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Serbia Adopted Crucial Laws for Agribusiness Development

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Report Highlights:

On May 29, 2009 National Parliament of the Republic of Serbia passed 15 agriculture related laws upon a proposal from the Ministry of Agriculture, Forestry and Water Management. This is the most comprehensive legislative activity in agriculture in this decade. The most important laws that were passed encompass: Law on Food Safety, Law on Public Warehouses for Agricultural Products, Law on Plant Health, Law on Agriculture and Rural Development, Law on Amendments to the Law on Agricultural Land. In addition to improving overall enabling environment for agricultural producers in Serbia, this set of laws will ensure greater compliance of Serbian agricultural practices with rules enforced by international organizations such as WTO and UPOV, and enable harmonization with different EU rules.

General Information:

On May 29, 2009 National Parliament of the Republic of Serbia passed 15 agriculture related laws upon a proposal from the Ministry of Agriculture, Forestry and Water Management. This is the most comprehensive legislative activity in agriculture in this decade. In addition to improving overall

enabling environment for agricultural producers in Serbia, this set of laws will ensure greater compliance of Serbian agricultural practices with rules enforced by international organizations such as WTO and UPOV, and enable harmonization with different EU rules.

Below is the summary of the adopted laws that outlines their main goals, changes that will be introduced pursuant to the new laws, potential difficulties in implementation, and overall evaluation of compliance with international rules and principles. Serbian agriculture now has a challenging task, since these 15 laws are bringing structural changes to the sector, and all stakeholders in the sector will have to adjust their operations to the provisions of new laws.

The adopted laws include:

1. Law on Food Safety
2. Law on Agriculture and Rural Development
3. Law on Livestock
4. Law on Public Warehouses
5. Law on Plant Health
6. Law on Plant Protection Products (Law on Pesticides)
7. Law on Plant Nutrition Products and Soil Enhancers (Law on Fertilizers)
8. Law on Brandy
9. Law on Animal Welfare
10. Law on Ethanol
11. Law on Wine
12. Law on Amendments to the Law on Reproductive Material of Forest Trees
13. Law on Genetically Modified Organisms
14. Law on Amendments to the Law on Agricultural Land
15. Law on Protection of Plant Breeder's Rights (UPOV Law).

1. Law on Food Safety

The new Law on Food Safety is one of the main agricultural laws, and it governs all aspects of production, circulation, control and consumption of food, general conditions for ensuring safety of food and feed, rights and responsibilities of persons performing food and feed businesses, early warning system, hygiene and quality of food and feed..

The adoption of the Law was necessary for the purpose of harmonization with EU regulations, in particular Directive 178/2002/EC, and compliance with the Agreement on Application of Sanitary and Phytosanitary Measures of the WTO.

The purpose of the Law is to ensure high level of protection of life and health of consumers, and interests of consumers while ensuring efficient functioning of food trade.

The main new concepts introduced by the law encompass: implementation of the traceability of food; registration of all businesses dealing with food in one unified Central Register; full division of

competences between the Ministry of Agriculture and the Ministry of Health that will enable that both quality and safety of food are controlled on the same food sample, and that one facility is controlled by one inspection; performance of controls in accordance with the risk assessment; establishment of the national reference laboratories; introduction of internal controls in accordance with the good manufacturing practice, good hygiene practice or HACCP depending on the type of food businesses.

The Law does not seem to contain any violations of the general international rules and principles applicable to food and food safety systems. The main difficulties in the implementation of the Law may be expected in the area of division of competences, in particular in the fact that the agricultural inspection may not have sufficient capacities to conduct the food safety controls of non-animal food products in production, processing, wholesale and exports, and introduction of internal controls in businesses (GMP, GHP, HACCP) since it places an extra financial burden on their operations.

2. Law on Agriculture and Rural Development

The Law on Agriculture and Rural Development is the umbrella law of Serbian agriculture, since it governs goals of the agricultural policy, types of incentives, registry of households, record keeping in agriculture, and integrated agriculture information system. The Law defines main strategy documents that need to be adopted in order to ensure transparency and predictability of the agrarian policy: Agriculture and Rural Development Strategy, National Program for Agriculture, National Program for Rural Development. Also, the Law regulates establishment of the Administration for Agrarian Payments as the single authority that will be responsible for administration of agricultural subsidies (so far, this was the shared responsibility of the Treasury Administration and the Ministry of Agriculture), and a necessary precondition for implementation of future programs through utilization of IPARD funds (EU pre- accession funds).

The Law differentiates commercial and non-commercial agricultural households and types of incentives available for both types of households.

Although this Law envisaged export subsidies as one of potential types of support under the market incentives category, it is most likely that Serbia will not be allowed to use export subsidies in agriculture once it becomes a full-fledged member of the WTO.

Adoption of the Law was necessary for the purpose of enhancing development and competitiveness of Serbian agriculture, and harmonization with the EU rules and requirements.

3. Law on Livestock

The Law on Livestock will regulate for the first time in the most comprehensive manner this important Serbian agribusiness sector. Prior to adoption of this Law livestock was regulated by the Law on Measurements of Livestock Improvement; Rulebook on quality control of reproductive animals, and terms and conditions of production and transport of poultry; and Law on Veterinary Services. The new legislative will bring substantial changes in organization and production methods

in the sector by means of enabling formation of breeders' associations and organizations with special authorizations, thus ensuring direct influence of producers on livestock breeding selection criteria and subsequently increased productivity of farm animals. The Ministry will control the activities of such associations and organizations through the Registry, and will at the same time provide timely and accurate information on their number and membership conditions to interested breeders.

The Law also envisions the establishment of the Main Registry of farm animals in compliance with the international standards, which will enable breeders' access to information on available quality reproductive animals and terms and conditions for registering farm animals.

The effects of the new Law are expected in the area of: 1) improvement and/or preservation of farm animals' vitality their genetics potentials and bio-diversity; 2) providing adequate animal nutrition for all species; 3) preservation of autochthonous species; 4) implementing zoo-hygiene and veterinary measures and standard procedures to protect health and wellbeing of farm animals; 5) defining responsibilities of subjects and institutions relevant for the sector (in particular veterinary) to enhance productivity; 6) protection of natural resources and environment ; and 7) establishing and maintaining of information system pertaining to both breeders' organizations register and farm animals register providing monitoring of production capacity of Serbian farm animals as well as and connection with the similar internationally operated systems; Finally the measures prescribed by this Law would lead to sustainable livestock production, fishery and honey-bee keeping.

The Law is in compliance with the recognized international standards, particularly those in force in EU, and was a result of cooperation and experience exchange with the countries in region (Slovenia). The Law stimulates forming of new legal entities and job creation. The sector will increase competitiveness on EU market as it could offer quality and safety products from the controlled farm animals. Therefore adoption of this law has a significant impact on reform and EU accession processes and in Serbia.

4. Law on Public Warehouses

The Law on Public Warehouses for Agricultural Products enables implementation of the warehouse receipts system which is the alternative solution for commodity producers, processors and traders to access short-term financing for operations, take advantage of price fluctuations, and secure the storage of their produce. The framework for establishment of a WHR system focuses on registration, licensing and inspection of public warehouses; and development of financial instruments for collateralized loans, insurance of commodities and claims and indemnity funds. The Law will also enable creation of a uniform and well regulated system of storing of commodities, protection of depositors, ensuring of the quality and quantity of deposited commodities, and give the opportunity to agricultural producers to take advantage of higher prices during the off-season periods.

5. Law on Plant Health

The new Law on Plant Health governs protection and improvement of plant health, measures for

protection, detection, prevention of spreading, control and eradication of harmful organisms, phytosanitary controls and requirements for production, processing, imports, storage and trade in plants, plant products, and requirements for prescribed facilities, as well as conditions to perform activities in the area of protection of plant health. The Law also envisages establishment of the national reference phytosanitary laboratory, and introduces controls based on the assessment of risk.

The adoption of the Law was necessary for the purpose of harmonization with EU regulations, in particular Directive 2000/29/EC, International Plant Protection Convention, and the Agreement on Application of Sanitary and Phytosanitary Measures of the WTO.

6. Law on Plant Protection Products (Law on Pesticides)

The Law on Plant Protection Products governs registration, control, circulation, imports and application of plant protection products in agriculture and forestry. The Law also envisages establishment of the national reference laboratory for residues.

The Law now prescribed unique authority responsible for registration, placing in circulation and post-registration control of pesticides (up to now this task was conducted by the Ministry of Agriculture – Plant Administration, Ministry of Health and Ministry of Environment). In addition, the Law prescribes that users of the pesticides will have to be trained (educated) in use of pesticides. This means that farmers will have to be trained in the safe use of pesticides.

The adoption of the Law was necessary for the purpose of harmonization with EU regulations, in particular Recommendations of the EU Council 91/414 and 79/117, Directive 396/2005, and TBT Agreement of the WTO.

7. Law on Plant Nutrition Products and Soil Enhancers (Law on Fertilizers)

The Law on Plant Nutrition Products and Soil Enhancers regulates classification, quality and labeling, phytosanitary control, sampling in circulation, imports, application and testing of plant nutrition products and soil enhancers. The new Law should facilitate exports of Serbian plant nutrition products; introduce labeling in accordance with EU requirements (label EC FERTILIZER).

The adoption of the Law was necessary for the purpose of harmonization with EU regulations, in particular Directive 2003/2003 and 1774/2003, and the TBT Agreement of the WTO.

8. Law on Brandy

The Law on Brandy regulates alcohol beverage sector in line with EU standards and regulations. There are more than 2000 registered fruit-based brandy producers in Serbia along with a significant number of non-registered producers; however production is on the low technological level and products are not efficiently controlled due to lack of systematic approach. Quality control mechanisms are not in compliance with the EU standards.

The Law envisions mandatory registration of brandy and other alcohol beverage producers to

prevent illegal production and marketing. Controlling mechanisms are prescribed for the entire process of production along the value chain, to finally include mandatory labeling of all products for commercial purposes.

It is expected that the Law implementation will contribute to combating fraud production, thus providing for safety and protection of both producers and consumers rights on the market.

The Ministry considers this Law as a regulatory frame for entrepreneurship growth and increased number of new entities (SMEs) as a result of registration requirement. Vigorously implemented control in this area will contribute to safe and quality production and increase competitiveness of Serbian products in EU and regional market. The Law is a step towards regulated market conditions for the important part of Serbian agriculture produce; therefore it contributes significantly to the reform processes and EU accession of Serbia.

9. Law on Animal Welfare

The Law on Animal Welfare regulates responsibilities of legal and natural persons and entrepreneurs in terms of animal welfare, protection of animals from torture and mistreatment, care for animal health and life, as well as treatment of animals during killing, keeping, raising, circulation, transport, slaughtering and conducting experiments on animals. In addition, the Law can facilitate exports of Serbian animals, and products of animal origin, in particular to the EU since it will ensure that all requirements in terms of keeping and transportation of animals are fulfilled.

The adoption of the Law is necessary for the purpose of harmonization with rules of the OIE, Recommendations of the EU Council Nos. 86/609, 2003/65 and 2003/584 and Commission Decision 90/67.

10. Law on Ethanol

The Law on Ethanol will regulate production, marketing, export and import of ethanol. This is the new Law in this area as the previous regulation was insufficient (Law on wine and brandy). The new regulation will introduce EU standards and regulatory frame which is expected to result in increasing export of ethanol both on EU and regional market. Serbia has significant raw material base for producing ethanol. Regulation will contribute to quality control, thus enabling usage of ethanol in various industries (food processing, alcohol beverages production, medical, pharmaceutical cosmetics etc), as well as attracting of new investment in ethanol production and trade, once the area is adequately regulated. The Law prescribes methods of registering production, packaging, marketing, quality controls and responsibilities of controlling agencies/ inspections. Several by-laws are envisioned to more precisely regulate technical aspects of ethanol production, evidence of trade and market conditions.

Evidence and reporting on ethanol production and marketing are mandatory regulations in EU; therefore adoption of this law has a significant impact on reform and EU accession processes and in Serbia.

11. Law on Wine

The Law on Wine regulates various aspects of production and sales of wine. The aspects regulated fall mainly into the categories winemaking practices, classification and labeling, wine-production potential, documentation of wine industry activities and duties of enforcement agencies/inspections. The purpose of the Law on Wine includes combating wine fraud, by means of regulated protected designations of origin, labeling practices and classification of wine, as well as regulating allowed additives and procedures in winemaking and viticulture. The regulations define wine as "the product obtained exclusively from the total or partial alcoholic fermentation of fresh grapes, whether or not crushed, or of grape must. Furthermore, wine can only be made from grape varieties listed as allowed, and only those vine varieties may be planted for commercial purposes. The Ministry will at its discretion compile a list of allowed varieties. The Law prohibits mixture of domestic and imported wine with emphasis on promotion on domestic grape varieties. The production of wine and brandy are entirely separated.

The Law envisions mandatory registration for both vineyards and wine distilleries for the purpose of precise capacity data tracking, as well as to serve as a basis for establishing of grape production geographic regions. Moreover, maintaining registers and reporting on information they contain are mandatory requirements for using EU accession funds. Quality and safety controls are envisioned from plant to labeling, introducing the protected designation of origin which will provide for protecting both the producer and the consumer.

The Law on Wine is in compliance with the Council Regulation on the common organization of the market in wine No. 47/2008/E3 as of April 29, 2008 the latest reform EU reform Act in this sector. This will provide for wine production in accordance with the EU regulation and would enhance competitiveness of Serbian products in EU and in regional countries.

This Law introduces new technology for collecting data pertaining to grape plants by using geographic information system (GIS), ortho-photo maps and specialized software.

Funds for Law implementation are secured through the EU funded Twinning Project 05SER01/06/005 "Building capacity of Vine and Wine sector in Serbia" in amount of EUR 1.5 million. The funds will also cover costs for sensor testing of wine quality required by the International Office of Vine and Wine and EU regulation.

The Law allows for two-year transition period from the date the Law is in force. As the significant funds are engaged from EU to support the implementation of the Law it has a significant impact on reforms and EU accession processes in Serbia.

12. Law on Amendments to the Law on Reproductive Material of Forest Trees

Production of sufficient and quality reproductive material for forest trees is one of the strategic

interests of Serbia, as the Spatial Plan envisions increasing of forest area from current 27% to 41,4% .

The Law on Reproductive Material of Forest Trees has been adopted, and in effect since December 29, 2004, in the course of harmonization of Serbian legislative with the relevant EU regulations as follows: Council Directive 1999/105/EC, Commission Regulation (EC) Commission Regulation (EC) No 2301/2002, Commission regulation (EC) No 1598/2002. Current Amendments to the Law on Reproductive Material of Forest Trees incorporates the stipulations prescribed in the above noted EU Commission Regulations with the aim to fully implement all relevant EU regulations related to production and marketing of reproductive material for forest trees.

Amendments are also aimed at improving the deficiencies in Law implementation so far. Such improvements will be the following: 1) producers/suppliers of small amounts of seeds and seedlings will be allowed to issue certificates in accordance with the Law, provided that any such marketing is documented and the documents are available at any time for inspection authorized by the Law enforcing agency; 2) Ministry, at it's own discretion and expenses, may order the producers to collect the seed of specific forest trees varieties when necessary to enable planting and/or reforestation; 3) Forest Engineers, authorized to manage production of reproductive tree forest material is no longer required to have two years of experience; however in order to increase efficiency and effectiveness, he/she may manage no more than three plants; 4) unauthorized persons/individuals (physical entities) producing or selling reproductive forest tree material will be subjected to penalties.

The amendments will provide for effective and efficient implementation of the Law on Reproductive Material of Forest Trees, in line with the EU regulations; enable job creation for Forest Engineers to manage the plants; improve collection of reproductive forest trees material for specific varieties; regulation in this area will enhance competitiveness in production of quality forest trees seedlings.

13. Law on Genetically Modified Organisms

The Law on Genetically Modified Organisms (GMO) regulates basic conditions for the use of GMO in closed systems (laboratory work, greenhouses), deliberate release into the environment (experimentally work in the field, and commercial growing) of genetically modified organism.

The Law imposes strict regulatory framework that will enable controls of use of GMO, and therefore prevent and reduce potential harmful effects of GMO on human health and on the environment.

The Law fully prohibits the possibility of commercial growing of live modified organisms, or placing into circulation of live modified organism and products obtained from genetically modified organisms. This practice is very strict compared to the practices imposed in some countries, in particular, USA. The law does not deal with trade, circulation, transportation, labeling and/or traceability of the GMO for commercial purposes.

14. Law on Amendments to the Law on Agricultural Land

The purpose of these amendments was to correct the deficiencies in the implementation of the Law on Agricultural Land. Under the amended Law, the agricultural basis (strategic planning documents regulating protection, planning and use of agricultural land) for the local community units are abolished. In the case of change of the use of agricultural land (e.g. conversion to urban land) a fee equal to the 50% of the market value of land is paid (under the previous law, maximum amount was 1500 Euro/ha)

The amendments introduce the concept of priority lease of state owned land by: 1. owners of the infrastructure on the land (e.g. irrigation systems) 2. owners of facilities for livestock raising (priority concepts is 1ha per „conditional“ number of animals). To certain extent, this provision discriminates farmers engaged in agricultural activities other than livestock raising. Priority land lease is conducted at the average price for the land of the similar quality at the last public auction held in that particular municipality or closest municipality. If there are no interested parties for priority lease, the state owned land is offered for auctioning, in accordance with the two level system auctioning for land lease. This system may not ensure that the best possible price is achieved for the lease of state owned land.

The Law stipulates payment of rent in advance, or depositing of the bank guaranty for land lease, and establishes Administration for Agricultural Land.

15. Law on Protection of Plant Breeder's Rights (UPOV Law)

The Law on Protection of Plant Breeder's Rights regulates protection of intellectual property rights of plant variety breeders, conditions for domestic breeders to register new plant varieties, conditions for safe circulation of foreign protected varieties in the domestic market. The Law will improve availability of new domestic and foreign plant varieties of a better quality that will consequently result in the positive effects on the production volumes and improvement of the quality of agricultural products.

The Law envisages a transitional period for protection of old plant varieties that participate, to the great extent, in the domestic production and whose owners don't have any economic gains from those varieties.

The adoption of the Law was necessary for the purpose of harmonization with the Convention of the Union for Protection of New Varieties of Plants from 1991, and represents a precondition for membership of Serbia in UPOV. This Law is also important for the purpose of harmonization with the EU legislation, and with the TRIPS Agreement of the WTO.

The Law has been examined by the UPOV Council in April 2008, and evaluated as compliant with requirements of the UPOV Convention.

