

## Brussels Agreement on Customs Revenue Collection

17th January 2013

Conclusions of the Chair, Customs WG, 10-17 January 2013:

In line with previous relevant Agreed conclusions, (in particular on IBM)<sup>1</sup>, with CEFTA agreement, the Lisbon Treaty, and relevant EU legislation<sup>2</sup> and given that both Parties are part of the EU's Western Balkan agenda, the Parties have agreed to the following:

### A. Collection of customs duties, excises duties and VAT:

1. All goods, regardless of type, quantity and value, may enter Kosovo\* through the IBM CPs in Jarinje/Rudnica-Jainjë and in Tabavije/Bërnjak - Tabalije/Brjnak.

2. For goods released into free circulation and destined for companies and undertakings registered and/or individuals residing in Leposaviq/ć, the north of Mitrovicë/a, Zubin Potok and Zvečan/Zvečan, all applicable customs and excise duties as well as VAT will be collected in accordance with paragraph 3 at the facilities located at the CPs in the common IBM zone (hereinafter referred to as " ZCP") if these goods entered via the Jarinje/Rudnica-Jainjë and Tabavije/Bërnjak - Tabalije/Brjnak CPs. All other goods entering via the Jarinje/Rudnica-Jainjë and Tabavije/Bërnjak - Tabalije/Brjnak CPs will be directed to the Mitrovicë/a south Terminal for release.

3. The release procedures, including all necessary controls, will be done on the Kosovo side by Kosovo authorities in accordance with their legal responsibilities and liabilities under their jurisdiction (including Customs, Excise and VAT rates), with full respect for human rights guaranteed by European and international standards; EULEX will be present, in line with and for the duration of its mandate<sup>3</sup>, and in accordance with the IBM agreement.

4. Registration of companies and undertakings referred to under paragraph 2 will be undertaken for the purpose of this agreement. Registration will be based on existing documentation and in accordance with paragraph 3.

5. For companies and undertakings in Leposaviq/ć, the north of Mitrovicë/a, Zubin Potok and Zvečan/Zvečan established before the entry into force of this agreement, all previously existing registration documents will be automatically considered valid for the purpose of the registration.

Following the entry into force of this agreement, new company/ undertakings registrations will be carried out on the Kosovo side of the ZCP by Kosovo authorities in accordance with their legal responsibilities and liabilities under their jurisdiction, with full respect for human rights guaranteed by European and international standards; EULEX will be present, in line with and for the duration of its mandate<sup>4</sup>.

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<sup>1</sup> One party recognises the line as a border; the other party recognises the line as an administrative boundary.

<sup>2</sup> in particular Council Regulation (EC) N0 2007/2000 of 18 September 2000 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process, as amended.

\* This designation is without prejudice to positions on status, and is line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo Declaration of independence.

<sup>3</sup> As defined by Council Joint Action 2008/124 CEFSP, Article 3, Section a

<sup>4</sup> As defined by Council Joint Action 2008/124 CEFSP, Article 3, Section a

All relevant documentation can be used for the registration and collection of revenues.

6. As agreed in the IBM conclusions, all information and evidence collected in the implementation of the aforementioned operations will be mutually shared by the Parties and shared in accordance with IBM Agreed documents, including the Technical Arrangement.

#### B. Development Fund:

7. A Development Fund (hereinafter the Fund) is to be established to promote the socio-economic development, and for the benefit of the local population in Leposaviq/ć, the north of Mitrovicë/a, Zubin Potok and Zvečan/Zvečan.

8. The operation of the Fund will be decided by a Management Board. The Management Board will be composed of three members, one representative of the Serb community who is residing in either Leposaviq/ć, the north of Mitrovicë/a, Zubin Potok and Zvečan/Zvečan, one representative of the Kosovo authorities and one representative of the European Union Special Representative for Kosovo (EUSR). The EUSR will invite the aforementioned representatives after consultations with the stakeholders of the Fund. The Management Board will decide by consensus. In case of repeated inability to reach consensus, the EUSR may use a casting vote to uphold the purpose of the Fund, including the adoption of provisional Terms of Reference.

9. The revenues collected at the CPs in Jarinjë/Rudnica-Jainjë and in Tabavije/Bërnjak - Tabalije/Brjnak will be transferred into an account of the Fund established in a commercial bank in Pristina determined by the EU.

#### C. Transitional provisions:

10. The Parties further agree that within 3 days of the entry into force this agreement, Kosovo and EULEX officials should have an unimpeded access to the CPs, including by road, in respect of this agreement and previous IBM conclusions. Every possible effort, including through public statements at the highest political level, will be made to that extent.

11. Within 7 days of the entry into force of this agreement, the Fund will be established at the initiative of the EUSR who will open the aforementioned deposit account.

12. The collection of the customs and excises duty as well as VAT at the CPs in Jarinjë/Rudnica-Jainjë and in Tabavije/Bërnjak - Tabalije/Brjnak will start immediately after the establishment of the Fund.

The Kosovo authorities will ensure that the documentation issued (temporary form) to the companies and undertakings will contain specific information about the destination of the revenues.

13. Within 30 days of the entry into force of this agreement, the Parties will have adopted the necessary regulations to implement this agreement and will have repealed regulations in contravention with the aforementioned.

14. There will be no disbursement of the revenues deposited into the Fund until the Parties decide otherwise.

15. Arrangements on registration are on a temporary basis.

#### D. Final provisions:

16. This agreement enters into force on 19 January 2013 at 00.00.

17. The implementation of this agreement will be reviewed by a monitoring working group (WG) chaired by the EU and composed of the Parties. The WG will primarily concentrate on ensuring that the registration process as per paragraphs 4 and 5 will be of use for this agreement only.