

LAW OF UKRAINE “ON INTRODUCTION OF CHANGES TO THE LAW OF UKRAINE

„ON PLANT QUARANTINE””

The Verkhovna Rada of Ukraine hereby r e s o l v e s :

To introduce the following changes to the Law of Ukraine “On Plant Quarantine” (Vidomosty of VR, 1993, № 34, p. 352; 1997, № 35, p. 220; 1999, № 34, p. 274; 2003, № 28, p. 212), that shall read:

The Law of Ukraine "On Plant Quarantine”

This Law shall establish the general legal, organizational and financial-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 regulated hazardous organisms, and shall be part of the legislation of Ukraine on plant life and health.

SECTION I.

GENERAL PROVISIONS

Article 1. Terms and Definitions

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

Risk analysis – the process of assessing biological, ecological and economic data, aimed at identifying the need to perform control of regulated hazardous organisms and necessary phytosanitary measures;

Antagonist – an organism (usually pathogen), which causes no significant damage to the plant and may be used for biological control;

Biological control – method of control of regulated hazardous organisms, using biological control agents or their natural enemies, antagonists, competitors, which are self-replicating;

Biological control agent – a natural enemy, antagonist, competitor, or other self-replicating microscopic biotic entity, used to control regulated hazardous organisms;

Consignment – a certain quantity of 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);

Phytosanitary hazard identification – the process of identifying the quantity of regulated hazardous organisms that could potentially be introduced into the territory of Ukraine by importation of regulated articles;

State supervision – activity of state bodies in the sphere of plant quarantine, carried out periodically with the aim to ensure compliance by persons with phytosanitary measures in the process of producing, storing, transporting, selling, including export and import of regulated articles, prescribed by legislation.

Additional declaration – a statement that is accompanying international phytosanitary certificate required by an importing country, in which additional information is stipulated pertinent to the phytosanitary state of regulated articles;

Economic threshold of harmfulness – level of costs for carrying out phytosanitary measures;

Interested partners – members of international organizations, subjects of the agreements, to which Ukraine is also a party, governing the application of phytosanitary measures;

Introduction — entry of a regulated hazardous organism resulting in its establishment;

Infestation – presence in a regulated article of a living regulated hazardous organism, which constitutes a threat to plants;

Zone – an officially defined country, territory of a country, or a territory of several countries.

Zone free of regulated hazardous organisms – a zone, in which absence of a regulated hazardous organism has been scientifically confirmed, and this condition is being officially maintained within a defined period;

Zone of insignificant quantity of regulated hazardous organisms – a zone, defined by the State Service of Plant Quarantine of Ukraine, in which a regulated hazardous organism occurs in the amount, not exceeding economic threshold of harmfulness, and is subject to supervision, control, and/or destruction.

Inspection – visual verification of regulated articles to determine occurrence of regulated hazardous organisms, and/or to determine compliance with phytosanitary rules;

Quarantine – keeping regulated articles in a specified place for monitoring or further inspection, testing, and/or treatment;

Quarantine permit (for import or transit) – official document authorizing import or transit of regulated articles in accordance with specified phytosanitary measures;

Quarantine zone – a zone, within which a quarantine regime has been introduced due to a quarantine organism detection;

Quarantine supervision – supervision over imported consignment upon completion of customs clearance, and/or moved out of a quarantine zone to the place of destination;

Quarantine organism – species of a hazardous organism, which, in case of introduction or limited spread in the territory of Ukraine, may significantly damage plants and plant products;

Plant quarantine – a system of measures, aimed to prevent the introduction and/or spread of regulated quarantine organisms, or to ensure their control (containment);

Quarantine regime – special legal regime providing for a system of phytosanitary measures, implemented in a quarantine zone with the aim to contain and eliminate quarantine organisms;

Quarantine certificate – a document, issued by the bodies of the State Service of Plant Quarantine of Ukraine, which certifies the phytosanitary state of regulated articles that are brought out and/or brought into a quarantine zone, transported in the territory of Ukraine;

Elimination — destruction of regulated hazardous organisms in accordance with the requirements of phytosanitary measures;

Containment – implementation of phytosanitary measures with the aim to prevent spread of a regulated hazardous organism;

Monitoring – official continuous process for verification of phytosanitary state or status of hazardous organisms;

Supervision – process of collection and registration by the state bodies in the sphere of plant quarantine of the data on occurrence or absence of a regulated hazardous organism in a defined zone by means of surveillance, monitoring and other procedures;

Emergency circumstances – circumstances when it is confirmed or suspected that a quarantine organism is present in a country of origin or transit, which may cause an irreparable damage to the health of plants susceptible to this organism throughout the territory of Ukraine or in a part of Ukraine, in case of imports of regulated articles susceptible to this organism, that may carry the quarantine organism;

Appropriate level of phytosanitary protection – the level of protection that is defined for carrying out phytosanitary measures;

Seeds – sowing material not intended for consumption and processing;

Object – place of growing, production, storage and processing of plants and plant products;

Regulated articles – any plant, plant product, storage place, packaging, means of conveyance, containers, soil and any other organisms, objects and materials capable of carrying or spreading regulated hazardous organisms;

Person – legal entity and/or natural person;

Treatment – officially adopted procedure, aimed at elimination of regulated hazardous organisms, termination of their ability to grow, develop or further propagate;

Survey – collection and registration of data of visual examination, monitoring and other procedures related to determination of occurrence or absence of a regulated hazardous organism in a specified zone (area);

Phytosanitary risk assessment – evaluation of the likelihood, biological, ecological and/or economic consequences of introduction or spread of regulated hazardous organisms;

Risk communication – exchange of information on the risk of occurrence and spread of a regulated hazardous organism;

Repeated phytosanitary (arbitration) testing — phytosanitary testing that is conducted upon an appeal of a person regarding previous phytosanitary testing;

Verification procedure — any actions pertaining to determination of the phytosanitary state of regulated articles;

Point of plant quarantine – specially equipped place where phytosanitary state of a regulated article is determined;

Regulated zone – a zone where phytosanitary measures are conducted with the aim to prevent the introduction and/or spread of quarantine organisms in course of bringing in or bringing out a regulated article;

;

Regulated non-quarantine hazardous organism – a non-quarantine hazardous organism, whose occurrence in sowing and planting material causes economically unfavorable effect on expected usage of these plants, and due to the latter shall be subject to regulation;

Regulated hazardous organism – a quarantine organism or a regulated non-quarantine hazardous organism;

Risk – the likelihood of occurrence and the likely magnitude of the consequences of an adverse event during a specified time period;

Plants – plants and parts of plants, including seeds, parts of living plants, fruit, vegetables, tubers, corms, bulbs, roots, cut flowers, branches with sprouts and foliage, cut trees, cultures of plant tissues, except those, to which freezing or thermal treatment method is applied;

List A1 — list of quarantine organisms that are absent in member-states of the European and Mediterranean Plant Protection Organization (EPPO);

List A2 — list of quarantine organisms that occur in at least one EPPO member-state, but are not spread, and are under official control (containment);

Surveillance – a process of collecting and processing data on occurrence or absence of a regulated hazardous organism;

Status of a hazardous organism (in a zone) – determination by the state bodies in the sphere of plant quarantine of the occurrence or absence as of the date of a hazardous organism in a zone, including, if necessary, the data on its geographical spread, on the basis of an expert opinion, which shall be grounded on current and previous notifications about hazardous organism and other information;

Risk management – a process of identifying measures that are implemented with the aim to reduce the level of risk;

Phytosanitary testing – verification and analysis in laboratory conditions to determine occurrence or absence of regulated hazardous organisms;

Phytosanitary certificate – a certificate that attests to the phytosanitary status of regulated articles;

Phytosanitary state – occurrence or absence of regulated hazardous organisms in regulated articles;

Phytosanitary measures – any measures, including all relevant laws, normative-legal acts, phytosanitary rules, requirements and procedures that are mandatory for execution by state power bodies and persons;

Phytosanitary rules – rules, prescribed by normative-legal acts, with regard to prevention of introduction and/or spread of quarantine organisms and limiting economic impact of regulated non-quarantine hazardous organisms, including phytosanitary certification procedures;

Phytosanitary procedure – a procedure prescribed by the central body of executive power on agrarian policy issues in the sphere of plant quarantine, and a method of application of phytosanitary rules, including the implementation of the survey, surveillance, analysis, inspection and control of the disinfection of regulated articles;

Fumigation (disinfection) – treatment with the help of a chemical substance in gaseous state, which shall fully or mainly cover the commodity;

Hazardous organism – any species, strain, or biotype of plants, animals, pathogenic agents harmful to plants or plant products, including insects, mites, fungi, bacteria, viruses, nematodes, and weeds.

Article 2. Legislation on Plant Quarantine

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

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 of 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:

Ensuring implementation of state policy in the sphere of plant quarantine;

Elaborating and implementing relevant national programs;

Directing and coordinating the activities of the bodies of the State Service of Plant Quarantine of Ukraine;

Entering into international agreements on behalf of the Government of Ukraine, including the agreements recognizing the equivalence of specified phytosanitary measures;

Imposing and removing quarantine regime pursuant to the procedure established by this Law;

Establishing the list of paid services and amount of fees for the bodies of the State Service of Plant Quarantine of Ukraine;

Adopting the list of regulated articles, procedure for issuing quarantine permit, quarantine certificate, phytosanitary certificate, phytosanitary certificate for re-export, and the time-periods of their validity;

Exercising other authorities with regard to management in the sphere of plant quarantine in accordance with the Constitution of Ukraine and the laws of Ukraine.

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

Authorities of the central body of executive power on agrarian policy issues shall include:

Issue orders with regard to management in the sphere of plant quarantine;

Ensure implementation of state policy in the sphere of plant quarantine;

Appoint and dismiss the head and deputy heads of the Chief State Inspectorate for Plant Quarantine of Ukraine;

Adopt the list of regulated hazardous organisms;

Adopt an organizational structure and number of personnel of the State Service of Plant Quarantine;

Implement other authorities with regard to management in the sphere of plant quarantine according to the law.

Article 6. The Tasks and System of the State Service of Plant Quarantine of Ukraine

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

Protect the territory of Ukraine from the introduction of regulated hazardous organisms;

Detect, contain and eliminate regulated hazardous organisms;

Prevent the entry of regulated hazardous organisms into zones that are free of such regulated hazardous organisms in the territory of Ukraine;

Exercise state control of the observation of the quarantine regime and performance of plant quarantine measures in course of growing, stocking up, bringing out, bringing in, transporting, storing, processing, selling and using of the regulated articles;

Register persons, carrying out economic activity related to production and circulation of regulated articles;

The State Service of Plant Quarantine of Ukraine shall include:

Chief State Inspectorate for Plant Quarantine of Ukraine, which shall be in the sphere of management of specially authorized central body of executive power on agrarian policy issues, and subordinated to the latter;

The Central Research and Development Quarantine Laboratory, which shall be under the Chief State Inspectorate for Plant Quarantine of Ukraine;

State inspectorates for plant quarantine of the Autonomous Republic of Crimea, the oblasts, the city of Kyiv and the city of Sebastopol, points of plant quarantine in the rayons, seaports, river ports (docks), relevant railway stations, in the airports (airfields), post offices, on highways, bus stations, bus terminals, entry/exit point on the state border of Ukraine;

If necessary, plant quarantine points may be also created at other objects, whose activities are related to stocking up, bringing out, bringing in, transporting, selling and using of regulated articles.

Article 7. Authority of the Chief State Inspectorate for Plant Quarantine of Ukraine

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

Determination, pursuant to the law, of the procedure for bringing in, bringing out and using of the plants, plant products, including under consent with quarantine services of other states pursuant to the international agreements of Ukraine;

Studying of species, biology and ecology of regulated hazardous organisms, elaborating the forecast of their spread, aimed to prevent the introduction and/or spread;

Developing draft normative-legal acts in the sphere of plant quarantine;

Keeping a database and informing the public and interested trading partners on the detection, occurrence, spread, containment, and, if necessary, elimination of regulated hazardous organisms;

Carrying out inspection and phytosanitary testing of regulated articles;

Exercising state control of the observation of phytosanitary measures;

Issuing of quarantine permits pursuant to the law;

Coordination of monitoring, detection and identification of regulated hazardous organisms in Ukraine;

Preparing the list of regulated hazardous organisms;

Preparing the list of regulated articles;

Exercising control of usage of biological control agents;

Submitting proposals to the Cabinet of Ministers of Ukraine pertaining to imposition or removal of quarantine regime;

Carrying out research and development in the sphere of plant quarantine;

Control of fumigation (disinfestation) by persons of regulated articles that are crossing the state border of Ukraine and/or the borders of quarantine zones;

Appointing and dismissing the 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;

Representation of Ukraine in the international organizations according to the procedure, established by the law;

Carrying out special research jointly with the national organizations on plant quarantine and protection of other countries pertaining to the assessment of compliance (incompliance) of regulated articles with phytosanitary rules;

Providing notifications to interested trading partners on phytosanitary prohibitions or restrictions;

Establishing a specially determined percentage of consignments subject to the random phytosanitary border control;

Keeping the national register of persons whose activities, pursuant to Article 27 of this Law, shall be subject to registration;

Providing responses to inquiries pertaining to phytosanitary measures.

Fumigation (disinfestation) of regulated articles, which cross the state border of Ukraine and quarantine zones, shall be subject to licensing in accordance with the law.

In order to exercise its authorities the State Service of Plant Quarantine of Ukraine shall interact with the central bodies of executive power, Council of Ministers of the Autonomous Republic of Crimea, and local state administrations.

Article 8. 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:

Issuing of phytosanitary certificates and quarantine certificates for plants, plant products, and other regulated articles;

Inspection and phytosanitary testing, of plants, plant products, and other regulated articles that are moving within the territory of Ukraine, crossing the state border of Ukraine and quarantine zones (including those in baggage, postal consignments, and passenger hand luggage);

Registering persons, whose activity, pursuant to Article 27 of this Law, shall be subject to registration;

Organizing and controlling treatment and fumigation of plants, plant products, and other regulated articles that are crossing the state border of Ukraine and quarantine zones;

Exercising state control of the implementation of phytosanitary measures applied to quarantine organisms in compliance with the law and the international agreements of Ukraine;

Organizing and carrying out systematic surveys of the land intended for agricultural purposes and the land of the forest fund, points of plant quarantine and their adjacent territories, places of circulation of plants, plant products and other regulated articles;

Exercising control of the activities of nurseries, state-owned strain-testing stations, hothouses, and greenhouses, whose activities are related to circulation of plants and planting and sowing material;

Exercising state control of production and circulation of plants, plant products and other regulated articles;

Taking emergency measures, pursuant to legislation, to contain and eliminate quarantine organisms, prevent their spread;

Disseminating information among persons in the sphere of plant quarantine;

Disseminating information and, if necessary, providing training for producers of plants, plant products and other regulated articles with regard to identification of relevant quarantine organisms;

Submitting proposals to the relevant state administrations with regard to imposition and removal of a quarantine regime.

Article 9. Officials Exercising State Control of Plant Quarantine

Organization and implementation of state control 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, the oblasts, city of Kyiv and city of Sebastopol, their deputies and state plant quarantine inspectors.

The Head of the Chief State Inspectorate for Plant Quarantine of Ukraine shall be the Chief State Inspector of Plant Quarantine of Ukraine, (who shall be) appointed and dismissed from his/her position by the central body of executive power on agrarian policy issues.

The Head of the State Inspectorate for Plant Quarantine of Ukraine shall have his/her deputies, including one first deputy, appointed and dismissed from their position, upon proposal of the head of the State Inspectorate for Plant Quarantine of Ukraine, by the central body of executive power on agrarian policy issues.

Heads of state inspectorates for plant quarantine (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 Head of the Chief State Inspectorate for Plant Quarantine of Ukraine. The heads of the state inspectorates for plant quarantine of Autonomous Republic of Crimea, the oblasts, the city of Kyiv, and the city of Sebastopol shall be chief state inspectors of plant quarantine of, correspondingly, the Autonomous Republic of Crimea, the oblasts, the city of Kyiv, and the city of Sebastopol.

Experts of the State Service of Plant Quarantine of Ukraine shall be the state plant quarantine inspectors.

The Law of Ukraine “On State Service” shall apply to the officials that have been assigned with the authorities of state inspectors of plant quarantine.

Records of state service of the officials, assigned with the authorities of state inspectors of plant quarantine, shall be accounted from the date of the Law of Ukraine “On Plant Quarantine” coming into force.

Heads of the Central research-and-development, the zonal (several oblasts), the oblast and the city quarantine laboratories, points of plant quarantine in the rayon, sea ports, river ports (docks), relevant railway stations, in airports (airfields), post offices, on the highways, bus stations, bus terminals, markets, entry/exit points on the state border of Ukraine, customs-houses shall be appointed and dismissed from their position by the Head of the Chief State Inspectorate for Plant Quarantine of Ukraine.

State inspectors of plant quarantine shall be provided with a uniform, funded from the State Budget of Ukraine.

Standard uniform and badges of rank, terms for wearing the latter, and the procedure for their provision shall be established by the Cabinet of Ministers of Ukraine.

Article 10. Rights and Obligations of Officials Exercising State Control and Supervision

The Chief State Inspector of Plant Quarantine of Ukraine, the Chief State Inspector of Plant Quarantine of the Autonomous Republic of Crimea, chief state inspectors of plant quarantine of the oblasts, the city of Kyiv, and the city of Sebastopol shall be the heads of the relevant inspectorates for plant quarantine, and shall exercise state control of the adherence to legislation in the sphere of plant quarantine.

State plant quarantine inspectors, within the limits of their authorities, shall have the right to:

Carry out phytosanitary procedures for regulated articles;

Detain regulated articles for inspection and phytosanitary testing if they are transported without relevant phytosanitary documents or do not comply with the phytosanitary requirements;

Carry out state control and supervision, inspection and monitoring of the relevant territory, regulated articles;

Obtain information necessary to exercise their authorities pursuant to the law;

Take samples from a consignment of plants and plant products for phytosanitary testing pursuant to the law;

Within the limits of their authorities, issue rulings, which shall be mandatory for execution, for phytosanitary measures implementation;

Unhindered access to the facilities (objects) for production and circulation of regulated articles plants, if there are grounds to conduct the verification prescribed by this and other laws of Ukraine, and if the persons are provided with an official paper for verification, specifying the date of its issuance, the name of the body of the State Service of Plant Quarantine of Ukraine, the purpose, the type of verification, the grounds, the date of commencement and termination of the verification, positions, titles and names of the officials of the body of the State Service of Plant Quarantine of Ukraine, who shall be conducting the verification. Verification paper shall be valid if it is signed by the head of the body of the State Service of Plant Quarantine of Ukraine and has a seal of the body of the State Service of Plant Quarantine of Ukraine.

Failure to provide the above documents or provision of the documents with violation of the requirements of this Article shall constitute grounds for not allowing the officials of the body of the State Service of Plant Quarantine of Ukraine to conduct the verification.

Implementation of verifications by the bodies of the State Service of Plant Quarantine of Ukraine must not violate an established working schedule of persons:

Provide insurance bodies with their conclusions on losses caused by elimination of quarantine organisms;

Pursuant to the procedure, established by the law, impose administrative penalties on persons that are guilty of violating the legislation on plant quarantine;

Chief State Inspector of Plant Quarantine of Ukraine, Chief State Inspector of 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:

In case of detection of quarantine organisms, within 24 hours submit relevant proposals on the quarantine regime imposition;

Act on the basis, within the limits of authorities and in the way, envisaged by this law, and comply with the requirements of normative-legal acts in the sphere of plant quarantine;

Ensure confidentiality of any information, which presents a commercial secret, except for cases specified in the law of Ukraine;

Present documents attesting to their powers;

Provide the owners of regulated articles, which are subject to state control, with the statements of the results of supervision, inspection and monitoring.

State plant quarantine inspectors shall be held liable, as prescribed by the law, for violation of the requirements of this Law and other normative-legal acts.

Article 11. Guarantees for the Activities of Officials Exercising State Control and Supervision

Chief State Inspector for Plant Quarantine of Ukraine, Chief State Inspector for Plant Quarantine of the Autonomous Republic of Crimea, chief state inspectors of plant quarantine of the oblasts, the city of Kyiv and the city of Sebastopol, and the state inspectors of plant quarantine, in their activities, shall be independent and shall be guided by the Constitution of Ukraine, this Law and other normative-legal acts.

Decisions of the state plant quarantine inspector pertaining to prohibition of growing, bringing out, bringing in, transporting (including export, import, transit), storing, selling or using of regulated articles, made within the limits of his/her authorities, shall be mandatory for execution.

Offence to the official, exercising state control of plant quarantine, as well as resistance, threats, violence and other acts hindering the performance of his/her duties and authorities, shall entail liability pursuant to the law.

Article 12. Rights and Obligations of Persons With Regard to Plant Quarantine

Persons, whose activities are related to production, processing, storage, transportation and trade in plants and plant products, shall have the right to obtain from the bodies of the State Service of Plant Quarantine of Ukraine information on the phytosanitary state in the relevant territory.

Losses of the persons, who suffered damage as a result of a quarantine regime application or due to the activities on elimination of quarantine organisms, shall be reimbursed pursuant to the law.

Persons, whose property was used with the purpose to prevent spread and to eliminate quarantine organisms, shall have the right to reimburse their losses pursuant to the law, and according to the procedure and in the amount, prescribed by the Cabinet of Ministers of Ukraine.

Persons, carrying out economic activities related to production, processing, storage, transportation, trade in plants and plant products shall be obliged to:

Comply with phytosanitary rules and implement phytosanitary measures;

Follow the rulings of the bodies of the State Service of Plant Quarantine of Ukraine pertaining to implementation of relevant quarantine measures;

Register with the relevant inspectorate for plant quarantine when so required according to Article 27 of this Law;

Upon request of the specialists of the State Service of Plant Quarantine of Ukraine, provide the latter with information on regulated articles;

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;

Provide plant quarantine inspectors with unhindered access to regulated articles at any stage of production, processing or circulation for carrying out inspection, verification of documents and taking of samples of regulated articles with the aim to determine their phytosanitary state according to a procedure prescribed by this Law;

Facilitate implementation of quarantine measures in quarantine zones and zones adjacent to the latter in case when quarantine organisms are detected;

Save all the phytosanitary certificates, quarantine certificates and quarantine permits for one year from the date of issuance of the above.

Rules of phytosanitary control shall be mandatory for execution by the state power bodies and the persons.

Persons and state power bodies shall be obliged to facilitate state plant quarantine inspectors in exercising their authorities.

Article 13. Phytosanitary Testing

Phytosanitary testing of regulated articles shall be conducted with the aim to detect and/or identify regulated hazardous organisms. Phytosanitary testing shall be conducted by quarantine laboratories of the State Service of Plant Quarantine of Ukraine, which shall be accredited pursuant to the legislation of Ukraine and authorized by the Chief State Inspectorate for Plant Quarantine of Ukraine to conduct necessary analyses in accordance with international standards, guidelines, and recommendations.

The Central Scientific-Research Quarantine Laboratory shall organize scientific research work in the sphere of plant quarantine, risk analysis, shall provide the quarantine laboratories referred to in paragraph 1 of this Article with methodical support on issues of quarantine laboratory diagnostics.

The Central Scientific-Research Quarantine Laboratory shall conduct repeated phytosanitary (arbitration) testing upon request of a person. Results of repeated phytosanitary (arbitration) testing shall be final.

The procedures for conducting repeated phytosanitary (arbitration) testing shall be adopted by specially authorized central body of executive power on agrarian policy issues.

SECTION III.

DEVELOPING AND APPLYING PHYTOSANITARY MEASURES

Article 14. Objectives of Phytosanitary Measures

Bodies exercising state management in the sphere of plant quarantine shall undertake necessary phytosanitary measures to achieve the following objectives:

Protect plant life and health in the territory of Ukraine from the risks arising from the introduction and/or spread of regulated hazardous organisms in Ukraine, or reduce those risks;

Prevent or limit any damage resulting from the introduction and/or spread of regulated hazardous organisms.

Article 15. Appropriate Level of Phytosanitary Protection

Central body of executive power on agrarian policy issues shall determine the appropriate level of phytosanitary protection.

The appropriate level of phytosanitary protection shall be determined based on the following:

Confirmed occurrence of regulated hazardous organisms in Ukraine;

Estimated economic losses for agricultural and/or forestry production associated with the introduction or further spread of regulated hazardous organisms in Ukraine;

Determination of the level of risk that is acceptable for neighbouring countries and interested trading partners;

International standards, guidelines, and recommendations;

Minimization of adverse effects of phytosanitary measures on international and domestic trade.

Article 16. Developing, Reviewing, Revising and Adopting Phytosanitary Measures

Phytosanitary measures shall be developed and/or reviewed by the Chief State Inspectorate for Plant Quarantine of Ukraine, and adopted by the relevant state power bodies pursuant to their authorities.

Phytosanitary measures shall be developed and reviewed based on the following:

Scientific principles, relevant production processes and methods;

Compliance with the methods of inspection, sampling and testing;

The level of spread of regulated hazardous organisms, availability of zones free of regulated hazardous organisms, or zones with insignificant quantity of the latter;

Ecological and environmental conditions;

Processing methods;

International standards in the sphere of plant quarantine and plant protection;

Results of risk analysis, conducted according to the methodology developed by international organizations;

Information, obtained from international organizations that is employed by interested partners.

In course of development and application of phytosanitary measures for imported regulated articles it shall be necessary to take into account the status of regulated hazardous organisms in Ukraine, as compared with the status of regulated hazardous organisms in the country of origin.

Arbitrary and unjustified discrimination shall be prohibited against interested partners, which are importing regulated articles to Ukraine from the countries, whose status of regulated hazardous organism is the same as in Ukraine.

Phytosanitary measures, applied in another country, shall be considered equivalent to those applied in Ukraine, if this country proves in an objective manner that these measures are in compliance with the level of plant protection or higher, as compared to those applied in Ukraine.

Phytosanitary measures, including phytosanitary rules, shall be subject to review and update, as new scientifically justified information or important (substantial) comments from interested partners are received.

Phytosanitary measures shall be reviewed no later than within six months upon their adoption or last review.

All phytosanitary measures, adopted under emergency circumstances, shall be reviewed and updated no later than 6 months from the date of their adoption or last review, aimed to ensure that such measures achieve, but do not exceed appropriate level of phytosanitary protection.

Visual examination, survey, analysis, disinfestations and inspection (drawing up a phytosanitary and quarantine certificates) of regulated articles shall be conducted according to a procedure established by the Cabinet of Ministers of Ukraine.

Article 17. Conducting Risk Analysis and Risk Management

Results of risk analysis of regulated articles shall be drawn up in written form, and shall contain the following information:

- Purpose of conducting risk analysis;

- Facts of detection of regulated hazardous organisms and ways of their entry (hosts, modes of transmission), establishment and spread of such;

- Sources of information;

- Conclusions of the phytosanitary risk assessment, including the probability of harm to plants and the consequences thereof;

- Options of risk management and reasons for rejecting alternative options.

Results of risk analysis in written and electronic form shall be available to all interested persons – both Ukrainian and foreign.

Risk analysis shall be conducted by the Chief State Inspectorate for Plant Quarantine of Ukraine.

Risk management shall mean risk reduction to plant health and life in line with the appropriate level of phytosanitary protection, defined in Ukraine.

When considering alternative options for reducing the risk of introduction of quarantine organisms, defined 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 18. Determining the Effectiveness of a National Plant Protection Organisation

Determination of the effectiveness of the foreign national plant protection organization shall be based on objective criteria, established by the Secretariat of the International Convention for Plant Protection.

In course of determination of the effectiveness of the foreign national plant protection organization the following shall also be taken into consideration: frequency of invalid phytosanitary certificates, attesting to freedom of regulated hazardous organisms in a consignment of regulated articles that is imported, which were issued by an authorized official of the foreign national plant protection organization for the consignment of regulated articles that is imported, but were invalidated as a result of phytosanitary testing of samples of this consignment.

All factors considered and relevant conclusions made when evaluating the effectiveness of a foreign national plant protection organization shall be documented and provided to the foreign national plant protection organization upon request. Should the foreign country request consultations or have comments on the evaluation of its effectiveness, consultations shall commence and the results of the consultations, and clarifications shall be analyzed to determine whether there is a basis to review the evaluation of the effectiveness of the foreign national plant protection organization.

Article 19. Notifying the Application of Phytosanitary Measures

In order to provide a notification on application of phytosanitary measures, the Chief State Inspectorate for Plant Quarantine of Ukraine shall:

Within three days upon completion of development of phytosanitary measures, publish a relevant notification in mass media publications;

Report the phytosanitary measures to the Centre for Processing Inquiries of the Member-States of the World Trade Organization and the World Trade Organization and Providing Information to the Latter (hereinafter-Center for Processing Inquiries) to inform the member-states of this organization with the aim to reduce the effects on export opportunities of interested partners.

The notification shall be published no less than 60 days before application of the phytosanitary measure. The notification shall be drawn up in a format and according to the requirements of the relevant international organizations or international agreements. The notification shall specify regulated articles, to be covered and/or affected by the phytosanitary measure together with a brief content and rationale of the proposed measure.

Upon request of persons or interested partners the Chief State Inspectorate for Plant Quarantine of Ukraine shall provide information on phytosanitary measures, specifying, if necessary, those provisions that are different from international standards.

The Chief State Inspectorate for Plant Quarantine of Ukraine shall review written comments about the emergency phytosanitary measure, received from interested partners or persons, and upon their written request, shall discuss such comments and take the comments and results of the discussion into account when considering the issue of revision of the emergency phytosanitary measure.

When emergency circumstances arise, and as a consequence, an emergency phytosanitary measure is implemented, a notification shall be published in official publications of state power bodies.

The Chief State Inspectorate for Plant Quarantine of Ukraine shall determine the effects of an emergency phytosanitary measure on export opportunities of interested partners.

Article 20. Documentation of Phytosanitary Measures.

The Chief State Inspectorate for Plant Quarantine of Ukraine shall respond, within 10 calendar days, to all questions and inquiries, associated with phytosanitary measures, received from the Centre for Processing Inquiries, which include:

Adopted or proposed phytosanitary measures; control, inspection and approval procedures;

Phytosanitary risk assessment procedures, factors taken into consideration, and methods of determining the appropriate level of phytosanitary protection;

The membership and participation of Ukraine in the relevant international organizations or relevant international agreements regarding phytosanitary measures and the texts of such agreements.

The Cabinet of Ministers of Ukraine shall establish the amount of fees to be collected for provision of information to interested parties and persons.

Article 21. Publishing and Carrying Out Phytosanitary Measures

Phytosanitary measures shall be published within 3 days upon their adoption in the official publications of the relevant state power bodies.

Except for emergency phytosanitary measures, phytosanitary measures shall be carried out no sooner than 6 months after publication.

Article 22. Principles for Applying Phytosanitary Measures

When applying phytosanitary measures, the Chief State Inspectorate for Plant Quarantine of Ukraine shall take the following into account:

Necessary extent to fulfill the objective, referred to in Article 15 of this Law;

No disguised restriction on international trade;

Avoidance of arbitrary introduction of the latter, or discrimination in international trade.

Article 23. Equivalence Agreements for Phytosanitary Measures

The Chief State Inspectorate for Plant Quarantine of Ukraine shall, upon request of interested partners, conduct consultations on determination of the equivalency of

phytosanitary measures, aimed at further (subsequent) conclusion of the agreements on such equivalency pursuant to the law.

Article 24. Principles of Verification, Inspection, and Approval Procedures

The Chief State Inspectorate for Plant Quarantine of Ukraine shall provide for carrying out verification, inspection and approval of phytosanitary measures, based on:

Conformity with international standards in the sphere of plant quarantine and plant protection;

Control of their observance;

Taking samples of regulated articles;

Upon request of a person for carrying out verification, inspection and approval;

Informing the person on expected time for completing such procedures;

Preliminary obtained results with regard to phytosanitary state;

Scientifically justified information that is necessary to conduct verification, inspection and approval;

Protection of commercial interests of the applicant;

Payment of fee for conducting verification, inspection and approval procedures.

SECTION IV.

IDENTIFYING, MONITORING AND CONTROLLING REGULATED HAZARDOUS ORGANISMS

Article 25. Establishing the List of Regulated Hazardous Organisms

The State Service of Plant Quarantine of Ukraine shall prepare the List of Regulated Hazardous Organisms, which shall include:

Quarantine organisms that are absent in Ukraine (List -1);

Quarantine organisms of limited distribution in Ukraine (List -2);

Regulated non-quarantine hazardous organisms.

List of Regulated Quarantine Hazardous Organisms shall be established based on the Lists of Hazardous Organisms, included into the Lists A-1 and A-2 of the European and Mediterranean Plant Protection Organisation (EPPO), and/or the lists of other relevant international organizations, should it be determined on the

baissi of the phytosanitary risk assessment that there is a high level of threat of introduction and/or spread of such hazardous organisms for plants in the territory of Ukraine.

The level of presence of regulated non-quarantine hazardous organisms that constitutes an infestation shall be determined for each type of sowing and planting material.

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 publications of the state power bodies.

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, and published in the official publications of the state power bodies, and also made available in the Internet.

Article 26. Establishing the Lists of Regulated Articles

The Cabinet of Ministers of Ukraine, under submission of the central body of executive power on agrarian policy issues, shall adopt the List of Regulated Articles.

The List of Regulated Articles shall be formulated according to the international standards, guidelines and recommendations.

The List of Regulated Articles shall stipulate regulated articles from specific countries or zones of the countries of origin, prohibited for imports due to the status of regulated hazardous organisms in the territory, from which such regulated articles are originating.

Changes to the List of Regulated Articles shall be made according to the changes of the status of regulated hazardous organisms of a foreign country, new scientific information and international standards.

Article 27. Registration of Persons Carrying Out Economic Activities Related to Production and Circulation of Regulated Articles

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:

Persons carrying out economic activities of circulation of regulated articles in quarantine and regulated zones;

Persons, who produce planting or sowing material;

Persons, who implement biological control using biological control agents;

Persons carrying out economic activities of production and marking of wooden packaging material;

Persons storing and processing grain.

Registration of persons shall be carried out based on the results of verification of regulated articles by the state inspector of plant quarantine.

Persons registered with the bodies of the State Service of Plant Quarantine of Ukraine shall be assigned a registration number.

No fee shall be charged for such registration.

The procedure for registering persons shall be prescribed by the central body of executive power on agrarian policy issues.

Article 28. Early Warning System for Quarantine Organisms

Persons must inspect plants that are grown on the land intended for agricultural purposes, fields, plantations, nurseries, gardens, in forests, open territories, greenhouses, and other places, including places of storage, processing and vehicles for transportation of regulated articles.

Should an infestation of regulated articles with regulated hazardous organisms be suspected, the person shall inform the state inspector of plant quarantine within 24 hours.

State inspector of plant quarantine shall carry out phytosanitary procedures aimed at verification of suspected occurrence of a regulated hazardous organism. Should the above suspicion be confirmed, state inspector of plant quarantine shall prescribe phytosanitary measures with the aim to prevent spread, to contain and/or eliminate hazardous organisms. The latter must be implemented by persons.

Article 29. Movement Controls for Regulated Articles

Regulated articles shall be moved in the territory of Ukraine, accompanied by a quarantine certificate in cases of:

Bringing out (exit) and/or bringing in (entry) of regulated articles to a quarantine zone;

Transportation of imported regulated articles, which were stored, re-packed, divided into portions, combined with other consignments.

Quarantine certificate shall be issued by the state inspector of plant quarantine no earlier than 14 days before the date of movement of regulated articles in the territory of Ukraine the basis of conducted phytosanitary procedures.

State inspector of plant quarantine shall be obliged to make a decision to issue or deny issuance of a quarantine certificate within 5 days.

A person shall be provided with a decision denying issuance of a quarantine certificate in written form.

The grounds to deny issuance of a quarantine certificate shall be:

Incompliance of regulated articles with the requirements of phytosanitary measures;

Detection of infestation of regulated articles with regulated hazardous organisms;

Failure of the person to register, as envisaged by Article 27 of this Law;

Incompliance of regulated articles with those declared by the person for movement in the territory of Ukraine;

Failure to follow the rulings of the state inspector of plant quarantine with regard to phytosanitary measures application;

Failure to effect payment for issuance of the quarantine certificate.

The grounds to revoke a quarantine certificate shall be:

Violation by a person of the requirements of phytosanitary measures, stipulated in a quarantine certificate.

Information from a person on the fact of losing the quarantine certificate;

Damaged quarantine certificate, making it impossible to determine the phytosanitary state of regulated articles;

Fraudulent quarantine certificate.

Procedure for drawing up quarantine certificates shall be prescribed by the Cabinet of Ministers of Ukraine.

Payments for issuance of the quarantine certificates shall be effected according to a procedure prescribed by the Cabinet of Ministers of Ukraine.

A person that, according to established procedure, provided state inspector of plant quarantine with all necessary documents and paid the fee, and failed to receive a decision to issue or deny issuance of a quarantine certificate within a defined time-period, shall have the right to carry out a declared movement of regulated articles.

Regulated articles, arriving in a zone free of regulated hazardous organisms, shall be subject to inspection with the aim to determine:

Absence of infestation with regulated hazardous organisms;

Their compliance with phytosanitary rules.

Regulated articles may be moved within the boundaries of a zone free of regulated hazardous organisms without a quarantine certificate.

Decision to deny issuance of a quarantine certificate may be appealed in the Chief State Inspectorate for Plant Quarantine of Ukraine, or in court.

Application, appealing a decision to deny issuance of a quarantine certificate, shall be filed with the Chief State Inspectorate for Plant Quarantine of Ukraine within a time-period of no more than ten days from receipt of the relevant decision.

The applicant shall be informed on the results of the review in written form.

Article 30. Inspection of Regulated Articles

Regulated articles shall be subject to inspection, aimed to verify their phytosanitary state according to a procedure prescribed by specially authorized central body of executive power on agrarian policy issues.

Customs clearance of regulated articles shall be conducted only after conducting an inspection.

Should it be determined during the inspection that there is a threat of the spread of regulated hazardous organisms, the state plant quarantine inspector shall issue a ruling on implementation of relevant phytosanitary procedures by the person.

The Chief State Inspectorate for Plant Quarantine of Ukraine shall prescribe methods for inspection, taking of samples and phytosanitary testing.

Article 31. Places of Production and Production Sites Free of Regulated Hazardous Organisms

Places of production or production sites free of regulated hazardous organisms shall be a production or a site, in which, on the basis of an inspection, it is officially determined that regulated hazardous organisms are absent, and, where appropriate, this condition is being officially maintained for a defined period.

Places of production or production sites free of regulated hazardous organisms shall be determined upon request of a person engaged in production of regulated articles.

The relevant state inspectorate for plant quarantine and the person engaged in production of regulated articles shall implement procedures for determining and/or maintaining the status of the places of production or production sites as free of regulated hazardous organisms.

Procedure for official determination and/or maintenance of the status of the place of production or production site as free of regulated hazardous organisms, revocation of such status, its renewal, and other conditions of the official determination shall be prescribed by the central body of executive power on agrarian policy issues.

Cabinet of Ministers of Ukraine shall prescribe the amount of fees for rendering of services, specified in this Article, according to current legislation.

Article 32. Biological Control of Hazardous Organisms

Biological control agents that may be used for the purposes of biological control of regulated hazardous organisms, as well as the requirements related to objects and equipment, used by the persons implementing biological control, shall be prescribed by the central body of executive power on agrarian policy issues.

Usage of biological control agents may be referred to as phytosanitary measures on containment and elimination of quarantine organisms, which shall be conducted under control of the Chief State Inspectorate for Plant Quarantine of Ukraine.

State Service of Plant Quarantine of Ukraine shall keep records of imports and usage of biological control agents.

Article 33. Procedure for Imposing and Removing a Quarantine Regime in Ukraine

Should quarantine organisms be detected 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 Chief State Inspector of Plant Quarantine of Ukraine; in 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, local state administration, respectively, upon submission of, respectively, the chief state inspectors of plant quarantine or the state inspectors of plant quarantine.

The quarantine regime shall be imposed within 24 hours from the moment of detection of the quarantine organism.

The body that makes a decision to impose or remove a quarantine regime shall, within 24 hours, inform the persons that are located or reside in the regulated zone.

It shall be mandatory that the decision on quarantine regime imposition stipulate the following:

- Circumstances that caused imposition of the quarantine regime, including identification of the specific quarantine organism of concern;

- Boundaries of the quarantine zone and the regulated zone ,in which the quarantine regime shall be imposed;

- Time, starting from which the quarantine regime shall be imposed;

- Phytosanitary measures to be applied in the quarantine zone, and the persons implementing the latter.

Article 34. Phytosanitary Measures That Are Applied in a Quarantine and Regulated Zone

The following special measures shall be applied in quarantine zones and regulated zones on the grounds, and in the procedure, established by the law:

Inspection and phytosanitary testing of regulated articles;

Control over the containment and elimination of quarantine organisms by persons;

Prohibition of bringing out of the quarantine zones and regulated zones of regulated articles that are infested with the quarantine organisms;

Fumigation (disinfestation) of regulated articles;

Technical processing of regulated articles that are infested with quarantine organisms.

Plants, plant products and other regulated articles, 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.

Local state administrations, owners (bodies authorized by the latter) of the sea ports and river ports (docks), railway stations, airports (airfields), bus stations (bus terminals), officials of the customs-houses and entry/exit points on the state border of Ukraine, on the highways shall facilitate state inspectors of plant quarantine in implementing quarantine measures.

Losses caused by unlawful actions of the bodies and the officials, which provide for implementation of quarantine measures, shall be reimbursed according to the law.

SECTION V.

INTERNATIONAL TRADE

Article 35. Prohibited or Restricted Imports

It shall be prohibited to import regulated articles, which:

are infested with quarantine hazardous organisms;

may result in the introduction of quarantine organisms into the territory of Ukraine;

may increase the population of indigenous regulated hazardous organisms to a level that is not in accordance with the level of phytosanitary protection.

Biological control agents imported for purposes of scientific research or biological control shall be accompanied by a quarantine permit.

Imports of hazardous organisms for purposes of scientific research and other specific purposes shall be allowed according to a procedure, prescribed by the central body of executive power on agrarian policy issues.

Article 36. Requirements for Import and Transit Consignments

Import and transit consignments of regulated articles must comply with the following requirements:

- Be free of quarantine organisms;

- Be accompanied by original phytosanitary certificates;

- Be accompanied by quarantine permits;

- Shall not originate from an object or a zone of production, or move through a zone, to which a quarantine regime shall apply, confirmed by the national plant protection organization of the country of export or transit.

Should an import or transit consignment of regulated articles be delivered or stored, re-packed or divided in another country, it shall be accompanied by original international phytosanitary certificate from the country of origin or its certified copy, in addition to original phytosanitary certificate for re-export..

Should an import or transit consignment of regulated articles be imported into several countries, and as a result, several phytosanitary certificates for re-export be issued, such consignment must be accompanied by original phytosanitary certificate for re-export in addition to original or certified copy of a phytosanitary certificate issued in the country of origin.

If, unlike the country of destination, the country of re-export does not require a phytosanitary certificate of the country of origin for the relevant consignment, the latter shall be accompanied by original phytosanitary certificate for re-export.

Article 37. Quarantine Permit for Import or Transit

Import and transit consignments of regulated articles shall be brought into the territory of Ukraine under quarantine permits.

Quarantine permits shall be issued by the Chief State Inspectorate for Plant Quarantine of Ukraine.

Procedure for drawing up a quarantine permit and establishing a fee for issuance of a quarantine permit shall be prescribed by the Cabinet of Ministers of Ukraine.

Quarantine permit for transit shall not be required for regulated articles, transiting the territory of Ukraine in hermetically sealed, isothermal, isolated vehicles, under condition that a seal, applied by the customs authority of the

exporting country is not damaged. This provision shall not apply to re-export consignments.

The following shall be taken into account while drawing up a quarantine permit:

The intended use of regulated articles;

The geographic and other characteristics of Ukraine, country of origin, country of re-export and transit that affect the ability of regulated hazardous organisms to survive, establish, and spread;

The existence in the country of origin of zones free of quarantine organisms or zones with insignificant occurrence of the latter, import or transit from which presents no risk of the introduction of a quarantine organism;

The effectiveness of the national plant protection organization in the country of origin or re-export relative to that of Ukraine, defined according to Article 18 of this Law;

The effectiveness of phytosanitary measures, implemented in the country of origin or re-export, and the requirements to origin of regulated articles from production sites free of quarantine organisms, results of phytosanitary testing conducted in the country of origin or re-export;

The effectiveness and risk associated with quarantine supervision, aimed at monitoring the consignment.

Quarantine permits for import and transit shall specify the phytosanitary measures that must be conducted prior to shipment by an importer and upon entry.

Quarantine permit for import of biological control agents shall be issued on the basis of the guidelines and recommendations of the relevant international organizations.

A person, which, according to established procedure, provided the Chief State Inspectorate for Plant Quarantine of Ukraine with all necessary documents and paid the fee, and failed to receive a decision to issue or deny issuance of a quarantine permit within a defined time-period, shall have the right to carry out a declared movement of regulated articles.

The Chief State Inspectorate for Plant Quarantine of Ukraine shall be obliged to make a decision to issue or deny issuance of a quarantine permit within 5 days.

A person shall be provided with a decision denying issuance of a quarantine permit in written form.

The grounds to deny issuance of a quarantine permit shall be:

Arrival of regulated articles from the territories of the countries where quarantine organisms are spread;

Arrival of regulated articles from the territories of the countries where quarantine organisms are spread, which have limited distribution in the territory of Ukraine, in the zones free from such quarantine organisms in the territory of Ukraine;

Failure to comply with phytosanitary measures in course of circulation of regulated articles by a person;

The fact of a person lacking conditions to place sowing and planting material for verification procedure;

Prohibition by a country of origin to bring out regulated articles, which has been officially notified to the Chief State Inspectorate for Plant Quarantine of Ukraine or envisaged by the international agreements;

Failure of the person to register, as envisaged by Article 27 of this Law;

Failure to follow the rulings of the state inspector of plant quarantine with regard to implementation of phytosanitary measures;

Failure to effect payment for issuance of a quarantine permit.

The grounds to revoke a quarantine permit shall be:

Incompliance of regulated articles with those declared by a person for movement in the territory of Ukraine;

Violation by a person of the requirements of phytosanitary measures, stipulated in a quarantine permit;

Fraudulent quarantine permit;

Information from a person on the fact of losing the quarantine permit;

Damaged quarantine permit, which makes it impossible to determine the contents of the document;

Decision to deny issuance of a quarantine permit may be appealed in the central body of executive power on agrarian policy issues, or in court.

Application, appealing a decision to deny issuance of a quarantine permit, shall be filed with the central body of executive power on agrarian policy issues within a time-period of no more than ten days from receipt of the relevant decision. Application shall be considered within 10 days.

The applicant shall be informed on the results of the review in written form

Article 38. Plant Quarantine Points at the Entry/Exit Points on the State Border of Ukraine

Phytosanitary control of import and transit of regulated articles shall be conducted by the state plant quarantine inspectors in designated plant quarantine points at the entry/exit points on the state border of Ukraine (hereinafter: border plant quarantine points).

Border plant quarantine point shall be created at the entry/exit point on the state border of Ukraine and shall be equipped, at the expense of the State Budget of Ukraine, with the following:

Means and premises for conducting inspection of transport vehicles and regulated articles, taking of samples, phytosanitary testing and fumigation (disinfection);

Means of communications including Internet.

Quarantine laboratory facilities and equipment necessary to conduct express analysis; and border plant quarantine points shall have specially allocated and equipped, in accordance with the law, places for destruction of regulated articles, infested with regulated hazardous organisms.

Regulated articles arriving at the entry/exit points on the state border of Ukraine, where border plant quarantine points are not available, shall be redirected to the nearest border plant quarantine points.

Article 39. Standard Phytosanitary Control

All import and transit consignments of regulated articles shall be subjected to standard phytosanitary border control in the form of inspection, conducted with the aim to determine that:

The quarantine permit, accompanying a regulated article, is valid, if the latter is required by current phytosanitary measures;

Regulated article is accompanied with a phytosanitary certificate, if the latter is required according to current phytosanitary measures;

Regulated articles are compliant with the accompanying documents;

There are no quarantine organisms and signs of damage of the consignment.

The consignment shall be allowed entry to Ukraine or shall be allowed for transit through the territory of Ukraine under the following conditions:

If it is accompanied by a valid quarantine permit;

If a complete and authentic phytosanitary certificate is available;

There are no quarantine organisms and signs of infestation with the latter;

Transit consignment has a seal, applied by the customs authority of an exporting country that is not damaged;

Previous consignments with similar regulated articles from the country of origin and/or specific object of origin were accompanied by complete and authentic phytosanitary certificates;

The consignment complies with the requirements of the quarantine permit and phytosanitary measures.

In case if a consignment of regulated articles that must be accompanied by a quarantine permit and/or phytosanitary certificate, arrives at a border plant quarantine point without such documents, this consignment shall be subject to detention by the

state inspector of plant quarantine and application of procedures, stipulated in Article 41 of this Law.

In those cases where the state plant quarantine inspector establishes that a phytosanitary certificate, accompanying a regulated article, is incomplete or fraudulent or otherwise falsified, or if he/she concludes that regulated articles in such consignment do not comply with those specified in the phytosanitary certificate, the consignment shall be detained at the relevant border plant quarantine point, and the latter shall be informed to the Chief State Inspector of Plant Quarantine of Ukraine or his/her authorized representative.

The Chief State Inspector of Plant Quarantine of Ukraine or his/her authorized representative shall within 24 hours contact the foreign national plant protection organization of the country of origin or re-export for consultations, and they jointly determine the actions to be taken with regard to this consignment.

In case if a quarantine organism is visually detected in a consignment, state inspector of plant quarantine shall within 24 hours inform the latter to the owner of the consignment and the Chief State Inspectorate for Plant Quarantine of Ukraine, and shall implement the procedures, stipulated in Article 41 of this Law.

Standard phytosanitary border control may be conducted according to the procedure, prescribed by the Chief State Inspectorate for Plant Quarantine of Ukraine, in a specially designated location in the territory of Ukraine under condition if such consignment stays under customs control.

Consignments of regulated articles may be inspected by the state inspectors of plant quarantine or persons authorized by the State Service of Plant Quarantine of Ukraine in places of shipment in the country of origin or re-export upon request and at the expense of the importer. In such cases phytosanitary control shall be conducted in the place of destination of the consignment.

Article 40. Random Phytosanitary Control

The Chief State Inspectorate for Plant Quarantine of Ukraine, based on the data of detection of quarantine organisms in the consignments of regulated articles of any origin that are imported, and also based on other factors that may affect plant life and health, shall prescribe a specially defined percentage of consignments, which shall be subject to mandatory extended phytosanitary control.

Mandatory extended phytosanitary border control at the border shall be applied in compliance with the procedure on random phytosanitary control, adopted by the Chief State Inspectorate for Plant Quarantine of Ukraine prior to the beginning of new calendar year for the next year.

The Procedure for random phytosanitary control shall prescribe specially defined percentage of consignments of regulated articles classified into the categories:

- Live plants of any origin;
- Plant products;
- Other regulated articles of any origin.

Article 41. Extended Phytosanitary Control of Consignments with Regulated Articles that are Imported

The grounds for conducting an extended phytosanitary control of consignments of regulated articles, which are imported, at the border point of plant quarantine shall be:

Absence of a quarantine permit and/or phytosanitary certificate, if the consignment of regulated articles must be accompanied by such documents;

Fraudulent or otherwise falsified phytosanitary certificate, accompanying a regulated article;

Incompliance of regulated articles in the consignment with the phytosanitary certificate;

Visually revealed infestation of the consignment with regulated hazardous organisms or visible signs of infestation with the latter;

Visible signs of damage of the consignment and/or transportation means, where the consignment is located.

Decision to detain the consignment for an extended phytosanitary control shall be made by the state inspector of plant quarantine in case one of the above grounds are in place.

The state inspector of plant quarantine shall inform the owner of the consignment about the reason of its detainment, and shall take samples of the consignment according to the procedure for conducting a phytosanitary testing.

Consignments, which shall be subject to an extended phytosanitary control, shall be isolated for the time-period of conducting a phytosanitary testing at the border point of plant quarantine.

Should the results of phytosanitary testing confirm infestation with a quarantine organism, the owner of the consignment shall be informed on the latter.

Should the phytosanitary testing not confirm the infestation with a quarantine organism, the consignment shall be subjected to further customs procedures, and be issued a quarantine certificate.

The importer, within 48 hours of the receipt of the notice of infestation of the consignment with a quarantine organism, shall have the right to request a repeated phytosanitary (arbitration) testing. Should the results of repeated phytosanitary

(arbitration) testing be different from the results of original phytosanitary testing, the results of repeated phytosanitary (arbitration) testing shall prevail.

Article 42. Disposition of Consignments Denied Entry

Upon confirmation of the infestation of import and transit consignments of regulated articles with a quarantine organism, the Chief State Inspectorate for Plant Quarantine of Ukraine shall contact the foreign national plant protection organization of the country of origin or re-export with the aim to determine phytosanitary measures with respect to the consignment.

The consignments infested with quarantine organisms shall be subjected to all possible phytosanitary procedures, application of which will enable entry of regulated articles, upon consent and at the expense of the owner.

Should it be impossible to carry out phytosanitary procedures, application of which will enable entry of regulated articles, the Chief State Inspectorate for Plant Quarantine of Ukraine shall inform the foreign national plant protection organization of the country of origin or re-export and the owner of the consignment about the return of the consignment.

Should the nature of a quarantine organism, with which a regulated article is infested, not allow to postpone the implementation of the necessary phytosanitary procedures and cause inappropriate level of phytosanitary protection (i.e. there is a high risk of introduction of the quarantine organism into Ukraine), the consignment may be destroyed in a safe manner without any consultations with foreign national organization of plant protection of the country of origin or re-export or the owner of the consignment.

In case of carrying out phytosanitary procedures, the Chief State Inspectorate for Plant Quarantine of Ukraine shall within 24 hours inform the owner of the consignment, the foreign national plant protection organization of the country of origin or re-export, and when necessary, the country of transit.

Article 43. Detection of an Outbreak of Quarantine Organisms in the Country of Origin, Re-Export or Transit

Should a detection of an outbreak and spread of a quarantine organism be confirmed in a specific territory or production site of the country of origin or transit, it shall be prohibited to import from or transit through the latter the consignments of regulated articles, which may cause introduction and spread of this quarantine organism, despite available quarantine permit.

Detection of an outbreak of quarantine organisms and their spread must be confirmed by relevant international organizations or foreign national plant protection organization of the country of origin, re-export or transit.

In case of arrival of such consignments, the state plant quarantine inspector shall suspend the consignment at the border and inform the Chief State Inspectorate for Plant Quarantine of Ukraine with the aim to take measures, prescribed in Article 41 of this Law.

In case of the risk of introduction of a quarantine organism into Ukraine or its transmission by export or transit consignments of Ukraine, or by the consignments that are moved through the territory of a neighboring country due to uncontrolled spread of such quarantine organism in the neighboring territory, the Chief State Inspectorate for Plant Quarantine of Ukraine shall prescribe:

Control over the occurrence of quarantine organisms in border territories, in which there is such threat for regulated articles, susceptible to a specific quarantine organism or capable of transmitting the latter;

Prohibition or restriction of import, export or transit of regulated articles due to the risk of infestation of a consignment as a result of its movement through this territory.

Article 44. Quarantine Supervision for Imported Plants

When so indicated in the quarantine permit, imported regulated articles shall be subjected to quarantine supervision to monitor and verify their phytosanitary state.

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, which shall be confirmed by the central body of executive power on agrarian policy issues.

The Chief State Inspectorate for Plant Quarantine of Ukraine shall determine the place for quarantine monitoring. The latter shall be controlled by the state plant quarantine inspectors.

Article 45. Phytosanitary Procedures for Consignments in Customs-Houses of Destination

Phytosanitary procedures, stipulated in Articles 39- 41 and 44 of this Law, shall be applied to the consignments of regulated articles in the customs-houses of destination or customs warehouses.

The state plant quarantine inspector shall carry out quarantine supervision to ensure adherence to the phytosanitary measures in course of storage, packing, un-packing, re-packing, processing and treatment of regulated articles in the customs-houses of destination and customs warehouses.

Should such consignments be exported, phytosanitary certificate for re-export shall be issued.

Article 46. Phytosanitary Control of Consignments with Regulated Articles that Are Exported

Regulated articles that are exported or re-exported shall be accompanied by an original phytosanitary certificate or a phytosanitary certificate for re-export and/or other documents requested by the country of destination.

Phytosanitary certificate or a phytosanitary certificate for re-export shall be issued by the state plant quarantine inspector no earlier than 14 days before the date of movement of regulated articles on the basis of conducted phytosanitary procedures.

The state plant quarantine inspector shall be obliged to make a decision to issue or deny issuance of a phytosanitary certificate or a phytosanitary certificate for re-export within 5 days.

Decision to issue or deny issuance of a phytosanitary certificate or a phytosanitary certificate for re-export shall be provided in written form.

The grounds for making a decision to issue or deny issuance of a phytosanitary certificate or a phytosanitary certificate for re-export shall be:

- Incompliance of regulated articles with the requirements of phytosanitary measures;

- Detection of infestation of regulated articles with regulated hazardous organisms, taking into account the requirements of the importing country;

- Failure of the person to register, as prescribed in Article 27;

- Incompliance of available regulated articles with those declared by a person for movement;

- Failure to follow the rulings of the state plant quarantine inspector with regard to phytosanitary measures application;

- Failure to effect payment for issuance of the phytosanitary certificate or a phytosanitary certificate for re-export.

The grounds for revocation of a phytosanitary certificate or a phytosanitary certificate for re-export shall be:

- Information from a person on the fact losing the phytosanitary certificate or phytosanitary certificate for re-export;

- Changes in the method of transportation of transportation vehicles;

- Fraudulent phytosanitary certificate or phytosanitary certificate for re-export;

- Damaged phytosanitary certificate or phytosanitary certificate for re-export, which makes it impossible to determine the phytosanitary state of regulated articles.

Procedure for drawing up a phytosanitary certificate or a phytosanitary certificate for re-export shall be prescribed by the Cabinet of Ministers of Ukraine.

Payments for issuance of a phytosanitary certificate or a phytosanitary certificate for re-export shall be effected according to the procedure prescribed by the Cabinet of Ministers of Ukraine.

A person that, according to established procedure, provided the state inspector of plant quarantine with all necessary documents and paid the fee, and failed to receive a decision to issue or deny issuance of a phytosanitary certificate or a phytosanitary certificate for re-export within a defined time-period, shall have the right to carry out a declared movement of regulated articles.

Decision to deny issuance of a phytosanitary certificate or a phytosanitary certificate for re-export may be appealed in the Chief State Inspectorate for Plant Quarantine of Ukraine, or in court.

Application, appealing a decision to deny issuance of a phytosanitary certificate or a phytosanitary certificate for re-export, shall be filed with the Chief State Inspectorate for Plant Quarantine of Ukraine within a time-period of no more than ten days from receipt of the relevant decision. The application shall be considered within 10 days.

The applicant shall be informed on the results of the review in written form.

A person that, according to established procedure, provided state inspector of plant quarantine with all necessary documents and paid the fee, and failed to receive a decision to issue or deny issuance of a a phytosanitary certificate or a phytosanitary certificate for re-export within a defined time-period, shall have the right to carry out a declared movement of regulated articles.

Phytosanitary certificate or a phytosanitary certificate for re-export must have a serial number and comply with standard certificates of the international organizations, and, when necessary, stipulate additional declarations, required by the country of destination.

SECTION VI.

LIABILITY FOR VIOLATION OF LEGISLATION ON PLANT QUARANTINE

Article 47. Liability for Violation of Legislation on Plant Quarantine

Persons that are guilty of violating the legislation on plant quarantine shall be held liable according to the law.

Liability for violation of legislation in the sphere of plant quarantine shall be imposed on persons guilty in:

- Spread of quarantine organisms;
- Violation of the requirements of phytosanitary measures;
- Failure to follow the rulings of the state plant quarantine inspector pertaining to implementation of relevant quarantine measures;
- Failure to register in accordance with Article 27 of this Law;
- Failure to inform the state plant quarantine inspector on detection of regulated hazardous organisms;
- Bringing into the territory of Ukraine, bringing out of quarantine zones of regulated articles, which failed to go through phytosanitary control, and their sale;
- Failure to meet lawful requirements of the officials, implementing state control of the adherence to legislation on plant quarantine.

Laws of Ukraine may prescribe liability for other types of violation in the sphere of plant quarantine.

SECTION VII.

SCIENTIFIC AND FINANCIAL SUPPORT IN THE SPHERE OF PLANT QUARANTINE

Article 48. Scientific Support to the State Service of Plant Quarantine of Ukraine

The State Service of Plant Quarantine of Ukraine shall organize, pursuant to the law, and provide scientific support in the sphere of plant quarantine, including that provided through scientific establishments, enterprises and organizations.

Article 49. Funding of Phytosanitary Measures

Phytosanitary measures shall be funded from the State Budget of Ukraine, funds of the persons and other sources that are not prohibited by the laws of Ukraine.

An exhaustive list of paid services of the State Service of Plant Quarantine of Ukraine shall be prescribed only by this law, and shall include visual examination, survey, analysis, disinfestation, inspection, treatment, organization and implementation of control of the works on fumigation (disinfestation) of regulated articles.

Fees for paid services, which shall be adopted by the Cabinet of Ministers of Ukraine, must be equal to actual costs of services rendered.

Article 50. Funding and Logistical Support to the Bodies of the State Service of Plant Quarantine of Ukraine

Funding and logistical support to the bodies of the State Service of Plant Quarantine of Ukraine shall be provided from the General Fund and the Special Fund of the State Budget of Ukraine.

Proceeds from paid services stipulated in Article 49 of this Law, may be the sources of funding of the State Service of Plant Quarantine of Ukraine from the Special Fund of the State Budget of Ukraine.

SECTION VIII.

INTERNATIONAL COOPERATION IN THE SPHERE OF PLANT QUARANTINE IN UKRAINE

Article 51. International Agreements

Should an international agreement of Ukraine, approved by the Verkhovna Rada of Ukraine as mandatory, establish the rules, other than those provided for by this Law, the rules of the international agreement shall prevail.

Article 52. Participation in the International Organizations

The Chief State Inspector of Plant Quarantine of Ukraine, pursuant to established procedure, shall represent Ukraine in the relevant international organizations and their specialized bodies with the purpose of protection of Ukraine's interests, cooperation aimed at resolving common problems, and ensuring effective exchange of information, methodologies and technologies, which harmonize the phytosanitary measures and provide for plant protection and international trade development.

SECTION IX.

FINAL PROVISIONS

(1) This Law shall come into effect from the day of its publication.

- (2) Within six months from the date of this Law coming into effect, the Cabinet of Ministers of Ukraine shall:

Submit proposals for the Verkhovna Rada of Ukraine consideration with regard to bringing legislative acts of Ukraine in line with this Law;

Bring its normative-legal acts in line with this Law;

Provide for review and cancellation by the ministries and other central bodies of executive power of their normative-legal acts, which contradict this Law.