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Draft Law on Plant Quarantine Notified to WTO

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Report Highlights:

On January 9, 2015, the Kyrgyz Republic notified the World Trade Organization (WTO) of a draft Law on Plant Quarantine ([G/SPS/N/KGZ/1](#)). This report contains an unofficial translation of this draft law, which would form the legal basis for regulation in the sphere of plant quarantine, define the authorities as well as rights and responsibilities of various entities in this sphere in the Kyrgyz Republic. The draft Law shall come into force as of the date of the Kyrgyz Republic's accession to the Eurasian Economic Union expected in May 2015. The notification G/SPS/N/KGZ/1 does not provide for a comment period for this measure.

General Information

On January 9, 2015, the Kyrgyz Republic notified the World Trade Organization (WTO) of a draft Law on Plant Quarantine ([G/SPS/N/KGZ/1](#)). This report contains an unofficial translation of this draft law, which would form the legal basis for regulation in the sphere of plant quarantine, define the authorities as well as rights and responsibilities of various entities in this sphere in the Kyrgyz Republic. The draft Law shall come into force as of the date of the Kyrgyz Republic's accession to the Eurasian Economic Union expected in May 2015. The notification G/SPS/N/KGZ/1 does not provide for a comment period for this measure.

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LAW OF THE KYRGYZ REPUBLIC

On Plant Quarantine

Chapter 1. General Provisions

Article 1

Objectives and scope of the present Law

1. Objectives of the present Law include the protection of plants and the territory of the Kyrgyz Republic against penetration and spread of quarantine organisms, and the prevention of losses from the spread of quarantine organisms.

2. The present Law stipulates the legal foundation for regulation in the sphere of plant quarantine, defines authorities of the federal bodies of executive power, and the main rights and responsibilities of physical and legal entities in the sphere of plant quarantine.

Article 2.

Key definitions used in the present Law.

The following key definitions are used for the purposes of the present Law:

Phytosanitary risk analysis – process of assessment of biological and other scientific or economic data to determine whether an organism is harmful, and if there is a need for regulating the quarantine organism and implementing phytosanitary quarantine measures;

Harmful organism – a plant, animal or pathogen of any species, variety or biological type able to inflict harm to plants or products of plant origin;

State quarantine and phytosanitary control (surveillance) – activities of the federal body of executive power exercising functions of control and surveillance in the sphere of plant quarantine aimed at detection of quarantine organisms in regulated products or regulated facilities, and the enforcement of phytosanitary and quarantine requirements;

Inspection – examination of regulated products or regulated facilities with the aim to determine presence or absence of quarantine organisms and/or to verify compliance with the quarantine and phytosanitary requirements, including an opportunity for taking samples and/or specimens;

Temporary restrictions – adoption of quarantine and phytosanitary measures for a specific time period banning import of regulated products into the Kyrgyz Republic, and their movement within the territory of the Kyrgyz Republic;

Contamination – presence of viable harmful organisms in regulated products or regulated facilities;

Plant quarantine – legal regimen envisaging a system of measures for protection of plants and products of plant origin against quarantine organisms on the territory of the Kyrgyz Republic;

Quarantine organism – a harmful organism, which is not present or has limited spread on the territory of the Kyrgyz Republic and is included in the Unified List of Quarantine Organisms;

Quarantine certificate – document confirming that a batch of regulated products complies with the quarantine and phytosanitary requirements during their movement within the territory of the Kyrgyz Republic;

Quarantine and phytosanitary security – status of protection of the territory of the Kyrgyz Republic against risks arising from entry of quarantine organisms and/or their spread over its territory;

Quarantine and phytosanitary measures – requirements, rules and procedures in the sphere of plant quarantine mandatory for execution that have been established for the purposes of ensuring quarantine and phytosanitary security;

Quarantine and phytosanitary regimen – a series of measures aimed at establishing conditions for containment of quarantine organism hotspots and/or elimination of a quarantine organism population in the quarantine and phytosanitary zone to ensure quarantine of plants and to prevent further spread of quarantine organisms;

Quarantine and phytosanitary decontamination – procedure for the extermination, removal, and sterilization (inhibition of reproductive capacity) of harmful organisms or inhibition of their viability;

Quarantine and phytosanitary examination – procedure aimed at determining populations of quarantine organisms and ensuring quarantine and phytosanitary security within the established time period;

Quarantine and phytosanitary status of a territory, regulated products or regulated facility – presence or absence of quarantine organisms on the territory, in the regulated products or regulated facility;

Quarantine and phytosanitary requirements – requirements applied to regulated products, their import, production (including processing), storage, transportation, marketing, destruction, and to regulated facilities;

Elimination of quarantine organism population – adoption of quarantine and phytosanitary measures to destroy the quarantine organism population;

Quarantine organism hotspot containment – adoption of quarantine and phytosanitary measures on the territory where the quarantine organism has been detected and around this territory to prevent the spread of such organism;

Inspection – visual examination of regulated products or regulated facilities aimed at detecting quarantine organisms without taking samples and/or specimen;

Quarantine organism hotspot – a part of the territory of the Kyrgyz Republic or a foreign state where a quarantine organism hotspot has been detected or a dramatic increase in population numbers of quarantine organisms has been found;

Batch of quarantine products – amount of homogeneous regulated products intended for the transportation by a single means of transport to the same point of destination for the same recipient;

Regulated products – plants, products of plant origin, package including packaging materials, cargoes, soil, organisms or materials that might be carriers of quarantine organisms and/or might facilitate their distribution and that require adoption of quarantine and phytosanitary measures;

Regulated facilities – land plots of any designated purpose, buildings, constructions, structures, reservoirs, storage areas (warehouses), equipment, means of transport, containers, and other facilities that might be sources of penetration and/or distribution of quarantine organisms on the territory of the Kyrgyz Republic;

Re-export phytosanitary certificate – internationally recognized document issued by the national plant quarantine and protection organization for the regulated cargo imported into the country, from which it is exported afterwards;

Owner of regulated products – an individual holding the regulated products on the right of ownership;

Phytosanitary certificate – internationally recognized document issued by the national plant quarantine and protection organization of the exporting country, which accompanies a batch of regulated

products and certifies that the regulated products comply with the quarantine and phytosanitary requirements of the country of destination;

Phytosanitary control station – a plant quarantine station specially equipped in accordance with the legislation of the Kyrgyz Republic within the checkpoints at the Kyrgyz Republic State Border or other locations, where plant quarantine posts are equipped in accordance with the Kyrgyz Republic legislation;

Phytosanitary risk – probability of entry and spread of quarantine organisms on the territory of the Kyrgyz Republic, as well as the scope of their potential effects.

Article 3.

Legal regulation in the sphere of plant quarantine

The legislation of the Kyrgyz Republic in the sphere of plant quarantine is based on the Constitution of the Kyrgyz Republic, international agreements that have come into force in accordance with the established procedures and which the Kyrgyz Republic is a member to, as well as the present Law and other regulations adopted thereof.

Article 4.

Implementation of policy in the sphere of plant quarantine

The Government of the Kyrgyz Republic implements the unified state policy in the sphere of plant quarantine in the Kyrgyz Republic and establishes of the government bodies of executive power authorized in the sphere of plant quarantine.

Chapter 2. State quarantine and phytosanitary control (surveillance)

Article 5.

State quarantine and phytosanitary control (surveillance)

1. State quarantine and phytosanitary control in the Kyrgyz Republic is aimed at ensuring protection of plants and territory of the Kyrgyz Republic against penetration and spread of quarantine organisms over its territory, prevention of losses from the distribution of quarantine organisms, and compliance with the quarantine and phytosanitary requirements of the importing countries.

2. State quarantine and phytosanitary control is conducted at the checkpoints of the State Border of the Kyrgyz Republic over regulated products at the sites of storage and processing of regulated products, regulated facilities, and at the other locations determined by the Government of the Kyrgyz Republic.

3. State quarantine and phytosanitary control (surveillance) shall be conducted through the implementation of measures including:

- inspection, visual examination of quarantine products with taking samples and/or specimen of the regulated products in order to conduct lab tests in the sphere of plant quarantine with the aim of determining whether their conditions comply with the quarantine and phytosanitary requirements;

- making arrangements for conducting quarantine and phytosanitary decontamination of regulated products, facilities, and means of transport arriving in the territory of the Kyrgyz Republic from the territories of foreign countries or the quarantine and phytosanitary zones;

- performing quarantine and phytosanitary examinations of regulated facilities.

4. State quarantine and phytosanitary control (surveillance) organization and procedures are determined by the Government of the Kyrgyz Republic.

Chapter 3. Quarantine and phytosanitary security assurance and monitoring of the quarantine and phytosanitary status of the Kyrgyz Republic territory

Article 6.

Monitoring of the quarantine and phytosanitary status of the Kyrgyz Republic territory

Monitoring of the quarantine and phytosanitary status of the Kyrgyz Republic territory is a system of observations, analysis, assessment and projection of the spread of quarantine organisms on the territory of the Kyrgyz Republic and is conducted according to the procedure established by the Government of the Kyrgyz Republic.

Article 7.

Phytosanitary risk analysis

Phytosanitary risk analysis is carried out taking into account the principles of objectivity, reliability and effectiveness of actions applied to minimize this risk according to the procedure established by the Government of the Kyrgyz Republic. Phytosanitary risk analysis results are taken into consideration in the following cases:

- when the quarantine and phytosanitary requirements are developed;
- when decisions are made on introduction of the quarantine and phytosanitary regimen;
- when temporary restrictions are imposed on imports of regulated products into the Kyrgyz Republic and/or when quarantine and phytosanitary requirements are established to regulated products imported into the Kyrgyz Republic;
- when the state quarantine and phytosanitary control (surveillance) is conducted on the territory of the Kyrgyz Republic;
- when lists of quarantine organisms or quarantine and phytosanitary requirements approved by the Government of the Kyrgyz Republic are developed.

Article 8.

The introduction of special quarantine regimen and its cancellation

1. When a quarantine organism is detected, the special quarantine regimen is introduced in the contaminated territory within 24 hours according to the procedure established by the Government of the Kyrgyz Republic.

2. Measures on territories with the special quarantine regimen are implemented by way of:

- imposing restrictions on exit of transport vehicles and their inspection;
- imposing temporary restrictions on export of the corresponding cargoes subject to quarantine;
- decontamination of regulated materials and facilities;
- technical processing or destruction of materials subject to quarantine.

3. The special quarantine regimen is lifted after the quarantine organism is destroyed.

Article 9.

Rules for import of regulated products into the Kyrgyz Republic and export of regulated products from the Kyrgyz Republic

1. Regulated products with high phytosanitary risk and low phytosanitary risk that comply with the relevant quarantine and phytosanitary requirements are imported into the Kyrgyz Republic through the specially equipped checkpoints on the Kyrgyz Republic State Border identified by the Government of the Kyrgyz Republic.

2. Export of regulated products from the Kyrgyz Republic is allowed subject to availability of a phytosanitary certificate in compliance with the quarantine and phytosanitary requirements of the importing country.

3. Customs processing of documents for cargo subject to quarantine shall be completed only when the quarantine and phytosanitary control has been accomplished.

4. All regulated products and organisms crossing the Kyrgyz Republic State Border or the special quarantine zone borders are subject to the quarantine and phytosanitary control and treated equally, regardless of their country of origin.

5. Government of the Kyrgyz Republic may impose temporary restrictions on imports of regulated products into the Kyrgyz Republic, when:

- information is available on the occurrence of quarantine organism hotspots throughout the overall territory of a foreign state or its part, or territories of groups of foreign states;
- quarantine organisms have been found on a regular basis in the batches of regulated products.

6. Resolutions on introduction of temporary restrictions on imports of regulated products into the Kyrgyz Republic shall be adopted in accordance with the additional quarantine and phytosanitary requirements to the imported regulated products, which should include:

- the period of validity of such restrictions;
- the date of entry of the relevant resolution into force.

7. The resolution might be adopted for an indefinite term until the causes of introduction of temporary restrictions are eliminated.

Article 10.

Laboratory tests in the sphere of plant quarantine

1. Laboratory tests in the sphere of plant quarantine include the examination of samples and/or specimen of regulated products with the aim of detecting presence or absence of signs of their contamination with quarantine organisms.

2. Laboratory tests in the sphere of plant quarantine are performed in the following cases:

- to verify compliance of condition of regulated products with the quarantine and phytosanitary requirements;
- to conduct monitoring of the quarantine and phytosanitary status of the territory of the Kyrgyz Republic;
- to issue a phytosanitary certificate;
- to issue a quarantine certificate;
- to perform quarantine and phytosanitary examination of regulated facilities;
- to carry out research;
- to move regulated products within the territory of the Kyrgyz Republic or to take them out from the zones free from quarantine organisms.

3. Laboratory tests in the sphere of plant quarantine are performed by research laboratories certified according to the procedure established by the Government of the Kyrgyz Republic.

Article 11.

Quarantine phytosanitary decontamination

1. Quarantine and phytosanitary decontamination is carried out in the following cases:

- when an official exercising functions of control and surveillance in the sphere of plant quarantine issues instructions for accomplishing quarantine and phytosanitary decontamination of regulated products, or regulated facilities;

- when the owner of regulated products has chosen quarantine and phytosanitary decontamination as a quarantine and phytosanitary measure if the regulated products have been contaminated with quarantine organisms.

2. Quarantine and phytosanitary decontamination is allowed only when at the site of decontamination the conditions are set up so that decontamination is accomplished by such methods that do not create any harm to human life or health, or damage to the environment.

3. Requirements to methods and practices of quarantine and phytosanitary decontamination ensuring a proper quality of work performed for accomplishing such decontamination and the procedure for presentation of their results shall be established according to the Kyrgyz Republic legislation in the sphere of plant quarantine.

Article 12.

Phytosanitary certification, re-export certification and quarantine certification

1. Phytosanitary certificate and re-export phytosanitary certificate for a batch of regulated products exported from the Kyrgyz Republic is issued on the basis of an application from a participant of foreign economic activity, an examination performed with taking samples and/or specimen of regulated products for conducting lab tests, and a conclusion on the quarantine and phytosanitary conditions of the regulated products.

2. Forms and procedures of issuance of the phytosanitary certificate, re-export certificate and quarantine certificate, as well as any information regarding the issued certificates, shall be established by the Government of the Kyrgyz Republic.

Chapter 4. International cooperation of the Kyrgyz Republic in the sphere of plant quarantine and responsibility for violation of the legislation of the Kyrgyz Republic in the sphere of plant quarantine

Article 13.

International cooperation of the Kyrgyz Republic in the sphere of plant quarantine

1. International cooperation in the sphere of plant quarantine is implemented in accordance with the international agreements that have come into force in accordance with the established procedure and which the Kyrgyz Republic is a member to, as well as the legislation of the Kyrgyz Republic.

2. International cooperation is implemented through:

- exchange of the necessary information on quarantine and phytosanitary security with the national plant quarantine and protection organizations of foreign states;

- information submitted to the national plant quarantine and protection organizations of foreign states about the requirements to regulated products and restrictions imposed on regulated products;

- notification of the national plant quarantine and protection organizations of foreign states on non-compliance of the regulated products imported into the Kyrgyz Republic with the quarantine and phytosanitary requirements of the Kyrgyz Republic, as well as investigations conducted when regulated products exported from the Kyrgyz Republic do not comply with the quarantine and phytosanitary requirements of the foreign states.

Article 14.

Responsibility for violation of the legislation of the Kyrgyz Republic in the sphere of plant quarantine

1. Officials of the government body of executive power exercising functions of control and surveillance in the sphere of plant quarantine take responsibility established by the legislation of the Kyrgyz Republic for adequate or inadequate fulfillment of their tasks and duties.

2. Actions or lack of action on the part of officials of the government body of executive power exercising functions of control and surveillance in the sphere of plant quarantine may be appealed against, in accordance with the procedure established by the legislation of the Kyrgyz Republic.

3. Citizens and officials guilty of violating the present Law shall be brought to disciplinary, administrative and criminal responsibility according to the legislation of the Kyrgyz Republic.

Article 15.

Responsibilities of citizens and legal entities in the sphere of plant quarantine

1. Citizens and legal entities holding regulated products in their ownership, possession, use or rent, or conducting manufacture (including processing), import into the Kyrgyz Republic, export from the Kyrgyz Republic, storage, transportation and sales of regulated products, must:

- comply with the quarantine and phytosanitary requirements;
- notify the government body of executive power exercising functions of control and surveillance in the sphere of plant quarantine about the delivery of regulated products and regulated facilities;
- provide conditions necessary for the implementation of the state quarantine and phytosanitary control (surveillance);
- assign premises to the storage of regulated products and regulated facilities that comply with quarantine and phytosanitary requirements;
- avoid cleaning of transport vehicles and containers with regulated products, and other regulated facilities during travel and at the sites not designed for such purposes;
- ensure appropriate storage of regulated products and regulated facilities prior to commencement of the state quarantine and phytosanitary control (surveillance) in the sphere of plant quarantine;
- assign transport vehicles, specially equipped sites and premises for conducting quarantine and phytosanitary decontamination, cleaning and degassing of regulated facilities and regulated facilities;
- notify the government body of executive power exercising functions of control and surveillance in the sphere of plant quarantine on the detection of signs of contamination of regulated products and regulated facilities with quarantine organisms according to the procedure established by the Government of the Kyrgyz Republic;
- transport the regulated products with the application of measures that rule out their potential losses or potential contamination of the territory of the Kyrgyz Republic by quarantine organisms;
- comply with instructions related to the competence of the officials of the government body of executive power exercising functions of control and surveillance in the sphere of plant quarantine subject for compulsory implementation by the government bodies of executive power of the Kyrgyz Republic, local government bodies, citizens and legal entities;
- pay for lab test services conducted with the aim of detecting quarantine organisms and their control;
- pay for services of quarantine and phytosanitary decontamination, and cover expenses associated with detention, return and destruction of regulated products;
- discharge other responsibilities according to the legislation of the Kyrgyz Republic in the sphere of plant quarantine, and the rules and norms of plant quarantine assurance.

Article 16.

Procedure of entry into force of the present Law

1. The present Law shall enter into force from the day of entry into force of the international agreement on the Kyrgyz Republic's accession to the Treaty on Eurasian Economic Union from May 29, 2014.

2. From the day on which the present Law comes into force, the following laws shall be declared no longer in force:

- The Law of the Kyrgyz Republic "On Plant Quarantine" dated June 27, 1996, No. 26;

- The Law of the Kyrgyz Republic "On the Introduction of Amendments and Additions to the Law of the Kyrgyz Republic "On Plant Quarantine" from June 2, 1998, No. 74.

3. Government of the Kyrgyz Republic must bring their regulations in line with the present Law.

**President of
the Kyrgyz Republic**

END UNOFFICIAL TRANSLATION.