



AMERICAN CHAMBER OF COMMERCE IN KOSOVO  
ODA EKONOMIKE AMERIKANE NË KOSOVË  
AMERICKA PRIVREDNA KOMORA NA KOSOVU

# Kosovo Business Agenda 2011: Report, Dissemination, and Monitoring

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## Final Monitoring Report

*Prepared for: USAID Business Enabling Environment Program*

March 15, 2012

Submitted by (on behalf of AmCham Kosovo):

Arian Zeka, Deputy Director

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This report explains all changes which occurred in the doing business environment in Kosovo from the date when the “Kosovo Business Agenda 2011” document was launched in October 12, 2011, until March 15, 2012. Furthermore, it also includes a summarizing table which explains whether the recommendations which emerged from the report have been taken into consideration.

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## **1. Introduction**

The final monitoring report encompasses all changes which occurred in the business environment in Kosovo during the period from the beginning of this project (October 12, 2011), until its effective conclusion, in terms of changes in legislation, regulations, administrative instructions or implementing practices. We have achieved this by monitoring the work of respective institutions closely in order to detect the changes which happened along the way. More specifically, the project implementation team has gathered the necessary input by doing the following activities:

- Daily Monitoring of local written and electronic media
- Participation in working groups
- Participation in parliamentary committees
- Meetings with minister and heads of agencies
- Monitoring of official gazettes
- Participation in various conferences and initiatives

Some of the issues which will be elaborated in this document will be a repetition from the midterm monitoring progress report.

The following sections of this report include an elaboration of the major issues which have been addressed and a summarizing table which explains whether our recommendations for specific issues have been addressed by relevant institutions.

## **2. Major changes in the business environment**

Some issues which have been identified as major ones in *Kosovo Business Agenda 2011* document have already been addressed. The following changes are expected to have a positive impact on the doing business environment in Kosovo:

## **2.1. The extension of the validity of Tax Clearance Documents**

On February 7, 2012, we received a notice from the Tax Administration of Kosovo, informing us that the validity of tax clearance documents has been extended, as a result of the efforts of TAK to offer better services to its clients. As a result, tax clearance documents are now valid for a longer period of time, depending on their usage, as follows:

- Tax clearance for **procurement** issues: valid up to **90 days** after its issuance
- Tax clearance for **VISA**: valid up to **6 months** after its issuance
- Tax clearance for **deregistering a business**: valid up to **10 days** after its issuance
- Tax clearance for **revoking citizenship**: valid up to **90 days** after its issuance
- Tax clearance for **“Other uses”**: valid up to **90 days** after its issuance

This change somewhat relates to issue 2.5 of the Kosovo Business Agenda 2011 document, which elaborates on the problem of lengthy procedures of processing tax statements. Given the extended validity of tax clearance document, companies will benefit in terms of public procurements. Please refer to Annex A for this announcement which was sent to us by TAK.

## **2.2. Interest Rates on Late Tax Payments and Late reimbursements**

The issue of late payments has been identified as one of the most pressing ones in Kosovo, given the lack of access to finance for businesses, especially small and medium ones. This change has already been elaborated upon in the midterm progress report which has been submitted in December 19, 2011. We received the notice for this change by an official letter which was sent to us, signed by Bedri Hamza, Minister of Finance. This decision is expected to have a positive impact on businesses, given that the interest rate for late tax reimbursements has been increased to 2.4 % per year. Please refer to Annex B of this document to view the decision issued by the Minister of Finance.

### **2.3. Reductions in the number of documents required for import-export**

In October 25, 2011 we received a letter from the director of Kosovo Custom, Naim Huruglica, informing us that the number of documents required for import-export purposes has been decreased. As a result, the export-import procedures have been simplified to a great extent, which is again expected to have a positive impact on the doing business environment in Kosovo. Please refer to Annex C of this report for the internal administrative instruction issued by Naim Huruglica, director of Kosovo Custom.

### **2.4. Removal of the municipal work permit**

The requirement for a municipal work permit has been abolished with the new Law on Internal Trade. This will also be reflected on Kosovo's ranking in World Bank's Doing Business Report for the next year, in terms of easiness of opening a business. The work permit used to be a burdensome and time-consuming procedure which played a role in discouraging the opening of new businesses. Thus, the removal of this work permit is a welcome news for the business community in Kosovo and a step ahead in improving the doing business environment in Kosovo.

### **2.5. The new draft law on construction**

Construction permits also used to pose big problems for businesses in Kosovo, due to inefficient and slow procedures for obtaining a permit. The new Draft Law on Construction is expected to improve the situation on this regard, due to the provisions which will address the efficiency and timeliness of issuing decisions about permits. In addition, the principle of "acceptance by silence" will be used in cases when the decision for issuing or not issuing a permit is not taken within the time limit determined by legal provisions in power.

### 3. Summarizing table

The following table summarizes all the changes that have been made to the issues identified in Kosovo Business Agenda 2011 document.

Customs Issues		
Issue No.	Issue Description	Current Status
1.1.	Customs officers do not accept the invoice values of imported goods as presented	So far, we have not received any information that there has been any change in this aspect. AmCham and other business associations are in the process of writing policy papers and reactions to address this problem. On the other hand, the decrease in the number of documents necessary for import/export of goods is welcome news for the business community. However the Customs Director has promised that this practice will be decreased with Customs reaching more bilateral agreements on exchange of information with the Customs services of other countries.
1.2.	Non-recognition of original prices because of the difference with prices contemplated by TARIK	The new Customs Code is in the process of drafting by the customs, and hopefully TARIK will also be updated to reflect the recommendations which emerged in Kosovo Business Agenda 2011.
1.3.	Discounted purchases not recognized by the Customs	Despite the fact that this was emphasized as one of the major issues concerning businesses today, there have been other cases when businesses complained about it.
1.4.	Appeal procedures are lengthy and time-consuming	We have addressed this issue separately with the director of Kosovo Customs. We received promises that they will do their utmost to resolve all the appeals within the legal timeline. That aside, the legal provisions regarding appeal procedures have not changed. This issue will also be addressed in the recently-established MTI sub working group on Trade Facilitation.
1.5.	Customs' decisions are not consistent	So far, we haven't received any complaints with this regard.
1.6.	Lack of clear description of goods in Customs Code and Regulations	As stated previously, the new Customs Code is in the process of drafting. It remains to be seen whether or not there has been any improvement on the situation.

Tax Issues		
Issue No.	Issue Description	Current Status
2.1.	Collection of Value Added Tax at the border	There hasn't been any movement at this direction. However, as <i>Kosovo Business Agenda 2011</i> states, the recommendation of businesses to change the practices of collecting VAT at the border is not supported by experts at this moment. It is a common policy of the majority of countries to collect the VAT at the border crossing points. This could however be changed with the strengthening of internal tax controls.
2.2.	VAT reimbursement is burdensome to businesses	This is foreseen to be regulated with the new fiscal package. The interest rates for late reimbursements and for repayments of the contested taxes held by TAK will be 2.4% annually. In addition, the Law on VAT has been included in the legislative agenda for 2012. AmCham will make sure to contribute to the drafting of this law in order to reflect the interest of the business community.
2.3.	Registration/inspection of stock are carried out during regular working hours	Regarding this issue, the director of TAK declared that they are working towards creating a better partnership with businesses, and all businesses will know in advance when a tax inspection will be performed. However, the director of ATK has the right to order an unannounced inspection in cases when a major fraud is suspected.
2.4.	TAK and other respective institutions should create an environment in which more businesses will be encouraged to join the formal economy	This issue has marked an improvement in 2011, and as claimed by the TAK director in a recent meeting with him, the compliance visits <sup>1</sup> have decreased significantly, meaning that more and more businesses are making voluntary declarations and payment of taxes.
2.5.	Lengthy procedures in processing tax statements	The new electronic system of TAK – SIGTAS has been put into place, and TAK Director has

<sup>1</sup> Compliance visits are the visits of TAK inspectors to randomly selected businesses, in order to make sure that their voluntary declaration is done in a consistent manner

		informed AmCham that more than 90% of tax statements are now processed in time. In addition, the longer period of the validity of tax clearance statements which is explained above will also have a positive impact on the business environment.
2.6.	Deduction of VAT for specific items/ Luxurious cars	This issue has not been addressed yet, but AmCham will address this issue in the process of amendment of the Law on VAT.
2.7.	Problems emerging from the application of fiscal cash registers	TAK Director has promised that 2012 will be the year when all the businesses will be fiscalized, and that the price of fiscal registers has decreased with new companies providing fiscal registers. However, businesses still have major concerns regarding the implementation of this project, given that it is not being implemented as it should.
2.8.	Lack of information	<p>We have been informed by TAK Director that TAK has prepared a new information package for taxpayers, including a new publication of all tax laws, with an interpretation of every article. The information package includes tax compliance strategy as well as flyers and other brochures for taxpayers. This package will be available online as well.</p> <p>However, other agencies have not undertaken any initiatives with aim of providing more information to the interested parties.</p>

Public Procurement Issues		
Issue No.	Issue Description	Current Status
3.1.	Compilation of tender requirements or technical specifications	No improvements have been made so far.
3.2.	Arbitrary cancellation of tendering process	No improvements have been made so far.
3.3.	Responses for tender clarifications not provided on time	This depends on the authority or the tender awarding agency which announced a tender.
3.4.	The overdependence on the lowest price criterion in awarding tenders	No improvements have been made so far.

	to low quality companies	
3.5.	Discrepancies on the period of execution for tenders is noticed	No improvements have been made so far.
3.6.	Business disputes are not handled properly	No improvements have been made so far.
3.7.	The law is not harmonized with tendering procedures	No improvements have been made so far.

Manufacturing and Power Supply Issues		
Issue No.	Issue Description	Current Status
4.1.	Payment of Custom Dues for Imported Raw Materials	The new announced fiscal package is expected to abolish payment of customs dues for imported raw materials, which are not produced in Kosovo.
5.1.	Power cuts are hurting manufacturers despite contracts for uninterrupted power supply	According to businesses, KEK continues to be an unreliable partner for energy supply.
5.2.	Businesses face higher fees because of "Maxigraphs"	No improvements have been made so far.
5.3.	Lack of partnership/communication between KEK and businesses	According to businesses, KEK continues to be an unreliable partner for energy supply. There were announcements that even the privileged supply status was going to be removed for businesses; however, after the reaction of AmCham and other associations, this was not implemented. This reaction came as a result of increasing concern of business community that their operation would be hindered in the absence of a stable power supply.

Municipal Level Issues		
Issue No.	Issue Description	Current Status
6.1.	Municipal permits procedures are costly and lengthy	Working permits have been abolished, but municipalities are still entitled to applying Fees for Business Activity. We have received information from the businesses that certain municipalities, such as Municipality of Gjakova, Gračanica, Lipjan are applying very high fees for

		specific activities.
6.2.	Submission of documents to receive work permits	According to the new Law on Internal Trade, work permits are not a requirement any more.
6.3.	Procedures for obtaining construction permits are very lengthy	The new draft Law on Constructions has addressed this problem to a great extent due to the shorter time limit foreseen for the issuance of decisions for construction permits. Also, the principle “acceptance by silence”, which means that if the response is not given within the time limit foreseen by the law it will be considered as an approval, is expected to have a positive impact in the doing business environment.

Late Payment Issue		
Issue No.	Issue Description	Current Status
7.1.	Late payments are causing cash flow problems for private businesses	This problem will be addressed in the Law on Obligations, which will include a provision on late payments. Also, as stated in previous sections, the new fiscal package to be implemented by the Ministry of Finance provides for higher interest rates in case of late reimbursements by public institutions. This is a good initiative, because AmCham has always emphasized that it is the public sector that should lead by example.

Labor Law Issues		
Issue No.	Issue Description	Current Status
8.1.	Business cannot fulfill the legal provision on maternity leave	The law on labor remains the same, which means that maternity leave provisions have not been altered. This continues to be a matter of concern for businesses.
8.2.	Business ask for discretion in setting the working hours	No improvements have been made so far.

## Annex A

### Extension of Validity of Tax Clearance Documents



Republika e Kosovës - Republika Kosova - Republic of Kosovo  
Qeveria - Vlada - Government  
Ministria e Financave - Ministarstvo za Finasije Ministry of Finance  
Administrata Tatimore e Kosovës - Poreska Administracija Kosovo - Tax Administration of Kosovo

ARKIVA / ARHIVA / ARCHIVE	
Nr. Org. Org. Jedin. Org. Unit	Nr. Prot. Sr. Prot. Prot. No.
1	03-06-304
Nr. i faqesve Brag. stranica No. pages	Data Datum Date
1	08.02.2012

<b>DATË/A:</b>	07.02.2012
<b>REFERENC-Ë:</b>	
<b>PËR/ZA/TO:</b>	<ul style="list-style-type: none"><li>Të gjitha Ambasadat që veprojnë në Kosovë</li><li>KRPP</li><li>Të gjitha departamentet e prokurimit të Institucioneve të Kosovës</li><li>Palë të tjera të interesit</li></ul>
<b>CC:</b>	Behxhet Haliti – Drejtor i Përgjithshëm i ATK-së
<b>PËRMES/PREKO/THROUGH:</b>	Sakip Imeri- Zv. Drejtor i ATK-së /Përbushja e Obligimeve
<b>NGA/OD/FROM:</b>	Sami Salihu-Menaxher i Divizionit të Edukimit të Tatimpaguesve
<b>TEMA/SUBJEKAT/SUBJECT:</b>	Njoftim mbi zgjatjen afatit të vlefshmërisë së Vërtetimeve Tatimore

Të nderuar,

Si rrjedhojë e procesit të përmirësimit të shërbimeve të mira për tatimpagues Administrata Tatimore e Kosovës duke filluar nga data 7 Shkurt 2012 do të zgjasë afatin e validitetit të Vërtetimeve Tatimore të cilët lëshohen për të paraqitur gjendjen tatimore të një tatimpaguesi të caktuar.

Me këtë rast ju lusim që të adaptoni këtë ndryshim në procedurat e juaja për të cilat kërkohet Vërtetimi Tatimor nga Administrata Tatimore, duke u mundësuar tatimpaguesve përkatësisht klientëve tuaj të shfrytëzojnë të njëjtin vërtetim më shumë se një herë, përkatësisht me një vlefshmëri më të gjatë.

Sa i përket afateve të vlefshmërisë, ato janë si në vijim:

1. Vërtetimi për **Tender – 90 ditë** nga data e lëshimit
2. Vërtetimi për **vizë - 6 muaj** nga data e lëshimit
3. Vërtetimi për **Çregjistrim të biznesit - 10 ditë** nga data e lëshimit
4. Vërtetimi për **Prishje të nënshtetësisë - 90 ditë** nga data e lëshimit
5. Vërtetimi për **"Të tjera" - 90 ditë** nga data e lëshimit

Shpresojmë që të hasim bashkëpunim në realizimin e kësaj objektivë duke u ofruar kështu qytetarëve të Kosovës shërbime më të mira.

Ju faleminderit për vëmendje!

Me respekt,

**Annex B**  
Decision for Interest Rates on Late Payments

Government of Kosovo  
Ministry of Finance

The Minister of Finance, acting on recommendations of the Tax Administration of Kosovo, dated September 20, 2011, and in accordance with article 28 of the Law on Tax Administration and Procedures No. 03/L222, rendered the following decision:

1. An interest will be applied to late tax payments at a rate of 15% per year.
2. An interest will be applied to late reimbursements at 2.4% per year.
3. An interest will be applied to repayments of the contested taxes held by TAK, at a rate of 2.4% per year.
4. The Tax Administration of Kosovo is responsible for the implementation of this decision.
5. This decision shall enter into force on January 1, 2012

Bedri Hamza  
Minister

CC: Tax Administration of Kosovo  
Archive  
American Chamber of Commerce in Kosovo  
Kosovo Business Alliance and  
Kosovo Chamber of Commerce

## Annex C

### Reductions in the number of documents required for import-export

#### Internal Administrative Instruction No. 01/2011

To All Customs Officials

Dear Colleagues,

As part of its strategy, Kosovo Customs aims at facilitating international trade through enabling the free movement of goods with simple administrative and customs procedures. This will affect positively the efficiency and transparency of the work of Kosovo Customs and will be very economic and efficient for all business entities involved in international trade. Thus, taking into consideration the reports of several organizations outside the Customs for the evaluation of customs administrative procedures, I have reached a decision and we will be asking only for documents foreseen by article 123 of AI 11/2009 for the implementation of the Customs and Excise Code No. 03/L-109.

Thus, from now on, documents which should be attached to the customs declaration are:

- a) The invoice based on which the customs value of goods is declared, as foreseen in article 91 of this legal act;
- b) **When required**, according to Article 88 of this legal act, the declaration for the customs value of declared goods
- c) The necessary documents for the application of preferential tariff arrangements (EUR 1).
- d) All other required documents for the application of provisions which regulate the free movement of declared goods (Veterinary, Sanitary, and Phytosanitary Certifications, and other licenses which are needed for allowing the free trade of goods).

At the same time, any business entity which is registered in the electronic customs system for data processing does not need to attach the Customs' Certificate for Import-Export or the VAT Certificate to the Single Administrative Document.

The required documents for exports are:

1. Export declaration
2. The Accompanying Invoice for the good(s).
3. EUR 1, only with the request of the party.

Thus, we will be eliminating the documents which we have been asking until now, such as:

- The Bill of Loading
- CMR- Convention des Marchandises Routiers- the International Contract for Loading the Goods through Road Transport.
- The packing list
- The terminal payment sheet- not required by the Customs and this can be regulated by the electronic system for the management of terminals, in the approach for completing the customs procedures through releasing the imports/exports from terminals.

This AI will enter into force from November 1, 2011.

Prishtinë, 25.10.2011

Naim Huruglica  
General Director

CC: Directors of Customs' Departments