



Lao People's Democratic Republic

Peace Independence, Democracy Unity Prosperity

Ministry of Agriculture and Forestry

No. 4269/MAF

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Instruction

Regarding Implementation Measures for the Export of Plants, Plant Products, and Regulated Materials that do not comply with the Import Conditions of the European Union.

- According to the Law on the Prevention and Pest Quarantine (amended version) No. 13/NA, dated November 15, 2016;
- According to the Prime Minister's Decree on the Organization and Activities of the Ministry of Agriculture and Forestry No. 603/PM, dated October 15, 2021;
- According to the proposal of the Department of Agriculture No. 1617/DOA, dated August 16, 2022;
- According to the research and proposal of the office, Ministry of Agriculture and Forestry No. 3679/MAF, dated September 20, 2022.

In the past, local government bodies at each level, generally speaking, specifically the agriculture and forestry sector, as well as plant quarantine checkpoints, have been responsible for the implementation of the Law on the Protection and Quarantine of Plants and other legislation related to the export of plants, plant products and controlled objects, especially the implementation of phytosanitary measures for export, re-export and transit, which has led to the management, promotion and facilitation of trade in plants, plant products and controlled objects of Lao PDR. There is an ever-increasing tendency to grow; But at the same time, there are still some problems related to the law and legislation that have not been defined in detail, especially the implementation in the case of improper export with the conditions of the importing country which has happened before and there is a risk of happening again in the future.

In order to ensure the implementation of such measures in accordance with the technical and legal regulations of the Lao PDR.

The Minister of Agriculture and Forestry issues an instruction:

I. Objectives and target level

This guideline defines the principles, procedures and measures for the export of plants, plant products and materials that must be controlled and not comply with import conditions of the European Union, to ensure uniformity in implementation throughout the country and in accordance with the laws and regulations of the Lao PDR, can be linked to the region and internationally.

II. The meaning and importance of the implementation measures for the export of plants, plant products and objects subject to control that are not comply with the import conditions of the Union.

Implementation measures for the export of plants, plant products and controlled objects that are not comply with the conditions of the European Union (EU) is the implementation of phytosanitary measures in the event that the National Plant Protection Organization (NPPO) of the European Union (EU) countries has officially warned about inconsistent requirements in the phytosanitary certification, such as non-compliance with the phytosanitary requirements of the importing country, the detection of controlled pests, the importation of incomplete and incorrect documents according to the regulations (without a phytosanitary certificate, Change of information of the certificate, quantity, weight or actual details not stated in the phytosanitary certificate or falsify the phytosanitary certificate), is a package of prohibited goods, there is contamination of prohibited materials in the package of goods, including contamination of prohibited substances in the consignment as well as the evidence of not using proper technical smoking as stipulated in legal regulations.

Implementation measures for the export of plants, plant products and controlled materials that comply with the conditions of the European Union (EU) are important for the public sector and entrepreneurs of the Lao PDR and trading partner countries in the implementation of plant sanitary measures to protect agricultural production and trade facilities based on the laws of the Lao PDR and the import regulations of the European Union (EU) aimed at maintaining plant sanitation,

protecting the environment, promoting production as clean, green and sustainable products, linked to the region and internationally Contribute to the economic-social development of the nation.

III. Principles, conditions and procedures for implementation measures to be taken against the export of plants, plant products and controlled materials that do not comply with the import conditions of the European Union

1. Principles

Implementation measures for the export of plants, plant products and controlled objects that do not comply with the requirements of the European Union (EU) must ensure the following principles:

- 1) In line with the Law on Plant Protection and Quarantine (Revised Version) No. 13/NA, dated November 15, 2016, and other related legislation of the Lao PDR, including conventions and international agreements to which the Lao PDR is a party;
- 2) Proceed according to the procedure from light to heavy and use technical measures and legal regulations as necessary, as well as ensure transparency in implementation.
- 3) Guarantee the interests of the nation, entrepreneurs and trading partners.

2. Conditions

The conditions for the enforcement of measures for the export of plants, plant products and controlled materials must comply with the requirements of the European Union (EU) as following:

- 1) There is an official notification of the European Union (EU) about non-conformity defects in phytosanitary certification.
- 2) Violation of laws and regulations of the Lao PDR.

3. Procedure

The European Union (EU) will officially notify the Lao PDR of defects in the implementation of the conditions for the import of plants, plant products and controlled materials by following the following technical and legal procedures:

1) Informing the target

The Department of Agriculture is the one to inform the Department of Agriculture and Forestry at the provincial level or the exporter of the consignment of goods in writing within three official days from the date of receipt of the notification letter from the European Union (EU) indicating the non-compliance with the requirements of the import conditions of the European Union (EU) or the requirements of the import country as well as recommending the regulations to organize and implement in accordance and to suspend the issuance of the phytosanitary certificate until it is resolved.

2) Solving the notifications

After being notified by the Department of Agriculture about the notification from the European Union (EU), the exporter must clearly define the measures to correct the defect, such as tasks and methods of implementation, the implementers and the period as well as the implementation and evaluation of the completion of the implementation of such measures and then report back to the Department of Agriculture and the Department of Agriculture and Forestry at the provincial level on what has been done in order to provide information to plant quarantine officers and related parties to check the solution to the problem at the next stage.

In the case of correcting the notification, if it is necessary to use multiple methods and use more than one month, the exporter must report to the Department of Agriculture and the Department of Agriculture and Forestry at the provincial level on a regular basis every month to be informed and receive assistance in a timely manner.

3) Checking the results of the notification correction

After receiving the report from the exporter, the Department of Agriculture and the Department of Agriculture and Forestry at the provincial level must conduct an investigation to find the cause of the defect within five official days from the date of receiving the report of the correction of the notification from the exporter with the appointment of plant quarantine officers to inspect, prepare for the inspection, carry out the inspection, summarize the results of the inspection and report the results of the inspection. In case of necessity or request from the importing country to inspect the Phyto sanitation of plants together with regional and international, the Department of Agriculture and the Department of Agriculture and Forestry at the provincial level can proceed based on the agreement of the Minister of Agriculture and Forestry.

The committee that has been appointed to verify the results of the correction of the notification must report the results of the inspection to its organization for consideration as stipulated in the Law on State Inspection (Revised Version) No. 41/NA, dated November 16, 2017 and the Law on Protection and Quarantine of Plants (Revised Version) No. 13/NA, dated November 15, 2016, as well as for the Department of Agriculture to notify the European Union of the results of the correction of the defects (EU) according to the procedure. In case there is a request for a report on the results of the inspection and corrective measures of the exporter, the Department of Agriculture must provide a complete copy of the document to the European Union (EU) and the importing country.

The Department of Agriculture and the Department of Agriculture and Forestry at the provincial level must keep information and other documents related to the export of plants, plant products and controlled substances that are incorrect with the requirements of importing countries for at least five years as stipulated in article 27 of the decision on the export and the re-export of plants, plant products and controlled materials No. 2986/DOA, dated June 28, 2019.

4) Using measures against violators

According to the notification about the defects of the export of plants, plant products and controlled materials that are not in accordance with the import requirements of the European Union (EU) and the results of the verification of such corrections, if a violation is found, measures will be applied to the violator according to the level or behavior of the violation as follows:

4.1. Education and training

If there is a violation that is not serious and not a criminal offense, such as the amount, weight or actual details that are not reported in the proposal for a phytosanitary certificate, the exporter must be informed of what has been detected and ordered to separate the items that have not been reported or are not correct with the proposal for the package of the product in order to comply with the requirements of the importing country before issuing the phytosanitary certificate. Together with providing the violators with trainings to inform them about relevant regulations including rights and responsibilities of exporters as well as conducting the joint training records with the violators.

In the case of a second violation within thirty days from the first violation, it is not allowed to issue a phytosanitary certificate and the exporter must resubmit the proposal by inspecting all containers and verifying five consecutive times for at least three months, and if there is a violation seems to be ongoing or the violations continues within ten consecutive times in three months, it is not allowed to issue a phytosanitary certificate as well as a fine must be collected as stipulated in Clause 4.2 of this instruction.

4.2. Penalty measures

to be applied to the violator which is not a criminal offense as stipulated in Article 85 of the Law on Plant Protection and Quarantine (Revised Version) No. 13/NA, dated November 15, 2016. For the calculation of the fine value, the fine shall be one times the value of the plant or other obligations that the exporter must fulfill.

In case it is a second violation or an offense and has already been fined in the same way, the fine shall be twice the value of the plant or other obligations that the exporter must fulfill, as well as propose to the relevant parties to consider revoking the person's business license according to the procedures set out in the law.

4.3. Civil measures

Violation of sanitary regulations by individuals, legal entities or organizations that have caused damage to the interests of the state, society or other persons must be held responsible for the damages incurred.

For violations that cause damage to the state, plant quarantine authorities should negotiate with the violators to find terms and methods that can be agreed upon in order to claim damages based on the best interests of the state. In the case of not being able to agree, proceed to write a petition according to the printed form of the People's Court and include complete documents to present to the People's Court that has the authority to consider and decide as stipulated in the Law on Civil Proceedings (Revised Version) No. 13/NA, dated July 4, 2012.

4.4. Criminal measures

Violation of plant sanitation regulations, which is considered a criminal offense as defined in articles 293, 297, 295, 373 and 374 of the Criminal Law No. 26/NA, dated May 17, 2017 is as follows:

- Moving plants, plant products and objects that must be controlled without permission from an area with pest infestation to another area without permission from the relevant state agency (Plant Protection and Quarantine Agency according to the division of management) will be punished with imprisonment from three months to one year and a fine from five million to ten million kip and in case of significant damage will be punished with imprisonment from one year to three years and a fine from seven million to fifteen million kip;
- Smuggling, importing, exporting or bringing plants, plant products or controlled objects through the Lao PDR without permission from the relevant state agency (Plant Protection and Quarantine Organization according to the decentralized management) will be punished with imprisonment from three months to one year and a fine of five million to ten million kip. In the event of significant damage, the punishment will be imprisonment from one year to three years and a fine from ten million to thirty million kip;
- Selling, distributing or storing plants, plant products or objects to be controlled that are infected with controlled pests that cause significant damage will be punished by imprisonment from three months to one year and a fine from five million to ten million kip and in case of significant damage will be punished by imprisonment from one year to three years and a fine from ten million to thirty million kip;
- Destroying and hiding documents on plant health certificates will be punished with imprisonment from three months to one year and a fine from one million to ten million kip;
- Falsifying documents or phytosanitary certificates (falsifying signatures, seals, cutting or adding text to phytosanitary certificates) will be punished with imprisonment from three months to two years and in case of serious damage, will be punished with imprisonment from two years to five years and fined from seven million to twenty million kip;
- The use of fake documents (knowing that fake sanitary certificates are still used) will be punished with imprisonment from three months to two years and a fine of three million to ten million kip, and in the case of significant damage, will be punished with imprisonment from two years to five years and a fine of seven million to twenty million kip.

In criminal proceedings against violators, plant quarantine officers should cooperate with police officers to investigate and submit a case report to the People's Prosecutor's Office where there is

a violation to consider ordering a lawsuit to court as stipulated in the Law on Criminal Proceedings (amendment) No. 37/NA, dated November 14, 2017.

4.5. Additional penalty measures

The use of additional punishment measures for violators of the law on the protection and quarantine of plants consists of suspending or revoking licenses to operate agricultural and forestry activities, business registrations, including confiscation of property, which is a mandatory measure of the state to limit, cut off the rights and benefits of offenders, which is defined in the Criminal Law No. 26/NA, dated May 17, 2017, Law on Protection and Quarantine of Plants (revised version) No. 13/NA, dated November 15, 2016 and other related laws.

IV. Measures and methods of implementation

1. Let the Department of Agriculture, the Department of Agriculture and Forestry at the provincial level and the Plant Quarantine Checkpoint coordinate with relevant parties at the central and local levels to publicize, encourage, monitor and inspect the implementation of this instruction to get good results;
2. Let the Department of Agriculture and Forestry at the provincial level be responsible for encouraging and directing the agriculture sector and plant quarantine checkpoints in cooperation with local stakeholders to take measures against violators in accordance with the law and this guideline;
3. Through the actual implementation, if there are any problems or difficulties, should report to the Department of Agriculture and the Ministry of Agriculture and Forestry according to the procedures for consideration and timely resolution.

This instruction takes effect from the date of signing and after being posted in the Lao Official Gazette.

Minister
PhD. Phet Phomphiphak