

PARLIAMENTARY ASSEMBLY OF THE BLACK SEA ECONOMIC COOPERATION
PABSEC

DOC: GA 2981/97

Athens, 18 June 1997

THE NINTH PLENARY SESSION OF THE PABSEC GENERAL ASSEMBLY
THE ECONOMIC, COMMERCIAL, TECHNOLOGICAL AND ENVIRONMENTAL
AFFAIRS COMMITTEE

REPORT *

ON

“THE IMPROVEMENT OF CUSTOMS REGULATIONS
OF THE BSEC PARTICIPATING COUNTRIES”

RAPPORTEUR: MR. THEODOROS KASSIMIS, Vice-Chairman of the Economic,
Commercial, Technological and
Environmental Affairs Committee
(GREECE)

* *Adopted by the Assembly on 18 June 1997 in Athens*

BACKGROUND - PREVIOUS RECOMMENDATIONS AND DECISIONS

1. The promotion of free trade, sustained economic development and co-operation and the achievement of prosperity, stability and peace in the Black Sea region constitute the wide objectives for both the BSEC and PABSEC.
2. These objectives were reflected since the very first Recommendation passed from the PABSEC, the *Recommendation 1/1994 on the "Improvement of Customs Regulations Among the BSEC Member Countries"*, adopted by the Assembly on 21 June 1994 in Bucharest. The Recommendation aimed at establishing conditions favourable to free trade among the member states through the reduction or gradual elimination of obstacles and restrictions of all kinds in regard to customs regulations, and was calling for the Parliaments to take urgent steps towards the mutually beneficial modification of customs legislation among the BSEC member countries. Additionally, it recommended to the Governments of the BSEC member countries to take the necessary steps in order to initiate the gradual elimination of any trade barriers among them.
3. Recognising the all-encompassing scope of the above harmonisation procedure the General Assembly adopted in Ankara, on 29 November 1995, *Recommendation 12/1995 on the "Follow-up of the Implementation of the Recommendations 1-11"*. The Recommendation invited and called upon the National Parliaments and Governments of the PABSEC Member Countries to undertake concrete steps in order to facilitate the harmonisation of the legislation in customs regulations, aiming at establishing favourable conditions for the development of free trade among the BSEC Participating states.
4. In Tbilisi, the Assembly passed on 11 December 1996 the *Recommendation 16/1996 on the "Development of Cooperation in the Field of Trade and Business Among the BSEC Member Countries"* which reinstated its determination to push forward with the measures already adopted in Recommendations 1/1994 and 12/1995.

PRESENT OUTLOOK

5. There are tremendous differences in the practices, policies and legal frameworks of the Black Sea participating states concerning their customs regulations.
6. One of the participating states (Greece) is a full member of the European Union; one (Turkey) is an associate member in customs union with it; two (Bulgaria and Romania) have signed European agreements; six (Armenia, Azerbaijan, Georgia, Moldova, the Russian Federation and Ukraine) have signed partnership and cooperation agreements; one has signed a trade, commercial and economic cooperation agreement with the EU; the relevant provisions of the partnership and cooperation agreements of three of them (Moldova, the Russian Federation and Ukraine) with the Union envisage negotiations on the establishment of a free trade area between them. Therefore it is necessary to accelerate the harmonisation of all BSEC Participating States' legislation on customs regulations with relevant EU procedures.

7. Simultaneously, six of the BSEC States are members of the Commonwealth of Independent States being parties to free trade area agreements, including one belonging to a customs union with third countries while some BSEC States provide tariff preferences to one another.

8. Mentioning the above, it becomes clear that the establishing of a BSEC Free Trade Area requires practical measures -including in the field of customs- to be given high priority in order to ensure harmonisation and compatibility of laws and practices between the member states.

9. In addition to these efforts, new free-trade zones must be established among the BSEC countries, to which the BSEC Member States will also be the partners in operation. Moreover, standard free-trade zone legislation, as well as common legislation for the already existing free-trade zones must be introduced.

10. To that end Governments and Parliaments, the Black Sea Trade and Development Bank, the business community and academic bodies should join forces to develop a clear vision on the future regional partnership in the Black Sea area. Countries in the region can benefit from learning from each other's experience, so that improvement can be brought on within the region as a whole.

11. Nevertheless, the envisaged process has up to that point barely started, since only a fraction of the necessary measures has been implemented by the participating countries. The BSEC countries have done very little to harmonise their national legal frameworks in order to create a common set of rules governing intra-regional trade, to build up necessary infrastructures that will facilitate trade creation, to implement joint projects and attract foreign investors.

12. In general terms, trade policy in most BSEC economies continues to be subject to frequent adjustments, often justified by a still unstabilised economic environment, an underdeveloped private sector and revisions in overall reform strategy.

13. Additionally the notification of trade policy measures is not systematically ensured and trade regulations are often non-transparent to external operators, including for other BSEC countries. Insufficient predictability and transparency of trade regulations as well as the lack of harmonisation of trade policy among the BSEC countries thus make the development of intra-regional trade relations more difficult.

14. An important step to overcome the above difficulties is the creation of an advisory body, equipped with an electronic databank, which will collect all existing regulations on customs procedures of the BSEC Participating States. To that end, BSEC could seek the technical assistance of the European Union.

15. The above stated problems are deemed extremely serious since, as it is illustrated by the experience of other regional initiatives, the success of the BSEC greatly depends on the development of the economic complementarity among participating countries. This economic complementarity will be the cornerstone of the BSEC integration process, but it has to be recognised from all parties involved that up to this point little progress has been made towards that direction.

NEW DEVELOPMENTS

16. Considering recent developments in the field of international trade policy and decisions on the regional level, the Economic, Commercial, Technological and Environmental Affairs Committee decided once again to place on the agenda of the

Assembly the issue of customs regulations, since it is high time to move towards the direction of *concrete* proposals on such an issue lying at the core of the BSEC countries' cooperation process.

17. In this context a series of recent developments are relevant to the process of trade expansion between the BSEC participating states:

RELATED BSEC MEETINGS

18. The BSEC-European Commission Workshop on Border Crossing Improvement and Trade Facilitation in the Black Sea Region in Edirne on 11-13 November 1996.

19. The meeting was attended by representatives of BSEC and the European Commission. The participants agreed on a number of recommendations, concerning the following principal action categories, each consisting of a number of sub-categories: (i) customs procedures, (ii) working methods, (iii) co-operation between agencies, (iv) information to the public, (v) personnel, (vi) infrastructure, (vii) equipment, and, (viii) automation/computerisation.

20. The workshop proposed the establishment of a Task Force composed of suitable representatives of national customs and other border authorities that will focus attention on issues relating to border crossing movements and pursue the principal action points referred above. Forming a customs Working Group instead of a Task Force in the structure of BSEC will bring out more practical results in solving the above mentioned action points.

21. The OECD Policy Meeting on Trade and Foreign Direct Investment Liberalisation in the Black Sea Economic Cooperation held in Istanbul on 15-16 October 1996.

22. The meeting assessed recent developments in the Black Sea Economic Cooperation and recommended to the Governments of BSEC countries to undertake the following actions:

- (i) Consolidate macroeconomic stabilisation and pursue structural reforms particularly with respect to the development of the private sector;
- (ii) Establish an adequate legal and institutional framework;
- (iii) Harmonise trade and foreign direct investment policies in line with multilateral disciplines, and;
- (iv) Remove bureaucratic obstacles to trade and investment in particular by simplifying customs clearance procedures and harmonising product standards.

23. The Moscow Declaration of the Heads of State or Government of the Participating States of the Black Sea Economic Cooperation on 25 October 1996.

24. The Heads of State or Government of the Participating States of the Black Sea Economic Cooperation strongly restated in their Moscow Declaration the determination of their countries and peoples to make the Black Sea region a zone of peace, stability and economic prosperity.

25. Streamlining a future strategy of the Black Sea cooperation process, the leaders decided to promote the development of the Black Sea region as an area where the principles of free international cooperation and partnership, democracy and market economy prevail, thus ensuring for the Black Sea region an

appropriate place in a new Europe of cooperation and integration. Therefore they called upon private sector representatives and other business communities of the BSEC participating states and extraregional states to use more efficiently their potential in the interest of cooperation in order to ensure economic growth, a potential which has become possible as a result of the on-going political reforms and structural transformations in the Black Sea region.

26. Most importantly they stated that the competent BSEC bodies together with the appropriate Ministries of the participating states, after taking into account the obligations of several BSEC states deriving from their participation in international organisations, should aim at giving impetus to the trade cooperation in the Black Sea region by accelerating the introduction of a regime of mutual trade preferences between the BSEC states, and examine in 1997 the **possibilities for creation in the BSEC region of a free-trade area.** Undoubtedly, regulations concerning customs comprise a major issue in the process towards that goal.

27. Black Sea Economic Cooperation Special Meeting of Ministers of Foreign Affairs with the participation of the Ministers responsible for Economic Affairs on 7 February 1997 in Istanbul.

28. The participants adopted the 'DECLARATION OF INTENT FOR THE ESTABLISHMENT OF THE BSEC FREE TRADE AREA' which represents a decisive moment contributing to the developing of intra-regional trade expressed by the opinion of the participants in the Special Meeting that the Declaration will contribute to the developing of intra-regional trade and economic links in the region with the view to achieve in the future a higher degree of cooperation of the participating states.

29. The Ministers requested the PABSEC to discuss this subject in its respective Committees.

30. SINGAPORE MINISTERIAL DECLARATION OF THE WORLD TRADE ORGANISATION

31. In December 1996 the Ministers of Trade of the World Trade Organisation signatory states held their first meeting in Singapore. In the Declaration adopted on 13 December 1996 the Ministers expressed their belief that the growth in trade in services and direct investment, and the increasing integration of international economies offer unprecedented opportunities for improved growth, job creation and development.

32. In pursuit of the goal of sustainable growth they renewed their commitment to:

- a fair, equitable and more open rule-based system;
- progressive liberalisation and elimination of tariff and non-tariff barriers to trade in goods;
- progressive liberalisation of trade in services;
- rejection of all forms of protectionism;
- elimination of discriminatory treatment in international trade relations;
- integration of developing countries and economies in transition into the multilateral system; and
- the maximum possible level of transparency.

33. The Conference participants noted that trade relations of WTO members are being increasingly influenced by regional trade agreements, which have

expanded vastly in number, scope and coverage. They recognised that such initiatives can promote further liberalisation and may assist developing and transition economies in their efforts to integrate into the international trading system. In this context they note the importance of existing regional arrangements involving developing countries and countries in transition.

34. The Ministers reaffirmed the primacy of the multilateral trading system, which includes a framework for the development of regional trade agreements, and renewed their commitment to ensure that regional trade agreements are complementary to it and consistent with its rules. They also decided to continue working through progressive liberalisation with the WTO, and in doing so to facilitate mutually supportive processes of global and regional trade liberalisation.

35. The participants stressed that where legislation is needed to implement WTO rules, members should be mindful of their obligations to complete their domestic legislative process without further delay. Conclusively, each member state should carefully review all its existing or proposed legislation and measures to ensure their full compatibility with the WTO obligations, and should make appropriate changes where this is necessary.

MEMBER STATES CONTRIBUTIONS

36. The member states contributed the following recommendations for the subject of customs regulations. They recommended:

37. Armenia

- (i) To reduce or gradually overcome the obstacles and limitations regarding customs regulations by eliminating in the national legislation conditions that hinder bilateral trade.
- (ii) To establish customs mechanisms in the spirit of the principles of the GATT and WTO.
- (iii) To ensure information exchange among the participating states with a view to promote the elimination of inadequacies in national legislation and to establish a harmonised net of customs regulations in accordance with the principles of GATT and other international agreements regulating world trade.
- (iv) To develop agreements on customs duties, tariffs, non-tariff barriers, international transportation and trade.
- (v) To enhance customs control of the participating states (weapons, ammunition, drugs and objects of national cultural heritage).
- (vi) To establish conditions for mutual recognition of customs documentation and customs safety (seal, lead seal, marking).
- (vii) To organise exhibitions, meetings and training of customs mechanisms which will facilitate the establishment of new mechanisms of customs cooperation.
- (viii) To adopt urgent agreed measures in national parliaments towards the direction of establishing between the participating states more facilitated customs regulations.

38. Azerbaijan

- (i) To further promoting harmonisation of trade and investment policy in compliance with provisions of multilateral agreements.
- (ii) To develop cooperation in trade, tourism etc.

39. Greece

- (i) To harmonise the legislation of the BSEC participating states with the international standards in order to provide the necessary point of reference for all further discussions on that matter, and to incorporate into their domestic legislation a number of relevant, to customs regulations, provisions of GATT Agreements, concerning inter alia:

(a) Valuation of goods for customs purposes

“the value for customs purposes of imported merchandise should be based on the actual value of the imported merchandise on which duty is assessed, or of like merchandise, and should not be based on the value of merchandise of national origin or on arbitrary or fictitious values” (Art. VII, par. 2a of the GATT), and

“the customs value of imported goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the country of importation” (Art. 1, par. 1 in the ‘Agreement on Implementation of Article VII of the GATT’ of the Tokyo Round).

(b) Fees and formalities connected with import and export

“all fees and charges of whatever character (other than import and export duties and other than taxes within the purview of Article III) imposed by contracting parties or in connection with importation or exportation shall be limited in amount to the approximate cost of services rendered and shall not represent an indirect protection to domestic products or a taxation of imports or exports for fiscal purposes” (Art. VIII, par. 1a), and

“the contracting parties also recognise the need for minimising the incidence and complexity of import and export formalities and for decreasing and simplifying import and export documentation requirements” (Art. VIII, par. 1c).

(c) Transparency in the publication and administration of trade regulations

“laws, regulations, judicial decisions and administrative rulings of general application, made effective by any contracting party, pertaining to the classification or the valuation of products for customs purposes, or to rates of duty, taxes or other charges, or to requirements, restrictions or prohibitions on imports or exports or on the transfer of payments therefore, or affecting their sale, distribution, transportation, insurance, warehousing, inspection, exhibition, processing, mixing or other use, shall be published promptly in such a manner as to enable governments and traders to become acquainted with them” (Art. X, par. 1).

- (ii) To strive to reach the goal of a BSEC Free Trade Area, to eliminate tariffs, duties and non-tariff barriers through the progressive harmonisation of legislation and through the conclusion of bilateral trade agreements. A first

important step towards that direction is to accord either the Most-Favoured Nation treatment to the BSEC partners, or to accord them a preferential status.

- (iii) To complete a comprehensive legal study and create a corresponding data bank (possibly financed by the EU programmes concerning assistance to economies in transition) in order to determine (i) the international and regional legal standards concerning customs regulations, (ii) the existing international obligations and the domestic legal regulations of each BSEC state, (iii) to what degree do the international obligation of the BSEC states permit a more favourable treatment of the BSEC partners, and finally (iv) which legal instruments concerning customs regulations should be adapted to the internationally recognised standards (e.g. bilateral treaties between the BSEC countries).
- (iv) Greece is bound by the pertinent legislation of the European Community, the common commercial policy, as well as by the common customs tariff. However, Greece intends to exhaust any faculty given to it by the EU legislation, in order to accord more favourable treatment to the BSEC partners.

40. Romania

- (i) To identify the problems and the priority fields that require the initiation of concerted actions in order to simplify and standardise the customs documents and procedures in accordance with the international practices.
- (ii) The BSEC participating states to adhere to the WTO rules in order to implement uniform trade rules and disciplines unanimously accepted on international level.
- (iii) To develop border cooperation in order to fluidify the traffic, to simplify the customs procedures and to develop data processing at the frontier stations.
- (iv) To develop cooperation in the phyto-sanitary and veterinary fields in order to improve the customs procedures in accordance with international regulations.
- (v) To implement shared customs regulations in the expansion process of free trade zones among the BSEC participating states, in accordance with the European and International rules.
- (vi) To organise, with the support of concerned organisations (EEC/UN, UNCTAD, OECD, EU etc.) seminars, courses and meetings for the improvement of customs regulations on the international level and particularly in BSEC participating states which aim at joining European economic structures.
- (vii) To continue within the framework of the BSEC competent bodies the information exchange regarding the foreign trade regulations of the BSEC participating states, and to develop customs cooperation between the concerned authorities on bilateral and multilateral level.

41. Russian Federation

- (i) To welcome in the possible PABSEC recommendations the activities initiated within the BSEC together with the relevant ministers of the BSEC participating states aimed at the study of establishing a BSEC Free Trade Area in compliance with the WTO regulations and not affecting the existing obligations of the BSEC countries related to their membership to other organisations.
- (ii) To note as a positive fact the establishment of a special group of experts for carrying out on regular basis the studies, elaboration and coordination of the

measures aimed at simplification and harmonisation of customs and other border-crossing formalities among the BSEC participating states.

CONCLUSIONS

42. Promoting regional integration in the Black Sea region can bring considerable economic benefits to all participating countries of the region in terms of increased regional stability, sustained economic activity and better attractiveness of the region for foreign direct investment.

43. Pursuing regional integration policies and pooling financial resources within the region will greatly contribute to the improvement of the general economic environment for the expansion of the private sector and the rapid development of necessary regional infrastructures. Private sector development and FDI inflows to the region will be enhanced by a stable and predictable legal and institutional framework, especially if established in co-ordination with other countries and in compliance with multi-lateral rules. This is to a large extent reassured since the requirements for the creation of a BSEC Free-Trade Area are fully compatible with the provisions of the first Ministerial Conference of the World Trade Organisation in Singapore to which four member countries are full-fledged members, while all the others have applied for accession.

44. For this wider cause to succeed the rules governing BSEC integration must be transparent and not create additional barriers to trade. This objective will be achieved only if the countries succeed to establish a stable and predictable legal framework for domestic, foreign firms and joint ventures and harmonise contradictory regulations in member countries. Nevertheless, measures taken so far are lagging far behind the expressed will of the members of Governments and Parliaments of the countries of the Black Sea.

45. The establishment of a BSEC Free-Trade Area represents a complex, but urgent and of utmost importance target which could be attained only through major economic and legislative measures supported by political will in all member countries. Speeding up the preparation of bilateral and multilateral agreements on customs regulations constitutes a basic pillar of any future agreement towards this wider goal.

46. A project of such a magnitude in its design, implementation and monitoring can only be achieved through close interaction between the National Governments and Parliaments, while both BSEC and PABSEC shall take the lead in working-out the comprehensive framework for this project, setting a clear schedule of implementation.

47. The necessity to move forward and pursue concrete measures makes the setting-up of a joint BSEC-PABSEC interaction mechanism of paramount importance to the success of the project. While BSEC is called upon to stimulate in any way the National Governments to conclude agreements on customs regulations, the PABSEC should work in closely with the National Parliaments to support such agreements and to ratify the respective instruments.

48. The adoption by the Special Meeting of the Ministers of Foreign Affairs with the Participation of the Ministers Responsible for Economic Affairs of the DECLARATION OF INTENT FOR THE ESTABLISHMENT OF THE BSEC FREE TRADE AREA poses a real challenge to both the BSEC and the PABSEC, and to the respective national

Governments and Parliaments, for the appraisal and implementation of a concrete programme of measures conducive to the attainment of this goal. Customs regulations constitute an integral part of the above measures and represent an urgent priority issue for the process leading to the establishment of the BSEC Free Trade Area.