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KONRAD ADENAUER STIFTUNG

TRADE BARRIERS AS POLITICAL SAFEGUARDS IN KOSOVO-SERBIA RELATIONS

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Executive Summary

This Brief, in three chapters, aims to examine the nature of Kosovo-Serbia trade relations and the application of trade barriers by both countries, as political safeguards in the relations between them. Such barriers have been set by both parties since the declaration of independence of Kosovo and during the EU-mediated dialogue between Kosovo and Serbia, which was initially a technical process, then switched into a political one, and finally became a process to normalize relations. In addition to the political impact, the Brief addresses the impact of trade barriers on the level of trade exchanges between Kosovo and Serbia. At the same time, the impact of the Kosovo-Serbia relations dynamics on Kosovo's relations with international partners and the subsequent impact on domestic political developments in Kosovo is addressed as well.

In the first chapter, the Brief deals with the history of trade relations between Kosovo and Serbia, noting the differences in terms of trade exchanges between the two countries before and after the declaration of Kosovo's independence. There is special emphasis placed on the barriers imposed by the Serbian state in opposition to the statehood of Kosovo and the impact of such barriers on the level of trade exchanges between Kosovo and Serbia.

The second chapter deals with the trade barriers applied by both countries parallel to the developments under the Brussels dialogue. In the framework of this process, for the first time, Kosovo applied protective measures in relation to Serbia, as a vehicle to push Serbia to accept Kosovo's customs stamp. This section also explains that despite Kosovo's efforts to establish a formal relationship between the two countries, Serbia persisted in not recognizing official trade documents of the Republic of Kosovo, forcing Kosovo's hand to reinstate reciprocity measures. Further, it examines the nature of the dialogue agreements under the technical and political process, which aimed to govern the Kosovo-Serbia cooperation modalities on the principle of the different positions of the parties on the statehoodof Kosovo.

The third chapter deals with the advancement of the Kosovo-Serbia dialogue process to its final stage and the potential options for the final agreement, which resulted in Kosovo's reinstatement of trade measures in relation to Serbia. It should be noted that unlike Kosovo, Serbia had not lifted the application of trade barriers as protective measures since Kosovo's declaration of independence. This section also addresses the impact of trade measures imposed on Serbia in Kosovo's relations with international partners. In this regard, it is explained how such measures applied by Kosovo in relation to Serbia, became an obstacle to advancing the dialogue process and placed Kosovo and its international partners on opposing sides. Finally, the Brief addresses the dynamics of Kosovo's relations with international partners and relevant impact on domestic political developments in Kosovo.

Introduction

Kosovo-Serbia trade relations have been characterized by the application of mutual trade barriers, featuring mainly as political safeguards in the relations between the two countries. Serbia began implementing trade measures against Kosovo after Kosovo's declaration of independence in 2008, as a political measure to oppose Kosovo's statehood. Whereas Kosovo used trade measures in relation to Serbia for the first time in 2011 and later in 2015, to consolidate its statehood. In 2018 and 2020, Kosovo reinstated its trade measures in relation to Serbia through a 100% tariff in response to Serbia's international campaign against the State of Kosovo. However, the imposition of this tariff was also related to the dialogue process and proposals for the final agreement that would infringe the territorial integrity of Kosovo. In this light, trade measures have been used by both states as a vehicle to convey political messages or to materialize political and state positions. Accordingly, the Kosovo-Serbia trade relations dynamics have in fact uncovered the nature of political relations between the two countries.

Two key factors have influenced the developments in Kosovo-Serbia trade relations, Kosovo's declaration of independence and developments in the Kosovo-Serbia dialogue process under European Union mediation. The declaration of Kosovo's independence changed the nature of trade relations between Kosovo and Serbia, and this change was rejected by Serbia. Prior to the declaration of independence, trade relations were conducted between Serbia as a state and Kosovo as a territory administered by the United Nations Mission in Kosovo (UNMIK). Accordingly, trade documents featured the UNMIK Kosovo designation and this mission held the power for creating and executing Kosovo's trade policies.[1] Serbia began applying trade barriers precisely when Kosovo's official trade documents changed after the declaration of independence.

While the second factor consists of the developments in the Kosovo-Serbia dialogue process that determined the modalities of forging new relations between Kosovo and Serbia. The dialogue started in 2011 as a technical process to help improve the lives of the people, while in 2012 this process was transformed into a political process and aiming to normalize relations, to include addressing Kosovo's home affairs. The agreements reached in the framework of the Kosovo-Serbia dialogue have regulated the modalities of cooperation between the two countries on the principle of the different positions of the parties regarding the statehood of Kosovo. The ambiguous content of the dialogue agreements enabled Serbia to engage in political and trade relations with Kosovo, without recognizing its statehood.[2] On the other hand, it allowed for Kosovo to declare, upon conclusion of every dialogue agreement, that Serbia has recognized Kosovo as an independent state.

Initially, Kosovo had attempted to consolidate its statehood in trade relations with Serbia, as part of the dialogue process, by compelling Serbia to accept Kosovo's customs stamp.[3] To this end, in July 2011, for the first time ever, Kosovo applied reciprocity measures in relation to Serbia, which lasted until Serbia accepted the customs stamp in September of that year. Nevertheless, Serbia still continued to challenge Kosovo's customs stamp by using its par-

1 International Alert, "Regulation of trade across contested borders: The cases of China/Taiwan, Serbia/Kosovo and Cyprus Natalia Mirimanova, April 2015, p. 42.

2 Brief Analysis, "Kosovo – Serbia Dialogue: Challenges and the Way Forward", March 2018, p.14. Available at http://www.votaime.org/Public/Article?Dialog=true&Dialog=false&SelectedTab=Publications&SelectedMonthID=&SelectedYear=ëpublications

3 Talks on recognizing customs stamps began in 2011 in Brussels under the technical dialogue between Kosovo and Serbia. The goal was to reach an agreement on the mutual recognition of customs stamps between the two parties. The agreement on customs stamps was concluded in September 2011, after Serbia accepted Kosovo's customs stamp following reciprocity measures imposed by Kosovo.

allel stamps and a range of trade barriers associated with opposing Kosovo's official documents.[4]

Kosovo had not responded to Serbia's trade barriers until 2015 when it introduced reciprocity on ADR certificates for the international transport of dangerous goods, until recognition of such certificates by Serbia. Three years later, potential options for a final agreement between Kosovo and Serbia that were presented in 2018, put Kosovo in a defensive position yet again. Accordingly, aiming to preclude discussions and an agreement that could infringe territorial integrity, Kosovo reinstated trade measures in relation to Serbia, imposing a 100% tariff in 2018,[5] which was replaced by reciprocity measures in 2020.

The established trade measures, in the face of a process aimed at normalizing relations, actually highlighted the shortcomings of this process, where in parallel with the dialogue, Serbia conducted a campaign against the State of Kosovo, while Kosovo applied trade measures as a political tool. Trade measures in relation to Serbia have also shaken the foundation of Kosovo's relations with international partners, most notably the United States. Especially in the last two years, there were moments where it seemed that the relations with the latter had reached a critical point.[6] Overall, the international pressure on Kosovo to lift the tariff was tougher, compared to the mild pressure on Serbia to cease its campaign against Kosovo's statehood.

Disagreements with the US partners also affected domestic political developments and relations across the political spectrum in Kosovo, consequently causing deep rifts between them. The lack of agreement to replace the tariff with reciprocity measures in relation to Serbia in line with the demands of US partners, led to political clashes and triggered the collapse of two governments in Kosovo, the Haradinaj Government, in July 2019, and the Kurti Government, in March 2020. While the insistence on keeping such measures in force by those who came up with the idea and their supporters, was related to the obstruction of controversial options, i.e. the 'correction of borders' thesis, for concluding the dialogue process with Serbia. Following the no-confidence motion against the Kurti Government, a new government led by Prime Minister Avdullah Hoti was formed from the ranks of LDK, which repealed the decisions on reciprocity measures, paving the way for the dialogue process to resume.[7]

4 See Brussels Agreements Implementation State of Play Reports by the Government of Kosovo. Available at http://www.votaime.org/Public/Dialog/ViewAllReports

5 Koha Net, "Haradinaj: Taksa po e pengon formalizmin për ndarje", 25 February 2019. Available at https://www.koha.net/arberi/147110/haradinaj-taksa-po-e-pengon-formalizimin-per-ndarje/

6 RTK, "Pas Grenell edhe O'Brien e shpërndan paralajmërimin e senatorit amerikan", 10 March 2020. Available at https://www.rtklive.com/sq/news-single.php?ID=417186

7 See Government Decision No. 03/03, 6 June 2020. Available at https://kryeministri-ks.net/wp-content/uploads/2020/06/Vendimet-e-Mbledhjes-s%C3%AB-3-t%C3%AB-t%C3%AB-Qeveris%C3%AB-s%C3%AB-Republik%C3%ABs-s%C3%AB-Kosov%C3%ABs-2020.pdf

1

History of Kosovo-Serbia Trade Relations

1.1 Kosovo-Serbia Trade Relations After the War and Before Kosovo's Independence

After the end of war in 1999, political and trade relations between Kosovo and Serbia existed in the context of Kosovo being administered and represented as a territory by the United Nations Interim Administration Mission in Kosovo (UNMIK). This mission, as mandated by UNSC Resolution 1244[8], was the central authority in determining and implementing Kosovo's trade policies, including the Kosovo Customs, established after the war as the UNMIK Customs Service.

Although it had lost its control over Kosovo's territory, in terms of trade Serbia still considered Kosovo as a domestic market. In this regard, after the war, the Serbian authorities had adopted internal administrative acts to govern the conduct of trade relations with Kosovo.[9] On the principle of recognizing Kosovo as a separate territory, but not as a separate state, in 2006, Serbia had also signed the Central European Free Trade Agreement (CEFTA), where Kosovo became a contracting party as well, however the agreement was signed by UNMIK on behalf of Kosovo. CEFTA was the first trade agreement between Kosovo and Serbia. Under this agreement, Serbia recognized Kosovo as a separate customs territory, but not as an independent entity.[10] The CEFTA agreement, which entered into force in 2007, aims to support the facilitation of trade between signatory countries and to serve as a good legal basis for formulating domestic trade policies.[11]

From 2002 to 2007, trade in goods between Kosovo and Serbia flowed freely showing a steady upward trend from EUR 193.840 million in imports from Serbia in 2002, reaching EUR 222.534 million in 2007 (see Table 1.1).[12] But on the other hand, Kosovo's exports to Serbia were much lower, resulting in a negative trade balance in relation to Serbia. The signing of the CEFTA agreement had a positive impact, boosting the value of Kosovo's exports to Serbia. Unlike the value of goods that Kosovo had exported to Serbia in 2002 at only EUR 4.745 million per year, in 2006 and 2007 the amount of exports jumped to EUR 20 million. Nevertheless, this value remained extremely low compared to Serbia's exports to Kosovo, continuing the trend of Kosovo's negative trade balance in relation to Serbia.

TABLE 1.1: Trade exchange Kosovo-Serbia during the 2002-2007 period

CEFTA Signature

CEFTA entry into force

Year	2002	2003	2004	2005	2006	2007
Export	4,745,000.00 €	6,754,000.00 €	10,060,000.00 €	8,158,000.00 €	20,910,000.00 €	19,280,000.00 €
Import	193,840,000.00 €	156,410,000.00 €	161,281,000.00 €	152,257,000.00 €	191,053,000.00 €	222,534,000.00 €

SOURCE: KOSOVO AGENCY OF STATISTICS

8 See United Nations Security Council Resolution 1244 on Kosovo, adopted on 10 June 1999. Available at https://peacemaker.un.org/sites/peacemaker.un.org/files/990610_SCR1244%281999%29.pdf

9 International Alert, "Regulation of trade across contested borders: The cases of China/Taiwan, Serbia/Kosovo and Cyprus Natalia Mirimanova, April 2015, p. 33.

10 International Alert, "Regulation of trade across contested borders: The cases of China/Taiwan, Serbia/Kosovo and Cyprus Natalia Mirimanova, April 2015, p. 26.

11 See official CEFTA website for more information. Available at https://cefta.int/cefta-parties-2/

12 Kosovo Agency of Statistics, Trade Statistics 2008, p. 25. Available at https://ask.rks-gov.net/media/2209/statistikat-e-tregtise-se-jashtme-2008.pdf

The CEFTA agreement, which entered into force in **2007**, aims to support the facilitation of trade between signatory countries and to serve as a good legal basis for formulating **domestic trade policies**.

During 2007, imports from Serbia accounted for 14.1% of total imports in Kosovo, coming in second only to Macedonia.[13] On the other hand, Serbia accounted for 11.7% of Kosovo's total exports and ranked third, following the EU countries and Albania.[14]

However, in the post-war period, most of the goods traded between Kosovo and Serbia were unrecorded because the customs authorities did not check all trade,[15] since some of the goods were traded in the so called 'grey zone'.[16] Although the UNMIK authorities had set up checkpoints with Serbia in 2001, they did not collect customs duties on imports from Serbia, rather only value added tax of 15%.[17] In this regard, Kosovo-Serbia trade relations, from the post-war period to the declaration of independence, were conducted without any trade barriers, however Kosovo was not collecting customs revenues at the crossing points with Serbia.

Serbia began applying trade barriers after Kosovo's status changed from an UNMIK-administered entity to an independent state. Kosovo's independence implied many changes to Kosovo's official documents, including trade documents.

1.2 Kosovo's Declaration of Independence and Serbia's Trade Embargo as a Measure Against Kosovo's Statehood

On 17 February 2008, Kosovo was declared an independent state, opening a new era in political and trade relations with Serbia. Serbia did not accept the Ahtisaari Plan, formally the Comprehensive Proposal for the Kosovo Status Settlement, which served as a basis for the declaration of Kosovo's independence, and subsequently nor Kosovo as an independent state. The Ahtisaari Plan was the result of negotiations between Kosovo and Serbia in Vienna, which lasted from 2005 to 2007.

In an act of rejection to Kosovo's independence, two days after Kosovo's declaration of independence, members of the Belgrade-backed Serb community set fire to the Kosovo-Serbia border crossings points

13 Kosovo Agency of Statistics, Trade Statistics 2007, p. 5. Available at https://ask.rks-gov.net/media/2207/statistikat-e-tregtise-se-jashtme-2007.pdf

14 Ibid, p. 24.

15 International Alert, "Regulation of trade across contested borders: The cases of China/Taiwan, Serbia/Kosovo and Cyprus Natalia Mirimanova, April 2015, p. 28.

16 The grey trade includes trade flows that are not illegal, but rather concealed to minimize tax and customs duties.

17 Ibid, p. 43.

at Gates 1 and 31 in Jarinje and Brnjak.[18] The extension of Kosovo's authority to these border crossing points would remain a challenge in the post-independence years, due to the parallel structures funded by the State of Serbia. Following Kosovo's declaration of independence, Kosovo-Serbia trade relations deteriorated unilaterally. Serbia's approach to Kosovo changed, while Kosovo's approach to Serbia remained the same, until 2011 when Kosovo imposed reciprocity measures on Serbia.

The functioning of Kosovo as an independent state also implied changes in foreign relations. In commercial terms, on 12 December 2008, the UNMIK Customs Service, which until then had been the customs enforcement authority in Kosovo, was transformed into the Kosovo Customs. This transition was made possible by the new Customs Code, which was adopted by the Assembly of Kosovo on 11 November 2008.[19] This meant that the customs stamp with the "UNMIK" designation was now replaced with the "Kosovo Customs" designation. Serbia refused to recognize Kosovo's new customs stamp, effectively banning Kosovo's exports to Serbia and transit of goods through Serbia.[20] Serbia's blockade of Kosovo's goods was contrary to the spirit of the CEFTA Free Trade Agreement, where both countries were contracting parties since 2006.

Serbia's approach introduced asymmetric trade relations between the two countries, as Serbia was blocking Kosovo's exports, while Kosovo allowed imports from Serbia without any barriers.[21] The non-recognition of Kosovo's customs stamp and the ban of transit through Serbia were also reflected in the trade volume between the two countries.[22] The percentage of Kosovo's exports to Serbia was halved in 2008, while imports from Serbia fell only slightly, causing Kosovo's negative trade balance to further deepen[23] (see Table 1.2). One year after independence, in 2009, Kosovo's exports to Serbia continued to nearly halve compared to the previous year. During 2009, Kosovo's exports of goods to Serbia were worth only EUR 3.504 million.[24] Despite the embargo imposed by the State of Serbia, Kosovan exporters had managed to find other ways to export their products to Serbia by means of re-exports through Montenegro and Macedonia, with the customs documents of those countries.[25]

18 Ibid, p. 44.

19 Code No. 03/L-109 Customs and Excise Code of Kosovo adopted by the Assembly of Kosovo on 11 November 2008. Available at https://gzk.rks-gov.net/ActDetail.aspx?ActID=2600

20 International Alert, "Regulation of trade across contested borders: The cases of China/Taiwan, Serbia/Kosovo and Cyprus Natalia Mirimanova, April 2015, p. 45.

21 KDI interview with a Kosovo representative in the dialogue with Serbia, 5 May 2020.

22 KIPRED, Policy Brief: "Kosovo in the Regional Context: Economic and Trade Relations", July 2013, p.53. Available at http://www.kipred.org/repository/docs/Kosova_n%C3%AB_Kontekst_Rajonal_Marr%C3%ABdh%C3%ABniet_Ekonomike_dhe_Tregtare__851607.pdf

23 Kosovo Agency of Statistics, International Trade Statistics 2002-2010. Available at https://ask.rks-gov.net/sq/agjencia-e-statistikave-te-kosoves/ekonomi/tregtia-e-jashtme

24 Kosovo Agency of Statistics, International Trade Statistics 2002-2010. Available at https://ask.rks-gov.net/sq/agjencia-e-statistikave-te-kosoves/ekonomi/tregtia-e-jashtme

25 "Monitoring of Implementation of the Agreement Concluded between Kosovo and Serbia in the Field of Free Movement of People and Goods", Authors: Predrag Bjelic, Bisera Seceragic, Albert Krasniqi, Vladimir Petronijevic, Miroslava Jelacic, Doruntina Vinca, p. 12. Available at https://www.centarzaregionalizam.org.rs/prilozi/monitoring/Monitoring_ENG.pdf

TABLE 1.2: Trade exchange Kosovo-Serbia during the 2008-2013 period

	Kosovo Independence declaration			Free movement, customs stamps and IBM agreements		Customs income collection agreement
Year	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**
Export	9,893,000.00 €	3,504,000.00 €	3,941,000.00 €	7,198,000.00 €	14,968.000.00 €	14,463,000.00 €
Import	208,951,000.00 €	210,901,000.00 €	260,471,000.00 €	254,917,000.00 €	278,388,000.00 €	285,356,000.00 €

While the amount of Kosovo's exports to Serbia was declining, imports from Serbia to Kosovo had increased during 2009, with annual imports amounting to EUR 210.901 million.[26] In 2010, Kosovo's exports to Serbia increased slightly, while imports from Serbia continued to grow at high rates with the annual figure reaching EUR 260.471 million for that year (see Table 1.2).

In addition to exporting companies, Kosovo's importing companies also faced barriers while transiting through Serbia. Serbian authorities required Kosovan companies to obtain an import/transit document or certificate issued by the Serbian Ministry of Agriculture. In such situations, Kosovan importing companies had two options: either apply for an import/transit license issued by the Serbian Veterinary Directorate or be forced to go back and use alternative borders. The license application with the Serbian authorities took time and the license was valid for three months only, and the use of other borders came with additional time and financial costs.[27] In both cases, Kosovo's importing companies were suffering losses as a result of Serbia's trade barriers. Since Serbia did not even recognize the license plates of vehicles registered in Kosovo, all Kosovan companies that engaged in exports and imports of goods to and from Serbia and third countries respectively, while passing through Serbia, had to use trucks registered in Serbia or EU Member States.[28]

Kosovo did not undertake any steps to respond to Serbia's trade blockade until 2011, when it imposed reciprocity measures, several months after the start of the technical dialogue in Brussels.

26 Ibid.

27 KDI interview with Mr. Zef Dedaj, Head of Trade Policy Division at the Ministry of Trade and Industry, 21 April 2020.

28 Ibid.

2

Brussels Dialogue Agreements and Kosovo's Responses to Serbia's Trade Measures

The dialogue between Kosovo and Serbia on technical matters started on 8 March 2011, facilitated by Mr. Robert Cooper, the European Union (EU) envoy. This process was initiated after the Resolution adopted by the General Assembly of the United Nations (UN), welcoming the readiness of the EU to facilitate a process of dialogue between Kosovo and Serbia on technical matters and to improve the lives of the people.[29] By the time the dialogue process began, it had been three years since Serbia imposed a trade blockade on Kosovo's exports and transit of goods through Serbia. It is therefore not by chance that the topic of the dialogue was the regulation of the movement of people and goods between Kosovo and Serbia, as well as the documents to be used for such purposes.

As a result, during 2011 as part of the dialogue process, there were six technical agreements/conclusions reached, including three agreements related to trade relations between Kosovo and Serbia, namely the Freedom of Movement Agreement, the Customs Stamps Agreement and the Integrated Border Management (IBM) Agreement.[30]

Agreement	Date
Freedom of Movement	**2 July 2011**
Customs Stamps	**2 September 2011**
Integrated Border Management (IBM)	**2 December 2011**

However, the dialogue agreements were not intended to regulate Kosovo-Serbia relations at the interstate level. Their content determined the modalities of relations between Kosovo and Serbia without the recognition of the State of Kosovo by the latter. Moreover, the ambiguity of the terminology used in the wording of the agreements left their interpretation up to the discretion of the parties. [31]

After about four months of negotiations in Brussels, Kosovo and Serbia reached the first agreement under the technical dialogue framework, that of Freedom of Movement between the two countries.[32] The agreement determined the modalities for freedom of movement, through a system whereby Serbia's recognition of Kosovo as a state was circumvented. Accordingly, Kosovo citizens could travel to Serbia using their ID cards, however upon entry into the Serbia they would receive travel documents allowing a stay of up to 90 days. Such travel documents would be turned in upon exit from Serbia.[33]

Although the agreement on freedom of movement facilitated to some extent the movement of people between Kosovo and Serbia, the latter persisted in preventing the export of Kosovo goods to Serbia with the Kosovo customs stamp. This issue was the topic of talks in Brussels under the technical dialogue framework, however Serbia flat out refused to accept Kosovo's customs stamp even after several rounds of negotiations. For this reason, Kosovo decided to apply reciprocity measures in relation to Serbia in 2011.

29 Resolution of the United Nations General Assembly on the Kosovo-Serbia Dialogue adopted on 9 September 2010. Available at https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/64/298

30 See all agreements reached under the Kosovo-Serbia dialogue on the KDI platform Vota Ime, Tab: Kosovo-Serbia Dialogue. Available at http://www.votaime.org/Public/Dialog

31 Brief Analysis, "Kosovo – Serbia Dialogue: Challenges and the Way Forward", March 2018, p.14. Available at http://www.votaime.org/Public/Article?Dialog=true&Dialog=false&SelectedTab=Publications&SelectedMonthID=&SelectedYear=ëëpublications

32 See Freedom of Movement Agreement. Available at http://www.votaime.org/Uploads/Data/Documents/TekstiiMarreveshjes_2korrik2011_XNF3UtPC2M.pdf

33 BIRN, "Big Deal: Lost in Stagnation", Civic Oversight of the Kosovo-Serbia Agreement Implementation, April 2015, p. 23. Available at https://birn.eu.com/wp-content/uploads/2019/11/BigDeal-LostInStagnation.pdf

2.1 Imposition of Reciprocity Measures in Relation to Serbia for the First Time in 2011

Serbia's refusal, for three years in a row, to accept the customs stamp with the "Kosovo Customs" designation drove the Government of Kosovo, namely the Ministry of Trade and Industry, to issue a decision on 20 July 2011, to the effect of not recognizing Serbian customs and tax administration stamps and banning the import of all goods accompanied by documents containing such stamps.[34] The same measure would be applicable to Bosnia and Herzegovina, and in addition, a 10% customs duty was imposed in relation to this country.[35]

After the establishment of reciprocity, Serbia found alternative ways to export goods to Kosovo, smuggling them through the burnt border crossing points in the North, which were not controlled by the Kosovo authorities. Therefore, on 25 July 2011, the Government of Kosovo authorized a police operation to guarantee the implementation of this decision at all border crossings points with Serbia and to deploy the authorities of the Republic of Kosovo at border crossings points at Gates 1 and 31 in Jarinje and Brnjak.[36] During this police operation, Kosovo Police Officer Enver Zymberi was killed in the line of duty by members of the Serb community in the North.[37] The State of Kosovo had failed to extend its sovereignty to the border crossing points in the North, and after this operation the local Serbs in the North set up road barricades. Meanwhile, KFOR, the NATO peacekeeping mission in Kosovo, was deployed at Gates 1 and 31.[38]

The reciprocity measures imposed by Kosovo lasted 58 days, until an agreement was reached on customs stamps between Kosovo and Serbia on 2 September 2011, in Brussels.[39] Due to these measures Serbia agreed to sign the Customs Stamp Agreement, thereby conceding to accept the "Kosovo Customs" customs stamp. However, the agreement was reached as a result of Kosovo's compromise to Serbia's condition that the 'Republic of Kosovo' designation would not appear on customs declarations.[40]

The impact of reciprocity measures was also reflected in the volume of imports from Serbia, which declined sharply, especially during August where the value of goods was only EUR 3.837 million, compared to previous months where the import rate was many times higher. (see Table 1.3).

34 Decision of the Ministry of Trade and Industry on the Principle of Reciprocity in Trade Relations, 20 July 2011. Available at https://meptinis.rks-gov.net/desk/inc/media/4A154821-BACC-4163-BDBC-3E531B5BD7F3.pdf

35 Ibid.

36 KDI interview with a Kosovo representative in the dialogue with Serbia, 5 May 2020.

37 The Office of the Prime Minister, News: "Kryeministri Thaçi: Vendimi i mbrëmshëm i Qeverisë – demonstrim i drejtpërdrejt i përcaktimit tonë për rend dhe ligj, i përcaktimit tonë për luftimin e krimit dhe korrupsionit në çdo cep të Kosovës", 26 July 2011. Available at https://kryeministri-ks.net/kryeministri-thaci-vendimi-i-mbremshem-i-qeverise-demonstrim-i-drejtperdrejt-i-percaktimit-tone-per-rend-dhe-ligj-i-percaktimit-tone-per-luftimin-e-krimit-dhe-korrupsionit-ne-cdo-cep-te-kosoves/

38 BIRN, "Big Deal: Civilised Monotony?", Civic Oversight of the Kosovo-Serbia Agreement Implementation, p.17. Available at https://prishtinainsight.com/wp-content/uploads/2016/02/BIG-DEAL-1-FINAL-ENG-1.pdf

39 See Customs Stamps Agreement. Available at http://www.votaime.org/Uploads/Data/Documents/TekstiiMarreveshjes_2korrik2011_XNF3UtPC2M.pdf

40 International Alert, "Regulation of trade across contested borders: The cases of China/Taiwan, Serbia/Kosovo and Cyprus Natalia Mirimanova, April 2015, p. 38.

TABLE 1.3: Trade exchange Kosovo-Serbia before and after institution of reciprocity measures in 2011

2011	June	July	August	September
Export	464,000.00 €	586,000.00 €	1,066,000.00 €	507,000.00 €
Import	28,909,000.00 €	18,717,000.00 €	3,837,000.00 €	13,341,000.00 €

SOURCE: KOSOVO AGENCY OF STATISTICS

The Government of Kosovo lifted its reciprocity measures on 16 September 2011. As soon as the reciprocity measures were lifted by Kosovo, the level of imports from Serbia began to rise again and during September the value of imported goods was EUR 13.341 million.

Although reciprocity measures compelled Serbia to accept Kosovo's customs stamp, Serbia was not implementing the agreement on the ground. Initially, the agreement was implemented only in part at four border crossings, while not at all at two other border crossing points on the northern border between Kosovo and Serbia (Gates 1 and 31). This was due to the presence of road barricades in the North, which had blocked the movement of goods since July 2011.[41] At the end of 2014, the Government of Kosovo reported that the implementation of this agreement was good, however, occasionally, there had been cases where the Serbian side acted in violation of the agreement, having used illegal and provocative stamps of former parallel structures in the field of customs and other provocative acronyms in documents.[42] In addition, Serbia had not yet removed the parallel customs from its structures. The organizational chart of the Serbian Customs Administration still included the Pristina Customs Office.[43] The Government had reported on the use of parallel stamps in all its reports on the Brussels Agreements Implementation State of Play over 4 years, including the last report of June 2018.[44] That Serbia persisted in using the parallel customs stamps was confirmed by the former Director of Kosovo Customs, Bahri Berisha, during a meeting with members of the Budget and Finance Committee and KDI representatives held on 4 December 2018.[45]

2.2 Operational Modalities at Border Crossings with Serbia. Conclusion of IBM Agreement

After reaching the Freedom of Movement Agreement in July 2011 and the Customs Stamps Agreement in September 2011, another cross-border aspect between Kosovo and Serbia remained pending, that of regulating border crossing point operations. Consequently, in December 2011, the so-called In-

41 Brussels Agreements Implementation State of Play, Report submitted to the European Union by the Government of the Republic of Kosova, 16 January 2014, p. 25. Available at https://kryeministri-ks.net/wp-content/uploads/docs/Kosovo_Report_on_implementation_state_of_play_of_the_Brussels_Agreements_1_January_2013_-15_January_2014_160114-signed.pdf

42 Brussels Agreements Implementation State of Play, Report submitted to the European Union by the Government of the Republic of Kosova, January-September 2014, p.21. Available at http://www.kryeministri-ks.net/repository/docs/Kosovo_Report_on_Implementation_of_Brussels_Agreements_101014.pdf

43 See official website of the Serbian Customs. Its structures include the Pristina Customs Office. Available at https://www.carina.rs/en/Contact/Pages/Contact.aspx

44 Report on Achievements and Challenges in the Implementation of the Brussels Agreements, 18 June 2018, p.18. Available at http://www.votaime.org/Uploads/Data/Documents/RaportmbiarritjetdhesfidatnezbatimineMarreveshjeveteBrukselit_18qershor2018_GAc6YnWvKU(1)_hxwNkAUHPK.pdf

45 "Deputetët informohen nga Dogana e Kosovës për zbatimin e marrëveshjeve të dialogut dhe masën mbrojtëse prej 100%", 4 December 2018. Available at http://www.votaime.org/Public/DialogActivity/Detail/261

The reciprocity measures imposed by Kosovo lasted 58 days, until an agreement was reached on customs stamps between Kosovo and Serbia on 2 September 2011, in Brussels.

tegrated Border Management (IBM) Agreement was reached between Kosovo and Serbia.

It was the fragile situation at the crossing points in the North with Serbia that resulted in discussions on this matter under the Kosovo-Serbia dialogue process and led to the IBM Agreement.[46] Until this Agreement was concluded, the trade of goods between Kosovo and Serbia had been conducted primarily through the border crossing point in Merdare.[47]

Like the previous Brussels Agreements, this Agreement made determinations on the cross-border relations between Kosovo and Serbia, without recognizing Kosovo as a State. The IBM acronym used in this Agreement encompassed two notions, state borders and administrative boundaries, and the use of each term remained at the discretion of the parties.[48] The ambiguity was a compromise stricken between the parties and was introduced due to Serbia's refusal to recognize Kosovo's statehood and its borders through this agreement.

The agreement provided for the establishment of six, initially temporary and then permanent, border crossing points between Kosovo and Serbia. With EU assistance, three crossing points would be constructed by Kosovo and three by Serbia. This agreement was negotiated several times in the following years, where it was decided to construct additional border crossing points in Kapi and Izvor.[49]

The IBM Agreement was one of the most widely opposed dialogue agreements by Serbia.[50] Under the implementation process, the deployment of customs officers in the North was accompanied with acts of violence by members of the Serb community in this area. On 19 September 2013, a member of EULEX was killed there after two EULEX vehicles carrying six of its personnel came under fire while on a routine mission to relieve the shift at Gate 1, near the Municipality of Zvecan.[51] There have been no such incidents since then, however Kosovo companies still face challenges at border crossing points with Serbia. Shipments of goods cannot be inspected due to lack of veterinary and sanitary inspectors at these points, which means that Kosovan exporters

46 See IBM Agreement, concluded on 2 December 2011. Available on the KDI Platform Vota Ime, at http://www.votaime.org/Uploads/Data/Documents/TekstiiMarreveshjes_2dhjetor2011_TYPMU5YGcB.pdf

47 International Alert, "Regulation of trade across contested borders: The cases of China/Taiwan, Serbia/Kosovo and Cyprus Natalia Mirimanova, April 2015, p. 28.

48 See IBM Agreement, concluded in Brussels on 2 December 2011. Available at http://www.kryeministri-ks.net/repository/docs/agreement_0210_ibm.pdf

49 Brussels Agreements Implementation State of Play, 1 January – 15 June 2016, p. 22. Available at https://kryeministri-ks.net/wp-content/uploads/docs/Kosovo_Report_on_State_of_Play_in_the_Brussels_Dialogue_15_June_2016-signed.pdf

50 Ibid.

51 Radio Free Europe, "EULEX Staff Member Shot Dead in North Kosovo", 19 September 2013. Available at https://www.rferl.org/a/kosovo-eulex-member-shot-dead/25111077.html

must travel additional kilometers for inspection. This situation results in delays and added transport costs. Furthermore, Serbian veterinary and sanitary inspectors work part-time and after 14:00 Kosovan trucks are forced to wait until the next day. Consequently, Kosovan companies face additional time and financial costs at the border with Serbia.[52] Currently, the IBM Agreement implementation is still ongoing.[53] Serbia has made no progress in fulfilling its obligations under this agreement, and has consistently hampered Kosovo's efforts in this direction.[54]

2.3 Collection of Customs Revenues Other than at Border Crossing Points in the North. Establishment of Development Fund for the North

After determining the operational modalities for the Kosovo-Serbia border crossing points through the IBM concept, the collection of customs revenues at these points remained an outstanding challenge. This matter became subject to discussions in Brussels, because since the declaration of independence, Serbia had opposed the establishment of Kosovo state authorities at the border crossings in the North. Therefore, the operational modalities in this area became a topic of discussion in the dialogue process, after the format of this process morphed from technical into political in October 2012. A few months later, on 17 January 2013, Kosovo and Serbia reached an agreement on the collection of customs revenues, which provided modalities for the collection of customs duties, excise duties and VAT at border crossing points in the North.[55] However, the agreement stipulated that the collection of revenues at these points would go to the so-called Development Fund for the North, and that collection would begin after the Fund was established.

Although the agreement to collect customs revenues was a new agreement deriving from the Kosovo-Serbia dialogue, its content was already known years earlier. It was introduced in 2008, several months after Kosovo's declaration of independence.[56] On 24 November 2008, the UN Secretary-General at that time Ban Ki-Moon presented a six-point plan for Kosovo regarding the modalities for the deployment of the EU's Rule of Law Mission to Kosovo, EULEX.[57] Supported by Serbia, the plan provided for, inter alia, international sovereignty at the border crossing points with Serbia in the North, at Gates 1 and 31. This plan further stipulated that the collection of customs revenues at these points would go to a Development Fund for the northern municipalities. In this light, Serbia had managed to achieve its demands from 2008 concerning the crossing points in the North, under the Brussels dialogue framework in 2013.

The Development Fund for the North is unprecedented, and does not compare to any other country, as these municipalities do not have any certain territorial or regional features within the State of Kosovo. Political parties in Kosovo have opposed the establishment of such a Fund, which they have considered as a window to developing autonomy for the northern part of Kosovo. The Fund has also been criticized by analysts for its creation of a *de facto* special region in Kosovo.[58]

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52 KDI interview with Mr. Zef Dedaj, Head of Trade Policy Division at the Ministry of Trade and Industry, 21 April 2020.

53 "Report on Achievements and Challenges in the Implementation of the Brussels Agreements", by the Government of Kosovo, 18 June 2018, p.18. Available at http://www.votaime.org/Uploads/Data/Documents/RaportmbiarritjetdhesfidatnezbatimineMarreveshjeveteBrukselit_18qershor2018_GAc6YnWvKU(1)_hxwNkAUHPK.pdf

54 KDI interview with a Kosovo representative in the dialogue with Serbia, 5 May 2020.

55 See Customs Revenue Collection Agreement, reached between Kosovo and Serbia in Brussels on 17 January 2013. Available at https://kossev.info/wp-content/uploads/public/dokumenti/Agreement_on_Customs_revenue_collection_of_17_January_2013.pdf

56 International Alert, "Regulation of trade across contested borders: The cases of China/Taiwan, Serbia/Kosovo and Cyprus Natalia Mirimanova, April 2015, p. 27.

57 See the six-point plan of former UN Secretary-General Ban Ki-Moon from 24 November 2008. Available at https://undocs.org/S/2008/692

58 Parliamentary Research "Development Fund for the North" p.6, prepared for the Parliamentary Committee on Budget and Finance by the American Chamber, January 2018, under the KDI Project: Strengthening Parliamentary Oversight of the Executive and Enhancing Citizen Engagement in the Kosovo-Serbia Dialogue, funded by the Swiss Federal Department of Foreign Affairs.

Yet again, Kosovo reinstated reciprocity measures with Serbia in 2015, in response to the September 2015 blockade of Kosovo's exports.

In addition to the Customs Revenue Collection Agreement, which provided for the establishment of the special Fund for the North, there was also differential treatment for this area in other dialogue agreements, such as the Agreements on Police, Judiciary, Energy and Telecommunications.[59] Occasionally, there were statements from the Head of State, hinting that a part of the North could be subject to a final agreement with Serbia under the dialogue framework.[60] Pursuant to this principle, the idea of correcting the borders between Kosovo and Serbia was floated in 2018, which basically proclaimed the exchange of territories as a solution to end the political conflict between the two countries.

2.4 Persistent Dispute of Kosovo's Statehood and Reinstatement of Reciprocity Measures in Relation to Serbia in 2015

After reaching the aforementioned dialogue agreements, Kosovo-Serbia trade relations were somewhat regulated, however they continued to be conducted in an environment with trade barriers as political measures in the relations between Kosovo and Serbia. Additionally, the Brussels Agreements concluded on paper, were not being implemented on the ground.

Yet again, Kosovo reinstated reciprocity measures with Serbia in 2015, in response to the September 2015 blockade of Kosovo's exports. Serbian authorities had consistently imposed trade barriers on Kosovo companies transporting oil and gas from Serbia, by not recognizing Kosovo's ADR Certificate.[61] In this respect, the Government of Kosovo had issued a decision on the application of reciprocity measures of non-recognition of Serbia's ADR Certificates and had banned the import of dangerous goods from Serbia. Such measures were in effect until the entry into force of the Brussels Agreement on Mutual Recognition of ADR Certificates[62] in April 2016.[63] This was the second time that reciprocity measures in relation to Serbia had proven to be successful in compelling Serbia to accept the documents of the Republic of Kosovo in mutual trade relations. However, unlike reciprocity measures for customs stamps, where

59 See content of these agreements on the KDI Platform Vota Ime: Kosovo-Serbia Dialogue Tab. Available at http://www.votaime.org/Public/Dialog

60 Koha Net "Thaçi do t'ia kthejë Serbisë "dhuratën" e Rankoviqit", 22 September 2018. Available at https://www.koha.net/arberi/118613/thaci-do-tia-ktheje-serbise-dhuraten-e-rankoviqit/

61 KDI interview with Mr. Zef Dedaj, Head of Trade Policy Division at the Ministry of Trade and Industry, 21 April 2020.

62 See Mutual Recognition of ADR Certificates Agreement, concluded in Brussels on 19 April 2016. Available at https://fer.org.rs/wp-content/uploads/2018/02/Brussels-Agreement-on-mutual-recognition-of-Conclusions-of-the-ADR-certificates-19-April-2016.pdf

63 The Office of Prime Minister of Kosovo, "Reciprocity in Recognition of National ADR Certificates", 20 April 2016. Available at https://kryeministri-ks.net/en/reciprocity-in-recognition-of-national-adr-certificates/

Serbia continued to use its parallel stamps even after the relevant agreement was reached, in the case of ADR certificates, the agreement was implemented by Serbia and no complaints were lodged by Kosovo companies concerning non-recognition of such certificates by Serbia.[64]

Before agreeing on ADR certificates, mutual recognition of trade certificates between Kosovo and Serbia was also achieved for certificates of medicinal products, on 27 June 2015. This agreement enabled the normalization of trade between the two countries in the field of medicinal products, as well as the registration of imported pharmaceuticals before being introduced into the market in accordance with the applicable legislation.[65] However, the agreement ran into implementation snags, because Serbia did not proffer licenses to traders for the export and registration of pharmaceutical products in Kosovo.[66] Pharmaceutical manufacturers from Kosovo still face obstacles in exporting pharmaceutical products to Serbia due to the latter's requirement to register with the Serbian authorities as an exporter from Kosovo. In addition, registration is not accepted by the Serbian authorities, unless the documents issued by the Kosovan authorities refer to Kosovo with neutral status.[67]

Serbia continues to apply many non-tariff barriers in relation to Kosovo, including the rejection of products originating from Kosovo. The barriers applied in relation to Kosovo are of various natures, including the so-called Technical Barriers to Trade and Sanitary and Phytosanitary Standards. At the same time, transit of products made in Kosovo through Serbia still faces persistent administrative hurdles.[68] Often agricultural products originating from Kosovo are not allowed to be exported due to the label indicating the goods as a product made in Kosovo. Serbian authorities do not recognize the quality report of agricultural products of Kosovan exporters and require additional examinations for each shipment. Such long inspection processes create additional time and financial costs for Kosovo exporters. In addition to testing examinations, Serbian authorities often do not recognize the veterinary and sanitary certificates issued by the Kosovo Food and Veterinary Agency (KFVA). [69]

In November 2018, Kosovo imposed a 100% tariff on Serbia. The Government of Kosovo listed the trade barriers applied by Serbia in relation to Kosovo, however the key reason for imposing the tariff was political.

64 KDI interview with Mr. Zef Dedaj, Head of Trade Policy Division at the Ministry of Trade and Industry, 21 April 2020.

65 The Office of the Prime Minister of Kosovo, "Arrihet marrëveshja për njohjen reciproke të certifikatave të produkteve medicinale mes Kosovës dhe Serbisë", 27 June 2015. Available at https://kryeministri-ks.net/arrihet-marreveshja-per-njohjen-reciproke-te-certifikatave-te-produkteve-medicinale-mes-kosoves-dhe-serbise/

66 BIRN, "Big Deal: Split Asunder-Civic Oversight of the Kosovo-Serbia Agreement Implementation", p. 34. Available at https://prishtinainsight.com/wp-content/uploads/2016/02/ENG-publikim-BIGDEAL-3-FINAL-1.pdf

67 KDI interview with Mr. Zef Dedaj, Head of Trade Policy Division at the Ministry of Trade and Industry, 21 April 2020.

68 See letter by Berat Rukiqi, Head of Kosovo Chamber of Commerce, addressed to Prime Minister Kurti on 13 February 2020. Available at https://telegrafi.com/rukiqi-leter-te-hapur-kurtit-zevendesimi-takses-te-shoqerohet-nje-varg-kerkesash-ndaj-serbise/

69 KDI interview with Mr. Zef Dedaj, Head of Trade Policy Division at the Ministry of Trade and Industry, 21 April 2020.

Finalizing the Dialogue and Trade Measures as Means to Prevent Exchange of Territories

Kosovo decided to reinstate trade measures in relation to Serbia following the developments in the final phase of the dialogue with Serbia, which began on 3 July 2017 in Brussels, between Kosovo President Hashim Thaçi and Serbian President Aleksandar Vučić.[70] Information about what was discussed at this meeting and other subsequent meetings between the Presidents was unknown, in a persistent practice of non-transparency, a problem that had accompanied the dialogue process from the get-go. About a year later, on August 3, 2018, President Thaçi unveiled to the public the idea of correcting the borders whereby, according to him, the Presheva Valley would join the territory of Kosovo.[71] While the President insisted, in successive press conferences, that it was only a matter of correcting a historical injustice that had left the Presheva Valley outside Kosovo, this project was viewed with skepticism within Kosovo, by the country's political spectrum, civil society and general public. There were suspicions that this idea was a cover for a project for the exchange of territories between Kosovo and Serbia that was planned to be implemented under the final stage in the dialogue.[72] Sources with insights on this process warned that this idea had found support among some international representatives in the EU[73] and with the US administration[74], although there was no official statement to this effect. US officials had stated that they were ready to consider every agreement on which Kosovo and Serbia would reach an accord, however, not any kind of agreement.[75] Even the US Special Envoy on the Dialogue Richard Grenell had stated that the land swap idea had never been discussed in his presence.[76]

3.1 Imposing a 100% Tariff on Serbia as a Political Tool

The potential land swap through a final agreement between Kosovo and Serbia provoked a reaction from Ramush Haradinaj, Prime Minister at that time. Notably, he had relinquished his constitutional role in the dialogue process, ceding full responsibility to lead the process to President Thaçi. However, Haradinaj did not agree to discussing or making changes to the territory of Kosovo under the final Kosovo-Serbia agreement. As he has stated several times, the only acceptable solution would be an agreement that does not affect the borders of the Republic of Kosovo as of 17 February 2008.[77] The land swap idea became the object of discord between him and President Thaçi, who, despite the opposition voiced domestically, persisted in promoting this idea. Notwithstanding efforts to thwart the President, the political spectrum represented in the Assembly of Kosovo failed to pass a single joint resolution on this matter. The draft resolutions, sometimes proposed by the ruling parties and sometimes by those in opposition, failed as a result of political disagreements

70 The Office of the President of Kosovo, "A new phase in the dialogue on the normalization of relations between Kosovo and Serbia begins", 3 July 2017. Available at https://president-ksgov.net/en/news/a-new-phase-in-the-dialogue-on-the-normalization-of-relations-between-kosovo-and-serbia-begins

71 The Office of the President of Kosovo, "President Thaçi's address at the media conference", 3 August 2018. Available at https://president-ksgov.net/en/news/president-thacis-address-at-the-media-conference

72 The Guardian, "A Kosovo-Serbia land swap is ethnic cleansing by another name. Don't do it", Agron Bajrami, 17 October 2018. Available at https://www.theguardian.com/commentisfree/2018/oct/17/kosovo-serbia-land-swap-ethnic-cleansing

73 Koha Net, "Tagesspiegel: Gjermania kritika Mogherinit se po e mbështet idenë e shkëmbimit të territoreve Kosovë-Serbi", 20 April 2019. Available at https://www.koha.net/arberi/158110/tagesspiegel-gjermania-kritika-mogherinit-se-po-e-mbeshtet-idene-e-shkembimit-te-territoreve-kosove-serbi/

74 Online News Portal Kallxo, "Daniel Serwer: Me shkëmbimin e kufijve, Kosova rrëshqet prapa", 7 September 2018. Available at https://kallxo.com/gjate/interviste/daniel-serwer-me-shkembimin-e-kufijve-kosova-rreshqet-prapa/

75 "Ambassador Kosnett's Interview with KoSsev Portal", 28 December 2018. Available at https://xk.usembassy.gov/ambassador-kosnetts-interview-with-kossev-portal/

76 Voice of America in Albanian "Grenell: Shkëmbimi i territoreve Kosovë – Serbi, nuk është një opsion", 27 March 2020. Available at https://www.zeriamerikes.com/a/us-kosovo/5349243.html

77 "Prime Minister Haradinaj: The exchange of territories will not be negotiated during the talks with Serbia", 26 December 2018. Available at https://kryeministri-ks.net/en/prime-minister-haradinaj-the-exchange-of-territories-will-not-be-negotiated-during-the-talks-with-serbia/

Kosovo decided to reinstate trade measures in relation to Serbia following the developments in the final phase of the dialogue with Serbia, which began on 3 July 2017 in Brussels, between Kosovo President Hashim Thaçi and Serbian President Aleksandar Vučić.

and partisan calculations.[78] Even a State Delegation set up by the Government with the aim of leading the dialogue process was eventually declared unconstitutional by the Constitutional Court. However, in its Judgment of 27 June 2019,[79] the Court reconfirmed the constitutional provisions determining the Government in charge of foreign policy, including the Dialogue, in consultation with the President.

In an attempt to foil the advancement of the land swap idea, in November 2018, the Haradinaj Government introduced a tariff, initially set at 10%[80] and then 100%[81], on products made in Serbia and Bosnia and Herzegovina. At first glance, the tariff decision appeared to have been imposed as a trade penalty in relation to Serbia after its international campaign against the recognition of the State of Kosovo and its membership in international organizations, resulting in failure to secure Kosovo's membership in the INTERPOL organization.[82] However, it later emerged that the real reason for imposing this tariff was to prevent the realization of the controversial idea of exchange of territories between Kosovo and Serbia.[83]

Immediately after the imposition of the 100% tariff, came the reaction of senior Serbian representatives, who had decided to withdraw from the dialogue process until the removal of the 100% tariff by Kosovo.[84] The suspension of the dialogue also mobilized the European and US officials, who launched their demands urging the Government of Kosovo for a time-limited suspension of tariffs.[85] The European and, especially, US officials called on the Government of Kosovo to immediately suspend the import tariff in relation to Serbia, to pave the way for the

78 See KDI Report "Dialogu Kosovë-Serbi gjatë vitit 2018 në Kuvendin e Kosovës". Available at http://www.votaime.org/Public/Article?Dialog=true&Dialog=false&SelectedTab=Publications&SelectedMonthID=&SelectedYear=ëëpublications

79 Constitutional Court Judgment in Case No. KO43/19, "Constitutional Review of Law No. 06/L-145 on the Duties, Responsibilities and Competences of the State Delegation of the Republic of Kosovo in the Dialogue Process with Serbia", 27 June 2019. Available at https://gjk-ks.org/wp-content/uploads/2019/06/ko_43_19_agj_ang.pdf

80 Government Decision on imposing a protective fiscal measure of 10% on products made in Serbia and BiH, 6 November 2018. Available at https://kryeministri-ks.net/wp-content/uploads/2018/11/IMG_2387.jpg

81 Government Decision on imposing a protective fiscal measure of 100% on products made in Serbia and BiH, 6 November 2018. Available at https://kryeministri-ks.net/wp-content/uploads/2018/11/Lista-e-mallrave-te-perjashtuara.pdf

82 Government Reasoning on imposing protective fiscal measures in relation to Serbia and BiH. Available at https://kryeministri-ks.net/en/kosovo-calls-on-the-international-community-to-support-adherence-to-international-agreements/

83 Koha Net, "Haradinaj: Taksa po e pengon formalizmin për ndarje", 25 February 2019. Available at https://www.koha.net/arberi/147110/haradinaj-taksa-po-e-pengon-formalizimin-per-ndarje/

84 Reuters, "Serbia to resume Kosovo talks only after it scraps tariffs, Vucic tells Trump", 31 January 2019. Available at https://www.reuters.com/article/us-serbia-usa-kosovo/serbia-to-resume-kosovo-talks-only-after-it-scraps-tariffs-vucic-tells-trump-idUSKCN1P-P1X9

85 Statement from U.S. Embassy Pristina related to the tariff, January 25, 2019, 25 January 2019. Available at https://xk.usembassy.gov/statement-from-u-s-embassy-pristina-2/

In an attempt to foil the advancement of the land swap idea, in November 2018, the Haradinaj Government introduced a tariff, initially set at 10% and then 100%, on products made in Serbia and Bosnia and Herzegovina.

continuation of the Kosovo-Serbia dialogue. Only after Kosovo's insistence on maintaining the tariff, about a year later, senior US officials began demanding that Serbia also suspend its lobbying campaign against the recognition of Kosovo.[86]

International, EU and US demands related to the tariffs also determined the attitudes of political entities in Kosovo and caused further deepening of internal rifts. The possibility of jeopardizing the international partnership with the United States changed the attitudes of political representatives in Kosovo who had previously supported the 100% tariff on Serbia. Succumbing to international pressure, coalition partners PDK, NISMA and AKR demanded that Prime Minister Haradinaj suspend the tariff to pave the way for dialogue, where options for the temporary suspension of this measure were not lacking, such as the proposal made by the former Speaker Kadri Veseli, for a period of 120 days with the possibility of reinstatement at a later date.[87] On the other hand, Prime Minister Haradinaj continued to insist that the 100% tax remain in effect until Kosovo's recognition by Serbia, asking for guarantees from international representatives that the territorial integrity of Kosovo would not be discussed under the dialogue process.[88] On 19 July 2019, Prime Minister Haradinaj resigned, which triggered the dissolution of the Assembly and the holding of snap elections resulting in a new governing coalition, comprised of the two former opposition parties LDK and LVV, led by Albin Kurti.

While the tariff had an adverse effect on both the relationships across the political spectrum in Kosovo and Kosovo's relations with international partners, in economic terms its impact on Kosovo's economy remains controversial.[89] In this regard, the imposition of tariffs had a affirmative effect on boosting productivity in Kosovo. While imports from Serbia declined sharply from EUR 388.928 million in 2018 to just EUR 5.784 million in 2019 (see Table 1.4), Kosovan manufacturers benefited to a certain extent, as some of the goods were replaced by domestically produced goods.[90]

86 Koha Net "Palmer: Prishtina të heqë taksën, e Beogradi të ndalë fushatën për de legjitimimin e pavarësisë së Kosovës", 6 November 2019. Available at https://www.koha.net/arberi/192633/palmer-prishtina-te-heqe-taksen-e-serbise-te-ndale-fushaten-per-delegjitimimin-e-pavaresise-se-kosoves/

87 Koha Net, "Veseli propozon që taksa të pezullohet për 120 ditë", 28 January 2019. Available at https://www.koha.net/arberi/142112/veseli-propozon-qe-taksa-te-pezullohet-per-120-dite/

88 "The letter of Prime Minister Haradinaj sent to Quint Ambassadors and EU Representative in Kosovo", 28 January 2019. Available at https://kryeministri-ks.net/en/the-letter-of-prime-minister-haradinaj-sent-to-quint-ambassadors-and-eu-representative-in-kosovo/

89 KDI interview with Mr. Zef Dedaj, Head of Trade Policy Division at the Ministry of Trade and Industry, 21 April 2020.

90 KDI had prognosticated an increase in local product consumption as one of the positive effects of the tariff. See publication "100% Tariff: Continuation or Suspension?", February 2019. Available at http://www.votaime.org/Public/Article?Dialog=true&Dialog=-false&SelectedTab=Publications&SelectedMonthID=&SelectedYear=ëëpublications

TABLE 1.4: Trade exchange Kosovo-Serbia during the 2014-2019 period

ADR certificate recognition agreement

Year	2014	2015	2016	2017	2018	2019
Export	27,292,000.00	32,262,000.00	41,331,000.00	48,246,000.00	33,529,000.00	27,361,000.00
Import	368,234,000.00	382,129,000.00	387,647,000.00	449,918,000.00	388,928,000.00	5,784,000.00

SOURCE: KOSOVO AGENCY OF STATISTICS

Consequently, in the period of January–October 2019, the manufacturing sector in Kosovo grew slightly by 10%.[91] While the tariff had a positive but not very pronounced impact on the manufacturing sector, its effect was negative in terms of increased prices from producers and importing businesses as a result of lower competition and higher demand, or increased shipping costs.[92]

3.2 Reinstatement of Full Trade Reciprocity with Serbia

Mounting international pressure on Kosovo to lift the 100% tariff on Serbia pressed on with the new LVV-LDK Government led by Prime Minister Kurti, having inherited the 100% tariff from the former Haradinaj Government. During the election campaign, LVV and LDK pledged to lift the 100% tariff on Serbia, replacing it with reciprocity measures in relation to Serbia. The two parties had agreed to this in negotiating their governing program in process that lasted almost four months. At the time when the decision on reciprocity measures was being heralded, representatives of the Kosovo Chamber of Commerce came out in support of such a decision, requesting a series of demands attached in relation to Serbia. This due to the large number of non-tariff barriers that Serbia had been applying to Kosovo for a long time, both in exports and in transit related to the Serbian market.[93]

The disagreements among coalition partners about the reciprocity measures came into play through the contradictory statements given by senior representatives of LDK and LVV. Disagreements deepened further as US pressure escalated to posts on social media portending considerations of withdrawing US troops from Kosovo,[94] in addition to the suspension of some funds earmarked for Kosovo.[95] While once upon a time demands had entertained options for a time-limited suspension of tariffs, now there was single demand to completely scrap this measure, unconditionally and immediately.

Confronted with mounting international pressure,

91 GAP Institute, "The impact of 100% tax on production and consumer prices in Kosovo: Comparing periods: January - October 2018 and January - October 2019", March 2020, p. 13. Available at https://www.institutigap.org/documents/48583_taksa100_Fn.pdf

92 GAP Institute, "The impact of 100% tax on production and consumer prices in Kosovo: Comparing periods: January - October 2018 and January - October 2019", March 2020, p. 13. Available at https://www.institutigap.org/documents/48583_taksa100_Fn.pdf

93 See letter by Berat Rukiqi, Head of Kosovo Chamber of Commerce, addressed to Prime Minister Kurti on 13 February 2020. Available at https://telegrafi.com/rukiqi-leter-te-hapur-kurtit-zevendesimi-takses-te-shoqerohet-nje-varg-kerkesash-ndaj-serbise/

94 See statements by several US Senators on their Twitter accounts. Available at https://twitter.com/randpaul/status/1237547146414395392?lang=en

95 "Statement of the Millennium Challenge Corporation Regarding the Status of Programs in Kosovo", 13 March 2020. Available at https://www.mcc.gov/news-and-events/release/stmt-031320-status-of-kosovo-programs

Mounting international pressure on Kosovo to lift the 100% tariff on Serbia pressed on with the new LVV-LDK Government led by Prime Minister Kurti, having inherited the 100% tariff from the former Haradinaj Government.

on 27 February 2020, Prime Minister Kurti proposed a seven-point plan on the 100% tariff, which provided for abolishing the tariff on raw materials initially and the gradual imposition of reciprocity measures contingent on Serbia changing its approach to Kosovo and ceasing its campaign for de-recognition.[96] After the press conference of Prime Minister Kurti, the leaders of LDK gave statements sharing different positions regarding this plan, which once again proved the lack of accord on this issue within the ruling coalition.[97] As planned, on March 20, at the Government Meeting, the decision to abolish the 100% tariff on raw materials in relation to Serbia was approved.[98] Members of the Government Cabinet from LDK did not take part in the vote, while those from Lista Srpska abstained.

The plan to replace the tariff with reciprocity measures in relation to Serbia continued to affect domestic developments in Kosovo even at a time when the country and the world grappled with the risks associated with the COVID-19 pandemic. Disagreements over Prime Minister Kurti's dismissal of Interior Minister Agim Veliu triggered LDK's initiation of a no-confidence motion. The LDK had already forewarned that could happen due to the opposing views on reciprocity. The motion was also supported by the opposition political entities and, on 25 March 2020, this motion was put to a vote on the Assembly floor, resulting in 82 votes "Yea", 32 "Nay" and 1 abstention.

The Kurti Government continued to function as Caretaker Government, and on April 1, as announced, at the Government Meeting adopted a decision to gradually replace the 100% tariff on Serbia with reciprocity measures.[99] The decision was supported only by members of the Government Cabinet from the ranks of VV. Notwithstanding domestic and foreign opposition, on 1 April 2020, the Government began implementing the reciprocity measures at the Koso-

96 "Prime Minister Kurti: The tariff on raw materials imported from Serbia and Bosnia and Herzegovina to be removed from 15 March 2020", 27 February 2020. Available at https://kryeministri-ks.net/en/kryeministri-kurti-nga-15-mars-2020-hiqet-tarifa-per-lenden-e-pare-qe-importohet-nga-serbia-dhe-bosnja-dhe-hercegovina/

97 See statements by Isa Mustafa, President of LDK, and Avdullah Hoti, former Deputy Prime Minister from LDK, on their official Facebook pages, on the tariff and reciprocity measures.

98 "The Government of Kosovo issued the Decision for lifting the 100% tariff on the imports of raw materials from Serbia and Bosnia and Herzegovina", 20 March 2020. Available at https://kryeministri-ks.net/en/qeveria-e-kosoves-merr-vendim-per-te-liruar-nga-tarifa-100-per-qind-importin-e-lendes-se-pare-nga-serbia-dhe-bosnje-hercegovina/

99 Caretaker Government Decision No. 01/20 "On the gradual application of reciprocity as a principle in relations with Serbia", 31 March 2020. Available at https://kryeministri-ks.net/en/documents-en/?kategoria=vendimet-e-mbledhjes-se-qeverise&viti=2020

From 1 April 2020, when the reciprocity measures were imposed, until 15 April 2020, the goods from Serbia that entered into Kosovo were as follows: raw materials in the amount of **EUR 2,419,471.92** and commercial goods in the amount of **EUR 5,012,864.** Whereas, during this period Kosovo exported goods in the amount of **EUR 548,488.93.**

vo Customs.[100] From the very first days, some trucks with goods from Serbia, which did not meet the required constitutional documentation, as provided in the Government decision, were turned back. From 1 April 2020, when the reciprocity measures were imposed, until 15 April 2020, the goods from Serbia that entered into Kosovo were as follows: raw materials in the amount of EUR 2,419,471.92 and commercial goods in the amount of EUR 5,012,864. Whereas, during this period Kosovo exported goods in the amount of EUR 548,488.93.[101]

Overall, regarding the decision on reciprocity in relation to Serbia, it should be noted that in contrast to previous periods where Kosovo has imposed reciprocity measures on this country in 2011 and 2015, this time it failed to garner any international support. The underlying reason for this may be the substantive differences that apply. In 2011 and 2015, previously reciprocity measures were imposed only on a specific matter, namely in 2011 to push Serbia to recognize Kosovo's customs stamp and in 2015 to recognize Kosovo's ADR certificate. Whereas, the reciprocity measures imposed this year include a range of issues aimed at achieving full political and trade reciprocity with Serbia.[102] Despite the fact that such measures are in principle fair game, the international opposition is linked to Serbia's refusal to resume the dialogue process until Kosovo scraps all trade measures. Such circumstances compelled the new government led by Avdullah Hoti to repeal the reciprocity measures to enable the resumption of the dialogue process.

100 Interview with Ibrahim Xhaka, Acting Director of Kosovo Customs, 1 April 2020. Available at https://kallxo.com/lajm/u-d-drejtori-i-doganes-jep-detaje-per-zbatimin-e-reciprocitetit/

101 KDI interview with Mr. Zef Dedaj, Head of Trade Policy Division at the Ministry of Trade and Industry, 21 April 2020.

102 KDI interview with a former representative of Kosovo in the dialogue with Serbia, 5 May 2020.

Conclusion

Trade barriers as political measures have featured largely in the trade relations between Kosovo and Serbia. Serbia began applying trade barriers in relation to Kosovo, following the change in Kosovo's status from an UNMIK-administered entity to an independent state, because Kosovo's independence implied numerous changes to Kosovo's official documents, including its trade documents. Serbia refused to recognize the new reality, first by imposing a trade embargo and then by a series of non-tariff barriers, including non-recognition of documents and barriers to inspection and transport of goods.

Kosovo did not undertake any steps to respond to Serbia's trade blockade until 2011, when it imposed reciprocity measures, several months after the start of the technical dialogue in Brussels. The reason for imposing such measures was Serbia's refusal to recognize Kosovo's customs stamp. These measures were in effect until an agreement was reached on customs stamps, which in turn unlocked the trade exchanges between the two countries. However, Serbia again violated the agreement by using its parallel stamps and imposing non-tariff barriers on Kosovo. In this light, while Kosovo used trade barriers to consolidate its statehood and establish itself on an equal footing in relations to Serbia, the latter applied barriers in resistance and opposition to Kosovo's statehood.

The application of mutual barriers continued over the years despite the ongoing dialogue between the parties to normalize relations. In the framework of this process, various aspects of trade relations were regulated through conclusions agreed on matters such as the Freedom of Movement, Integrated Border Management (IBM), Customs Revenue Collection, etc. What characterized these agreements was the content and operational modalities, which provided for the conduct of Kosovo-Serbia relations without mutual recognition.

Serbia's persistence to frustrate trade exchanges compelled Kosovo to reinstate reciprocity for the second time in 2015. This was due to Serbia's non-recognition of Kosovo's ADR certificates for dangerous goods. Once again, reciprocity measures had proven successful in compelling Serbia to recognize such certificates through the relevant agreement concluded under the dialogue framework.

Although Serbia still continued to apply non-tariff barriers in relation to Kosovo's importing companies, the latter did not respond with any trade measures until 2018, when it initially imposed a 10% tariff and then 100% tariff on imports from Serbia. However, Serbia's trade barriers, although listed under reasons for imposing the tariff, were not the primary driver for the application of the tariff. The tariff was imposed after Serbia waged a campaign that made it impossible for Kosovo to join the INTERPOL organization. Ultimately, it turned out that the underlying and true reason for imposing this measure in relation to Serbia was to foil the controversial border correction idea.

The change of Government in Kosovo brought on the abolishment of the tariff and its replacement with measures of full trade reciprocity with Serbia. However, much like the tariff, reciprocity failed to mobilize broad support both domestically and among international partners. The latter addressed successive requests to the Kosovo Government, demanding the immediate removal of all trade measures which, according to them, were hindering the continuation of the dialogue process.

Consequently, two Governments in Kosovo fell because of their refusal to suspend trade measures in relation to Serbia and the lack of domestic and foreign support to keep such measures in effect. In this light, the dialogue process as a process of regional and international significance for the international community representatives, prevailed over Kosovo's righteous demand to establish a relationship on an equal footing with Serbia. The lack of external support from the international partners affected the attitudes and lack of internal support from the political spectrum, as most political leaders and political parties in the country prioritized maintaining good relations with the international partners, who in turn constantly called for the removal of any barrier to continuing the dialogue.

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