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## HARMONIZATION ISSUES OF LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN IN CONFORMITY WITH THE NORMS OF THE WORLD TRADE ORGANIZATION IN THE FIELD OF PHYTOSANITARY SECURITY

**Abstract.** Each new member joining the World Trade Organization should follow the established principles on unification and harmonization of national legislation. Due to the accession of Kazakhstan to the World Trade Organization, a large-scale modernization of the legal framework in the field of food products quality and safety regulation began in order to harmonize with the laws of the world community, as well as taking into account new scientific data in the field of its safety. Due to the entry of Kazakhstan into the World Trade Organization, the question of protecting the territory of the republic from the penetration of pests that are missing from us has become acute. The probability of penetration into the territory of the republic of quarantine objects and their distribution is quite high.

Noting the contribution of scientific developments of domestic scientists in the field of legal agrarian science, we can say that there is still no comprehensive work devoted to legal problems in the field of phytosanitary support of the Republic of Kazakhstan. Many of the conceptual problems of the country's phytosanitary security in the context of the entry of the World Trade Organization have not received sufficient reflection and practical solutions. In this regard, the relevance of the study, both from the standpoint of theory and based on the needs of practical application, is obvious.

The purpose of the article is to conduct a comprehensive study of the legal problems of harmonizing the legislation of the Republic of Kazakhstan in accordance with the standards of the World Trade Organization in the field of phytosanitary security and developing scientific and practical recommendations aimed at improving legislation.

**Keywords:** World Trade Organization, SPS, phytosanitary security, phytosanitary measures, harmonization.

### Introduction

As part of a market economy, Kazakhstan continues to improve the regulatory legal framework in order to eliminate barriers in the world's trade space. The Republic of Kazakhstan continues to bring legislation in compliance with the World Trade Organization standards, including in the areas of technical regulation of sanitary and phytosanitary measures.

There are concerns about the import of imported goods that pose a danger to the life and health of consumers. In this regard, it is necessary to strengthen customs control, including the problems of phytosanitary control that we are affecting.

As is known, the main regulatory and legal acts in the field of ensuring the harmonization of legal acts in the field of sanitary and phytosanitary security in Kazakhstan are:

- Treaty on the Eurasian Economic Union of May 29, 2014;

- Decision of the Commission of the Customs Union of April 7, 2011 No. 625 "On ensuring the harmonization of the legal acts of the Customs Union in the application of sanitary, veterinary and phytosanitary measures with international standards";

- Decision of the Commission of the Customs Union dated June 22, 2011 No. 721 “On the application of international standards, recommendations and guidelines”;
- Decision of the Board of the Eurasian Economic Commission dated November 6, 2012 No. 212 "On the Regulations on a single procedure for the examination of the legal acts of the Customs Union in the implementation of sanitary, veterinary and phytosanitary measures"
- Decision of the Board of the Eurasian Economic Commission of March 5, 2013 No. 31 “On ensuring transparency in the process of adopting acts of the Eurasian Economic Commission in the field of sanitary, phytosanitary quarantine and veterinary-sanitary measures” [1].

## **Methods**

Structural analysis method, analysis of the method of analysis, the analysis of the historical method, etc.

## **Results**

On May 29, 2014, the Treaty on the Eurasian Economic Union, which is the basic document of all Eurasian integration, was signed and entered into force in Kazakhstan. This legislative base requires that products that circulate in the territory of the Eurasian Economic Union comply with the established technical regulations, as well as sanitary and phytosanitary (SPS) requirements established as technical regulations.

Taking into account the factors of a single customs territory and economic space, further unification and harmonization of Eurasian and national legislation, including sanitary and phytosanitary standards, is required.

Legal regulation includes instruments of prohibition or restriction on the import (export) of goods that do not meet the established requirements. In particular, trade (including importation and turnover in the domestic market) of products in the territory of the Republic of Kazakhstan may be restricted or prohibited if the products in question do not meet these requirements.

The member states of the Eurasian Economic Union agreed to harmonize the policy and regulatory system in the field of phytosanitary regulation and express their desire to intensify cooperation in this area within the Eurasian Economic Union. Harmonization should become an instrument to ensure uniform requirements for the circulation of goods in the territories of the member states of the Eurasian Economic Union in the field of phytosanitary regulation, through the general regulations of the Eurasian Economic Union. These regulations are applied directly on the territory of Kazakhstan without the need to apply separate national legislation [2].

The agreement on sanitary and phytosanitary measures of the World Trade Organization is aimed at protecting the life and health of humans, animals or plants [3].

This agreement on the application of sanitary and phytosanitary measures entered into force on January 1, 1995. The agreement regulates the basic rules of food safety and standards of animal health, as well as plants.

The legislative bodies of the republic are conducting research to achieve safe trade regulation. The World Trade Organization to achieve a balance between free trade and human rights, to take domestic measures to protect the life or health of people, animals or plants is governed by the Agreement on the Application of Sanitary and Phytosanitary Measures [4].

The parties to the Eurasian Economic Union should, in accordance with Article 5 of the WTO SPS Agreement, ensure the implementation of sanitary, veterinary and phytosanitary measures based on risk assessment (as appropriate) to human, animal or plant health and in accordance with international standards.

In accordance with the WTO SPS Agreement, “member countries should base their sanitary or phytosanitary measures on international standards, guidelines or recommendations”.

SPS measures should be based on a scientific basis of risk analysis [5]. For example, in the countries of the European Union phytosanitary legislation increasingly relies on science [6].

In order to create equivalent systems of official food control in all member countries, the WTO considered it necessary to introduce a harmonized system of general rules at the international level governing such control. To ensure a global and uniform approach to official control, the global trading system must raise food standards so that consumers around the world are served.

Sanitary, veterinary, sanitary and phytosanitary requirements and procedures applied in order to:

1. Protecting life and health of humans and animals from the risks arising from the addition of pollutants, toxins or pathogens in food, beverages, feed and other products;
2. Protecting the life and health of animals and plants from the risks arising from the penetration, rooting (fixing) or spread of quarantine importance for States Parties of pests of plants, pathogens of plants and animals, plants (weeds), disease-causing or pathogens organisms;
3. Protecting life and human health from the risks arising from diseases carried by animals, plants, or products from them; preventing or limiting other damage caused by the penetration, rooting (fixing) or spread of quarantine significance for States Parties of pests of plants, pathogens of diseases of plants and animals, plants (weeds), pathogens, including in the case of transfer or spread by animals and ( or) plants, with products, goods, materials, vehicles.

The main purpose of the SPS is to provide access to markets, this can be an obstacle to domestic policies that manipulate the terms of trade of the country [7].

Parties harmonize national (state) standards and ensure compliance with the following principles:

- a) voluntary application of standards;
- b) openness and publicity of standards development processes;
- c) availability of national (state) standards, information on the procedure for their development, adoption (approval) and publication;
- d) the use of international standards as a basis for the development of draft national (state) standards, except in cases where such documents do not meet the objectives of technical regulation, including due to climatic, geographical factors or technological problems;
- e) the inadmissibility of the adoption (approval) of standards that contradict the technical regulations of the Eurasian Economic Union [8].

SPS measures include all relevant laws, decrees, regulations, requirements, and procedures governing inter alia: 1) end product criteria; 2) processes and production methods; 3) testing, inspection, certification, and approval procedures; 4) quarantine requirements including relevant requirements associated with the transport of animals or plants, or with the materials necessary for their survival during transport; 5) provisions on relevant statistical methods, sampling procedures, and methods of risk assessment; and 6) packaging and labeling requirements directly related to food safety [9].

The fundamental principles of the SPS Agreement is the introduction of SPS measures based on scientific principles and to prevent the introduction without sufficient scientific justification [10].

Kazakhstan has demonstrated a progressive approach to phytosanitary measures [11]. Currently, the main laws in the field of sanitary and phytosanitary measures in Kazakhstan - the laws of the Republic of Kazakhstan "On sanitary-epidemiological welfare of the population", "On plant quarantine" - comply with the rules of the Agreement on the application of sanitary and phytosanitary measures. Accordingly, the achievement of a high level is a necessary attribute for the further development of the state [12]. Improving the legal framework of phytosanitary security is aimed for ensuring food security of the Republic of Kazakhstan. therefore

for the grain, Kazakhstan has already begun to face overproduction, similar can happen to other types of agricultural products. Farmers should provide Kazakhstani with quality products and supply competitive products to the markets. In his annual message, the President of the Republic noted that the domestic market of the country for a number of positions begins to lose the increasing expansion of grocery imports. It has a lot of cheap imported sausage, in a "beautiful" package, which is much inferior in quality to the domestic one. An analysis of dairy products was also conducted. It turned out that Kazakhstan is delivered to forty-five per cent of the butter, powdered and condensed milk - up to eighty percent. In the meantime, Kazakhstani producers fully provide the country's population with raw milk and meat. But the country is lagging behind processing, which has proved to be uncompetitive [13].

## Conclusion

The issues of harmonization with the provisions of the Agreement on the Application of Sanitary and Phytosanitary Law Enforcement Practices in the Field of Veterinary Medicine and Plant Quarantine remain the most problematic aspect. In particular, the modernization of the material and technical base of

the laboratories, the harmonization of sanitary-epidemiological, veterinary and quarantine rules and norms with international standards are being carried out in order to fulfill the requirements of the Agreement on the application of sanitary and phytosanitary measures.

Based on the study, it is possible to formulate the following suggestions and recommendations:

1. The issues of ensuring the harmonization of legal acts in the application of sanitary, veterinary and phytosanitary measures with international standards are still not resolved, therefore a comprehensive analysis of legislation in the field of phytosanitary security is necessary.
2. It is necessary to strengthen the control function of the Eurasian Economic Commission.
3. Requires synchronized activities of customs and phytosanitary control bodies in the states of the Eurasian Economic Union.

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### **ДҮНИЕЖҮЗІЛІК САУДА ҰЙЫМЫНЫҢ НОРМАЛАРЫНА СӘЙКЕС ФИТОСАНИТАРЛЫҚ ҚАУІПСІЗДІК САЛАСЫНДАҒЫ ҚАЗАҚСТАН РЕСПУБЛИКАСЫ ЗАҢНАМАСЫН ГАРМОНИЗАЦИЯЛАУ МӘСЕЛЕЛЕРІ**

**Аннотация.** Дүниежүзілік сауда ұйымына мүше болып кіретін әрбір жаңа мемлекет ұлттық заңнаманы унификациялау мен гармонизациялау кезінде онымен бекітілген қағидаттарды сақтауы міндетті. Қазақстанның Дүниежүзілік сауда ұйымы құрамына енуімен бүкіл әлемдік заңдармен гармонизациялау мақсатымен, сондай-ақ оның қауіпсіздігін қамтамасыз ету саласындағы жаңа ғылыми деректердің есебімен азық-түлік, өнімінің қауіпсіздігі мен сапасын реттеу саласындағы заңнамалық базасын көлемді модернизациялау басталды. Қазақстанның Дүниежүзілік сауда ұйымына мүше болып кіруіне орай республикада жоқ қауіпті ағзалардың өтуінен ҚР-ң аумағын қорғау мәселесі пайда болды. Қазақстан аумағына карантинді объектілердің енуі мен олардың таралу ықтималдығы өте жоғары.

Заманауи аграрлы-құқықтық ғылымының көптеген тұжырымдамалық мәселелері жеткілікті дәрежеде негізделмеген және тәжірибелік шешімін таппаған. Еліміздің Дүниежүзілік сауда ұйымына мен Еуразиялық Экономикалық Одаққа кіру жағдайындағы фитосанитарлық қауіпсіздікті қамтамасыз етудің құқықтық мәселесіне арналған кешенді жұмыстың жоқ екендігін айтып өту қажет. Дүниежүзілік сауда ұйымына мүше болуы жағдайындағы фитосанитарлық қауіпсіздіктің көптеген тұжырымдамалық мәселелері жеткілікті түрде зерттелмеді және тәжірибелік шешімін таппады. Осыған байланысты зерттеудің өзектілігі теория тұрғысынан да, тәжірибиеде қолдану қажеттілігіне негізделгені анық.

Мақаланың мақсаты Дүниежүзілік сауда ұйымының фитосанитариялық қауіпсіздік саласындағы стандарттарына сәйкес Қазақстан Республикасының заңнамасын гармонизациялаудың құқықтық мәселелерін жан-жақты зерделеу және заңнаманы жетілдіруге бағытталған ғылыми-тәжірибелік ұсыныстарды әзірлеу болып табылады.

**Түйін сөздер:** Дүниежүзілік сауда ұйымы, СФК, фитосанитарлық қауіпсіздік, фитосанитарлық шаралар, гармонизация.

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### **ВОПРОСЫ ГАРМОНИЗАЦИИ ЗАКОНОДАТЕЛЬСТВА РЕСПУБЛИКИ КАЗАХСТАН В СООТВЕТСТВИЕ С НОРМАМИ ВСЕМИРНОЙ ТОРГОВОЙ ОРГАНИЗАЦИИ В СФЕРЕ ФИТОСАНИТАРНОЙ БЕЗОПАСНОСТИ**

**Аннотация.** Каждый новый член вступивший в Всемирную Торговую Организацию должны соблюдать установленные принципы при унификации и гармонизации национального законодательства. В связи с вступлением Казахстана в Всемирную Торговую Организацию началась масштабная модернизация



законодательной базы в области регулирования качества и безопасности пищевой продукции с целью гармонизации с законами мирового сообщества, а также с учетом новых научных данных в области обеспечения ее безопасности. В связи со вступлением Казахстана в ВТО остро встал вопрос охраны территории республики от проникновения отсутствующих у нас вредных организмов. Вероятность проникновения на территорию республики карантинных объектов и их распространение достаточно велика.

Отмечая вклад научных разработок отечественных ученых в области аграрно-правовой науки, можно констатировать отсутствие до сих пор комплексной работы, посвященной правовым проблемам в области фитосанитарного обеспечения Республики Казахстан. Многие концептуальные проблемы фитосанитарной безопасности страны в условиях вхождения в Всемирную Торговую Организацию не получили достаточного осмысления и практического решения. В этой связи актуальность проведенного исследования, как с позиции теории, так и исходя из потребностей практического применения, очевидна.

Целью статьи заключается в комплексном исследовании правовых проблем гармонизации законодательства Республики Казахстан в соответствии с нормами Всемирной Торговой Организации в сфере фитосанитарной безопасности и выработка научно-практических рекомендаций, направленных на совершенствование законодательства.

**Ключевые слова:** Всемирная Торговая Организация, СФС, фитосанитарная безопасность, фитосанитарные меры, гармонизация.

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