

17 September 2013

Screening report

Montenegro

Chapter 33 – Financial and budgetary provisions

Date of screening meetings:

Explanatory meeting: 15 May 2013

Bilateral meeting: 26 June 2013

I. CHAPTER CONTENT

This chapter covers the rules concerning the financial resources necessary for the funding of the EU budget ('own resources'). These resources are made up from so-called traditional own resources from customs duties and sugar levies, which are levied by the Member States on behalf of the EU; a resource based on value-added tax; and finally, a resource based on each Member State's gross national income. Member States must have appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of their own resources' contributions. The *acquis* in this area is directly binding and does not require transposition into national law.

II. COUNTRY ALIGNMENT AND IMPLEMENTATION CAPACITY

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

Montenegro indicated that it can accept the *acquis* regarding chapter 33, financial and budgetary provisions and that it does not expect any difficulties with implementing the *acquis* by the date of accession.

II.a. Traditional Own Resources

Montenegro informed about its alignment with EU customs legislation, including the operational set-up of the customs administration and its implementing capacity; existing IT infrastructure as well as current customs rules and procedures in place. (Customs issues are essentially covered by *chapter 29 - Customs Union*.)

Montenegro stated that the Customs Law, its implementing provisions, the Rulebook on the content, methods of lodging and filing the customs declaration and the Decree on the method of collecting public revenues form the main legal basis for the collection of customs duties. Within the Customs Administration, which falls under the Ministry of Finance, it is the Revenue Collection Department which is responsible for the collection of customs duties and the daily transfer thereof to the national budget.

The Montenegrin customs tariff has been updated in line with the 2013 version of the EU Combined Nomenclature, although Montenegro informed that the adoption of the Customs Code remains pending. Duties are paid or guaranteed before the release of goods, however, no guarantee is requested for amounts below EUR 500. The enforcement of recovery powers is restricted to the blocking of infringing debtors' bank accounts and the seizure of goods and further selling thereof in view of using the funds for the payment of debts is not yet possible.

Montenegro notified that 99% of all customs declarations are submitted and cleared electronically and that there is a direct link between the customs IT clearance system and the accounting system within the customs IT system. On the release of goods, calculated duties from the customs clearance processing system are automatically uploaded in real time in the customs accounting system, irrespective of whether the duties have been paid, guaranteed or contested. Within the financial module, 98% of the payments can be automatically matched with the calculated duties and there is a 100% match between the amounts of duties in the customs clearance and financial modules. Montenegro furthermore notified that it will update its IT systems to ensure inter-operability with those of the EU.

As regards the administrative conditions necessary for compliance with the traditional own resources rules as laid down in Regulation (EC) No 1150/2000, Montenegro indicated that the existing financial module will have to be upgraded with the Traditional Own Resources IT application for keeping A&B accounts and producing the related A&B account statements.

There are no sugar producers in Montenegro. Therefore, no sugar production levies will have to be raised.

II.b. VAT resource

Montenegro informed on its alignment with EU VAT legislation, including the organisational aspects of the VAT administration and its implementing capacity.

Montenegro stated that the legislative framework which forms the legal basis for the collection of VAT is based on the domestic law on tax administration and on VAT, which in turn is based on the 6th VAT Directive, 77/388/EEC. Montenegro informed that its legislation has not yet been adapted to directive 2006/112/EC, which replaced the 6th VAT directive. The various requirements of the VAT law are administered through the Tax Administration, which is part of the Department for Tax and Customs Systems within the Ministry of Finance.

VAT and interest payments are booked separately under different revenue codes and penalties for non-compliance with VAT rules are imposed by services other than the Tax Administration. Montenegro operates a flat-rate VAT scheme for farmers and economic operators with an annual turnover equal to or less than EUR 18 000 are tax exempt. Montenegro indicated that it was aware that compensations will have to be calculated for own resources purposes to neutralise the budgetary impact concerning this provision.

Montenegro indicated that it is in the process of updating its IT systems in order to assist with the calculation of the Weighted Average Rate. Montenegro is aware of the necessity to calculate the Weighted Average Rate, given that there are currently three rates in operation: A standard rate at 19%, a reduced rate at 7%, as well as a genuine 0% rate for specific supplies such as medicines.

Montenegro indicated that at this stage, it had not been able to present or calculate the VAT base or to estimate its proportion to GNI. Montenegro informed that these are calculations which it is looking to undertake.

II.c. GNI resource

Montenegro informed on its compliance with the administrative criteria related to the GNI own resource. MONSTAT uses the ESA 95 methodology for calculating Gross Domestic Product (GDP). For Gross National Income (GNI), MONSTAT has made first test estimates. Additionally, MONSTAT is also working on the implementation of ESA 2010. In order to bring its legislation in line with that of the *acquis* in the area of GNI, Montenegro has been receiving grants as part of the 2010 IPA programme.

II.d. Administrative infrastructure

Montenegro stated that it intends to establish a coordinating body to streamline and steer pre-accession preparations. The establishment of a coordination unit is the first step to building an efficient own resources system as various services belonging to different ministries or

departments are involved. Separately, Montenegro also informed that it intends to open an account in the name of the Commission with the Central Bank of Montenegro in order to pay its share towards the EU's own resources.

III. ASSESSMENT OF THE DEGREE OF ALIGNMENT AND IMPLEMENTING CAPACITY

Overall, Montenegro has reached a good level of alignment with and capacity to implement the *acquis*. There are no significant divergences between the Montenegrin and the EU system concerning the basic principles and institutions in the underlying policy areas linked to the application of the own resources system. In order to prepare for the full application of the *acquis*, Montenegro will need to continue to align with the relevant *acquis* chapters, in particular *chapter 16- taxation, chapter 18- statistics, chapter 29-customs union, and chapter 32- financial control*. Although the *acquis* in this area does not require transposition, Montenegro will need to establish coordination structures and implementing rules so as to ensure the correct calculation, collection, forecast, payment and control of own resources and reporting to the EU for implementation of the own resources rules. Also, effective instruments to combat customs duty and VAT fraud will need to be set up so that the financial interests of the EU can be protected.

The Commission will assess the budgetary impact of Montenegro's accession at a later stage of the negotiations. The results of the impact assessment will be presented together with the financial framework for concluding the negotiations.

III.a. Traditional Own Resources

Montenegro's legislation is reasonably aligned with the *acquis* in the field of customs (dealt with under *chapter 29-customs union*). Appropriate procedures and systems for accounting and making available of traditional own resources remain to be put in place. In particular, existing accounting systems will have to be brought in line with the EU requirements in order to ensure that separate accounts are kept to distinguish between recovered/guaranteed and outstanding debts as required by Regulation (EC) No 1150/2000 (the so-called 'A' and 'B' accounts).

The Montenegrin write-off system for irrecoverable debts needs to be amended in order to align it with Article 17(2) of Regulation (EC) No 1150/2000, in particular for established customs duties which are deemed irrecoverable after specific time limits. Although rules on incurrence of customs debts, debtor notification and deferred payments are aligned with EU rules, the 8-day payment deadline as well as payment deadlines in case of deferred payment related to global supplementary declarations will need to be brought in line with the *acquis*.

Post-clearance auditing at traders' premises is at an early stage and will need further developing. Moreover, it remains to be established what types of independent internal and external control/audit will be performed on the collection, accounting and making available of Traditional Own Resources (e.g. management controls, controls by the internal audit service of the customs administration, etc.; dealt with under *chapter 32 – Financial control*). OWNRES¹ working procedures will have to be set up to report cases of fraud and irregularities.

As Montenegro has no sugar production, there is no need to set up the administrative and legal framework for sugar levies.

¹ Web based application for notifying the Commission of cases of fraud and irregularities

III.b. VAT resource

Montenegro's VAT system follows the main structure of EU legislation and the Montenegrin law on VAT is based on the 6th VAT Directive, 77/388/EEC, where Montenegro will need to amend its legislation in accordance with directive 2006/112/EC, which replaced the 6th VAT directive. (dealt with under *chapter 16 - Taxation*). Moreover, there are still some exemptions and reduced rates that will need to be aligned with the *acquis*. Montenegro still needs to improve its administrative capacity on VAT. Solid co-ordination within the Tax Administration will be required to assure a structured and integrated approach to all own resources matters. Integration of the IT taxation and IT customs systems will also improve the overall performance in both areas.

Montenegro will need to develop the capacity to accurately calculate the Weighted Average Rate, including the calculation of any compensations and corrections to offset the negative impact of possible derogations on the VAT resource base. For this an update of its IT system will be insufficient and Supply and Use tables will need to be produced by MONSTAT in order to break down all final consumption of the various VAT rates in use. It is too early at this stage to present an estimate of the VAT base or to estimate its proportion to GNI. At this stage, calculations concerning the country's future possible capping status derived from the calculation of the ratio of VAT to GNI are still outstanding. Montenegro will be required to provide accurate calculations and assessments of this figure.

III.c. GNI resource

Montenegro is partially compliant with the ESA 95 standards for calculating GDP figures, in accordance with Council Regulation (EC) No 2223/96 (dealt with under *chapter 18- Statistics*). Considerable efforts will be required to improve the methodological compliance with the European standards and to create an inventory of sources and methods used for the completion of national accounts as well as to estimate GNI. MONSTAT is already working on the implementation of ESA 2010 standards.

Montenegro will need to agree on a work plan, identifying all areas where EU assistance is required to ensure further alignment and compliance with the *acquis*.

III.d. Administrative infrastructure

In addition to further strengthening administrative capacity in the underlying policy areas (customs, taxation, statistics & financial control), a fully operational coordination structure will be required so as to ensure the correct calculation, forecast, collection, payment and control of own resources and reporting to the EU for implementation of the own resources rules. Currently, preparations in the pre-accession period are managed and coordinated by the Ministry of Finance. This coordination structure will need to be strengthened and formally established. Besides steering and coordinating pre-accession preparations, the coordinating structure will have to establish the organisational and procedural links between the various institutions involved in own resources. Capacity building in view of the increased tasks post-accession will also need to be ensured.