

Screening report

Serbia

Chapter 30 – External relations

Date of screening meetings:

Explanatory meeting: 2 July 2014

Bilateral meeting: 9 October 2014

I. CHAPTER CONTENT

The *acquis* in the area of common commercial policy consists mainly of directly applicable EU legislation which does not require transposition into national law. The *acquis* results principally from EU's multilateral and bilateral commercial commitments, as well as from a number of autonomous trade measures. In the area of export credits and dual-use goods, some elements of the *acquis* require earlier preparations in order to have fully capable administrations from the day of accession.

Applicant countries are required to progressively align their commercial policies towards third countries and within international organisations with the policies and positions adopted by the European Union and its Member States, so as to be able to implement the EU common commercial policy upon the date of accession.

In the area of humanitarian and development policy, Member States need to comply with EU legislation and with EU international commitments and ensure the capacity to participate in the EU's development and humanitarian policies.

II. COUNTRY ALIGNMENT AND IMPLEMENTATION CAPACITY

This part summarises the information provided by Serbia and the discussion at the screening meetings.

Serbia indicates that it can accept the *acquis* regarding external relations and that it does not expect any difficulties in implementing the *acquis* by the time of accession.

Serbia declares that it will provide for adequate administrative capacities so as to secure its participation and implementation of the EU common commercial policy as well as the EU development and humanitarian policies.

II.a Common Commercial Policy

The trade policy of Serbia is largely determined by its accession process to the World Trade Organisation (WTO) and by the Stabilisation and Association Agreement (SAA) with the European Union as well as by the Central European Free Trade Agreement (CEFTA). EU and CEFTA cover over 80% of trade of Serbia.

The overall average Most Favoured Nation customs duty was 8.74% in 2014. For industrial goods, the rate stood at 6.22%. For agricultural goods, it stood at 16.35%. In the same year, the average applied customs duty was 2.02%. For industrial goods, it stood at 1.81%. For agricultural goods, it stood at 3.82%.

Serbia has been negotiating WTO membership since 2005. During this time, it has performed a comprehensive reform of its foreign trade system. Over 30 new laws and regulations have been adopted such as the Customs law, Food safety law, Veterinary law, Company law, Intellectual property law, etc. In addition, various technical regulations and standards, accreditation and metrology systems have been reformed.

In terms of regulatory alignment with the WTO requirements, two outstanding issues remain – a change in legislation regulating trade of genetically modified organisms (GMOs) and a reform of the excise law. In terms of bilateral demands of WTO members, Serbia still needs

to conclude negotiations with the United States (agriculture), Brazil (agriculture) and Ukraine (goods and services). In May 2015, Russia informed Serbia about additional demands for further liberalisation of selected goods and services.

Serbia does not apply a Generalised System of Preferences (GSP), but is a beneficiary of the GSP of other countries, namely Japan, Russia, Belarus, Kazakhstan and USA. Serbia's trade with countries which figure on the current EU GSP beneficiary list is small and represents under 3% of total imports.

Serbia's Customs law provides for autonomous tariff suspension for certain goods deemed important for domestic industry or citizens. Serbia states that the decision process leading to a list of goods which can benefit from a suspension is aligned with Regulation (EU) 1344/2011. The Serbian list currently comprises 71 tariff lines. Unlike the EU, Serbia does not apply any particular trade restrictions on textile imports.

Serbia's Law on foreign trade regulates the use of trade defence instruments (anti-dumping, countervailing, and safeguard measures). Serbia stated that its provisions on trade remedies are compliant with the WTO rules.

Trade policy is designed and implemented by the Serbian Ministry of Trade, Tourism and Telecommunications. The Ministry has a sector for bilateral economic cooperation (with approximately 36 civil servants) and a sector for multilateral cooperation (with approximately 25 civil servants). The Ministry benefits from several foreign assistance projects, implemented with the aim of strengthening administrative capacities in the domain of foreign economic relations, such as improving export controls, accession to the WTO and accession to the EU.

A number of other Ministries and State bodies contribute to the implementation of commercial policy by being responsible for sector-specific acts and instructing and funding implementing bodies, such as customs, intellectual property office, veterinary office, sanitary and phyto-sanitary standards office, export credit and insurance agency and others.

Export credits

The Export Credit and Insurance Agency (AOFI) is the national Export Credit Agency (ECA) founded in 2005. AOFI is in 100% ownership of the Republic of Serbia. Serbia stated that AOFI is not a budget beneficiary and operates under market conditions and supervision of the National Bank of Serbia as any other financial institution. AOFI has so far provided its service to 273 companies for exporting in 43 different countries.

The law establishing AOFI envisages the following activities to be performed by the institution: 1) Insurance and reinsurance of foreign export activities and investments against commercial and non-commercial risks, as well as the insurance against the collection of receivables of exporters. 2) Insurance of export preparation against non-commercial and commercial risks upon concluding export contracts. 3) Insurance of domestic banks related to loans and guarantees for export deals and investments abroad and contracted credit lines with foreign banks.

AOFI currently performs its activities only in the field of credit insurance by offering short-term insurance against non-payment risks e.g. insolvency risk and protracted default risk. AOFI has not yet issued insurance against longer term risks, which are subject to EU/OECD

regulations. However, AOFI stated that it has developed its internal procedures, tariffs and operating conditions in line with the EU/OECD regulations.

AOFI has signed cooperation agreements with members of the Berne Union and the Prague Club. AOFI is not a formal member of these two platforms.

Export Controls

Exports of dual-use goods are regulated by the Law on export and import of dual-use items. In addition, there are several decisions and rules which regulate procedures and forms for obtaining licences. The legislation defines the dual-use goods as those which could be used both for civilian and military purposes or for proliferation or manufacturing of weapons of mass destruction. Export of dual-use items includes transmission of software and technology by electronic media. It concerns exporters, brokering services and technical assistance. Control of dual-use items can be extended to goods beyond the list in the law, in case exporters or the customs are aware of their military end-use.

Serbia stated that its definitions are fully harmonised with the EU regulation on dual use goods. According to Serbia, harmonisation has been achieved concerning the prohibition of transit for such goods, as well as for procedures by the customs authorities. Harmonisation is only partial in procedures for licences. The authorities may only issue individual licences and do not apply the possibility of global licences. In the period 2009-2013, the Ministry issued on average just above five export licences per year in the annual total value of EUR 5 million.

Breaching of the provisions of the law is punishable in the amount of up to twenty times the value of exports. The criminal code applies in case of related illegal activities.

Serbia is a member of one international export control regime i.e. the Nuclear Suppliers Group (NSG). Serbia applied for membership of the Wassenaar Arrangement.

Trade in goods which could be used for torture or execution of capital punishment is regulated by the Decree on export and import of goods which could be used for capital punishments, torture and other cruel, inhuman or degrading treatment. Any export or import of goods which have no practical use other than capital punishment or torture is prohibited. A list of goods is annexed to the decree. Supply of technical assistance related to the listed goods is also prohibited. The authorities may authorise export of these goods if it is demonstrated that, in the country to which the goods will be exported, such goods will be used for the exclusive purpose of public display in a museum in view of their historic significance. Serbia stated that the decree fully aligns the national legislation with EU Regulation 1236/2005.

There is no national regulation related to elimination of trade with diamonds originating in conflict areas. Serbia is not a participant to the Kimberley process. Serbia stated that the Law on foreign trade provides for sufficient grounds for adoption of an act which would regulate trade with diamonds.

II.b. Bilateral agreements with third countries

Serbia currently applies Free Trade Agreements (FTAs) with the EU, Turkey, the Eurasian Economic Union members: Russian Federation, Belarus and Kazakhstan, and with the EFTA countries. Serbia is a party to the multilateral Central European Free Trade Agreement (CEFTA).

The FTA with Turkey covers all industrial goods, while it only concerns a very limited number of agricultural products.

The FTAs with Russia, Belarus and Kazakhstan cover almost all trade with the exception of selected industrial and agricultural products.

The FTAs with the EFTA countries are modelled on the agreement with the EU for industrial goods and processed agricultural products. Serbia signed individual bilateral agreements with these countries concerning agriculture. The EFTA agreements are deemed important in view of the significant amount of foreign direct investment coming from Switzerland and Norway.

The CEFTA agreement fully liberalises trade in industrial goods and agriculture.

Serbia is engaged in ongoing negotiations of liberalisation of services under the CEFTA. It is negotiating further liberalisation with Russia, Kazakhstan and Belarus. In the context of WTO accession, it is negotiating a new FTA with Ukraine.

Serbia has signed Economic Cooperation Agreements with 125 countries. Most of them are inherited bilateral agreements signed by Socialist Federal Republic of Yugoslavia, Federal Republic of Yugoslavia and the Union of Serbia and Montenegro. Since 2006, Serbia has signed 14 bilateral economic cooperation agreements (Azerbaijan, Armenia, Bosnia and Herzegovina, Bulgaria, Czech Republic, Croatia, Egypt, Israel, Kuwait, the former Yugoslav Republic of Macedonia, Montenegro, Poland and Romania).

Serbia has concluded bilateral investment agreements (BITs) with 52 countries. Out of these 52 agreements, 23 agreements are with EU Member States. Most of the agreements are inherited from the Socialist Federal Republic of Yugoslavia, the Federal Republic of Yugoslavia and the Union of Serbia and Montenegro. Since 2006, 11 agreements have been signed by Serbia (Azerbaijan, Algeria, Canada, Denmark, Indonesia, Kazakhstan, Malta, Morocco, Montenegro, Portugal, United Arab Emirates). In 2014, the government adopted a new model for BITs which follows the internationally recognised standards and recommendation based on the OECD analytical work.

Serbia stated that it would denounce its free trade agreements upon accession to the EU and bring all of its other international agreements in conformity with the *acquis* by the time of accession.

II.c. Development policy

Serbia has no legislation regulating the area of development policy. Serbia has a Law on donations and humanitarian aid which envisages only the receiving, distribution and utilisation of assistance, but not the delivery of assistance to third countries. No national budgetary funds are programmed with the specific aim to support development policy.

Serbia provides development assistance on *ad hoc* basis, for example, it covered fees for students from developing non-aligned countries studying in Serbia (World in Serbia project).

Serbia announced it would adopt legislation which will allocate responsibility for coordination of development and humanitarian policies to the Ministry of Foreign Affairs. In a next phase, an inter-ministerial working group would be created to draft a law on development policy and humanitarian aid, as well as to develop a strategy and action plans. Serbia committed that the new law would be developed along practices and commitments of

EU Member States, based on the European consensus on development, UN Millennium Development Goals (since 2015 replaced by Sustainable development Goals), Agenda for Change and other relevant declarations.

II.d. Humanitarian aid

Humanitarian and civil protection interventions are regulated by the Law on emergency situations. The law includes an article on international cooperation in the area of protection and rescue. The article defines how interventions should be coordinated with foreign authorities in order to facilitate actual intervention, transfer of people and equipment and border crossing.

The main implementing body is the Sector for Emergency Management (SEM) at the Ministry of the interior. The operational core of the SEM consists of 3,300 members from the fire and rescue units.

Serbia has signed agreements on cooperation in the field of emergency and disaster management with Azerbaijan, Bosnia and Herzegovina, Croatia, Hungary, Montenegro, Russia, Slovakia, Slovenia and Ukraine. A Memorandum of Understanding has been signed with Italy. The Letter of Intention for Cooperation in Field of Emergency Situations was signed with Denmark and France. Serbia has so far provided assistance to the following countries: Slovenia (electricity generators), Montenegro (forest fires - helicopters and firefighters), Bosnia-Herzegovina (forest fires-helicopter) and Greece (forest fires - firefighters, rescue vehicles). In spring 2015, Serbia joined the EU Civil Protection Mechanism. Since then, Serbia has activated the EU protection mechanism in order to help with the influx of refugees and migrants in the country.

III. ASSESSMENT OF THE DEGREE OF ALIGNMENT AND IMPLEMENTING CAPACITY

Overall, Serbia has reached a good level of alignment with the *acquis* in the field of external relations. The EU is its main trading and investment partner. Serbia has largely aligned its commercial policy with the EU and WTO rules. However, Serbia has not yet acceded to the WTO. Serbia will have to become a WTO member before accession.

In the field of development policy and humanitarian aid, Serbia engages in some *ad hoc* activities. Serbia will have to align with the EU policy in these two areas before accession.

III.a Common Commercial Policy

Serbia will need to fully apply the EU commercial policy as of accession. In this context, it will need to apply the EU external tariff for all products and services.

Serbia will have to successfully complete its negotiations for WTO membership before accession. The European Commission will continue supporting Serbia's WTO accession process. When progressing with WTO negotiations, Serbia needs to take into account the EU position and EU commercial interests. Serbia is expected to align its positions with the EU positions in the WTO.

Serbia does not use a GSP scheme. As of accession, it will need to apply the EU GSP scheme. Application of the EU GSP is unlikely to disrupt its economy in view of Serbia's very limited imports from the countries on the EU GSP list.

Serbia has in general not been using trade defence mechanisms. However, it has recently applied safeguard measures against imports of EU dairy and live pigs. The SAA provides this possibility in duly justified circumstances. However, there appears to be insufficient evidence to justify these measures. The consultation process demonstrated that the Serbian administration experiences difficulties in providing data to fully justify the measures. Serbia should avoid using safeguards unless fully justified.

Serbia's administrative capacity for commercial policy is at a satisfactory level, although more needs to be done to ensure coordination across various departments involved in trade policy.

Export credits

Serbia's export credit agency does not operate a long term export insurance scheme which would be subject to regulations under this chapter. Short term insurance is subject to competition policy control.

Export Controls

Serbia's legislation in this area is almost fully aligned with the *acquis*. Serbia will need to ensure its continued alignment to EU export control regulations. Serbia is a member of one international export control regime i.e. the Nuclear Suppliers Group (NSG) and applied for membership of the Wassenaar Arrangement.. Especially Serbia's cooperation under Wassenaar Arrangement is expected to contribute to the strengthening of its administrative and policymaking capacities in this area. Full implementation of export controls of dual-use goods *acquis* will require further improvements in administrative capacity, especially in terms of regular training and good coordination across responsible ministries and agencies.

III.b. Bilateral agreements with third countries

Serbia needs to denounce all its free trade agreements on the last day before accession.

The impact of changes in the preferential trade regime will be most important in the case of the CEFTA agreement, which engages Serbia with its neighbours and represents 12% of Serbia's trade.

Serbia needs to ensure that liberalisation with other countries in the context of the existing FTAs take into account the EU commercial policy and EU commercial interest. Serbia should avoid agreeing on higher levels of liberalisation than currently offered by the EU to these partners.

Serbia's BITs with third countries include clauses which are not compatible with the *acquis*. These agreements will have to be brought in conformity with the *acquis* by the date of accession. From the day of accession, Serbia will need to implement Regulation (EU) 1219/12 establishing arrangements for bilateral investment agreements between Member States and third countries.

III.c. Development policy

Serbia is committed to the main principles of the EU development policy, but has not yet developed its own policy and methodology for measuring of development assistance in line

with the OECD/ODA methodology. Serbia will need to put this capacity in place by the time of accession.

III.d. Humanitarian aid

Serbia has in place some capacities for humanitarian interventions. It provides humanitarian aid on a case by case basis. It will need to develop its humanitarian policy and humanitarian interventions in line with the Consensus on Humanitarian Aid and Regulation (EC) 1257/96. Participation in the EU Civil Protection Mechanism is expected to contribute to the improvement of national capacities.