

# Screening report

## Montenegro

### Chapter 30 – External relations

**Date of screening meetings:**

Explanatory meeting: 14 May 2013

Bilateral meeting: 12 June 2013

## I. CHAPTER CONTENT

The *acquis* in this field consists mainly of directly applicable EU legislation which does not require transposition into national law. This EU legislation results principally from the EU's multilateral and bilateral commercial commitments, as well as from a number of autonomous trade measures. In the area of export credits and dual-use goods, some elements of the *acquis* require transposition into national legislation in order to have fully capable administrations from the day of accession.

Applicant countries are required to progressively align their commercial policies towards third countries and their positions within international organisations with the policies and positions adopted by the European Union and its Member States, so as to be able to implement EU common commercial policy upon the date of accession.

In the area of humanitarian and development policy, Member States need to comply with EU legislation and international commitments and ensure the capacity to participate in the EU's development and humanitarian policies.

## II. COUNTRY ALIGNMENT AND IMPLEMENTATION CAPACITY

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

Montenegro indicates that it can accept the *acquis* regarding external relations and that it does not expect any difficulties to implement the *acquis* by the time of accession.

Montenegro stated that it is prepared to align its legislation where necessary and assume the EU's bilateral and multilateral commitments in this field by the time of accession.

Montenegro declares that it will provide for adequate administrative capacities so as to secure its participation and implementation in the EU's common commercial policy as well as in the EU's development and humanitarian policies.

### II.a Common Commercial Policy

The trade policy of Montenegro is largely determined by its membership in the World Trade Organisation (WTO), the Stabilisation and Association Agreement (SAA) with the European Union as well as by the Central European Free Trade Agreement (CEFTA), which links it with its Western Balkan neighbours. The SAA and CEFTA cover over 90% of trade of Montenegro. All products, including agriculture, are fully liberalised under CEFTA.

Regarding goods, all of Montenegro's WTO-agreed tariffs are bound *ad valorem* and tariff reductions will be phased out during the period up to 2022. The WTO bound rate for agricultural products is 14.79% and 4.44% for industrial products. The most favoured nation (MFN) average applied rate is 5.79% in 2013, 14.09% for agricultural products and 3.35% for industrial products.

Regarding services, under the GATS (General Agreement on Trade in Services), Montenegro undertook commitments in 136 subsectors of services. In addition, it took horizontal commitments as regards public utilities, legal entities limitations on branches, agencies and representative offices, subsidies, real estate, temporary entry and stay of natural persons.

Montenegro has observer status in the WTO Agreement on Government Procurement (GPA) and has recently started accession negotiations to the GPA.

The Law on Foreign Trade represents the main legal basis regulating the implementation of Montenegro's trade policy. Trade defence instruments (anti-dumping, countervailing, and safeguard measures) are enshrined in the Law on Foreign trade. Montenegro stated that trade remedies are consistent with WTO rules; they have not been applied so far.

Montenegro does not apply a Generalised System of Preferences (GSP), but is a beneficiary of the GSP benefits of other countries (Japan, USA, Norway, Russian Federation, Ukraine, Belarus and Kazakhstan).

Unlike the EU, Montenegro does not apply any particular trade restrictions on textile imports.

Trade policy is designed and implemented by the Ministry of Economy. Its department for economic relations employs 23 people. The Ministry of Agriculture is in charge of agriculture trade. The Ministry of Finance is in charge of customs. There are 20 customs employees responsible for controls of origin and other certifications. Trade statistics are collected at the National Office for Statistic and in the Central Bank.

#### Export credits

Montenegro stated that it does not provide any export credits at the moment and that it does not plan to provide them in the near future.

The existing regulation in Montenegro (Article 59 of the Decree on criteria, conditions and manner for granting state aid) allows for state aid in the form of guarantees for export credit insurance against non-market risks. The Law on Investment and Development Fund allows the funding of export incentives (Article 12).

#### Export Controls

Montenegro is not a member of any international fora which define regimes for dual-use goods. The Law on export control of dual-use goods is the main legal basis in this area.

Montenegro states that it has harmonised its legal framework with Regulation (EC) No 428/2009. Alignment is on-going with regard to Directive 2009/43/EC on simplifying terms and conditions of transfers of defence-related products, as well as Directive 2010/80/EU as regards the list of defence-related products. According to Montenegro, the harmonisation process should be finalised in 2014.

Montenegro states that it will organise seminars and training sessions for the employees of the Ministry of Economy and the Customs Office in charge of controls of dual use goods.

Montenegro is not a participant to the Kimberley process. To further harmonize its national legislation with regards to Regulation (EC) No 2368/2002 implementing the Kimberley process, the Ministry of Economy is preparing to amend the Law on Foreign Trade, which will include provisions on the control of imports and exports of rough diamonds.

Regarding the application of trade controls prescribed in Regulation (EC) No 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, Montenegro stated that it has partially harmonised its legislation. The Ministry of Economy plans to adopt a new law on foreign trade in weapons, military equipment and non-military lethal devices, which will regulate exports controls of items listed in the EU regulation.

## **II.b. Bilateral agreements with third countries**

Montenegro currently applies Free Trade Agreements (FTAs) with the EU, Ukraine, the Russian Federation, Turkey and all EFTA countries. Montenegro is a party to the Central European Free Trade Agreement (CEFTA).

Montenegro has signed Economic Cooperation Agreements with 16 countries. Besides 9 agreements with EU countries (Austria, Bulgaria, Czech Republic, Croatia, Greece, Hungary, Germany, Slovenia and Spain), these include Azerbaijan, Qatar, United Arab Emirates (UAE), Turkey, the Former Yugoslav Republic of Macedonia and Serbia. The main aim of these agreements is to further economic cooperation, support business community partnerships and create a strategy for mutual accession in third markets.

Montenegro has concluded bilateral investment agreements (BITs) on the promotion and reciprocal protection of investments with 14 EU countries, including Austria, Belgium-Luxembourg Economic Union, Denmark, Czech Republic, Finland, France, Greece, Netherlands, Cyprus, Malta, Germany, Poland and Spain providing guarantees for the protection of foreign investments. Montenegro has also concluded 7 Bilateral Investment Treaties (BITs) with non-EU countries: Azerbaijan, Israel, Qatar, UAE, Turkey, the Former Yugoslav Republic of Macedonia and Serbia.

Montenegro states that it will denounce its free trade agreements upon accession to the EU, Montenegro states that it is willing to bring all of its other international agreements in conformity with the *acquis* by the time of accession. All FTAs and BITs include a withdrawal clause, which either terminates the agreement automatically on the day of accession, or asks for the withdrawal be invoked 6 months (FTAs) or 1 year (BITs) prior to the desired termination.

## **II.c. Development policy**

Within the Ministry of Foreign Affairs and European Integration, Montenegro established a Directorate General for Economic and Cultural Cooperation (DGECC) which is acquiring the administrative capacities and responsibilities for implementing development and humanitarian aid policy.

No statistics on Montenegrin development aid interventions is available. Montenegro states that the DGECC will collect data on provided aid, prepare the methodology of calculating its value and will aim at establishing the legal framework for operations.

Montenegro states that it acts upon the relevant political commitments, such as the European Consensus on Development, the UN Millennium Declaration, the Paris Agenda, the Acra Agenda for Action and the Busan Partnership.

Montenegro states that it implements the Millennium Development Goals since 2010 in accordance with a commitment to their implementation by 2015 pursuant to the Millennium Declaration, and that so far the Government of Montenegro has adopted two reports on the implementation of MDGs. Development of new indicators is envisaged from 2015; These indicators will reflect the legislative and institutional frameworks for development aid of Montenegro.

#### **II.d. Humanitarian aid**

In Montenegro, several institutions are involved in humanitarian aid policy: the Ministry of Foreign Affairs and European Integration, the Ministry of Sustainable Development and Tourism, the Ministry of Labour and Social Welfare (Office for Refugees) and the Ministry of the Interior – Directorate for Emergency Management (Direction for Civil Protection and Humanitarian Aid). Montenegro engages in humanitarian aid on an ad-hoc basis. Montenegro is still considering the options for strengthening institutional capacities in charge of humanitarian aid.

### **III. ASSESSMENT OF THE DEGREE OF ALIGNMENT AND IMPLEMENTING CAPACITY**

Overall, Montenegro has reached a good level of alignment with the *acquis* in the field of external relations. The EU is its main trading and investment partner. Within the WTO, Montenegro has committed to the levels of liberalisation which are similar to the EU. In the field of development policy and humanitarian aid, Montenegro only recently started to develop its own policies. In all three policy areas, Montenegro will have to continue upgrading its administrative capacities.

#### **III.a Common Commercial Policy**

Montenegro will need to fully apply the EU commercial policy as of accession. In this context, it will need to apply the EU external tariff for all products and services.

Montenegro's WTO bound tariffs are on average similar to the EU bound tariffs.

Montenegro does not use a GSP scheme and does not plan to introduce one. As of the day of accession, it will need to apply the EU GSP scheme, which shall not disrupt its economy in view of its very limited imports from the countries on the GSP list.

Montenegro's commitments under GATS are more liberal than those of the EU. Member States can keep different commitments, as long as they do not prevent them from applying the *acquis* in this area.

As regards the EU accession process, Montenegro does not need to become a party to the WTO GPA on government procurement prior to accession. Montenegro should avoid entering into commitments that would lead to request for compensation after the accession.

Montenegro's administrative capacity for participation and implementation of EU commercial policy is at a satisfactory level.

### Export credits

Montenegro does not operate an export scheme and does not plan to introduce one. In case, the country decides to put in place such a scheme, it will have to be aligned with the relevant *acquis* under this chapter and Chapter 8: Competition policy.

### Export Controls

Montenegro's legislation in this area is partially aligned with the *acquis*. Montenegro has been aligning its dual use legislation in the context of an EU financed project. It has reached good results and is preparing to secure further alignment to the relevant regulations. Montenegro will need to ensure its continued alignment to EU export control regulations in light of regular amendments. In particular, it will need to align its controls towards obligations defined by the EU regulations on anti-torture and the Kimberley process.

Full implementation of export controls of dual-use goods will require further improvements in administrative capacity, especially in terms of regular training and good coordination across responsible ministries and agencies.

Montenegro is not a member of any international agreements on dual use controls. Montenegro's active participation in these fora would enable it to further align to the *acquis* obligations on dual use goods. This is particularly valid for cooperation under the Wassenaar agreement.

### **III.b. Bilateral agreements with third countries**

Montenegro needs to denounce all its free trade agreements on the day before accession.

The impact of changes of the preferential trade regime will be most important in the case of the CEFTA agreement, which engages Montenegro with its neighbours and represents 40% of Montenegro's trade. Montenegro will need to engage with its partners in order to arrange the smooth denouncement of this agreement.

The existence of the FTA with Russia and the recent creation of the Eurasian Customs Union imply that Montenegro has to negotiate adaptations to this FTA, and then withdraw from this FTA upon its accession to the EU.

Montenegro's BITs with third countries include clauses which are not compatible with the *acquis*. These agreements will have to be brought in conformity with the *acquis* by the date of accession.

Montenegro will need to implement, from the day of accession, Regulation (EU) No 1219/12 establishing transitional arrangements for bilateral investment agreements between Member States and third countries.

### **III.c. Development policy**

Montenegro is committed to the main principles of EU development policy. It has demonstrated its commitment by endorsing the development policy agenda through the UN. However, Montenegro has not yet developed its own policy and corresponding methodology to evaluate its effectiveness, in particular the measuring of development assistance in line with the OECD/ODA methodology. Montenegro will need to put this capacity in place by the time of accession.

#### **III.d. Humanitarian aid**

Montenegro has in place some capacities for humanitarian interventions and provides humanitarian aid on cases by case basis. These interventions are not yet coordinated with the EU. Montenegro will need to build up further its institutional capacity to administer future increases in its humanitarian aid activities which will come with the EU membership. In addition, Montenegro will need to develop its humanitarian policy in line with the principles laid down in Article 214 TEU, the European Consensus on Humanitarian Aid and Council Regulation (EC) No 1257/96. The future participation of Montenegro in the EU Civil Protection Mechanism, for which the country has recently expressed interest, is expected to contribute to the improvement of the national capacities.