



Support to the Secretariat of the Trade Working Group of Table II of the Stability Pact: SE Europe Regional

Assessment of the Revised Reports submitted by SEE Countries on Latest Developments Concerning Non-Tariff Barriers

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Glossary of Abbreviations

ASYCUDA	Automated System for Customs Data
BiH	Bosnia and Herzegovina
EC	European Community
EU	European Union
FTA	Free Trade Agreement
JC	Joint Committee
NTB	Non-Tariff Barrier to Trade
SEE	South Eastern Europe
SECIPRO	Southeast European Cooperative Initiative of PRO Committees ¹
S&M	Serbia and Montenegro
SP	Stability Pact for South Eastern Europe
TRQ	Tariff Rate Quota
TTFSE	Trade and Transport Facilitation in Southeast Europe
UNMIK	United Nations Mission in Kosovo
WB	World Bank
TWG	Trade Working Group of Working Table II of the Stability Pact for South Eastern Europe
WTI	World Trade Institute
WTO	World Trade Organization

¹ A "PRO Committee" is a body that seeks to increase business and investment by simplifying and modernising procedures and information exchange in administration, commerce and transport.

Executive Summary

SEE countries have submitted (revised) country reports on their efforts regarding the identification, review and elimination of Non-Tariff Barriers. These reports cover measures of SEE countries listed in tables 1 and 5 of the EC-SECO report. The reports demonstrate that SEE countries have made some progress in addressing these Non-Tariff Barriers. Such progress is very often the result of adopting new laws and regulations that either remove the measures in question, or minimize their trade-distorting effect or make the environment in which these measures apply more transparent. It should be noted that in many instances the adoption of new laws and regulations is part of a wider process that consists in harmonizing domestic legislation with EC legislation. This process is, however, somewhat uneven in that some SEE countries are clearly more advanced than others in conducting this exercise; this unevenness might create problems of its own. Irrespective thereof, it is worth mentioning that the adoption of pertinent laws and regulations is only one step in addressing the trade-distorting potential of Non-Tariff Barriers. The implementation and administration of these laws and regulations by national agencies and authorities is equally, if not more, important; this crucial facet tends to be somewhat neglected by the country reports.

The (revised) country reports show that some areas are particularly affected by Non-Tariff Barriers. These areas include in particular:

- Border/customs measures; including import licensing;
- Measures affecting cross-border road transport;
- Product regulations and standards.

The (revised) country reports also demonstrate that there is still room for improving the process of identifying, reviewing and eliminating Non-Tariff Barriers. This is especially true in respect of the following aspects:

- An integrated, intra-governmental approach to identifying, reviewing and eliminating Non-Tariff Barriers, in which reference/focal points are a key component;
- Close bi- and regional cooperation between and among SEE countries in overcoming Non-Tariff Barriers.

I. Introduction

- (1) On 29 November 2005, the Trade Working Group of Table II of the Stability Pact (*TWG*) compiled a document containing reports provided by South Eastern European (*SEE*) countries (hereinafter referred to as *country reports*) on latest developments concerning Non-Tariff Barriers to trade (hereinafter referred to as *NTBs*). These country reports were submitted in accordance with the approach for the reduction and elimination of NTBs agreed by the TWG (hereinafter referred to as *agreed approach*). These country reports were subject to an initial assessment by WTI Advisors/WTI. The results of this assessment were then communicated to SEE countries. On the basis of this assessment, most of the SEE countries revised their country reports and submitted these revised reports to TWG; this process was completed in early June 2006.
- (2) According to the agreed approach, SEE countries commit to report by 1 October 2005 in writing to the TWG on their plans to address, *inter alia*, the issues -- and the progress they have made in this respect -- set out in tables 1 and 5 of the EC-SECO report. Table 1 of the EC-SECO report relates to “general measures affecting exports or imports that countries apply for reasons of national policy”, whereas table 5 of the same report refers to “non-specific complaints made by traders that require clarification prior to further action”. The EC-SECO report consolidated and merged the tables and recommendations of two separate reports, one on “Helping to tackle non-tariff barriers in the Western Balkans”,² the other on “Helping to tackle non-tariff barriers in South Eastern Europe (the Eastern Balkans)”³. The agreed approach provides that these two reports “will form the basis for countries’ continuous efforts to identify, review and eliminate NTBs”.
- (3) TWG has asked WTI Advisors Ltd., Geneva Branch/WTI, Berne, to assess the aforementioned (revised) country reports on the basis of the following parameters:
 - their completeness;
 - the validity of arguments advanced;
 - proposals of issues for the next country reports;
 - their conformity with the recommendations of the EC-SECO report;
 - a brief evaluation of the (revised) country reports;
 - identification of key unresolved issues; and
 - an outline of key topics to be treated in, and guidelines for, the country reports for 2006.
- (4) While some of the aforementioned parameters are *formal* in nature (e.g. the completeness of the country reports as well as their conformity with the recommendations in the EC-SECO report), some of them are *substantive* in nature (e.g. the validity of arguments advanced; key unresolved issues). Assessing the country reports on the basis of these substantive criteria necessarily entails a critical evaluation of the country reports’ contents. It should also be understood that if

² The report of the European Union CARDS Programme covers Albania, Bosnia and Herzegovina, Croatia, Macedonia and Serbia and Montenegro (S&M), UNMIK/Kosovo, and has been completed in December 2004.

³ The report of SECO covers Romania, Bulgaria and Moldova, and has been completed on February 18, 2005.

one criterion is met it does not necessarily mean that other criteria are met, too. For instance, the fact that a country report is complete does not mean that (all of) the arguments advanced in that report stand up to critical scrutiny.

- (5) We have pursued the following methodological approach with respect to the above parameters: the first section addresses each (revised) country report individually and: (i) assesses the extent to which each report is complete; (ii) evaluates the validity of the arguments advanced in each report; and (iii) proposes issues to be addressed by the next country report, if deemed necessary or appropriate (see below II.). The second section revisits some of the arguments that are advanced in several country reports and thus warrant a closer examination (see below III). The third section deals with the remaining parameters (conformity of the reports with the recommendations of the EC-SECO report, key unresolved issues, brief evaluation, and outline of key topics in, and guidelines for, future reports) but does so in a summary fashion in order to avoid redundancy, since most of the country reports raise the same or similar issues with respect to the remaining parameters. Therefore, we have summarized the main points under each of these parameters as they emerge from the various country reports (see below IV.).

II. Assessment of the Revised Country Reports

- (6) The following SEE countries have submitted (revised) reports: Albania, Bosnia and Herzegovina (*BiH*), Bulgaria, Croatia, Macedonia, Moldova, Serbia & Montenegro (*S&M*), Romania and UNMIK/Kosovo. Almost all of them, except for two countries, used the template (specific table format) of the EC-SECO report to give an overview of their present situation regarding NTBs.
- (7) Although the degree of specificity of the country reports varies from report to report, all of them provide relevant information and clarification on how the process of identifying, reviewing and eliminating NTBs, to which the SEE countries have committed in accordance with the agreed approach, is conducted in the respective countries.

I. Albania

a) Assessment of the Revised Albanian Report

- (8) Albania's revised report follows the template established in the EC-SECO report. In addition, Albania's report provides a narrative description of the measures it has taken to tackle NTBs. Against this backdrop Albania's report has to be considered as being complete (except for one measure mentioned, but not commented upon, in table 1) and allows an assessment of whether and to which extent Albania has made progress in reducing/eliminating the NTBs listed in table 1 of the EC-SECO report.
- (9) Albania stresses in its report, first of all, that "the process of reduction/removal of NTBs" forms part of the overall process "on regulatory reform and governance" which Albania is currently undertaking. Yet Albania also points out that it "has experienced some delays in this respect".

Irrespective of this delay, Albania has taken substantive as well as procedural steps in addressing the issue of NTBs.

(10) The substantive measures include the following:

- a decree issued by the Ministry of Economy, Trade and Energy that reduces the number of imported products subject to inspection at the border by 50%;
- substantive changes to the system of customs valuation, including unified customs valuation procedures, an on-line verification system, emphasis on the transaction value as the primary method for customs valuation purposes, a right of appeal;
- removal of the requirement to obtain veterinary licenses for the import, and the transit, of livestock animals (the explanation on this issue remains somewhat vague, however);
- review of import licenses and proposal to remove import licenses for the following products: registered medicines, dentist materials and dentist/medical devices/equipment;
- ongoing work on harmonizing the Albanian labeling requirements with EU requirements.

(11) The procedural measure consists of a Task Force that has been set up under the leadership of the Albanian Prime Minister. This Task Force is responsible for monitoring the process of regulatory reform in Albania, including the process of reducing/eliminating NTBs. To this end, the Task Force will liaise with the business community whose representatives will be asked to participate in meetings of the Task Force. The Task Force will carry out its task on the basis of an “Action Plan” that was approved by the Council of Ministers in March 2006. The Action Plan mainly focuses on four issues: (i) developing the “managerial” system of the regulatory reform process; (ii) removing administrative barriers to business; (iii) improving the quality of the regulatory framework; and (iv) monitoring and evaluating the regulatory reform process.

(12) In addition to the foregoing, the report stresses Albania’s concern that SEE “countries may work according to different priorities, which may not serve the region as a whole”. To mitigate such concern, the report suggests “having a forum for discussions with experts/reference points to elaborate the future actions in respect to regional harmonization”. The first such action, according to the Albanian report, could be “a regional Action Plan with concrete steps and deadlines on the mutual recognition of Conformity Assessment Bodies throughout the region”. Bearing in mind that some SEE countries have started to adopt or implement EC regulations and standards whereas others have not, the concern expressed in the Albanian report appears to have a real background.

(13) It must be noted, though, that, according to Albania, the regional forum is supposed to act as “the liaison” between the TWG and the SEE countries’ reference points and to “work on a common approach” for the reduction/elimination of NTBs. It is open to question whether a regional forum would not (at least to a certain extent) duplicate the work undertaken within the TWG. Bearing this concern in mind, it is certainly worthwhile pursuing Albania’s idea further, provided the relationship of such forum to the TWG is clarified and their respective tasks are precisely demarcated.

b) Proposed Issues for the next Albanian Report

(14) Taking the above assessment into account, the next report of Albania could cover the following issues:

- update on both the proposed removal of import licenses for certain products and the review of remaining import licenses;
- progress on harmonizing Albanian labeling requirements with pertinent EU requirements
- confirmation that veterinary licenses for the import and transit of livestock animals are no longer required; and
- further comment on the relationship between the proposed regional forum and TWG.

2. Bosnia and Herzegovina (BiH)

a) Assessment of Revised BiH's Report

(15) The revised BiH report follows the template (table format) of the EC-SECO report and addresses all of the measures listed in table 1 of the EC-SECO report (no measures are listed in table 5 of the EC-SECO report with respect to BiH). Therefore, the report has to be considered as being complete.

(16) The first measure of BiH in table 1 of the EC-SECO report refers to inefficiencies and inconsistent decisions due to border and customs regimes operated by different entities. In this respect, BiH reports that an “Indirect Tax Authority” has been created which is responsible for “the implementation of the customs policy at the State level”. This means that implementation of customs policy has been centralized at the state level. Moreover, a new “State Law on Customs Policy” has been adopted at the end of 2004. This law contains relevant rules and procedures on customs issues, to be implemented and administered by the Indirect Tax Authority. Although these new measures seem to address the issue of different border and customs regimes in BiH, it remains unclear whether the State Law on Customs Policy provides for review/appeal mechanisms regarding decisions taken by border and customs offices.

(17) The second measure of BiH in table 1 of the EC-SECO report relates to separate border procedures between BiH and S&M due to a lack of agreement between the two sides. In this context, BiH's report states that an agreement on border crossings has been signed between BiH and S&M but has not yet been ratified by either side. It should be expected that this agreement, once it enters into force, will facilitate the cross-border movement of goods and passengers between the two countries.

(18) The third measure of BiH in table 1 of the EC-SECO report concerns a special arrangement between the Republic Srpska, on the one hand, and Serbia, on the other, on the imposition of

fixed levies. This special arrangement finds its basis in an agreement on “special and parallel links” between the two entities. According to BiH, the special arrangement only relates to “issues of science, technology and culture”. This explanation does not coincide, however, with the previous comment of BiH pursuant to which fixed levies are imposed “to equalize the impact of special levies” on both sides.

- (19) The fourth measure of BiH in table 1 of the EC-SECO consists of deposits for imports of certain goods pending the verification of their origin and their eligibility for duty-free (preferential) treatment. In this context, BiH’s report points out that the payment of these deposits is still required but only “in the event of serious doubts concerning the origin of goods”. BiH’s report does not reveal which situations can give rise to “serious doubts concerning the origin of goods”. If customs enjoys a broad margin of discretion, this could give rise to a high number of inspections, undermining the goal of limiting inspections to those instances where verification of origin is indeed called for.
- (20) The fifth measure of BiH in table 1 of the EC-SECO report is concerned with the licensing system for imports which is said to be complex and inefficient. BiH’s report refutes this claim by pointing out that import licenses are granted automatically within ten days and applications can only be denied if being incomplete. Furthermore, BiH’s report states that import licenses are required only for: (i) goods for animal and plant reproduction and health care purposes; (ii) drugs, medicines, blood fractions of blood and similar pharmaceutical products; and (iii) explosives, arms, and military equipment. It appears that the first two categories are somewhat vaguely defined so that it is difficult to determine the scope (i.e. the exact product coverage) of these import license requirements.
- (21) BiH’s report confirms that all imports of food products that are not thermally treated require both an import and a veterinary license prior to importation of such products (this is the sixth measure of BiH in table 1 of the EC-SECO report). It remains unclear, though, why it would be necessary to require an import license and a health certificate for all imported food products that are not thermally treated, or on which (international) standard such requirement is based. BiH insists that this practice can only be changed “if all Western Balkan countries will do that in the same time”.
- (22) The seventh and eighth measure of BiH in table 1 of the EC-SECO report refer to imports of animals and animal products. While imports of animals and animal products require an import license prior to importation, imports of meat are only allowed if slaughtered in EU approved abattoirs or abattoirs that meet the required standards for veterinary conditions. With respect to the first measure, BiH’s report states that efforts are being made to achieve harmonization with EU standards, including through the recent establishment of a Food Safety Agency. As regards the second measure, BiH’s report informs that the Veterinary Law is in compliance with EU law (see below III on the issue of compliance with EU standards/legislation).

b) Proposed Issues for the next Report of BiH

- (23) In line with the foregoing assessment, the next report of BiH could address the following issues:

- BiH could provide pertinent information on the relevant contents of the State Law on Customs Policy, especially review/appeal mechanisms;
- BiH could further explain the special arrangement between the Republic Srpska and Serbia;
- BiH could highlight which type of situations may give rise to “serious doubts” regarding the origin of imported goods.

3. *Bulgaria*

a) **Assessment of the Revised Bulgarian Report**

(24) Bulgaria’s revised report follows the template established in the EC-SECO report and also provides a narrative description of the measures Bulgaria has taken to tackle NTBs. Therefore, the revised Bulgarian report is complete.

(25) Bulgaria’s revised report points out that import licensing requirements are maintained “for a very limited number of products” exhaustively listed in the report. Among these products are:

- those imported for the implementation of projects under treaties for technical cooperation for which budgetary payments should be released;
- polygraphic production for use similar to securities.

It is not entirely clear why these two groups of products require import licenses.

(26) Regarding the first Bulgarian measure in table 1 of the EC-SECO report, namely price controls on tobacco, Bulgaria informs that these controls will soon be replaced by an obligation to notify prices. The information does neither say who needs to be notified of the tobacco prices nor why such notification is deemed to be necessary.

(27) As regards the first complaint mentioned in table 5 of the EC-SECO report (domestic content requirement for investments above 500,000 Euros), Bulgaria does not provide any new comment. As regards the second complaint in table 5 of the EC-SECO report, Bulgaria insists that its domestic legislation provides that import licenses are issued within 5 days upon receipt of an application. The report does not specify whether the corresponding Bulgarian administrative practice is in line with that legal condition.

b) **Proposed Issues for the next Bulgarian Report**

(28) In view of the above assessment, the next Bulgarian report could deal with the following matters:

- the reasons for requiring import licenses for products imported in accordance with treaties for technical cooperation and polygraphic production for use similar to securities;
- the reasons for requiring notification of tobacco prices;

- the domestic content requirements for certain investments; and
- the administrative practice relating to the issuing of import licenses.

4. *Croatia*

a) **Assessment of the Croatian Report**

- (29) The Croatian report adheres to the template established by the EC-SECO report but does not provide any comments on measures under tables 1 or 5 of the EC-SECO report. This is because neither table 1 nor table 5 lists any measure concerning Croatia. Notwithstanding this state of play, Croatia does report on measures mentioned in tables 2 - 4 of the EC-SECO report although that was not required under the agreed approach; therefore, Croatia has submitted more information on NTBs than would have been necessary. The report contains information both on Croatian measures invoked by other SEE countries, and measures taken by other SEE countries that are invoked by Croatia. In the following, only the former (i.e. the Croatian) measures will be addressed.
- (30) As regards Croatian measures listed in table 2 of the EC-SECO report, three SEE countries complained of these measures: Bulgaria, S&M (Serbia) and BiH. The Croatian report does not comment on the Bulgarian complaint. The complaint by S&M (Serbia) concerning restrictions on meat imports has led to an agreement on veterinary cooperation between the two sides which will provide the basis for dealing further with this issue. BiH raised five complaints in respect of Croatian measures. Two complaints relate to the allegedly discriminatory treatment of alcoholic and non-alcoholic beverages. In this respect, Croatia maintains that its “rules on the quality of beverages” are applied in a non-discriminatory manner. Two further complaints concern overly burdensome testing requirements for both imported agricultural and non-agricultural products. Regarding testing requirements for imported non-agricultural products, Croatia has asked for further clarifications. Regarding testing requirements for imported agricultural products, Croatia maintains that its requirements are non-discriminatory. It should be noted, however, that the issue of overly burdensome testing requirements is not an issue of discrimination. Rather, allegedly overly burdensome border measures raise the issue of whether such measures are more trade restrictive than necessary. Finally, one complaint specifically concerns a ban on imports of thermally treated sausages. Croatia states that its measure “follows recommendations of OIE Manual”.
- (31) With respect to Croatian measures contained in table 3 of the EC-SECO report, five complaints were raised by BiH. The first complaint refers to the non-implementation of an agreement on testing facilities. Regarding this complaint, Croatia states that this is a short-term problem if the two sides can agree on terms and procedures for the joint committee set up by said agreement. This statement does not clarify, though, why the two sides have not yet been able to agree on such terms and procedures and which conditions must be met for that to happen. The second complaint relates to the non-recognition of chemical analyses carried out in BiH by Croatia; this complaint is not addressed in Croatia’s report. The third and fourth complaint concern

discriminatory treatment of cigarettes imported into Croatia from BiH (discriminatory marking system and excise tax rates). Croatia rejects these two complaints on the ground that it does not import cigarettes from BiH. Further, Croatia maintains that it does not apply either a discriminatory marking system or discriminatory rates of excise tax on imported cigarettes. In respect of both complaints, Croatia claims that it is “trying to combat the illegal import of cigarettes”. It does not clarify, however, which (border) measures it is taking to achieve this aim. The fifth complaint is concerned with Croatian requirements for transport licenses. Croatia argues that its agreement with BiH on license-free bilateral transport does not apply to transport from and to third countries. Rather, such transport requires licenses “which two countries exchange on the basis of reciprocity”. The Croatian report does not state, though, why transport from and to third countries needs to be licensed.

b) Proposed Issues for the next Croatian Report

(32) Bearing in mind the above assessment and the fact that Croatia reported on tables 2 – 4 of the EC-SECO report although that was not required, the next Croatian report could address the following issues:

- Croatia may want to provide information on the Bulgarian complaint concerning a lack of mutual recognition of testing procedures and laboratories;
- Croatia may wish to further clarify its requirements regarding its testing requirements for agricultural and non-agricultural imports;
- Croatia may want to give some more explanation in respect of the agreement on testing facilities with BiH;
- Croatia may wish to comment on BiH’s second complaint concerning non-recognition of chemical analyses carried out in BiH;
- Croatia may want to further clarify the measures taken to combat illegal imports of cigarettes; and
- Croatia may wish to provide some guidance regarding the licensing requirement for transport from and to third countries (except bilateral transport between Croatia and BiH).

5. Macedonia

a) Assessment of the Revised Macedonian Report

(33) Although the revised Macedonian report still does not follow the template of the EC-SECO format it presents the information on all of its measures mentioned in tables 1 and 5 of the EC-SECO report in a transparent manner. Therefore, the report is complete.

(34) Regarding the first measure in table 1 of the EC-SECO report (import quotas on certain products imported from S&M), the Macedonian report states that bilateral trade “shall be completely liberalized and quantitative restriction shall not exist” once the new Free Trade

Agreement, concluded between the two sides, enters into force. This agreement “was initialed on May 31 2005, while the implementation is expected to start in January 2006”. The second measure in table 1 of the EC-SECO report is “burdensome import licensing procedures”, including for imported donated goods. The Macedonian report points out that the import licensing procedures will be reviewed “in order to facilitate trade”. It also underlines that no import licenses are required for donated goods. The Macedonian report does not say, though, which principles will guide the review of existing import licensing procedures; hence, it is difficult to assess to which degree trade will eventually be facilitated. Macedonia claims, however, that the process of issuing import licenses is transparent and administered in a neutral and non-discriminatory manner.

(35) The third measure in table 1 of the EC-SECO report consists of origin determinations not being based on EUR1 certificates. The Macedonian report informs that “this barrier is completely removed” because preferential treatment will be granted even “in case of invoice in third country”. The fourth measure in table 1 of the EC-SECO report concerns Macedonia’s non-access to the pan-European system of origin cumulation.⁴ The Macedonian report highlights that Macedonia “has initiated the access” to this system and “the negotiations for trilateral cumulation (Macedonia-Croatia-EU)” are due to commence soon. On the fifth measure in table 1 of the EC-SECO report (payment to different agencies with border responsibility is required for customs clearance), Macedonia reports that a project for “Integrated Border Management” (IBM) has been launched “that supports multidisciplinary access including Border Police, Customs Administration and Veterinary and Phytosanitary inspection”. This project is embedded in the regional CARDS project “Support to and Coordination of IBM Strategies in the Western Balkans” whose implementation is due to start in autumn 2006. The IBM strategy for the Western Balkans rest upon three main components: (i) trade facilitation, (ii) border control, and (iii) border region cooperation.

(36) With respect to the measure listed in table 5 of the EC-SECO report (no sampling approach for customs inspection at the border), the Macedonian report emphasizes that “this barrier is completely removed” because Macedonia now applies a system of “selective procedures which are based on analyses of risk”.

b) Proposed Issues for the next Macedonian Report

(37) In light of the above, the following issues could be taken up by the next Macedonian report:

- Macedonia may wish to highlight what results, if any, the review concerning its import licensing requirements has produced; and
- Macedonia may want to report on the progress in implementing the Integrated Border Management project.

⁴ We would like to note that this issue ought to appear in table 4 rather than table 1 since it is a problem that occurs more widely in the region.

6. *Moldova*

a) **Assessment of Moldova's Report**

- (38) Moldova follows the template of the EC-SECO report but only comments on (most of the) measures contained in table 1 of the EC-SECO report; it does not comment on measures mentioned in table 5 of that report, however. For this reason, Moldova's report cannot be considered as being complete.
- (39) The first measure in table 1 of the EC-SECO report is the excessive number of government agencies/windows at the border. Moldova's report indicates that it has enacted a law at the end of 2004 on "revising and optimizing the regulatory framework for entrepreneurs". The information it provides in this context does not reveal, though, whether and to which extent said law will lead to a reduction of the number of government agencies/windows at the border. The second measure in table 1 of the EC-SECO report is a lack of efficient customs information systems. The report of Moldova underlines that it has implemented ASYCUDA which ensures "the transfer and checking of documents electronically". The lack of an efficient information system for customs thus has been overcome. The third measure in table 1 of the EC-SECO report is poor equipment of border authorities. Moldova's report stresses that feasibility studies on the procurement of scanners and X-rays are being prepared for consideration by Moldova's government "in order to take the appropriate and optimal decision". It follows that the border authorities are still poorly equipped at this point in time. Moreover, the report does not indicate by when new equipment will be procured to remedy the situation.
- (40) The fourth measure in table 1 of the EC-SECO report is insufficient training of government officials on rules of origin. Moldova's report informs that technical assistance is being sought but does not indicate which (international) institutions/organizations have been contacted in this respect. Hence, government officials are still not sufficiently versed in issues of rules of origin. The fifth measure in table 1 of the EC-SECO report is delays of customs clearance due to SPS testing. Moldova reports in this context that "there is a lack of financial resources to provide laboratories with modern equipment". It must be concluded, therefore, that delays of customs clearance due to SPS testing continue.
- (41) The sixth measure in table 1 of the EC-SECO report is the requirement that exporters have to repatriate the revenues resulting from their export transactions within 90 – 180 days. Pursuant to Moldova's report, this period of time has been extended, on average, to one year. Hence, the requirement of repatriating export revenues continues to apply. As regards the seventh measure in the EC-SECO table -- the non-availability of state-run export systems -- Moldova appears to take the view in its report that its WTO obligations prevent it from providing state-run export systems. This view seems too narrow as Article 3.1 (a) of the SCM Agreement only prohibits subsidies contingent on export performance but not the provision of export support *per se*. State-run support for export operations is compatible with the SCM Agreement as long as such support

is not granted on terms that are not available in the marketplace.⁵ Moldova's report omits the eighth measure in table 1 of the EC-SECO report (opening of bank accounts abroad needs permission by the National Bank of Moldova). Moreover, the report does not comment on the ninth (liquidity problems) and tenth (lack of insurance opportunities) measure in table 1 of the EC-SECO report, respectively.

(42) According to Moldova's report, the lack of reliable statistics -- measure number eleven in the EC-SECO report -- is "not relevant". The report offers no explanation as to why such statistics are deemed to be irrelevant. As regards the last measure (number 12) in table 1 of the EC-SECO report -- no independent veterinary agencies --, Moldova's report stresses that the "National Strategy for Developing Quality Infrastructure" reorganizes and adjusts public authorities. However, no specific information on the measure at issue is given, i.e. whether veterinary agencies are covered by said strategy and, if so, what changes that would actually entail for the latter.

b) Proposed Issues for Moldova's next Report

(43) In view of the foregoing, the following issues could be covered by the next report:

- Moldova should report on its measures listed in table 5 of the EC-SECO report and on those measures listed in table 1 of the same report on which it did not provide any information;
- Moldova should further clarify how the law on revising and optimizing the regulatory framework for entrepreneurs will affect the issue of the excessive number of government agencies/windows at its borders;
- Moldova should explain when it intends to take the decision on procurement of new equipment for its border agencies;
- Moldova should further comment on its efforts to obtain technical assistance regarding training on rules of origin;
- Moldova should highlight why it still imposes a repatriation requirement for revenues from export transactions;
- Moldova should further comment on why it considers reliable statistics as irrelevant; and
- Moldova should point out how its national strategy for developing quality infrastructure covers its veterinary agencies and how it will affect them.

⁵ See the report of the Appellate Body in *Canada - Aircraft*, where it stated: "... the trade-distorting potential of a 'financial contribution' can be identified by determining whether the recipient has received a 'financial contribution' on terms more favourable than those available to the recipient in the market" (WT/DS70/AB/R, para. 157)

7. *Romania*

a) **Assessment of the Revised Romanian Report**

- (44) Romania's revised report follows the template established in the EC-SECO report and has to be considered as being complete.
- (45) Table 1 of the EC-SECO report lists two Romanian measures that relate to the implementation of EC standards on plant protection and agricultural products. The Romanian report takes the view that "these issues cannot be considered as NTBs", pursuant to (alleged) discussion and agreement in (non-specified) TWG meetings.⁶
- (46) Furthermore, table 1 of the EC-SECO report lists three measures relating to: (i) the high number of physical inspections by customs, (ii) non-transparency and corruption regarding customs, and (iii) complicated customs clearance procedures. In respect of these three measures, the revised Romanian report refers to "a set of measures initiated and carried out" by the National Customs Authority in 2005. On the one hand, these measures consist of Romania's ratification of both the Convention on a Common Transit Procedure of 1987 and the Convention on the Simplification of Formalities in Trade in Goods of 1987. Ratification of these two conventions resulted in implementing domestic legislation which establishes simplified customs procedures for authorized traders; more than 900 traders have been authorized to make use of these simplified procedures. On the other hand, in 2005 Romania has enacted an "Integrated Customs Tariff" which is said to set out the conditions on customs clearance procedures and allow for a "uniform application of the customs regulation all over the Romanian customs territory". Regarding the Integrated Customs Tariff, it should be noted that corruption is not only caused by a murky legal environment but is an ethical problem as well. The Romanian report does not say anything on whether, for example, a code of conduct for customs officials has been established that would address this side of the coin. The report also highlights that a "Single Window for Payments System" has been established and that a "review of the efficiency will take place at the beginning of next year". However, the report does not explain the way in which the "Single Window for Payments System" is supposed to work or how it can be accessed by traders (importers); this would be crucial for assessing its trade enhancing effect/potential.
- (47) Moreover, table 1 of the EC-SECO report refers to circumvention of MFN and national treatment obligations in the area of government procurement. The Romanian report points out that Romania enacted legislation regarding government procurement in 2006 that "is entirely in accordance with European legislation". The last measure mentioned in table 1 of the EC-SECO report is mandatory certification of oil products. The Romanian report explains that this certification requirement is "part of a national surveillance system" related to the protection of public health and is designed to ensure the quality of oil products placed on the Romanian market in accordance with EC/international standards.

⁶ We do not opine on that question because we do not know whether such agreement indeed exists.

(48) Table 5 of the EC-SECO report mentions, first, excessive and unpredictable local taxes in Romania. The Romanian report comments that local authorities “are not allowed by law to impose additional taxes”. At the same time, however, the report states that the local authorities “only can increase already defined/existing taxes by maximum 20%”. This statement seems to imply that local authorities may, in fact, impose additional taxes by “increasing” already defined/existing taxes. Even if such increase does not create a “new” tax, it has the same economic effect as an additional tax, especially if the increase amounts to 20%. Moreover, the Romanian report appears to imply that an increase of already defined/existing taxes lies within the sole discretion of local authorities. Hence, the charge of “excessive and unpredictable local taxes” has not been convincingly refuted by the Romanian report.

(48a) Secondly, table 5 of the EC-SECO report refers to documentation to be submitted by wine producers to fiscal authorities although no excise tax is imposed on wine. Romania’s report points out that these documentation requirements are in conformity with pertinent EC legislation. Thirdly, table 5 of the EC-SECO report mentions that domestic transport operators have to pay permits for accessing the highways on an *annual* basis while foreign transport operators have to pay such permits only for the period of time they stay on Romanian territory. The Romanian report confirms that domestic and foreign transport operators are treated differently in this respect. However, it is doubtful whether this difference in treatment constitutes a NTB since cross-border transport would be impeded much more if foreign transport operators, too, had to pay on annual basis even if they do not use the highways on an annual basis. Lastly, the Romanian report states that access tolls for Bucharest and other Romanian cities have been abolished following a decision by the Romanian High Court in 2006.

(48b) Table 5 of the EC-SECO report also lists a number of measures in respect of Moldova which are, in fact, measures taken by Romania. Among these measures are the following:

- First, exportation of pharmaceuticals from Romania to Moldova seems to require a license. The Romanian report simply states that “Romania fully applies European rules”. This explanation is somewhat unsatisfactory because it remains unclear whether and which European rules actually require export licenses for pharmaceuticals.
- Secondly, Moldovan transport operators face difficulties in obtaining permission from Romania for cross-border transport. Romania’s report states that this measure is due to “unfair competition” by Moldovan transport operators and it reserves the right “to have its own policy in this matter”. Furthermore, Romania claims that it “receives the same restriction in relation with other Central and West European countries”. This explanation makes very clear that Moldovan transport operators face a NTB when providing cross-border transport services to Romania.
- Thirdly, Romania requires authorization by the Romanian National Medicines Agency (NMA) of (foreign) pharmaceuticals to be placed on Romania’s market. In this respect, it is alleged that Moldovan pharmaceutical producers face severe difficulties in obtaining such authorization. The Romanian report stresses that a new drug law will enter into force as of July 2006 which regulates authorization of (foreign) pharmaceuticals by the Romanian NMA.

(49) Romania's report puts particular emphasis on its bilateral trade relationship with Moldova as tables 2 and 3 of the EC-SECO report list a number of specific measures that affect bilateral trade between these two countries. In this respect, the Romanian report informs that some of these measures have been addressed through bilateral meetings and underlines, more generally, that the cooperation between the two countries has been increased in view of Romania's upcoming accession to the EU and the consequent impact on the border shared between Romania and Moldova. Yet, the Romanian report also takes the view that some of the specific measures affecting bilateral trade between Romania and Moldova "are not relevant and consequently cannot be regarded as NTBs". The report does not highlight, however, which of the measures at issue have been addressed and which of the measures at issue are deemed not to be relevant and why they are deemed not to be relevant.

b) Proposed Issues for the next Romanian Report

(50) In light of the aforementioned assessment, the next Romanian report could provide comments on the following issues:

- Romania could further comment on its Single Window for Payments System and how it will function;
- Romania could provide further information on measures taken to combat corruption at customs,
- Romania could provide further explanation on the discretion of local authorities to increase already defined/existing taxes by 20%;
- Romania could further comment on the requirement of export licenses for pharmaceuticals,
- Romania could report on any efforts undertaken to overcome obstacles in cross-border road transport, in particular in relation to cross-border transport from Moldova;
- Romania could report on the experience of authorizing foreign pharmaceuticals, especially those produced in Moldova, by its national NMA, and
- Romania may wish to report which issues in its relationship with Moldova have been settled and which not and why some of these issues are considered to be irrelevant.

8. *Serbia & Montenegro*

(51) The EC-SECO report differentiates between measures concerning Montenegro, on the one hand, and Serbia, on the other hand. This differentiation is also reflected in the country report of S&M.

a) Assessment of the Revised Report on Behalf of Montenegro

- (52) The revised report on behalf of Montenegro follows the template established by the EC-SECO report. Table 1 of the EC-SECO report lists eight measures for Montenegro. The first of these measures relates to import licenses for steel products. The revised report informs that these import licenses have been abolished as of 1 June 2006. The second measure relates to VAT imposed in Montenegro on imported computer equipment while imported computer equipment in Serbia is not subject to VAT. Montenegro's report simply states that "this issue is not related to Montenegro". The third measure consists of export duties on: (i) steel, (ii) non-ferrous scrap and (iii) raw leather. Montenegro's report comments that these duties are no longer applied since 1 January 2006. The fourth measure consists of a fee for financial transactions that is ten times higher than elsewhere in the region (i.e. 0.30% instead of 0.03%). No explanation is given in Montenegro's report in this respect. The fifth measure consists of charges levied on trucks in bilateral trade with Albania. Montenegro's report refers to a bilateral agreement between Montenegro and Albania that is being applied since 1 July 2004 and has removed any such charges.
- (53) Table 5 of the EC-SECO report lists three measures for Montenegro. The first measure consists of domestic content requirements in the furniture and electronic sectors. No comment is provided in Montenegro's report in this respect. The second measure consists of the imposition of variable import levies and advance deposit requirements. Montenegro's report points out that such levies have been abolished since the entry into force of the New Customs Tariff Law on 1 January 2006. The third measure consists of a public monopoly in trade in oil derivatives but Montenegro's report does not comment on this measure.
- (54) S&M's revised report on behalf of Montenegro comments on the measures mentioned in tables 1 and 5 of the EC-SECO report with the exception of three measures (one in table 1 and two in table 5 of the EC-SECO report). In view thereof, the revised report cannot be considered as being complete

b) Proposed Issues for the next Report of Montenegro

- (55) On the basis of the aforementioned assessment, the following issues could be addressed in Montenegro's next report:
- Montenegro could comment on the rate of the fee imposed on financial transactions;
 - Montenegro could provide information on domestic content requirements in the furniture and electronic sectors; and
 - Montenegro could provide information on the public monopoly in trade in oil derivatives.

c) Assessment of S&M's Revised Report on Behalf of Serbia

- (56) S&M's report covers Serbian measures listed in tables 1, 2, 3 and 6 of the EC-SECO report and adheres to the table format adopted by this report (no measure is mentioned in table 5 of that report for Serbia). The report comments on all measures listed in table 1 of the latter report and is thus complete. In the following, only the measures listed in table 1 of the EC-SECO report will be dealt with.
- (57) The EC-SECO report covers one measure concerning different levels of import charges and different tax and currency systems due to the "administrative border line" between Serbia and Montenegro. Serbia's report states that Serbia and Montenegro have completely separated trade and customs policy regimes.
- (58) The EC-SECO report refers to a licensing system, operated jointly by Serbia and Montenegro, for steel imports from Albania, Bulgaria, Croatia, Moldova and Romania. The Serbian report states that steel imports from said countries are treated the same without exception and do not require import licenses any more.
- (59) Another measures listed in the EC-SECO report is import quotas on certain products imported from Macedonia. Serbia's report points out that these import quotas will be abolished as from the entry into force of the FTA signed with Macedonia which is expected for the beginning of 2006. Furthermore, the EC-SECO report mentions special import levies and seasonal import charges for certain basic foodstuffs and food items. Serbia's report stresses that these levies and charges will be converted into ordinary customs tariffs upon accession to the WTO and, in any event, are not considered as NTBs. Leaving aside the question of whether such import levies and charges can be considered NTBs, the conversion of these levies and charges into normal customs duties would not abolish the barrier to the imports in question created by said levies and charges as the fiscal charge borne by these imports would remain. Furthermore, table 1 of the EC-SECO report mentions fixed rates of excise tax as NTBs. Serbia's report takes the view that these rates are not NTBs as they comply with EU regulations.
- (60) As regards export duties on wheat, flour, maize, raw hides and ferrous scrap, listed in the EC-SECO report, Serbia's report highlights that the abolition of the export duty on ferrous scrap has been approved. Also, the export duty on wheat, flour and maize has been abolished as well as the export licensing requirement. In contrast, exports of raw hides are still subject to both prior export licensing and payment of export duties. The report states that elimination of such export licenses and duties has been proposed and awaits adoption by the Serbian parliament. According to table 1 of the EC-SECO report, foreign transport operators are charged road tolls which are three times higher than those charged on domestic transport operators. Serbia's report states that this discriminatory practice is to be terminated in 2007 but does not give any reason why this practice will continue until 2007.
- (61) Moreover, table 1 of the EC-SECO report mentions certain import prohibitions: those imposed for BOP reasons, and those imposed for safety reasons. In this context, table 1 of the EC-SECO report informs that consignments of hazardous substances are delayed at Serbian borders, even if

they are properly certified in accordance with international rules. Serbia's report underlines that "this type of decisions will be abolished and control will be compliant with EU regulation", upon adoption of the new "Law on Chemical Treatment". This new law shall enable the implementation of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade which Serbia intends to ratify. This new law will be enacted once the EC has adopted a system for the classification and labeling of hazardous substances.

- (61a) Furthermore, table 1 of the EC-SECO report lists import and export licensing requirements for a number of products, including explosives, hazardous substances, drugs, items of cultural importance, precious metals etc. Serbia's report states that these licensing requirements are compliant with the "international conventions, protocols and agreements dealing with health, environment and security protection", including the: (i) Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal; (ii) Montreal Protocol on Substances That Deplete the Ozone Layer; (iii) Convention on International Trade in Endangered Species of Wild Fauna and Flora; (iv) Vienna Convention for the Protection of the Ozone Layer; and (v) Single Convention on Narcotic Drugs.
- (61b) The revised Serbian report provides further information on the Law on Foreign Trade which establishes, as a general rule, that foreign trade is free of any restrictions. Nonetheless, articles 17, 21 and 23 of this law envisage certain quantitative restrictions, import licenses and export licenses in accordance with the relevant exception clauses of the GATT 1994.
- (62) Table 1 of the EC-SECO report mentions a ban on imports of electrical waste and used clothing, based on environmental grounds. Serbia's report emphasizes that electrical waste and used clothes are considered dangerous waste in accordance with the "Law on Environmental Protection" which prohibits the import of hazardous waste (unless its is necessary as secondary raw material for production purposes in which case import permits can be obtained) because Serbia does not have the technology capacity to treat hazardous waste in accordance with the conditions set forth by the Basel Convention. However, an exception from the import prohibition is being made for second hand clothes of extra and level 1 quality (almost as new or almost as new but covered with just a few blots).
- (62a) Finally, table 1 of the EC-SECO report refers to a ban on certain food additives that may be incompatible with EU standards. Serbia's report underscores that a "Regulation on Quality and Conditions for Use of Additives in Food" has been issued "which is compliant with EU regulations and Codex alimentarius standards".

d) Proposed Issues for the next Serbian Report

- (63) Having regard to the above assessment, the following issues could be addressed in the next Serbian report:
- Serbia could provide information on whether export licenses and duties for raw hides have been abolished;
 - Serbia could explain how it intends to convert special import levies and seasonal import charges into (ordinary) customs tariffs upon accession to the WTO;

- Serbia could inform whether the new Law on Chemical Treatment has been adopted and whether that has improved the situation regarding the delays of properly certified hazardous substances at Serbian borders; and
- Serbia could provide further information regarding quantitative restrictions as well as import and export licenses.

9. UNMIK/Kosovo

a) Assessment of the Revised UNMIK/Kosovo Report

(64) Although the revised UNMIK/Kosovo report does not follow the template established in the EC-SECO report, its adopted format is easy to read. The report distinguishes between measures listed in tables 1 and 5 of the EC-SECO report. Out of the five measures listed in table 1 of the EC-SECO report, the revised UNMIK/Kosovo report only takes up three measures. Hence, the report cannot be considered as being complete. The revised UNMIK/Kosovo report states that its import licensing requirements are applied in compliance with EU standards and therefore no “corrective action” is required.

(65) The revised report does not indicate, however, which EU standards are applied (see below III on the issue of compliance with EU standards).

(66) Table 5 of the EC-SECO report lists one complaint concerning allegedly false EUR1 certificates issued in Macedonia. The UNMIK/Kosovo report reiterates that it does not endorse this complaint and that, in any event, “the cooperation with their counterparts in Macedonia has further improved” and “alleged claims on false EUR1 can be verified”.

b) Proposed Issues for the next UNMIK/Kosovo Report

(67) Having regard to the above assessment, the following issues could be covered in the next UNMIK/Kosovo report:

- UNMIK/Kosovo should provide information on those measures listed in table 1 of the EC-SECO report that are not mentioned in its country report; and
- UNMIK/Kosovo should indicate on which EU standards its import licensing requirements are based.

III. Validity of Certain Arguments Advanced in Some Country Reports

(68) Some of the country reports raise same or similar arguments with respect to NTBs that warrant a closer examination. These arguments are:

- The measure in question cannot be considered an NTB because the measure either is in compliance with a corresponding EU standard or is taken to harmonize the national legislation in line with relevant EU legislation (see below 1.);
- The measure in question conforms to international treaties/standards and should thus not be considered as an NTB (see below 2.); and
- The measure in question is non-discriminatory and hence cannot be deemed to be an NTB (see below 3.).

1. Compliance with EU Standards/Harmonization with EU Legislation

(69) Some SEE countries maintain that certain measures do not constitute NTBs because they comply with relevant EU standards or have been taken in order to harmonize their national legislation with EU legislation. In this respect, it seems that two situations have to be distinguished: the situation of those SEE countries which have already concluded their negotiations or are currently negotiating their accession to the EU, on the one hand, and the situation of those SEE countries which are not (yet) negotiating their accession to the EU.

a) Accession to the EU is Pending or Currently Being Negotiated

(70) One essential condition for accession to the EU is to adopt the so-called “*acquis communautaire*”. Two SEE countries -- Bulgaria and Romania -- have already concluded the negotiations on their accession to the EU and are expected to become EU member states in 2007. Croatia has started negotiations on its accession to the EU last year while Macedonia has been granted the status of “candidate country” at the end of 2005 but negotiations with the EU have not yet commenced.

(71) Given that adoption of the “*acquis communautaire*” is a *conditio sine qua non* for becoming a member state of the EU, it is self-explanatory that these countries harmonize their national legislation with the EU legislation and make their national standards compliant with EU standards. Harmonizing the national legislation with EU legislation or making national standards compliant with an EU standard will -- in most instances -- have the consequence that the measure in question has a lesser effect on trade than was previously the case.

(72) If the process of amending/modifying national legislation and standards were to (potentially) lead to an increase of the measure’s effect on trade, however, it is advisable to devise strategies that will support other countries in the region in adapting to the new standard/legislation in order to facilitate trade exchange. It appears that such strategies would require, at a minimum, both technical assistance and capacity building measures on the part of the international (donor) community, in general, and the EU, in particular, so that regional integration will be enhanced as a result of closer integration with the EU. TWG should closely monitor the technical assistance received by SEE countries and support efforts in soliciting technical assistance and capacity building measures for these countries.

b) Accession to the EU is Neither Pending nor Currently Being Negotiated

(73) The Stabilisation and Association Process for those SEE countries which have not yet been granted the status of “candidate countries” will eventually lead to the adoption of the “acquis communautaire” and compliance with EU standards as a precondition for EU membership. However, the process of amending/modifying national legislation and standards seems less imminent for these countries. Therefore, it would seem that a coordinated regional approach to NTBs with a view to amending/modifying national legislation and standards promises to reduce the effect on (regional) trade to the least trade-restrictive level. This would appear particularly important if accession to the EU cannot be achieved within a reasonable time-frame. In this context, Albania raises an important point by stressing the importance of approving a regional Action Plan that provides for concrete steps and deadlines for the mutual recognition of the Conformity Assessment Bodies in the region.

2. Compliance with International Treaties/Standards

(74) A number of SEE countries state that the measures in question (mostly export/import licensing requirements) conform to international agreements and conventions. Nonetheless, the fact that a measure is required by an international treaty does not necessarily mean that the measure does not constitute an NTB. Rather, the issue is, first, how and to which extent the international standard in question affects trade, and, second, how the adoption and implementation of such standards can be coordinated among SEE countries in order to facilitate trade at the regional level.

3. Non-Discriminatory Treatment

(75) Some SEE countries maintain that certain measures do not constitute NTBs since they are applied in a non-discriminatory manner. In view of the rather broad definition of NTBs in the present framework (“all measures having an *effect* on exports or imports”), the discriminatory design or effect of a measure is only one of several elements of the equation.

(76) This is demonstrated by the claims raised in the present context: they relate to “overly burdensome” testing requirements in Croatia and “excessive and unpredictable” taxes in Romania. Hence, it is not claimed that the measures in question consist in discriminatory treatment. Therefore, the aforementioned claims are not appropriately addressed by pointing out that the treatment applies equally to domestic and foreign economic operators. Rather, the claims indicate that the measures in question go beyond what is perceived to be strictly necessary to attain the public policy goal pursued by the measure. This raises the question of whether there are alternative less trade-restrictive measures.

IV. Assessment of the Country Reports With Respect to the Remaining Parameters

1. Conformity With the Recommendations in the EC-SECO Report

(77) The EC-SECO report contains twelve (12) recommendations on possible actions to reduce/eliminate NTBs in the SEE region. Of these recommendations, the most pertinent for the country reports submitted will be considered in the following.

a) Tables 1 and 5 in the EC-SECO Report as the Basis for the Review Process

(78) The agreed approach is unequivocal: the reports, consolidated by the EC-SECO report, form the basis for SEE countries' continuous efforts to identify, review and eliminate NTBs. The agreed approach further emphasizes that "the internal review will be based on the individual consolidated tables". Tables 1 and 5 of the EC-SECO report are the starting point for the process of identifying, reviewing and eliminating NTBs, to which SEE countries have committed under the agreed approach. This process can therefore only be conducted successfully if the country reports include and provide new information on all the measures listed in these two tables; otherwise, the value of the process for tackling NTBs and enhancing (regional) trade exchange will be undermined. Consequently, no single measure mentioned in these two tables should be disregarded or considered as being *a priori* irrelevant.

(79) Allmost all of the revised country reports, with the exception of two reports, follow the table format established by the EC-SECO report and address the measures listed in tables 1 and 5 of that report. Therefore, allmost all of the reports address all of the measures listed in these two tables and are thus complete.

b) Bilateral Discussions Between SEE Countries on NTBs

(80) Some country reports provide information on bilateral contacts or the conclusion of specific agreements or even FTAs when it comes to NTBs whereas other country reports do not contain such information. It is recommended that more emphasis is put on this crucial aspect of tackling NTBs in future reports.

c) Procedure and Timetable for Removing NTBs

(81) The country reports do not provide information on either a timetable or a procedure for removing NTBs. That being said, some reports point out that draft legislation is about to be adopted or enter into force but without indicating in every instance when exactly this will happen. Furthermore, some country reports point out that certain strategies have been initiated in order to remove NTBs but most of these initiatives appear to be aimed at removing specific NTBs (in particular border/customs measures) rather than NTBs in general.

d) Central Reference/Focal Points for NTBs

(82) Although all SEE countries seem to have established central/focal points for NTBs,⁷ these reference/focal points are hardly mentioned in the country reports. It is recommended that these reference/focal points and their experience with NTBs receive more attention in future country reports.

e) Formal Structure/Intra-Governmental Forums for Addressing NTBs

(83) The sole country report that specifically reports on an intra-governmental forum for addressing NTBs in a comprehensive way is the Albanian report.⁸ Other country reports only refer to specific forums addressing specific NTBs, in particular in the form of Single Window systems for dealing with border/customs agencies. It is recommended that future reports provide information on formal structures/intra-governmental forums for addressing NTBs in a comprehensive manner.

2. Identification of Key Unresolved Issues

(84) Against this backdrop, the single most important key unresolved issue is the the issue of insufficient discussion/communication between and among SEE countries on NTBs. It is suggested that TWG, supported by the central/focal points of each SEE country, provides the forum for an exchange of relevant information on NTBs and what should and/or could be done to tackle them by way of bi- or plurilateral cooperation.

(85) Moreover, many country reports refer to pending legislation to demonstrate that certain (border/customs) measures will be taken. However, the legislative measures in question are not described in any detail. Hence, it is impossible to understand or assess how the new legislation, once it enters into force, will affect trade. It is suggested that future reports summarize the main points of the legislative measures in question so that one gets a better picture of their likely impact on trade. To the extent that such new legislation has already been enacted, future country reports should also provide information in summary fashion on the experience in implementing and administering the relevant rules so that it can be assessed whether and to which extent the legislative action actually contributes to an elimination of the NTBs in question.

⁷ TWG has compiled a list with focal points on NTBs for all SEE countries.

⁸ The Albanian report refers to the establishment of a Task Force responsible for tackling NTBs.

3. Brief Evaluation of the Country Reports

(86) A qualitative evaluation indicates that:

- **Most country reports are complete** as they address almost all of the measures listed in tables 1 and 5 of the EC-SECO report;
- **Some of the information provided in the country reports does not indicate with sufficient detail what the (potential) impact on NTBs will be**, i.e. what contribution the contemplated/adopted measures will make to reduce/eliminate NTBs;
- **The country reports do not conform to some of the recommendations in the EC-SECO report** regarding bilateral discussions on reviewing and eliminating NTBs; establishing procedures and timetables for removing NTBs; reliance/use/experience of central/focal points for NTBs; and formal structures/intra-governmental forums for addressing NTBs.

4. Key Topics and Guidelines for the Next Round of Country Reports

(87) In view of the above, it is useful to consider what issues the country reports for 2006 should address. The next country reports should cover the following issues:

- SEE countries should provide pertinent information on institutional and procedural arrangements (including a formal structure/intra-governmental forum for addressing NTBs and reference/focal points) regarding NTBs. If such structures/fora and procedures are already in place, country reports should comment on their implementation/functioning. It is important to provide information on the functioning of the JC as a forum where reduction/elimination of NTBs is discussed. Similarly, SEE countries should highlight the regional initiatives undertaken to facilitate the reduction/elimination of NTBs;
- SEE countries should comment on the order of priority given to the process of identifying, reviewing and eliminating NTBs by their governments, including a timetable. In particular, they should indicate what impact identified NTBs have on trade and whether any order of priority has been established to tackle them. The EC-SECO report identified a few priority areas where NTBs have the highest impact on trade (*i.e.* product regulations and standards, customs procedures, visa policies, transport of goods, other NTBs and resources and infrastructure problems);
- SEE countries should comment on their progress regarding EU accession and report on those measures which they have taken or consider taking to adopt (as part of) the “*acquis communautaire*” and to comply with EU standards;
- SEE countries should provide an update on their accession to other relevant international organizations (e.g. WTO) or treaties and the affect of such accession on existing NTBs

and hence on (regional) trade; this is especially relevant for any bilateral agreements concluded between SEE countries;

- SEE countries should provide information on whether and to what extent the envisaged Central European Free Trade Agreement (CEFTA) will have an impact on the process of identifying, reviewing and eliminating NTBs;
- SEE countries should give an update on their progress of reducing/eliminating NTBs. SEE Countries should make a “No progress” entry for those measures which have not been eliminated or reduced;
- SEE countries should inform on technical assistance received in 2006 to tackle identified NTBs as well as on projects that are in the pipeline.

Geneva/Berne, 13 July 2006

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