

7/2001 (I.17.) FVM

on the rules of the implementation of phytosanitary measures

Authorised by Article 65(2)a) of the Plant Protection Act 35 of 2000 (*hereinafter: Act*)
I order as follows:

Chapter 1

EXPLANATORY TERMS

Article 1

In addition to the terms used in the Act within the scope of this Decree:

1. **Introduction:** the entry of a pest resulting in its establishment.
2. **Other object:** any regulated article, not covered by the term of plant or plant products, if it imposes phytosanitary risk.
3. **Spread:** expansion of the geographical distribution of a pest within an area.
4. **EPPO:** European and Mediterranean Plant Protection Organisation
5. **Wood:** wood with or without bark, rounded or sawn, cut or uncut, wood waste, packing material used for transport of objects or dunnage, if it imposes phytosanitary risk.
6. **Consignor:** any natural person, legal entity or economic association having no legal entity, as well as subsidiary company of foreign enterprises in Hungary who (which) grows, produces, buys up, stores, processes regulated articles
7. **Detection survey:** survey conducted in an area to determine if pests are present
8. **Survey:** an official procedure conducted to determine the characteristics of a pest population or to determine which species occur in an area

9. **Infestation:** presence in a plant, plant product or other object of a living pest of the plant or plant product concerned. Infestation includes infection
10. **Infested district:** an epidemiologically uniform region of infested areas
11. **Local market:** domestic markets for small-scale sales of plants, plant products and other objects
12. **Entry of a pest:** movement of a pest into an area where it is not yet present, or present but not widely distributed and being officially controlled.
13. **Treatment:** officially authorised procedure for the killing or rendering infertile of pests
14. **Additional declaration:** a statement that is required by an importing country to be entered on a phytosanitary certificate and which provides specific additional information competent to the phytosanitary condition of a consignment.
15. **Compulsory pest management programme:** any phytosanitary operation or procedure provided for by the official service that the producer has to carry out at his own expense.
16. **Establishment:** perpetuation, for the foreseeable future, of a pest within an area after entry
17. **Re-exported consignment:** consignment which has been imported into a country from which it is then exported without being exposed to infestation or contamination by pests. The consignment may be stored, split up, combined with other consignments or have its packaging changed
18. **Propagating material:** seed, vegetative plant part or rooted plant, meeting phytosanitary requirements and specified in other order of legislation on the state qualification of plant varieties as well as on production and distribution of seeds and vegetative propagating materials (hereinafter: Seed Act)
19. **Contamination:** presence in a plant, plant product, storage place, conveyance or container, of pests or other regulated articles, not constituting an infestation
20. **Field:** a plot of land with defined boundaries within a place of production on which a plant is grown
21. **Place of production:** any premises, collection of fields or a part of them managed separately for phytosanitary purposes, operated as a single production or farming unit.
22. **Area:** a country, part of a country, or all or parts of several countries
23. **Lot:** a number of units of a single consignment of plants, plant products, identifiable by its homogeneity of composition, origin etc.
24. **Consignment in transit:** consignment which passes through a country without being imported, and without being exposed in that country to contamination or infestation by pests. The consignment may not be split up, combined with other consignments or have its packaging changed

25. **Planting material:** plant grown from propagating material, suitable for direct planting meeting phytosanitary requirements and specified in the Seed Act

26. **Seeds:** generative plant material specified in the Seed Act, meeting phytosanitary requirements, intended for further propagation or commercial growing

27. **Refusal:** forbidding of import, export and transit of a consignment or other regulated article when it fails to comply with phytosanitary regulations

Article 2

Phytosanitary tasks include application of measures for preventing natural, trade-related (carried by plants, plant products and other objects, *hereinafter*: regulated articles) or other movement, establishment and spread of quarantine pests, regulated non-quarantine pests or pests officially checked for other reasons, as well as use of efficient techniques suitable for eliminating the damages.

Chapter 2

REGULATED PESTS

Control of quarantine and regulated non-quarantine pests

Article 3

(1) Introduction into Hungary, spread, holding and reproduction without permission of specified quarantine pests at any developmental stage are banned. Banned quarantine pests are contained in *Annex 1*.

(2) Introduction into Hungary of specified regulated articles is banned, if any developmental stages of quarantine pests listed in *Annex 2* or symptoms caused by them can be found on them.

(3) The Ministry of Agriculture and Regional Development (*hereinafter*: ministry) may ban the introduction of regulated articles other than referred to in paragraph (2), if their import may involve introduction or spread of specified quarantine pests.

Article 4

Introduction into Hungary of regulated articles specified in *Annex 3* is banned if any developmental stages of quarantine pests or symptoms caused by them can be found on them.

Article 5

(1) Import to Hungary of regulated articles from countries specified in *Annex 4* is banned. In exceptional cases the Central Plant and Soil Protection Service (hereinafter: Central Service) may grant permit.

(2) Regulated articles specified in *Annex 5* can only be imported to Hungary observing the specific requirements laid down in this annex.

(3) Regulated articles specified in *Annex 6* can only be imported to Hungary if moved with valid phytosanitary certificate issued based on the phytosanitary inspection made by the responsible official body of the country of origin or the exporting country.

(4) The ministry may require inspection of imported plants, plant products and other objects, other than those specified in *Annex 6*, if risk of introduction of quarantine or regulated non-quarantine pests may be suspected.

Article 6

If the plant protection inspector detects infestation by quarantine pests or regulated non-quarantine pests, in addition to taking samples, he may order restrictions on production, storage, movement, placing on the market and use (*hereinafter*: restriction). If the quarantine refers to commodity intended for human consumption and the pest may cause harm or impose risk health, the restriction shall be notified to the competent National Service for Public Health and Medical Officers (*hereinafter*: ÁNTSZ).

Article 7

(1) In case of detection of quarantine pests listed in Part A of *Annex 1* and Part A of *Annex 2*, infested plants, plant products, area, facility, storage place, crop, as well as their vicinity necessary for preventing the spread of infestation shall be immediately placed under quarantine.

(2) Any infested plants, plant products, as well as those in their vicinity and capable to spread the infestation shall be destroyed. Measures for the containment of the infestation, official treatments, disinfestations and provisions for further use of the infested area shall be specified by the phytosanitary regulation according to the nature of the infestation.

Article 8

Phytosanitary regulations, restrictions and other phytosanitary measures on quarantine pests specified in Part B of *Annex 1* and Part B of *Annex 2* as well as on regulated non-quarantine pests specified in *Annex 3* are contained in *Annex 7*.

Article 9

In case of infestation by quarantine pests and regulated non-quarantine pests, quarantine may be provided for by

- a) plant health inspector, if the infestation can be eliminated within 6 months,

- b) the director of the competent county (capital) Plant and Soil Protection Service (*hereinafter*: Service), if more than 6 months are necessary for the elimination of the infestation.

Article 10

(1) The area and facility under quarantine shall be indicated by the Service with boards bearing „Plant Quarantine” at a visible place for a lasting period.

(2) The pest or any object infested with any of its developmental stages are prohibited to be moved from the area, facility under quarantine, or the object or commodities spreading the infestation are prohibited to be moved in, unless it is otherwise provided by the decision. On the area under quarantine only an activity in compliance with the decision can be performed.

Article 11

(1) In order to prevent spread of quarantine pests, the Service may designate buffer zones. Buffer zone is an area in which a specific pest does not occur or occurs at a low level and is officially controlled, that either encloses or is adjacent to an infested area, an infested place of production, a pest free area, a pest free place of production or an infested or pest-free production site, and in which phytosanitary measures and compulsory pest management programme are implemented to prevent spread of the pest.

(2) Before providing for implementation of a compulsory pest management programme, the Service must obtain approval of

- a) the competent nature conservation body in case of nature conservation area.
- b) the competent forestry body in case of woodland.

Article 12

In case of detection of pests listed in *Annexes 1-3*, the producer shall observe the phytosanitary measures ordered by the Service for the infested district or for the buffer zone.

Article 13

If the consignment or the means of conveyance are infested with a quarantine pest causing direct spread, they shall immediately be disinfested. Costs of treatment shall be born by the consignor, consignee and forwarding agent in case of export, import and transit, respectively. In justified cases the ministry may order otherwise.

14. Article

(1) The level of economic risk imposed by a pest shall be determined by pest risk analysis. The analysis is the process of evaluating biological or other scientific and economic evidences to determine whether a pest should be regulated and the strength of any phytosanitary measures to be taken against it.

(2) In case of detection of pests not native in Hungary listed in *Annexes 1-3*, the ministry may provide for phytosanitary measures if justified by the economic importance of the pest.

(3) The ministry, according to relevant international agreements, shall notify the competent organisations and institutions on the first occurrence of pests not native in Hungary listed in *Annexes 1-3*.

Import with special permit

Article 15

(1) In special cases, the Central Service may grant exemption to the prohibition laid down in Article 5 (1) upon request.

(2) The application for permit shall include:

a) name and address of the applicant,

b) scientific name and quantity of the regulated article to be imported,

c) place of the border inspection post (BIP),

d) address of destination and place of further use,

e) in case propagating and planting materials, import permit of the National Institute for Agricultural Quality Control (*hereinafter*: OMMI),

f) detailed justification of import.

(3) *The Central Service grants the permit in form of decision, providing for measures on movement, storage and use of the regulated article , as well on lifting the quarantine.*

(4) All activities related to the regulated article permitted for import shall be made under quarantine, observation of which is controlled by the Service.

Article 16

(1) *At request, the Central Service may allow import into Hungary or movement and use within the country of prohibited pests, regulated articles and every developmental stage of other viable plant pests listed in Annexes 1-5 for trial and scientific purposes and for work on varietal selection (hereinafter: research) if the general requirements specified in Annex 8 are*

met. In justified case the Central Service may specify additional conditions. Alteration of the conditions will result in withdrawal of the permit. If the pest is not native in Hungary, the approval of the Ministry of Environment (*hereinafter*: KÖM) is also needed for the import.

(2) Application for the permit shall contain:

- a) name, address of the institution and person responsible for the research.
- b) scientific name(s) of the research object including the pest.
- c) type and quantity of the research object,
- d) certification of the place of origin of the research object, objective, importance of the planned research, workplan.
- e) address of the place of quarantine or test facility, other data suitable for identification.
- f) place of first storage or planting after obtaining the research permit.
- g) the method proposed for destroying or treating the object at the end of permitted activities.
- h) place of BIP in case of import.

(3) After the approval of research, the Central Service issues the permit according to the model under *Annex 8*, which shall always accompany the research object.

(4) In case of import of regulated articles listed in *Annex 6*, the research object shall be accompanied by the phytosanitary certificate issued by the NPPO of the country of origin based on inspection carried out in compliance with the current phytosanitary regulations, the additional declaration of which shall bear the number of permit and the following statement: "This object is imported to Hungary in compliance with *Article 16* of the Ministerial Decree 7/2001 (I.17.) FVM". The referred regulations do not apply to pests which are used for the research permitted in paragraph (1).

(5) In case of domestic movement, regulated articles listed in *Annex 6*, the research object shall be accompanied by the national phytosanitary certificate issued by the competent Service on the bases of inspection carried out in compliance with the current phytosanitary regulations, the additional declaration of which shall bear the number of permit and the following statement: "This object is moved within Hungary in compliance with *Article 31* of the Ministerial Decree 7/2001 (I.17.) FVM". The referred regulations do not apply to pests which are used for the activity permitted in paragraph (1).

(6) Any activity (including import to and movement within Hungary) made with the research object shall be carried out under quarantine in compliance with requirements of *Annex 8*.

(7) The Service checks whether the phytosanitary measures specified in *Annex 8* are observed and the research object and its additional objects treated (including sterilisation,

disinfestation, destruction and other ordered procedures) in compliance with the phytosanitary regulations.

Article 17

(1) The quarantine may be lifted if:

- a) the research object (including pests and additional objects), plants, plant products and other objects in contact with the research object were destroyed, disinfested or otherwise treated as ordered by the Service,
- b) the facility where research is performed was disinfested or otherwise treated as ordered by the Service.

(2) Any plants, plant products and other objects contaminated with the research object or contacted with it in any way must be destroyed or subjected to treatment aiming at killing the pest.

(3) Any activity performed with plants, plant products or other objects specified in *Annex 4* and not specified in *Annex 8* may be individually regulated from phytosanitary aspects by the ministry.

Destruction

Article 18

(1) By issuing a decision on taking phytosanitary measures within the frame of official treatment, in compliance with Article 6 of the Act the ministry or the Service provide for partial or complete destruction of the producer's crop.

(2) In case of other phytosanitary measures specified in Article 9, the phytosanitary inspector or the Service provides for destruction by issuing a decision.

(3) Decision on destruction shall contain

- a) name and address of the owner (holder) of the regulated article to be destroyed, as well as the place destruction.
- b) species, variety, surface and quantity (pieces or weight) of the plant to be destroyed, age and type off the plantation.
- c) name and quantity (pieces or weight) of the plant product and other object to be destroyed.
- d) name of the quarantine pests requiring destruction.

(4) If destruction is provided for by the ministry, the decision shall designate the Service or Services conducting the procedure of destruction.

(5) The decision on destruction shall be sent to the producer, the Service conducting the procedure, the company making the destruction, Agricultural Budget Office responsible for paying indemnification (*hereinafter*: Office), to the competent forestry inspectorate in case of forestry plants and to the National Park Directorate of the Nature Conservation Office of the KöM in case of protected plants.

(6) The competent Service and the Service making destruction in compliance with paragraph (4) shall make a protocol on the damage conditions and factual data serving for bases of indemnification. The protocol shall be sent to the ministry.

Article 19

(1) The competent Service and the Service making destruction in compliance with Article 18 (4) shall notify in writing the ministry within three days.

(2) In the report the acting Service shall indicate the number of the decision on destruction, the data listed in Article 18 (3) and the name and number of means and objects placed under quarantine.

(3) The report shall contain the name and location of the Service making the laboratory test and the other competent institution, the date and result of the test and the number of the laboratory certificate on the test result. Furthermore, the report on the decision of destruction

shall contain the mode and result of destruction, as well as the mode of removal and decontamination of plant wastes.

Article 20

(1) In compliance with Article 6 (5) of the Act, decontamination of plant wastes produced during implementation of measures on preventing introduction and spread of quarantine pests is an official task, implementation of which shall be provided for by the Service acting at the place where the plant wastes were produced. If the decontamination of wastes is made another county, the Service acting at the place shall also be notified.

(2) For the decontamination of wastes, based on paragraph (1), the Service acting at the place of damage determines,

a) the company and entrepreneur designated for executing the task,

b) expected dates of start and end of execution,

c) schedule of transport and disinfection of vehicle, considering other relevant provisions.

(3) The company and entrepreneur located closest to the place of damage and capable for destroying the produced plant wastes can be designated for executing the decontamination.

(4) The company or entrepreneur making the decontamination shall send the invoice for supervision and approval, following execution of the task, to the Service providing for the decontamination and acting at the place where the wastes were produced. The Service shall immediately send the confirmed invoice to the Office.

(5) The Office shall pay, within eight days of the arrival of the invoice, the approved sum to the company or entrepreneur.

(6) If the decontamination is made at the place of damage (e.g. burial, burning) paragraphs (2), (4) and (5) shall apply.

Indemnification

Article 21

(1) Claim for indemnification shall be judged by the ministry on the bases of the estimation procedure made by the ministry and the Central Service as well as of the reports of the Central Service and the Service responsible for carrying out the destruction.

(2) If the available data are not sufficient for determining the legal bases and amount for claim for indemnification, the ministry shall ask for the opinion of an institution having due expertise..

(3) If, based on data available for judgement, it is stated that no indemnification is due in compliance with Article 47 (2) of the Act, the producer shall be notified thereof.

(4) If it is concluded from circumstances supporting refusal of indemnification that criminal procedure must be instituted because of a crime committed by the owner (holder), decision making shall be suspended till the judgement becomes legally binding.

(5) The producer may submit an application to the Service responsible for destruction for partial indemnification in order to restart growing as soon as possible. This sum may amount to 50 % of the total estimated value. The Service shall forward the submitted application to the ministry within three days.

Article 22

(1) Base for indemnification is the current market value of the destroyed property. The market value shall be determined by estimation if there is no reason to refuse the claim.

(2) The procedure for estimation shall start parallel with implementation of procedure on destruction, but it shall be finished within three days of execution, the latest.

(3) Bases for determining the market value:

- a) purchase price (including import price) of plants, plant products or other objects certified by invoices, in their absence the price kept in the accounts.
- b) in the absence of documentation under a), the market price of plants, plant products or other objects at the time of damage.
- c) in case of plant propagating and planting materials, the market price valid 6 months before the damage.
- d) in case of annual or perennial crops, the purchase price of propagating and planting material determined in compliance with a) or b), completed with costs of planting and cultural operations as well as the estimated loss of one year.
- e) costs of investment and cultural operations, from official approval to destruction, of nuclear and propagation stocks of plant propagating and planting materials as well as of bearing orchards, and estimated loss of one year for strawberries, three years for other small fruits and five years for other woody plants.

(4) If regulations on treatments against quarantine pests allow, and suitable techniques (e.g. heat treatment, disinfection) exist, materials, objects and means capable of spreading the infestation shall be made available for the owner who may use or sell them. In this case no indemnification is due.

(5) In case of protected plants, basis for indemnification is the theoretical value published in other order of legislation.

(6) The estimated value of genetic resources for the protection of genetic bases shall be determined according to the written expertise of OMMI.

(7) The ministry may request the opinion of OMMI for the estimation of the damage in other cases. The value of indemnification for plants, plant products and other objects may not exceed 90% of the value estimated in compliance with paragraph (3) for the production of propagating and planting materials, 80% for other plants and 70% for plant products and other objects.

Article 23

If regulations on treatments against plant disease caused by certain quarantine pests allow, the Service may provide for use and placing on the market of plants, plant products and other objects found healthy in laboratory tests or occurring in the area under quarantine but, based on evidences, having no role in the spread of infestation. The market value at the time of the damage case of such plants, plant products and other objects used and placed on the market shall be deducted from the estimated amount of indemnification.

Article 24

(1) In cases laid down in Article 47 (1) of the Act and if there is no reason for excluding claim for indemnification, the ministry issues a decision indicating the amount of indemnification.

(2) The amount of indemnification specified in Articles 22 and 23 is the estimated value of the destroyed plant, plant products or other materials, means and objects.

(3) A justification of the decision on indemnification shall indicate

- a) the quarantine pest the infestation of which caused destruction of plants, plant products and other objects as well as the bases for approving the indemnification claim.
- b) the cause of decontaminating destroyed means and objects.

Article 25

(1) Decision on indemnification must be sent to the owner (holder).

(2) In order to pay the amount of indemnification, the ministry shall send the Office the decision on indemnification and a copy of estimation protocol immediately after enforcement of the decision.

(3) The Office shall pay the amount indicated in the decision of indemnification to the owner within 15 days of the enforcement of the decision.

Chapter Three

INSPECTION OF PROPAGATING AND PLANTING MATERIALS

Article 26

(1) In order to prevent spread of quarantine and regulated non-quarantine pests by means of planting materials, the plant protection inspector regularly checks observation of the phytosanitary regulations on the production and marketing of regulated propagating and planting materials.

(2) *Annex 9* contains regulations on propagation, marketing and examination of propagating and planting materials subject to phytosanitary inspection.

Article 27

Preliminary official inspection certifying phytosanitary suitability of nuclear and propagation stocks, commercial nurseries, nursery outlets of propagating and planting materials listed in *Annex 9*, as well as that of area producing regulated propagating and planting materials of plants intended for further propagation originating from import, listed in *Annex 6*.

Article 28

In case of seeds and propagating and planting materials of herbaceous ornamental plants originating in countries other than the EPPO region as well as propagating and planting materials of fruits and grapevines in any countries, the importer or the contractor shall, prior to use or marketing, notify the competent Service on the quantity, species, variety, place of origin, plantation and marketing of the import propagating and planting materials.

Article 29

(1) During the plant health check, the producer of the regulated propagating and planting materials shall certify pest-freedom and origin of the material used for propagation.

(2) The placing on the market of regulated propagating and planting materials is banned without plant health check.

(3) If the regulated propagating and planting materials was placed on the market without phytosanitary certificate, the plant protection inspector provides for restriction on it and confiscates it in compliance with Article 106 of Government Decree 218/1999 (XII: 28) on infringement and provides for its destruction.

Article 30

If during the plant health check, infestation with quarantine or regulated non-quarantine pests is detected on the regulated propagating and planting materials, on their place

of production or its radius of 50 m, phytosanitary regulations on these pests and specified in *Annex 7* shall apply.

Article 31

(1) Destruction of the infested propagating and planting materials ordered for phytosanitary reason can only be made under the supervision of the Service.

(2) The producer shall mark the propagating and planting material qualified by the Service unsuitable from phytosanitary aspects for further propagation and notify the Service on the date of destruction of the propagating and planting materials at least 3 days before its beginning.

Article 32

Other order of legislation applies for rules on healthy and virus-free propagating and planting materials produced in a qualification and certification scheme in compliance with international regulation.

Chapter four

REGISTRATION OF PRODUCERS

Article 33

(1) Growers, producers, buyers, owners or users of collective warehouses and dispatching centres, importers, as well as owners or users of storage places, mills and fodder mixers of plants specified in *Annex 9*, (*hereinafter*: obligation for registration) shall be listed in an official register under a registration number by which to identify them.

(2) Any person, whose entire production of plants, plant products and other objects are intended for personal final usage or sales on the local market, is exempted from official registration.

(3) Any entity subject to registration shall immediately send the registration data sheet filled in as specified in *Annex 10* to the Service according to the regulations specified in *Annex 9*.

(4) The Service shall check both the content and form of the data of the registration sheet and enter them in the official register. The Service shall not list in the official register the persons subject to registration not complying with Article 36 (1).

(5) The entity subject to registration shall notify the Service if other activity is performed in addition to the registered one or any changes occur in the previously supplied data. Based on the notification of the entity subject to registration, the Service modifies the official registration.

(6) In order to establish the national register, the Service sends the official registration to the Central Service.

(7) The ministry may oblige registration for importers and producers, other than entities subject to registration, of plants, plant products and other objects not listed in *Annex 9*, if spread of quarantine pests is feared.

Article 34

In all cases, the Service conducts surveys for detecting pests listed *Annexes 1-3* and for stating freedom of a place of production, storage or plant from these pests. Plant health checks for the detection of pests listed in *Annexes 1-3* occurring on the particular plants shall be carried out at times most suitable for the detection, at least once a year (except for item 7.2 of *Annex 9*). Uniform scheme of checks is regulated by the Central Service.

Article 35

(1) Special methods for laboratory tests, sampling and plant health check on the place of production used during phytosanitary inspections are published in the phytosanitary methodology by the ministry.

(2) The examinations extend to the plants, plant products grown, produced or used by the producer, or otherwise present in his premises as well as to the growing media used there.

(3) The documents are valid till their withdrawal or the inspection for the current cycle of vegetation.

Article 36

(1) Anyone subject to registration shall:

- a) keep updated records on any places where he grows, produces, stores or uses regulated articles,
- b) keep records on regulated articles, which have been purchased for storage or grown on the premises, involved in production or transported for others,
- c) store the related documents for at least three years;
- d) keep personal contact with the competent Service or through his representative *experienced in plant protection and plant health*;
- e) make observations, as needed and at appropriate times indicated by the competent Service;
- f) allow inspections, samplings and access to documents specified under b) for the plant protection inspectors, as well as cooperate with the competent Service;
- g) at the provision of the Service, maintain phytosanitary status of the premises and observe the specific obligations on the identity of objects (specific examination, sampling, separation, eradication, treatment, destruction).

(2) The Service checks observation of obligations specified in paragraph (1) by examining record keeping and the related documents at intervals laid down in Article 34.

(3) The Service may order restrictions on placing on the market and use until the fulfilment of the obligations specified in paragraph (1) if the entity subject to registration fails to comply with them.

Chapter five

PHYTOSANITARY INSPECTION CARRIED OUT DURING MOVEMENT OF REGULATED ARTICLES

General rules

Article 37

During movement, phytosanitary inspection shall be made with the regulated articles, if not specified otherwise by this Decree.

Article 38

In phytosanitary inspections, consignment refers to a regulated article being moved from one country to another or within the country and covered by a single phytosanitary certificate (a consignment may be composed of one or more lots).

Article 39

(1) Check of a consignment shall be requested, in case of import and transit movement from the BIP, in case of export movement from the Service competent for the place of loading.

(2) In import and transit movement, application for check at the BIP shall be made by the

a) forwarding agent or his representative in case of railway, road, waterway and aerial consignments.

b) international post office in postal service.

c) passenger in the passenger traffic.

Article 40

(1) Undisturbed and technical preparation of inspections, personal and material conditions, are the responsibility of consignor or his representative, in case of export, and that of the forwarding agent or his representative, in case of import and transit movement.

(2) The check shall be prepared to allow the plant protection inspector, upon his arrival to the spot to immediately start it at the indicated time, and to make all data, necessary to issue a phytosanitary certificate, available.

Article 41

(1) Plant health check of the articles prepared for movement or during their loading shall be ensured for the plant protection inspector.

(2) The time spent on the inspection of regulated articles shall always be long enough to allow reliable determination of freedom the consignment from quarantine pests, regulated non-quarantine pests and compliance with the current phytosanitary regulations.

(3) The inspection can be made from 8 a.m. to 4 p.m. in November, December, January and February, from 7 a.m. to 5 p.m. in March, April, September and October, from 7 a.m. to 6 p.m. in May, June, July and August. Inspection over the above periods may be carried out, in justified cases, with the permission of the director of Service. Inspection made after dark or at night shall be made at artificial lighting ensuring daylight. Lighting will be provided by the consignor or his representative.

(4) On Sundays and holidays, inspection without the permission of the director of the Service can only be made from 7 a.m. till 12. a. m. On paid holiday, even on Saturdays and Sundays, inspection may be carried out with the permission of the director of Service.

(5) Provisions in paragraphs (2) and (3) do not refer to the continuously operating BIPs. At BIPs opened for temporary inspection, the forwarding agent or his representative shall provide adequate lighting.

(6) Phytosanitary inspection of a consignment arriving by railway to the BIP shall be made on the track where the train has arrived. The inspection must be made within the technical time. If it cannot be made during the staying of the train at the BIP, the wagon containing the consignment must be set aside by the platform.

(7) For the inspection of consignments transported by trucks the vehicle shall be directed to the loading site.

(8) At the BIPs records on the consignments and the inspections shall be kept containing basic data on the consignment and its inspection.

Article 42

(1) A phytosanitary certificate may be accepted for import and transit movement which:

- a) was not made out more than 14 days before the date of dispatch by the NPPO of the exporting country;
- b) contains the internationally accepted scientific names of plants and pests;
- c) was drawn up in any of the following languages: Hungarian, English, German or French;
- d) contains all the entries of *Annex 11*.

(2) In the Additional Declaration on the phytosanitary certificate, the NPPO of the country of origin or the exporting country shall only indicate the certificates specified in the individual import permit by the Central Service .

Article 43

Regulated consignments transported in postal parcels may be moved across the border only accompanied with phytosanitary certificate or stamp of the NPPO of the exporting country and with other official statement.

Article 44

A protocol on refusal will be made according to *Annex 11* on the refusal of any import, export and transit consignments not meeting the phytosanitary requirements. One copy of the protocol shall be handed over to the representative of the forwarding agent in case of import and transit, and also to customs office in case of export inspection made at the BIP according to Article 9(1) of the Act.

Article 45

Within one storage place, infestation of a part of a consignment shall not justify refusal for the whole consignment, if the spread of infestation is not feared.

Article 46

(1) The forwarding agent shall provide for freedom from regulated pests of the means of conveyance and implements used for loading.

(2) The cost of plant health check of the vehicle used for transport made at request shall be borne by the forwarding agent.

Article 47

(1) Costs related to import inspection made abroad are borne by the applicant.

(2) In case of import consignments, costs related to inspection are covered by the consignee, in case of exported consignments by the exporter, while in case of transit consignments, by the forwarding agent. The ministry specifies the fees in other order of legislation.

(3) Costs of sampling done for laboratory tests during the inspection are included in the fee of the check.

Article 48

(1) Any consignments which are to be exported after reloading, storing, repacking or processing not changing the nature of the commodity shall also be inspected and treated at the BIP in compliance with regulations on import consignments. Based on the export phytosanitary inspection, export or re-export phytosanitary certificate shall be issued for these consignments according to *Annex 11*.

(2) Provisions of paragraph (1) refer to consignments moved from the border to duty-free area, public custom-house store and from there for exportation. Inspection at the duty-free area and public custom-house store is the responsibility of the competent Service.

Article 49

Inspection of consignments in containers shall only be made at the BIP in compliance with Article 61(2).

Import regulations

Article 50

Import of regulated articles other than those in Article 5 (1) and (2) is not subject to permit

Article 51

In import and transit (as laid down under Article 61(2)) of regulated articles, the phytosanitary certificate shall be checked by the customs office at the border, while in case of postal consignments the customs office operated adjacent to the post office. The customs office shall notify the BIP about the consignment, which shall perform phytosanitary inspection according to regulations. Based on the results, the plant protection inspector will refuse or release it and returns it for customs procedure.

Article 52

(1) Import of regulated articles other than import through BIPs specified in Article 9(1) of the Act shall be prevented by the competent border guards and directed to the BIPs.

Article 53

Phytosanitary inspection of regulated articles and means of conveyance in import trade extends to:

- a) identity check to control origin and identity of the article
- b) documentary check to control fulfilment of phytosanitary requirements
- c) plant health check to control freedom from quarantine and regulated non-quarantine pests.

Article 54

(1) The import consignment may definitely enter the country without restriction, if it is stated during the inspection that

- a) it is accompanied by the phytosanitary certificate of the exporting country and it contains the prescribed phytosanitary certifications.
- b) it is free from quarantine and regulated non-quarantine pests and complies with the specific import requirements.
- c) no restrictions provide for its further plant health check or growing under phytosanitary observation.

(2) The plant protection inspector carrying out inspection at the first place of destination shall notify the competent Service on the arrival of the released seeds and herbaceous ornamental plants from areas outside the European and Mediterranean countries.

(3) The first page of the freight document of the released consignment shall be stamped with the text as follows: "In compliance with the Hungarian phytosanitary regulations. Can be used" The record number, date and place of signature shall be indicated.

Article 55

(1) The import consignment may enter the country with temporary phytosanitary certificate if:

- a) it is infested with quarantine or regulated non-quarantine pest which does not make refusal necessary; restrictive measures specified in Article 7 and *Annex 7* apply for these consignments.
- b) entry of the consignment, arrived without phytosanitary certificate of the exporting country or without the required phytosanitary documents accompanied with his statement for replacement of the missing or not fully completed documents, is particularly requested by the importer. In this case the documents must presented to the competent Service within 8 days.
- c) the use of the consignment necessitates further phytosanitary restrictive measures; in this case the BIP must send the foreign phytosanitary certificate and a copy of other documents verifying the conditions of the consignment of the competent Service.
- d) the phytosanitary inspection could not be made at the BIP for any reason.
- e) it is feared that the consignment may contain harmful substances above the maximum limit.
- f) is moved to duty-free area, public custom-house store, premises for re-export.
- g) it is an export consignment refused for phytosanitary reasons.

(2) Any consignment entered the country with temporary phytosanitary certificate from the BIP can be moved only to the place of unloading indicated on the certificate and customs clearance to allow domestic trade can only be performed after the inspection made by the Service. Provisions of this Decree do not refer to other restrictions specified in the Government Decree on the permission of trade in certain internationally controlled commodities and technologies and in the separately specified provision on the enforcement of that Decree on the determination of the commodity check list.

(3) Until the performance of the inspection by the Service, the consignments entered with temporary phytosanitary certificate must be kept under customs surveillance in compliance with provisions of customs law, customs procedures and customs administration.

Article 56

(1) The consignee must immediately notify the competent Service requesting checking on the arrival of an import consignment entering the country with temporary phytosanitary certificate through BIP or without phytosanitary inspection.

(2) It is prohibited to use the consignment or place it on the market until measures are taken by the Service, it shall be stored separated in an identifiable manner.

Article 57

(1) Import consignments arriving without phytosanitary certificate or with not fully completed certificate shall be refused by the plant protection inspector with the exception if the importer agrees, in his declaration sent to the BIP, to present the fully completed phytosanitary certificate within 8 days to the Service competent for the place of destination. In this case, in compliance with Article 55 (1) b), the consignment may be temporarily entered after the inspection of the article. This exemption does not refer to propagating and planting materials arriving without phytosanitary certificate or with not fully completed certificate.

(2) If the consignor does not provide for the return of the refused import consignment within 8 days, the director of the Service competent for the BIP takes measures, in agreement with the importer, for the destruction or other equivalent use of the consignment at the importer's expenses.

Rules of exports

Article 58

(1) In export trade the plant protection inspector issues the phytosanitary certificate in compliance with regulations of the country of destination and countries of transit.

(2) In export trade, any person authorised for foreign trade must notify the Central Service on specific regulations on the consignment of the country of destination in due time allowing to carry out the inspection.

(3) In export trade, the inspection shall be made at the place of loading if no specific requirements to be certified with the inspection made prior to dispatch are provided for by the NPPO of the importing country.

(4) In export and transit trade, any consignment accompanied by valid phytosanitary certificate can leave the country even on border stations with no BIP on the Hungarian side where BIP is operated on the territory of the neighbouring country.

(5) If the export consignment will be refused for any phytosanitary reason by the NPPO of the country of destination or of re-export, it can only be moved back the country after inspection by the Service. The Customs Office shall notify the BIP on the arrival of such consignment.

(6) It is prohibited to dispatch the refused export consignment, not complying with the phytosanitary regulations of the importing country, to the same country without terminating the reason for refusal.

Article 59

(1) Any application for inspection to be made at the loading place in case of export shall be submitted to the competent Service by the exporter. The application shall arrive to the Service not later than 3 p.m. on the day before the loading of the consignment.

(2) In export postal service and passenger traffic, the inspection shall be applied for by the consignor and the passenger not more than 14 days before the date of dispatch or travel from the Service competent for the residence.

(3) In the export postal service, parcels shall be sealed only after carrying out the phytosanitary inspection.

Article 60

(1) In addition to the notification, in writing, of the dispatcher, the Service competent for the BIP shall be notified in writing on the inspection failed not because of the dispatcher's fault. In such a case the BIP shall carry out the inspection without charging additional fee.

(2) In order to comply with phytosanitary regulations laid down in the legislation, import permit of the importing country and requirements of the importer or contractor, inspections on the place of production and storage place, as well as laboratory tests may be required prior to examinations made at dispatching.

(3) Results of the inspections on the place of production and storage place prior to export are informative. The consignment can be dispatched and the phytosanitary certificate issued only if compliance with the phytosanitary regulations is confirmed by the test.

(4) Each consignment intended for exports and subject to phytosanitary inspection may be transported to collective warehouses in other county, dispatch or duty-free area only with accompanying national phytosanitary certificate.

(5) Any consignment arriving from other counties to collective warehouses, for dispatch or to a duty-free area without national phytosanitary certificate shall be refused if the export requirements cannot be later met.

(6) In domestic trade only such national phytosanitary certificate can be accepted which was not issued more than 14 days earlier to the dispatch of the consignment.

Rules of transit trade

Article 61

(1) No phytosanitary inspections must be made with transit consignments other than those in paragraphs (2) and (3).

(2) Phytosanitary inspection must be made if infestation of the transit consignment by quarantine or regulated non-quarantine pests is suspected, if the means of conveyance is open or was opened for any reason, or if new phytosanitary certificate is required for reforwarding the consignment. The customs office notifies the BIP on such consignment, and the phytosanitary inspection is done by the BIP in compliance with the regulations. The accompanying foreign phytosanitary certificate or its authentic copy shall also be attached to transit consignments requiring Hungarian phytosanitary certificate and if its compliance with phytosanitary regulations cannot be reliably stated by visual observation. Failing this, the consignment cannot be forwarded.

(3) If the means of conveyance of the transit consignment becomes, during transportation, unsuitable for further forwarding and the consignment must be reloaded on another means of conveyance, the forwarding agent must immediately notify the competent Service thereof and wait for its measures.

(4) The re-export phytosanitary certificate in *Annex 11* shall be issued for any transit consignments reloaded at the BIP or opened for several consignees.

(5) Provisions of Article 48 apply for transit consignments temporarily stored in the country, on the duty-free area or public custom-house store.

Chapter six

TASKS OF THE CENTRAL SERVICE

Article 62

In order to fulfil phytosanitary tasks, the Central Service acts as follows:

- a) directs, supervises and controls work of the Services and the special laboratories carrying out phytosanitary examinations and coordinates cooperations with the related responsible bodies.
- b) keeps records of phytosanitary import regulations of countries all over the world and supplies the Services and producers with information.
- c) takes measures for uniform introduction of international phytosanitary testing methods, rules, recommendations and, failing these, works out guidelines.
- d) takes part in preparing phytosanitary regulations.

- e) takes part in the work related to phytosanitary regulations of the international organisations and implementation of phytosanitary responsibility assumed in *intergovernmental agreements*,
- f) takes measures for survey, preparation and implementation of developments, improvements and purchases serving for performing phytosanitary tasks of the Services. furthermore it operates the information network,
- g) manages detection of quarantine and regulated non-quarantine pests and nation-wide eradication campaigns,
- h) runs the working committee on pest risk analysis (PRA),
- i) at request, issues permit for opening provisional BIPs.

Plant protection inspectors

Article 63

(1) Phytosanitary inspection of consignments of regulated articles, issuance of phytosanitary certificate and re-export phytosanitary certificate can only be made by trained civil servants (*hereinafter*: plant protection inspector) authorised by the Service based on data accepted by the responsible bodies of the importing country as official document.

(2) *Annex 12* contains the model of plant protection inspector's official card.

Article 64

The ministry ensures that the plant protection inspector has the qualification needed for implementing this Decree. For this purpose:

- a) the ministry determines requirements of knowledge and skills and those of regular training,
- b) the Service ensures that the authorised civil servant acquires knowledge specified under a),
- c) the Service ensures that the civil servant takes part at regular trainings specified under a),
- d) the Service shall make sure that the authorised civil servant has acquired knowledge specified under a).

Article 65

The plant protection inspectors perform

- a) plant protection tasks on the area within the scope of activity of the Service or on other areas of competence determined by the ministry;
- b) their tasks related to import and transit trade at the BIP of the Service;
- c) their tasks related to import trade in case and under conditions determined by international and foreign trade agreements, on the place of production, storage place or place of loading of the exporting country as well as in the transit port.

Article 66

(1) Samples taken by the plant protection inspector in compliance with rules laid down in *Annex 13* are assumed official samples. If sampling is not made accordingly, the results of the examination refer only to the particular sample.

(2) Laboratory certificate, issued after examining the sample taken by the plant protection inspector for the purpose of phytosanitary measures, are valid for 30 days.

Chapter seven

BORDER INSPECTION POSTS

Article 67

(1) Place and service time of the border inspection posts (*hereinafter*: BIPs) are determined by the ministry in agreement with the Ministry of Interior (*hereinafter*: BM), Ministry of Transport and Water Management (*hereinafter*: *KöVIM*) and the Board of Customs and Excise (*hereinafter*: VPOP).

(2) At the border stations operating a permanent BIP, the official board operating the border station shall provide conditions for inspection of regulated plants and plant products and, necessary, for loading, temporary storage as well as for disinfection and/or destruction of goods infested with regulated pests.

(3) Place and service time of the BIPs are contained in *Annex 14*.

(4) Minimum technical conditions for the equipment of BIPs are contained in *Annex 15*.

(5) BIPs shall be indicated with a board bearing „Border Inspection Post of the Hungarian Republic“, the name of the locality as well as the coats of arms of the Hungarian Republic.

(6) The plant protection inspector employed at the BIP can perform his services only in the official uniform dress and possessing an identity card with photo.

(7) Prolongation of the service time at the request of the forwarding agent or the trading company may be individually allowed by the director of the Service.

(8) For the extra-time inspection, the fee is specified in other order of legislation to be paid by the applicant to the Service, in addition to the inspection fee.

Article 68

(1) At the request of the forwarding agent or the trading company, in justified cases the Central Service may allow establishment of a provisional BIP, with the agreement of BM, KöViM and VPOP.

(2) Application for opening a provisional BIP shall be submitted to the Central Service at least 14 days before import or export.

(3) Opening of a provisional BIP is subject to charges which the applicant shall pay to the Service in addition to the inspection fee.

(4) Opening of a provisional BIP can only be permitted if conditions laid down in Article 14(1) and (2) are complied with.

(5) No opening of provisional BIP is allowed if the pertinent regulations require unloading of the regulated article for carrying out the inspection.

Chapter eight

FINAL CLAUSES

Article 69

This Decree comprises provisions in accordance with Article 3 of Law No. 1 of 1994 publishing the Europe Agreement on the establishment of associations between the Hungarian Republic and the European Communities and their Member States signed on 16 December 1991 in Brussels, complying with the following regulations of the European Communities:

- a) Council Directive 200029/EC on protective measures against the introduction of organisms harmful to plants and plant products into the Community and their spread within the Community,
- b) Council Directive 69/464/EEC on control of potato wart disease,
- c) Council Directive 69/465/EEC on control of potato cyst nematodes,
- d) Council Directive 93/85/EEC on control of potato ring rot,
- e) Commission Directive 92/90/EEC of 3 November 1992 establishing obligations to which producers and importers of plants, plant products or other objects are subject and establishing details for their registration,
- f) Commission Directive 93/50/EEC specifying certain plants not listed in *Annex V* Part A to Council Directive 77/93/EEC, the producers of which or the

warehouses, dispatching centres in the production zones of such plants, shall be listed in an official register,

- g) Commission Directive 95/44/EEC establishing the conditions under which certain pests, plants, plant products and other objects listed in *Annexes I-V* to Council Directive 2000/29/EC may be introduced into or moved within Community or certain protected zones thereof for trial or scientific purposes or for work on varietal selection.
- h) Commission Directive 98/22/EC laying down the minimum conditions for carrying out plant health checks in the Community, at the inspection posts other than those at the place of destination, of plants, plant products or other objects coming from third countries,
- i) Council Directive 98/57/EC on control of *Ralstonia solanacearum* (Smith) Yabuuchi et al.

Article 70

(1) This Decree shall enter into force on 1 February 2001. Use of model documents contained in *Annexes 8-13* is obligatory from 1 July 2001.

(2) On the date of entering into force of this Decree, Articles 1-2, Article 4 (1) and (2), Articles 6-22, Articles 24-26, Article 27 (1) and (2), Articles 29-33, as well as *Annexes 1-7* of the Ministerial Decree 5/1988 (IV.26) on the implementation of the Statutory order 2 of 1988 on plant protection, as well as its amendment by Articles 1-4 and *Annexes 1-3* of the Ministerial Decree 28/1997 (IV.25.), cease to be in force.

Dr. Szabadi Béla
secretary of state of the Ministry of
Agriculture and Regional Development