

## **VII. GENERAL OBLIGATIONS IN THE TRADE IN FOOD AND ANIMAL FEED**

### **Food safety measures in international trade**

#### Article 55

Safety measures in respect of food and animal feed may be introduced in international trade:

- 1) only insofar as they are necessary for protection of human life and health, and provided they are based on scientific principles and available scientific evidence, international standards, guidelines, and recommendation;
- 2) so as to avoid arbitrary or unjustified discrimination between countries in which same or similar conditions prevail, including discrimination between the territory of one's own country and other countries;
- 3) in accordance with the risk assessment in respect of human life and health that was conducted in accordance with the methodology accepted by international organizations;
- 4) in a manner that does not entail concealed restrictions on foreign trade.

#### Article 56

Food and animal feed related human life and health risk assessment is based on scientific data, taking into account production processes and methods, inspection surveillance methods, methods of sampling and testing, and relevant environmental conditions.

By derogation from paragraph 1 of this Article, in the absence of adequate scientific evidence for objective risk assessment or in emergency circumstances, the competent authority referred to in Article 8 hereof may introduce provisional measures based on available data, including the data from international organizations or the data about food and animal feed safety measures introduced in other countries.

Food and animal feed safety measures may be introduced to ensure a level of human life and health protection that is higher than the level accomplished through the measures based on international standards, guidelines, and recommendations, provided it is scientifically justifiable or it is assessed that such level of protection is appropriate.

Food and animal feed safety measures, including the provisional measures referred to paragraph 2 of this Article and measures introduced in emergency circumstances, shall be reviewed by the competent authority referred to in Article 8 hereof when new scientific data becomes available.

Legal act on introduction of food and animal feed safety measures shall be published in „Official Gazette of the Republic of Montenegro“.

## Article 57

Where there are no international standards, guidelines, and recommendations, or food and animal feed safety measures do not comply with international standards, guidelines, and recommendations, and where a measure may have a major impact on foreign trade, the competent authority referred to in Article 8 hereof shall:

- 1) publish a notice of intended introduction of such measure at an early stage of its development;
- 2) notify, in compliance with the provisions of international agreements, interested WTO members about the products in respect of which such measure is being introduced, and the reasons for introduction of proposed measure shall be appended to such notification;
- 3) at the request of the competent authorities of other countries, in compliance with the provisions of international agreements, submit the text of the legal act by which the proposed measure is being introduced, with indication of any derogations from international standards, guidelines, and recommendations, and
- 4) define the deadline for submission of opinion and, at the request of interested parties, conduct consultations.

Notification referred to in paragraph 1 item 2 of this Article shall be submitted at least 75 days before commencement of the procedure for introduction of proposed food safety measure.

## Article 58

Where, for human life and health protection, it is necessary to impose food safety measures without any delay, the ministry of health and the ministry of agriculture shall introduce such measure in urgent proceedings.

Provisions of Article 57 hereof shall not apply where food safety measures are introduced in urgent proceedings.

Competent authority referred to in Article 8 hereof shall notify interested WTO members about the food safety measure introduced in urgent proceedings when it is not in compliance with the international standards, guidelines, and recommendations, and when it has a major impact on foreign trade, as well as about the type and origin of food in respect of which such measure is being introduced; appended to such notification shall be the reasons for introduction of measure, nature of emergency circumstances, and invitation to interested parties to share their opinion in respect of the measure introduced in urgent proceedings.

Food safety measures introduced in the competent authorities' urgent proceedings referred to in Article 8 hereof shall be reviewed within six months after their publication in the „Official Gazette of the Republic of Montenegro“ to determine whether such measure is still needed.

## Article 59

Competent authority referred to in Article 8 hereof shall provide information and deliver documentation and notifications arising from international agreements, where they are in respect of:

- 1) food and animal feed safety measures that were proposed and introduced;
- 2) control, supervision, approval, and production procedures;
- 3) procedures of risk assessment and determination of appropriate level of public health protection in the Republic;
- 4) membership and participation in the activities of international and regional public health protection institutions and systems, existence and content of bilateral and multilateral agreements and treaties.

For the information provided and documentation submitted as referred to in paragraph 1 of this Article, a processing fee may be charged in the amount equal to actual amount of the costs incurred.

Fee revenues referred to in paragraph 2 of this Article shall flow into the budget of the Republic.

The actual amount of costs shall be determined by the ministry of agriculture and ministry of health.

#### Article 60

Food and animal feed safety measures that are introduced in other country shall be considered equivalent to the measures introduced in the Republic if the competent authority of such country demonstrates in an objective manner that its measures provide for a level of human health protection that is the same or higher than the level required in the Republic.

Competent authority referred to in Article 8 hereof, at the request of interested party, shall conduct necessary consultations and assess the equivalence of foreign measures referred to in paragraph 1 of this Article, and decide on acceptance or rejection of a foreign measure as being equivalent.

Acceptance of the equivalence of food and animal feed safety measures shall be published in the „Official Gazette of the Republic of Montenegro“.

#### Article 61

Procedure for verification of compliance with the requirements prescribed for the introduction of food and animal feed safety measures shall be carried out:

- 1) promptly, without any undue delay and discrimination of imported products in respect of similar domestic products;
- 2) solely based on the facts and information necessary to conduct the proceedings in front of the competent authority, including approvals for use of additives, or for determination of the tolerance level for contaminants in food and animal feed;
- 3) upon advising the applicant about deadline for conclusion of proceedings, any flaws in his application, current stage of the proceedings, and outcome;
- 4) in such a manner as to ensure protection of confidentiality information;
- 5) taking samples solely in the quantity that is necessary for the control and approval procedures;

6) if specification of food and animal feed changes after the control is performed, the procedure for changes shall be conducted solely insofar as it is necessary to determine that the food and animal feed, regardless of the change, comply with the relevant regulations.