

APPROVED
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Union Commission
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REGULATION

on a procedure of quarantine phytosanitary control (supervision) on customs territory of the customs union

I. The Scope

1.1. Present Regulation on a procedure of quarantine phytosanitary control (supervision) on customs territory of the customs union (further – Regulation) is developed with a view of realization of positions of the Agreement of the customs union on quarantine of plants from December, 11th, 2009 (further – Agreement), on the basis of the Decision of Interstate Council of the EurAsEc economic community (supreme body of the customs union) at the level of heads of the governments from December, 11th, 2009 № 30.

1.2. Present Regulation defines a procedure of quarantine phytosanitary control (supervision), concerning moved regulated products on customs territory of the customs union in cases, when the place of departure and destination regulated products' consignment are located on territory of different member-states of the customs union (further – the Parties) and moved consignment of regulated products is not placed under customs procedure or customs procedure, provided for export of goods from customs territory of the customs union (further – quarantine phytosanitary control (supervision) on customs territory of the customs union).

Procedure of quarantine phytosanitary control (supervision), concerning moved regulated products on customs territory of the customs union in cases, when place of departure and destination of regulated products are located on territory of one of the Parties and moved consignment of regulated products is not placed under customs procedure of customs transit or under customs procedure, providing export of goods from customs territory of the customs union, is defined by legislation of such Party.

1.3. Present Regulation is obligatory for execution by executive authorities of the Parties, their authorized bodies, local governments, legal bodies of any organizational-legal form, citizens, including individual businessmen, whose activity is connected with manufacture, preparation, processing, transportation, storage, realization and use regulated products.

1.4. At realization of quarantine phytosanitary control (supervision) at customs territory of the customs union authorized bodies of the Parties are guided by the legislation of the Party in cases if:

- 1) it is directly foreseen by this Regulation;

2) relations, arising at realization of quarantine phytosanitary control (supervision) at customs territory of the customs union, are not directly settled by the present Regulation.

II. Terms and definitions

2.1. In the present Regulation following terms and definitions are used:

« destination state» – member state of the customs union, where destination point is located;

« state of departure place» – member state of the customs union, where departure place is located;

«examination of regulated products» – visual inspection by official of the authorized body of the Party of regulated products' consignment, completely unloaded from a vehicle or placed in a vehicle in such a way that official of the authorized body has an access for inspection of any part of regulated products' consignment and possibility to carry out sampling (tests) from various parts of regulated products' consignment, carrying out of sampling (tests) from various parts of regulated products' consignment and research of selected samples (tests);

«Infection (contamination)» – presence in regulated products objects (quarantine harmful organisms);

«quarantine phytosanitary zone» –territory, declared in established order by the legislation of the Parties under quarantine in connection with revealing of quarantine object (quarantine harmful organism);

«Quarantine objects (quarantine harmful organisms)» – harmful organisms, which are absent or restrictedly extended on territories of the Parties and included in national Lists of quarantine objects;

«Quarantine phytosanitary control (supervision)» – activity of authorized bodies of the Parties, directed on revealing of quarantine objects (quarantine harmful organisms), establishment of quarantine phytosanitary condition of regulated products, and execution of international obligations of the Parties and legislation of the state in the field of quarantine of plants;

"Destination point" – place, where regulated products' consignment is unloaded from a vehicle, on which it moved, or is overloaded in other vehicle;

«Departure place» – place, where regulated products' consignment is shipped on a vehicle;

"Disinfecting" – set of actions in the relation to regulated products, directed on destruction of quarantine objects (quarantine harmful organisms);

«Inspection of regulated products and vehicles» – visual inspection by the official of the authorized body of regulated products (without container and package opening) and vehicles and adaptations for transportation (including cabins, salons, luggage and cargo branches of vehicles, containers);

«Regulated products' consignment » – quantity of regulated products, intended for sending by one vehicle in one destination to one addressee;

«List of regulated products» –list of regulated products (cargoes, materials and goods under quarantine), subjected to quarantine phytosanitary control (supervision) on customs border of the customs union and on customs territory of

the customs union, confirmed by the Commission of the customs union according to article 5 of the Agreement;

«Regulated products» – plants, photogenes production, container, package, cargoes, soil, organisms or materials, which can be carriers of quarantine objects (quarantine harmful organisms) and (or) promote its distribution and in which relation acceptance of quarantine phytosanitary measures is necessary;

« Regulated products of high phytosanitary risk» – regulated products, which is included in regulated products according to the List of regulated products with high phytosanitary risk;

«Regulated products of low phytosanitary risk» – regulated products, which is carried to regulated products with low phytosanitary risk according to the List of regulated products;

«Owner of production» – owner of regulated products or other person, authorized for realization of transactions and (or) other actions on behalf of the owner of regulated products in connection to its movement from a departure place to destination point;

"Vehicles" –vehicles used for movement of regulated products' consignment;

«Transport (transportation) documents» – consignment, consignment note or other documents, that has to accompanied cargo in case of transportation in accordance to legislation of member states of the customs union cargo;

«Authorized bodies» –national bodies of member states of the customs union, allocated with powers and carrying out functions of quarantine phytosanitary control (supervision);

« phytosanitary requirements» – established with a view of maintenance of quarantine of plants according to international obligations of member states of the customs union and their legislation of the requirement to a phytosanitary condition of regulated products, moved on customs territory of the customs union, package of regulated products, ways of its transportation, and possible destination, and also to realization of actions for preventive disinfection of regulated products;

« phytosanitary certificate» – document of international standard, accompanying regulated products and issued by authorized body of the state of the country – exporter under the form, established by the International convention on quarantine and protection of plants (Rome, 1951, in edition of 1997) and certifying phytosanitary condition of regulated products.

2.2. Other concepts are used in meanings, established by international agreements, concluded within the limits of the customs union and the EurAsEc economic community, and in part, not contradicting to it, Convention and international standards on phytosanitary measures.

III. Procedure of quarantine phytosanitary control (supervision) on customs territory of the customs union

3.1. Quarantine phytosanitary control (supervision) on customs territory of the customs union is carried out with a view of conformity check of regulated products to phytosanitary requirements of the state of destination.

The authorized bodies notify each other on phytosanitary requirements and place information on phytosanitary requirements on official sites (the Internet - resources). Information on phytosanitary requirements also takes places in Information system of the EurAsEc economic community in the field of technical regulation, sanitary and phytosanitary measures and in the Integrated information system of external and mutual trade of the customs union.

3.2. Conformity of regulated products' consignment of high phytosanitary risk to phytosanitary requirements of the state of destination is proved by phytosanitary certificate, which is issued by authorized body of the state of departure, and is valid within 30 calendar days from the moment of its issuance.

Authorized bodies of member-states of the customs union mutually recognise phytosanitary certificates issued by them.

Activity of authorized bodies, directed on delivery of phytosanitary certificates, including establishment of phytosanitary condition of regulated products with a view of issuance of phytosanitary certificate, is not quarantine phytosanitary control (supervision).

With a view of coordination of their activity, authorized bodies of the state of departure notify authorized bodies of the state of destination on delivery of phytosanitary certificates on consignment of regulated products of high phytosanitary risk with the use of the Integrated information system of external and mutual trade of the customs union.

Authorized bodies of member states of the customs union are obliged to conduct investigation of cases, when authorized bodies of the state of destination at executing of the quarantine phytosanitary control (supervision) on customs territory of the customs union elicit discrepancy facts to phytosanitary requirements of regulated products' consignment, accompanied by phytosanitary certificates, not recognized forged or void.

3.3. Procedure of realization of quarantine phytosanitary control (supervision) on customs territory of the customs union in accordance to legislation of member-states of the customs union can provide carrying out of the following control actions:

- 1) documentary check;
- 2) inspection of regulated products;
- 3) examination of regulated products.

3.4. At fastening in the legislation of powers of officials for carrying out control actions, and also defining of order and periodicity of their execution, member-states of the customs union have to use legal means, which application will not essentially limit free movement of regulated products on territory of the customs union. Given Regulation does not limit the right of one member-state of the customs union for use of legal means, similar applied in relation to consignments of regulated products, moved from this state to other member-state the customs union.

3.5. Documentary check is carried out at destination points by officials of the authorized body of the state of destination.

3.6. With a view of carrying out of documentary check transport (transportation) documents have to be presented to the official on lot of production of under quarantine and phytosanitary certificate on lot of regulated products of high phytosanitary risk.

3.7. The official checks presented documents and gives out the instruction about consignment return of regulated products or its destruction in following cases:

1) phytosanitary certificate is not presented on lot of regulated products of high phytosanitary risk;

2) data in phytosanitary certificate, does not correspond to information in transport (transportation) documents;

3) phytosanitary certificate is counterfeit or void;

4) phytosanitary certificate does not confirm compliance of lot of regulated products to presented phytosanitary requirements.

3.8. Phytosanitary certificate admits counterfeit in following cases:

1) phytosanitary certificate is issued by unauthorized person;

2) phytosanitary certificate does not correspond to established requirements on the form, where phytosanitary certificate is issued.

3.9. Phytosanitary certificate is nullified in following cases:

1) phytosanitary certificate is not completely formed;

2) phytosanitary certificate was issued on lot of regulated products after its actual departure from the territory of the state, which authorized body issued it;

3) duration of phytosanitary certificate (time from the moment of issuance of phytosanitary certificate) has expired;

4) phytosanitary certificate contains changes or additions, that were not assured by the official of the authorized body, who issued it.

3.10. Phytosanitary certificate admits not confirming necessary phytosanitary condition of moved lot of regulated products if there is no data on observance of phytosanitary requirements, operating at the moment of delivery of phytosanitary certificate and not become invalid by the time of carrying out of documentary check. Decision on recognition of certificate, that does not confirm necessary phytosanitary condition of imported lot of regulated products, can be accepted only by the official of the authorized body of the state of destination.

3.11. Survey of regulated products is made with a view of:

1) establishing of production conformity to the data specified in phytosanitary certificate;

2) defining of presence or absence of quarantine objects or signs of their infection (contamination) on a surface of regulated products and on package.

3.12. Inspection of regulated products is carried out by officials of the authorized body at destination points in cases, provided by the legislation of the state of destination.

3.13. By results of survey of regulated products the official of the authorized body makes the decision:

1) on return of regulated products or its destruction in case, if during the survey it was established that:

On lot of regulated products of high phytosanitary risk certificate is not presented;

Data on name of production does not correspond to the data, specified in phytosanitary certificate;

2) on carrying out of examination of lot of regulated products, if during the inspection of regulated products on its surface, in package organisms are found that are similar to morphological signs with quarantine objects (quarantine harmful organisms), symptoms of illnesses of plants, signs of damage of regulated products by quarantine objects (quarantine harmful organisms);

3) on the end of quarantine phytosanitary control (supervision) – in the absence of bases for decision-making, provided by subparagraphs 1 – 2 of present points.

3.14. Examination of regulated products is carried out by the official of the authorized body on destination place in case of detection during inspection of regulated products on its surface, in package of organisms, similar for morphological signs with quarantine objects (quarantine harmful organisms), symptoms of illnesses of plants, signs of damage of regulated products by quarantine objects (quarantine harmful organisms).

In case of decision-making on carrying out inspection of regulated products, placed on a vehicle in such a way that the official of the authorized body has no access to inspection of any part of lot of regulated products and possibility of carrying out sampling (tests) from various parts of lot of regulated products, such production under its requirement has to be unloaded from a vehicle.

Quantity and way of sampling (tests) of regulated products and order of carrying out of inspection are defined by legislation of the state of destination.

3.15. In case if as a result of inspection of samples (tests) of regulated products infection (contamination) by quarantine objects (quarantine harmful organisms) is defined, the official of the authorized body, in compliance with the legislation of the state of destination, is obliged to propose the owner of goods for choice:

1) to spend its disinfection, if available, at destination conditions for disinfecting of regulated products by means, which are not posing threat to trespass of life and health of the person, causing damage to the environment by using such production after disinfection, and also not resulting in essential change of its consumer properties. Official of the authorized body has the right to demand presenting of regulated products for carrying out for inspection after its disinfecting;

2) to destroy it if on place of carrying out of quarantine phytosanitary control (supervision) there are conditions for destruction of regulated products by means, excluding distribution of quarantine objects (quarantine harmful organisms), by which regulated products is infected (littered), and also not pose threat to a trespass of human life and health, damage to the environment.

Admissible ways of disinfecting or destruction of regulated products taking into account kind of regulated products and quarantine objects (quarantine harmful organisms) by which it can be infected it (littered), are defined by the legislation of the state of destination.

By results of disinfecting or destruction the statement is drawn up.

3.16. At refusal of owner of production of carrying out its disinfecting or destruction, or at impossibility of it, the official of the authorized body issues the instruction on return of regulated products at the expense of the owner of production.

Disinfection or destruction of regulated products is made by the officials, authorized on granting of specified services in accordance to the legislation of the state of destination.

3.17. Rules, provided by point 3.15, are not applied in cases of detection:

- 1) quarantine kinds of scale on fruits;
- 2) quarantine weeds (except quarantine object *Striga spp*) in oil cakes and other firm waste, received at extraction of vegetative fats and oils, if destination of such regulated products is enterprises, where deprivation of seeds of viability is carried out.

In specified cases the decision on the end of quarantine phytosanitary control (supervision) is made.

3.18. Payment for carrying out control actions within the limits of quarantine phytosanitary control (supervision) at customs territory of the customs union is not raised.

3.19. Results of realization of quarantine phytosanitary control (supervision) are formed according to legislation of member states of customs union.

3.20. Legislation of the state of destination can not provide requirements on representation to the official who is carrying out quarantine phytosanitary control (supervision), documents, which obligatory presentation is not established by the present Regulation.

3.21. Officials of authorized bodies in case of detection at realization of quarantine phytosanitary control (supervision) of sufficient data, specifying on presence of event of offence or crime, connected with infringement of the Agreement, of present Regulation or legislation of corresponding member-state of customs union on quarantine of plants, undertake measures necessary for attraction guilty physical or legal bodies to administrative or criminal responsibility.

3.22. Before acceptance by Interstate Council EurAsEC (supreme body of customs union) decisions on transfer of quarantine phytosanitary control (supervision) on external border of the customs union in a part, concerning Kazakhstan-Russian border, following features of application of the present Regulation are established:

- 1) quarantine phytosanitary control (supervision) of regulated products, moved from Byelorussia or the Russian Federation on territory of Republic of Kazakhstan, is carried out at import on Republic Kazakhstan territory in accordance with the national legislation of Republic Kazakhstan;

2) quarantine phytosanitary control (supervision) of regulated products, moved from Republic of Kazakhstan to Byelorussia or the Russian Federation, is carried out according to Regulation on a procedure of quarantine phytosanitary control (supervision) on customs border of the customs union, thus for the purpose of application of such Regulation, arrival place on customs territory of the customs union is considered an arrival place on customs territory of Byelorussia (if regulated products is transported by air transport) or the Russian Federation.
