

CUSTOMS

CURRENT SITUATION

Customs Law ("Official Gazette of the RS", no. 73/2003, 61/2005, 85/2005, 62/2006 and 63/2006) and Law on Customs Tariff ("Official Gazette of the RS" No. 62/2005, 61/2007 and 5/2009) represent the legal framework for the regulation of the customs procedures, based on the application of the principles of free trade and efficient customs control.

Customs Law

The existing law incorporated the most important institutes of the EU Community Customs Code. The new Customs Law, which entails further harmonization with the EU regulations and which is partially adjusted to the new solutions envisaged by the new Modernised EU Customs Code, is in the adoption procedure in Serbian Parliament since March 2009. The most important novelty introduced by this Law is the institute of "authorized economic entity", which should represent a step forward in simplification and reduction of customs procedures for companies having this status. However, detailed procedure on how to obtain such status and on the level of simplification of specific procedures is yet to be prescribed by the relevant by-law after the Law has been adopted.

Customs Tariff

The rationale behind adoption of the Law on Amendments of the Law on Customs Tariff ("Official Gazette of the RS", No. 5/2009), beside significant reduction of duty rates for importation of passenger cars and all types of phones, was to enable "unilateral" application of the Interim Agreement on Trade and Trade Related Matters signed with the EU. This Law on Amendments of the Law on Customs Tariff also reaffirmed the principle of supremacy of the ratified Free Trade Agreements (FTA) over local customs tariff legislative regarding customs duty rates which are prescribed by these FTA and applicable for goods originating in the FTA contracting parties.

Related to this change, the power was granted to the Government of the Republic of Serbia to include, via Decree, all changes in customs duty rates encompassed by the respective FTA's when harmonizing the nomenclature of the customs tariff with the EU Combined Nomenclature. Consequently, yearly adjustment of the nomenclature is being

carried out in compliance with the obligations transpiring from FTA.

By the last Decree on Harmonization of the Customs Tariff Nomenclature for 2009 ("Official Gazette of RS", No.33/2009), that has been applied as of May 7th 2009, the national customs tariff was harmonized with the EU Combined Nomenclature for 2009. This Decree also included all duty rates applicable for 2009 on the basis of the FTA ratified by Serbia. This provided companies with a transparent piece of legislation, showing all relevant Serbian customs duty rates within a single document.

The national customs tariff was already harmonized with the Harmonized Commodity Description and Coding System-HS 2007, which the World Customs Organization adopted in 2004, with applicability since January 1st 2007.

POSITIVE DEVELOPMENTS

The improvements are related primarily to the possibility for application of simplified customs procedures. As of March 09, Serbian customs administration started with trial application period for simplification of all customs approved procedures. Until the end of July 2009, first authorizations for simplified import procedures were granted.

Also, as of June 2009, customs administration started to grant the status of "authorized exporter", relevant for application of simplified export procedures with the Serbian originating goods subject to application of preferential origin rules.

Percentage of customs declarations submitted by e-mail is constantly increasing. Out of the total number of accepted declarations for all customs procedures, 81% was submitted by e-mail in 2008, and 87% in the first six months of 2009.

In accordance with the National Strategy for Integrated Border Management, adopted in 2006 with the aim of establishing best possible coordination with all services at border crossing points, only 4 services remained at the border crossings: border police, customs administration service, veterinary and phytosanitary inspection. Meetings of the representatives of border services at border crossings are held on regular basis and exchange of data with relevant ministries

is established, as well as cooperation with the relevant international institutions.

REMAINING ISSUES

Problems in the customs system are by and large still related to the practical implementation of customs procedures and, to much less extent, to the solutions given in the existent regulations. Problems related to customs procedures are:

- Customs procedures are still slow and different in practice from one customs office to another;
- Hefty paperwork requirements for export/import, especially in relation to application of FTA;
- Lengthy procedure linked with inspection services;
- Lengthy customs administrative procedures;
- Discordant work of customs and inspections bodies;
- Insufficient technical facilities at border crossings;
- Insufficient administrative capacity.

In addition, although not strictly related to customs legislation, one of the key remaining issues in the legislative framework relates to applicability of international certificates in the customs clearance procedures. Customs procedures may be simplified if various certificates which relate to imported goods that are issued by the recognized international institution or those issued in EU countries would be accepted and applicable also for customs purposes in Serbia, i.e. that no re-certification is required. By way of example, this could relate to conformity certificates for electrical appliances and apparatus that are imported etc. Another example may be health and sanitary certificates.

It seems inappropriate to regard as qualified only those technical certificates which are issued by Serbian authorized institutions. Furthermore, obtaining local certificates is costly and time-consuming, whereby unnecessary complicating and prolonging customs procedure.

FIC RECOMMENDATIONS

- Further harmonization with EU regulations and WTO rules;
- Adoption of the new Customs Law;
- Development of the detailed procedure for granting the status of the “authorized economic entity” and for application of relevant simplifications;
- Special emphasis on adoption of relevant by-laws, primarily of the Decree for the implementation of the new Customs Law, in order to enable adequate implementation of all institutes provided by the Law
- Adoption of respective by-laws relevant for the endorsement of certificates issued by recognized international institution or those issued in EU countries by Serbian authorities;
- Provide the administrative capacity for the implementation of the new regulations;
- Accelerate the implementation of Integrated Border Management with the aim of more effective control of the work of all services and their cooperation with other state bodies and international entities;
- Accelerate the implementation of the Single E-window project;

- Further development of risk management procedures and further reduction of the percentage of selective goods examination based on the risk assessment;
- Ensure that appeal in relevant customs procedures delays execution of decision;
- Accept FIC recommendations for change and amendments to the new Customs Law
- Coordinate and improve practice in decision making regarding process of determination of customs value.

INTEGRATED BORDER MANAGEMENT

CURRENT SITUATION

Activities for the establishment of an Integrated Border Management have been set out in terms of strategy by the Integrated Border Management Strategy adopted in January 2006 and determined in terms of operation by the Implementation Action Plan adopted in June 2006. Regrettably, due to slack legislative activities of both the Government and the National Parliament in the past period, the implementation of the activities from this Action Plan is in delay in average from one to one-and-half years.

The implementation of the Strategy has been supported by the European Commission through a so-called twinning project financed from CARDS 2005 programme and it will be implemented by the partners from Austria and Hungary. Realisation of the project will commence in September this year and the competent bodies expect that once the realisation of the project is started it will result in significant acceleration of the implementation of the Strategy.

POSITIVE DEVELOPMENTS

Key determinant of the Strategy implementation is the coordination of various services at the border and a significant improvement to that respect is the Agreement on Cooperation in the Area of Integrated Border Management signed in February this year between the Ministry of Internal Affairs (Border Police),

Ministry of Finances (Customs), Ministry of Agriculture, Forestry and Water Economy (Veterinary and Phyto-Sanitary Inspection) and Ministry for Infrastructure (Port Authorities). The Agreement provides for the harmonisation of operation and coordination of activities within the area of border control and this on all three levels: central, regional and local levels. Working meetings of the Services will be held quarterly on the central and regional levels and once a month on the local level. Other areas covered by the Agreement are: exchange of information, mutual and professional assistance, joint activities (joint procedure regarding risk analysis, *ad-hoc* task teams for solving individual issues, joint use of equipment, development, training, etc.), acting in extraordinary situations and international cooperation.

Strategy Implementation Steering Committee was also established by the Decision of the Government of the Republic of Serbia in May 2009 composed of the Ministers of the above mentioned four Ministries (MIA – managing executive, MAFWE, MF, MI). The task of the Steering Committee is to monitor, direct and coordinate activities related with the implementation of the Strategy. The first meeting was held in June 2009.

Procedure for joint risk assessment by the border services on local and regional levels was also prepared.

One of the objectives of the Strategy is the reduction of the number of inspections and services at the border to four: Border Police (BP), Customs Administration (CA), Veterinary Inspection (VI) and Phyto-Sanitary Inspection (PSI). The following has been done to that respect:

On July 17th 2006, preliminary control of radioactivity level by authorised customs officers started on border crossings

(taken over from the Ministry of Environmental Protection and Spatial Planning).

On April 1st 2008, the CA took over documentary and preventive control of the traffic of waste, poisonous matters and ozone layer damaging substances (taken over from the Ministry of Environmental Protection and Spatial Planning).

On January 1st 2008, control of the traffic of protected flora and fauna species was taken over by the VI and PSI (taken over from the Ministry of Environmental Protection and Spatial Planning).

In August 2008, the Risk Management Strategy of the Customs Administration of the Republic of Serbia was enacted, thus developing further the system of risk management and selective control and the implementation thereof is priority for CA RS. Since January 1, 2008, a supplemented message system is being implemented which more precisely defines the selective control.

Within the frame of international cooperation, protocols on holding regular meetings on all levels of BP officials were signed in the past two years with Macedonia, Montenegro (2008) and B&H (2009) and they are all being applied. Rail Traffic Border Control Agreement was signed with Montenegro (March 9th 2009) which provides for joint operation in joint railway station in Bijelo Polje and control of a train moving between Bijelo polje and Prijepolje by both Customs and Border Police.

Memorandums of Understanding aiming acceleration of the flow of goods, combat against custom frauds and protection of intellectual property have been signed between CA and transportation companies, exporters and other business entities.

Very significant improvements have been made in the area of upgrading the customs procedure through introducing option for electronic submission of documents, modernisation and reconstruction of border crossings and achievement of better coordination of all border services:

- Introduced electronic submission of documents is accepted by increasingly more companies;
- In 2009 (for the first five months), from the total number of submitted declarations 85% thereof were submitted

electronically;

- The last of four large border crossing – Presevo has also been reconstructed as well as 9 secondary crossings;
- Traffic lights have been installed at customs outposts thus giving the procedure insight into the stage in which each document is;
- As from March 1st, simplified procedure for documents submission has been introduced.
- Number of companies which obtained a status of authorised exporters has increased.
- Bank guarantees and quotas stipulated within the Agreement with EU and CEFTA 2006 are checked by way of SMS messages;
- The system of subsequent control gave goods results;
- Since January 1st 2009 for goods in transit through Serbia it is required to submit only transit declaration;
- Pursuant to the determined Integrated Border Management Strategy contact persons in different administrations have been appointed for the purpose of better informing and cooperation with other services both in the country and abroad;
- Cooperation with customs administrations of other countries has been intensified. The process of establishing electronic data exchange is under way.

REMAINING ISSUES

In connection with one of the key issues – the issue of infrastructure on the border, a system problem is still present which is the inexistence of a border crossings management body which would have its own financing sources and which could finance development and reconstruction of lesser developed border crossings from the funds collected in better developed and more busy ones (e.g. Horgos, Gradina). There is an indication that the Government of RS could soon pass a Decree on establishing of such a body considering that although this has been anticipated by neither the Strategy nor the Action Plan it is the practice that pointed to the priority in having the said issue solved.

In view of the issue of (non)existence of customs terminals on border crossings which doubles the time of administration in the flow of goods, there are terminals on all larger border crossings, particularly on Corridor 10, however, it is required that they are also arranged on the crossings to Bosnia and

Herzegovina and Montenegro. Taking into account the versatility of routes, it is necessary to provide several (2-4) equipped crossings on the border with B&H and at least one with Montenegro (*it should also be noted that crossings with MNE are not official state border crossings but merely checkpoints because this matter has not been regulated by a specific agreement with Montenegro*). Separate problem is the fact that it is not uncommon that terminals are privately owned and the rates they charge high although customs authorities are recently working on solving this problem.

Problems often occur due to discrepancy of operation of the services on the borders which primarily results from the lack of routine and inferior application of set out procedures. Additional problem is insufficient number of CA staff on border crossings which has been also remarked by carriers.

As for the integral border crossing, namely *one-stop-control* crossing which means only one (joint) control by two parties, although agreement on establishing of such a border crossing was signed with Hungary even in 1998, there are still no possibilities for establishing thereof with any of the neighbours. Mutual recognition of customs documents has been identified as the biggest issue. That issue could be actualised within the framework of Serbia's chairing the CEFTA bodies (for crossings to CEFTA neighbours) and the framework of a Committee for Implementation of Transitional Agreement once it is established (for EU neighbours). In this respect, available Austrian-Hungarian experience in the twinning project should be used also considering that the crossing on Budapest-Vienna motorway was one of the largest such crossings in Europe.

FIC RECOMMENDATIONS

- To provide better coordination of all services on the border and strictly keep to set out procedures subject to ensuring their transparency;
- To establish a body for border crossings management which body would have its own sources of financing;
- To provide for terminal related issues to be solved;
- To intensify and upgrade CA manpower on border crossings.

BARRIERS NOT RELATED WITH CUSTOMS

CURRENT SITUATION

Although as per CEFTA Agreement 2006 the trade in the region has been completely liberalised, barriers not related with customs represent obstacle to full liberalisation of trade and impede the creation of a free trading zone anticipated by this Agreement by the end of 2010.

The most common barriers are the following:

- complicated procedures at border crossings;
- different level of harmonisation of technical standards and technical regulations with international standards (EU standards) within the CEFTA member countries;
- non-existence of an agreement on mutual recognition of accreditation and certifying authorities within member countries parties to the CEFTA Agreement;
- non-existence of an agreement on compliance and acceptance of industrial products within the CEFTA Agreement which also includes compliance evaluation procedures and quality infrastructure;
- issue covering recognition of quality certificates;
- disharmony of local standards and technical regulations with international standards;

- lack of adequate traffic and other infrastructure ;
- complicated visa regime;
- corruption and smuggling.

Problem posed by not custom-related barriers is particularly expressed in the trade with Bosnia and Herzegovina and Macedonia. B&H passed the Law on Protection of Domestic Production on June 18th 2009 imposing full custom duties on import of agricultural products from Serbia and Croatia which restricts agreed free trade between these countries. The said Law breached the CEFTA Agreement the objective of which Agreement is to develop a free trade and not serve as a vehicle for imposing measures of protectionism. Pursuant to the Law, full custom duties are imposed for over 900 agricultural products, even on some products which B&H does not import at all.

As the CEFTA Agreement has been breached by this Law, at the beginning of July 2009, the Constitutional Court of B&H temporarily stayed its application. The said measure will remain in force until final judgement is passed.

Macedonian Government has passed Decision wherewith taxes are increased on the import of foodstuffs. This measure has been introduced without prior publication in the Official Gazette of Macedonia. All taxes have been increased and even some new introduced so that costs for product analysis instead

of EUR 30 amount to EUR 500; administrative tax amounts to EUR 10; Macedonian translation of certificate is required as well as that it is not older than 7 days. It is required that each product has declaration in Macedonian language.

IMPROVEMENTS

The following regulations have been enacted in 2009:

- Law on Standardisation ("Official Gazette of the RS" No.36/09);
- Law on General Product Safety ("Official Gazette of the RS" No.36/09)
- Law on Technical Requirements for Products and Evaluation of Compliance ("Official Gazette of the RS" No 36/09)

These regulations represent further continuation of transposition of international and European standards into the system of Serbian standards (it is expected that only in the period of implementation of the Agreement on Stabilisation and Association there will be 80% European standards transposed as the explicit obligation of the Republic of Serbia). Introduction of European standards and regulations in this area will reduce the non-compliance of local standards and technical regulations with international standards which are presently a significant not custom-related barrier.

FIC RECOMMENDATIONS

- To continue harmonisation of standards and technical regulations;
- To exert influence on signing an agreement on mutual acknowledgement of accreditation and certification bodies;
- To exert influence on signing an agreement on evaluation of compliance and acceptance of industrial products, i.e. bilateral agreements to begin with and, once conditions are attained, a multilateral one which would directly result in mutual recognition of quality certificates;
- To work on upgrading of the quality infrastructure;
- Upgrading of the CEFTA Agreement through introduction of pan-European rules on accumulation of origin as all states the signatories to the Agreement have integration into EU as their strategic objective.

TECHNICAL REQUIREMENTS

CURRENT SITUATION

In the process of transposition in the Serbian legal system of the European legal attainment relating to technical regulations aimed at obtaining the safety of industrial products, certain results have been achieved which will be the basis for realisation of free movement of goods, namely elimination of existing and prevention of putting-up new unpermitted technical barriers to the trading in the region and with EU countries.

Enactment of three key laws in the Parliament of the Republic of Serbia in May this year is identified as a progress in this process harmonising therewith the infrastructure of quality (metrology, standardisation, accreditation and conformity assessment) and market surveillance with the EU. This is about the Law on Technical Requirements for Products and Conformity Assessment, Law on Standardisation and Law on General Safety of Products. The first two Laws have incorporated unified European mechanisms for drafting and enactment of Serbian technical regulations into which European directives of the "new" and "old" approach regarding products will be transposed, namely Serbian standards with which the harmonised European standards in connection with such directives will be taken over. These standards shall serve Serbian producers as effective and efficient assumption of conformance to the requirements prescribed for product safety like it is in the EU member countries.

Drafting is under way of a new Law on Metrology which will regulate this element of quality infrastructure in accordance with the European legal attainment and, in particular, with the New Package of Regulations for Free Movement of Goods made by the European Commission in August 2008. This law will resolve the existing conflict of interest and competence in connection with the enactment of metrological regulations, authorisation of metrological laboratories and surveillance of their work.

The Accreditation Body of Serbia (ABS) is preparing itself for the fulfilment of requirements related to accreditation set by European Directive 2008/765/EC which is included in the New European Package of Regulations for Free Movement

of Goods. On February 12 this year, the ABS applied to the European Cooperation for Accreditation (EA) for collegial evaluation of ABS for the purpose of signing the MLA with EU member countries.

Market inspection department in the Ministry of Trade through which market surveillance is carried has completed preparations for full and adequate implementation of the new Law on General Product Safety into which the European Directive on General Product Safety 2005/95/EC has been transposed. This Law was passed on June 10 of this year and shall enter into operation on December 10 this year; two by-laws necessary for the implementation of the said Law have been prepared: Rules of Notification of Competent Authority about Dangerous Product or Suspected Serious Risk Imposed by Industrial Product Placed onto Market and the Decree on the Functioning of National System for Quick Notification about Dangerous Product on Serbian Market..

POSITIVE DEVELOPMENTS

Legal framework has been established for the harmonisation of national quality infrastructure with the rules of standardisation and accreditation valid in the EU and drafting of by-laws for the implementation of adopted regulations is in progress.

Action Plan for drafting technical regulations with requirements for industrial product safety has been adopted and the performance of activities is under way in accordance with the AP aimed at passing the Rules on Machinery Safety, Rules on Electrical Equipment Intended for Use within Certain Voltage Limits and Rules on Electro-Magnetic Compatibility.

Inventory has been completed of existing technical regulations, also including mandatory applicable standards from previous decades. The later are presently being analysed in order to be repealed or parts of their contents integrated into new technical regulations to which European directives for industrial products will be transposed. This activity, as a separate area, is included in the Project of Comprehensive Reform of Regulations.

Rules have been set out for drafting and enactment of technical regulations and establishing a Central Register of Regula-

tions which will be maintained by the Quality Infrastructure Department at the Ministry of Economy and Regional Development. Availability of information about Serbian technical regulations will be provided to stakeholders.

REMAINING ISSUES

Human resources needed for the transposition of standards represent a special problem. Existing manpower in ISS are inadequate both in number and professional qualifications to carry out the forthcoming huge work of transposing 80% of 19 000 harmonised European standards into Serbian standards which is the requirement for the membership of this state in the EU. The Institute still lacks highly qualified staff and four sector managers whose appointment should be decided by the Government of the RS the decision thereof has been kept waited for about two years now. Announced reduction by 26% of the ISS's budget financed by the Government will make this condition worse.

Response of specialists from industry to the invitation for voluntary work on the preparation of Serbian standards through translation of EN standards is weak and it is also due to lack of budget for having them translated in professional translators associations the Institute is oriented to taking over the harmonised EU standards by translating into Serbian only the cover page and foreword. Such Serbian standards "in English" may pose a problem in implementation in some Serbian companies.

Homologation of vehicle types is still carried out in the ISS although the takeover of this competence by the Ministry of Infrastructure was agreed upon through the Quality Infrastructure Department of the MERD even two years ago.

Harmonisation of accreditation schemes with the European schemes.

Insufficient dedication of relevant ministries to the implementation of activities set out in the Action Plan for Preparation of Technical Regulations.

FIC RECOMMENDATIONS

- To accelerate work of relevant ministries on the fulfilment of the Action Plan for Preparation of Technical Regulations;
- To increase direct participation of specialists from business companies, namely industry fields in the preparation of Serbian standards identical with harmonised European standards;
- Raising of awareness of the significance of the application of standards for the quickest and least expensive proving of compliance to prescribed technical requirements for safety of products which are placed onto the market;
- To increase the number and upgrade staff qualification structure of the national institution for standardisation;
- Current performance of vehicle homologation in the ISS is not in harmony with the European regulations governing free movement of goods and it should be conformed in accordance with communicated intentions and agreements with the Ministry of Infrastructure;
- New law on metrology is to be enacted for the transposition of European directives for measuring instruments and repacked products, as well as the transposition of the directive on "e" marking of the weight of food products in small packings.