

**THE LAW OF UKRAINE “ON INTRODUCTION OF CHANGES TO THE LAW
OF UKRAINE ‘ON PLANT QUARANTINE’”**

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LAW OF UKRAINE “ON INTRODUCTION OF CHANGES TO THE LAW OF UKRAINE ‘ON PLANT QUARANTINE’”

This Law shall establish the general legal, organizational and financial-and-economic basis for *plant quarantine*, authorities of the state power bodies, their officials, rights and obligations of legal entities and natural persons, aimed at preventing the *introduction* and *spread of quarantine organisms* and shall be part of the legislation of Ukraine aimed at protecting plant health and life.

SECTION I - GENERAL PROVISIONS

Article 1: Terms and Definitions

In this Law the following terms shall have the following meanings:

- 1) **Risk analysis** – the process composed of phytosanitary hazard identification, phytosanitary risk assessment, risk management, and risk communication;
- 2) **Arbitration testing** – testing that is performed upon an appeal of a person regarding previous testing;
- 3) **Antagonist** – an organism (usually pathogen) which does no significant damage to the *host* but its colonization of the *host* protects the *host* from significant subsequent damage by a *hazardous organism*;
- 4) **Consignment** – a certain quantity of *plants*, *plant products*, and/or other *regulated articles* being transported from one country to another or within Ukraine and covered by a single *international phytosanitary certificate* or a *quarantine certificate* (a *consignment* may be composed of one or more *lots*);
- 5) **Phytosanitary hazard identification** – the process of identifying the *regulated hazardous organisms* that could potentially be introduced into the territory of Ukraine by importation of *plants*, *plant products*, and other *regulated articles*;
- 6) **Relevant international organizations** – the Food and Agriculture Organization of the United Nations, the regional plant protection organizations such as the European and Mediterranean Plant Protection Organization, , working within the framework of the International Plant Protection Convention, and other international organisations where recommendations, guidelines, and standards associated with protection of *plant* health are developed by the members of the organisation;
- 7) **Relevant international agreements** – international agreements, to which Ukraine is a party, governing the protection of the health and life of *plants* and/or the application of *phytosanitary measures* to protect the health and life of *plants*;
- 8) **Hosts** – species of *plants* capable, under natural conditions of growing and *circulation*, of sustaining a specific *hazardous organism*;
- 9) **State plant quarantine inspector** – official of the State Service on Plant Quarantine of Ukraine that is authorised to discharge relevant functions;
- 10) **State control and supervision (of plant quarantine)** – a set of procedures and actions on verification and enforcement of *phytosanitary rules* aimed at *containment* or *eradication* of *quarantine organisms* or for the management of *regulated non-quarantine hazardous organisms*;
- 11) **Additional declaration** – a statement that is required by an importing country to be entered on an international phytosanitary certificate and which provides specific additional information pertinent to the phytosanitary state of a consignment of regulated articles;
- 12) **Exotic biological control agent** – a natural enemy, antagonist or competitor, and other self-replicating microscopic biotic entity, used for controlling hazardous organisms that are not native to Ukraine;

- 13) **EPPO** – the European and Mediterranean Plant Protection Organisation;
- 14) **Contamination** – presence in a *regulated article* of *hazardous organisms*, not constituting an *infestation*;
- 15) **Interested trading partners** – subjects of international law that are parties to multilateral and bilateral agreements, to which Ukraine is also a party, governing the application of *phytosanitary measures* and members of *relevant international organisations* of which Ukraine is a member;
- 16) **Introduction** – the entry of a *hazardous organism* resulting in its establishment;
- 17) **Infestation** – presence in a *host* or other *regulated article* of a living *hazardous organism*, which constitutes a threat to *plant* health and life. *Infestation* includes infection.
- 18) **Zone** – an officially defined country, part of a country, or all or parts of several countries.
- 19) **Zone of low prevalence of hazardous organisms** – a *zone*, whether part of a country, the whole country, or all or parts of several countries, as identified by the respective *national plant protection organisations* of such countries, in which a specific *hazardous organism* occurs at a low level and which is subject to effective *surveillance*, control, or *eradication* measures.
- 20) **Zone free of hazardous organisms** – a *zone* in which a specific *hazardous organism* does not occur as demonstrated by scientific evidence and in which, where appropriate, this condition is being officially maintained.
- 21) **Inspection** – official visual checking of *plants*, *plant products*, and other *regulated articles* to determine if *regulated hazardous organisms* are present and/or to determine compliance with *phytosanitary rules*;
- 22) **Quarantine** – official keeping (confinement) of *regulated articles* in a specified place for observation and *monitoring* or further *inspection*, *testing*, and/or *treatment* of *regulated articles*;
- 23) **Plant quarantine** – a system of measures designed to prevent the *introduction* and/or *spread* of *quarantine organisms* or to ensure their control (*containment*);
- 24) **Quarantine zone** – a *zone* within which a *quarantine organism* is present and is being officially controlled in accordance with a *quarantine regime*;
- 25) **Quarantine laboratory** – laboratory in which the following shall be performed: *testing* of samples of imported and domestic *plants*, *plant products*, and other *regulated articles* to determine their *phytosanitary state*, scientific analysis of *quarantine organisms*, identification of *hazardous organisms*, determining the *status of hazardous organisms* in a *zone*, and providing methodological support for implementation of *phytosanitary measures*;
- 26) **Quarantine rule** – *phytosanitary rule* which establishes the requirements for *containment* and/or *eradication* of a *regulated hazardous organism* that is applied in a *regulated zone* ;
- 27) **Quarantine permit (for import or transit)** – official document authorizing import or transit of *plants*, *plant products* and other *regulated articles* in accordance with specified *phytosanitary requirements*;
- 28) **Quarantine supervision** – checking of imported *plants* after customs clearance and *plants* moved from a *quarantine zone* to the place of destination;
- 29) **Quarantine organism** – *hazardous organism* of potential economic impact to the territory endangered thereby and not yet present there, or present but not widely distributed and being officially controlled (*contained*);
- 30) **Quarantine regime** – a special legal regime providing for a system of *phytosanitary measures* which is implemented in a *quarantine zone* and is aimed at *containment* and *eradication* of *quarantine organisms*;
- 31) **Quarantine certificate** (“plant passport”) – document, issued by the bodies of the State Service for Plant Quarantine of Ukraine, which certifies the *phytosanitary state* of *plants*, *plant products*, and other *regulated articles* that are brought out of a *quarantine zone*, imported, or transported within the territory of Ukraine, that permits movement of the *plants*, *plant products*, and other *regulated*

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articles for circulation according to the itinerary and conditions of transport and their tare and packaging, as specified in the certificate

- 32) **Competitor** – an organism which competes with *hazardous organisms* for essential elements (e.g. food, shelter) in the environment;
- 33) **Country of origin** – the country where the *plants* were grown or the country where the *plants* from which the *plant products* are derived were grown.
- 34) **Re-exporting country** – the country that exports *plants*, *plant products* or other *regulated articles* that were imported (brought into) this country before;
- 35) **Eradication** – application of *phytosanitary measures* to eliminate a *hazardous organism*;
- 36) **Containment** – application of *phytosanitary measures* to prevent the *spread* of a *hazardous organism*;
- 37) **Lot** – a certain number of units of a single *plant* or *plant product*, identifiable by its homogeneity of composition, origin, forming part of a *consignment*;
- 38) **Phytosanitary certificate** – certificate that complies with the requirements and form recommended by the *relevant international organisations* that is issued by a *national plant protection organisation* certifying the *phytosanitary state* of *plant*, *plant products*, and other *regulated articles*;
- 39) **International standards, guidelines, and recommendations** – standards, guidelines, and recommendations regarding protection of plant health and life that are developed and adopted by the International Plant Protection Convention (IPPC) and the regional organisations operating within the auspices of the IPPC and other organisations such as the Food and Agriculture Organisation of the United Nations;
- 40) **Monitoring** – official on-going process of observation and verification of *phytosanitary states* or the *status of hazardous organisms*;
- 41) **Urgent circumstances** – occur when it is confirmed or suspected that a *quarantine organism* is present in a *country of origin* or transit, which can cause immediate irreparable damage to the health of susceptible *plants* throughout Ukraine or in a part of Ukraine if susceptible *plants*, *plant products*, and other *regulated articles* that may carry the *quarantine organism* are imported;
- 42) **Emergency phytosanitary measure** – a *phytosanitary measure* adopted and implemented immediately, but which is normally valid for a limited period or time, in response to *urgent circumstances* which require border restrictions for consignments of *regulated articles* intended for import to protect Ukraine's *plants* from *introduction* and *spread* of a *quarantine organism*;
- 43) **Appropriate level of phytosanitary protection** – the level of protection deemed appropriate by Ukraine when developing *phytosanitary measures* to protect *plant* health and life from an adverse effect that the *phytosanitary measure* is designed to address (i.e., the acceptable level of *risk* of an adverse effect occurring);
- 44) **Seeds** – sowing material not intended for consumption or processing;
- 45) **National plant protection organisation** (the State Service on Plant Quarantine of Ukraine) – official service established by a state to discharge official functions associated with plant health protection and plant quarantine measures to prevent the *introduction* and/or *spread* of *hazardous organisms*;
- 46) **Occurrence** – the presence in a *zone* of a *hazardous organism* officially reported to be indigenous or introduced and/or not officially reported to have been eradicated;
- 47) **Regulated articles** – any *plant*, *plant product*, storage place, packaging, conveyance, container, soil and any other organism, object or material capable of transmitting (harbouring) or *spreading regulated hazardous organisms*, that is deemed to require *phytosanitary measures*, particularly where international transportation is involved;
- 48) **Circulation** – packing, unpacking, repacking, moving (transporting), or storing and any actions related to the transfer of proprietary or possession right, including, selling, exchanging or granting;

- 49) **Treatment** – officially authorized procedure for the killing or removal of *hazardous organisms* or rendering *hazardous organisms* infertile;
- 50) **Survey** – an official procedure conducted over a defined period of time to determine the boundaries of a *zone* in which a *hazardous organism* is present or absent, characteristics of a population of a *hazardous organism* or to determine which species of the *hazardous organism* occur in a *zone*;
- 51) **Phytosanitary risk assessment** – the evaluation of the likelihood and the biological and economic consequences of *introduction* or *spread* of a *hazardous organism* in the territory of Ukraine;
- 52) **Risk communication** – the interactive exchange of information on *risk* among *risk* assessors, *risk* managers, *interested trading partners*, and other interested parties;
- 53) **Facility (object)** – any land, field, plot, premises, building, collection of buildings, structures, open area, or space, including the equipment therein or thereon;
- 54) **Spread** – expansion of the geographical distribution of a *hazardous organism* within a relevant territory;
- 55) **Plant products** – unmanufactured material of plant origin (including grain) and those manufactured products that, by their nature or that of their processing, may create a *risk* for the *introduction* and *spread* of *hazardous organisms*;
- 56) **Point of plant quarantine** – specially equipped location at the *designated border inspection post* or other locations specified by the State Service for Plant Quarantine of Ukraine where *plants*, *plant products*, and other *regulated articles* are subjected to *inspection*, and if necessary, *quarantine*;
- 57) **Regulated zone** – a *zone* into which, within which and/or from which *plants*, *plant products* and other *regulated articles* are subjected to *quarantine rules* or procedures in order to prevent the *introduction* and/or *spread* of *quarantine organisms* or to limit the economic impact of *regulated non-quarantine hazardous organisms*;
- 58) **Regulated non-quarantine hazardous organism** – a *hazardous organism* whose presence in *plants* for *planting* or *sowing* affects the intended use of those *plants* and has an economically unacceptable impact and which is therefore regulated within the territory of an importing country;
- 59) **Regulated hazardous organism** – a *quarantine organism* or a *regulated non-quarantine hazardous organism*;
- 60) **Re-exported (consignment)** – *consignment* that has been imported into a country from which it is then exported. The *consignment* may be stored, split up, combined with other *consignments*, or have its packaging changed;
- 61) **Risk** – the likelihood of the occurrence and the likely magnitude of the consequences of an adverse event during a specified time period;
- 62) **Extended phytosanitary border control** – *testing* of *plants*, *plant products*, and other *regulated articles* intended for import into Ukraine for the purpose of determining their *phytosanitary state*;
- 63) **Plants** – living *plants* and parts of *plants*, including *seeds* and *germplasm*;
- 64) **Planting or sowing** – any operation for the placing of *plants* into a growing medium, or by grafting or similar operations, to ensure their subsequent growth and reproduction;
- 65) **Outbreak** – an isolated *hazardous organism* population detected and expected to survive for the immediate future;
- 66) **List A1 (hazardous organisms)** – a *quarantine organism* not present in the member states of EPPO;
- 67) **List A2 (hazardous organisms)** – a *quarantine organism* present in at least one member state of EPPO but not widely distributed there and under official control (*containment*);
- 68) **Surveillance** – an official process which collects and records data on the *occurrence* or absence of *hazardous organisms* by *survey*, *monitoring* or other procedures;

- 69) Testing – official examination in laboratory conditions to determine if *hazardous organisms* are present or to identify *hazardous organisms*;
- 70) **Standard phytosanitary border control** – standard procedures undertaken at the state border of Ukraine for all consignments of *plants, plant products*, and other *regulated articles*, intended for import or transit;
- 71) **Status of hazardous organisms** – presence or absence, at the present time, of a *hazardous organism* in a *zone*, including where appropriate its distribution, as officially determined using expert judgement on the basis of current and historical records and other information on *hazardous organisms*;
- 72) **Transit consignment** – *consignment*, which passes by transportation means under customs' control between two *designated border inspection posts* or within one *designated border inspection posts* on the state border of Ukraine, which is not *contaminated* or *infested* by *hazardous organisms*. The *consignment* may not be split up, combined with other *consignments* or have its packaging or transportation means changed.
- 73) **Risk management** – the processing of identifying, selecting, and implementing measures that can be applied to reduce the level of *risk*;
- 74) **Holder (of regulated articles)** – a *person* who is the owner of *regulated articles* being held for commercial purposes or is involved in growing, producing, processing, packing, unpacking, repacking, moving, distributing, transporting, storing, selling, or using in any other manner, *plants, plant products*, and other *regulated articles*;
- 75) **Phytosanitary state** – presence or absence of *regulated hazardous organisms* in or on *plants, plant products*, or other *regulated articles* and potential threat thereof;
- 76) **Phytosanitary measure** – any measure, including all relevant laws, decrees, regulations (sub-legal acts), *phytosanitary rules*, requirements and procedures, which are mandatory for implementation by state power bodies and *persons*, and may include, end product criteria; processes and production methods; *testing, inspection, fumigation*, certification and approval procedures; *quarantine regime; quarantine certificate* for movement of *plants, plant products*, and other *regulated articles*; provisions on relevant statistical methods, sampling procedures, and methods of *phytosanitary risk assessment*, that are applied to:
 1. Protect *plant life* and health from the *risks* resulting from the *introduction* or *spread* of *quarantine organisms* in the country, or minimizing those *risks*; and
 2. Preventing or limiting any other damages caused as a result of the *introduction* or the *spread* of *quarantine organisms*, including limiting the economic impact of *regulated non-quarantine hazardous organisms*;
- 77) **Phytosanitary rules** – rules prescribed by sub-legal acts issued pursuant to this Law to implement this law with the aim of preventing the *introduction* and/or *spread* of *quarantine organisms*, or limiting the economic impact of *regulated non-quarantine hazardous organisms*, including establishment of procedures for phytosanitary certification;
- 78) **Phytosanitary procedure** – any official operation, such as *inspection, testing, surveillance* or *treatment*, undertaken to implement *phytosanitary rules*;
- 79) **Fumigation (disinfestation)** – *treatment* of *regulated articles* with chemical substances, which are in gaseous or liquid state, with the purpose to destroy *hazardous organisms*;
- 80) **Hazardous organism** – any species, strain, or biotype of *plant*, animal, or pathogenic agent injurious to *plants* or *plant products*, including insects, mites, fungi, bacteria, viruses, nematodes, and weeds.

Article 2: Legislation on Plant Quarantine

- (1) Legislation on *plant quarantine* shall be based on the Constitution of Ukraine and shall consist of this Law and other legal acts, issued pursuant to the above.

- (2) Normative-legal acts containing provisions which to a certain extent relate to the sphere of *plant quarantine* shall comply with the provisions of this Law.

SECTION II -STATE MANAGEMENT IN THE SPHERE OF PLANT QUARANTINE

Article 3: Bodies Exercising State Management in the Sphere of Plant Quarantine

State management in the sphere of *plant quarantine* shall be carried out by the Cabinet of Ministers of Ukraine, central body of executive power on agrarian policy issues, and bodies of the State Service on Plant Quarantine of Ukraine.

Article 4: Authority of the Cabinet of Ministers of Ukraine in the Sphere of Plant Quarantine

The authority of the Cabinet of Ministers of Ukraine in the sphere of *plant quarantine* shall include:

- 1) Ensure implementation of state policy in the sphere of *plant quarantine*;
- 2) Elaborate and implement relevant national programs;
- 3) Direct and coordinate the activities of the bodies of the State Service on Plant Quarantine of Ukraine;
- 4) Conclude international and intergovernmental agreements, including agreements recognizing the equivalence of specified *phytosanitary measures*;
- 5) Impose or remove *quarantine regime* according to the procedure established by this Law;
- 6) Exercise other authorities with regard to management in the sphere of *plant quarantine*.

Article 5: Authority of the Central Body of Executive Power on Agrarian Policy Issues in the Sphere of Plant Quarantine

The central body of executive power on agrarian policy issues, within its authority and pursuant to this Law, shall:

- 1) Issue laws and sub-legal acts in the sphere of *plant quarantine*;
- 2) Ensure implementation of state policy in the sphere of *plant quarantine*;
- 3) Appoint and dismiss the head and deputy heads of the Chief State Inspectorate for Plant Quarantine of Ukraine;
- 4) Approve the list of *regulated hazardous organisms*;
- 5) Approve the list of *regulated articles*;
- 6) Develop and coordinate the implementation of long-term plans for official establishment of *zones free of hazardous organisms* or *zones of low prevalence of hazardous organisms*;
- 7) Implement other authorities with regard to management in the sphere of *plant quarantine*.
- 8) Establish, in accordance with the provisions of Article 52, the amount of fees for services rendered by the State Service of Plant Quarantine according to current legislation.

Article 6: The Tasks and Authorities of the State Service on Plant Quarantine of Ukraine

The tasks and authorities of the State Service on Plant Quarantine of Ukraine shall be to:

- 1) Protect the territory of Ukraine from entry of *quarantine organisms* and limit the entry of *regulated non-quarantine hazardous organisms*;

- 2) Detect, contain, control, and, when possible, *eradicate regulated hazardous organisms* within Ukraine;
- 3) Prevent the entry of *regulated hazardous organisms* into *zones* in the territory of Ukraine that are free of such *regulated hazardous organisms*;
- 4) Exercise *state control and supervision* over the observance of *phytosanitary rules* by *persons* producing, importing, exporting, and *circulating plants, plant products*, and other *regulated articles*;
- 5) Exercise *state control and supervision* over the observance of *quarantine regimes* and implementation of procedures under a *quarantine regime* related to growing, procuring, exporting, importing, transporting, storing, processing, selling, and utilizing *regulated articles*;
- 6) Registers *persons* involved in production and *circulation of regulated articles*; and
- 7) Establishes, if necessary, *plant quarantine points* at objects where the activities of importing, exporting, transporting, processing, storing, selling and using *regulated articles* are carried out.

Article 7: The Bodies of the State Service on Plant Quarantine of Ukraine

The State Service on Plant Quarantine of Ukraine shall include:

- 1) Chief State Inspectorate of Plant Quarantine of Ukraine, which is in the sphere of management of specially authorized central body of executive power on agrarian policy issues and is subordinated to the latter;
- 2) The Central Research and Development Quarantine Laboratory and Central Fumigation Detachment, which shall be under the Chief State Inspectorate for Plant Quarantine of Ukraine;
- 3) State inspectorates for plant quarantine of the Autonomous Republic of Crimea, the oblasts, the city of Kyiv and the city of Sebastopol, zonal (several oblasts) points of *plant quarantine* and oblast *quarantine laboratories*, and oblast *fumigation detachments*.

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Article 8: Authority of the Chief State Inspectorate for Plant Quarantine of Ukraine

(1) The authority of the Chief State Inspectorate for Plant Quarantine shall include:

- 1) Developing laws and sub-legal acts in the sphere of *plant quarantine*;
- 2) Developing, revising, reviewing, and, according to the scope of its authorities, proposing for adoption or adopting *phytosanitary measures*;
- 3) Implementing, in accordance with this Law and other relevant legislation of Ukraine, procedures to ensure observance of the legislation on *plant quarantine*, including procedures for importing, exporting and transit of *plants, products of plant origin* and other *regulated articles*;
- 4) Studying the species types, biology and ecology of *regulated hazardous organisms*, including forecasting their *spread*, with the purpose to prevent their *introduction* and/or *spread*;
- 5) Keeping a database and informing the public and *interested trading partners* on the detection, *occurrence, spread, containment*, and, when appropriate, *eradication of regulated hazardous organisms*;
- 6) Applying *phytosanitary measures* to *plants, plant products*, and other *regulated articles*;
- 7) Carrying out *inspection and testing* (expertise) of *plants, products of plant origin* and other *regulated articles*;
- 8) Establishing the procedure and conditions for issuance of *quarantine permits*;
- 9) Issuing *quarantine permits*;
- 10) Coordinating *monitoring*, detection and identification of *regulated hazardous organisms* in Ukraine;
- 11) Preparing the list of *quarantine organisms*;

- 12) Preparing the list of *regulated non-quarantine hazardous organisms*;
 - 13) Preparing the list of *regulated articles*;
 - 14) Submitting proposals to the Cabinet of Ministers of Ukraine regarding imposing or removing a *quarantine regime*;
 - 15) Carrying out of research-and-development in the field of plant quarantine jointly with Ukrainian Academy of Agrarian Sciences and other research-and-development institutions;
 - 16) Conducting *state control* over the observance of *phytosanitary measures*;
 - 17) Disseminating information in the sphere of plant quarantine among persons;
 - 18) Supervising the carrying out by persons of *fumigation of plants, products of plant origin* and other *regulated articles* crossing the State Border of Ukraine and crossing the borders of *quarantine zones*;
 - 19) Appointing and dismissing the heads of state inspectorates on plant quarantine (and their deputies) of the Autonomous Republic of Crimea, the oblasts, the city of Kyiv and the city of Sebastopol;
 - 20) Establishing the procedure for issuing of *phytosanitary certificates* and *quarantine certificates* for *plants, plant products*, and other *regulated articles*;
 - 21) Representing the State in *relevant international organisations*;
 - 22) Conducting special research jointly with the *national plant protection organisations* of other countries pertaining to the assessment of compliance (non-compliance) of *regulated articles* with *phytosanitary rules*;
 - 23) Notifying *interested trading partners* about phytosanitary prohibitions or restrictions;
 - 24) Establishing a specially determined percentage of *consignments* subject to the random phytosanitary border control programme;
 - 25) Keeping the national register of persons whose activity according to Article 27 of this Law is subject to registration;
 - 26) Providing responses to requests dealing with phytosanitary measures
- (2) Conducting fumigation (disinfestation) of *regulated articles* which cross the state border of Ukraine and *quarantine zones*, subject to licensing in accordance with legislation of Ukraine.
 - (3) To exercise its authorities the State Service of Plant Quarantine of Ukraine shall interact with the Council of National Safety and Defense of Ukraine, Security Service of Ukraine, Ministry of Interior of Ukraine, the State Committee on Guarding the State Border of Ukraine, the State Customs Service of Ukraine, and local state administrations.

Article 9: Authority of the State Inspectorates for Plant Quarantine of the Autonomous Republic of Crimea, Oblasts, City of Kyiv and City of Sebastopol

Authority of the State Inspectorates for Plant Quarantine of the Autonomous Republic of Crimea, the oblasts, the city of Kyiv and the city of Sebastopol shall include:

- 1) Issuing of *phytosanitary certificates* and *quarantine certificates* for *plants, plant products*, and other *regulated articles*;
- 2) Inspect, and when necessary conduct *testing*, of *plants, plant products*, and other *regulated articles* that are moving through the territory of Ukraine, that are crossing the State Border of Ukraine and crossing *quarantine zones* (including those in baggage, postal correspondence, and passenger hand luggage);
- 3) Registration of *persons* whose activity according to Article 27 of this Law is subject to registration;

- 4) Organize *treatment and fumigation of plants, plant products*, and other *regulated articles* that are crossing the State Border of Ukraine and *quarantine zones*;
- 5) Exercise *state control* over the *implementation of phytosanitary measures* applied to *quarantine organisms* in compliance with this law and the international agreements of Ukraine;
- 6) Organizing and carrying out systematic *surveys* on agricultural lands, in forests, *points of plant quarantine* and their adjacent territory, and places of *circulation of plants, plant products* and other *regulated articles*;
- 7) Implementing *state control* over the activities of nurseries, the state-owned strain-testing stations, hothouses, and greenhouses whose activities are related to *circulation of plants* and *planting or sowing material*;
- 8) Exercise *state control* of production and *circulation of plants, plant products* and other *regulated articles*;
- 9) Exercise urgent measures to *contain* and/or *eradicate quarantine organisms*;
- 10) Disseminate information to inform *persons* about *plant quarantine*;
- 11) Disseminate information and, as necessary, provide training to producers of *plants, plant products* and other *regulated articles* on identifying relevant *quarantine organisms*;
- 12) Submit proposals to the relevant State Administrations regarding imposition and removal of a *quarantine regime*.

Article 10: Officials Implementing State Control for Plant Quarantine

- (1) Organization and implementation of *state control and supervision of plant quarantine* shall be assigned to the Chief State Inspector of Plant Quarantine of Ukraine, Chief State Inspectors of Plant Quarantine of the Autonomous Republic of Crimea, oblasts, city of Kyiv and city of Sebastopol, their deputies and state *plant quarantine inspectors*.
- (2) The Head of the Chief State Inspectorate for Plant Quarantine of Ukraine shall be the Chief State Inspector for Plant Quarantine of Ukraine, (who shall be) appointed or dismissed from his/her position by the central body of executive power on agrarian policy issues.
- (3) The Chief State Inspector for Plant Quarantine of Ukraine shall have his/her deputies, including one first deputy, appointed and dismissed from their position, upon proposal of the Chief State Inspector for Plant Quarantine of Ukraine, by the central body of executive power on agrarian policy issues.
- (4) Heads of state inspectorates for plant quarantine (and their deputies) of the Autonomous Republic of Crimea, the oblasts, the city of Kyiv and the city of Sebastopol shall be appointed and dismissed from their positions by the Chief State Inspector for Plant Quarantine of Ukraine. Heads of the state inspectorates on plant quarantine of Autonomous Republic of Crimea, the oblasts, the city of Kyiv, and the city of Sebastopol shall be chief state inspectors for plant quarantine of, correspondingly, the Autonomous Republic of Crimea, the oblasts, the city of Kyiv, and the city of Sebastopol.
- (5) Experts of State Service on Plant Quarantine of Ukraine shall be the state *plant quarantine inspectors*.
- (6) Heads of the zonal (several oblasts) and oblast and city *quarantine laboratories, points of plant quarantine* in the rayon, sea ports, river ports (docks), relevant railway stations, in airports (airfields), post offices, on highways, bus stations, bus terminals, markets, customs points at the state border of Ukraine, and heads of oblast *fumigation* detachments shall be appointed and dismissed from their position by the Chief State Inspector for Plant Quarantine of Ukraine.
- (7) State inspectors for *plant quarantine* shall be provided with a uniform funded by the State Budget of Ukraine.
- (8) Standard form and badges of rank, and terms for wearing the latter shall be established by the Cabinet of Ministers of Ukraine.

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Article 11: Rights and Obligations of Officials Carrying out State Control and Supervision on Plant Quarantine

- (1) State *plant quarantine inspectors*, within the limits of their authorities, shall have the right to:
 - 1) Apply *phytosanitary procedures* to *plants, plant products*, and other *regulated articles*,
 - 2) Retain *plants* and *products of plant and other regulated articles* origin for inspection and testing if they are transported without relevant phytosanitary documents or do not comply with the phytosanitary requirements ;
 - 3) Exercise state control and supervision, inspection and monitoring of *regulated articles* in the relevant territory;
 - 4) Request and obtain information which is necessary to fulfil their authorities pursuant the Law;
 - 5) Take samples from a *consignment of plants* and *plant products* for testing;
 - 6) Issue pursuant to their competence, orders and directives, which are subject to mandatory execution, for implementation of *phytosanitary measures*;
 - 7) Unhindered access without prior notice to the *facilities (objects)* for production and *circulation of plants, plant products*, and other *regulated articles* during business hours provided there are grounds for such access specified by effective legislation;
 - 8) Provide insurance organizations and bodies with their conclusions, confirming the facts of destruction or damage of *plants, plant products*, and other *regulated articles* caused by *eradication of quarantine organisms*.
- (2) Chief State Inspector for Plant Quarantine of Ukraine, Chief State Inspector for Plant Quarantine of Autonomous Republic of Crimea, chief state plant quarantine inspectors of the oblasts, the city of Kyiv and the city of Sebastopol, state *plant quarantine inspectors* shall be obliged to:
 - 1) In case of detection of a *quarantine organism*, immediately notify the chief state inspector for plant quarantine of the relevant administrative-territorial unit, or his designated representative;
 - 2) Act on the basis of principles and within the limits of authorities envisaged by this law and the procedures, stipulated in the relevant laws and sub-legal acts;
 - 3) Ensure confidentiality of any information, which presents a commercial secret except the cases specified in the law of Ukraine;
 - 4) Present documents attesting to their powers;
 - 5) Provide to *holders of regulated articles* subject to *state control and supervision, inspection and monitoring*, acts (reports) on the findings of the above activities.
- (3) Relevant inspectors shall bear responsibility in compliance with the law for violation of the requirements of this law and other laws and sub-legal acts.

Article 12: Guarantees for the Activities of Officials Carrying Out State Control in the Sphere of Plant Quarantine

- (1) The Chief State Inspector for Plant Quarantine of Ukraine, Chief State Inspector for Plant Quarantine of the Autonomous Republic of Crimea, chief state inspectors on plant quarantine of the oblasts, the city of Kyiv and the city of Sebastopol, and the state inspectors for plant quarantine, in their activities, shall be independent and shall be guided by the Constitution of Ukraine, this Law and other legislative acts.
- (2) Directives of state *plant quarantine inspectors* pertaining to prohibition of growing or producing, exporting, importing, and *circulating plants, plant products*, and other *regulated articles*, made within the limits of their authorities, shall be mandatory for execution.
- (3) State *plant quarantine inspectors*, that live and work pursuant to their profession in a rural area, urban-type settlement, shall enjoy the right for free use of their dwelling, heat and light, privileged loans to start up their business, build their individual houses, purchasing livestock. This right shall be extended

to the state *plant quarantine inspectors* - pensioners, which worked in the sphere of plant quarantine in rural areas and continue to live there.

- (4) Offence to the official implementing *state control and supervision*, as well as resistance, threats, violence and other acts hindering the performance by the official of his/her duties, shall entail liability pursuant to the law.

Article 13: Rights and Obligations of Persons in the Sphere of Plant Quarantine

- (1) *Persons* whose activities are related to production and *circulation* of *plants, plant products*, and other *regulated articles* shall have the right to obtain from the State Service on Plant Quarantine of Ukraine information on the *status of hazardous organisms* in the relevant territory.
- (2) *Persons* who have suffered property damage as a result of application of a *quarantine regime* or whose property was used with the purpose to prevent *spreading* of or to *eradicate quarantine organisms*, shall have the right to reimbursement for their losses pursuant to the law via the procedure and in the amount established by the Cabinet of Ministers of Ukraine.
- (3) *Persons* whose activities are related to production and *circulation* of *plants, plant products*, and other *regulated articles* shall:
 - 1) *Circulate plants, plant products*, and other *regulated articles* only if they are free of *quarantine organisms* and prevent *circulation* of such if not free of *quarantine organisms*;
 - 2) Implement relevant *phytosanitary measures*;
 - 3) Register with the relevant State Inspectorate for Plant Quarantine when so required according to Article 27 of this Law;
 - 4) Follow the orders and directives of the state *plant quarantine inspectors* pertaining to implementation of *phytosanitary procedures*;
 - 5) Upon request of the state *plant quarantine inspector*, provide the latter with information, including relevant documents and records, with regard to growing, producing or *circulating plants, plant products*, and other *regulated articles*;
 - 6) Systematically *monitor* parcels of land they own or have the right to use and *facilities (objects)* where *plants* and *plant products* are produced and/or *circulated* to detect *regulated hazardous organisms*;
 - 7) Provide *plant quarantine inspectors* with unhindered access to *plants, plant products* and other *regulated articles* at any stage of production, processing or *circulation* for carrying out inspection, verification of documents and taking of samples of *plants, plant products* and other *regulated articles*, stipulated by legislation, without compensation;
 - 8) Facilitate implementation of relevant *phytosanitary rules* in *regulated zones* in those cases when *quarantine organisms* are suspected or detected;
 - 9) Save all the *phytosanitary certificates, quarantine certificates* and *quarantine permits* for one year from the date of issuance of the above.
- (4) State power bodies whose activities are related to the sphere of *plant quarantine* shall be obliged to:
 - 1) Implement relevant *phytosanitary measures*;
 - 2) Follow the orders and directives of the state *plant quarantine inspectors* pertaining to implementation of *phytosanitary procedures*;
 - 3) Systematically *monitor* parcels of land they own or have the right to use and *facilities (objects)* where *plants* and *plant products* are stored to detect *regulated hazardous organisms*;
 - 4) Facilitate state *plant quarantine inspectors* in exercising their authorities
- (5) *Persons* and state power bodies shall be obliged to facilitate state *plant quarantine inspectors* in exercising their authorities.

Article 14: Laboratories Testing Plants, Plant Products and Other Regulated Articles

- (1) *Testing* for detection and/or identification of *regulated hazardous organisms* shall be conducted by *quarantine laboratories* of the State Service on Plant Quarantine of Ukraine that are accredited in accordance with current legislation of Ukraine and that are authorised by the Chief State Plant Quarantine Inspectorate for conducting necessary analyses in accordance with *international standards, guidelines, and recommendations*.
- (2) *Quarantine laboratories* shall be liable for the validity of the results of the *testing* they conduct.
- (3) The Central Scientific-Research Quarantine Laboratory (hereinafter: central laboratory) shall participate in conducting risk analysis, provide the *quarantine laboratories* referred to in paragraph 1 of this Article with methodical support for *quarantine laboratory* diagnostics, including ensuring that staff of *authorised laboratories* undergo the necessary training in methodologies for phytosanitary *testing*, and shall organize mandatory verification by *authorized laboratories* of the validity of the results of testing of *plants, plant products* and other *regulated articles*.
- (4) The *Central Laboratory* shall conduct *arbitration testing* in response to an appeal of a person regarding the results of *testing* conducted by *quarantine laboratories*. Results of *arbitration testing* conducted by the *Central Laboratory* shall be final. The procedures for conducting *arbitration testing* in the sphere of *plant quarantine* shall be established by sub-legal acts issued pursuant to this Law.

SECTION III - DEVELOPING AND APPLYING PHYTOSANITARY MEASURES

Article 15: Objectives of Phytosanitary Measures

- (1) The central body of executive power on agrarian policy issues shall undertake appropriate and necessary *phytosanitary measures* to fulfil the following objectives:
 - 1) Protect plant life and health in the territory from the *risks* resulting from the *introduction* and/or *spread* of *quarantine organisms* in the territory of Ukraine, or minimizing those *risks*;
 - 2) Preventing or limiting any other damages caused as a result of the *introduction* and/or the *spread* of *hazardous organisms*.

Article 16: Appropriate Level of Phytosanitary Protection

- (1) The central body of executive power on agrarian policy issues shall determine the *appropriate level of phytosanitary protection*.
- (2) The *appropriate level of phytosanitary protection* shall be determined based on the following:
 - 1) Confirmed *occurrence* of *hazardous organisms* in Ukraine and implementation of *state programmes* to fight *hazardous organisms*;
 - 2) The estimated economic costs to the crop and/or forestry sector associated with *introduction* of new *hazardous organisms* into or further *spread* of *hazardous organisms* in Ukraine;
 - 3) Determination of the level of *risk* accepted by neighbouring countries and *interested trading partners*;
 - 4) *International standards, guidelines, and recommendations*; and
 - 5) Minimization of negative effects of *phytosanitary measures* on international and domestic trade.

Article 17: Developing, Reviewing, Revising and Adopting Phytosanitary Measures

- (1) *Phytosanitary measures* shall be developed, reviewed and revised by the Chief State Inspectorate of Plant Quarantine of Ukraine and adopted by the relevant bodies of state power pursuant to their authorities, based on the following:

- 1) All *phytosanitary measures* shall be based on scientific principles and available scientific evidence, including relevant processes and production methods; relevant *inspection*, sampling, and *testing* methods; prevalence of specific *hazardous organisms*; existence of *zones* that are *free of* or have *low prevalence of hazardous organisms*; relevant ecological and environmental conditions; and *quarantine* or other *treatment*.
 - 2) All *phytosanitary measures* shall be based on *international standards, guidelines, and recommendations* of the *relevant international organisations*.
 - 3) In case *international standards, guidelines, and recommendations* do not exist or are insufficient to fulfil the *appropriate level of phytosanitary protection*, *phytosanitary measures* shall be prepared on the basis of *risk analysis* using the methodology developed by the *relevant international organisations*.
 - 4) When scientific evidence needed for *risk analysis* is insufficient, or in *urgent circumstances*, *phytosanitary measures* shall be prepared on the basis of available relevant information obtained from the *relevant international organisations* or the *phytosanitary measures* employed by *interested trading partners*.
- (2) *Phytosanitary measures* applicable to *plants, plant products*, and other *regulated articles* intended for import shall be based on Ukraine's *status of hazardous organisms* relative to that of the *country of origin of plants, plant products*, and other *regulated articles*.
 - (3) Arbitrary or unjustifiable discrimination shall be prohibited between *interested trading partners* exporting to Ukraine when Ukraine and the *country of origin of plants, plant products*, and other *regulated articles* or when one *country of origin* relative to another *country of origin* have identical or similar *status of hazardous organisms*.
 - (4) *Phytosanitary measures* in another country shall be considered equivalent to those of Ukraine, and consequently accepted, if the other country shows in an objective manner that its measures achieve the same or higher level of protection of *plant health and life* as is required by Ukraine.
 - (5) All *phytosanitary measures* referred to in this Article, including measures adopted in *urgent circumstances*, shall be reviewed and updated as new scientific information becomes available or on the basis of significant (substantive) comments from *interested trading partners* or from *Ukrainian persons* in order to make sure that such measures achieve, but do not exceed, the *appropriate level of phytosanitary protection*.
 - (6) All *phytosanitary measures* adopted due to *urgent circumstances* shall be reviewed and updated no later than within six months of the date of issue or last date of review, in order to make sure that such measures achieve, but do not exceed, the *appropriate level of phytosanitary protection*.
 - (7) The Chief State Inspectorate for Plant Quarantine of Ukraine shall establish the procedures for development and revision of *phytosanitary measures* to implement the provisions of this Article.

Article 18: Conducting Risk Analysis

- (1) *Risk analysis* of *plants, plant products*, and other *regulated articles* shall be fully documented in written form. and shall include the following content:
 - 1) Purpose for the *risk analysis*;
 - 2) Identification of the *regulated hazardous organism* and means of its entry (*hosts*, mode of transmission or entry), establishment or *spread* of such;
 - 3) Sources of information;
 - 4) Conclusions of the *phytosanitary risk assessment* including the probability of harm to *plants* and the consequences thereof; and
 - 5) The *risk management* options that were identified and the reasons for rejecting alternative options.
- (2) The *risk analysis* document referred to in paragraph 1 of this Article shall be made available to any interested *persons* whether domestic or foreign in writing and/or electronic form.

- (3) The Chief State Inspectorate for Plant Quarantine of Ukraine shall establish the procedure for conducting *risk analysis* and instructions for preparing the *risk analysis* document.

Article 19: Risk Management Procedures

- (1) The objective of *risk management* shall be to reduce the *risk to plant* health and life in line with the *appropriate level of phytosanitary protection* as defined for Ukraine.
- (2) When considering alternatives for reducing the *risk of introduction* of a *quarantine organism*, the chosen *phytosanitary measures* shall not be more trade-restrictive than necessary to achieve the *appropriate level of phytosanitary protection* taking into consideration the technical and economic feasibility of proposed alternative measures.

Article 20: Determining the Effectiveness of a National Plant Protection Organisation

- (1) Assessment of the effectiveness of the *national plant protection organisation* of other countries shall be based on objective criteria recommended by the *relevant international organisations*.
- (2) In addition to the criteria recommended by the *relevant international organisations*, the frequency of invalid *international phytosanitary certificates*—certificates which attest to freedom from *regulated hazardous organisms* for a *consignment* of *regulated articles* intended for import that have been invalidated by *quarantine laboratory testing* of samples from such shipment—issued by officials of the *foreign national plant protection organisation* for *consignments* of *plants*, *plant products*, and other *regulated articles* intended for import shall be taken into account when assessing the effectiveness of a *foreign national plant protection organisation*.
- (3) All factors considered and relevant conclusions made when evaluating the effectiveness of a *foreign national plant protection organisation* shall be fully documented and promptly made available to the *foreign national plant protection organisation* upon request. In addition, should the foreign country request consultations or have comments on the evaluation, consultations shall commence promptly and the results of the consultations and clarifications shall be analysed to determine whether there is a basis for revising the evaluation of effectiveness of the foreign national plant protection organization.

Article 21: Notifying Proposed Phytosanitary Measures

- (1) Except as provided in paragraphs 5 through 8 of this Article, whenever relevant international standards do not exist or a proposed *phytosanitary measure* does not conform to relevant international standards, the Chief State Inspectorate for Plant Quarantine of Ukraine shall take the following actions:
- 1) A notice shall be published within three days of completion of draft *phytosanitary measures* in mass media publications in such a manner as to enable interested parties to become acquainted with the content of proposed measures; and
- 2) When a proposed *phytosanitary measure* is expected to significantly affect the exporting opportunities of other countries, the Chief State Inspectorate for Plant Quarantine of Ukraine shall prepare a notification to be sent to *interested trading partners* through the centre for processing enquiries and notifications regarding *phytosanitary measures* (hereinafter: *enquiry and notification centre*).
- (2) The notice shall be submitted no less than 60 days before adoption of the proposed *phytosanitary measure*. The notice shall be prepared in the format required by the *relevant international organisations* or *relevant international agreements* to which Ukraine is a party and shall include the *plants*, *plant products*, and other *regulated articles* to be covered and/or affected by the *phytosanitary measure* together with a brief indication of the objective and rationale of the proposed measure.
- (3) When requested in writing by a *person* or *interested trading partners*, the Chief State Inspectorate for Plant Quarantine of Ukraine shall provide the text of the proposed *phytosanitary measure* and, whenever possible, identify the parts which in substance deviate from *international standards*, *guidelines* and *recommendations*.

- (4) Upon written request of a *person* or *interested trading partners*, prior to finalizing the *phytosanitary measure*, the Chief State Inspectorate for Plant Quarantine of Ukraine shall discuss comments that were received, and, without discrimination, take those into account when preparing the final draft of the *phytosanitary measure*.
- (5) When *urgent circumstances* arise and as a consequence an emergency *phytosanitary measure* is adopted, a notice of the *emergency phytosanitary measure* shall be published in mass media publications.
- (6) If the *emergency phytosanitary measure* referred to in paragraph 5 of this Article is expected to significantly affect the exporting opportunities of other countries, the Chief State Inspectorate for Plant Quarantine of Ukraine shall take the following actions:
 - 1) Within three days of adoption of the emergency phytosanitary measure send notifications through the enquiry and notifications centre to *interested trading partners*;
 - 2) The notice shall be prepared in the format required by the *relevant international organisations* or *relevant international agreements* concluded by Ukraine;
 - 3) The notice shall include the *plants, plant products*, and other *regulated articles* to be covered and/or affected by the *emergency phytosanitary measure* with a brief indication of the objective and the rationale for the *emergency phytosanitary measure*, including the nature of the urgent problem(s).
- (7) Upon written request, the Chief State Inspectorate for Plant Quarantine of Ukraine shall be obliged to provide the text of the emergency *phytosanitary measure* to *interested trading partners* or *persons*.
- (8) The Chief State Inspectorate for Plant Quarantine of Ukraine shall review written comments about the emergency *phytosanitary measure* received from *interested trading partners* and *persons*, and upon their written request, discuss such comments and take the comments and results of the discussion into account when considering revision of the emergency *phytosanitary measure*.
- (9) The Chief State Inspectorate for Plant Quarantine of Ukraine shall establish the criteria for determining whether a proposed or emergency *phytosanitary measure* will significantly affect the exporting opportunities of other

Article 22: Documentation of Phytosanitary Measures

- (1) The Chief State Inspectorate for Plant Quarantine of Ukraine shall respond, within 10 calendar days, to all questions and requests associated with *phytosanitary measures* received from the *enquiry and notification centre*, including in particular:
 - 1) Adopted or proposed *phytosanitary measures*;
 - 2) Procedures for verification, *inspection*, and approval;
 - 3) *Phytosanitary risk assessment* procedures, factors taken into consideration, and methods of determining the *appropriate level of phytosanitary protection*; and
 - 4) The membership and participation of Ukraine in the *relevant international organizations* or *relevant international agreements* regarding *phytosanitary measures* and the texts of such agreements
- (2) The relevant body of state power shall issue the necessary sub-legal acts for the execution of this Article. The Cabinet of Ministers of Ukraine shall establish, according to the provisions of Article 52 of this Law, the amount of fees, if any, to be collected for provision of this information to interested parties.

Article 23: Publishing and Enforcement of Phytosanitary Measures

All new and revised *phytosanitary measures* shall be published within 3 days of adoption in the official publication of the relevant bodies of state power. Except for those *emergency phytosanitary measures* adopted in response to *urgent circumstances* and those measures that reduce import restrictions, which come

into force immediately, the *phytosanitary measure* shall come into force no sooner than 6 months after publication.

Article 24: Principles for Applying Phytosanitary Measures

(1) The Chief State Inspectorate for Plant Quarantine of Ukraine shall take the following into account when applying *phytosanitary measures*:

- 1) *Phytosanitary measures* shall be applied only to the extent necessary to fulfil the objectives referred to in Article 15 of this Law.
- 2) *Phytosanitary measures* shall not be applied in a manner that would constitute a disguised restriction on international trade.
- 3) *Phytosanitary measures* shall be applied in such a manner as to avoid arbitrary or unjustifiable distinctions in the levels considered to be appropriate in different situations, if such distinctions result in discrimination or a disguised restriction on international trade.

Article 25: Equivalence Agreements for Phytosanitary Measures

The Chief State Inspectorate for Plant Quarantine of Ukraine shall, upon request of *interested trading partners*, conduct consultations on the equivalency of *phytosanitary measures* aimed at further (subsequent) conclusion of bilateral and multilateral agreements on such equivalency by the central body of executive power of agrarian policy issues.

Article 26: Verification, Inspection, and Approval Procedures

(1) The Chief State Inspectorate for Plant Quarantine of Ukraine shall ensure, with respect to any procedure to check and ensure the fulfilment of the requirements of *phytosanitary measures*, that:

- 1) Such procedures conform to the standards, recommendations, and guidelines of the *relevant international organisations*;
- 2) Such procedures are executed promptly within no more than 3 working days of receipt of an application and without unjustifiable delay;
- 3) Sampling requirements for verification, *inspection* and approval procedures are limited to what is reasonable and necessary;
- 4) The applicant requesting verification, *inspection* and approval must be promptly informed of any deficiencies in the application so as to avoid any delay and even if there are deficiencies in the application, the procedures shall be undertaken as far as practicable upon the request of the applicant;
- 5) The expected time for completing such procedures shall be communicated to the applicant upon their request;
- 6) The results of the procedure shall be transmitted in written form to the applicant within 3 days of completion of the above procedures and in a complete manner;
- 7) Such procedures shall be applied equally to *plants, plant products*, and other *regulated articles* of foreign as well as Ukrainian origin;
- 8) All adopted procedures, including procedures to ensure that a regulated article that has been changed (treated, processed or otherwise changed) continues to meet requirements of *phytosanitary measures*, as well as the information required to conduct control, *inspection*, and approval procedures must be limited to what is necessary for the fulfilment of the *phytosanitary measures*;
- 9) Confidentiality of provided information shall be respected in order to protect the commercial interests of the applicants;
- 10) The fees collected for verification, *inspection*, and approval procedures for *plants, plant products*, and other *regulated articles* in *consignments* intended for import shall be equitable in relation to

those for domestic *plants, plant products* and other *regulated articles* and not exceed the approximate cost of the service rendered;

- 11) The sampling procedure and requirements associated with use of particular facilities for carrying out verification, *inspection*, and approval procedures shall minimize inconvenience and be equitable for *plants, plant products*, and other *regulated articles* in *consignments* intended for import or export and domestic *plants, plant products* and other *regulated articles*;
- 12) A procedure for reviewing complaints concerning the operation of verification, *inspection* and approval procedures shall be established, including means to take corrective action when a complaint is justified.

SECTION IV - IDENTIFYING, MONITORING AND CONTROLLING REGULATED HAZARDOUS ORGANISMS

Article 27: Establishing the List of Regulated Hazardous Organisms

- (1) The State Service on Plant Quarantine of Ukraine shall prepare the List of Regulated Hazardous Organisms, which shall be established on the basis of:
 - 1) *Hazardous organisms* not present in Ukraine (List A-1);
 - 2) *Hazardous organisms* for which there is a low prevalence (limited distribution) in Ukraine (List A-2);
 - 3) *Hazardous organisms* on List A1 or List A2 of the European and Mediterranean Plant Protection Organisation (EPPO) and/or lists of other *relevant international organisations* if the conclusion of a *phytosanitary risk assessment* is that the threat of *introduction* and/or *spread* of the *hazardous organism* in Ukraine is high; and
 - 4) *Regulated non-quarantine hazardous organisms*.
- (2) The level of presence of *regulated non-quarantine hazardous organisms* that constitutes an *infestation* shall be established for each type of *planting* and *sowing* material.
- (3) The List of Regulated Hazardous Organisms shall be adopted by the central body of executive power on agrarian policy issues and published in the official publication thereof.
- (4) The List of Regulated Hazardous Organisms shall be updated when necessary according to the *status of hazardous organisms* in Ukraine and changes to the *EPPO List A1* and *List A2*, and adopted within the time period of no more than 30 days.

Article 28: Establishing Lists of Regulated Articles

- (1) The State Service on Plant Quarantine of Ukraine shall identify the *plants, plant products*, and other *regulated articles* that may be carriers of *regulated hazardous organisms*. The List of Regulated Articles shall be constructed according to relevant *international standards, guidelines, and recommendations*.
- (2) The List of Regulated Articles shall include identification of those *plants, plant products*, and other *regulated articles* from specific countries or *zones* of countries of origin that are prohibited from import due to the *status of hazardous organisms* in the area from which the *regulated articles* originate.
- (3) The specific *phytosanitary rules* for *regulated articles* for importation into Ukraine and movement within Ukraine shall be specified in the List of Regulated Articles.
- (4) The List of Regulated Articles shall be updated according to changes to the List of Regulated Hazardous Organisms, changes in the *status of hazardous organisms* in foreign countries, and/or new scientific information.

Article 29: Registration of Persons whose Activities are Related to Production and Circulation of Regulated Articles

- (1) The following *persons* shall be subject to registration with the relevant State Inspectorates for Plant Quarantine of the Autonomous Republic of Crimea, the oblasts, the city of Kyiv and the city of Sebastopol to enable identification of facilities that may be required to implement *phytosanitary measures* during an *outbreak of quarantine organisms*:
 - 1) *Persons* who produce *plants, plant products*, and other *regulated articles* susceptible to certain *quarantine organisms* in *zones of low prevalence* of such *quarantine organisms*;
 - 2) *Persons* who produce *planting or sowing material* and other reproductive material;
 - 3) *Persons* implementing *biological control* that are using *exotic species* of *biological control agents*;
 - 4) Other persons identified by the Chief State Inspectorate for Plant Quarantine in a relevant normative-legal act.
- (2) *Persons* registered with the State Inspectorates for Plant Quarantine shall be assigned a unique registration number.
- (3) No fee shall be chargeable for such registration.
- (4) The procedure for registering and information to be maintained in the registry shall be prescribed by the Chief State Inspectorate for Plant Quarantine.

Article 30: Early Warning System for Quarantine Organisms

- (1) *Holders of plants* must inspect growing *plants* on arable land, fields, plantations, nurseries, gardens, in forests, open territories, greenhouses, and other places where *plants* are present, including *facilities (objects)* for the storage or processing of *plants, plant products*, and other *regulated articles*, means of their transport, and other *facilities (objects)* used by the above-mentioned *holders of plants* all with the aim of detecting the *occurrence or spread of quarantine organisms*.
- (2) *Holders of plants* must promptly inform a *plant quarantine inspector* on suspected presence of a *quarantine organism*, who shall, after implementing relevant *phytosanitary procedures* to identify the suspected *quarantine organism*, promptly inform the relevant chief state plant quarantine inspector about all new and unexpected appearances of *quarantine organisms*.
- (3) *Holders of plants* shall immediately conduct urgent *phytosanitary procedures* according to the written instructions of a *plant quarantine inspector* to *contain*, prevent the *spread* of, or *eradicate* the aforementioned *quarantine organisms*.
- (4) Should the *holder of plants* not undertake the urgent *phytosanitary procedures* referred to in paragraph 3 of this Article, the *state plant quarantine inspector* shall order their implementation at the expense of the *holder of plants*.
- (5) All *persons*, who by the nature of their work deal with *plants, plant products*, and other *regulated articles*, shall be obliged to promptly inform officials of the State Service on Plant Quarantine about detection of *quarantine organisms* or justified suspicion of their *presence*.
- (6) The actions to be followed to order and ensure implementation of urgent *phytosanitary procedures* at the expense of the *holder of plants* shall be specified by the State Service on Plant Quarantine of Ukraine.

Article 31: Movement Controls for Regulated Articles

- (1) *Plants, plant products* and other *regulated articles*, specified in the list of *regulated articles*, shall be moved in the territory of Ukraine only with a *quarantine certificate* as an accompanying document identifying the *plants, plant products*, and other *regulated articles*, packing, and transportation means, except for persons that are not subject to registration with the State Service of Plant Quarantine of Ukraine.

- (2) Susceptible *plants, plant products* and other *regulated articles* that are moved into *zones free of hazardous organisms* or *zones of low prevalence of hazardous organisms* shall be *inspected* with the aim to determine that they:
 - 1) Are not *infested* with *hazardous organisms* that are not present in the *zone*;
 - 2) Meet the *phytosanitary rules* for the specific *regulated article* being moved.
- (3) *Plants, plant products* and other *regulated articles* may be moved within *zones free of hazardous organisms* or *zones of low prevalence of hazardous organisms* only if a *quarantine certificate* valid for the particular *zone* accompanies them, their packing and transportation means, and if movement requirements are fulfilled.
- (4) The form, *contents*, and procedure for issuing *quarantine certificates* and the procedures applicable for *consignments* shall be prescribed by the Chief State Inspectorate for Plant Quarantine of Ukraine.

Article 32: Inspection of Regulated Articles

- (1) Regulated articles shall be subject to inspection and the taking of samples for further testing, when appropriate, to verify their phytosanitary state according to a procedure prescribed by the Chief State Inspectorate for Plant Quarantine of Ukraine.
- (2) In case it is determined during the *inspection* that there is a threat of the *spread of quarantine organisms* the state *plant quarantine inspector* shall order the person to implement relevant *phytosanitary procedures* according to written instructions.
- (3) The Chief State Inspectorate for Plant Quarantine of Ukraine shall prescribe methods for inspection, taking of samples and testing.

Article 33: Places of Production and Production Sites Free of Hazardous Organisms

- (1) Places of production or production sites free of *hazardous organisms* are those places or sites , in which it is officially determined that a specific *hazardous organism* does not occur, and, where appropriate, this condition is being officially maintained for a defined period.
- (2) Persons engaged in production of *plants, plant products*, and other *regulated articles* may request an official determination of places of production or production sites as free of *hazardous organisms*.
- (3) The relevant state inspectorate for plant quarantine and the person engaged in production of *plants, plant products*, and other *regulated articles* shall implement procedure for determining and/or maintaining the status of the places of pproduction or production sites as free of hazardous organisms.
- (4) Procedure for official determination with regard to confirmation of the status of free of *hazardous organisms*, revocation of such status, or its renewal, and other conditions of the official determination shall prescribed by the Chief State Inspectorate for Plant Quarantine of Ukraine.
- (5) Central body of executive power on agrarian policy issues shall prescribe the amount of fees for rendering of services, specified in this Article, according to current legislation.

Article 34: Biological Control of Hazardous Organisms

- (1) Biological control is a manner of control of *hazardous organisms* using live natural enemies, *antagonists, competitors* or their products and other self-multiplying biological agents.
- (2) *Exotic species of biological control agents* are those that are not naturally present in Ukraine.
- (3) *Exotic species* that may be used for the purposes of biological control, as well as requirements related to facilities, equipment, and personnel, and procedures for preventing accidental release of biological control agents applied by *persons* implementing biological control, shall be determined by the central body of executive power on agrarian policy issues, after consultation with the relevant state bodies and, if necessary, after consultation with scientific and research institutions.

- (4) *Persons* implementing biological control shall be licensed for such activity by the relevant state body upon fulfilment of the requirements referred to in paragraph 3 of this Article.
- (5) *Persons* registered as specified in item 5 of paragraph 1 of Article 29 shall be subject to random inspection by *plant quarantine inspectors* for compliance with the requirements referred to in paragraph 3 of this Article.
- (6) In case during the *inspection* referred to in paragraph 5 of this Article violations are revealed, the State Service on Plant Quarantine of Ukraine shall present a submission to the licensing body for the purpose of issuing an order on stopping the violation of license conditions or revocation of the license depending on the severity of the violation. The Chief State Inspectorate for Plant Quarantine of Ukraine shall prescribe the types of violations that should result in an order on stopping the violation of license conditions or revocation of the license, as well as procedures for conducting *inspections*.
- (7) The Chief State Inspectorate for Plant Quarantine shall keep records on importation and use of *exotic species* for biological control.

Article 35: Procedure for Imposing and Removing a Quarantine Regime in Ukraine

- (1) Should *quarantine organisms* be discovered within the territory of Ukraine, a *quarantine regime* shall be imposed: within the boundaries of several oblasts by the Cabinet of Ministers of Ukraine upon submission (of a proposal) of Chief State Inspector for Plant Quarantine of Ukraine; on the territory of the Autonomous Republic of Crimea, oblasts, several regions, one region, one settlement or the territory of a certain business entity by the Council of Ministers of Autonomous Republic of Crimea and local state administration, respectively, upon submission (of a proposal) of, respectively, the Chief State Inspectors for Plant Quarantine of Ukraine or the State Inspectors for Plant Quarantine.
- (2) The *quarantine regime* shall be imposed within 24 hours of the moment of detection of the *quarantine organism*.
- (3) The body that made the decision to impose or remove a *quarantine regime* shall, within 24 hours, notify the *persons* that are located in or reside in the *regulated zone*.
- (4) It shall be mandatory that the decision on *quarantine regime* imposition define the following:
 - 1) Circumstances that caused imposition of the *quarantine regime*, including identification of the specific *quarantine organism* of concern;
 - 2) Boundaries of the *quarantine zone* and the *regulated zone* in which the *quarantine regime* is imposed;
 - 3) Time, starting from which the *quarantine regime* is imposed,
 - 4) *Quarantine rules* that must be implemented by the persons.

Article 36: Quarantine Rules That Are Applied in a Regulated Zone

- (1) The following special quarantine rules shall be taken in the *quarantine zones* and *regulated zones* on the grounds, and in the procedure, established by legislation:
 - 1) Inspection and/or testing of *regulated articles*, when appropriate;
 - 2) Control over the containment and eradication of *quarantine organisms* by persons;
 - 3) Prohibition of bringing out of the *quarantine zones* and *regulated zones* of *regulated articles* that are *infested* with the *quarantine organisms*;
 - 4) *Fumigation* of *regulated articles*;
 - 5) Technical processing of *regulated articles* that are *infested* with *quarantine organisms*.
- (2) *Plants* and *plant products* infested with *quarantine organisms*, which are impossible to *fumigate* or deliver for technical processing, shall be destroyed pursuant to the procedure established by the law.

- (3) All *regulated articles* intended for *circulation* shall be brought out of a *quarantine zone* only with a *quarantine certificate* issued by a *plant quarantine inspector* and with the permission of the relevant chief inspector on plant quarantine.
- (4) Local state administrations, owners (bodies, authorized by the latter) of sea ports, river ports (docks), railway stations, airports (airfields), post offices, bus stations (bus terminals), officials of the customs-houses and the entry points on the State Border of Ukraine, on the highways, shall facilitate state *plant quarantine inspectors* in implementing *quarantine measures*.
- (5) Losses resulting from unlawful actions of the bodies and officials that ensure implementation of *quarantine measures* shall be reimbursed pursuant to the law.

SECTION V - INTERNATIONAL TRADE

Article 37: Prohibited or Restricted Imports

- (1) It is prohibited to import *regulated articles* that:
 - 1) are *infested* with *regulated hazardous organisms*;
 - 2) may result in the introduction of *quarantine organisms*;
 - 3) may increase the population of indigenous *hazardous organisms* to a level that is not in accordance with the appropriate level of phytosanitary protection.
- (2) *Exotic biological control agents* may be imported only under a *quarantine permit* issued for the purposes of conducting scientific research or for bio-control.

Article 38: Requirements for Import and Transit Consignments

- (1) *Consignments* of *plants*, *plant products*, and other *regulated articles* shall:
 - 1) Be free of *regulated hazardous organisms*;
 - 2) Be accompanied by an original *phytosanitary certificate* signed by an official of the *national plant protection and quarantine organisation* of the *country of origin* or *re-exporting country* when so required by current *phytosanitary measures*;
 - 3) Be accompanied by a *quarantine permit* for import or transit when so required by relevant legislation;
 - 4) Not have been produced at a *facility (object)* of origin or in a *zone* within the *country of origin* or transited through a *zone* that is under restriction (e.g., a *quarantine regime*) for *containment* of a *quarantine organism*, as confirmed by a relevant international organisation or by the *national plant protection organisation* of the exporting or transit country, to which the *plants*, *plant products*, and other *regulated articles* are susceptible.
- (2) When a *consignment* of *plants*, *plant products*, and other *regulated articles* that is intended for import or transit is required to be accompanied by an original *phytosanitary certificate* and such *consignment* was, after the issuance of a *phytosanitary certificate* in the *country of origin*, delivered and stored, repacked or divided in another country, such *consignment* must, in addition to the original or a certified copy of the original *phytosanitary certificate* from the *country of origin*, also be accompanied by an original *phytosanitary certificate* for re-export.
- (1) In those cases when a *consignment* of *plants*, *plant products*, and other *regulated articles* that is intended for import or transit is required to be accompanied by an original *phytosanitary certificate* was imported into several countries and therefore several *phytosanitary certificates for re-export* were issued, such *consignments* must, besides the original or a certified copy of the original *phytosanitary certificate* issued in the *country of origin*, be accompanied by original *phytosanitary certificates for re-export*.

Article 39: Quarantine Permit for Import or Transit

- (1) The Chief State Inspectorate on Plant Quarantine of Ukraine shall issue a *quarantine permit* for import and transit of *plants, plant products*, and other *regulated articles*, based on a written application of a person that is submitted prior to arrival of an import or *transit consignment* at the border of Ukraine. A *quarantine permit* for transit shall not be required for *plants* or *plant products* that are transiting Ukraine in hermetically sealed isothermal vehicles under the condition that the customs seal applied by the customs authority of the country of export is not damaged. This provision does not apply to *re-export* consignments.
- (2) Chief State Inspectorate for Plant Quarantine of Ukraine shall prescribe the form and the procedure for drawing up of the quarantine permit.
- (3) The *quarantine permit* for import and transit pursuant to paragraph 1 of this Article shall be issued if the following conditions are met:
 - 1) Import of the *plants, plant products*, and other *regulated articles* is not prohibited due to the *status of hazardous organisms* in the *country of origin* or the *re-exporting country*; and
 - 2) The *risk* associated with import or transit of the *plants, plant products*, and other *regulated articles* is acceptable in relation to the *appropriate level of phytosanitary protection*.
- (4) Factors that must be considered to determine the *risk* associated with import or transit of *plants, plant products*, and other *regulated articles* include:
 - 1) The intended use of the *plants, plant products*, and other *regulated articles*;
 - 2) The geographic and other characteristics of Ukraine, the *country of origin or re-exporting country* and, when applicable, countries of transit that affect the ability of *regulated hazardous organisms* to survive, establish, and *spread*;
 - 3) The existence of *control programmes* for *regulated hazardous organisms* in Ukraine, the *country of origin, re-exporting country* and, when applicable, transit countries;
 - 4) The existence of *zones free of hazardous organisms* or *zones of low prevalence of regulated hazardous organisms* in the *country of origin*, from which *risks of introduction of a regulated hazardous organism* into the country may be nil or minimal;
 - 5) The effectiveness, as defined in Article 20 of this Law, of the *national plant protection organisation* in the *country of origin or re-export* relative to that of Ukraine;
 - 6) The effectiveness of *phytosanitary measures* that may be required by Ukraine to be applied in the *country of origin or re-exporting country* to reduce the *risk* associated with import or transit of the *plants, plant products*, and other *regulated articles*, including, in particular, application of *phytosanitary measures* prior to shipment, technical conditions for the *facility (object)* of origin such as requiring origin of the *plants, plant products*, and other *regulated articles* from a production site free of *hazardous organisms*, and sampling and *testing* in the *country of origin or re-exporting country*; and
 - 7) When imports of *plants, planting and sowing material* are being considered, the effectiveness and *risk* associated with *quarantine supervision* for *monitoring the consignment*.
- (5) *Quarantine permits* for import and transit shall specify the *phytosanitary measures* that must be conducted by the exporter prior to shipment of the *consignment*, by the importer after entry, and, if necessary, any *additional declarations* that must be attested to in the *international phytosanitary certificate*.
- (6) When the *quarantine permit* is issued for import of *exotic biological control agents*, the purposes for which such may be imported, and the precautions and associated phytosanitary and other procedures that must be followed to reduce the *risk* associated with importation of such to an acceptable level shall be prescribed based on the relevant guidelines and recommendations of the *relevant international organisations* and included in the *phytosanitary measures* referred to in paragraph 5 of this Article.

- (7) The denial of a *quarantine permit* shall be issued in written form and shall include the justification thereof. In case a *person's* application for a *quarantine permit* is denied, the *person* shall have the right to appeal the denial with the central body of executive power on agrarian policy issues or in court.
- (8) An appeal on denial of a *quarantine permit* for import and transit shall be lodged with the central body of executive power on agrarian policy issues within the term that does not exceed ten days from the date of receipt of the relevant decision on such denial. The appeal shall be considered in the procedure, established by the central body of executive power on agrarian policy issues, within ten days. Based on the results of the above consideration, a decision shall be made to accept or deny the appeal. This decision shall be provided to the applicant in written form no later than three working days after the decision is made.

Article 40: Import of Exotic Plants

For the import of exotic *plants* (those not normally present in Ukraine), the importer shall, when required according to *relevant international agreements*, provide a document from the competent authority of the *country of origin* permitting export of such *plants*.

Article 41: Designated Border Inspection Posts

- (1) Import, transit, and export of *plants*, *plant products*, and other *regulated articles* are allowed only through established entry points on the customs border that are designated for such (hereinafter: *designated border inspection posts*).
- (2) The *designated border inspection posts* shall be equipped with the following at the expense of the state budget:
 - 1) A *facility (object)* for conducting *inspection* of transport vehicles, taking samples and/or *fumigating* the *consignment* of *plants*, *plant products*, and other *regulated articles* that is being transported by such vehicle;
 - 2) Means of communications including Internet
 - 3) *Quarantine laboratory* facilities and equipment necessary to conduct express analysis; and
 - 4) A *facility (object)* for destruction of *plants*, *plant products*, and other *regulated articles* that are *infested* with a *regulated hazardous organism*.
- (3) Any *consignment* referred to in paragraph 1 of this Article that arrives at border inspection post other than prescribed *designated border inspection post* shall be redirected to the nearest *designated border inspection post*.

Article 42: Random Phytosanitary Border Control Programme

- (1) Import *consignments* of *plants*, *plant products*, and other *regulated articles* shall be subject to mandatory *extended phytosanitary border control* in accordance with the provisions of Article 46 when so selected according to a random phytosanitary control programme.
- (2) Mandatory *extended phytosanitary border control* shall be applied under the random phytosanitary control programme during a calendar year for specially determined percentages of *consignments* of *regulated articles* classified into three categories: live *plants* of any origin; *plant products* of any origin; and other *regulated articles* of any origin.
- (3) The specially determined percentages of *consignments* referred to in paragraph 2 of this Article shall be determined according to the historical incidence of detection of *regulated hazardous organisms* in *consignments* of live *plants*, *plant products*, and other *regulated articles* of any origin and other factors that affect the *risk* to *plant* health and life from imported *regulated articles*.
- (4) The Chief State Inspectorate for Plant Quarantine shall specify the specially determined percentages of *consignments* of regulated articles which shall be subject to mandatory extended phytosanitary border control prior to the beginning of each new calendar year.

Article 43: Standard Phytosanitary Border Control for Consignments of Regulated Articles Intended for Import or Transit

- (1) All *consignments of plants, plant products, and other regulated articles* imported or transited shall be subjected to *standard phytosanitary border control* in the form of *inspection*, conducted as follows:
 - 1) Verify that the *consignment* is accompanied by a valid *quarantine permit*, when so required by current *phytosanitary measures*;
 - 2) If an *phytosanitary certificate* is required by current *phytosanitary measures*, check that such certificate accompanying the *consignment* is complete and authentic;
 - 3) Check that *plants, plant products, and other regulated articles* in the *consignment* correspond to those described in the shipping documents or in the *phytosanitary certificate*; and
 - 4) Detect the presence of *regulated hazardous organisms* in the *consignment*.
- (2) The *consignment* shall be allowed to enter or transit Ukraine if:
 - 1) The *consignment* is accompanied by a valid *quarantine permit*, when so required by current *phytosanitary measures*;
 - 2) If an *phytosanitary certificate* is required by current *phytosanitary measures*, the *phytosanitary certificate* is complete, authentic, and pertains to the *plants, plant products, and other regulated articles* in the *consignment*; and
 - 3) No presence of *regulated hazardous organisms* has been detected and there are no signs of *infestation* of the *plants, plant products, and other regulated articles*; and
 - 4) At least one of the following conditions is met:
 1. In the case of *transit consignments*, if the customs seal applied by the customs authority of the country of export is not damaged; or
 2. The *consignment* is subject to a bilateral agreement regarding recognition of the equivalence of product specific or general *phytosanitary measures* between the *country of origin* and Ukraine or, in the case of *re-exported consignments*, the *re-exporting country* and Ukraine; or
 3. A certain number of prior *consignments* of like *plants, plant products, and other regulated articles* from the *country of origin* and/or particular *facility (object)* of origin, if so required, were accompanied by valid *phytosanitary certificates*; or
- (3) If a *consignment of plants, plant products, and other regulated articles*, which is required to be accompanied by a *quarantine permit*, arrives at a *designated border inspection post* without such permit, the *consignment* shall be subject to the relevant *phytosanitary rules*.
- (4) *Re-export consignments* that comply with the provisions of items 1, 2, and 3 of paragraph 2 of this Article shall be issued a *re-export international phytosanitary certificate* in accordance with the guidelines and recommendations of the *relevant international organisations*.
- (5) If a *regulated hazardous organism* or an unknown organism has been visually detected in the *consignment*, the state *plant quarantine inspector* shall immediately notify the owner of the *consignment*, and upon the approval of chief state inspector for plant quarantine or his\her deputies, declare a *quarantine permit* for import or transit invalid, and, if applicable, undertake the procedures prescribed in Article 46 of this Law.
- (6) The Chief State Inspectorate of the Plant Quarantine Service shall prescribe the certain number of prior *consignments* of like *regulated articles* from a *country of origin* and/or particular *facility (object)* of origin with valid *phytosanitary certificates* that precludes *extended phytosanitary border control* as specified in indent 3 or item 4 of paragraph 2 of this Article.
- (7) *Standard phytosanitary border control* may be conducted, under conditions prescribed by the Chief State Inspectorate for Plant Quarantine of Ukraine, at a specifically designated site in the territory of Ukraine provided such *consignment* remains under customs supervision.

- (8) *Consignments* referred to in paragraph 1 of this Article may be inspected by the state plant quarantine inspector at the loading sites in the *country of origin* or the *re-exporting country*, at the request and expense of the importer.

Article 44: Procedures When the Phytosanitary Certificate is not Acceptable

- (1) If the state *plant quarantine inspector* finds that the *phytosanitary certificate* accompanying a *consignment* of *plants*, *plant products*, and other *regulated articles* is incomplete or fraudulent or otherwise falsified or concludes that the *plants*, *plant products*, and other *regulated articles* in a *consignment* are not those described in the accompanying *phytosanitary certificate*, the *consignment* shall be held in an appropriate *facility (object)* at the *designated border inspection post* and the Chief State Inspector for Plant Quarantine of Ukraine or his designated representative shall be notified.
- (2) The Chief State Inspector for Plant Quarantine of Ukraine or his designated representative shall contact the national plant protection organisation of the country of origin or the re-exporting country, as soon as practicable (but no more than 24 hours), for consultations and to jointly determine the actions to be taken with regard to the consignment.

Article 45: Extended Phytosanitary Border Control for Consignments of Regulated Articles Intended for Import

- (1) If the *plant quarantine inspector* suspects, based on the appearance of the *plants*, *plant products*, or other *regulated articles* in a *consignment* that the *plants*, *plant products*, or other *regulated articles* do not fulfil the established plant health conditions, the state *plant quarantine inspector* shall make a decision about conducting of phytosanitary control.
- (2) Those consignments that are being subjected to extended phytosanitary border control within the framework of the random phytosanitary border control programme, and consignments of plants, plant products, or other regulated articles that are suspected to be infested by regulated hazardous organisms or otherwise do not comply with relevant phytosanitary measures shall be isolated in an appropriate facility (object) at the designated border inspection post. The state plant quarantine inspector shall collect samples from the consignment according to the procedures specified in the relevant phytosanitary rules. Based on his professional judgement, the state plant quarantine inspector shall conduct express analysis of the samples at the designated border inspection post and/or dispatch the samples to an authorised laboratory equipped to conduct the necessary testing.
- (3) Upon confirmation of the infestation with a regulated hazardous organism, the importer, owner, or person responsible for the consignment shall be notified about the latter and the consignment shall be subjected to the provisions of Article 46 of this Law.
- (4) Upon ruling out of the suspicion of the infestation with a regulated hazardous organism, the consignment shall be subject to further customs procedures and issued a quarantine certificate.
- (5) The importer or owner or person responsible for the consignment may, within 48 hours of the time of receipt of notice of infestation of the consignment with a regulated hazardous organism, request arbitration testing to confirm the results of the testing. If the results of the arbitration testing differ from that of the initial testing, the results of the arbitration testing shall be accepted.

Article 46: Disposition of Consignments Denied Entry

- (1) If in a *transit consignment* of *plants*, *plant products*, and other *regulated articles* *infestation* with a *regulated hazardous organism* or previously unknown organism is confirmed, the Chief State Inspector for Plant Quarantine of Ukraine or his designated representative shall contact the *national plant protection organisation* of the *country of origin* or the *re-exporting country* to determine the relevant procedures to be applied with respect to the *consignment*.
- (2) Upon confirmation of the *infestation* with a *regulated hazardous organism* in an import *consignment* of *plants*, *plant products*, and other *regulated articles*, the following *phytosanitary procedures* shall be taken, after which the *consignment* may be issued a *quarantine certificate*:

- 1) The *plants, plant products*, and other *regulated articles* shall be *fumigated* to destroy the *regulated hazardous organism*; or
 - 2) Other procedures in accordance with the recommendations and guidelines of the *relevant international organisations* shall be taken.
- (3) If it is not possible to *fumigate* the *consignment* to rid it of the *regulated hazardous organism* or undertake other procedures to permit entry of the consignment, the Chief State Inspectorate for Plant Quarantine of Ukraine shall notify, and consult with, the *national plant protection organisation* of the *country of origin* or *re-exporting country* to determine which of the following procedures shall be applied:
- 1) The *consignment* shall be returned to the *country of origin* or *re-exporting country*;
 - 2) The *plants, plant products*, or other *regulated articles* in the *consignment* shall be destroyed and disposed of safely.
- (4) If the *regulated hazardous organism* infesting an *consignment* of *plants, plant products*, or other *regulated articles* intended for import or transit is of a nature whereby a delay in taking necessary *phytosanitary procedures* will result in an inappropriate level of phytosanitary protection (i.e., there is a high risk of introduction of the *regulated hazardous organism* into Ukraine), the *plants, plant products*, or other *regulated articles* may be destroyed and disposed of safely prior to any consultations, whether with the *national plant protection organisation* of the *country of origin* or the *re-exporting country* or with the importer, owner, or *person* assuming responsibility for the *consignment*.
- (5) Upon completion of the procedures prescribed in paragraphs 2, 3, and 4 of this Article, the Chief State Inspectorate for Plant Quarantine of Ukraine or his designated representative shall report within 24 hours), on the above to the relevant *national plant protection organisation* of the *country of origin* or the *re-exporting country*, and, if necessary, the countries of transit.

Article 47: Outbreak of a Quarantine Organism in the Exporting or Transit Countries

- (1) An *consignment* of *regulated articles* intended for import or transit shall not be permitted entry regardless of whether a *quarantine permit* for import or transit is held if an *occurrence* of a *quarantine organism* to which the *plants, plant products*, and other *regulated articles* are susceptible has resulted in a confirmed *outbreak* or *spread* of the *quarantine organism* in the territory or specific production site where the *plants, plant products*, or other *regulated articles* originated or in the territory of one or more transit countries through which the *consignment* has travelled.
- (2) The *outbreak* or *spread* referred to in paragraph 1 of this Article shall be confirmed by a *relevant international organisation* or by the *national plant protection organisation* of the *country of origin, re-exporting country*, or transiting countries.
- (3) In the circumstances referred to in paragraph 1 of this Article, the state *plant quarantine inspector* shall hold such *consignment* at the border and following consultations with the *national plant protection organisation* of the *country of origin* or the *re-exporting country*, take one or more of the measures prescribed in paragraphs 2 and 3 of Article 47 of this Law.

Article 48: Quarantine Supervision for Imported Plants

- (1) When so indicated in the *quarantine permit*, imported *plants* shall be subjected to *quarantine supervision* to monitor and verify their *phytosanitary state*.
- (2) The length of *quarantine supervision* and the methods of *monitoring* and verifying the *phytosanitary state* of the *plants* shall be specified in accordance with existing *phytosanitary rules*.

Article 49: Phytosanitary Procedures for Consignments in Free Economic Zones and Customs Houses of Destination

- (1) *Consignments of plants, plant products, and other regulated articles in free economic zones, customs of destination or customs warehouses shall be subject to the same phytosanitary procedures as those that apply to consignments intended for import.*
- (2) *A plant quarantine inspector shall provide supervision to ensure compliance with phytosanitary measures during storing, packing, unpacking, repacking, processing, and treating of plants, plant products, and other regulated articles in free economic zones, customs of destination, warehouses for temporarily storage, customs license warehouses or customs warehouses.*
- (3) *Should any consignment referred to in paragraphs 1 or 2 of this Article be subsequently exported, an phytosanitary certificate for re-export shall be issued Conditions Applicable to and Certification of Consignments of Regulated Articles Intended for Export*
- (1) *Export and re-export consignments of plants, plant products, and other regulated articles shall be accompanied by an original phytosanitary certificate or phytosanitary certificate for re-export and/or other documentation as required by the country of destination.*
- (2) *Export and re-export consignments of plants, plant products, and other regulated articles that must be accompanied by an original international phytosanitary certificate or international phytosanitary certificate for re-export attesting to compliance of the consignment with the phytosanitary requirements of the country of destination shall be issued in accordance with international standards, guidelines, and recommendations.*
- (3) *The phytosanitary certificate referred to in paragraph 1 of this Article shall be printed and serially numbered and conform to the model certificates of the relevant international organisations, and if necessary, contain additional declarations prescribed by the country of destination.*
- (4) *The Chief State Inspectorate for Plant Quarantine shall prescribe the procedure for issuing the phytosanitary certificate for export and re-export consignments in a sub-legal act issued pursuant to this Law.*

Article 50: Threat of Bringing in or Taking Out Regulated Hazardous Organisms

- (1) *If there is a high risk of a regulated hazardous organism being introduced into Ukraine or being transmitted to export and transit consignments of Ukraine, or consignments which are travelling through a neighbouring territory due to uncontrolled spreading of such regulated hazardous organism in a neighbouring territory, the Chief State Inspectorate for Plant Quarantine may order:*
 - 1) *Control of circulation in threatened border areas of plants, plant products, and other regulated articles that are susceptible to or may transmit the specific regulated hazardous organism; or*
 - 2) *Prohibition or limitation of the import, export or transit of plants, plant products, and other regulated articles in relation to the risk of infestation of a consignment due to movement from or through such areas.*

SECTION VI - LIABILITY FOR VIOLATION OF LEGISLATION ON PLANT QUARANTINE

Article 51: Liability for Violation of Legislation on Plant Quarantine

Persons that are guilty of violating the legislation on plant quarantine shall be called to account pursuant to the law.

SECTION VII -SCIENTIFIC AND FINANCIAL SUPPORT IN THE SPHERE OF PLANT QUARANTINE

Article 52: Scientific Support to the State Service on Plant Quarantine of Ukraine

The State Service on Plant Quarantine of Ukraine shall organize its scientific support, including that provided through scientific establishments, enterprises and organizations of the Ukrainian Academy of Agrarian Sciences pursuant to the Law.

Article 53: Fees for Services Rendered

All fees charged in connection with any administrative procedures, provision of information, laboratory analyses, expertise, control or other procedure required in accordance with this Law shall be limited in amount to the approximate cost of services rendered.

Article 54: Funding of Phytosanitary Measures

Phytosanitary measures shall be funded from the State Budget of Ukraine, funds of the *persons* and other sources which are not prohibited by the current legislation of Ukraine.

Article 55: Funding and Logistical Support to the Bodies of State Service on Plant Quarantine of Ukraine

- (1) Funding and logistical support to the bodies of the State Service on Plant Quarantine of Ukraine shall be provided from the General Fund and the Special Fund of the State Budget of Ukraine.
- (2) Proceeds from paid services of *inspection*, checks, analysis, and *fumigation* of *regulated articles*, that are paid by the *persons*, may be the sources of funding of State Service on Plant Quarantine of Ukraine from Special Fund of the State Budget of Ukraine, unless otherwise is established by the law.

SECTION VIII - INTERNATIONAL COOPERATION IN THE SPHERE OF PLANT QUARANTINE

Article 56: International Agreements

If a *relevant international agreement* ratified by the Verhovna Rada (approved as mandatory) establishes provisions other than those provided for by this Law, the provisions of the *relevant international agreement* shall prevail.

Article 57: Participation in Relevant International Organizations

The Chief State Inspector for Plant Quarantine of Ukraine shall represent Ukraine in the relevant international organizations and their specialized bodies to promote Ukraine's interests, to cooperate aimed at resolving common problems, and to ensure effective exchange of information, methodologies and technologies which facilitate the harmonisation of *phytosanitary measures* elaborated with the purpose of plant health protection and international trade development.

SECTION IX - FINAL PROVISIONS

- (1) This Law shall come into effect starting October 1, 2005.
- (2) Within six months upon the date of this Law coming into effect, the Cabinet of Ministers of Ukraine shall:
 - 1) Submit proposals for Verkhovna Rada of Ukraine consideration with regard to bringing legislative acts of Ukraine in line with this Law;

- 2) Bring its legal acts in line with this Law;
- 3) Provide for review and cancellation by the ministries and other central bodies of executive power of their legal acts, which contradict this Law.