POLICY SPOTLIGHT: Prospects and Procedures for Exporting to the US

About the Policy Spotlight

The Policy Spotlight is a publication of the American Chamber of Commerce in Kosovo (AmCham Kosovo) which aims to bring attention on different economic policies and outline the challenges for the development of such policies, in order to pave the way for addressing them. This spotlight places the focus on the trade relations between Kosovo and the United States of America, and on the underlying procedures for exporting Kosovo products to the US market. The document contains specific examples on the applicable rules and criteria for different commodities, in addition to useful links that would enable interested readers to gather more information on the topic.

Background

An overwhelming trade deficit has been a phrase often used to depict Kosovo’s current picture with regards to international trade. The manufacturing sector in the country has faced considerable challenges in putting up with the competition from countries in the region and beyond. While there are encouraging signs for the growing competitiveness of Kosovo companies in recent years, it must be noted that it will take a tremendous effort to turn things around. Ever since the declaration of independence in 2008, the trade deficit has averaged to an overwhelming 2 billion euro in an annual basis. To put things into context, the projected revenues for the budget of Kosovo for 2017 amount to 1.7 billion euro.

This cash outflow has been slightly offset with the export of services and through foreign direct investments, and at a large extent thanks to remittances of Kosovo’s diaspora. The Balance of Payments picture for Kosovo would look much gloomier if remittances would be omitted from the equation.

Having said this, in a policy level, there are certainly opportunities Kosovo companies can explore in accessing foreign markets and lowering the trade deficit. Kosovo benefits from a “preferential trade agreement” with the European Union and the United States of America. In terms of trade relations with the EU, Kosovo has signed the Stabilization and Association agreement which guarantees a duty-free access to EU countries for Kosovo products, while in the other hand the trade liberalization for EU products coming into Kosovo will be done gradually. Kosovo is also a beneficiary country in the Generalized System of Preferences, a US trade preference program aimed at helping developing countries.

Despite being a GSP beneficiary country, it is not difficult to determine that Kosovo has not managed to make the best use of this opportunity. For the period 2012-2016, the total value of Kosovo exports to the United States (including re-export) amounted to a mere 7.4 million euro, while the corresponding figure for direct US exports to Kosovo is roughly 250.5 million euro. This means that the export-to-import coverage ratio for this period in Kosovo-US trade relations is roughly 2.9%. For comparison purposes, the overall coverage ratio in international trade for Kosovo is approximately 11.5-12.5%, which suggests that even with the current framework, trade opportunities with the US may not be fully utilized.
Import Procedures in the US and role of different institutions

There are a number of institutions and agencies that have varying roles in the import process in the United States before products can be commercially sold in the US market. This section explains the role of three institutions, namely the Customs and Border Protection Agency, Food and Drug Administration, and Alcohol and Tobacco Tax and Trade Bureau.

Customs and Border Protection Agency

In terms of the overall customs procedures, the main institution which importers and exporters will interact with is the Customs and Border Protection. CBP’s mission as a law enforcement agency goes beyond trade to that of maintaining the security of the US borders. CBP operates through Field Operation Offices, which in turn monitor points of entry for the products. Ports of entry are the level at which CBP enforces import and export laws, including the collection of payable duties and customs clearance procedures. The importer is obliged to use reasonable care in screening the legislation and, if applicable, contacting respective agencies when questions arise upon the import of particular commodities which fall under the responsibilities of other federal agencies (such as FDA).

For a shipment to enter the US market, importers must undergo a two-step process, namely: (1) filing the documents necessary to determine whether merchandise may be released from CBP custody, and (2) filing the documents that contain information for duty assessment and statistical purposes. The following list provides a general list of documents required in the import process at the entry of products:

- Entry Manifest (CBP Form 7533)
- Evidence of right to make entry
- Commercial Invoice
- Packing list
- Other documents to prove product admissibility

After the presentation of the entry, CBP has the authority to inspect (examine) the entry, or to waive that examination right. Consequently, “entry summary documentation is filed and estimated duties are deposited within 10 working days of the entry of the merchandise at a designated customhouse.” The entry must be accompanied by evidence that a bond has been presented to cover any potential duties & taxes. At this point, importers should also submit an entry summary form (CPB 7501). Many of these processes can be completed electronically through the Automated Broker Interface (ABI) program.

Shipments arriving in the US may be entered by the owner, purchaser, an authorized employee, or a licensed customs broker. Customs brokers are the only agents authorized to handle customs transactions pursuant to the US legislation in place.

CBP highly recommends for exporters and importers to pack and prepare accompanying invoices and documentation meticulously and in an orderly fashion, in order to speed up clearance procedures.

US Legislation also requires all imported products to be marked with an English name of the country of origin (for each product). However, in addition to country-of-origin marking, importers must make sure to be compliant with other labelling requirements required by other agencies.

---

1 U.S. Customs and Border Protection, "Importing into the United States: A Guide for Commercial Importers"

2 Ibid.
**Food and Drugs Administration**

In addition to the general custom clearance procedures which are under the administration and supervision of CBP, there are a number of other federal agencies that have substantial responsibilities in the import process of a number of products. The Food and Drug Administration regulates a wide variety of products including human food and medicines (with the exception of a number of commodities which are regulated by the U.S. Department of Agriculture).

When a Customs Broker files products of a shipment for entry with the respective Harmonized Tariff Schedule (HTS) code, the HTS code will flag if a given product is FDA-regulated. In these cases, the broker will be required to provide the following information to the FDA:

- FDA Country of Origin
- FDA Product Code*
- FDA Manufacturer
- FDA Shipper
- FDA Affirmation of Compliance (such as certificates from inspection authorities)
- Quantity and value

It must be noted that FDA product codes are totally different to the tariff codes which are used in customs processes. FDA product codes can be generated electronically, by clicking on this link and following the instructions herein. Different products have different product codes, depending on the contents and the packaging of the products. For example, a non-carbonated soft drink with a citrus base in a glass container will have the FDA product code of “29 A C E 02”.

It must be noted that importers can import food products in the United States without the prior sanction/authorization of the FDA, as long as the facilities that produce, store or transport the products are FDA-registered and prior notice is provided to the FDA (explained below).

The legislation in the US require all food products sold in the United States to contain labels in English, which include the following information:

- the identity of the product,
- the name and address or phone number of the responsible firm (manufacturer or distributor)
- a list of ingredients in descending order or predominance in the product
- the net weight of contents in both English and metric terms,
- nutritional information
- label statement indicating the country of origin of the product

Furthermore, it must be stated that a number of products are required to be processed in a facility which has a Hazard Analysis and Critical Control Point (HACCP) safety plan.

**Food Facility Registration (FDA) & Prior Notice**

The U.S. Public Health Security and Bioterrorism Preparedness and Response Act of 2002 requires all manufacturers of products intended to be sold in the US to register their facilities with the FDA. The registration procedure can be completed online and is free-of-charge; however, all foreign entities are required to provide a US Agent residing in the United States. A step-by-step explanation for the registration of Food Facilities can be found by clicking here.

The above mentioned law also requires a prior notice to be sent to FDA for all food products intended to be imported in the United States. The purpose of the Prior Notice program is to review and evaluate information on imported food products in the US and to have a mechanism for a more efficient system for inspection. Prior Notice to

---

*For a complete entry submission process with the FDA, please [click here](#).*
the FDA must be sent no more than 30 days before the shipment arrives if it is sent through the Automated Brokers Interface, or no more than 15 days if it is sent through FDA’s Prior Notice System Interface. Additionally, these prior notices must be sent no less than 4 or 8 hours before arrival at the port of entry, depending on whether the shipment is arriving by air (4) or by water (8).

Exporting Alcoholic Beverages- Alcohol and Tobacco Tax and Trade Bureau

The overall requirements under the scope of FDA provided in the section above are also applicable to the import of alcoholic beverages in the United States. However, in accordance with the Federal Alcohol Administration Act, a number of additional requirements are to be fulfilled.

First and foremost, the exporting entity needs to apply for a basic import permit with the Alcohol and Tobacco Tax and Trade Bureau. The process for applying for an import permit can be conducted online, or by completing and submitting a TTB Form 5100.24. To successfully obtain a permit, applicants need to establish and maintain a business office in the US. However, as an alternative an exporting entity may contract with an existing licensed importer in the United States and this eliminates the requirement for obtaining an import permit altogether.

In addition to the basic import permit, a very important process before an alcoholic beverage can begin to be sold commercially in the US is obtaining a Certificate of Label Approval (COLA) from the bureau. COLA should be obtained for each specific product that is intended to be imported in the United States. COLA is intended to ensure that alcoholic beverages are labelled in accordance with the law with respect to health warnings, sulfites, alcoholic content etc. The process for applying for a COLA can be completed online through the official website, or by submitting a completed TTB Form 5100.31.

There are additional criteria prescribed by the law for the import of particular alcoholic beverages in the US, such as the requirement for a “natural wine certificate”, or a “certificate of age and origin requirements”.

Exporting Agricultural Products

Fresh fruits and vegetables

Agriculture has been often hyped as a sector of significant potential for Kosovo, considering the availability of arable land, the demographical composition of the population, and the low cost of labor in the sector. In fact, agriculture’s contribution in the overall Gross Domestic Product in Kosovo has ranged from 10 to 15 percent in the period between 2008 and 2015, a contribution rivalled only by the wholesale and retail sector. However, what are Kosovo’s potentials with regards to the export of fresh fruits and vegetables to the US Market? Are there any requirements or restrictions that need to be overcome? This section looks at this topic.

The import of fresh fruits and vegetables in the US territory is monitored by the United States Department of Agriculture, an institution comprised of 29 agencies and offices throughout the US. USDA maintains a database of the list of fresh produce which is permitted entrance to the US market based on the country of origin. The USDA has published a manual which provides a list of commodities that require no permit on import from all countries, and additional lists for specific countries. The list is exhaustive and it does not address whether those

4 More information on the FDA’s Prior Notice program can be found at this link.
5 The USDA Manual on the Import of Fresh Fruits and Vegetables can be accessed here, while the searchable database for the list of eligible products with Commodity Import Requirements can be accessed here.
products can actually be produced in Kosovo.

As reflected in the table, the current list of permitted fruits and vegetables for Kosovo is quite restrictive, and excludes a large number of products which Kosovo can produce and potentially export to the US market. Kosovo institutions will be required to follow a set of procedures in order to extend the list of products of this nature depending on the export potential:

1. First and foremost, the National Plant Protection Organization (NPPO) in Kosovo, should initiate a “Pest Risk Analysis” with the United States Department of Agriculture- Animal and Plant Health Inspection Service (APHIS), for each product separately. In the case of Kosovo, the role of a NPPO would fall under the auspices of the Food and Veterinary Agency. The request for a pest risk analysis should be complemented with a number of documents listed under Federal Regulation 7 CFR 319.5(d)\(^6\)

2. Consequently, APHIS will conduct the pest analysis at the country of application, in accordance with international standards for phytosanitary measures, approved by the International Plant Protection Convention.\(^7\)

3. After the pest risk analysis produces satisfactory results and APHIS determines that the product(s) can be safely imported to the US territory, they will seek public consultation on the potential approval, and consequently provide a permit for the import.

It should be noted however, that the process explained above can potentially take years, and the end result is not necessarily an approval. Thus, if there are plans for exporting particular fresh fruits and vegetables in the US, the procedure for getting a permit should

---

\(^6\) The list of documents required for submitting a Pest Risk Analysis can be [accessed here.](#)

\(^7\) The International Standards for Phytosanitary Measures can be [accessed here.](#)
be initiated well in advance in order to increase the chance of success.

**Meat, Poultry and Eggs**

The US Department of Agriculture, Food Safety & Inspection Service (FSIS), is responsible for regulating and supervising the import of meat, poultry, and eggs in the US territory. The procedure for importing these products is in fact similar to the import of fresh fruits and vegetables, whereby countries have to apply for becoming eligible exporters. Currently, Kosovo is not included in the list of eligible exporting countries and has not undertaken any steps in this direction.

Countries wishing to become eligible for exporting meat, poultry, and eggs, need to make a formal request to USDA FSIS. The evaluation of applicant countries is made based on (1) a document review and (2) on-site review. The document review entails a comprehensive evaluation of applicant country’s laws, regulation and practices on five risk areas, namely Contamination, Disease, Processing, Residues, and Compliance and Economic Fraud. Consequently, a technical team will visit the applicant country with the purpose of conducting an on-site review and evaluate Plant Facilities and Equipment, Laboratories, Training Programs, and In Plant Inspection Operations.

“If FSIS judges the system equivalent to the U.S. inspection system, FSIS promulgates rules which, when completed, result in the listing of the country in Federal regulations, 9CFR 327.2 for meat and 9CFR 381.196 for poultry, as eligible to import into the United States”

Upon the listings explained above are completed, the foreign country’s inspection system is then responsible for certifying individual exporting establishments. From regional countries, only Croatia is listed as an eligible exporting country, whereby as of March 2017, three establishments have been registered as eligible for exporting meat products.

**Generalized System of Preferences**

The US Generalized System of Preferences is a trade preference program established by the United States with the purpose of providing opportunities to a number of least developed and developing countries. This program which was initiated through the Trade Act of 1974, provides preferential custom duty arrangements to listed beneficiary countries, including the Republic of Kosovo. GSP classifies roughly 3,500 products according to their tariff codes (Harmonized Tariff Schedule of the United States – HTSUS) which are granted duty-free access for all Beneficiary Developing Countries (BDC), and an additional 1,500 products which are granted duty-free access only to Least Developed Beneficiary Developing Countries (LDBDC).

Kosovo, similarly to its neighboring countries such as Albania, Macedonia, Serbia, Montenegro, and Bosnia & Herzegovina, pertains to the list of BDCs, and as such, has a duty-free access for 3,500 GSP-eligible products. The list of countries benefiting from the Generalized System of Preferences is provided in HTSUS, under General Notes.

Potential exporters to the territory of the United States, before initiating any export procedures, must first check whether the product they are exporting is GSP-eligible. There are two ways in doing so, either through taking a look at the list of GSP-eligible products for BDCs under the [website of Office of the United States Trade Representative](https://www.ustr.gov), or through the having a look at the appropriate chapter of the

8 The full list of eligible countries for the export of meat and poultry in the US can be [accessed here](https).

9 General Note 4(a) of HTSUS provides a list of Beneficiary Developing Countries
Harmonized Tariff Schedule of the United States (HTS). Having a look at the latter is more advisable, considering that amendments are firstly reflected in the HTS. Eligible products for BDCs and LDBDCs are denoted with an “A”, while products eligible for LDBDCs only are denoted with an “A+”.

How to claim GSP treatment

In order to claim GSP treatment, the importer in the United States is responsible for claiming the preference by using GSP’s Special Program Indicator as a prefix before the HTSUS tariff-line number, when completing the shipment documentation. In the case of GSP for Kosovo, the importer should make sure to denote the product with the “A” prefix (e.g. A22041000). In case the importer for any reason does not claim GSP-eligibility upon import, there are ways to claim it afterwards.  

The Customs and Border Protection (CBP) can request documentation for verifying the GSP-eligibility of the products, and the documentation requested can vary on a case-by-case basis. However, the GSP guidebook provides a list of documents which should be prepared in order to facilitate the procedure:

- GSP Declaration (Evidence of the Country of Origin) - 19 CFR 10.173
- Bill of Materials
- Invoices
- Purchase Orders
- Production records kept in the ordinary course of business
- Payroll information to document labor costs
- Factory Profile
- Affidavit with supporting documentation

As far as the Country of Origin criteria is concerned, “For an imported article to be GSP-eligible, it must be the growth, product, or manufacture of a BDC, and the sum of the cost or value of materials produced in the BDC plus the direct costs of processing must equal at least 35 percent of the appraised value of the article at the time of entry into the United States.”  

CBP is in charge of assessing whether Country of Origin criteria are met. Manufacturers can use imported products for GSP treatment post-import are explained in the GSP Guidebook.

How to check GSP-eligibility of a product

Example: A wine producer in Kosovo is seeking to export sparkling wine to the United States

Step 1: Find the 8-digit HTS Code for the product (22041000)

Step 2 (Preferred): Download the appropriate chapter of the Harmonized Tariff Schedule. In this case, exporters should download Chapter 22 – “Beverages, spirits and vinegar”. In the document, exporters should locate the relevant subheading, which in this case is in the 6th page of the document. Upon locating the desired product, users will note that “Rates of Duty” section contains three columns: General and Special under “1”, and another column under “2”. The column under special reveals whether the product is GSP-eligible. If the designation “A” appears in this column, such as in the case of Sparkling Wine, it means that the product can be exported from Kosovo without custom duties. Furthermore, the listing shows that this product under normal circumstances is subject to a duty of 19.8 cents per liter (or 1.59 USD per liter with respect to imports from North Korea and Cuba).

Step 2 (Alternative): Visit the website of the USTR to see whether the product code is included in the list. In this case, product 22041000 – “Sparkling wine, made from grapes”, is included and the GSP eligible column contains the letter “A”, which means that the product is GSP-eligible for Kosovo.

Step 3: Upon determining that a product is GSP eligible, exporters must follow resulting steps to make sure that their products are given the GSP treatment.

---

10 Other procedures for claiming GSP treatment post import are explained in the GSP Guidebook.

raw material to make up the 35 percent criteria, as long as the imported products undergo substantial transformation upon manufacture. Furthermore, products seeking GSP treatment need to be shipped directly to the territory of the United States and can go through the territories of other states only through transit (not entering the market of any other state).

Countries currently enjoying the benefits of GSP can potentially “graduate” from the program and be excluded from the list based on factors such as national income and competitiveness. The graduation occurs when (a) the President makes a determination that the country has surpassed the threshold of a high income country, as per World Bank standards, or (b) as a result of the country’s advances in economic development and trade competitiveness.

**Further Reading**


---

**List of Acronyms**

APHIS - Animal and Plant Health Inspection Service

ATTB - Alcohol and Tobacco Tax and Trade Bureau

BDC – Beneficiary Developing Country

CBP – Customs and Border Protection

COLA - Certificate of Label Approval

FDA – Food and Drug Administration

FSIS – Food Safety and Inspection Service

GSP – Generalized System of Preferences

HTSUS – Harmonized Tariff Schedule of the United States

LDBDC – Least Developing Beneficiary Country

USDA – United States Department of Agriculture