

**Law No. 76-17 relating to the protection of plants,
promulgated by Dahir n°1-21-66 of 3 hija 1442 (14 July 2021)**

(OG No 7036 of 04/11/2021, page 2116)

Having regard to the Constitution, in particular its articles 42 and 50,

IT HAS BEEN DECIDED AS FOLLOWS:

Shall be promulgated and be published in the Official Gazette, after this Dahir, the Law No. 76-17 relating to the protection of plants, as adopted by the House of Representatives and the House of Councillors,

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LAW No. 76-17 RELATING TO THE PROTECTION OF PLANTS

CHAPTER ONE: GENERAL PROVISIONS

ARTICLE 1

The purpose of this law shall be to ensure the protection of plants against harmful organisms. To this end, it shall determine the framework in which a permanent phytosanitary watch shall be ensured throughout the national territory. It shall also lay down the rules for the prevention, monitoring, control and fight against the said harmful organisms.

ARTICLE 2

Within the meaning of this law and the texts adopted for its application, the following terms shall mean:

- 1) **Plants:** Live plants and live parts of plants including seeds, plant genetic material and any plant propagating material;
- 2) **Vegetable products:** Unprocessed products of plant origin, including seeds, fruits and flowers as well as processed products which, by their nature or their processing, can carry harmful organisms;
- 3) **Pest:** Any species, strain or biotype of plant, animal or pathogen causing damage to plants or plant products;
- 4) **Regulated pest:** Quarantine pest and non-quarantine pest;
- 5) **Quarantine pest:** Harmful organism which constitutes a risk for the economy of the threatened zone and which is slightly or not present in this zone and which is subject to control in order to prevent its spread and ensure its eradication;
- 6) **Non-quarantine pest:** Pest, other than that that defined in 5) above, whose presence on or in the plants intended for planting affects the intended use of these plants and leads to an unacceptable economic impact;

- 7) **Biological control agent:** Living organism or part of a living organism intended to be used for the control of harmful organisms or showing a phytosanitary interest;
- 8) **Protected area:** A zone free from any controlled harmful organism likely to be present in other areas of the national territory, for which there is a risk of proliferation of the said organism, due to favorable ecological conditions;
- 9) **Other objects:** Materials, packaging, containers and means of transport as well as any other object or material, including agricultural equipment, likely to convey or disseminate harmful organisms;
- 10) **Zone:** An officially identified zone which may comprise the whole of a country or part of a country, or the whole or parts of several countries.

In addition, the other technical terms used in this law and the texts taken for its application have the meaning provided for by the provisions of the International Convention for the Protection of Plants, passed in Rome on December 6, 1951, and published by the Dahir No. 1-73-439 of Hija 14, 1393 (January 8, 1974) and by the international standards for phytosanitary measures adopted by the Secretariat of the said Convention.

ARTICLE 3

The provisions of this law shall apply to harmful organisms, biological control agents, plants, plant products and other objects imported, exported, produced or put into circulation on the national territory or in transit, as well as to any person who carries out professional activities, even on a temporary basis, in connection with the said organisms, agents, plants, plant products or other objects.

ARTICLE 4

The competent authority shall ensure a permanent phytosanitary monitoring across the national territory. To this end, it shall take all measures to collect, process and disseminate, in compliance with the legislation in force relating to the protection of personal data, all epidemiological data and information allowing the assessment of phytosanitary risks, for decision-making.

ARTICLE 5

A national emergency phytosanitary intervention plan, hereinafter referred to as the “emergency plan”, shall be developed that defines the general framework of the preparation and fight against the dangers represented by certain harmful organisms that are likely to enter, settle or proliferate across the national territory or on any part thereof or which, due to their nature, their novelty, their persistence, or their invasive character, can damage the plant heritage.

The purpose of the emergency plan shall be to ensure the implementation and coordination of the measures to be taken to limit the effects of these dangers and to return to a normal situation. This contingency plan shall include:

- a) An assessment of pest risks and their potential effects;
- b) An operational system which makes it possible to organize the interventions of the State services, public establishments, and local governments as well as, where applicable, the professional organizations and cooperatives called upon to intervene.

This system, which shall have to take into account the nature, scale and foreseeable development of the emergency situation shall set the terms of the above-mentioned interventions and exchanges of information;

- c) The actions and measures to be taken and the protocols to be followed as well as the human and material resources to be mobilised;

- d) The methods of training and preparation of personnel from the public sector and, where applicable, from the private sector to enable them to discharge their mission.

The emergency plan shall be updated on a regular basis, to take into account the evolution of the phytosanitary risks and the results of the evaluation of the operational system.

The content as well as the conditions and procedures for the development and implementation of the emergency plan shall be set by a regulation.

ARTICLE 6

The competent authority shall take all the measures it deems necessary for the surveillance, prevention, control, and fight against harmful organisms, including at import. To this end, it may, in accordance with the provisions of this law and the texts adopted for its application:

- take all the phytosanitary intervention measures necessary to prevent the appearance, reappearance or spread of harmful organisms likely to harm the plant heritage or whose development may take on a calamitous character;
- develop and implement pest control and/or eradication programs;
- provide specific measures for “protected areas”.

ARTICLE 7

Any operator who, in the course of one’s professional activities, produces or even temporarily holds harmful organisms or biological control agents or plants, plant products or other objects, shall be entered in a register created for this purpose, and kept by the competent authority. This register must be accessible to the public at any time.

However, professional operators who:

- a) supply exclusively and directly to an end user small quantity of plants, plant products or other objects by means other than distance selling;
- b) supply exclusively and directly to an end user small quantity of seeds or seedlings for private use;
- c) have a professional activity related to plants, plant products or other objects, limited to their transport on behalf of other professional operators;
- d) have a professional activity relating exclusively to the transport of goods of all kinds, using wooden packaging materials across the national territory.

The conditions and procedures for registration and exemption from registration in the register as well as those for its keeping and consultation shall be set by regulation.

CHAPTER II: REGULATED PESTS

Section One: Quarantine Pests

ARTICLE 8

Shall be prohibited, the introduction on the national territory, the detention, the transport, the use, the multiplication, the handling or the release in the environment of any harmful organism of quarantine whatever the stage of its development.

The list of harmful quarantine organisms shall be fixed by regulation.

ARTICLE 9

By way of derogation from the provisions of article 8 above, the competent authority may authorize, at the request of the interested party, natural or legal person, the introduction into the national territory, the possession, transport, use, propagation or manipulation of a quarantine pest for the purposes of scientific research or testing or genetic improvement or varietal selection, if all of the following conditions are met:

- a) the persons assigned to the activities related to the harmful organism concerned have the appropriate scientific and technical qualifications;
- b) the introduction into the national territory, the transport, use, multiplication or handling of the harmful organism concerned does not result in its dissemination;
- c) the storage and containment facilities for the harmful organism concerned, the places where it is received, multiplied and handled, as well as the means used for its movement, must have been previously approved for this purpose by the competent authority.

ARTICLE 10

Prior to the issuance of the authorization provided for in Article 9 above, the competent authority shall assess the:

- qualifications of the persons referred to in a) of Article 9 above;
- risks of dissemination, taking into account the activity covered by the authorization, the harmful organism concerned, its biological characteristics, its modes of dispersion, its interaction with the environment and the other risks associated with said harmful organism;
- installations, places and means of transport referred to in c) of article 9 above.

ARTICLE 11

The authorization provided for in Article 9 above shall be established according to the model set by a regulatory text. It shall mention the operation or operations for which it is issued and shall bear all the identifying particulars of the beneficiary, the harmful organism concerned, the places of its origin and its destination as well as the technical and safety conditions under which the said operations must take place.

This authorization shall be non-assignable and non-transferable for any reason whatsoever, and can only be used for the harmful organism concerned as well as for the operation(s) for which it is issued.

ARTICLE 12

The authorization shall be issued in one original and as many copies as necessary, one of which must accompany the harmful organism concerned at its introduction into the national territory, and during its transport, possession, use, multiplication or handling. It shall be presented at any requisition of the authorized agents provided for in article 49 below.

If the beneficiary cannot continue to use the authorization under the required conditions, he must immediately inform the competent authority.

This authority then decides either:

- either to transfer the harmful organism concerned to another facility in possession of the approval referred to in c) of Article 9 above that is still valid, if the beneficiary of the authorization so requests;
- or to cause the said harmful organism to be destroyed, under its supervision, within a fixed period, if the beneficiary does not request the transfer or if there is no suitable facility to host the harmful organism. If the harmful organism is not destroyed within the fixed time, the competent authority shall proceed to the destruction at the expense and risk of the authorization's holder.

The conditions and procedures for the transfer and destruction of the harmful organism provided for in this article shall be set by regulation.

ARTICLE 13

In the event of accidental leakage of harmful organisms, the authorization's beneficiary provided for in article 9 above must immediately inform the competent authority, in order to take all the necessary measures to prevent the propagation of the said organisms and their eradication and, where appropriate, the implementation of the emergency plan provided for in Article 5 above.

ARTICLE 14

The authorization shall be withdrawn when it is found that one or more of the conditions which allowed it to be issued are no longer fulfilled or when its beneficiary does not comply with the prescriptions mentioned in the said authorization.

In such case, the competent authority shall take, in accordance with the procedures laid down by regulation, all the necessary measures, including the destruction of the harmful organism concerned, in order to prevent its dissemination on the national territory.

ARTICLE 15

At the end of scientific research or testing, genetic improvement, or varietal selection, subject to the authorization referred to in Article 9 above:

- 1) the harmful organism concerned and the plant material used must be destroyed by the beneficiary under the supervision of the competent authority, within the time limit set in each authorisation, taking into account the specificities of the harmful organism concerned and the risks incurred. If the harmful organism is not destroyed within the fixed time, the competent authority shall proceed to the destruction, at the expense and risk of the beneficiary;
- 2) the premises, equipment and installations used for the aforementioned work must be cleaned and disinfected or sterilized by the said beneficiary, taking into account the specificities of the harmful organism concerned.

ARTICLE 16

The approval referred to in c) of Article 9 above shall be issued by the competent authority, at the request of the concerned natural or legal person, if after review of the accompanying file and a site visit, it is found that this applicant has the human skills and the facilities and premises that meet the scientific, technical and organizational requirements set by regulation.

The period of validity of the approval cannot exceed three (3) years. It can be renewed under the same conditions as those which allowed its issue.

The approval shall be withdrawn when, following a compliance visit, it is found that one or more of the above requirements are no longer met.

In the event of non-renewal or withdrawal of the aforementioned approval, the harmful organisms concerned shall be destroyed either by the beneficiary, under the supervision of the competent authority, or by the said authority at the expense and risk of the beneficiary.

The procedures for issuance, renewal and withdrawal of the approval as well as the procedures for the destruction of the harmful organisms concerned shall be set by regulation.

Section 2: Non-Quarantine Pests

ARTICLE 17

May be subject to authorization, issued by the competent authority, at the request of the interested party, the introduction into the national territory, the transport, the use, the multiplication, the manipulation or the release into the environment of any non-quarantine pest at any stage of its development.

The terms and conditions for the issuance, use and withdrawal of the aforementioned authorization shall be set by regulation.

CHAPTER III: BIOLOGICAL CONTROL AGENTS

ARTICLE 18

The introduction into the national territory, the transport, the production, the handling, the placing on the market, the release into the environment or the export of biological control agents is subject to authorization issued by the competent authority.

This authorization can only be issued to natural or legal persons who can prove, when applying for authorization, that the agent concerned is a biological control agent.

ARTICLE 19

The application for authorization provided for in Article 18 above must be accompanied by a file consisting of an administrative part and a scientific and technical part allowing the competent authority to assess that the applicant has:

- scientific documentation proving the phytosanitary interest of the biological agent;
- human skills, premises, facilities and material, technical and organizational means necessary to carry out its activities in accordance with the requirements set by regulation.

When the request concerns the introduction into the national territory or the release into the environment of biological control agents, the authorization can only be issued after an analysis of the phytosanitary and environmental risk.

The study of the file produced in support of the authorization application may include an on-site visit to the facilities and equipment that the applicant intends to use for the performance of its activities.

ARTICLE 20

The authorization shall be issued once the applicant meets the conditions set out in Articles 18 and 19 above.

The period of validity of the authorization cannot exceed five (5) years.

Each authorization shall mention the identity of its beneficiary, its purpose, the biological control agents concerned, its period of validity and the conditions under which it must be used. It cannot be assigned or transmitted in any capacity whatsoever.

The beneficiary of the authorization must keep a register, including in electronic form, intended to retrace his activities, the content and terms of which shall be set by regulation.

ARTICLE 21

After issuance of the authorization, the competent authority shall carry out documentary checks and, if necessary, on-site visits to the premises, installations and equipment used by the beneficiary, to ensure compliance with the conditions of use of the said authorisation.

If, during an inspection or visit, it is found that one or more of the conditions mentioned in the authorization have not been met, it may be suspended in order to allow its beneficiary to take the steps necessary to return to compliance with those conditions.

The decision to suspend the authorization shall mention the non-conformities or insufficiencies noted and the recommendations for compliance as well as the period, which cannot be greater than six (6) months, within which the beneficiary must remedy the said non-conformities or shortcomings.

At the end of the fixed period, if the non-conformities or insufficiencies noted have not been remedied, the authorization shall be withdrawn. Otherwise, the suspension measure shall be lifted.

ARTICLE 22

The authorization shall be withdrawn, without prior suspension, when it is found that the continuation of the activities constitutes a danger for the plants or for the environment.

ARTICLE 23

In the event of withdrawal of the authorization, the biological control agents may be transferred, at the request of the beneficiary, at his expense and risk, under the supervision of the competent authority, to another facility working in the same activity. If such transfer proves impossible for any reason whatsoever, the said biological control agents shall be destroyed by the beneficiary of the authorization under the supervision of the competent authority, or by the said authority at the expense and risk of this beneficiary.

ARTICLE 24

If the authorization concerns the production of biological control agents, the production facility must be approved beforehand by the competent authority.

The period of validity of this approval may not exceed five (5) years.

The procedures for issuance, suspension and withdrawal of the authorization and approval as well as the conditions and procedures for the destruction of biological control agents shall be set by regulation.

CHAPTER IV: PHYTOSANITARY SURVEILLANCE

ARTICLE 25

The competent authority shall carry out phytosanitary surveillance of cultivated plants and other plants to assess their condition as regards harmful organisms.

As part of this monitoring, the agents authorized for this purpose by the competent authority, referred to in Article 49 below, shall have access to all public or private premises and all means of transport, used for professional purposes, housing plants, plant products or other objects likely to shelter harmful organisms.

These agents may also take samples under the conditions provided for in Articles 53 and 54 below.

If, during this surveillance, these agents observe risks of harmful organisms dissemination likely to harm the health of plants or the environment, they shall draft a statement in accordance with the provisions of section 26 below.

ARTICLE 26

Any person who, in the course of his professional activities, keeps plants, plant products or other objects must, when he observes the presence of a harmful organism on or in these plants, plant products or other objects or when he has reason to suspect such presence, shall have to immediately report it to the competent authority.

The same statement can be made by any other person.

The declarant shall communicate to the competent authority, at its request, any information available to him on this subject.

ARTICLE 27

Following the statement referred to in Article 26 above, the competent authority shall carry out investigations to confirm or refute the presence of the harmful organism.

If these investigations concludes the necessity to take immediate measures to prevent the spread of the harmful organism, and while awaiting the results of the analyzes of the samples taken, where applicable, the agents may, pursuant to the terms and conditions set by regulation, order:

- the quarantine of plants, plant products or other objects suspected to host or contain any of the harmful organisms appearing on the list provided for in Article 8 above;
- the consignment of the suspicious plants, plant products or other objects pending the results of the investigations;
- the adoption of all appropriate phytosanitary measures to avoid any risk of spreading the harmful organism.

The above-mentioned operations shall be recorded in a report which must mention both the names of the agent who carried out the investigations, and the holder of the plants, plant products or other objects concerned:

- the name of the harmful organism, of the plants, the plant products and the other objects concerned as well as the places and/or facilities visited;
- any other useful information.

Prior to the implementation of the aforementioned measures, the holder shall have the right to incorporate his observations in the report.

ARTICLE 28

If the presence of a harmful organism is confirmed quarantine pest or, where applicable, of a non-quarantine harmful organism, the emergency plan provided for in article 5 above shall be put in motion and, in accordance with the protocols provided for in this plan, the measures indicated below shall be applied:

- 1) Establishment of one or more quarantine areas;
- 2) Requisition, if necessary, of the means of intervention in accordance with the regulations in force in the matter;
- 3) Restriction or control of the cultivation, movement or use of certain plants, plant products or other objects coming from or going to the harmful organism outbreak site;
- 4) Reinforcement of the surveillance and control of plants, plant products and other objects, places, facilities, equipment and means of transport in order to detect the presence of the harmful organism concerned;
- 5) Implementaton of any specific phytosanitary measure, in the focus and in the buffer zone provided for in Article 31 below, in particular the treatment and/or destruction of plants, plant products or other objects contaminated or likely to be contaminated by the pest concerned;
- 6) Control, if necessary, of the movement of people and/or restriction of the movement of people, animals and/or means of transport from or to harmful organism outbreak site or to the buffer zone, for the purposes of avoiding the spread of said harmful organism;
- 7) any other measure to prevent the spread of the harmful organism.

Any measure taken must be brought to the attention of the public by press release or any other means.

The above-mentioned measures shall be taken strictly for the duration necessary to limit the phytosanitary danger, in particular with regard to the establishment of quarantine zones, the requisition of the necessary means of intervention, the control of the movement of people and the limitation of movement of animals and means of transport as well as the destruction of plants, plant products or other objects.

ARTICLE 29

If the destruction is ordered in accordance with 5) of Article 28 above, it can only be carried out after the conduct of an inventory by the authorized agents of the competent authority referred to in article 49 below and the establishment of a report to this effect.

ARTICLE 30

In case of refusal by the holders of the plants, plant products or other objects to carry out the phytosanitary measures ordered in accordance with 5) of Article 28 above, these shall be carried out by the competent authority, or under its control by any legal person designated by it for this purpose, at the expense and risk of these holders.

ARTICLE 31

The quarantine zone referred to in 1) of Article 28 above shall include:

- 1) an area called "infested area" or "outbreak" which includes:

- a) all plants known to be infested by the pest concerned;
 - b) all plants showing signs or symptoms leading to the suspicion of infestation by this harmful organism;
 - c) all the plants likely to be infested by this harmful organism because of their sensitivity to the said organism and their closeness to the infested plants;
- 2) a so-called “buffer zone” adjacent to and surrounding the outbreak, delimited taking into account the risk of dissemination of the harmful organism concerned.

If no quarantine zone is established due to the possibility of the immediate eradication of the harmful organism concerned, a survey must be carried out to determine whether other plants or plant products are infested.

ARTICLE 32

The quarantine zone and the measures relating thereto shall be terminated when it is found that the harmful organism concerned is no longer present in the said zone.

ARTICLE 33

The competent authority may recognize the status of “protected zone” to any zone, found free from one or more harmful organisms.

From the date of this recognition, the introduction and circulation of the harmful organism(s) concerned in the said zone as well as that of the plants, plant products or other objects harboring or likely to harbor the said harmful organisms shall be prohibited.

The aforementioned recognition shall specify in particular the geographical limits of the protected zone as well as the harmful organism(s) and the plants, plant products and other objects concerned.

ARTICLE 34

The competent authority shall conduct regular monitoring and enforce control measures in the areas benefiting from the status of "protected area" for the purpose of maintaining or lifting said status.

The terms and conditions of the recognition, maintenance and lifting of the status of protected area shall be set by regulation.

CHAPTER V: PHYTOSANITARY CONTROL OF PLANTS, PLANT PRODUCTS AND OTHER OBJECTS

Section one: Phytosanitary control at import and transit

ARTICLE 35

The import and transit shall be prohibited:

- 1) plants, plant products and other objects infested by a harmful quarantine organism appearing on the list provided for in article 8 above or coming from zones contaminated by the said organism;

- 2) plant propagating material infested with non-quarantine harmful organisms at rates higher than the rates set by regulation, taking into account the harmful organism and the plants concerned or coming from zones contaminated by the said harmful organisms;
- 3) plants, plant products or plant propagating material which, due to the unavailability or insufficiency of phytosanitary data relating to the place of their origin, are likely to harbor harmful quarantine organisms;
- 4) plants, plant products or other objects appearing on the list drawn up by the competent authority after a preliminary analysis of the phytosanitary risks that they may present;
- 5) plants belonging to plant species whose development can take on an invasive character;
- 6) plants, plant products and other objects infested with harmful organisms at high levels;
- 7) wood packaging materials that do not meet the requirements of the applicable International Standard for Phytosanitary Measures (ISPM) whether these packaging materials are imported empty or are used for packaging imported goods.

However, when the importation involve plants referred to in 1), 2), 5) or 6) above, imported for scientific research or for the purposes of testing, genetic improvement or varietal selection, this importation may be authorized by the competent authority in accordance with the terms and conditions provided for in Chapter II of this law.

The importation of plants, plant products and other objects appearing on the list provided for in 4) above requires the prior approval of the competent authority, according to the conditions and procedures set by regulation.

ARTICLE 36

Any import of plant propagating material or plants for planting, including seeds and seedlings and ornamental plants, shall be subject to an authorization issued by the competent authority, at the request of the importer, under the conditions and according to the procedures laid down by regulation.

In addition to the identification of the applicant and the recipient of the plant propagation material, the authorization shall mention in particular the plant species and/or the variety concerned, the quantities, the place of origin, the period of validity and the specific conditions applicable, if applicable.

The competent authority shall first carry out, and as far as necessary, an assessment of the phytosanitary risks of the exporting country before issuing the aforementioned authorisation.

The methods of conduct of such assessment shall be set by regulation.

ARTICLE 37

Any consignment of plants, plant products or other objects, imported or in transit, may be subject, at border posts, to a phytosanitary inspection, including when they are not subject to the obligation to present a phytosanitary certificate or phytosanitary certificate for re-export provided for in article 41 below.

The said plants, plant products and other objects may only be imported or transit from a border post appearing on the list established for this purpose by regulation.

ARTICLE 38

The phytosanitary inspection provided for in article 37 above is intended to ensure that the plants, plant products and other objects, imported or in transit through the national territory are not spread vectors of harmful organisms on the national territory. It shall include a documentary check and, if necessary, a physical check and laboratory analyzes of the said plants, plant products and other objects.

The technical conditions and procedures governing the phytosanitary inspection of plants, plant products or other objects as well as the procedures for their transit through the national territory and for taking samples shall be fixed by regulatory means.

ARTICLE 39

If, during the phytosanitary inspection referred to above, it appears that the plants, plant products or other objects do not meet the applicable phytosanitary requirements, the competent authority shall immediately take, as per the applicable regulatory text, the necessary phytosanitary measures, in particular their treatment, their consignment pending the analysis results, or their withdrawal, their destruction or their discharge, as the case may be.

The above-mentioned phytosanitary measures shall be carried out, in compliance with the necessary biosecurity conditions, by the operator or failing by the competent authority at the expense and risk of the operator concerned by the importation or transit.

ARTICLE 40

If the phytosanitary inspection of the consignment reveals:

- 1) the presence of a harmful quarantine organism appearing on the list provided for in article 8 above, the plants, plant products or other objects of this consignment shall not be admitted for import or transit through the national territory. The consignment concerned shall be returned or destroyed, at the option of the recipient or his agent, in accordance with the provisions of this law and the texts adopted for its application;
- 2) the presence of a harmful organism other than those referred to in 1) above, the plants, plant products or other objects of this consignment may be subjected to a specific and adequate treatment before their admission for import or their transit through the National territory.

May also be subjected to the treatment referred to in 2) above, plants, plant products and other objects which, because of their species, their presentation, their vegetative state or their origin are likely to carry the harmful organisms referred to in 2) above.

ARTICLE 41

Without prejudice to any other document provided for by the legislation and regulations in force, the plants, plant products and other objects must be accompanied, when they are imported, by the phytosanitary certificate or the phytosanitary certificate for re-export, including in their electronic form, issued by the competent authority of the exporting country in accordance with the provisions of the aforementioned International Plant Protection Convention. They must, where applicable, bear the marks, indications or labels provided for by the specific regulations applicable to them.

However, certain plants, plant products or other objects whose list is fixed by regulation may be exempted, during their importation, from the presentation of the aforementioned phytosanitary certificate or phytosanitary certificate for re-export. This list shall be drawn up taking into account in particular the species, variety, origin or destination on the national territory of the said plants, plant products or other objects.

For certain plants, plant products or other objects specified by regulation, the phytosanitary certificate or the phytosanitary certificate for re-export must include the additional declarations provided for by the aforementioned Convention.

The phytosanitary requirements that plants, plant products and other objects must meet for their import shall be set by regulation.

ARTICLE 42

The phytosanitary certificate or the phytosanitary certificate for re-export may be refused or additional information may be requested if:

- 1) the certificate in question does not conform to the applicable model provided for by the ISPM or if it does not meet the requirements of the said standard or does not bear the clearance of the competent authority of the exporting country;
- 2) its period of validity has expired;
- 3) the additional declarations referred to in Article 41 above are not included or attached to the certificate or are incomplete;
- 4) the information given on the certificate or on the additional declarations is contradictory, inconsistent, crossed out, overloaded or does not correspond to the consignment concerned.

In the event of refusal of the certificate concerned, the plants, plant products or other objects shall be rejected or destroyed at the choice of the recipient or his representative.

Section 2: Phytosanitary control on the national territory

ARTICLE 43

The production, movement and planting of plants and plant products, including in nurseries and laboratories, shall be subject to phytosanitary controls. The purpose of this control shall be to verify the phytosanitary state of plantations as well as plants and plant products during their production and marketing.

Nurseries and laboratories shall also be subject to phytosanitary approval, issued by the competent authority. The procedures for the issuance, renewal, suspension and withdrawal of the approval shall be set by regulation.

To this end, the operators concerned, assisted by the competent authority, must keep a phytosanitary register, including in electronic form, retracing the phytosanitary operations they carry out in the context of their professional activity.

If, during the inspection, it appears that certain plants or plant products are infested by harmful organisms or do not meet the applicable phytosanitary requirements, the competent authority shall take all appropriate measures, in particular the treatment and/or destruction of the said plants and plant products, and if necessary, the partial or total ban on their production, circulation or marketing.

The above-mentioned phytosanitary measures shall be carried out by the operator concerned or, failing, by the competent authority at the expense and risk of the said operator.

The terms and conditions of application of the provisions of this article shall be set by regulation.

ARTICLE 44

The movement of certain plants or plant products or other objects may be subject to obtaining a phytosanitary pass from the competent authority under the conditions and according to the procedures set by regulation.

This pass must be presented at any request of the agents referred to in article 49 below. In the event of non-presentation of the said pass, the plants or plant products or other objects may be seized and destroyed, if necessary, according to the terms and conditions set by regulatory means.

Section 3: Phytosanitary control at export

ARTICLE 45

When the regulations of the country of destination require it, the plants, plant products or other objects intended for export must be accompanied by a phytosanitary certificate for export or a phytosanitary certificate for re-export, including in electronic form, issued for this purpose by the competent authority. This certificate may be accompanied by any other required document drawn up taking into account the phytosanitary requirements of the country of destination of the said plants, plant products or other objects.

Moreover :

- these plants, plant products or other objects must bear any mark or label, or any other identification required by the regulations of the country of destination, particularly in the case of the export of wooden packaging;
- these plants, plant products or other objects must be subject to a phytosanitary control for export intended to ensure that they meet the phytosanitary requirements of the country of destination. This control may include phytosanitary monitoring of plants and plant products during their production cycles.

Shall be fixed, by regulation, the procedures for the issuance or transmission, including by electronic means, of the phytosanitary certificate for export or re-export and any other required documents, where applicable, as well as the conditions and procedures for the export phytosanitary control and the affixation of marks or labels or any other identification stickers to plants, plant products or other objects.

CHAPTER VI: MISCELLANEOUS PROVISIONS

ARTICLE 46

All spraying equipment of phytopharmaceuticals, imported, manufactured, placed on the market or used for the prevention and fight against harmful organisms must comply with the technical specifications set by regulation.

The equipment referred to above shall be subject to regular inspection by the competent authority and must be used in accordance with the information contained in the instructions for use and the precautions to be taken, accompanying it and by following the instructions for use set for this purpose by regulatory means.

ARTICLE 47

The phytosanitary measures prescribed by the competent authority within the framework of the provisions of article 28 above shall not give rise to any compensation even if it results in the destruction of the plants, plant products or other objects.

However, in the case of the measures referred to in 7) of Article 28 above, compensation may be granted under the conditions and according to the procedures set in accordance with the legislation and regulations in force.

ARTICLE 48

The costs incurred by the competent authority for the destruction of harmful organisms, biological control agents, plants, plant products and other objects which, under the provisions of this

law, shall be the responsibility of the operators, natural or legal persons, shall constitute debts of the State and shall be recovered in accordance with the legislation in force.

CHAPTER VII: PHYTOSANITARY POLICY AND PROCEDURES

ARTICLE 49

In addition to the officers of the judicial police, shall be empowered to investigate and report violations of the provisions of this law and of the texts taken for its application and to draw up the reports relating thereto, the agents of the phytosanitary police commissioned for this purpose, by the National Food Safety Office and sworn in accordance with the legislation in force.

The terms and conditions for the commissioning of the said agents to carry out judicial police missions in accordance with the provisions of this law shall be set by regulation.

The above-mentioned agents shall be bound by professional secrecy under pain of the penalties provided for in the criminal code unless the disclosure of the facts is likely to prevent a serious phytosanitary risk.

They may, where appropriate, directly request the assistance of the police for the accomplishment of their mission.

ARTICLE 50

To investigate and record violations of the provisions of this law and the texts adopted for its application, the agents referred to in article 49 above shall be able to:

- 1) have access to all places and means used for the production, storage, packaging, preparation, treatment, transformation, transport, marketing and dispatch or exhibition of plants, plant products or other objects and generally any place or means in which plants, plant products or other objects are located;
- 2) make, according to the information that come to their knowledge, all the necessary findings in the places and means mentioned in 1) above, and where applicable, on the public highway, including the control of all vehicles used as means of transport for plants, plant products or other objects. They can also hear the persons concerned;
- 3) have access to the registers, invoices or to any other professional document likely to facilitate the accomplishment of their mission, take copies of them, collect useful information and justifications and, if necessary, log them;
- 4) request that the persons concerned put at their disposal all the means necessary to carry out their investigations;
- 5) request the opening of parcels and luggage during their dispatch, transport or delivery, in the presence of the carrier, the sender, the recipient or their agents;
- 6) take samples, in accordance with the procedures laid down by regulation, of any sample of plants, plant products or other objects for the purposes of phytosanitary analyses;
- 7) record, pending the results of the analyses, the plants, plant products or other objects concerned;
- 8) proceed, in accordance with the procedures laid down by regulation, with the seizure of plants, plant products or other objects or spraying equipment that do not comply with the provisions of this law and the texts adopted for its application and, if necessary, order the destruction thereof.

ARTICLE 51

The finding of an offense must immediately be followed by the drafting of a dated offense report, duly signed by the reporting agent and by the author(s) of the offence.

In the event of refusal or impediment to sign by the author(s) of the offence, mention thereof shall be made in the report.

A copy of the report minutes shall be immediately given to the offender.

ARTICLE 52

The offense report shall be prepared according to the model set by regulation and shall include in particular the following particulars:

- 1) Identity of the offender(s);
- 2) Identity of the reporting agent;
- 3) The date, time and place of observation of the offence;
- 4) Identification details, as the case may be, of the harmful organisms, biological control agents, plants, plant products or other objects or spraying equipment concerned by the offence;
- 5) Nature of the offence;
- 6) Indication of consignments and seizures made, where applicable;
- 7) References of the documentation consulted, if applicable;
- 8) all the measures taken during the search for the offence.

When circumstances permit, the report shall also include the statements of any person present at the scene of the offense and whose hearing is useful.

In the event that a sample is taken, mention must be made in the offense report with the reference to the report of the sample taking provided for in article du53 below.

ARTICLE 53

Any sample taken shall make the subject of a report as per the model set by regulation and shall include in particular the following information:

- The particulars referred to in 1), 2), 3) and 4) of Article 52 above, as well as the identity of the official who took the sample if different from the reporting official;
- The elements making it possible to identify the batch from which the sample is taken;
- The identification elements of the sample, its nature, its consistency and its size;
- The destination of the sample.

Sampling shall not entitle the owner or holder of the batch from which the sample is taken to any compensation.

ARTICLE 54

The samples taken shall be sealed by the reporting agent and immediately sent to the competent services for analysis and investigation.

If any one of the interested parties deems the findings unsatisfactory, a second opinion shall be sought at the request of this party.

The costs of analysis and counter-expertise, if any, shall be borne by the offender in the event of conviction of the latter.

ARTICLE 55

The original of the reports referred to in articles 51 and 53 above shall be sent to the competent public prosecutor within twenty (20) working days from the date of establishment of the last document to accompany, where applicable, the said minutes.

ARTICLE 56

The minutes provided for in Articles 51 and 53 above shall be deemed authentic until proven otherwise.

CHAPTER VIII: OFFENSES AND SANCTIONS

ARTICLE 57

Without prejudice to the more severe sanctions provided for by the penal code, shall be punished with a fine of fifty thousand (50,000) to three hundred thousand (300,000) dirhams anyone who:

- 1) introduces to the national territory, holds, circulates, uses, multiplies or handles harmful quarantine organisms without the authorization provided for in article 9 above or whose authorization is withdrawn or period of validity has expired or which has been issued for another beneficiary or which is used for harmful organisms or for operations other than those for which it was issued. In addition, harmful quarantine organisms shall be destroyed at the expense and risk of the offender;
- 2) releases quarantine pests into the environment in violation of the provisions of Article 9 above;
- 3) uses facilities for the storage and containment of harmful quarantine organisms or reception, multiplication and handling sites or transport means without the approval provided for in c) of Article 9 above or with a license that is withdrawn or whose validity period has expired;
- 4) imports or causes to transit through the national territory plants, plant products or other objects in violation of the provisions of article 35 above and without the due authorization or prior approval provided for in said article, or whose authorization has been withdrawn or its period of validity has expired or whose authorization has been issued or prior approval has been granted for other plants, plant products or other objects or for another origin or for another operator;
- 5) carries out the plant production activity for plantation in nurseries and laboratories that are not approved or whose approval has been withdrawn or suspended in violation of the provisions of Article 43 above;
- 6) carries out the activity of production of biological control agents in facilities that are not approved or whose approval has been withdrawn or suspended in violation of the provisions of article 24 above.

The penalty provided for the above offenses shall be incurred by the beneficiary of the authorization provided for in article 9 above who, in violation of the provisions of article 13 above, shall not notify the competent authority of the escape of any harmful organism.

ARTICLE 58

Without prejudice to the more severe sanctions provided for by the penal code, shall be punished with a fine of ten thousand (10,000) to one hundred thousand (100,000) dirhams:

- 1) anyone who introduces into the national territory, circulates, uses, multiplies or manipulates or releases non-quarantine harmful organisms into the environment without the authorization provided for in article 17 above or with an authorization that has been withdrawn or the validity thereof has expired or which has been issued for another beneficiary or which is used for harmful organisms or for operations other than those for which it was issued. In addition, non-quarantine harmful organisms shall be destroyed at the expense and risk of the offender;
- 2) any one introduced into the national territory, produces, handles, places on the market or releases into the environment or exports biological control agents without having the authorization provided for in article 18 above or with an authorization withdrawn or suspended or the period of validity thereof has expired or which has been issued for another recipient or is used for a biological control agent other than that for which it was issued. In addition, the biological control agents concerned shall be destroyed at the expense and risk of the offender;
- 3) anyone who does not respect the phytosanitary measures taken as part of the implementation of the measures provided for in Articles 27, 28 or 33 above, as the case may be;
- 4) any operator who imports plant propagating material without the authorization provided for in article 36 above or with an authorization whose period of validity has expired or has been issued for plant propagating material other than that appearing on the said authorization or which has been issued for another operator or for another place of origin;
- 5) anyone who exempts the plants, plant products or other objects that he imports or causes to transit through the national territory, from the phytosanitary inspection provided for in article 37 above;
- 6) any operator who does not keep the register provided for in Article 20 or Article 43 above, as the case may be, in the manner required;
- 7) anyone who circulates plants, plant products or other objects without the pass provided for in article 44 above when requested;
- 8) any operator who imports, manufactures or markets plant protection product spraying equipment that does not comply with the required technical specifications, in violation of the provisions of Article 46 above;
- 9) anyone who uses plant phytopharmaceuticals spraying devices without complying with the instructions for use, in violation of the provisions of article 46 above.

ARTICLE 59

Shall be punished by imprisonment of three (3) months to one (1) year and a fine of five thousand (5,000) to ten thousand (10,000) dirhams or one of these two penalties only, anyone who obstructs or opposes the controls and investigations of the agents referred to in article 49 above.

ARTICLE 60

In the event of a repeat offence, the penalties of imprisonment and fine incurred, provided for above, shall be doubled.

Shall be considered to be a repeat offender whoever, after a conviction by a court a decision having the effect of *res judicata*, for one of the offenses provided for by this law, has committed a new offense in a period of two (2) years following the date of the said decision.

In the event of multiple offences, the fines incurred apply for each offense committed.

CHAPTER IX: TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 61

The provisions of this law shall enter into force from the date of its publication in the “Official Gazette”.

ARTICLE 62

From the date of publication of this law in the Official Gazette, the following shall be repealed:

- Dahir of 23 Rebia I 1346 (20 September 1927) regulating plant health policy, as amended and completed;
- Dahir of 2 Ramadan 1358 (16 October 1939) regulating the import of cotton seeds and cotton growing, as amended and completed;
- Dahir of 2 rebia I 1369 (24 December 1949) establishing control over the production, circulation, sale and planting of certain plants;
- Dahir of 6 Safar 1370 (7 November 1950) relating to the automatic execution of measures to combat plant pests.

However, until their repeal, the texts taken for the application of the above-mentioned texts shall remain in force.

Done in Fez, on 3 hija 1442 (14 July 2021).

FOR COUNTERSIGNATURE: The Head of Government, Saad Dine El Otmani