the World Organization of Animals.

**Article 2**

**PURPOSE AND SCOPE**

1. The purpose of this Annex is to implement the provision of the Protocol on Trade in Goods concerning Sanitary and Phytosanitay Measures (hereinafter referred to as the “SPS” measures)
2. The Annex shall apply to SPS measure that directly or indirectly affect trade between state parties.

**Article 3**

**GUIDING PRINCIPLE**

In the preparation, adoption and application of SPS measures, State parties shall be guided by the provision of the WTO agreement on the application of sanitary and phytosanitary measures.

**Article 4**

**OBJECTIVES**

The objectives of this Annex are to:

1. Facilitate trade while safeguarding human, animal or plant life or health in the territory of state parties
2. Enhance cooperation and transparency in the development and implementation of SPS measures to ensure that they do not become unjustifiable barriers to trade; and
3. Enhance technical capacity of state parties for the implementation and monitoring of SPS measures while encouraging the use of international standards in the elimination of barriers to trade.

**Article 5**

**ASSESSMENT OF RISK TO DETERMINE APPROPRIATE LEVEL OF SANITARY AND PHYTOSANITARY PROTECTION**

1. State parties shall, in responding to market access requests, ensure that their sanitary or phytosanitary measures are based on an assessment, as appropriate, of the circumstances of the risk to human, animal or plant life or health taking into account risk assessment techniques developed by the relevant international organizations.
2. State parties shall, in assessing risk and determining the sanitary or phytosanitary measures to be applied to achieve the appropriate level of protection, 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 disease or pest free areas, relevant ecological and environmental conditions and quarantine, or other treatments.
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, the state parties shall take into account as relevant economic factors; the potential damage in terms of loss production or sales in the event of entry, establishment or spread of a pest or disease ; the cost of control or eradication in the territory of the importing

state parties; and relative cost effectiveness of alternative approaches to limiting risks.

1. In cases where relevant scientific evidence is insufficient, a state party may provisionally adopt sanitary or phytosanitary measures on the basis of available pertinent information including that from relevant international organizations as well as from sanitary or phytosanitary measures applied by other state parties. In such circumstances, the state parties shall seek to obtain the additional information necessary for a more objective assessment of risk and review the sanitary or phytosanitary measure accordingly, within reasonable time frames agreed by the concerned state parties.
2. When a start party has reason to believe that a specific sanitary or phytosanitary measure introduced or maintained by other state parties is constraining, or has the potential to constrain its export, and the measure is not based on the relevant international standard, guidelines or recommendation, or such standards guidelines or recommendation do not exist, an explanation of the reason of such sanitary or phytosanitary measure may be requested and shall be provided by the state party maintaining the measure in accordance with the provision of this Annex.

**Article 6**

**ADAPTION TO REGIONAL CONDITIONS INCLUDING PEST-OR DISEASE-FREE AREAS AND AREAS OF LOW PEST OR DISEASE PREVALENCE**

With a view to boosting intra-Africa trade in animals, animal product, animal by-products, plants, plant product and plant by-product.

1. State parties undertake to recognize the concept, principle and guidelines of regionalization and zoning as outlined in the Terrestrial and Aquatic Animal Health Codes of the OIE, and agree to apply this concept to prescribed diseases to be determined by consensus;
2. State parties shall, in implementing sub-paragraph A of this article, base their respective sanitary measures applicable to the export9ng state party whose territory is affected by a disease on the zoning decision made by the exporting state party, provided that the importing state party is satisfied that the exporting state party is zoning decision in accordance with the principle and guideline that the state party has agreed upon, and is based on relevant international standards, guidelines and recommendations. The importing state party may apply any additional measure supported by science-based evidence to achieve its appropriate level of sanitary protection.
3. State party may request recognition of a special status with respect to a disease not subject to zoning under sub-paragraph A of this article. The importing state party may request additional guarantee for imports of live animals, animal product and animal by-product appropriate to the agreed status recognized by the importing state party, including conditions deemed necessary by importing state party to achieve an appropriate level of sanitary protection.
4. State parties recognized the concept of compartmentalization and agree to cooperate on this matter;
5. State parties shall endeavor to recognize regional conditions;
6. When establishing or maintaining its phytosanitary measures, the importing state party shall take into action account, among other things , the pest status of an area such as a pest free area, pest-free place of production, pest-free production site, an area low of pest prevalence and a protected zone that the exporting state party has established; and
7. The exporting state party claiming that areas within its territory are pest- or disease-free areas or areas of low pest or disease prevalence shall provide the necessary scientific evidence in order to demonstrate that such areas are, and are likely to remain pest-or disease-free areas of low pest and or disease prevalence. For this purpose, each exporting state party shall provide reasonable access to its territory to the importing state party for inspection, testing and other relevant procedures.

**Article 7**

**EQUIVALENCE**

1. The importing state party shall accept the sanitary measures of the exporting state parties as equivalence to its own if the exporting state party objectively demonstrate, through science based and technical information including inter alia, reference to relevant international standards, or relevant risk assessment, that the measure would achieve the importing state party’s appropriate level of sanitary or phytosanitary protection;
2. State party shall, upon request, enter into consultation with the aim of achieving bilateral and multilateral agreement on recognition of the equivalence of specified sanitary measure.
3. State party shall follow the procedures for determining the equivalence of sanitary or phytosanitary measures developed by the WTO SPS Committee, the CAC, the OIE and the IPPC.

**Article 8**

**HARMONISATION**

1. State parties shall cooperate in the development and harmonization of sanitary or phytosanitary measure based on international standards, guidelines and recommendations taking into account the harmonization of sanitary or phytosanitary measures at the regional level.
2. State parties may introduce or maintain sanitary or phytosanitary measures which results in a higher level of sanitary or phytosanitary protection than would be achieved by measures based on the relevant international standards, guidelines or recommendation, if there is a scientific justification, or as a consequence of the level of sanitary or phytosanitary protection a state party determines to be appropriate, in accordance with the relevant provisions of Article 5 of this Annex.
3. State party shall fully participate in the relevant international organization and their subsidiary bodies, in particular the CAC, the OIE, and the IPPC to promote within this organization the development and periodic review of standards, guidelines and recommendations with respect to all aspect of SPS measures.
4. If state parties jointly identify a commodity as priority, they shall establish harmonised sanitary or phytosanitary import requirements for that commodity.

**Article 9**

**AUDIT AND VERIFICATION**

1. For the purpose of maintaining confidence in the implementation of this Annex, an importing state party may carry out an audit or verification, or both, of all or part of the control program of the competent authority of the exporting state party. An importing state party shall bear its own costs associated with the audit or verification.
2. For purpose of paragraph 1 of this article, the state parties shall abide by principles and guidelines established by international standards bodies in conducting audits or verification as agreed between the state parties.

**Article 10**

**IMPORT OR EXPORT INSPECTIONS AND FEES**

1. State parties reaffirm their rights and obligations to undertake import or export inspections while abiding by principles and guidelines established by international standard bodies in conducting inspections.
2. The importing or exporting state party may collect fees for inspections, which shall not exceed the recovery of the costs reasonably incurred in the conduct of the inspections.
3. When import inspections reveal non –compliance with the relevant import requirements, the action taken by the importing state party shall be based on relevant international standards or an assessment of the risk involved and not be more trade-restrictive than required to achieve the state party’s appropriate level of sanitary or phytosanitary protections.
4. The importing state party shall notify the importer and the Competent Authority of the exporting state party of a non-compliant consignment and the reason for non-compliance and action to be taken. The importing state party shall consider any relevant information submitted to assist in the review.

**Article 11**

**TRANSPARENCY**

1. State parties, recognizing that transparency is essential ensuring clarity, predictability and trust in order to foster intra Africa-trade shall:
2. Comply with transparency obligations in accordance with the procedures developed by SPS sub-committee;
3. Designate a National Focal Point for fulfilling the notification obligations established under this article; and
4. Notify the secretariat of any draft, revised or adopted SPS measures for further distribution to state parties.
5. State parties shall endeavor to exchange information on other SPS issues including:
6. Any significant change to the structure or organization of a state party’s Competent Authority
7. Upon request, the result of a state party’s official controls and a report on the implement of the control carried out with respect to the provisions of this Annex;
8. The result of an import inspection provided for in Article 10 of this Annex in case of a rejected or a non-compliant consignment;
9. Upon request, a risk analysis or scientific opinion that a state party has produced in accordance with Article 5 of this Annex;
10. Pest or disease status, including the evolution of a new disease or new pest;
11. Any food safety issues related to a product traded between the state parties, that poses a food safety risk; and
12. Import requirement such as quarantine restrictions.

**Article 12**

**TECHNICAL CONSULTATIONS**

1. Where a state party has a significant concern with respect to food safety, plant health or animal health, or any other SPS measure that another state party has proposed or implemented, the concerned state party may request technical conditions with the other state party.
2. The state party so requested shall respond to the request within (30) days of receipt of the request.
3. Each state party shall provide the information necessary to avoid a disruption to trade and, as the case may be, to reach a mutually acceptable solution.
4. Where state parties fail to reach a mutually acceptable solution, the matter may be referred to the SPS Sub-committee for consideration.

**Article 13**

**EMERGENCY SPS MEASURES**

1. State party shall notify emergency SPS measures within forty-eight (48) hours of the decision to implement the measure. Where a state party request technical consultation to address the emergency SPS measures, the technical consultant shall be held within ten (10) working days of the notification of the emergency SPS measure. The state parties shall consider any information provided through the technical consultations.
2. The importing state party shall consider the information that was provided in a timely manner by the exporting state party, when making a decision with respect to a consignment that at the time of adoption and implementation of emergency SPS measures is in transit between the state parties. State parties shall base their decision on the principle of risk assessment in accordance with the provisions of article 5 of this Annex.

**Article 14**

**COOPERATION AND TECHNICAL ASSISTANCE**

1. State parties agree to cooperation in the implementation of obligations arising out of this Annex including on technical assistance, in particular in the following areas:
2. Exchange of information and sharing of expertise and experience among state parties;
3. Adopting harmonized common positions while participating in international SPS for a relevant to the AFCFTA
4. Development and harmonization SPS measures at regional and continental levels, on the basis of established scientific data or relevant international standards;
5. Development of infrastructure such as testing laboratories;
6. Capacity building for public and private sector stakeholders, including through information sharing and training; and
7. Identification or establishment of SPS centers of excellence.
8. State parties may collaborate with regional and international SPS bodies.

**Article 15**

**ESTABLISHMENT AND FUNCTIONS OF THE SUB-COMMITTEE FOR SANITARY AND PHYTOSANITARY MEASURES.**

1. The committee for Trade in Goods shall, in accordance with Article 31 of the protocol on Trade in Goods, establish a sub-committee on sanitary and phytosanitary measures.
2. The sub-committee shall be composed of duly designated representatives from state parties and shall carry out the responsibilities assigned to it under this Annex or by the committee on Trade in Goods
3. The functions of the SPS sub-committee shall be to;
4. Monitor and review the implementation of this Annex;
5. Provide direction for the identification, protestation, management and resolution of SPS issues that may arise.
6. Provide a regular forum to exchange information relating to each state party’s regulatory system, including the scientific and risk assessment basis for SPS measures.
7. Prepare and maintain a document detailing the state of discussions between state parties on their work on the recognition of equivalence of specific SPS measure;
8. Develop procedure for the implementation of this Annex;
9. Identify, establish, and monitor the implementation of a capacity building program to support implementation of the provisions of this Annex in conjunction with the secretariat;
10. Identify opportunities for greater bilateral engagement, and enhanced relationships, which may include an exchange of officials between state parties;
11. Consider SPS issues referred to it by state parties expeditiously as possible;
12. Facilitate improved understanding between the state parties on the implementation of the SPS provisions of this Annex, and promote cooperation between state parties on SPS issues under discussion in multilateral fora, including the WTO SPS committee, the CAC, the OIE and the IPPC, as appropriate;
13. Identify and discuss, at an early stage, initiatives that have an SPS component and that would benefit from cooperation;
14. Collaborate with sub-committees with a view to facilitating intra –Africa Trade; and
15. Undertake any other tasks as may be assigned by the committee on Trade in Goods
16. For purpose of paragraph 2 of this Article, state parties shall regularly provide relevant information as may be required
17. A state party may refer any SPS issue to the SPS sub-committee:
18. Where the SPS sub- committee is unable to resolve an issue, the matter shall be referred to the committee on Trade in Goods for consideration
19. Where a state party is not satisfied with the decision of the sub- committee, the state party shall refer the matter to the committee on Trade in Goods

**Article 16**

**DISPUTE SETTLEMENT**

Any dispute between the state parties arising out of or relating to the interpretation or application of any provision of this Annex shall be settled in accordance with the protocol on Rules and Procedures on the Settlement of Disputes.

**Article 17**

**REVIEW AND AMENDMENT**

This Annex shall be subject to review and amendment in accordance with Article 28 and 29 of the agreement.