

LAW OF THE REPUBLIC OF AZERBAIJAN ON PHYTOSANITARY CONTROL

This Law determines the legal basis for organizing and exercising the phytosanitary control in the territory of the Republic of Azerbaijan and regulates relations between subjects acting in the field of plant protection and plant quarantine.

Chapter I

General Provisions

Article 1. Key Definitions

1.0. Key definitions used in this Law shall have the following meanings:

1.0.1. **phytosanitary control** – exercising of the state control in the field of plant protection and quarantine, use of pesticides, biological substances and other plant protection means;

1.0.2. **plant quarantine** – legal regime providing for measures directed to preventing the entry into the territory of the country and spread of pests, to which quarantine is applied, in plants and plant products;

1.0.3. **plant protection** – implementation of complex measures with a view to protecting plant and plant products against pests;

1.0.4. **plant** –live plants and parts thereof, including seeds and germplasm;

1.0.5. **plant products** –, unmanufactured material of plant origin, including grain, and those manufactured products of plant origin, that, by their nature or method of their processing, may create a risk of the introduction and spread of pests;

1.0.6. **pest** - any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant products (plant diseases, parasites and weeds);

1.0.7. **pest subject to quarantine** - a pest of potential economic importance to the area endangered and not yet present there or present but not widely distributed and being officially controlled;

1.0.8. **material under quarantine control** - any plant, plant product, their storage place, packaging material, means of conveyance, soil and any other organism, object or goods, creating conditions for introduction and spread of pests, and requiring application of phytosanitary measures (in particular, during international cargo transportations);

1.0.9. **plant protection means** – pesticides, biological substances, live useful organisms and technical means used for the purpose of protection of plant and plant products against pests;

1.0.10. **pesticides** – poisonous chemical substances used for the purpose of pest control.

1.0.11. **agrochemical substances** – organic, mineral and bacterial fertilizer, chemical ameliorants, plant growth stimulators and other substances used for increment of soil fertility, increase of plant productivity and improvement of products quality.

1.0.12. **phytosanitary certificate** – an official document related to phytosanitary state of plant and plant products prepared and patterned after the model certificates of the International Plant Protection Convention (IPPC);

Article 2. Legislation of the Republic of Azerbaijan on Phytosanitary Control

2.1. The legislation of the Republic of Azerbaijan on phytosanitary control consists of the Constitution of the Republic of Azerbaijan, this law, other laws of the Republic of Azerbaijan and normative-legal acts adopted pursuant to them, as well as international agreements, to which the Republic of Azerbaijan is a Contracting party.

2.2. In the case the phytosanitary control regulations established by the international agreements, to which the Republic of Azerbaijan is a Contracting party, differ from the rules provided for by this law, the rules of the international agreements shall apply.

Article 3. Scope of Phytosanitary Control

3.0. The scope of phytosanitary control shall include the following:

3.0.1. observance of the requirements of phytosanitary control legislation by legal entities and natural persons;

3.0.2. organization and implementation of phytosanitary measures with the object of preventing the entry from other countries into and spread within the territory of the Republic of Azerbaijan of pests subject to quarantine;

3.0.3. observance of the phytosanitary regulations and norms during production, procurement, sale, storage and transportation of plant and plant products;

3.0.4. exercising control over safety of quarantine objects being under the phytosanitary control, conducting of surveillance of reasons and conditions of infestation and spread thereof; and determination and implementation of mandatory phytosanitary measures for their prevention and liquidation;

3.0.5. distribution, storage, transportation and use of pesticides, including reserves thereof purchased at the expense of the state budget;

3.0.6. activity of legal entities and natural persons dealing with production, import, export, storage, sale and application of pesticides, biological substances and other plant protection means;

3.0.7. other issues provided for in the legislation.

Article 4. Quarantine Objects under Phytosanitary Control

4.0. Quarantine objects under phytosanitary control are the following:

4.0.1. all types of plants, plant products, the list of which is set out by the relevant executive authority in the order provided for by the legislation;

4.0.2. collection of live fungi, bacteria, viruses, nematodes, ticks, insects and plant pathogens, samples of plants damaged by them, as well as plant herbaria and collections;

4.0.3. agricultural machines and tools, transportation means, containers, all types of tares and packaging materials, industrial consumer goods and products made from plant and plant materials, peat, compost, other organic fertilizers, soil and soil monoliths and samples, that may be carriers of pests;

4.0.4. places of production, processing, procurement, storage, and sale of plant and plant growing products, agricultural lands and woodlands, courtyards and gardens, non-agricultural lands.

Article 5. Key Principles of Phytosanitary Control

5.1. Phytosanitary control in the Republic of Azerbaijan is organized in accordance with international standards, regulations and recommendations in the field of plant protection and quarantine and based on the following principles;

5.1.1. coordination;

phytosanitary measures directed to protection of plant and plant products against quarantine pests, shall be prepared and applied within the framework of international collaboration and based on uniform principles.

5.1.2. equivalence;

foreign states shall be provided with reliable information on phytosanitary situation existing in the country during international trade in plant and plant products; and equality of legal force of phytosanitary measures carried out within such countries shall be accepted.

5.1.3. transparency

the international organizations shall be informed on normative-legal acts in the field of phytosanitary control enacted in the Republic of Azerbaijan, as well as changes and amendments made thereto; and exchange of data related to implemented phytosanitary measures shall be carried out.

5.1.4. risk assessment

phytosanitary measures implemented within the Republic of Azerbaijan shall be scientifically justified; techniques of risk assessment, methods of production, processing, control, expert examination and testing elaborated by relevant international organizations shall be taken into account; risk of entry into the country territory and spread of quarantine pests and their going out the state border shall be reduced to a minimum; safety of human beings, environment and economy of an area shall be provided.

5.1.5. determination of the level of phytosanitary protection;

For the purpose of ensuring the protection of plant and plant products against pests, a conception of the phytosanitary protection level shall be defined, shall be applied in a regular,

stable and sequential order, regulations for its application shall be brought into compliance with international standards, unsubstantiated or unjustified restrictions and distinctions shall not be permitted.

5.1.6. adaptation to the regional conditions;

when evaluating the phytosanitary conditions and characteristics of a region, geographical position of countries of importation and exportation of plant and plant products, ecosystems, epidemiological control factors, as well as efficiency of the phytosanitary measures, existence of plant diseases and pests that are typical to the area, the level of spread, destruction and control programs shall be taken into account, conceptions determining the phytosanitary protection level shall be recognized.

5.2. Other principles of the phytosanitary control shall be established by the legislation of the Republic of Azerbaijan and the terms of the international agreements, to which Azerbaijan is a Contracting party, in the field of plant protection and plant quarantine.

Chapter II

Organization of Phytosanitary Control

Article 6. Directions of Organization of Phytosanitary Control

6.1. The phytosanitary control aimed at protection of quarantine objects, being under the phytosanitary control in the territory of the Republic of Azerbaijan, shall be organized in the following directions:

6.1.1. conducting periodical surveillance of materials being under the quarantine control, carrying out phytosanitary expertise and taking preventing measures for the purpose of protecting the territory of the country against pests, to which quarantine is applied, and detecting the pestholes in time;

6.1.2. implementation of plant protection measures aimed at prevention of mass spread of pests in plant and plant products, liquidation of diseases, avoidance of loss in harvest, protection of human health and the environment, as well as flora and fauna against harmful effect of pesticides and other poisonous chemical substances;

6.1.3. when the pests under quarantine are detected in quarantine objects being under the phytosanitary control, application of quarantine regime in a relevant area, providing the population and legal entities with the information connected therewith, as well as determination of quarantine restrictions and implementation of phytosanitary measures for the purpose of pest control;

6.2. taking preventive measures aimed at protection of quarantine objects being under the phytosanitary control in the territory of the Republic of Azerbaijan, implementation of plant protection measures and procedures for application of plant quarantine shall be established by the relevant executive authority.

Article 7. State Responsibilities in the Field of Phytosanitary Control

7.0. The state responsibilities in the field of phytosanitary control shall be the following:

- 7.0.1. to establish the key directions of the state policy in the field of phytosanitary control and to adopt normative-legal acts;
- 7.0.2. to develop and approve the technological regulations and programs on plant protection having regional and republic importance;
- 7.0.3. to establish the state phytosanitary control service and approve its regulations and structure;
- 7.0.4. to carry out the international cooperation in the field of phytosanitary control;
- 7.0.5. to resolve the issues relating to funding of the state phytosanitary control service, improvement of administrative and material and technical support and making investments in this field;
- 7.0.6. to approve the list of pests under quarantine, not found in the Republic of Azerbaijan, having low prevalence and being of potential danger for the country;
- 7.0.7. formation of the state phytosanitary control service based on the requirements and recommendations of the international organizations, taking necessary measures in order to bring the normative documents used in this field in compliance with the international norms;
- 7.0.8. to coordinate the activity of the state phytosanitary control service with other government agencies;
- 7.0.9. to exercise the state control over the activity of non-governmental phytosanitary service.

Article 8. The State Phytosanitary Control Service

- 8.1. The state phytosanitary control service shall be the relevant executive authority exercising the state control in the field of plant protection and quarantine, use of pesticides, biological agents and other plant protection means.
- 8.2. The state phytosanitary control service consists of the relevant executive authorities of the Republic of Azerbaijan and Nakhchivan Autonomous Republic carrying out their activity in the field of phytosanitary control and their subordinated organizations.
- 8.3. The authorized officials of the state phytosanitary control service, determined by the relevant executive authority, shall be deemed as the state head phytosanitary inspectors, the deputies of the state head phytosanitary inspectors and the state phytosanitary inspectors.
- 8.4. Employees of the state phytosanitary control service shall be supplied with a uniform having a distinctive badge and special identity cards.

Article 9. Responsibilities of the State Phytosanitary Control Service

- 9.0. The responsibilities of the relevant executive authority exercising the state phytosanitary control shall consist of the following:
 - 9.0.1. to inspect the phytosanitary condition, conduct examination, surveillance and take preventive and plant protection measures at warehouses, markets, private and collective

gardens, courtyards and lands and especially protected areas of nature and objects, where the plant and plant products are kept;

9.0.2. to develop the programs related to production of pesticides and biological agents and establish the procedures for their application and distribution in plant growing, to prepare the drafts of programs and normative documents on plant protection, including phytosanitary control and submit them to the relevant executive authorities for approval;

9.0.3. to conduct expertise, investigation and valuation works in relevant fields of activity in a manner established by the legislation, to inspect the quarantine objects being under the phytosanitary control, as well as take samples to carry out the examination thereof;

9.0.4. to detect in time pests in quarantine objects being under the phytosanitary control and take appropriate measures for isolation and destruction thereof;

9.0.5. in order to prevent the spread of pests subjected to quarantine in the territory of the Republic of Azerbaijan and liquidate their pestholes, to raise claim with the relevant executive authorities to impose quarantine and other restrictions established by the legislation;

9.0.6. to develop the list of pests subjected to quarantine and make proposals to the relevant executive authority with respect to applying and lifting the quarantine regime in the specified area;

9.0.7. to determine the rate of infestation of plants with pests in the territory of the Republic of Azerbaijan, reasons for their occurrence, to obtain information about the mass outbreak and spread of pests, conduct surveillance, to participate in development and implementation of the state programs directed to stabilization of phytosanitary conditions of agro-ecosystems and keeping them under control;

9.0.8. to take measures in conjunction with the relevant executive authorities for protection of materials subjected to quarantine control against pests, preventing the toxicological effect of pesticides, biological agents and agrochemical substances and the environmental pollution, as well as for neutralization of chemical poisonous substances, the use of which is prohibited or those which lost their quality;

9.0.9. to participate in drawing up a list of preparations, the use of which in the state testing and registration of pesticides, biological agents and agrochemical substances is permitted;

9.0.10. to make proposals on providing in the state budget of relevant funds for the purpose of phytosanitary control, to develop appropriate programs and draw up estimations for the purpose of ensuring the efficient use of allocated funds and submit them to the relevant executive authority;

9.0.11. to ensure the conduct of plant protection and quarantine measures in the territory of the Republic of Azerbaijan on the basis of scientific-practical basis and take the necessary arrangements related to training of specialists in this field and improvement of their qualifications;

9.0.12. to fulfil the obligations provided for in the international agreements in the field of phytosanitary control to which the Republic of Azerbaijan is a Contracting party and to establish, within their competence, mutual relations with the relevant authorities of foreign countries and international organizations;

9.0.13. to perform other duties provided for in the legislation.

Article 10. Rights of the State Phytosanitary Control Service

10.0. The relevant executive authority exercising the functions of the state phytosanitary control service shall have the following rights:

10.0.1. to take measures directed to exercising the state control in the phytosanitary field and preventing the law infringement cases in this field;

10.0.2. to apply to legal entities and natural persons for entering into the objects thereof in the order provided for by the legislation, to obtain necessary information concerning phytosanitary situation and materials being under the quarantine control and to become familiar with the documents for such materials;

10.0.3. to issue the import quarantine permission and phytosanitary certificates for import, export, transit and distribution of plant and plant products within the territory of the Republic of Azerbaijan in accordance with regulations established by the legislation;

10.0.4. to give opinions for quarantine objects being under the phytosanitary control within its competence;

10.0.5. to prohibit storage and sale of plant protection means at warehouses and outlets not conforming to the requirements of sanitary-hygienic rules and safety measures;

10.0.6. to register legal entities and natural persons dealing with import, export, production, storage, sale and application of pesticides, biological preparations and agrochemical substances;

10.0.7. to request from legal entities and natural persons, dealing with sale and use of pesticides, biological preparations and agrochemical substances, compliance with safety rules, prevention of the environmental pollution and liquidation of pollution, to make decision to prohibit the use of agents unfit for use and having high toxic properties in the manner provided for by the legislation and to liquidate them after removing from distribution;

10.0.8. to impose restrictions, make warnings and take preventive measures with respect to legal entities and natural persons in the manner established by the legislation for the purpose of preventing the infringement of the legislation in the field of phytosanitary control;

10.0.9. to take appropriate measures in accordance with the legislation for preventing production, sale, import and export of pesticides, biological preparations and agrochemical substances, which have not gone through the state testing, have not been registered, as well as the use if which is prohibited;

10.0.10. to exercise in the manner provided for by the legislation the state control over the residual quantity of pesticides, other poisonous chemical substances and the compounds thereof in plants and plant products, soil, water and environmental objects;

10.0.11. to exercise control over taking agrotechnical, chemical, biological and other measures, and the observance of regulations on use of plant protection means by land users;

10.0.12. to prevent the spread of pests subjected to quarantine from one territory into another within the country, to make proposals to the relevant executive authorities with respect to setting up quarantine posts, their numbers and location for the purpose of carrying out phytosanitary measures in such area;

10.0.13. to take appropriate measures within its competence and in the manner provided for by the legislation in order to bring legal entities and natural persons to liability for violation of the legislation in the field of phytosanitary control;

10.0.14. to ensure the preparation and publication of instructions, orders, recommendations and rules, forms for registration, report, act and protocol, import permission documents, certificates and other normative documents in the manner provided for by the legislation and in conformity with the requirements of relevant international organizations;

10.0.15. to submit to the relevant executive authority a report on the phytosanitary situation of the territory of the country in the manner provided for by the legislation;

10.0.16. to dispose of purposeful budgetary funds allocated to phytosanitary measures;

10.0.17. to exercise other rights provided for by the legislation of the Republic of Azerbaijan.

Article 11. Powers of the State Phytosanitary Inspectors

11.1. Powers of the state phytosanitary inspectors shall be the following:

11.1.1. to enter, in the order provided for by the legislation, into the objects of legal entities and natural persons dealing with production, processing, procurement, storage and sale of plant and plant products, as well as into sea- and air ports, railway stations, post offices, elevators, warehouses, ships, civil aircrafts, trains and other transportation means, markets, scientific-research and sort-testing sites and to apply to the concerned state authorities, legal entities and natural persons for the purpose of conduct of phytosanitary inspections;

11.1.2. to examine materials, being under the quarantine control, imported into and exported from the territory the Republic of Azerbaijan, including plant and plant products brought in luggage, postal parcels and hand luggage of citizens and to conduct laboratory expertise thereof in the manner provided for by the legislation;

11.1.3. to suspend materials being under the quarantine control in cases and manner provided for by the legislation, to take appropriate measures for their removal from distribution, neutralization or liquidation;

11.2. While exercising the phytosanitary control over quarantine objects being under the phytosanitary control, the state phytosanitary inspectors shall make decisions on the following issues within their competence:

11.2.1. liquidation of violation of the requirements of legislation on phytosanitary control;

11.2.2. conduct of phytosanitary expertise and diagnostics at objects being under the phytosanitary control in the order set forth in the legislation;

11.2.3. neutralization of objects being the carriers of pests subjected to quarantine at agro-ecosystems;

11.2.4. storage, neutralization, re-processing, withdrawal or liquidation of plant and plant products, the danger of which was proved by the results of phytosanitary expertise or laboratory examinations in the order set forth in the legislation;

11.2.5. withdrawal or liquidation of pesticides, biological preparations, other plant protection means, which have not been registered in a relevant order, do not meet the requirements of standards and technical regulations, those of unknown origin, counterfeit and of low quality;

11.2.6. to make to legal entities and natural persons dealing with production of plant and plant products recommendations relating to plant protection issues, technology and regulations for use, storage and transportation of pesticides, biological substances and other plant protection means;

11.2.7. if plant protection measures are taken with violation of the existing instructions and recommendations, technology and regulations, to suspend such measures until elimination of the shortcomings;

11.2.8. if a danger of infection of plants with pests is found, to apply to the concerned state authorities for the purpose of taking measures with respect to subjects creating the danger;

11.2.9. not to allow the use of warehouses and other production buildings, which do not conform to the sanitary-hygienic requirements and safety rules, for keeping of pesticides, biological preparations and other plant protection means, seed and sowing materials sprayed with disinfectants;

11.2.10. taking appropriate measures for bringing legal entities and natural persons guilty in violation of the legislation on phytosanitary control to liability in the manner set forth in the legislation;

11.3. Implementation of decisions and orders of the state phytosanitary inspectors by legal entities and natural persons shall be mandatory.

11.4. Forms of decisions and orders of the state phytosanitary inspectors, the implementation of which is mandatory, rules for their drafting and issuance shall be determined by relevant executive authority.

11.5. The state phytosanitary inspectors shall carry out their activity in accordance with the legislation of the Republic of Azerbaijan.

Article 12. Responsibilities and Obligations of Legal Entities and Natural Persons in the Field of Phytosanitary Control

12.1. Responsibilities and obligations of legal entities and natural persons in the field of phytosanitary control shall be the following:

12.1.1. if necessary, to create the due conditions in their territories and objects upon the request of the relevant executive authority for the purpose of conduct the phytosanitary control and inspection and introduction of the quarantine objects or plant protection means being under the phytosanitary control;

12.1.2. to comply with the regulations established by the legislation for storage, transportation, use and neutralization of plant protection means and not to allow the pollution of environment with poisonous substances;

12.1.3. to ensure the carrying out of phytosanitary measures for prevention or restriction of spread of pests subjected to quarantine in accordance with the legislation;

12.1.4. to comply with decisions and instructions taken by the state phytosanitary inspectors for the purpose of implementation of phytosanitary measures;

12.1.5. to inform the state phytosanitary control service in time about existence of pests subjected to quarantine in territories where they work and other places;

12.1.6. not to permit the neutralization of materials being under the quarantine control outside the especially appointed places;

12.1.7. to appoint assistant workers for taking of such measures, where neutralization and cleaning of quarantine objects being under the phytosanitary control is required;

12.1.8. to perform other duties and obligations in the field of phytosanitary control, established by the legislation of the Republic of Azerbaijan.

12.2. Legal entities and natural persons may establish purposeful funds at their own expense to assist in implementation of the phytosanitary measures.

Chapter III

Phytosanitary measures

Article 13. Phytosanitary Measures Applied to Imported Consignment

13.1. For the purpose of preventing the entry of pests from foreign countries into and their spread in the territory of the Republic of Azerbaijan, phytosanitary control points shall be set up in the manner provided for by the legislation. The placement and activity of phytosanitary control points shall be carried out in the manner established by the relevant executive authority. Such points shall coordinate their activity with the concerned authorities in the manner provided for by the legislation.

13.2. With a view to preventing the entry of pests into and their spread within the territory of the country, the following measures shall be taken by the state phytosanitary control service in connection with the import of plant and plant products:

13.2.1. with a view to analyzing (testing), examination, storage and destruction of products, to keep the plant, plant products or other materials, being under the quarantine control, and goods at phytosanitary control stations, to return them back and impose restrictions on their import;

13.2.2. to prohibit or restrict the import of plant and plant products into the country, if there is a danger of entry of pests into the area.

13.3. when the territory of the Republic of Azerbaijan is used for transit purposes, the measures set forth in Article 11.1.1 of this law shall be taken, provided that they are technically justified and there is a necessity to prevent entry of pests into and their spread within the area.

13.4. If pests subjected to quarantine and creating a serious danger for the territory of the Republic of Azerbaijan are revealed, the appropriate emergency measures shall be taken and the relevant international organizations be informed about this;

13.5. If commodity being imported are not accompanied by all the relevant documents and there is a risk of infestation with pests, the state phytosanitary control service shall give to the importer a written notice about the following:

13.5.1. imposition of a quarantine regime through delivery of commodity to a phytosanitary control station;

13.5.2. taking samples of commodity for the purpose of carrying out the examination and analysis of commodity and detention of goods until obtaining results thereof;

13.5.3. if there is a necessity for neutralization, withdrawing of commodity and returning it to the owner after the neutralization process;

13.5.4. unloading and reloading the commodity for the purpose of neutralization;

13.5.5. necessity for the destruction of the commodity;

13.6. If the commodity, which was infested with pests subjected to quarantine, is not taken back by its owner during a determined period after the neutralization thereof, the state phytosanitary control service can make a decision on destruction of the commodity in a manner set forth in the legislation;

13.7. The costs of phytosanitary measures, taken during a period of phytosanitary inspection, and responsibility for value of destructed consignment shall be borne by the importer;

13.8. The plant and plant products, plant protection means and other commodities imported through post offices shall be received at stations determined by the relevant executive authority. The list of these stations shall be approved after reaching an agreement with the relevant executive authorities, and the information shall be provided to the international organizations relating to plant protection and quarantine and countries of exportation upon their request.

Article 14. Certification of Exported Consignments

14.1. Phytosanitary certification shall be carried out for the purpose of ensuring the conformity of plant and plant products exported from the Republic of Azerbaijan to the requirements of international standards.

14.2. Phytosanitary certificates or their electronic substitutes shall be drafted and issued taking into account the requirements of international standards. Changes and amendments, which have not been approved, cannot be made to phytosanitary certificates.

14.3. The phytosanitary certificate for exported plant and plant products shall be issued by the state phytosanitary control service in the following cases:

14.3.1. where there is an application for issuance of the phytosanitary certificate and the service fee is paid;

14.3.2. where the required documents are submitted in the manner established by the legislation;

14.3.3. where the consignment, to which a certificate is supposed to be issued, is presented for inspection and carrying out other measures;

14.3.4. where the consignment to be exported meets the requirements of international standards.

Article 15. Phytosanitary Measures Applied to Consignment Conveyed as Transit

15.1. The phytosanitary control shall be exercised over the materials being under the quarantine control and conveyed as transit through the territory of the Republic of Azerbaijan to another country without opening, distributing, mixing with other consignments and repacking thereof in the manner provided for by the legislation.

15.2. The state phytosanitary control service shall require a phytosanitary certificate for plant and plant products conveyed as transit and, if necessary, shall apply phytosanitary measures to materials and consignments being under the quarantine control.

15.3. The phytosanitary measures shall not be applied to materials being under the quarantine control and conveyed as transit through the territory of the Republic of Azerbaijan provided that:

15.3.1. plant and plant products are carried in a sealed means of transportation or containers and packed in accordance with the requirements of international standards for the purpose of preventing the spread of pests;

15.3.2. the product is provided with a phytosanitary certificate issued by the country of exportation.

Chapter IV

Pest Control

Article 16. Declaration of Quarantine in an Area

16.1. If the existence of pests subjected to quarantine in the territory of the country is confirmed, the state phytosanitary control service shall, for the purpose of pest control, make a proposal to the relevant executive authorities to declare a quarantine in that area.

16.2. Boundaries of the area, where the quarantine regime is applied, shall be determined by relevant executive authorities depending on the level of spread of pests.

16.3. Information about the declaration of a quarantine regime in the area shall be immediately published in official press, and notification shall be made to legal entities and population located in that area.

16.4. Decision of the relevant executive authority relating to declaration of the quarantine in the area shall include the following information:

16.4.1. reasons for the declaration of quarantine;

16.4.2. location and boundaries of the area, where the quarantine is declared;

16.4.3. list of quarantine restrictions and phytosanitary measures.

Article 17. Restrictions and Phytosanitary Measures Applied in the Quarantine Declared Areas

17.1. The following restrictions and phytosanitary measures shall be applied in the quarantine declared areas:

17.1.1. taking the plant protection measures specified by the state phytosanitary control service against the pests;

17.1.2. imposing restrictions on the transportation of plant and plant products from or into, as well as within the area, where the quarantine is declared;

17.1.3. prohibition of replanting the plants susceptible to pests subjected to quarantine in that area.

17.2. The state phytosanitary control service, if considers it appropriate, shall give to the owner (user) of the land plot, located in the area adjacent to the quarantine declared area, an official notification to take phytosanitary measures in the area thereof within the designated period of time and shall raise before the owner (user) demands as provided for in the legislation.

17.3. If an owner (user) of the land plot fails to comply with such demands, the state phytosanitary control service for the purpose of carrying out the phytosanitary measures required by the notification shall make a decision relating to destruction of plants, plant products and pests in this area.

17.4. Costs of imposing restrictions and taking phytosanitary measures in quarantine declared areas shall be reimbursed at the expense of the state budget in cases provided for by the legislation, and in other cases - at the expense of the owner (user) of the land plot.

Article 18. Declaration of Areas of Low Pest Prevalence

18.1. The relevant executive authority shall declare the area of low pest prevalence in the following cases:

18.1.1. determination of low prevalence of pests in the area;

18.1.2. taking appropriate phytosanitary measures and applying necessary control system in order to retain the prevalence of pests in a low level.

18.2. It is not permitted to transport the plants and plant products from the area of low pest prevalence.

Article 19. Declaration of Pest Free Area

19.1. The state phytosanitary control service shall regularly investigate the quarantine declared area and constantly keep under control the existence of pests subjected to quarantine in the area.

19.2. Upon the completion of phytosanitary measures, the state phytosanitary control service shall put forward a proposal to the relevant executive authority on lifting the quarantine regime in the pest infected area or in its part.

19.3. The relevant executive authority shall declare the quarantine declared area, including a place and sites of product manufacture as a pest free area where:

19.3.1. it is sure that pests subjected to quarantine are not present in the area;

19.3.2. the phytosanitary measures, designed for the purification of the area from pest, are fully taken;

19.3.3. the surveillances are conducted to verify that the pest free area status is maintained;

19.4. Transportation of plants and plant products from the quarantine declared areas is permitted only after it is declared a pest free area.

Chapter V

Phytosanitary Requirements Relating To Plant Protection

Article 20. Carrying out the State Testing and Registration of Pesticides, Biological Preparations and Agrochemical Substances

20.1. The state testing and registration of pesticides, biological preparations and agrochemical substances shall be carried out for the purpose of their biological, hygiene-toxicological and ecological evaluation and elaboration of regulations for application thereof:

20.2. The state testing of pesticides, biological preparations and agrochemical substances shall be carried out in scientific-research institutions in accordance with the regulations established by the relevant executive authority.

20.3. The quantity of pesticides, biological preparations and agrochemical substances imported from foreign countries for the purpose of their testing in production, registration and using thereof in scientific-research works shall be determined by the relevant executive authority.

20.4. The pesticides, biological preparations and agrochemical substances, which passed through the state testing, the safety of which for humans, animals and plants, as well as environment has been confirmed, shall be registered by the relevant executive authority and included in the list of preparations permitted for use in the Republic of Azerbaijan.

20.5. The mandatory condition of the state registration of pesticides, biological preparations and agrochemical substances shall be the availability of certificates of origin and quality, instructions on their safe application and the methodology for determination of the residual quantity of such substances in plant and plant products, soil, water and environmental objects.

20.6. The registration period of pesticides, biological preparations and agrochemical substances is 5 years, and after expiration of this period they shall be re-registered in accordance with the established manner. When new information on safety of preparations is provided, the relevant executive authority may prohibit their use entirely or for a temporary term.

Article 21. State Control over Residual Quantity of Poisonous Chemical Substances

21.1. The state control over the residual quantity of pesticides, biological preparations and compounds thereof in all types of plant and plant products and soil shall be exercised by the relevant executive authority.

21.2. Sale of plant and plant products is permitted if there is a relevant certificate confirming that the residual quantity of pesticides, biological preparations and compounds thereof in their composition does not exceed the acceptable level.

21.3. Sale of a product shall be prohibited if the residual quantity of pesticides, biological preparations and compounds thereof in such products exceeds the acceptable level, and such products shall be removed from the distribution in the manner provided for by the legislation.

Article 22. Destruction of Unusable Poisonous Chemical Substances

22.1. Pesticides, biological preparations, which are unusable or the use of which is prohibited, compounds and tares thereof, shall be neutralized or destructed after their withdrawal from owners as provided for by the legislation.

22.2. The neutralization or destruction of pesticides, biological preparations and compounds thereof shall be carried out in special warehouses (burial grounds) in the manner established by the relevant executive authority.

22.3. The relevant executive authority shall determine the number and location of special warehouses (burial grounds).

Article 23. Neutralization of Materials under Quarantine Control

23.1. If pests subjected to quarantine are detected in materials being under quarantine control and imported into the territory of the Republic of Azerbaijan, they shall be neutralized at phytosanitary control stations or consignment' destination places in the manner provided for by the legislation.

23.2. Transport vehicles used for the transportation of plant and plant products shall be mandatory cleaned and, if necessary, neutralized in conformity with the phytosanitary requirements.

23.3. The neutralization of materials being under quarantine control shall be carried out by the state phytosanitary control service on the basis of a contract concluded with legal entities and natural persons.

Article 24. Establishing and Keeping Reserves of Pesticides

24.1. In cases of emergency, the reserves of pesticides shall be established at the budgetary expense in the manner established by the relevant executive authority for the purpose of preventing the mass spread of pests subjected to quarantine and especially dangerous pests.

24.2. The reserve norms and regulations for use of various types of pesticides shall be determined by the relevant executive authority.

24.3. The reserves of pesticides shall be regularly renewed and used under control of the relevant executive authority.

Chapter VI

Phytosanitary Service

Article 25. Establishment of Phytosanitary Service

25.1. The phytosanitary service in the Republic of Azerbaijan shall be carried out through governmental and non-governmental phytosanitary services.

25.2. Taking the plant protection measures, provided for by this law, shall be ensured by the activity of the state phytosanitary service.

25.3. The duties of state phytosanitary service shall be determined by the relevant executive authority.

25.4. The state phytosanitary service may perform the functions of non-governmental phytosanitary service.

Article 26. Subjects of Non-Governmental Phytosanitary Service

26.1. The subjects of non-governmental phytosanitary service are legal entities and natural persons rendering agrochemical services to the agriculture and engaged in the entrepreneurship activity in the field of production, import, export, transportation, storage, sale and application of pesticides, biological preparations and agrochemical substances in the manner provided for by the legislation.

26.2. The subjects of non-governmental phytosanitary service may not perform the functions of the state phytosanitary service.

26.3. The subjects of non-governmental phytosanitary service shall carry out their activity upon registration with the state phytosanitary control service in the manner provided for by the legislation.

Article 27. Rights and Responsibilities of Subjects of Non-Governmental Phytosanitary Service

27.1. The subjects of non-governmental phytosanitary service shall have the following rights:

27.1.1. to apply to the relevant executive authorities for documentation of agents which they produced and imported in a manner provided for by the legislation.

27.1.2. to use the model registration and reporting documents and forms approved by the relevant executive authority;

27.1.3. to use the financial concessions applied in the issues of rendering agrichemical services to agriculture, carrying out measures directed to increase of plant protection and plant productivity based on the state, regional and local programs;

27.1.4. to enjoy other rights provided for by the legislation.

27.2. The subjects of non-governmental phytosanitary service shall have the following responsibilities:

27.2.1. to observe the phytosanitary control legislation and to get registered with the state phytosanitary control service in the established manner;

27.2.2. to render agrochemical services to the producers of agricultural products and horticultural farms;

27.2.3. to fulfil the requirements of the state standards, phytosanitary and technical norms and regulations and other normative documents relating to the application of plant protection measures;

27.2.4. to provide a guarantee and bear liability for quality characteristics and safety of plant and plant products, pesticides, biological preparations and other plant protection means, produced and imported by them;

27.2.5. to ensure the neutralization or destruction of unusable pesticides, biological preparations and agrochemical substances in the manner provided for by the legislation;

27.2.6. to comply with decisions and orders adopted by the state phytosanitary inspectors in the manner provided for by the legislation;

27.2.7. if pests are detected in the objects where they serve, to notify the state phytosanitary control service and to take initial measures for preventing the spread of pests;

27.2.8. to render the necessary assistance to the state phytosanitary control service in taking the phytosanitary measures and to inform the relevant executive authority about the actions taken by them in the field of phytosanitary service in the manner provided for by the legislation;

27.2.9. to take appropriate measures for ensuring the safety of plant and plant products produced at the objects, where they serve, and compliance of such plant and plant products with the phytosanitary norms;

27.2.10. to participate in training of specialists in the field of plant protection, conducting of scientific-research works, as well as in implementation of the state programs on plant protection;

27.2.11. to keep records and reports of pesticides, biological preparations and agrochemical substances in the manner provided for by the legislation;

27.2.12. to perform other responsibilities established by the legislation.

Chapter VII

Requirements to Production, Application and Distribution of Poisonous Chemical Substances

Article 28. The State Responsibilities in the Field of Distribution of Pesticides, Biological Preparations and Agrochemical Substances

28.1. The state responsibilities in the field of distribution of pesticides, biological preparations and agrochemical substances shall be the following:

28.1.1. to elaborate and approve the state program on production of pesticides and biological preparations in the Republic of Azerbaijan and to ensure its implementation;

28.1.2. to develop standards relating to production, transportation and storage of plant protection means and documents regarding the relevant normative-technical requirements and to approve them;

28.1.3. to establish rules for the state testing, registration of pesticides, biological preparations and agrochemical substances and inclusion thereof into the list of preparations, the use of which is permitted;

28.1.4. to approve the list of pesticides, biological preparations and agrochemical substances of high toxic and ecological danger, and to give a consent to their application in exceptional cases;

28.1.5. to restrict the application of poisonous chemical substances in the emergency ecological condition zones;

28.1.6. to organize the state control over the quality and application of pesticides, biological preparations and agrochemical substances in all stages of the distribution thereof;

28.1.7. to prohibit the application of pesticides and other poisonous chemical substances in conservancy zones, health-improving, rest and tourist zones, lands of water reservoirs, water reservoirs and other especially protected zones;

28.1.8. to arrange regions for production of a special raw material for the purpose of providing a favourable phytosanitary and technological conditions for the production of ecologically pure and high quality dietetic and child foodstuffs, to specify their boundaries, legal and technological regimes;

28.1.9. to establish rules for conducting agrochemical research works in sowing areas and other lands useful for agricultural, issuance of agrochemical certificates to areas and preparation of cartograms;

28.1.10. to give the state order for procurement of plant protection means needed for protection of plant and plant products against the pests subjected to quarantine and especially dangerous pests;

28.1.11. to specify the uniform statistical reporting form and rules for its submission relating to distribution of pesticides, biological preparations and agrochemical substances;

28.1.12. to carry out the international cooperation in the field of production, import, export and application of pesticides, biological preparations and agrochemical substances;

28.2. It is not permitted to apply pesticides, biological preparations and agrochemical substances to the plants grown for the purpose of manufacturing plant products of high quality (brand) and the names of which are issued according to their origin of production in accordance with the legislation;

28.3. Where the importance of application of pesticides, biological preparations and agrochemical substances is justified, the application of their restricted assortments under the strict control of the relevant executive authority in the areas specified in Article 28.1.7 of this law shall be permitted in the manner provided for by the legislation on the basis of a positive opinion of the state sanitary and ecological expertise.

28.4. In accordance with the relevant legislation of the Republic of Azerbaijan, the concessions shall be applied to workers directly undertaking the works related to manufacture, transportation, storage, application, neutralization and destruction of pesticides, biological preparations and agrochemical substances and workers conducting a controlling inspection in this field;

Article 29. Production, Sale and Application of Poisonous Chemical Substances

29.1. The production of pesticides and biological preparations in the Republic of Azerbaijan shall be carried out by legal entities, irrespective of the ownership and organizational-legal form in the manner established by the legislation, provided that human health and the environmental safety are ensured;

29.2. An enterprise, producing the pesticides and biological preparations, shall establish a control service for giving a guarantee to the quality of produced preparations, shall obtain a relevant certificate for each lot (series) that it put on the market and shall bear responsibility for its quality and application.

29.3. Each produced preparation shall pass the state testing and be registered in the manner provided for by the legislation, and normative documents regarding its technical terms and standardization shall be prepared.

29.4. Standardization and certification of pesticides and biological preparations shall be carried out by the relevant executive authorities in the manner provided for by the legislation;

29.5. It is not permitted to produce, sale and apply poisonous chemical substances inconsistent with the requirements of the state standards of the Republic of Azerbaijan or the international standards officially recognized in the territory of the Republic of Azerbaijan, as well as those not passed the state testing, not registered and prohibited for use;

29.6. Rules for approval of the list of preparations of high toxic and ecological danger and application thereof shall be determined by the relevant executive authority;

29.7. The application of pesticides and biological preparations in the emergency ecological condition zone shall be restricted by the relevant executive authority.

Article 30. Import and Export of Poisonous Chemical Substances

30.1. The pesticides and biological preparations may be imported and exported if they have passed the state registration in the Republic of Azerbaijan, are included in the list of preparations the use of which is permitted, have a certificate of origin and quality and are duly packed and labelled.

30.2. The import, sale, application and advertising of pesticides and biological preparations not having a certificate of origin and quality shall be prohibited.

30.3. Unless otherwise is specified in the international agreements, to which the Republic of Azerbaijan is a party, the characteristics of international certificates shall be accepted in import and export of pesticides and biological preparations.

30.4. The import and export of pesticides and biological preparations not passed the state registration may be permitted where:

30.4.1. it is used for the purpose of scientific-research works and displayed at the expositions without a right to be sold;

30.4.2. it is imported and exported together with seeds and sowing materials processed with plant protection means;

30.4.3. they have the documents confirming their registration and use in the country of production and on the basis of a decision of the relevant executive authority made for the purpose of preventing the mass spread of pests subjected to quarantine and especially dangerous pests in emergency cases.

30.5. The import and application of pesticides and biological preparations not passed the state registration in the order provided for by the legislation may be carried out only under the control of the relevant executive authority.

Article 31. Packaging, Storage and Transportation of Poisonous Chemical Substances

31.1. The pesticides and biological preparations produced in the Republic of Azerbaijan and permitted for use shall be packed and labelled in accordance with the relevant standards and technical terms, and the date of production, period and conditions of storage thereof and other information shall be indicated in the accompanying documents and instructions for use in Azerbaijani language and, if necessary, in other languages.

31.2. The transportation and storage of poisonous chemical substances within the territory of the country shall be carried out by complying with the specified technical terms and requirements, in accordance with the regulations established by the relevant executive authority.

Chapter VIII

Scientific and Human Resources Support and Funding of the Phytosanitary Service

Article 32. Scientific-Technical Council in the Field of Phytosanitary Control

32.1. A Scientific-Technical Council consisting of scientists and highly qualified specialists shall be established within the state phytosanitary control service for the purpose of considering the issues relating to the directions of scientific researches conducted in the field of phytosanitary control, and preparing proposals and recommendations on the application of modern scientific-technical achievements;

32.2. The Scientific-Technical Council shall consider and give opinions on the following issues:

32.2.1. the results of application of scientific achievements in the field of plant protection and quarantine in production;

32.2.2 the results of pest risk analysis;

32.2.3. the conformity of pesticides, biological preparations and agrochemical substances with normative-technical requirements;

32.2.4. scientific justification of instructions, regulations, recommendations and other normative documents developed in the field of plant protection and quarantine;

32.2.5. planning of scientific and human resources support in the field of plant protection and other issues the settlement of which is important.

32.3 The Scientific-Technical Council in the field of phytosanitary control shall be established by the relevant executive authority.

Article 33. Training of Specialists in the Field of Plant Protection and Improvement of Their Qualifications

33.1. The training of specialists in the field of plant protection and improvement of their qualifications shall be carried out in the manner established by the relevant legislation of the Republic of Azerbaijan.

33.2. A program for the training of specialists in the field of plant protection, planning and carrying out the improvement of their qualifications shall be agreed with the relevant executive authority in the manner established by the legislation.

Article 34. Funding of the Phytosanitary Service

34.1. Financial source of the state phytosanitary control service shall consist of funds allocated from the state budget, amounts paid for the phytosanitary services rendered to legal entities and natural persons, voluntary payments and technical financial support from donor organizations.

34.2. The following expenses in the field of phytosanitary control shall be funded by the state budget of the Republic of Azerbaijan:

34.2.1. costs and material-technical support for maintaining of the state phytosanitary control service and its subordinated organizations;

34.2.2. taking measures in the field of plant protection and quarantine in conformity with the legislation;

34.2.3. establishing and storage of the reserves of pesticides;

34.2.4. conducting the scientific-research works, training of specialists in the field of plant protection and improvement of their qualifications;

34.2.5. taking the phytosanitary and agrochemical measures based on purposeful state and regional programs;

34.2.6. payment of membership fees to the international organizations in the field of phytosanitary control, to which the Republic of Azerbaijan is a Contracting party;

34.2.7. other phytosanitary measures provided for by the legislation.

34.3. The following phytosanitary services rendered to legal entities and natural persons in the manner provided for by the legislation shall be paid at the expense of such persons, voluntary payments and technical financial support from donor organizations:

34.3.1. the state testing, registration and expertise of pesticides, biological preparations and agrochemical substances;

34.3.2. neutralization of materials being under the quarantine control in the manner established by the relevant executive authority;

34.3.3. issuance of phytosanitary certificates, import quarantine permissions, uniform record keeping and reporting forms and other phytosanitary documents;

34.3.4. carrying out the phytosanitary quarantine inspection, examination and expertise;

34.3.5. making toxicological analysis of plant and plant products, soil and water, plant protection means;

34.3.6. taking other plant protection measures, except for the measures against the pests subjected to quarantine and especially dangerous pests;

34.3.7. other services provided for by the legislation.

Chapter IX

Liability for Violation of the Legislation on Phytosanitary Control and Dispute Settlement

Article 35. Liability for Violation of the Legislation on Phytosanitary Control

35.1. Persons guilty in violation of the legislation on phytosanitary control shall bear liability in the manner provided for by the legislation.

35.2. Damage caused to legal entities and natural persons as a result of violation of the legislation on phytosanitary control shall be reimbursed in the manner provided for by the legislative acts of the Republic of Azerbaijan.

Article 36. Dispute Settlement

Disputes relating to violation of the legislation on phytosanitary control shall be settled in accordance with the legislation of Republic of Azerbaijan, including settlement in judicial order.

Chapter X

International Cooperation and Final Provisions

Article 37. International Cooperation in the Field of Phytosanitary Control

International cooperation in the field of phytosanitary control shall be carried out pursuant to international agreements, to which the Republic of Azerbaijan is a party.

Article 38. Entry of the Law into Force

38.1. This law shall become effective from the date of publication.

38.2. The laws of the Republic of Azerbaijan “On Plant Quarantine” (The Compilation of Legislation of the Republic of Azerbaijan, 1997, No. 2, Article 103; 1998, No.2, Article 83; 2002, No.5, Article 241, No.12, Article 706; 2004, No.2, Article 57), “On Plant Protection”, (The Compilation of Legislation of the Republic of Azerbaijan, 1997, No.4, Article 274; 2002, No.5, 241) and “On Pesticides and Agrochemical Substances” (The Compilation of Legislation of the Republic of Azerbaijan, 1997, No.5, Article 396; 2003, No.1, Article 7) shall be deemed as ineffective from the date of entry of this law into force.

Ilham Aliyev

President of the Republic of Azerbaijan

Baku, May 12, 2006.