



# SIGMA

**Support for Improvement in Governance and Management  
in Central and Eastern European Countries**

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## **SIGMA BALKANS REPORT<sup>1</sup> 2002 FORMER YUGOSLAV REPUBLIC OF MACEDONIA TRADE POLICY**

### **I. Trade-related legal and regulatory framework**

FYROM's trade policy is an essential element of the country's endeavours to complete its political and economic transition and to integrate into the multilateral trade system and the framework of trade rules of the EU. The new government, which came into office in October 2002, following the general elections in September, intends to review the existing trade legislation. However, it is not expected to reverse the trend towards trade liberalisation.

#### **1. The EU Stabilisation and Association Agreement**

FYROM was the first country to sign a Stabilisation and Association Agreement (SAA) with the Community (which is its most important trading partner). The SAA confirms and gives contractual status to the very advantageous trade preferences granted by the EC. It aims at the gradual establishment of a Free Trade Area. It contains mutual concessions on the free movement of goods and services, a mutual, while asymmetrical phase-out of customs duties, movement of workers, establishment, current payments and movement of capital. The SAA also contains clear commitments and deadlines for the progressive approximation of FYROM's legislation to that of the Community, in particular with regard to trade liberalisation.

The SAA was signed and ratified by FYROM in April 2001, but has yet to be ratified by EU Member States. In anticipation of this, an Interim Agreement on Trade and Trade related Matters was concluded between the Community and FYROM. It provides for gradual establishment of a Free Trade Area between the two partners over a period of six years, starting from the entry into force of the Interim Agreement. Pursuant to the agreement, the Community has abolished customs duties and quantitative restrictions on imports into the Community of industrial and agricultural products originating in FYROM. There are only a few exceptions for sensitive products, e.g. baby beef and wine. On the other hand, FYROM has agreed to successively reduce its customs tariffs for such products and to abolish the remaining duties by clear deadlines. The Interim Agreement entered into force on 1. June 2001.

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FYROM has established a comprehensive implementation plan for the SAA. It defines in detail the policy and legislative measures it will have to take in order to fulfil its SAA obligations. Every legislative project is scrutinised so as to ensure its compatibility with SAA requirements.

## **2. FYROM's accession to the WTO**

The second essential step towards FYROM's integration into the world trade system was its accession to the WTO. FYROM had already applied for accession in 1994, but real negotiations only started in 2000. FYROM succeeded in concluding the negotiations in a record time, as the WTO General Council decided on its accession on 15. October 2002. FYROM will now need to ratify the accession package by 31. March 2003. No difficulties are expected for the parliamentary process. The WTO accession can be expected to help FYROM consolidate the trade reforms already undertaken in the framework of the EU Stabilisation and Association process.

## **3. Legislation**

In the process of FYROM's WTO accession, trade liberalisation and enactment of new trade legislation have proceeded at a fast pace. The Law on Foreign Trade of 1993 was already relatively liberal. As a result of the creation of this law, there are no existing restrictions on the right of individuals to import and export goods into or from FYROM, except as provided for in WTO Agreements. Foreigners enjoy full national treatment in the conduct of trade. All quantitative restrictions were abolished on 31. December 1996. In 2002, this law was replaced by a new Law on Trade, in order to make it compatible with WTO and EU requirements. The new law contains rules for both domestic and foreign trade. It confirms the principles of free trade and national treatment, with the exceptions foreseen in the law itself (e.g. requirements of national security, shortages in supply, protection of health, life and environment etc.). The law also sets framework conditions for the application of safeguard measures to protect domestic industries against damaging surges of imports, import and export quotas, anti-dumping measures and countervailing duties against subsidised imports.

A new Law on Customs entered into force on 1. April 2000. A revised Law on Foreign Exchange Operations was enacted in April 2001, with a view to entering into force in October 2002. It aims primarily at harmonising domestic legislation with EU standards and liberalising foreign exchange operations and capital transactions, in conformity with the SAA. According to the Law on Trade Companies, which was amended several times between 1996 and 2001, FYROM generally provides national treatment for foreign investors, except for the ownership of real estate. In general, it does not prohibit or restrict foreign investment, including in the privatisation programme, except for sensitive sectors like the armaments industry etc.

In July 2002 alone, 30 trade-related laws were passed by the Parliament. The new government intends to review this entire package through an independent Commission. However, the general trend of FYROM's policy towards liberalisation of trade is not expected to change.

The present non-automatic licensing regime for imports is not compatible with WTO provisions and needs to be eliminated by the end of 2003. Some imports even require licensing by more than one Ministries. Indeed, the business sector complains strongly about the large degree of discretionary powers of the customs administration, which seem to be frequently misused. There also does not seem to exist any efficient and practicable way for individual importers and exporters to appeal against decisions or inactivity of customs or other administrative authorities. All this creates a climate of legal uncertainty for international trade. Therefore, the Ministry of Economy plans to replace the existing system with a system

of automatic licenses, with a view to liberalising trade, fighting corruption and improving the legal certainty of the trading environment.

Further action will also be necessary to introduce legislation in the field of standardisation, technical requirements and conformity assessment, sanitary and phytosanitary controls, to bring legislation in line with WTO and EU requirements and to upgrade relevant administrative infrastructure and capacities. This will be essential for FYROM to fully enjoy the chances for market access provided by the EU, WTO Members and FTA partners. FYROM, with technical assistance from the EU under CARDS 2001, has already made considerable efforts in this direction. The new government intends to establish new bodies for standardisation and metrology.

In the views of the Ministry of Economy and others, legislative reforms enacted so far do not suffice to effectively implement the obligations and commitments undertaken under the SAA and the WTO Agreements. There is consensus that substantive secondary implementing regulation will have to be developed to fulfil all those obligations. The Ministry of Economy views this as its main priority and is currently elaborating a plan for implementation. The plan is expected to be ready in the very near future.

#### **4. The Customs Regime**

The customs regime is regulated by a law adopted in April 1998 and is successively amended. The customs administration is established within the Ministry of Finance. According to the EC Commission's Stabilisation and Association Report of April 2002, FYROM needs to carry out further work to bring its customs system into line with that of the Community. In particular, FYROM would need to develop an efficient customs management system, establish adequate cross-border infrastructure, ensure proper revenue collection, introduce modern customs information systems and fight endemic corruption.

In the context of its accession to the WTO, FYROM has introduced a new tariff schedule and bound all of its customs tariffs. All this means a significant step toward further trade liberalisation as it entailed additional cuts in the nominal tariff rates. The simple average of all rates was expected to drop from an estimated 12,6 per cent at the time of accession to 8,0 per cent after full implementation of FYROM's commitments. In 2002, MFN customs tariffs were reduced to an average of 8,3 per cent.

Quantitative restrictions on imports are not being applied since 1996.

The new government intends to review the customs regime for imports of raw materials, including a complicated system of duty drawbacks, and the tariffs for finished products. Tariffs for raw materials might be reduced below the levels agreed upon WTO accession.

#### **5. Liberalisation of trade in services**

While the SAA only envisages the progressive liberalisation of services trade in relatively general terms, FYROM has taken significant commitments to liberalise trade in services upon its accession to the WTO. Implementing legislation is in place for banks and insurance where market access and national treatment are generally granted, with some exceptions, predominantly in the insurance sector. In the telecommunications sector, existing monopoly rights of Macedonian Telecom are set to expire on 31. December 2004. Implementing legislation for the tourism sector is under way. Most other service sectors are not fully developed and therefore not highly regulated. Particular difficulties are expected in the sectors of transportation, where monopolies exist for railways and auxiliary air transport services, and for health and education. Regulation in all these sectors will have to keep pace with the rapid economic development of these services.

## **6. Regional and bilateral trade agreements**

Bilateral trade agreements are a central element of FYROM's trade policy. FYROM has an extensive system of bilateral agreements on trade and economic co-operation with many countries around the world, but none of them provides preferential market access for goods or services. However, in addition to its preferential trade relations with the EU and starting in 1996, FYROM has concluded Free Trade Agreements (FTAs) with all its major trade partners (except for Russia and the US). FTAs exist with the Federal Republic of Yugoslavia, Croatia, Slovenia, Bulgaria, Turkey and Albania. FTAs with Ukraine and the EFTA countries establishing Free Trade Areas within ten years entered into force in 2001 and 2002, respectively. It is estimated that FTAs now cover about 80 per cent of FYROM's foreign trade. The central objective of all these agreements is the gradual establishment of Free Trade Areas. Basically, the agreements cover mutual preferences for trade in industrial and agricultural goods, general conditions and terms of rules of origin, free trade exemptions, e.g. for reasons of security or protection, payments, state aid, public procurement, protection of Intellectual Property Rights, anti-dumping etc. As a consequence of the resulting trade liberalisation, FYROM does not seem to face significant market access problems for its exports to the EU and its other major export markets.

FYROM is actively engaged in the EU Stability Pact process of developing a network of Free Trade Agreements among the Balkan countries. FYROM is a signatory to the Stability Pact Memorandum of Understanding on Trade Liberalisation and Facilitation of 27. June 2001. It has concluded FTA negotiations with all countries participating in the process, except with Romania where negotiations are expected to be concluded by December 2002. Negotiations with Moldova will be concluded next year. The agreements will entail customs free market access for exports between the partner countries. However, they will not contain operational commitments on the liberalisation of trade in services. The Parliamentary process of ratification in FYROM is expected to proceed quickly.

## **II. Trade-related institutional issues**

The principal government entity responsible for formulating and implementing foreign trade policies is the Ministry of Economy. It is co-ordinating the contributions from other government departments which are involved on particular trade issues under their responsibility. The new Minister intends to change the structure of the Ministry, but it is not yet known whether this will affect trade policy. The departments and sectors working on trade policy and European integration now have 14 staff members.

The private sector, in particular SMEs, complains that the government does not consult them sufficiently on issues of trade policy and legislation concerning their interests. While the big firms seem to be able to defend their interests at the political level, SMEs are not well organised and view themselves as being disadvantaged. There seems to be scope for improvement.

## **III. Trade-related technical assistance programmes**

During the process of WTO accession, FYROM received significant technical assistance from USAID, DFID and GTZ. In future, a resident advisor from USAID will be available for two years to assist the Ministry on implementation of WTO obligations and commitments. The Ministry does not think it will need additional technical assistance for strategic planning or drafting of trade legislation. However, it will need assistance for the next phase of its trade reform, i.e. the development of secondary regulation for practical implementation of trade laws relating to SAA and WTO obligations and commitments. Human resources to achieve all those tasks seem to be insufficient in the FYROM administration.

The 2001 CARDS programme contains a customs administration component, which will be an integral part of an overall EAR co-ordinating exercise covering all trade-related technical assistance (TRTA) projects in the CARDS 2002 programme. Under CARDS 2001, the Community also provided assistance in the field of food, sanitary and phytosanitary controls with a view to upgrading the physical structures and administrative capacities in these fields. Another relevant project, though not directly related to foreign trade, is the EAR project on Approximation of Legislation in the Internal Market Area. As a supplement to these projects, EAR is now planning another project to provide assistance on three trade-related legal components, i.e. domestic trade and consumer protection, competition and utilities. It seems that this project aims essentially at domestic policy issues and not at foreign trade. EAR intends to conduct the project in close co-ordination with the Ministry of Economy as its project partner, and with the Prime Minister's Office – Sector European Integration. Indeed, the latter suggests the project should be specified more to its needs. However, the Ministry of Economy, as the lead agency for foreign trade matters, does not have a comprehensive concept defining its needs for further technical assistance in this field.

#### **IV. Recommendations and priorities**

The government of FYROM and the Ministry of Economy should give priority to the following course of trade policy action:

- in the planned review of existing foreign trade legislation, maintain the course of liberalisation;
- in potential changes to the structure of the Ministry of Economy, ensure that trade policy will continue to play a strong role in the country's overall policies;
- despite the advanced state of foreign trade legislation, consider carefully which additional legislation may be required to fulfil SAA and WTO obligations and commitments;
- develop a comprehensive strategy for establishing secondary regulation for implementation of SAA and WTO obligations and commitments;
- strengthen the Ministry of Economy's capacity to deal with secondary regulation;
- consider further reduction of the relatively high MFN customs tariffs to third countries;
- complete the Stability Pact process of concluding Free Trade Agreements, and ensure timely ratification and implementation, including, where necessary, capacity building in the administration and elsewhere;
- implement full elimination of the current licensing regime for imports as undertaken upon WTO accession, and replace it by a more liberal, transparent and trade facilitating regime;
- develop legislation and regulation for services markets in step with the rapid development of markets, and implement fully the GATS commitments undertaken upon WTO accession;
- improve consultation and co-ordination of planned trade policy measures with the business community, in particular, small and medium sized enterprises;
- assess needs for further technical assistance in the area of trade policy in co-operation with business and the donors' community.