

12 Annex - Food safety, veterinary and phytosanitary policy

42. LAW ON PLANT NUTRITION PRODUCTS

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Pursuant to Article 88 item 2 of the Constitution of the Republic of Montenegro I hereby issue the

Decree on Promulgating the Law on Plant Nutrition Products

(Official Gazette of the Republic of Montenegro 48/2007 of 9 August 2007, Official Gazette of Montenegro 76/08 of 12 December 2008)

I hereby promulgate the Law on Plant Nutrition Products passed by the Constitutional Assembly of Montenegro at the sixth sitting of the first ordinary session in 2007 on 24 July 2007.

No: 01-961/2

Podgorica, 2 August 2007

President of the Republic of Montenegro,

Filip Vujanović

Law on Plant Nutrition Products

I BASIC PROVISIONS

Article 1

This Law regulates the conditions for production, trade, characteristics and application of plant nutrition products, as well as other matters that are significant for production and trade of the plant nutrition products.

If plant nutrition products contain also pesticides, then regulations that regulate pesticides shall also be applied to trade and application of plant nutrition products.

If plant nutrition products contain also dangerous substances, then regulations that regulate dangerous substances shall also be applied to trade and application of plant nutrition products.

Article 2

Certain expressions used in this Law shall have the following meaning:

- 1) plant nutrition products means fertilisers, biostimulators, land improvement matters and substrates;
- 2) fertiliser means a chemical compound of mineral and organic origin and mixture of these compounds, regardless of the physical state, as well as certain micro-organisms, which are used for direct or indirect plant nutrition and improvement of the land fertility;
- 3) mineral (inorganic) fertiliser means a fertiliser, which consists of the nutritive elements in the form of inorganic salts obtained through extraction, industrial processes, which can be physical or chemical;
- 4) organic fertiliser means a fertiliser which consists of nutritive elements in the form of organic matters of plant or animal origin, obtained through processing or synthesis of organic compounds;
- 5) substrate means a product, which serves as a base so that plants take roots, and it can be of organic (peat, compost, etc.) or mineral (active land, zeolite, tuff, perlite, grodan, etc.) origin;
- 6) land improvement matter means a matter added to land in order to improve physical or chemical characteristics or biological activity of the land;
- 7) biostimulators means substances of synthetic or natural origin (hormones, vitamins, amino acids, humus acids, etc.), which have stimulating effect on physiological biochemical processes in plants;
- 8) plant nutrients means chemical elements necessary for normal growth and development of plants;
- 9) primary nutrients means nitrogen, phosphor and potassium;
- 10) secondary nutrients means calcium, magnesium, sodium and sulphur;
- 11) micro-nutrients means iron, boron, zinc, cobalt, copper, manganese, molybdenum and selenium;

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- 12) Simple (one-component) fertiliser means a fertiliser which consists of only one of the primary nutrients;
- 13) Compound (multi-component) fertiliser means a fertiliser having a declarable content of at least two of the primary nutrients and obtained chemically or by blending or by a combination of both;
- 14) Complex fertiliser means a fertiliser obtained through chemical reaction, solution or granulation – in solid state, having a declarable content of at least two of the primary nutrients;
- 15) Blended fertiliser means fertiliser obtained through dry mixing of several fertilisers, without chemical reaction;
- 16) Foliar fertiliser means a fertiliser suitable for application to and nutrient uptake by the foliage of a crop;
- 17) Fluid fertiliser means a fertiliser in suspension or solution;
- 18) Solution fertiliser means a fluid fertiliser that is free of solid particles;
- 19) Suspension fertiliser means a two-phase fertiliser in which solid particles are maintained in suspension in the liquid phase
- 20) Tolerance is permitted deviation of contents of nutrients;
- 21) Package is packing material used for hold, protect, handle, and distribute of plant nutrition products;
- 22) Bulk fertiliser means a fertiliser not packaged;
- 23) Characteristics of plant nutrition products means characteristics regulated by technical regulations and standards;
- 24) Series (group) of plant nutrition products in production means quantity which is produced through the same technological process, under the same conditions, having the same characteristics;
- 25) Series (group) of plant nutrition products in trade means quantity for which the producer determined the same characteristics at the time of dispatching;
- 26) Series (group) of plant nutrition products in import means quantity imported by the same transport vehicle, of the same characteristics and origin;
- 27) Application means bringing the fertilisers into land or directly into plants.

II TYPES OF PLANT NUTRITION PRODUCTS

Article 3

Plant nutrition products may be produced, placed on the market and applied in Montenegro, if they are classified as defined types of plant nutrition products and entered in the Plant Nutrition Products Register (hereinafter referred to as the "Register").

Procedure and documents for classification and manner of designating the plant nutrition products according to the type referred to in paragraph 1 of this Article shall be regulated by the Ministry competent for agricultural affairs (hereinafter referred to as the "Ministry").

Article 4

Types of fertilisers shall be as follows:

- 1) mineral (inorganic) fertilisers;
- 2) organic fertilisers;
- 3) microbiological fertilisers;

Fertilisers may be:

- 1) Simple (one-component) and
- 2) Compound (multi-component), which can be complex and blended:
 - depending on the physical state: solid and fluid;
 - depending on the manner of application and foliar.

Special types of mineral fertilisers are in particular:

- mineral fertilisers on the basis of primary nutrients (nitrogen, phosphor and potassium);
- mineral fertilisers on the basis of secondary nutrients (calcium, magnesium, sodium and sulphur);

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- mineral fertilisers on the basis of micronutrients (iron, boron, zinc, cobalt, copper, manganese, molybdenum and selenium);
- ammonium-nitrate fertilisers which contain high concentration of nitrogen.

Organic fertilisers are fertilisers which consist of minimum 50% of organic matters and at least 1% of nitrogen, 1% of phosphor and 1% of potassium.

Microbiological fertilisers are fertilisers which consist of certain useful micro-organisms.

The Ministry shall regulate in more detail the types of fertilisers referred to in paragraph 1, items 1, 2 and 3 of this Article.

Article 5

Ammonium-nitrate fertilisers which contain high concentration of nitrogen referred to in Article 4 paragraph 3 indent 4 hereof shall be mineral fertilisers, which consist of at least 28% of nitrogen in the form of ammonium-nitrate.

Ammonium-nitrate fertilisers which contain high concentration of nitrogen, which are placed on the retail market, have to be in the original package.

Ammonium-nitrate fertilisers which contain high concentration of nitrogen, which are placed on the market, apart from the trade conditions regulated by this Law, have to meet also the special technical and chemical conditions in terms of contents of heavy metals and other matters.

Ammonium-nitrate fertilisers which contain high concentration of nitrogen may contain also inorganic and inert matters.

Raw materials used in production of fertilisers referred to in paragraph 1 of this Article may not increase the sensitivity to heat and detonation.

Transport of ammonium-nitrate fertilisers which contain high concentration of nitrogen shall be carried out in accordance with the regulations which regulate transport of dangerous substances.

Article 6

The producer of ammonium-nitrate fertilisers which contain high concentration of nitrogen, which are placed on the market, for the purpose of control and possibility of observing trade in the ammonium-nitrate fertilisers which contain high concentration of nitrogen, shall be obliged to keep records consisting of: name, registered office of the producer and name of the responsible person in the registered office, in which the fertilisers or its basic components are produced.

Records from paragraph 1 of this Article shall be kept until the ammonium-nitrate fertilisers which contain high concentration of nitrogen are placed on the market, as well as two years after the producer ceases to place on the market the ammonium-nitrate fertilisers which contain high concentration of nitrogen.

Manner of keeping records is determined by the Ministry.

Article 7

Before the ammonium-nitrate fertilisers which contain high concentration of nitrogen are placed on the market, the producer must have evidence about test on detonation resistance.

Conditions for ammonium-nitrate fertilisers which contain high concentration of nitrogen in terms of characteristics, limit values, as well as methods for checking harmonization with the limit values, detonation resistance, manner of storage and handling shall be regulated by the Ministry.

Article 8

If scientific and technical data determine that a plant nutrition product represents a risk for health of humans, animals, plants and environment, although it fulfils the conditions regulated by this Law, the administration body in charge of plant nutrition product affairs (hereinafter referred to as the "administration body") may:

- 1) temporarily or permanently forbid the production and placement on the market, or
- 2) determine special conditions for production, placement on the market and application of that plant nutrition product.

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Manner of adopting and implementation of measures referred to in paragraph 1 of this Article shall be regulated by the Ministry, in cooperation with the Ministry in charge of environmental protection affairs and Ministry in charge of health affairs.

III PRODUCTION OF PLANT NUTRITION PRODUCT

Article 9

Fertilisers may be produced by a business organisation or entrepreneur (hereinafter referred to as the “producer”), which is entered in the Register of Producers of Plant Nutrition Products (hereinafter referred to as the “Register of Producers”).

Producer can be entered in the Register of Producers, if:

- it meets the conditions in terms of human resources and equipment;
- it obtained consent in relation to environmental impact assessment;

The Ministry shall regulate in detail the conditions in terms of human resources and equipment referred to in paragraph 1 of this Article as well as contents and manner of keeping the Register of Producers.

Fulfilment of conditions for entry in the Register of Producers shall be determined by the administration body.

The Register of Producers shall be kept by the administration body.

The Ministry shall decide upon the appeal against the decision on fulfilment of conditions from paragraph 4 of this Article, as well as upon other administrative acts adopted by the administration body pursuant to this Law.

Data from the Register of Producers shall be public.

Producer shall be bound to control the production of each series of plant nutrition products for the purpose of verifying the characteristics before placing them on the market.

The producer shall keep records about control of production from paragraph 8 of this Article.

Records referred to in paragraph 9 of this Article shall be kept as long as the plant nutrition products are placed on the market as well as for the period of two years after the production ceased.

The producer shall submit to the administration body data on production of plant nutrition products every six months.

More detailed contents and manner of keeping records referred to in paragraph 9 of this Article and manner of delivering the data referred to in paragraph 11 of this Article shall be regulated by the Ministry.

Article 10

Producer, within the meaning of this Law, shall be considered a business organisation or entrepreneur that performs packaging or repackaging as well as final processing by which it changes characteristics of plant nutrition products (hereinafter referred to as the “finisher”), that meets conditions from paragraph 9 of this Law.

Packaging, repackaging and final processing of plant nutrition products may be performed by a business organisation or an entrepreneur only with consent of the producer of plant nutrition products.

IV CHARACTERISTICS, DESIGNATION AND TRADE IN PLANT NUTRITION PRODUCT

Article 11

Plant nutrition products shall have certain least content of nutrients as well as relevant chemical, physical, physiological and other features.

Plant nutrition products may be placed on the market, if they fulfil the conditions referred to in paragraph 1 of this Article, if they are designated in regulated manner and if by their proper usage they do not put in danger health of humans, animals, plants and environment.

Mineral fertilisers that fulfil conditions for trade in the area of European Union are marked in the following way: “EC FERTILISER”.

Characteristics and other conditions for production of plant nutrition products shall be regulated by the Ministry.

Article 12

Plant nutrition product shall be declared.

Declaration referred to in paragraph 1 of this Article shall be issued by the producer.

Plant nutrition products shall correspond to the characteristics stated in declaration.

Declaration shall in particular contain the following data:

- name and registered office of producer, i.e. importer;
- trade name of the plant nutrition product;
- title "EC FERTILISER" written in capital block letters, if mineral fertiliser meets the regulated conditions;
- name and type of plant nutrition product;
- name, type and contents of nutrients;
- name and contents of other matters contained in the plant nutrition product;
- net weight, i.e. volume of plant nutrition product;
- instructions about manner of usage and storage of plant nutrition product;
- instruction about conditions for usage of plant nutrition product;

Plant nutrition products which are placed on the market in the original package must have completely visible declaration inserted in the package or inseparably affixed. If leaden seal is affixed on the package, then name and designation of the producer that performed packaging must be inserted on the package.

Declaration must accompany the bulk fertilisers.

Package, i.e. leaden seal have to be made in the way that while being opened it becomes visibly, incorrigibly changed.

Declaration must be clearly written, legible in the language officially used in the Montenegro and in the manner which disables its erasing or removing.

Declaration must be separate from any other data in the packages.

Fluid fertilisers may be placed on the market, if the producer provided the instruction for usage, storage and dangers in the process of application and storage.

Producer, wholesale and retail distributor of plant nutrition products and importer of the fertilisers shall be responsible for damage incurred due to wrong, incorrect or incomplete declaration.

More detailed contents of declaration, manner of designation and packaging of traded plant nutrition products shall be regulated by the Ministry.

Article 13

Examination of plant nutrition products and raw materials for their production, for the purpose of determination of chemical and physical features and biological values, may be executed by accredited laboratories, i.e. authorised institutions that have accredited laboratories.

Examination for the purpose of extension of the expiry date of plant nutrition products shall be performed by an accredited laboratory.

Methods of examination and sampling for determination of characteristics of plant nutrition products referred to in paragraph 1 of this Article, as well as permitted deviations shall be regulated by the Ministry.

Article 14

Plant nutrition products that are produced or imported in Montenegro, before being placed on the market, must be entered in the Register of plant nutrition products (hereinafter referred to as the "Register").

Entry into the Register shall be done on the basis of an application.

Along with the application, the producer, i.e. importer shall submit declaration and instruction for use of fertilisers written in the language officially used in the Montenegro.

Fulfilment of conditions for entry into the Register shall be determined by decision of the administration body.

Register shall be kept by the administration body.

Data from the Register shall be public.

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Plant nutrition product entered in the Register shall be added to the List of plant nutrition product, which is published in the Official Gazette of Montenegro.

More detailed conditions for entry into the Register, contents and manner of keeping the Register, contents of the application and List of plant nutrition products shall be regulated by the Ministry.

Article 15

The following referred to in Article 14 of this Law shall not be entered into the Register.

- 1) plant nutrition products that are intended for export;
- 2) plant nutrition products that are produced according to request of a foreign buyer;
- 3) plant nutrition products that are used for scientific-research purposes;
- 4) plant nutrition products (experimental production or remainder from export), which are placed on the market of Montenegro in certain quantity and for certain time.

Plant nutrition products referred to in paragraph 1 item 4 of this Article may be placed on the market on the basis of the administration body's approval.

Producer, i.e. importer shall be bound to submit to the administration body an application with necessary documentation for obtaining an approval for the plant nutrition products referred to in paragraph 1 item 4 of this Article.

Plant nutrition products from paragraph 1 item 4 of this Article shall meet conditions referred to in Article 11 paragraphs 1 and 2 of this Law and must have printed (inserted) mark in the package "Produced according to the production specification" and meet conditions stated in the production specification.

The contents of the request and necessary documentation from paragraph 3 of this Article shall be regulated by the Ministry.

Article 16

Institutions that are registered to do scientific-research activities may for the purpose of scientific researches and examinations of new plant nutrition products, on the basis of the administration body's approval, import and use samples of plant nutrition products that do not meet regulated conditions.

Along with the request for obtaining an approval from paragraph 1 of this Article the following data shall be enclosed:

- name and registered office of the institution;
- type and quantity of plant nutrition products intended for usage;
- purpose of research;
- field of research;
- manner and time of research;
- license.

Approval referred to in paragraph 1 of this Article shall be issued by the administration body.

More detailed conditions and contents of the application for issuance of approval referred to in paragraph 1 of this Article shall be regulated by the Ministry.

The administration body shall keep records about approvals from paragraph 2 of this Article.

Article 17

Administration body shall keep records on trade in plant nutrition products.

Producer, i.e. importer of plant nutrition products shall be obliged to submit to the administration body the data on trade in plant nutrition products until 31 March of the current year at latest.

Records from paragraph 1 of this Article shall especially contain the following:

- 1) name and registered office of the producer, i.e. importer of fertilisers;
- 2) decision number of the registration in the Register of Producers, i.e. importer of fertilisers;
- 3) type and quantity of fertilisers placed on the market;
- 4) manner of placing on the market (import, export, retail and wholesale trade, stocks).

Form and manner of keeping records from paragraph 1 of this Article, as well as manner of submitting data from paragraph 2 of this Article shall be regulated by the Ministry.

Article 18

Plant nutrition products shall be used in accordance with the principles of good agricultural practice, which implies application of certain type of plant nutrition product in accordance with: needs of plants, characteristics of land, climate characteristics, conditions for sowing and seeding. Commission for Fertilisers Application Monitoring appointed by the Ministry shall perform monitoring of the application of plant nutrition products in accordance with the principles of sustainable development and provide expert's opinion and proposals in this field.

Members of the Commission referred to in paragraph 2 of this Article shall be appointed among scientists and experts in the field of plant nutrition, agro chemistry, pedology etc.

Principles of good agricultural practice, detailed instructions for application of plant nutrition products in accordance with paragraph 1 of this Article, actions programmes and measures for endangered zones shall be regulated by the Ministry.

Those plant nutrition product and raw materials, whose shelf life has expired, must be registered and destroyed in the regulated manner.

Destruction of fertilisers and raw materials shall be performed in accordance with the environmental protection regulations.

Manner of destruction of fertilisers and raw materials shall be regulated by the Ministry.

Article 19

Before placing plant nutrition products on the market of Montenegro, producer shall be obliged to obtain an approval for placing fertilisers on the plant nutrition products market from the administration body.

Along with the application for obtaining the approval from paragraph 1 of this Article the producer shall submit the data on:

- producer (name of the producer's company, registered office, name, address, unique personal number, tax number and code of activity);
- responsible person (name and surname, address, unique personal number and educational qualification);
- type and the name of the plant nutrition product which is placed on the market and documentation on:
 - registration of plant nutrition product from the competent state administration body of the state where the fertiliser has been produced;
 - characteristics of fertilisers according to the regulated methodology, from an accredited laboratory in accordance with Article 13 of this Law;
 - declaration and instruction for use whose contents has been regulated and printed in the language that is officially used in Montenegro;

Compensation regulated by the Ministry shall be paid to the amount of real expenses for issuance of the approval on the occasion of submitting application for obtaining approval for placing plant nutrition products on the market.

Article 20

Fulfilment of conditions referred to in Article 19 of this Law shall be determined by the administration body, which shall also issue the approval for placement on the market.

The approval from paragraph 1 of this Article shall be issued for the period of 10 years.

By way of exemption to paragraph 2 of this Article, depending on characteristics of certain plant nutrition products, administration body may determine a shorter term of validity of approval.

Upon expiry of validity of approval for placement on the market, plant nutrition product shall become subject to renewed examination for the purpose of issuance of a new approval.

If the approval for market placement for certain plant nutrition product expires and unused quantities' shelf life written on the declaration has not expired, these quantities could be placed on the market for another six months from the date of expiry of approval.

Article 21

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Wholesale trade in fertilisers may be carried on by a business organisation or an entrepreneur (hereinafter referred to as the “distributor”) entered in the Register of Wholesale Distributors of Plant Nutrition Products (hereinafter referred to as the “Register of Distributors”), if it:

- permanently employs a person who graduated from the at least IV grade of secondary School of Agricultural or has the secondary school education – Department of Chemistry, who shall be responsible for activities of procurement, trade, storage and issuance of plant nutrition products;
- owns or rents a warehouse of relevant capacity as storage for plant nutrition products;
- has concluded a contract with the producer (domestic) on distribution of plant nutrition products in the territory of Montenegro;
- does not change the composition of plant nutrition products.

Register of Distributors shall be kept by the administration body.

Registration in the Register of Distributors shall be done on the basis of an application.

Fulfilment of conditions for registration in the Register of Distributors shall be determined by the administration body.

Data from the Register of Distributors shall be available to public.

Conditions that have to be met as regards warehouses, as well as storage, keeping and handling conditions for plant nutrition products for the purpose of preserving characteristics, contents, form and manner of keeping the Register of Distributors and manner of applying for registration in the Register of Distributors shall be regulated by the Ministry.

Article 22

Retail trade in plant nutrition products may be performed by a business company and entrepreneur who is entered in the Register of Retail Distributors of Plant Nutrition Product (hereinafter referred to as the “Register of Retail Distributors”), if it:

- permanently employs a person who graduated from the at least IV grade of secondary School of Agricultural or has the secondary school education – Department of Chemistry, who shall be responsible for activities of procurement, trade, storage and issuance of plant nutrition products;
- has in the place of sale a separate part with porch with palettes or a premise for storage of big packages of fertilisers (over 5kg, i.e. litres), which ensures the maintenance of characteristics and proper and safe handling;
- has in the place of sale a separate part or premise for sale of small packages of fertilisers (up to 5kg, i.e. litres).

Register of Retail Distributors shall be kept by the administration body.

Registration in the Register of Retail Distributors shall be done on the basis of an application.

Fulfilment of conditions for registration in the Register of Retail Distributors shall be determined by the administration body.

Data from the Register of Retail Distributors shall be public.

Conditions that have to be met as regards the warehouses, as well as storage, keeping and handling conditions of plant nutrition products for the purpose of preserving characteristics, contents, form and manner of keeping the Register of Distributors and manner of applying for registration in the Register of Retail Distributors shall be regulated by the Ministry.

Article 23

Trade in plant nutrition products, apart from ammonium-nitrate with high concentration of nitrogen, can be done only between producer of plant nutrition products and primary agricultural producer as end user, with the approval of the administration body.

V IMPORT OF PLANT NUTRITION PRODUCTS

Article 24

Plant nutrition product, registered in Montenegro, may be imported by a business organisation and entrepreneur entered into the Register of Importers.

Person referred to in paragraph 1 of this Article, who is not at the same time the distributor, i.e. retail distributor, shall deliver the plant nutrition products, registered in Montenegro, exclusively to the persons entered into the Register of Distributors.

Entry into the Register of Importers shall be done on the basis of an application.

Register of Importers shall be kept by the administration body.

Data from the Register of Distributors shall be available to public.

If the person referred to in paragraph 1 of this Article is at the same time the retail distributor, it must fulfil the criteria referred to in Articles 21 and 22 hereof.

Contents, form and manner of keeping the Register of Importers as well as the contents and manner of submission of application for entry into the Register of Importers shall be regulated by the Ministry.

Article 25

Before the first placement of plant nutrition products on the market in Montenegro, the importer that is distributor shall obtain approval for placement on the market from the administration body.

Approval from paragraph 1 of this Article shall be issued by the administration body pursuant to Articles 19 and 20 of this Law.

Article 26

Import of raw materials for production of plant nutrition products may be carried out only for the needs of production of plant nutrition products which are entered in the Register and for the needs referred to in Article 15 paragraph 1 indent 2.

Import of raw materials for production of plant nutrition products shall be carried out only for the needs of producers which are entered in the Register of Producers.

Article 27

Sampling and control of characteristics shall not be necessary for the following raw materials: ammonium, sulfuric acid, phosphorous acid and raw phosphates.

Article 28

Import of plant nutrition products and raw materials may be carried out only through border crossings, at which customs and phytosanitary inspection are established.

Customs procedure may not start before phytosanitary inspection is executed, apart from transit procedure and procedure of customs storage.

If delivery of plant nutrition products or raw materials (hereinafter referred to as: delivery) arrives to border crossing, at which phytosanitary inspection is not organized, customs office's organs shall forward the delivery to the nearest border crossing, at which phytosanitary inspection is organized.

Article 29

Importers shall be obliged to report to the administration body - phytosanitary inspector about received delivery at the border crossing.

Deliveries shall be subject to phytosanitary inspection after arrival to border crossing for the purpose of checking documentation, identification and visual examination aimed at check up of characteristics of fertilisers.

Article 30

During procedure of phytosanitary inspection on the occasion of import, phytosanitary inspector takes a sample of delivery when there is a suspicion that the delivery does not correspond to the regulated characteristics.

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If it is not possible to carry out sampling at the border crossing in the regulated manner, the delivery shall be sent to the customs clearance place under the customs control, at which the sampling shall be carried out.

Taken samples shall be sent to an accredited laboratory at importer's expense for the purpose of checking type of plant nutrition products and declared contents of nutritive elements.

Customs service's organs can neither perform customs clearance nor send deliveries to other customs offices until phytosanitary inspection is performed.

Manner of inspection, taking samples and methods of sampling, size of samples referred to in paragraphs 1, 3 and 4 of this Article and procedure referred to in Article 29 paragraph 1 of this Law shall be regulated by the Ministry.

Article 31

Administration body shall establish database about plant nutrition products for the purpose of updating data, analyses, planning and monitoring of effects of undertaken measures pursuant to this Law.

Data on production, retail and wholesale trade, import, types of fertilisers etc. shall be entered into the database.

Data from the database can be used, on the basis of an application, for scientific-research purposes and preparation of studies on the basis of the administration body's approval.

Detailed contents of the database and manner of keeping the database shall be regulated by the Ministry.

Article 32

For the purpose of monitoring production, trade, import, characteristics and application of fertilisers, the administration body shall establish the information system.

Manner of establishment of the information system shall be regulated by the Ministry.

VI INSPECTION CONTROL

Article 33

Inspection control over the enforcement of this Law shall be performed through phytosanitary inspectors from the administration body, in accordance with the Law.

1. Authorisations of Phytosanitary Inspector

Article 34

Phytosanitary inspector shall perform inspection control, in particular over:

- 1) fulfilment of conditions for entry into prescribed registers;
- 2) keeping prescribed records;
- 3) fulfilment of conditions for production, placement on the market, trade and usage of plant nutrition products;
- 4) designating and declaring the plant nutrition products;
- 5) production and trade in plant nutrition products and raw materials for their production.

2. Administrative Measures and Actions

Article 35

Apart from administrative measures and actions regulated by the law, which regulates inspection control, phytosanitary inspector shall be obliged to undertake also the following administrative measures and actions when he/she determines that the law or other regulation was breached:

- 1) forbid production of plant nutrition products, if the producer is not entered or is erased from the Register of Producers;
- 2) forbid placement on the market of the plant nutrition products that are produced in Montenegro or are imported to Montenegro, if they are not entered in the Register;

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- 3) forbid placement on the market of the plant nutrition products referred to in Article 15 paragraph 1 item 4 without approval of the administration body;
- 4) forbid placement on the market of the plant nutrition products, if producer or importer, before the first placement on the market, did not obtain administration body's approval;
- 5) forbid usage of designation "EC FERTILISER", if mineral fertiliser does not fulfil conditions regulated for that mark;
- 6) forbid trade in plant nutrition products, if characteristics do not correspond to the declaration;
- 7) forbid to business organisation or entrepreneur to perform activity, if it does not harmonize its business, i.e. does not remove deficiencies in terms of conditions regulated by this Law and regulations adopted on the basis of this Law;
- 8) forbid import and order return of delivery to the sender, if the results of examination are not in line with the regulated and declared contents;
- 9) dispossess and destroy plant nutrition products that are produced, placed on the market, imported and applied contrary to this Law.

VII PENALTY PROVISIONS

Article 36

Fine to the amount of minimum wage rate in the Republic multiplied by two hundred fifty times up to three hundred times shall be determined as penalty to a body, business organisation i.e. other legal person or entrepreneur, if it:

- 1) produces or places on the market a plant nutrition product that is not classified as plant nutrition product of defined type (Article 4);
- 2) produces i.e. performs final processing of plant nutrition products, although it does not fulfil regulated conditions for their production (Articles 9 and 10);
- 3) places on the market fertilisers that do not fulfil regulated conditions, are not designated in the regulated manner and endanger health of humans, animals, plants and environment by proper usage (Article 11 paragraph 2);
- 4) places on the market plant nutrition products produced or imported in the Montenegro, which were not entered in the Register or were erased from the Register before being placed on the market;
- 5) imports and uses samples of plant nutrition products for the purpose of scientific research and examinations without approval of the administration body (Article 16 paragraph 1);
- 6) uses plant nutrition products contrary to the principles of good agricultural practice (Article 18 paragraph 1);
- 7) places on the market plant nutrition products, for which it did not obtain approval of the administration body before the placement on the market (Article 19 paragraph 1 and Article 25 paragraph 1);
- 8) places on the market, although it does not fulfil the regulated conditions (Articles 20 and 21);
- 9) carries on wholesale trade in plant nutrition products, although it is not entered in the Register of Distributors (Article 21 paragraph 1);
- 10) carries on retail trade in plant nutrition products, although it is not entered in the Register of Retail Distributors (Article 22 paragraph 1);
- 11) carries on trade in bulk fertilisers, apart from ammonium-nitrate fertilisers with high concentration of nitrogen, without approval of the administration body (Article 23);
- 12) imports plant nutrition products, although it does not fulfil the regulated conditions (Article 24);
- 13) does not obtain administration body's approval for placement of plant nutrition products on the market before the first placement on the market in Montenegro (Article 25);
- 14) imports raw materials for production of plant nutrition products, which are not entered in the Register and do not serve for the purposes of Article 15 paragraph 1 item 2 (Article 26 paragraph 1);

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Responsible person of an organ, business organisation or other legal person shall be fined for offence from paragraph 1 of this Article to the amount of the minimum wage rate in Montenegro multiplied by ten to twenty times.

For offence from paragraph 1 of this Article, protective measures can be imposed, apart from fine, on a business company i.e. other legal person and entrepreneur in sense of forbidding doing business for one month to six months period.

Article 37

Fine to the amount of the minimum wage rate in Montenegro multiplied by one hundred to two hundred times shall be imposed on business company i.e. other legal person and entrepreneur, if:

- 1) producer of ammonium-nitrate fertilisers with high concentration of nitrogen does not keep records of trade in these fertilisers (Article 6);
- 2) producer of ammonium-nitrate fertilisers with high concentration of nitrogen, before placement of these fertilisers on the market does not obtain evidence on detonation resistance examination (Article 7 paragraph 1);
- 3) producer does not carry out control of production of each series of plant nutrition products for the purpose of verifying the characteristics, before placement on the market, and it does not keep records about control of the production and if it does not submit data on production of plant nutrition products to the administration body each six months (Article 12 paragraph 1);
- 4) plant nutrition products are not declared (Article 12 paragraph 1);
- 5) designation "EC FERTILISER" is not written in capital block letters, if mineral fertiliser fulfils the conditions for that designation (Article 12 paragraph 4 subparagraph 3);
- 6) declaration does not correspond to the fertiliser placed on the market in bulk form (Article 12 paragraph 6)
- 7) package, i.e. leaden seal is not made so that on the occasion of opening it changes visibly and incorrigibly (Article 12 paragraph 7);
- 8) places on the market fluid fertilisers for which the producer did not provide an instruction for usage, storage and dangers on the occasion of application and storage (Article 12 paragraph 10);
- 9) places on the market plant nutrition products referred to in Article 15 paragraph 1 item 4 in the package which does not consist of printed (inserted) mark "Produced according to the production specification" and does not meet the conditions stated in the production specification and without an approval of the administration body (Article 15 paragraphs 2 and 4);
- 10) does not submit data referred to in Article 17 paragraph 2 of this Law;
- 11) destroys plant nutrition products and raw materials contrary to the regulations related to environmental protection (Article 18 paragraphs 5 and 6);
- 12) places on the market plant nutrition products, for which approval for placement on the market expired and the unused quantities' shelf life denoted on the declaration did not expire, for a longer period than six months from the date of expiry of the approval (Article 20 paragraph 5);
- 13) stores plant nutrition products in warehouses that do not fulfil the regulated conditions (Article 21 paragraph 1 Article 22 paragraph 1).

Fine to the amount of the minimum wage rate in Montenegro multiplied by twenty times shall also be imposed on responsible person in a business company i.e. other legal person for offence from the paragraph 1 of this Article.

VII TRANSITIONAL AND FINAL PROVISIONS

Article 38

Secondary legislation for implementation of this Law shall be passed within six months from the day of entry into force of this Law.

42. LAW ON PLANT NUTRITION PRODUCTS

The legislation adopted on the basis of the Law on Plant Protection (Official Gazette of Serbia and Montenegro 24/98 and 26/98) that refer to plant nutrition products (fertilisers) shall apply until the legislation referred to in paragraph 1 hereof is adopted unless it is contrary to this Law.

Article 39

By way of exemption to Article 13 paragraph 1 of this Law, until 1 January 2009, examinations of plant nutrition products shall be performed by the existing scientific-research institutions dealing with fertilisers, which shall be determined by the Ministry.

Article 40

Business organisations and entrepreneurs that produce trade and import the plant nutrition products shall be obliged to harmonize their activities with this Law within one year from the date of entry into force of this Law.

Article 41

Plant nutrition products that are registered pursuant to the Law on Plant Protection (Official Gazette of Serbia and Montenegro 24/98 and 26/98) shall be entered in the Register pursuant to this Law.

Article 42

The provisions of the Law on Plant Protection (Official Gazette of Serbia and Montenegro 24/98 and 26/98) relating to plant nutrition products (fertilisers) and the Law on Artificial Fertilisers (Official Gazette of Serbia and Montenegro 40/75, 45/75, 39/89, 49/91, 17/92, 27/94) shall be repealed on the day of entry into force of this Law.

Article 43

This Law shall enter into force on the eight day following that of its publication in the Official Gazette of Montenegro.

SU-SK Number 01-344/6
Podgorica, 24 July 2007

Constituent Assembly of the Republic of Montenegro
Speaker
Ranko Krivokapić