

Screening report

Serbia

Chapter 29 – Customs Union

Date of screening meetings:

Explanatory meeting: 26-27 March 2014

Bilateral meeting: 3-4 June 2014

I. CHAPTER CONTENT

The customs union *acquis* mainly consists of legislation which is directly binding on the Member States, ensuring the functioning of the customs union and the effective protection and control of its external borders. It includes the EU Customs Code and its implementing provisions, the Combined Nomenclature, common customs tariff and provisions on tariff classification, customs duty relief, duty suspensions and certain tariff quotas, and other provisions such as those on customs control of intellectual property rights infringing goods, drugs precursors, cultural goods, as well as on mutual administrative assistance in customs matters and transit. Member States must ensure that the necessary implementing and enforcement capacities, including links to the relevant EU computerised customs systems¹ are in place. The customs services must also ensure adequate capacities to implement and enforce special rules laid down in related areas of the *acquis* such as external trade, health and security provisions.

II. COUNTRY ALIGNMENT AND IMPLEMENTATION CAPACITY

This part summarises the information provided by Serbia and the discussions at the screening meeting.

Serbia indicated that it can accept the *acquis* regarding the customs union and that it does not expect any difficulties to implement the *acquis* by accession.

II.a. Customs legislation

General customs rules and procedures

The core acts of customs legislation in Serbia are the Customs Law (OG 29/15)², the Law on the Customs Tariff (OG 5/09), and a number of Regulations including on Customs Approved Treatment of Goods (OG 145/14), on the Harmonisation of the Customs Tariff Nomenclature (OG 43/15), the Type, Quantity, and Value of Goods exempt from the Payment of Import Duties, on Time limits, Conditions, and Procedures for Exercising the Right to Exemption from the Payment of Import Duties (OG 63/13), and the Conditions and Manner of Application Measures for the Protection of Intellectual Property Rights on the Border (OG 25/15). Serbia amended the Customs Law in March 2015 with a view to further aligning with the *acquis*, notably to create a legal basis for the national implementation of the New Computerised Transit System (NCTS) as national transit application, to terminate the monopoly of the banks for the issuance of guarantees, and to define particulars that a summary declaration must contain. The legal basis for NCTS has been ensured through a customs decree, allowing the Customs Administration to start preparations.

¹ For example: the Integrated Tariff Environment (TARIC, QUOTA, Surveillance, etc.), transit (NCTS - New Computerised Transit System), export and import controls (ECS – Export Control System, ICS - Import Control System), economic operators (EOS – Economic Operators System), risk management (RIF) etc.

² References to Serbia's Official Journal are limited to the respective latest amendment, as provided by the Serbian authorities.

Article 309 of the Customs Law stipulates that provisions of this law are also applicable to goods entering and leaving Kosovo*. For the purpose of the implementation of this law and the agreement between Belgrade and Pristina on integrated border/boundary management (IBM), the Government adopted a Regulation, which from 14 December 2013 transferred all formalities relevant to the circulation of goods from Serbia to Kosovo and vice-versa upon the responsibility of the respective customs authorities of Serbia and Kosovo.

Traders are allowed to interact with the Customs Administration themselves or through a customs representative. In the latter case, the representative can act in the name of, and on behalf of the person/operator that he/she represents (direct representation) or he can act in his own name on behalf of the other person/operator (indirect representation). Under indirect representation, the representative must have his/her headquarters in Serbia, be registered to perform activities regarding international forwarding, and have at least one employee with a licence for customs representation³, except in the case of transit or temporary importation declarations. The Customs Administration is responsible for issuing and revoking licences for customs representation. Serbia informed that at the time of the screening 2,038 licences for customs agents were issued.

Goods entering or leaving the customs territory of Serbia are subject to customs supervision measures and customs verification. Goods remain under customs supervision as long as it is necessary. Foreign goods acquire the status of domestic goods by release for free circulation, payment of customs debt, and fulfilment of all other importation related requirements. When goods arrive in the country a summary declaration or transit declaration has to be presented. This can also be done electronically, but the paper version remains compulsory. The Serbian law also foresees pre-arrival/pre-departure declarations.

After entry, the goods may be cleared directly or temporarily benefit from a suspensive customs regime. Customs controls are conducted according to risk analysis. The general rules cover, amongst others, the presentation of goods to customs, summary declaration, temporary storage of goods, as well as customs-approved treatment or use. The customs declaration must be lodged in writing or electronically on the Single Administrative Document form (SAD) or orally or by means of any other act whereby the holder of the goods expresses the wish to place the goods under a customs procedure. Serbia stated that the codes used are based on international standards and that they are broadly aligned to the EU's SAD.⁴ Serbia stated that the Customs Administration uses data on registered economic operators from the Tax Administration (tax identification number).

A customs debt is incurred when (i) a permit is issued for the release for free circulation or placing of goods under the temporary importation procedure with partial relief from import duties; (ii) goods are unlawfully introduced into the customs territory, including entry or consumption of goods liable to import duties within or from a free zone or a free warehouse to the rest of the customs territory; (iii) goods are unlawfully removed from customs supervision; or (iv) obligations arising from temporary storage or other customs procedures

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence.

³ A Rulebook on the programme and contents of the special exam for representation in customs proceedings and on the procedures for a licence was adopted in 2010 (OG 97/10).

⁴ The form of the summary declaration is prescribed by the Rulebook on the Form, Content, Manner of Lodging and Completing the Declaration and Other Documents in Customs Procedures (OG 7/15).

have not been fulfilled or conditions governing the placing of goods under relevant customs procedures or the granting of a reduced or zero customs rate for end-use goods are not complied with. The law does not differentiate between import and export related debts. No customs debt is incurred on goods that enter the free zone for the conduct of activity within the zone. Serbia requires a guarantee for potential or existing debt, when this is above EUR 500 in Dinar equivalent, either in form of a cash deposit or a bank guarantee through an authorised commercial bank established in Serbia. The 2015 amendments to the Customs Law repealed the bank guarantee as exclusive form of guarantee. The guarantor must be a person established in Serbia and the proposed guarantee must be compatible with the new provisions. Recovery or repayment of duties is conducted upon request or *ex officio* in a period of up to three years after communication or payment of the debt. Serbia indicated that the upcoming amendment to the Customs Law seeks to also enable other financial service providers to provide guarantees.

The Serbian law contains provisions on the release of goods for free circulation (import), transit, temporary importation, and export. It also contains provisions on warehousing, inward/outward processing, processing under customs control, and free zones. Simplified procedures are foreseen in Article 101 of the Customs Law, by means of incomplete declarations, commercial (e.g. invoice) or administrative documents, or entry in the records without obligation to present the goods (book-keeping records). Serbia stated that there are a total of 418 valid authorisations under these simplified procedures.

In case of disputes concerning customs, appeals against first-instance decisions may be submitted within 15 days to the Appeal Commission of the Customs Administration. The Commission consists of the Chairman and four members. The Chairman, the members and their substitutes shall be appointed by the Minister upon the proposal of the Director of the Customs Administration. The lodging of an appeal shall not cause the suspension of the implementation of the disputed decision; however, such suspension can be granted under certain circumstances by the first-instance if there is evidence that indicates that the disputed decision is inconsistent with the customs legislation and where the appellant could suffer substantial economic injury. The ruling, to be issued within two months, can be appealed to administrative courts, in accordance with the Law on Administrative Disputes (OG 111/09).

The control of baggage and personal luggage in air transport is organized, as in the EU, through red and green channels. Outgoing international airport passengers are checked at the airport of departure. If passengers continue on an international journey after an internal flight, the baggage controls take place at the airport where the international flight starts. The baggage tags are of the type set out in international traffic conventions (IATA). As regards inland water transport, domestic and foreign ships navigating to third countries may dock only at domestic ports and harbours open for international transport and only at specified customs piers or in a free zone. There is no obligation to dock at the first port in the customs territory of Serbia. Ships that operate in international and border waterways must have a ship manifest, with some exception such as for example military, recreational, or fishing vessels.

Customs status of goods and transit

The concept of 'customs status of goods' is defined in Article 5 and the 'transit procedure' in Articles 118 to 127 of the Customs Law. The transit procedure refers to both, domestic goods that underwent the export procedure and foreign goods that cross the country under the transit regime. The Customs Law differentiates between external and internal transit. External transit concerns the movement between two places in the customs territory of foreign goods without

payment of customs debt or of domestic goods for which the export procedure has been carried out. Internal transit concerns the movement of domestic goods, crossing the territory of a third country without change in customs status. Serbia stated that the provisions of the Customs Law relating to transit are largely based on the *acquis*, in terms of use of documents, lodging guarantees, waivers, and simplified procedures.

Serbia has expressed interest in becoming a full member of the Common Transit Convention (CTC) and the SAD Convention and it has the status of informal observer to the EU-EFTA Joint CTC Committee since 2009. The Customs Administration uses NCTS at national level since 25 January 2015 and the Customs Law had been amended accordingly. This allows for the national transit procedure to be carried out electronically by making use of the NCTS. Upon accession to the Common Transit Convention, the Customs Law will have to be further aligned to the *acquis* and the computer system adapted to enable common transit. Preparations are ongoing with EU assistance and the accession to both conventions is scheduled for 1 December 2015.

Serbia is signatory to the following international conventions covering transit: the Convention on International Transport of Goods Under Cover of International Road Transport Carnets (TIR Convention), the Convention on the ATA Carnet for the Temporary Admission of Goods (ATA Convention), and the Convention on Temporary Admission (Istanbul Convention). The TIR and temporary admission (ATA) carnets are issued by the Serbian Chamber of Commerce.

Customs valuation

Serbia applies in its customs legislation the provisions of Article VII of the General Agreement on Tariffs and Trade (GATT) and of the Agreement on the implementation of Article VII GATT. The transaction value is the basis for customs valuation. The Customs Law foresees a number of alternative valuation methods in line with the sequential methods established by Article VII GATT. Serbia confirmed that it does not use reference prices for determining the value of any products and goods. Moreover, Serbia explained that there are no provisions for simplified valuation methods for perishable goods imported on consignment, as such commercial practice is not used in the country. For second hand cars, no special procedures are followed; the fall back method is applied frequently, ensuring that all available data is used. However, Serbia informed that for the release for free circulation of oil and oil products, used motor vehicles, sugar and excise products, the customs formalities have to take place at designated customs posts. The same applies to consumer and textile goods originating in Asian and Eurasian countries, when the Customs Administration has insufficient information about the customs value. For the latter goods, as well as for oil and sugar, the practice also applies within the transit procedure and for sugar within the export procedure. Serbia stated that the provisions on valuation of its Customs Law are aligned with the *acquis*.

Customs classification and tariff

The nomenclature of the customs tariff of Serbia is specified in the Law on the Customs Tariff (OG 05/09) and is harmonised with the World Customs Organisation's Harmonised System and the EU's Combined Nomenclature for 2015. The tariff is published on the Customs Administration's website and is accessible to the public. Furthermore, Serbia is in the process of developing a TARIS database, based on the EU's integrated tariff database TARIC2. In the meantime, the Customs Information System remains applicable, containing

the goods nomenclature, third country and preferential rates, VAT, excise duties and prohibition and restriction measures. The Harmonised System Explanatory Notes have been translated into Serbian but not yet published, due to copyright issues with the World Customs Organisation. Explanatory notes to the Combined Nomenclature of the EU are neither translated nor published in Serbia.

Serbia is not a member of the World Trade Organisation. The basic rate of duty is based on the principle of most-favoured nation. The rates specified in the Customs Tariff are applied to goods originating from countries to which the most-favoured nation clause is applied, or to goods from countries that apply the most favoured nation principle to goods originating from Serbia. An increase of 70% is applied to goods originating from other countries. Imports from countries with which Serbia has a preferential trade agreement are subject to the tariffs specified in these agreements.

Serbia informed that tariff quotas are administered on a first-come-first-served basis and their status is accessible on the Customs Administration's website⁵. The declarant must submit a request to benefit from a tariff quota in the declaration for release for free circulation. Serbia informed that a pilot project is on-going for the establishment of a system of proportional allocation of a tariff quota if the quantities requested for drawing from the tariff quota are greater than the balance available⁶.

Furthermore, Article 30 of the Customs Law authorises the government to approve autonomous measures for the importation of certain goods. Serbia stated that this is based on the methodology used in Council Regulation 1344/2011 on the EU's autonomous tariff measures. Serbia indicated that at the time of the screening, this was applied to 71 tariff lines, covering certain raw materials, semi-finished products, and unmanufactured tobacco, where domestic production does not satisfy demand. Serbia stated that tariff ceilings are currently not applied.

In accordance with Articles 19 and 20 of the Customs Law, the customs authority issues binding information on the classification of goods under the customs tariff (Binding Tariff Information, BTI), similar to the EU system. A BTI is issued within three months upon receipt of the written application and is valid for a period of three years from the date of issuance. BTI's are published on the Customs Administration's website and they are issued free of charge. EU classification regulations are compulsorily applied in Serbia and EU classification regulations are published in the 'Official Gazette of the Republic of Serbia'.

Rules of preferential and non-preferential origin

Non-preferential origin is defined in Article 32 *et seq.* of the Customs Law, while Article 37 *et seq.* regulate the preferential origin of goods.

Non-preferential origin is based on the concepts of wholly obtained products or of the last substantial, economically justifiable operation, working in an undertaking equipped for that purpose and resulting in the manufacture of a new product or representing an important stage of manufacture. For specific products (e.g. textile products) special rules apply, amongst

⁵ www.carina.rs

⁶ On 15 January 2015, Serbian customs informed that the new quota system became operational and that it was in line with EU practice.

others describing substantial operations not conferring origin and non-substantial processing conferring origin. Serbia stated that the rules are largely harmonised with the *acquis*.

As Serbia does not grant autonomous preferences, the customs law is not aligned with the *acquis* with reference to the EU Generalised System of Preferences (GSP). The rules on preferential origin are stipulated in each individual free trade agreement concluded by Serbia. The CEFTA (Central European Free Trade Agreement), the Agreement with Turkey and the Stabilisation and Association Agreement with the EU allow for bilateral and diagonal cumulation of origin within the CEFTA region as well as between Turkey the EU and CEFTA Parties (excluding for the time being Moldova). Serbia ratified the Regional Convention on Pan-Euro-Mediterranean Preferential Rules of Origin, which entered into force for Serbia on 1 September 2013. By virtue of the free trade agreements, also the EFTA countries, Russia, Belarus, and Kazakhstan benefit from preferential customs duties for specific goods.

Certificates Form A, proving the domestic origin of the goods, are issued by the Serbian Chamber of Commerce. The Customs Law also foresees the issuing of binding information on origin, free of charge within 150 days of the receipt of a complete written application. The number of issued decisions on binding origin information varied over the last years, but remains at a low level.

Duty relief

The provisions on relief from import duties are included in Articles 215 to 220 of the Customs Law, the Regulation on the Type, Quantity, and Value of Goods exempt from Payment of Import Duties, on Time Limits, Conditions, and Procedures for Exercising the Right to Exemption (OG 63/13), as well as the Law on Donations and Humanitarian Aid (OG 101/05). Serbia stated that most of the grounds on which duty relief can be granted in Serbia also exist in the *acquis*; however, some grounds for duty relief are not covered by EU rules and vice-versa. This includes in particular new equipment brought into Serbia by an investor for use in certain industrial sectors (409 tariff lines in total). Serbia stated that the purpose of this measure is to stimulate investments in production and new technologies. Goods brought into Serbia under duty relief conditions must be used for the purpose for which they were relieved from import duties for at least three years.

Goods contained in the personal luggage of a traveller are exempted for up to a value of the Serbian Dinar equivalent of EUR 100, and up to specified quantities for tobacco, alcoholic beverages and perfumes. Small consignments of non-commercial nature of a total value of up to the equivalent of EUR 50 are also exempted, except for alcohol, perfumes, and tobacco products. Moreover, private parcels of small value sent by an individual to another individual are exempt for a total value of up to the Serbian Dinar equivalent of EUR 70, with certain specified quantitative limitations for alcohol, perfumes, and cigarettes. Article 208 of the Customs Law foresees the possibility to set up duty free shops in airports that are open for international traffic.

Security aspects of the Customs Law

Article 22 of the Customs Law foresees that customs controls shall primarily be based on risk analysis using electronic data processing techniques, while Article 5 provides concepts of "risk" and "risk management" similar to those in the Customs Code.

The country acknowledges the World Customs Organisation's SAFE Framework of Standards to Secure and Facilitate Global Trade, and the Customs Law foresees the concept and use of authorised economic operators (AEO). Serbia stated that its law is, to a large extent, aligned with relevant EU provisions as regards conditions and benefits of its AEO programme. Practical preparations for rolling out the AEO programme are completed and Serbia informed that it implements the programme as of September 2014⁷.

Serbian customs risk analysis operations currently include:

- Electronic pre-arrival risk analysis on "SEED" data (System for Electronic Exchange of Data) in the road sector (generating email "alarms" for officers to further process), covering consignments from Albania, the former Yugoslav Republic of Macedonia, Montenegro, Kosovo, and Bosnia and Herzegovina.
- Manual risk analysis on express courier consignments through customs access to the courier's records, which can be pre-arrival/pre-departure. A capacity to extract the data and to analyse them electronically is planned to be developed.
- Electronic risk analysis on all customs declarations (including transit) made in the air, road, rail and inland waterway modes declarations.

Serbia informed that in 2013 it conducted physical and documentary checks on approx. 16% of customs consignments (without transit). As for transit, the Customs Administration conducted similar checks on around 5% of the declarations. The Customs Administration implements a Risk Management Strategy 2012-2015.

Intellectual property rights

The legal framework in this field is comprised of the Customs Law and the Regulation on Conditions and Manner of Application of Measures for the Protection of Intellectual Property Rights on the Border (OG 25/15), supplemented by special laws that regulate the protection of intellectual property rights in Serbia. Serbia stated that the above mentioned Regulation is aligned EU Regulation 608/2013.

Customs measures on Intellectual Property Rights can be taken in the framework of all customs procedures and are set in motion *ex officio* (on Customs Administration's own initiative) or upon application of the right holders. As regards the latter, no fee is paid for the lodging of the application for action; the application is valid for one year and can be extended by another year. The customs authority immediately notifies the right holder and declarant (holder of the goods) following the suspension of a customs procedure and temporary detention of goods. The right holder needs to provide a response and, as applicable, initiate court proceedings within 10 working days (three working days for perishable goods); on reasoned request of the applicant, the customs office may extend this deadline by another 10 working days. The right holder has the possibility to inspect the goods under customs supervision.

In the case of *ex officio* procedures, Customs can suspend clearance of goods in respect of which it has acquired satisfactory evidence that an intellectual property right is being infringed. The right holder is notified in writing about the temporary detention and the possible infringement of intellectual property rights and given a deadline of three working

⁷ By June 2015, 3 such AEO authorisations were granted.

days to make a request for suspension. In the absence of such a request, the customs procedure resumes and goods may be cleared.

The right holder accepts liability for all expenses related to storing and keeping the goods and regarding damages that might occur during the procedure in the event that the goods in question are subsequently found not to infringe an intellectual property right. The Serbian legislation also foresees a simplified procedure, whereby goods can be destroyed under customs control without court procedure, following agreement between the right holder and the declarant (holder of the goods).

The provisions on intellectual property rights exempt *inter alia* goods of non-commercial nature in the personal baggage of travellers within the limits of the duty-free allowance, where there are no indications that suggest the goods are part of commercial traffic. Subject to specific conditions, goods sent in small consignments can be destroyed.

Serbia informed that in 2013 the Customs Administration approved 244 applications for action for the protection of intellectual property rights, representing a steady increase over the years. Moreover, since the introduction of the simplified procedure in 2011, 787 applications for the destruction of goods have been lodged.

Cultural goods

The legal basis in this field is the Law on Cultural Property (OG 71/94) (see also chapter 26 – education and culture, for reference to international conventions). The Ministry of Culture and Information is the competent authority for issuing export licences for temporary or permanent export of a cultural good. Serbia admitted that the legal framework is not yet aligned with the *acquis*, including the definition of cultural goods and the form, category and type of authorisations for the export of cultural goods. Moreover, the information should be integrated in the existing databases.

Cash control at the borders

The legal framework for controls of cross-border transfers of cash is comprised of the Law on Foreign Exchange Operations (OG 119/12) and the Law on Prevention of Money Laundering and the Financing of Terrorism (OG 20/09, 72/09 and 91/10).

Serbia stated that, similar to the EU, it applies a reference value of EUR 10,000 (or equivalent in other currencies) as a threshold for the declaration of cash at the border. The form to declare transfer of cash is yet to be aligned with the 2013 version of the EU Cash Declaration Form. Sanctions are imposed if cash amounts above this threshold have not been declared. Customs officials are empowered to conduct controls and searches on passengers, baggage, and vehicles in the entire customs territory, file misdemeanour reports and provide data on transfer of cash to the Administration for the Prevention of Money Laundering and Terrorist Financing and the Central Bank. Means of payment can be detained temporarily, in cases prescribed by the law, and deposited on an account of the National Bank of Serbia. Specific agreements enable cooperation with EU Member States.

Drug precursors

The Serbian legal base in this field is the Law on Substances Used in Illicit Manufacture of Narcotic Drugs & Psychotropic Substances (OG 107/05). The list of precursors to be monitored is determined by the Regulation on Scheduled Substances used in Illicit

Manufacture of Narcotic Drugs & Psychotropic Substances (OG 101/09). Serbia is a party to the UN Conventions on Narcotic Drugs and on Psychotropic Substances and to the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Serbia has also established a framework for non-scheduled substances.

Trade licences are issued by the Ministry of Health. Licences for import, export, or transit have to be used within 30 days. The licences are presented to the customs authorities by the declarant. Serbia informed that during the last three years no drug precursors have been seized. Serbia said that there is a need to further strengthen the supervision capacity of the relevant department in the Ministry of Health.

Mutual administrative assistance and international customs cooperation

Serbia has been a member of the World Customs Organisation since 2001. In addition, the country is a signatory of a number of international conventions, such as the UN TIR Convention, the UN Convention on the Harmonisation of Frontier Controls of Goods, as well as the World Customs Organisation Convention on the Simplification and Harmonisation of Customs Procedures (Revised Kyoto Convention) and the World Customs Organisation's ATA and Istanbul Conventions.

Serbia participates in mutual assistance with EU Member States in accordance with Protocol 6 of the Stabilisation and Association Agreement (Protocol on mutual administrative assistance in customs matters) and maintains a number of other agreements on customs cooperation with third countries. Protocol 6 on mutual assistance with the EU takes precedence over agreements signed by Serbia with individual EU Member States. In total, Serbia ratified 25 bilateral agreements on mutual assistance in customs matters and cooperates with OLAF and international organisations, such as the Southeast European Law Enforcement Centre, and CEFTA and exchanges pre-arrival data within the region via SEED. Finally, Serbia signed a number of memoranda of understanding with private companies, such as transport and express courier companies.

Serbia stated that it is partly aligned with the provisions and obligations of the *acquis* on mutual assistance (Regulation No 766/2008/EC). Finally, the Customs Administration has agreements in force to cooperate with other Serbian institutions.

II.b. Administrative and operational capacity

Administrative organisation

Serbia's Customs Administration is an administrative body within the Ministry of Finance headed by a Director. Within the Ministry of Finance, the Customs Systems and Policy Sector consists of two departments with a total of 14 employees. The Serbian Customs Administration consists of 15 Customs Offices, 73 Customs Posts, and 62 Customs Units, with a total of 2,643 employees at the time of the screening. The Customs Administration is responsible for 83 border crossing points, including six IBM crossing points with Kosovo. Moreover, there are 72 inland terminals, including three international airports and 12 free zones.

The Customs Administration collects excise duties only at the point of importation. Agreements on integrated border management have been concluded with police and health services and joint actions performed. Fees have to be paid only for exceptional services, e.g.

clearance out of working hours or outside regular working places. Serbia indicated that all other administrative fees have been abolished, but they still apply for keeping records and issuing certificates concerning customs debts and payments, for licencing free zones and vehicles and containers for TIR transport. The Customs Administration has one laboratory, consisting of the Analytics Section and the Classification of Goods Section. The focus on the activities is on issuing classification findings. In light of the available capacities, other analytical work is often outsourced to ISO accredited public laboratories. Among other equipment, the Customs Administration also possesses 11 modern mobile scanners and eight stationary radiation monitors.

Serbia implements a Customs Business Strategy 2011-2015, which sets out the strategic objectives for this period and which includes an Action Plan 2015. The Customs IT Strategy covers the period 2011-2020. The Customs Administration adopted a code of conduct for customs officials. Serbia also participates in the EU Customs 2020 programme.

Computerisation

Serbia's Customs Administration makes use of information technology to manage customs procedures, including in relation to risk analysis. All customs offices are connected to the central IT system. However, the system offers rather poor support to the customs units in terms of management of the customs work flow.

In 2013, approx. 97% of all customs declarations were submitted electronically. However, this implies that the declaration can be sent electronically from the premises of the economic operator to the customs post, which accepts the document and sends it electronically back to the operator. The operator then has to print the declaration and bring the paper copy to the customs office for actual validation and further processing. Pre-arrival information is exchanged in the context of SEED with Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Montenegro. Since August 2015, Serbian Customs started exchanging all information on export and transit to Kosovo⁸ as well. Serbia uses the New Computerised Transit System (NCTS) at national level since January 2015, which is a pre-condition for joining the Common Transit Convention.

Serbia stated that it considers the mobilisation of financial resources needed to fulfil EU requirements in this area as challenging.

III. ASSESSMENT OF THE DEGREE OF ALIGNMENT AND IMPLEMENTATION CAPACITY

Overall, Serbia's legislation in the field of the customs union is broadly aligned with the *acquis*. Some areas have been identified where further harmonisation is required, as outlined here. Serbia also needs to focus on strengthening its administrative capacity and on ensuring the uniform and efficient application of the customs rules.

From the first day of accession, the Serbian Customs Administration will have to manage and control Serbia's borders, which will then to an extent represent the external border of the Union, in full compliance with the *acquis*. The border/boundary between Serbia and Kosovo needs also to be managed in full compliance with the *acquis*.

⁸ Via an intermediate server located at the premises of the Italian customs administration.

In addition, chapter 35, which addresses Serbia's continuous commitment to the normalisation of relations with Kosovo and the implementation of all agreements reached in the context of the dialogue, will deal with the implementation of the customs and IBM agreements, including the establishment of permanent crossing points.

III.a. Customs legislation

General customs rules and procedures

The level of alignment is high. The following main discrepancies with the *acquis* have been identified:

- The format of the SAD needs to be fully harmonised with the EU provisions. A number of data and codes used on the Serbian form are not yet compliant with the EU model.
- Serbia does not systematically require a pre-arrival and pre-departure safety summary declaration prior to importation and, accordingly, needs to align the practical provision for the entry/exit summary declaration with the *acquis*.
- As regards customs debt and guarantees, a few issues have been identified requiring action for full harmonisation. These include time taken for custom duties to be entered into the accounts and enforced collection of customs debt.
- The Law on Free Zones is not fully aligned with the *acquis*, as no customs debt is incurred for goods used or consumed within the zone. This will be dealt with under Chapter 8: Competition.

Customs status of goods and transit

A good level of harmonisation has been reached. The following main differences between the *acquis* and the Serbian Customs Law have been identified:

- Since 25 January 2015, Serbia implements the New Computerised Transit System at national level and needs to further develop it in order to become a member of the Common Transit Convention. Also the country will have to fully comply with legal and administrative EU requirements in this area. New legislation needs to be adopted, procedures and instructions elaborated and training given to traders and officials. Accession to the CTC Convention and the SAD Convention is envisaged to take place on 1 December 2015.

Customs valuation

The level of alignment of Serbian legislation is very high.

- However, depending on the modalities of application, the fact that only specific customs offices are allowed to carry out formalities for used vehicles and certain textile/oil products as well as for excise products and sugar, may be considered as a disproportionate restriction to trade.
- The Serbian legislation is not yet aligned with EU provisions applicable to the valuation of perishable goods sent under consignment regime.

Customs classification and tariff

The level of alignment of Serbian legislation on classification and tariff is high. However, some differences exist, including:

- It is recommended that Serbia translates and takes into account the EU's Explanatory Notes to the Combined Nomenclature.
- Under EU law, data communicated under the quota surveillance regime is required for all declarations for release for free circulation and for certain export declarations. In Serbia, such data only relates to declarations for release for free circulation concerning preferential quotas.
- Serbia should further develop the TARIS database to make it compatible with the EU TARIC in due time before accession.

Rules of preferential and non-preferential origin

The rules on the determination of non-preferential and preferential origin are similar to the EU rules, but they are not identical. In order to achieve full alignment, Serbia needs to address, inter alia, the following issues:

- Full alignment of legislation with Annexes 9 to 11 of Commission Regulation (EC) No 2454/93.
- Full alignment of the Customs Law with the EU's generalised system of preferences.

Duty relief

While the Serbian law is broadly harmonised with the EU rules on duty relief, Serbia needs to address in particular the following differences:

- Serbia grants relief under conditions that are not foreseen in the *acquis*, or not aligned with it, including in particular new equipment brought into Serbia by an investor or for use in certain industrial sectors. Serbia stated that the measure will not be prolonged in 2016.
- The relief provisions on goods contained in the personal luggage, small consignments of non-commercial nature and private parcels or for imports for a marriage need to be fully aligned with the *acquis*. The same goes for capital goods and other equipment imported, for seeds and fertilizers, research material, therapeutic and pharmaceutical substances, presents, test goods, tourist information literature, stowage and protection material and food during transport, materials for memorials of war victims and funerary articles.

Security aspects of the Customs Law

Serbian customs have a clear structure for implementation and continuous evaluation of risk analysis operations. However, Serbia needs to address remaining differences with the *acquis*, including its approach to pre-arrival/pre-departure risk analysis.

- Serbia needs to further develop its legislation and operations for collecting Annex 30A datasets in all modes of transport and for associated electronic pre-arrival/pre-departure risk analysis operations.
- Serbia's legal definition of "risk" does not mention "safety", and its definition of "risk management" includes "prescribing measures" rather than "prescribing and taking action". Moreover, it allows holders of simplified procedures authorisations to be exempted from

the control system as such, except in the case of random and vehicle license plate selections⁹. It is planned to extend the exemption to AEOs.

- In the area of AEO legislation, Serbia needs to complete harmonisation with the *acquis* and address the remaining points of detail. These include, for example, the personal scope of the AEO programme (not only legal persons should have the possibility to apply for the status), and the conditions of the AEO programme (it has to be concretely stipulated that the applicant has to be a person who, in the course of his/her business, is involved in activities covered by customs legislation), as well as references to the regulated agent.

Intellectual property rights

This area is broadly aligned with the *acquis*. The administrative capacity in this area should be further enhanced and will be monitored under Chapter 7 – intellectual property law.

Cultural goods

The Serbian law in this field is not aligned with the *acquis*. Differences exist as regards the definition of, and conceptual approach to, cultural goods as well as the need to define the national treasure.

Cash control at the borders

The Serbian legislation is broadly aligned with the *acquis* regarding the area of cash controls at the borders. It uses the same definition of cash and the same threshold for the declaration of cash in its legislation as specified in EU Regulation (EC) 1889/2005. Sanctions, applicable in the event of failure to comply with the obligation to declare, are introduced and means of payment can be temporarily confiscated. The template for declaring transfer of cash needs to be aligned with the 2013 version of the EU Cash Declaration Form.

Drug precursors

A general legal framework for the monitoring of drug precursors, based on Article 12 of the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, is in place in Serbia. The list of substances to be monitored is already aligned with the EU's list.

- Serbia's legislation is not aligned with the latest *acquis* in this area, namely Regulation (EU) No 1258/2013, Regulation (EU) No 1259/2013 as well as Commission Regulation (EC) No 297/2009 and Commission Regulation (EWU) No 225/2011.
- Serbia's record on registration and detection of offences is particularly weak and capacity building in this area is required.
- In the EU, competent authorities work very closely together with the chemical industry, a practice which will need to be developed in Serbia (e.g. issuing guidelines).

Mutual administrative assistance and international customs cooperation

Serbia cooperates with the EU on customs matters in the framework of the Stabilisation and Association Agreement. As regards the agreements that Serbia has concluded with third

⁹ About 1 % of all operations is subject to risk analyses

countries, Serbia confirmed its readiness to bring these into compliance with the *acquis*, or denounce them if they are not compatible with it (see also Chapter 30 – External Relations).

In the framework of mutual assistance, further alignment is needed concerning the scope of implementation, definition, competence, types of cooperation and assistance, data confidentiality, expenses, customs information system and methodology.

As regards the exchange of information, Serbia can now use some IT tools provided by OLAF (Mutual Assistance Broker (MAB) Mail, Virtual Operation Coordination Unit (OCU)). From the first day of accession, Serbia must use all IT tools provided by OLAF in accordance with Council Regulation (EC) No 515/97 (Customs Information System (CIS) and Customs File Identification Database (FIDE)). Moreover, Serbia needs to ensure full alignment with the provisions of Regulation (EC) No 766/2008.

III.b. Administrative and operational capacity

Administrative organisation

The Serbian Customs Administration will have to put in place all necessary facilities to develop straightforward and efficient customs control operations at ports, airports, land borders, and inland offices, capable of facilitating the flow of legitimate passengers and trade, while ensuring collection of national and EU revenue and the protection of national and EU citizens. The Customs Administration should continue to develop its legal and administrative structures in order to further implement and enforce the customs legislation. To address this challenge, Serbia established comprehensive Business and IT (interoperability) strategies, which should be further elaborated and implemented to become effective management tools. The scope of work and capacity of the customs laboratory should be expanded, training of officials further promoted.

As regards Serbia's cooperation with the Kosovo Customs Administration, good progress has been made. Practical cooperation has been established, allowing for the flow of passengers and goods. Serbia's Customs Administration needs to continue developing this cooperation in order to facilitate the flow of goods and passengers, while ensuring collection of national and EU revenue and the protection of national and EU citizens.

Computerisation

The EU requires that customs procedures are computerised and that the IT systems used by the customs administrations are connected to the EU systems in this area. In order to cope with this future requirement, the Customs Administration needs to update its Customs Declaration Processing System and Customs Management System.

As regards transit procedures, Serbia uses NCTS at national level since January 2015, which is a pre-condition for membership to the Convention on Common Transit. On tariff and export/import controls, Serbia will be required to connect to several EU exchange of information systems to guarantee the correct application of the EU's external tariff and of the EU commercial policy and security measures (IAS/EAS, ITMS, EBTI, EOS, Surveillance, etc.).

Roadmaps for development of the systems should be established and project management disciplines introduced. Significant resources will be needed to ensure that the exchange of

computerised data between the Serbian Customs Administration and the EU is prepared and operational by the time of accession.