

# CUSTOMS

## CURRENT SITUATION

The Customs Law significantly aligned customs procedure with EU customs law, in particular for legal entities that link the simplified customs procedure to the process of an Authorized Economic Operator ("AEO"). The instructions are publicly available on the Customs Administration's website.

The Customs Tariff is harmonized with the EU nomenclature each year in November.

The Free Trade Agreements (FTA) have positive effects on economic growth enabling legal entities in Serbia to increase the volume of production and, in turn, competitiveness in the regional market, in particular with EU and CEFTA members.

## COVID-19

With the aim to prevent the spread of the COVID-19 epidemic and to eliminate the economic consequences of the epidemic, the Government of the Republic of Serbia and the business community have taken the following measures that have ensured business continuity under the given circumstances:

- Limited moving of goods and people, as well as closing certain border crossings for commercial freight traffic led to delays in border procedures. At the suggestion of the business community, the "Green Corridors" were introduced for faster flow of goods in the CEFTA region, and in EU countries.
- "Essential products" – medicines, medical devices, food etc. had priority treatment at the border that further accelerated the customs procedures. Goods imported with priority have been aligned with CEFTA and EU members on the 6 digit tariff number level.
- Vehicles transporting priority goods were enabled to deliver goods information before arrival via the SEED system and thus perform the customs procedure more quickly.
- Certain "essential" products export was prohibited, which ensured the domestic market supply.
- The collection of the customs debt determined in the procedure of subsequent control, as well as the deadlines for submitting legal remedies to the decisions by which that debt was determined, were suspended during the state of emergency. In this way, economic entities were enabled to defer the incurred financial obligations,

which further facilitated the elimination of the economic effects of the pandemic.

## POSITIVE DEVELOPMENTS

The following positive developments have been identified that affect day-to-day business operations:

- Further alignment with the EU regulations in the field of classification of goods
- Ratification of the FTA concluded between Republic of Serbia and the EAEU. The entry into a force of the Agreement will have a positive impact on the market access of the Russian Federation, Belarus, Kazakhstan, Kyrgyzstan and Armenia, as well as on future foreign investments in Serbia.
- Instructions and opinions of the CA changed the practice according to which the written contract, and stamp of the foreign seller on a commercial document was required. The invoice in electronic form was accepted as a valid document, although the obligation to submit a paper copy was retained.

## REMAINING ISSUES

### **General Comments of the Council**

- Liberalization of customs preferences for import significantly affects existing operations of legal entities in terms of planning and making future business decisions. In order to ensure the continuity of operations of existing legal entities, it is very important that planned preferences are timely and transparently communicated, as well as to ensure an agreement with the affected industry regarding the abolishment or reduction of import duties.
- In 2015 a significant customs duty relief was abolished for the import of new equipment not produced in the country for the purpose of expanding and modernizing existing production. We believe that duties for equipment, prescribed by the Law on Customs Tariff should be revised and reduced or abolished for products which are not produced in Serbia. Generally, duty relief can be a crucial driver for business expansion and further investments.
- Foreign entities have no access to easy registration and participation in a customs procedure, in particular with regard to completing the customs declaration. This issue has become particularly relevant now that foreign entities

can register as VAT taxpayers through a VAT proxy. This has a direct impact on VAT treatment, since in practice the Tax Administration determines the right to deduct input VAT, i.e. tax exemption for exports, primarily on the basis of the customs declaration. The notion of similar rights of disposal of goods, in the context of the definition of importer, is not clear and needs to be precisely defined. It is also necessary to enable foreign persons to participate as exporters in the customs procedure.

- The Decree on Customs Procedures and Customs Formalities prescribes that when considering a request for a binding information, if it is necessary to carry out the examination of goods that cannot be performed in the competent customs laboratory, the Customs Administration (CA) will obtain the offer of the organization or the person who will perform the analyses, and the person who submitted the request is obliged to pay the costs of those analyses. Considering that in accordance with the new Customs Law, the administrative fee for the analyses service should be paid to the CA, it would be appropriate that the applicant should pay only the statutory administrative fee, while the fee for the service of the authorized laboratory should be paid by the CA.
- The new Customs Law stipulates that economic operators may be authorized to use a comprehensive guarantee with a reduced amount for customs debt and other charges, or to have a guarantee waiver. This right is restricted by Article 141 of the Regulation on Customs Procedures and Customs Formalities, which only prescribes the possibility of reducing the reference amount by 50%.

#### Application of legislation

- The Customs Law stipulates that the maturity period of a customs debt may not exceed 8 days, which is too short for taxpayers who process a lot of customs documents on a daily basis. We suggest that customs authorities should enable the debtor to pay the customs debt within a period not exceeding 31 days. We believe that this would allow flexibility in customs clearance, resulting in a reduced number of errors in the processing of customs documents. It has been noted that this option is not in regular use, so there has been no process improvement.
- The Customs Law excludes the possibility of rectifying customs documents if, following customs clearance, based on the inventory stock count of goods at the receiving dock, the receiver identifies a discrepancy in the inventory relative to the quantity reflected in the customs

documents. Such omissions are mainly unintentional and occur during the loading or delivery of goods, but they result in legal violations on the part of the legal entity, even when the declarant self-declares the omission.

- Quality control inspections are regular at each importation of goods but are slowing down the customs clearance process even for the regularly imported goods that have been inspected by foreign accredited laboratories. Overall, the quality control tests are without deficiencies in the case of regular importers.
- The Decree on Customs Procedures and Customs Formalities provides that, until the date of deployment of electronic systems the movement of goods between the temporary storage facilities shall be effected by applying the transit procedure. This restricts the rights of holders of the AEO authorization.
- The Foreign Exchange Law, stipulates that the middle exchange rate of the dinar used for the calculation of the customs duties is determined on the last day of the week preceding the week in which the duties are levied. Consequently, the period for lodging the supplementary declarations is limited to only 10 days, even though this deadline could be extended up to 31 days, having in mind that the goods released to one person during the period which may not exceed 31 days, may be covered by a single entry into accounts at the end of that period and the opportunity can be given to a debtor to pay duties globally after the period of aggregation.
- The fee for the parking at the terminals where the customs formalities are performed, in the amount of RSD 1,200, it is contrary to the new Customs Act, which stipulates that customs authorities do not charge fees for performing customs controls, which should include the possibility of access to customs premises at no additional cost.
- In addition, the following deviations have been noted in practice: i) decisions on the request to amend the customs declaration are made after the prescribed deadlines; ii) full implementation of Article 158 of the Law is not allowed, declarations are still forwarded electronically, iii) very restrictive approach when it comes to discounts still insists on submitting contracts in writing although it is no longer necessary.
- When performing financial analysis deciding on the approval of simplified procedures (so-called "home cus-

toms clearance”, AEO), not all facts relevant to the decision are taken into account, but the decision is based solely on Altman’s method, which is based on financial results. This can put new businesses that initially have large investments at a disadvantage.

- There is no explanation from the CA on how the duties are calculated and the customs value is determined for finished products that are exported to the territory of Serbia outside the zone, and which are produced in the free zone from materials for which exemption from customs duties was applied.
- The new customs regulations do not define temporary export as a special customs procedure, which means

that the temporary export of goods (unchanged) does not require the approval of the customs authority, but to apply the provisions relating to the export of goods. However, the customs authorities require temporary export to be applied for and an authorization issued, which unnecessarily slows down and complicates the implementation of the export procedure.

- It is necessary to prescribe a simplified procedure which defines the process of correction of the customs value of previously imported / exported goods for a longer period of time.

Free Trade Agreements (“FTA”) FTAs are applied without major difficulties, but documents of origin should be issued and processed more efficiently.

### FIC RECOMMENDATIONS

The FIC proposes the following improvements of the efficiency and transparency of the customs clearance procedure:

- Transparently communicate the planned liberalization of customs preferences with the interested industries and ensure the industry’s consent at least 12 months prior to the commencement of the preference. (3)
- We propose the following changes to customs declarations: (1) the date of issue of the customs invoice - it is recommended that the date of issue of the customs invoice should be the final date of clearance of goods and not the date of the acceptance of a declaration; 2) allow the use of a comprehensive guarantee with a reduced reference amount for several customs procedures, as well as relief from the obligation to provide the guarantee, in the manner prescribed for the transit procedure. (3)
- A significant number of legal provisions require a further specification through by-laws as well as compliance with other relevant laws, such as: (1) alignment of customs procedure with VAT Law, regarding the treatment of a foreign legal entity in a customs procedure; (2) decrease the frequency of sample-taking for core products and accept the analysis of accredited foreign laboratories; (3) adopt new Explanations of the Customs Administration related to the inward processing procedure and the procedure in free zones. Also, the opinions of the Customs Administration should contain an interpretation, and not just a citation of regulations; (4) specify the procedure for determining and changing the customs value in the event of a goods’ price change; (5) by adopting an appropriate Explanation from the CA, change the interpretation that the implementation of temporary export requires the approval of the customs authority, as this is contrary to the legislation or harmonize the regulations; (6) adoption of an act of the CA which would explain the procedure for determining and changing the customs value in case of transfer prices. (3)
- Increase the efficiency at all levels of administration: efficient handling of requests that are in the administrative procedure; a better on-line information system available to all parties involved in customs process; introducing a simplified correction of a customs document based on the correction of the quantity of goods cleared, improve the risk analysis system according to which goods and / or importer type would be identified for an accelerated or simplified import procedure. (1)
- Align the Decree on Customs Procedures and Customs Formalities with the new Customs Law, in such a way that the additional costs of the laboratory analysis are not borne by the applicant for the issuance of a binding information and abolish the fee for using customs terminals. (1)