

A POLICY REPORT BY GLPS & INTER

NO. 08 – NOVEMBER 2013



Dialogue-induced Developments on the Ground

-Analysis on implementation of the EU-facilitated
agreements on freedom of movement and trade
between Kosovo and Serbia



GROUP FOR LEGAL
AND POLITICAL
STUDIES



Acknowledgements

This policy report was developed as part of the 2013 Train Program facilitated by the German Council on Foreign Relations (DGAP) and sponsored by the German Foreign Office (Stability Pact for South East Europe).

The authors would like to thank Theresia Töglhofer, Natasha Wunsch, and Dr. Cornelius Adebahr from DGAP who all provided invaluable support, advice and recommendations throughout the writing process.



Policy Report 08/2013

Dialogue-induced Developments on the Ground: Analysis on implementation of the EU-facilitated agreements on freedom of movement and trade between Kosovo and Serbia

Aubrey Hamilton* and Jelena Šapić**

November 2013

© Group for Legal and Political Studies and INTER, November, 2013.

The opinions expressed in this document do not necessarily reflect those of Group for Legal and Political Studies and INTER donors, their staff, associates or Board(s). All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any mean without permission. Contact the administrative office of the Group for Legal and Political Studies and INTER for such requests.

*Research Fellow, Group for Legal and Political Studies, Pristina, Kosovo.

**Junior Researcher, Institute for Territorial Economic Development, Belgrade, Serbia.

About GLPS

GLPS – Group for Legal and Political Studies – is an independent, non-partisan and non-profit public policy organization based in Prishtina, Kosovo. Our mission is to conduct credible policy research in the fields of political, law and economics and to push forward policy solutions that address failures and tackle problems in the said policy fields. Through advocating the policy solutions derived from our policy research, we aim to support four fundamental policy developments:

- a. To support the democratization of the polity with regard to institutional and substantive policy reform
- b. To strengthen the rule-of-law capacity and performance via informed policy solutions and practical advocating strategies
- c. To enhance the economic growth and development by promoting market strategies that increase the rate of growth and stability
- d. To help improve regional cooperation and Kosovo's presence at the international level

We are dedicated to provide high-quality public policy research through prominent scholars drawn from international and European centres of excellence in research, while aiming to be globally competitive for our quality research and impact in the fields of political science, law and economics.

More information on Group for Legal and Political Studies is available at legalpoliticalstudies.org

About InTER

InTER – the Institute for Territorial Economic Development – was established in 2006 as an independent non-governmental regional think tank with the mission of promoting and advancing sustainable socio-economic territorial development in the Western Balkans. InTER is registered with the Business Registry Agency of the Republic of Serbia and the Ministry of Public Services of the Government of Kosovo. This twofold registration gives InTER the requisite legal status to provide its services in all Western Balkan countries.

InTER's basic field of expertise is support and assistance in the assessment and design of territorial development policies, as well as support in capacity building for the public sector (principally public administration organisations and local governments), private enterprises and civil society organisations. InTER has been primarily involved in conducting policy research, assessments, evaluations and analyses, support to development of organisational and management capacity, as well as support in programming and evaluation of development interventions. InTER also places great importance on environmental protection and sustainable development issues.

More information on InTER is available at the official website: www.lokalnirazvoj.org

This page intentionally left blank

DIALOGUE-INDUCED DEVELOPMENTS ON THE GROUND: Analysis on Implementation of the EU-Facilitated Agreements on Freedom of Movement and Trade between Kosovo and Serbia

I. INTRODUCTION

The EU-facilitated dialogue between Kosovo and Serbia began in March 2011. In under three years, the dialogue has spawned a number of official agreements, changed from technical to political talks, and catalyzed discussion and cooperation between Kosovo and Serbia that would have been unthinkable years prior. The fact that high level politicians from Serbia and Kosovo have come together to hold talks and the agreements themselves represent groundbreaking steps in Kosovo-Serbia relations. Yet the key to a fruitful dialogue lies in the implementation of agreements. The successful implementation of agreements is necessary for normalizing the lives of citizens and is highly relevant to the EU integration processes of both Kosovo and Serbia; the opening of accession talks for Serbia and further EU integration through the conclusion of a Stabilization and Association Agreement and visa-liberalization for Kosovo is conditional on the continued normalization of relations and the implementation of all previous agreements.

This policy report analyzes the early bird experiences with implementation of three key agreements – freedom of movement, customs and IBM¹ – taking into consideration previous experiences with the flow of commodities and people between Kosovo and Serbia, as well as contemporary demands on economic and regional integration and cooperation. In order to determine the tangible effects of the dialogue, this report will explore the first-hand perspective of impacts of agreement implementation on both freedom of movement and trade between Kosovo and Serbia. In conclusion, this policy report discusses which aspects should be put back on the dialogue table and what steps should be taken to ensure improvements to trade and freedom of movement.

II. BASELINE SITUATION AND AGREEMENTS REACHED

Tensions over the status between Kosovo and Serbia since 1999 led to problems hindering freedom of movement and trade between the two territories. Kosovo's declaration of independence in 2008 and Serbia's refusal to recognize this independence and Kosovo state symbols contributed to an already aggravated flow of commodities and people.

Looking back to 1999, Kosovo was placed under the United Nations interim administration (UNMIK) according to the UNSC Resolution 1244. Under this resolution, UNMIK was tasked with issuing travel documents, registration papers for Kosovo residents, license plates of the KS² designation, and representing Kosovo as an international trading partner. This new situation brought forth many questions on the relations between Kosovo and Serbia, including a question of renewing trade ties. During the early 2000s, the Serbian government

¹ While IBM traditionally references “Integrated Border Management” in the EU context, the meaning of the acronym in the context of the Kosovo-Serbia Dialogue has been disputed. Kosovo argues that IBM stands for “Integrated Border Management” which upholds the existence of national borders, while Serbia argues that IBM stands for an “Integrated Boundary Management” which would denote a territory without national sovereignty. Only the status neutral acronym “IBM” was used in the EU facilitated agreement.

² KS referring to Kosovo.

adopted a series of laws and bylaws which governed trade with Kosovo. Trade between Kosovo and Serbia was established under the regular tax procedure. Bilateral trade, particularly exports from Serbia to Kosovo, increased in 2007 after Kosovo via UNMIK and Serbia began to trade under the parameters of the CEFTA (Central European Free Trade Agreement) agreement,³ wherein Serbia recognized Kosovo as a separate customs territory. After having signed that treaty, customs procedures between the two sides mirrored those of other countries in the region.

However, trade and freedom of movement between Kosovo and Serbia again fell victim to increasing tensions and status disputes resulting from Kosovo's declaration of independence in February 2008.⁴ After independence, official identification and travel documents in Kosovo were supplied by the Government of Kosovo rather than UNMIK. Since Serbia did not recognize Kosovo's independence, as a consequence, Serbia also did not accept identification/travel documents issued by the Government of Kosovo or goods labeled with Kosovo customs stamps.⁵ By 2010, the Kosovo institutions put out new RKS plates⁶ which replaced previously used KS plates issued by UNMIK. Nevertheless, the Government of Serbia has never recognized those license plates. Serbia continued to release its own designed plates for Kosovo towns, such as KM (Kosovska Mitrovica), PR (Pristina), PE (Pec), PZ (Prizren), ĐA (Djakovica), UR (Urosevac) and GL (Gnjilane).

On the issue of freedom of movement, analysis of policies for personal travelling documents indicates parallel regimes which restricted freedom of movement. After Kosovo's independence in February 2008, Kosovo's institutions started issuing Kosovo passports and identification documents (IDs). According to its policy of recognizing Kosovo as a part of its own territory, the Government of Serbia has continued to issue documents for residents in Kosovo even after 1999. In that regard, the ID and travel documents (as well as car license plates) are issued by the Government of Serbia to Kosovo inhabitants that requested those documents and have had proof of Serbian citizenship. Beneficiaries of those documents were mainly Kosovo Serbs, yet also other ethnic groups from Kosovo, including Albanians, Bosniaks, Roma, Gorani and others. The two governments applied policies on crossings between Kosovo and Serbia that constrained free movement of people who did not possess what was considered to be proper travel documents.

It was thus clear that the issues of freedom of movement and customs stamps should be among the first ones to be negotiated in the EU facilitated dialogue launched in March 2011.⁷ Representatives of the two governments came together to begin a technical dialogue. An agreement on freedom of movement was reached in early July 2011. This agreement allowed citizens of Kosovo to travel into Serbia using Kosovo identification documents and prescribed rules for using license plates (and necessary international insurance) for traveling in the two territories.

³ CEFTA is a trade agreement between non-EU countries in Southeast Europe, and requires Free Trade Agreement with all other CEFTA member states. CEFTA parameters went into effect on July 26, 2007 for Kosovo via UNMIK and on October 24, 2007 for Serbia.

⁴ UNMIK's administrative functions ended in July 2008, while UNMIK still has a minor presence in Kosovo.

⁵ Customs stamps were changed from "UNMIK Customs" to "Kosovo Customs" after independence.

⁶ RKS referring to Republic of Kosovo

⁷ The EU facilitated technical dialogue between Kosovo and Serbia aimed to solve outstanding issues between the two sides.

Negotiating a customs agreement was more complicated. The initial failure to negotiate a customs agreement in June and July 2011⁸ led to a number of complications that set back the dialogue process and the positive effects of the freedom of movement agreement. Kosovo looked to plan B – reciprocity in the form of an immediate back embargo on Serbian goods. On July 25, the Kosovo Government sent special police units to enforce the embargo at Jarinje and Brnjak crossing points in the North of Kosovo. Kosovo Serbs in the North reacted by blocking roads leading to these crossings and firing upon the special police units. In order to find a solution, the EU resumed discussions with representatives from Belgrade and Pristina. However, the crossings remained under NATO-led KFOR control until September. A special regime was applied to these crossings, not allowing the passage of excise goods or trucks with more than 3.5t of non-excise to cross. During this time, road barricades in the North posed challenges to movement between the two territories, while the absence of a customs agreement continued to inhibit trade between Kosovo and Serbia. Representatives from Belgrade and Pristina came back together on September 2 to negotiate a customs agreement. Both sides agreed to resume trade on the condition that Kosovo's exports were labelled with “Kosovo customs.”

An IBM agreement reached in December 2011 provided an opportunity to improve conditions for freedom of movement and trade between Kosovo and Serbia. The IBM agreement called for the union of the crossing points between Kosovo and Serbia, mandating one crossing point to be manned by one EU official, one Serbian official and one official from Kosovo. According to the agreement, EULEX would take over authority at the Jarinje and Brnjak crossings while both Kosovo and Serbian officials would be merely present.

While agreements have been reached, each of them lies in a different stage of implementation. The following three sections explore in detail the implementation processes of agreements on freedom of movement, customs and IBM, looking into possible impacts of implementation on freedom of movement and trade.

III. FREEDOM OF MOVEMENT

- Free Movement of People

With the intention of seeking an amicable and win-win solution to the freedom of movement issues that directly benefits all inhabitants of Kosovo, the Governments of Kosovo and Serbia agreed upon a set of rules and standards on July 2, 2011. The Freedom of Movement agreement⁹ includes regulation on personal documents (identity cards, passports and drivers' license), license plates and car insurance, as well as the implementation procedures.

Until 2010, several travelling documents issued by different authorities were in circulation. UNMIK travel documents, Serbian passports, biometric as well as older ones, and Kosovo passports were accessible to Kosovo inhabitants. In order to restore some order and remove obstacles for travelling through or within Kosovo and Serbia, the agreement spells out an ID card system for travel of residents.

As mentioned previously, Kosovo and Serbia associate different statuses with their shared crossing points. Since Pristina considers these crossings with Serbia as official border

⁸ While a meeting was set for July 19 to negotiate a Customs Agreement, representatives from Serbia failed to show up prompting Kosovo to take reciprocal action.

⁹ The text of the Freedom of Movement Agreement, as well as the other agreements reached in the technical dialogue, is available at: <http://www.srbija.gov.rs/kosovo-metohija/index.php?id=82315>.

crossings, the Government of Kosovo deploys border police who operate under procedures that are the same with all other Kosovo border crossings.

Belgrade, on the other hand, considers crossings with Kosovo only as boundary checkpoints at the administrative line between two of its territories. Therefore, the Government of Serbia deploys regular local police units at those crossings. Deployed police units at IBM crossings do not have the same level of authority as the border police and they are not entitled to put a Serbian entry stamp in passports.

The Freedom of Movement agreement, which became fully operational in May 2013, prescribes that the ID cards can be used as travel documents at crossings between Kosovo and Serbia. This was especially important for Kosovo citizens who got the opportunity to travel to or through Serbia with ID cards issued by the Government of Kosovo, which was not the case before. According to the agreement, they will receive an accompanying travel waiver that will allow them to stay in (or travel through) Serbia for 90 days. The agreement also confirms that travelers with documents issued by the Government of Serbia could continue using the ID cards when entering Kosovo. Based on the Freedom of Movement agreement and the government policies that regulate the issue of border crossing, the procedures applied for travelling between Kosovo and Serbia are presented in the Table 1.

Table 1. Travel regime at crossings between Kosovo and Serbia¹⁰

Travel groups	Kosovo Border Checkpoints	Serbia Boundary Checkpoints
Travelers with documents issued by the Government of Kosovo	ID Card/Passport	ID Card/Passport
Travelers with documents issued by the Government of Serbia	ID Card/Passport	ID Card/Passport
Travelers with documents issued by EU countries	ID Card/Passport	ID Card/Passport
Travelers with documents issued by other countries	Passport	Passport ¹¹

The fact that Serbian authorities do not recognize IBM as border crossings poses a problem for foreign citizens who travel from Kosovo to Serbia. They are only allowed to cross into Serbia from Kosovo if their first point of arrival was through official crossings with Serbia. This rule excludes citizens of Bosnia and Herzegovina, Montenegro, FYR Macedonia and all EU countries since those countries have agreements with the Government of Serbia to freely travel in Serbia only with the ID cards. Citizens of other countries have 90 days to *re-enter* Serbia from Kosovo as long as they have entered Kosovo via Serbia and have not left and re-entered Kosovo from any other country.

Kosovo has also signed agreements with the EU countries and the Republic of Montenegro on using ID cards at the border crossings - therefore citizens of those countries are entitled to travel to Kosovo without a passport.¹²

The data on movement of persons illustrated in the Figure 1 suggests that political events such as Kosovo's declaration of independence and protests against the Customs and IBM

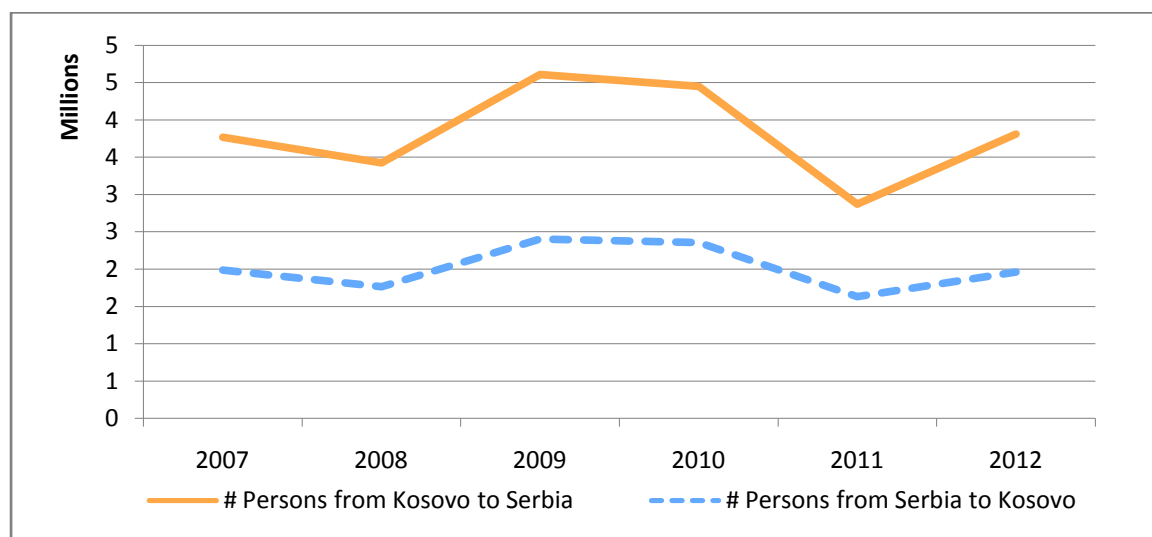
¹⁰ Review of official documents of the Government of Kosovo and the Government of Serbia that regulates issues of border crossing.

¹¹ With conditions.

¹² In the past Kosovo had similar agreement signed with FYR Macedonia and Albania, yet at the moment they are not active.

Agreements influenced a decline in movement between Kosovo and Serbia. The table shows that travel between Kosovo and Serbia was lower in 2008 and 2011 compared to 2009, 2010 and 2012. Notably, travel from Serbia to Kosovo for all observed years is comparably higher than travel from Kosovo to Serbia.

Figure 1: Movement of Persons between Kosovo and Serbia¹³



- Free Movement of Traffic

In regards to license plates, the Agreement recognizes two types of plates for a transitional period: one with designation of the RKS and another with the KS prefix.¹⁴ The latter one will be withdrawn after a five-year period, and only the RKS plates will be available for inhabitants of Kosovo. License plates issued by Serbian authorities, bearing a Serbian abbreviation of towns in Kosovo, are not specified for future use. Serbia accepted an interim measure to provide for the free travel of cars with KS plates which are considered as status neutral. However, Serbia does not recognize RKS plates as valid license plates within its territory. In order to travel into and through Serbia, holders of RKS plates have to take substitute temporary plates at the crossings.¹⁵

The agreement also addresses vehicle insurance which remains a challenge for freedom of movement. Because Kosovo is not a member of the green insurance card system in Europe (while Serbia is), there is no multilateral agreement which regulates bilateral insurance rates between the two territories. As such, both residents from Kosovo and Serbia must purchase valid international vehicle insurance when crossing into the other territory until a solution on the common commercial arrangement is reached. Table 2 represents the insurance rates given by vehicle types for both sides, respectively.

¹³ Data received from Kosovo Police. For numerical data, see Table I in the statistical annex.

¹⁴ This item has been in force since November 1, 2011.

¹⁵ The temporary plates cost 3000 RSD (approximately 26 EUR) plus an addition 500 RSD (approximately 4 EUR) per day spent in Serbia. Getting temporary plates costs the driver additional taxes such as 815 RSD (around 7 EUR) at the expense of the Administrative Taxes Office as well as 334 RSD (around 3 EUR) to the Bureau of Coins.

Table 2. Border/Boundary Vehicle Insurance Rates per Month (in Euro) ¹⁶

Type of Vehicle:	Kosovo	Serbia
Passenger Vehicles	80	107.10
Trucks	235	241.50
Minibuses up to 15 seats	200	-
Buses	235	241.50
Tractors	-	27.30
Special Vehicles	52	53.55
Motorcycles	65	67.20
Trailers	26	27.30
Works Vehicles	78	80.85

According to data provided by the Kosovo police to media,¹⁷ traffic from Serbia to Kosovo in the first four months of this year has been cut in half compared to the same period last year, from 348,000 down to less than 165,000 vehicles, which might be considered as a consequence of the travel regime with high insurance rates. Besides, citizens of Kosovo who frequently travel to Serbia often decide to take car registration licenses from both authorities (Serbian and Kosovan) since it is much cheaper than to pay insurance fee.¹⁸

Although the Freedom of Movement agreement has made it easier for citizens in both Kosovo and Serbia to travel between the two, high vehicle insurance rates and license plates still remain an issue. Notably, however, the agreement and its implementation have been limited to road transport, while rail and air traffic has not been addressed. Establishing these forms of transportation could contribute to an increase of trade and freedom of movement for citizens travelling between and within the two territories.

IV. THE CUSTOMS AND IBM AGREEMENTS: IMPLEMENTATION PROCESSES

On September 2, 2011, the delegations from Pristina and Belgrade accepted the Customs Agreement. Despite the unwillingness to negotiate a Customs Agreement in July, Serbia's approval of the agreement was a step to neutralize the pressure of domestic businesses to begin exporting into Kosovo's market again.¹⁹ The customs agreement stipulated that Kosovo and Serbia would begin to accept each other's customs stamps, provided that goods from Kosovo

¹⁶ Automobile and Motorcycle Association of Serbia, Accessed at http://www.amss.org.rs/index.php?option=com_content&view=article&id=66&Itemid=81. Valid from September 15, 2010; Kosovo Insurance Border, Accessed at <http://bks-ks.org/static/uploads/publications/tarifat/tarifa0.png>. Valid from June 1, 2012.

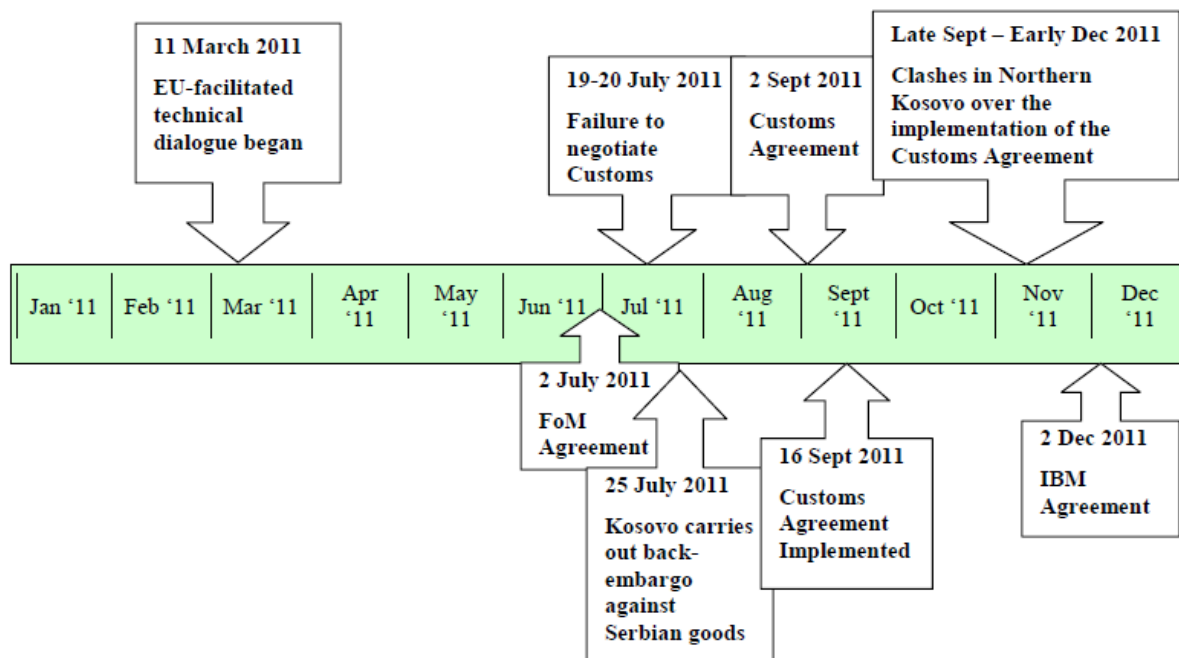
¹⁷ Car insurance rates affecting Serbia-Kosovo freedom of movement, accessed at: http://setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/blogreview/2012/04/28/blog-03, June 6, 2013

¹⁸ This is especially true for Kosovo Serbs that live in enclaves of central, south and western Kosovo. They usually have RKS license plates that they use while driving in Kosovo and Serbian license plates that they use in Serbia. Therefore, changes of plates can often be observed at the IBM crossings.

¹⁹ Hamilton, Aubrey. Group for Legal and Political Studies. (February 2012). "From Technical Arrangements to Political Haggling: The Kosovo Serbia Dialogue and the North of Kosovo." Retrieved from <http://legalpoliticalstudies.org/download/Policy%20Report%2002%202012%20english.pdf>

were stamped with “Kosovo Customs” rather than “Republic of Kosovo”.²⁰ With this technicality decided, the agreement facilitated an end to the trade embargoes between the two territories and provided for a resumption of trade between Kosovo and Serbia.

Figure 2: Overview of 2011 Milestones Relating to EU-facilitated Agreements



Unfortunately, the agreement fell apart during implementation much as it had during the negotiation process. Having accounted for the status issues implicit in customs *stamps*, problems relating to the deployment of Kosovo customs officers at the crossings in the North were not anticipated. Serbs in the North of Kosovo, often supported by the officials from the Government of Serbia, were not prepared to accept the presence and authority of Kosovo Customs at crossing points, which was seen as indicative of a national border. When the agreement took effect at Jarinje and Brnjak crossings on September 16, the border crisis, still simmering from July, reignited. In response to the deployment of Kosovo customs officials at crossing points, Kosovo Serbs barricaded major roads and bridges in the northern municipalities preventing movement throughout the North. Belgrade officials argued that the agreement on custom stamps had not addressed whether crossings in the North should be under the authority of Kosovo custom officers.²¹ While EULEX (EU Rule of Law Mission in Kosovo) and Kosovo Customs maintained a shaky presence at the crossing points which allowed for the movement of goods across Jarinje and Brnjak crossings, the barricades posed danger and challenges for movement between the two territories and prevented the trade and transportation of goods throughout the North and into Serbia.

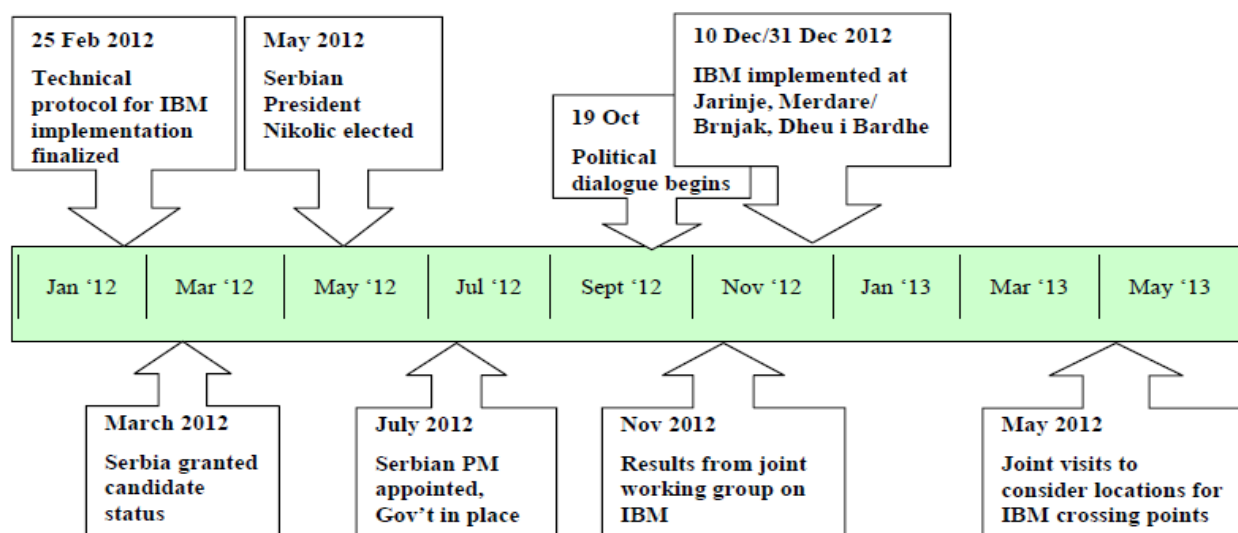
²⁰ European Union Press Statement. “EU facilitated dialogue: Agreement on Customs Stamps and Dataset.” (September 2, 2011). Press 294.

²¹ European Union Press Statement. “EU facilitated dialogue: Agreement on Customs Stamps and Dataset.” (September 2, 2011). Press 294.

The implementation of the customs agreement makes manifest thematic challenges for a “technical” dialogue: 1) there are unintended political consequences that result from a dialogue limited to technical issues; 2) technical solutions cannot account for political implications that make manifest during implementation; 3) technical solutions cannot erase underlying tensions regarding status.²² Accordingly, the implementation of the Customs Agreement left the parties in a political situation that was worse than before and halted the Dialogue process for a time. However, with Serbia hoping to achieve candidate status in December 2011 and the EU requiring the continuation of negotiations and resolution of border problems as a point of conditionality for Serbia's EU candidacy, all parties were present to resume the negotiations in late November 2011. This tactic makes manifest another thematic element of the dialogue: EU conditionality. The dialogue and relations between Kosovo and Serbia are inextricably linked to the progress of each in their respective EU integration and accession processes. The EU has been increasingly successful at casting issues related to the normalization of relations between Kosovo and Serbia and the dialogue process as points of conditionality for EU integration and accession.

Two rounds of the Dialogue were held in late November 2011 to address the issue of crossing points and resulted in an IBM agreement being reached on December 2, 2011. The IBM agreement intended to account for the disputes over the presence of Kosovo Customs at the crossings and move Kosovo and Serbia Customs and Police under the same roof to increase interaction and ease of passage for people and goods. Under IBM, each crossing point between Kosovo and Serbia would have one station that would be manned by an official from EULEX, one Serbian official, and one Kosovar official – a strategy that refers to borders/boundaries but was not necessarily indicative of a national border.²³ According to the original agreement, EULEX would take over authority at the Jarinje and Brnjak crossings while both Kosovo and Serbian officials would be merely present.

Figure 3: Overview of 2012/2013 Milestones Relating to EU-facilitated Agreements



²² On one hand, the Kosovo government insisted that the agreement on custom stamps means recognition of the Kosovo statehood, while Serbia denied those claims and insisted that the agreement was status neutral.

²³ Hamilton, Aubrey. Group for Legal and Political Studies. (February 2012). “From Technical Arrangements to Political Haggling: The Kosovo-Serbia Dialogue and the North of Kosovo.” Retrieved from <http://legalpoliticalstudies.org/download/Policy%20Report%2002%202012%20english.pdf>

As Serbia continued to wait for the EU's decision on granting candidate status,²⁴ teams from Belgrade and Pristina came together in late February for the first meeting since the IBM agreement was reached. On February 25, the parties agreed on a final technical protocol for implementing the IBM agreement. This protocol was also ratified by the governments in Pristina and Belgrade.²⁵ Implementation of IBM was tasked to the Ministries of Internal Affairs in Kosovo and Serbia. In line with the EU's stick and carrot method, Serbia was granted candidate status in March 2012, likely due, in part, to the positive dialogue developments that took place.²⁶

Yet in early 2012, the implementation of IBM had not even begun, and the Customs agreement was not fully functional due to remaining, albeit fewer, barricades that prevented EULEX and Kosovo Customs from reaching and functioning at the crossing points. However, the dialogue remained on hold until October 2012 to allow newly elected Serbian officials, President Nikolic,²⁷ and the Government of the Prime Minister Ivica Dacic²⁸ to coalesce. The new Serbian government immediately set a precedent, expressing its willingness to embark on a high-level political discussion with Kosovo. A promising new political and high-level dialogue began on October 19, 2012 between Serbia's Prime Minister Ivica Dacic, Kosovo's Prime Minister Hashim Thaci, and moderated by EU High Representative Catherine Ashton. Ashton emphasized that the first call of duty would be to fully implement all agreements reached in the technical dialogue, particularly those relating to customs and IBM.

Results from the joint working group on IBM crossing points were presented at a dialogue meeting in early November.²⁹ Less than a month later, on December 4, 2012, the two prime ministers confirmed the conclusions of the IBM working groups as follows: IBM should be operational at Jarinje and Merdare crossings by December 10 and should be operational Brnjak and Končulj/Dheu i Bardhe crossings on December 31.³⁰ Indeed, IBM was operational at these four key crossing points in accordance with the designated dates.³¹ The successful implementation sparked optimism surrounding the new political dialogue. However, the implementation of the Customs and IBM agreement is not yet complete. To fully implement the IBM agreement, Kosovo and Serbia in coordination with the EU must continue infrastructural planning necessitated by the agreement.

The month of April was focused on reaching a new agreement on the normalization of relations between Kosovo and Serbia, but in May 2013, joint visits with officials from Kosovo, Serbia, EULEX, and the EU took place to confirm locations where IBM crossing points will be

²⁴ While the EU planned to announce its decision on Serbia's candidate status in December 2011, the EU postponed the decision until March 2012. Members of the EU referenced the relations with Kosovo and the persisting situation in the North of Kosovo as a cause for deciding to postpone the decision.

²⁵ The Government of Kosovo ratified the IBM protocol on September 29.

²⁶ Not only regarding the implementation protocol for IBM, but also for coming to an agreement regarding Kosovo's regional representation

²⁷ Elected in May 2012

²⁸ Appointed in July 2012

²⁹ European Union. (November 7, 2012). "Statement by High Representative Catherine Ashton after the meeting in the framework of the EU-facilitated dialogue."

³⁰ European Union. (December 4, 2012). "Statement by the EU High Representative Catherine Ashton after the third meeting in the framework of the EU-facilitated dialogue." Press Release A 559/12. Retrieved from http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/134038.pdf

³¹ Peci, Edona. BalkanInsight. (January 10, 2013). "Kosovo and Serbia Teams Meet for IBM Talks." Retrieved from <http://www.balkaninsight.com/en/article/pristina-and-belgrade-meet-on-ibm>

established. These visits marked major progress towards full implementation of the IBM agreement.³²

To fully implement the Customs agreement, Kosovo and Serbia still must negotiate a deal relating to taxes on goods destined for the North of Kosovo. In mid-January 2013, a Customs deal was reportedly struck according to which customs, duties, and taxes for Serbian goods destined for the North of Kosovo would be collected at two gates and funneled into a fund used for development of the North. Kosovo insisted that taxes must be paid on all goods³³ but would be directed accordingly. However, this action plan was not well received by northern citizens or by Belgrade; some roadblocks were re-erected in protest in the North of Kosovo,³⁴ and Belgrade insisted that the Customs agreement permitted trade of excise of goods up to 3.5 tons and all non-excise goods intended for the North of Kosovo to enter into the territory duty-free. To provide for the full and functional implementation of the Customs Agreement, a decision must be made in collaboration with the EU that comprehensively determines the tax regime for goods travelling between Serbia and Kosovo.

V. EFFECTS OF AGREEMENTS ON TRADE

The effects of customs-related problems and their solutions facilitated through the relevant agreements make manifest in the trade data. Trade data collected by Kosovo and Serbian authorities both illustrate the same decreases and increases in trade over time. However, there are remarkable discrepancies in the absolute numbers of the trade data provided by Kosovar and Serbian officials. A significant amount of goods exported from Serbia has not been recorded by the Customs Administration of Kosovo (as illustrated in the export/import indicators in Figure 6).³⁵ To a lesser extent, goods exported from Kosovo were not recorded by the Serbian Customs Administration. These data discrepancies may be explained by the corruption in the public sector,³⁶ by the refusal of export/import traders from the North of Kosovo to pay customs fees to the Government to Kosovo,³⁷ and by the use of alternative, unofficial crossings that exist along the porous border/boundary between Kosovo and Serbia.³⁸

Despite differences in absolute numbers, trade data from Kosovo and Serbia show the same trends. Data indicates that the customs and IBM agreement have had a positive effect on trade between Kosovo and Serbia. There are two cases of instructive correlations illustrated by both Kosovan and Serbian data. A sharp decline of exports from Kosovo to Serbia can be noted after the declaration of independence, and subsequent refusal of Kosovan customs stamps by

³² Ibid

³³ Ibid

³⁴ International Crisis Group. (February 19, 2013). "Serbia and Kosovo: The Path to Normalisation." Retrieved from <http://www.crisisgroup.org/~media/Files/europe/balkans/kosovo/223-serbia-and-kosovo-the-path-to-normalisation.pdf>

³⁵ Differences are also numerically identified in Table 2 of the statistical annex.

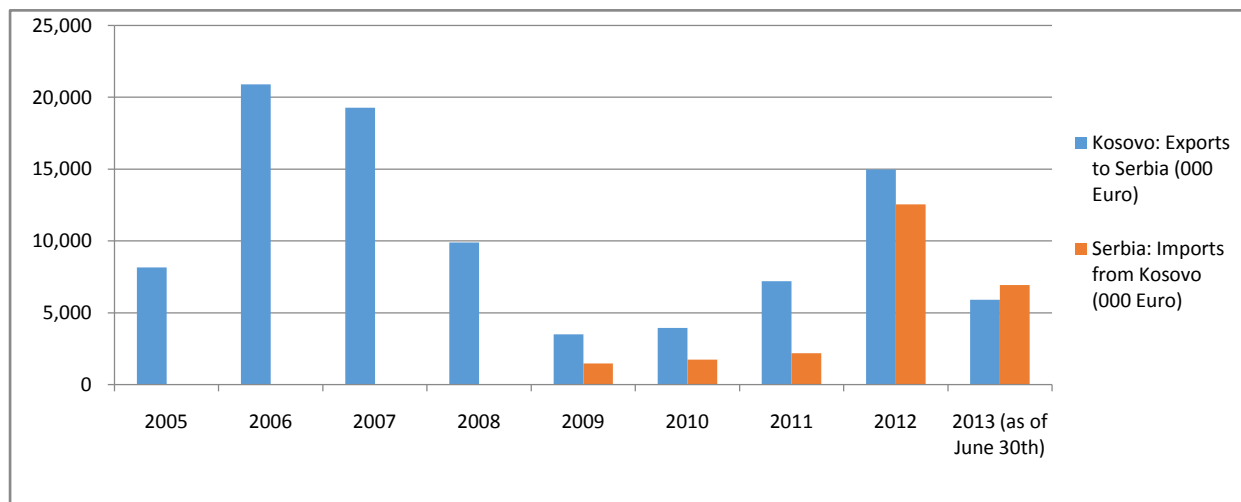
³⁶ Both countries rank low on Transparency International's Corruption Perceptions Index, which evaluates perceived levels of corruption in the public sector.

³⁷ Tax regulations for goods destined for the North of Kosovo need to be re-addressed as part of the EU-facilitated dialogue.

³⁸ Many reports have cited these alternative routes as means for illegal movement of persons and trafficking of goods between Kosovo and Serbia. However, the extent to which these alternative routes are still used and the extent to which these routes can account for uncounted trade is currently indeterminable. As such, it is suggested that further research is conducted to determine the use and impact of alternative routes between Kosovo and Serbia.

Serbia, and a significant increase of exports from Kosovo can be noted after the customs agreement became operational.

Figure 4: Annual Kosovo – Serbia Trade Data³⁹ (Goods from Kosovo to Serbia in thousands of Euro)⁴⁰



First, Kosovo’s declaration of independence in February 2008 caused Serbia to refuse goods with Kosovo customs stamps. This policy change prevented Kosovo from exporting most goods into Serbia. As expected, there was a visible decrease in exports to Serbia in 2008 (see Figure 4 above). Kosovo exports to Serbia decreased by 49 percent between 2007 and 2008, 65 percent more the following year, and remained at a disastrously low 3-4 million euro in 2010.⁴¹ Second, the customs agreement of September 2011, which prompted Serbia to recognize Kosovo customs stamps, had a significantly positive effect on Kosovo exports to Serbia. Exports to Serbia in 2011 nearly doubled those of 2010. By 2012, the year after the implementation of the customs agreement, exports were more than four time higher than in 2009, the year after Kosovo declared independence.

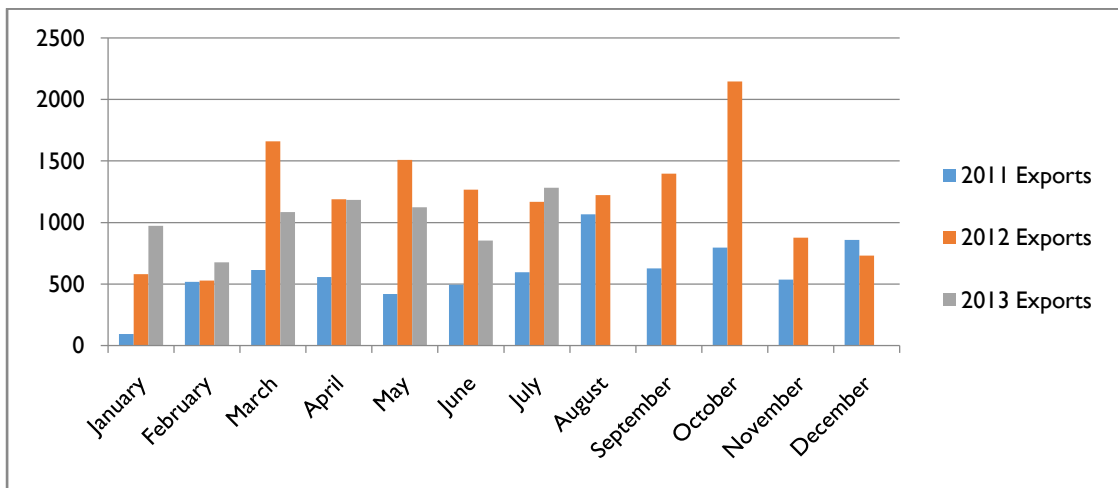
The effects of customs-related incidents on trade become more evident when looking at the monthly trade data. A number of data points in Figure 5 provide a more detailed illustration of the immediate effects of the customs agreement.

³⁹ The data on the Serbian side is not available for years 2005 – 2008, as it is considered by Serbian authorities to be internal trade data.

⁴⁰ *Kosovo Data*: 2005 – 2011 trade statistics with Serbia: Kosovo Agency of Statistics of the Office of the Prime Minister. “Export by Countries (2005 – 2011)” and “Import by Countries (2005 – 2011).” Accessed at <http://esk.rks-gov.net/ENG/external-trade/tables>. 2012 and 2013 trade statistics with Serbia: provided directly by the officer responsible for access to public documents from the Kosovo Ministry of Trade and Industry. *Serbian Data*: Data from Serbian Authorities

⁴¹ Numerical data can be found in Table 2 in the statistical annex.

Figure 5: Monthly Exports to Serbia (in thousands of Euro)⁴²



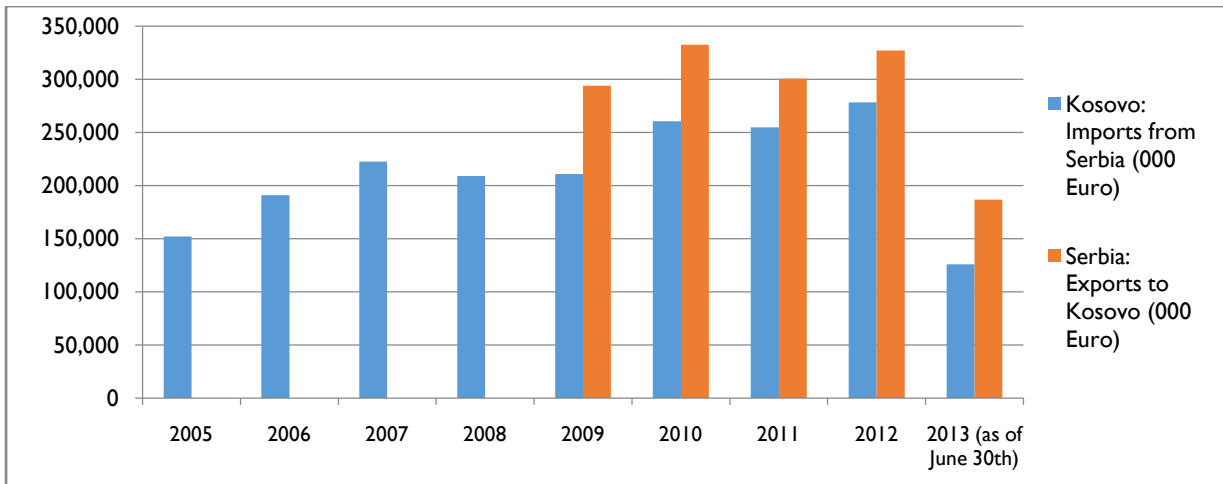
Monthly exports to Serbia largely mirror the findings of the annual data, while showing the direct impact of the agreements on Kosovo’s ability to export goods to Serbia. Kosovo exports did not increase immediately after the customs agreement was negotiated on September 2, as Kosovo customs was not fully functional for two reasons. First, Serbia argued that the agreement did not explicitly consent to the presence of Kosovo customs at the border/boundary points and therefore ambiguously refused passage of Kosovo goods into Serbia. Second, the backlash in northern Kosovo continued to prevent EULEX and Kosovo customs from reaching the northern border/boundary points and carrying out their customs duties.

However, the IBM agreement which was struck in December 2011 officially sanctioned the presence of Serbian Customs, Kosovo Customs, and EULEX as the officials necessary for overseeing customs and trade between Kosovo and Serbia. The resolutions contained in the IBM agreement clarified and reinforced the fundamentals of the customs agreement, which allowed the customs agreement to become fully functional in December 2011. These complementary agreements led to the rapid increase of Kosovo exports to Serbia in early 2012, a positive impact that has been sustained over time.

Despite increases in Kosovo’s exports in 2011 and 2012, the trade balance between Kosovo and Serbia is much stronger on the Serbian side. As seen below in Figure 6, 2009-2012 Serbian exports to Kosovo average above 300 million Euros per year (while Kosovo averages between 7 and 8 million Euros of exports to Serbia per annum).

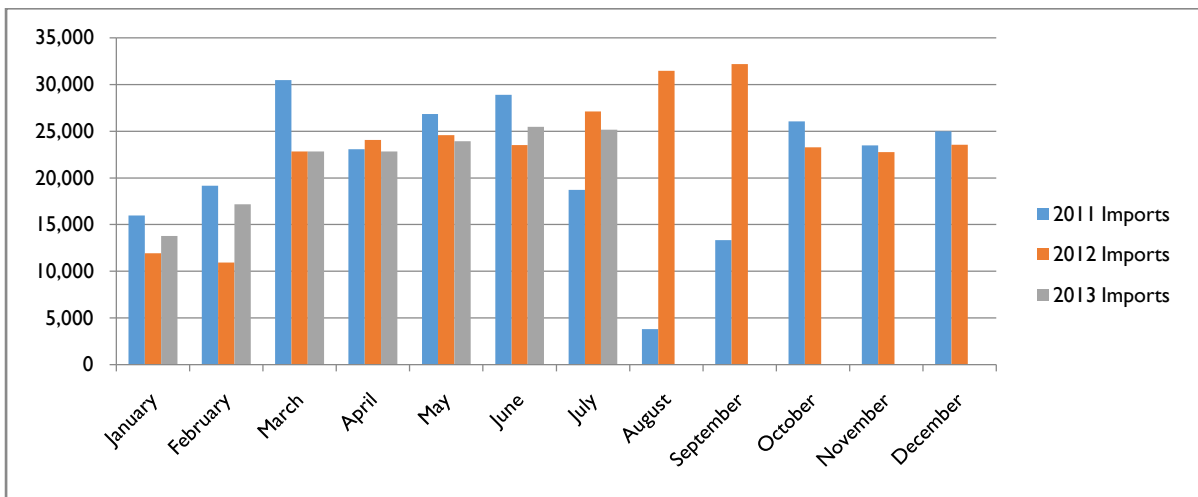
⁴² Monthly trade data: Kosovo Agency of Statistics of the Office of the Prime Minister. “External Trade Statistics” by year. Accessed at <http://esk.rks-gov.net/ENG/external-trade/publications>

Figure 6: Annual Kosovo – Serbia Trade Data⁴³ (goods from Serbia to Kosovo in thousands of Euro)⁴⁴



While *annual* exports from Serbia appear to have remained largely un-phased, Figure 7 below illustrates the effects of customs related incidents on trade, revealing negative effects on Serbian exports to Kosovo that are not discernible in the annual data. Monthly data points in Figure 7 provide a more detailed illustration of the immediate effect of Kosovo’s summer 2011 counter-embargo on Serbian goods.

Figure 7: Monthly Imports from Serbia (in thousands of Euro)⁴⁵



⁴³ The data on the Serbian side is not available for years 2005 – 2008, as it is considered by Serbian authorities to be internal trade data.

⁴⁴ Kosovo Data: 2005 – 2011 trade statistics with Serbia: Kosovo Agency of Statistics of the Office of the Prime Minister. “Export by Countries (2005 – 2011)” and “Import by Countries (2005 – 2011).” Accessed at <http://esk.rks-gov.net/ENG/external-trade/tables>. 2012 and 2013 trade statistics with Serbia: provided directly by the officer responsible for access to public documents from the Kosovo Ministry of Trade and Industry. Serbian Data: Data from Serbian Authorities.

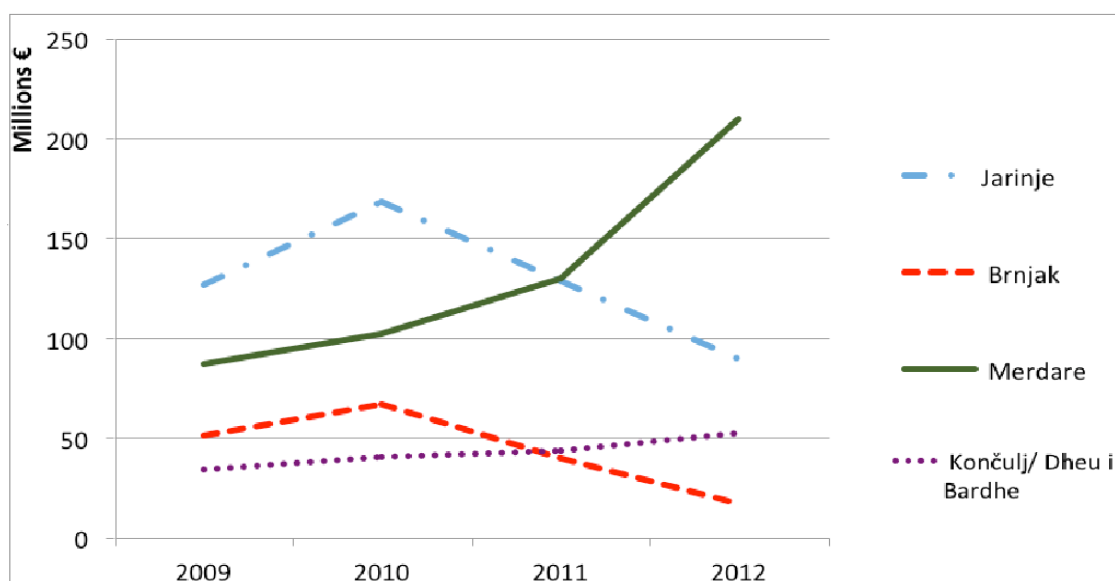
⁴⁵ Monthly trade data: Kosovo Agency of Statistics of the Office of the Prime Minister. “External Trade Statistics” by year. Accessed at <http://esk.rks-gov.net/ENG/external-trade/publications>

In July 2011, Kosovo carried out a counter-embargo on Serbian goods. Figure 7 clearly illustrates the very real effects that Kosovo’s summer 2011 counter-embargo had on Serbian exports.⁴⁶ The embargo was in effect for less than a week in late July, for all of August, and for less than a week in early September. With the embargo only lasting a week in both July and September 2011, Serbian exports are visibly yet not drastically lower during these months than in subsequent years. However, Serbian exports hit an all-time low in August 2011. With the counter-embargo in place for all of August, Serbian exports to Kosovo dropped to under 4 million Euros, nearly 28 million Euros less than in the corresponding month of the following year. The visibly drastic effect that the back embargo and failure to negotiate a timely customs agreement had on Serbian exports to Kosovo may explain Serbia’s willingness to return to the dialogue table and negotiate a customs agreement on September 2.

The effects of the agreements are also visible in trade data for specific crossings. Although there are six crossing between Kosovo and Serbia, four of them are used for trade - Merdare, Končulj/Dheu i Bardhe, and two crossings in the North of Kosovo: Jarinje and Brnjak.⁴⁷ The customs-related issues and agreements of 2011 affected patterns of use of these crossings, as illustrated in Figure 8.

Jarinje was the most utilized crossing until 2011 when the Government of Kosovo decided to impose a counter-embargo on Serbian goods. After clashes that happened in the North of Kosovo, Jarinje (and Brnjak) were closed for traffic of excise goods and trucks with more than 3.5t of nonexcise goods. As a consequence, traffic of goods shifted from Jarinje and Brnjak to Merdare and Končulj/Dheu i Bardhe, which is visible in Figure 8.

Figure 8: Exports from Serbia to Kosovo per Crossing Point⁴⁸



⁴⁶ The failure to negotiate a customs agreement in the summer of 2011 prompted Kosovo to take reciprocal action for Serbia’s refusal to accept Kosovo customs stamps by placing a back embargo on Serbian goods entering Kosovo.

⁴⁷ In addition to those four, there are also two small crossings: Mutivoda in vicinity to Merdare and Mucibaba in vicinity to Končulj/Dheu i Bardhe.

⁴⁸ Calculations based on data received from the Customs Administration of the of Government of Serbia

Data from the first six months of 2013 show that traffic of goods at Jarinje and Brnjak recovered, since 54.1% of Serbian exports to Kosovo go through these two crossings in the North of Kosovo.⁴⁹ This might be considered as a direct short-term effect of the IBM agreement.

The increased trade flows between Kosovo and Serbia resulting from the agreements have added to the high number of transit goods passing between Kosovo and Serbia.⁵⁰ Traffic of transit goods between Kosovo and Serbia is much higher than their bilateral trade. The large amount of traffic of transit goods through and between Kosovo and Serbia raises concerns. There should be additional research on routes and final destinations of transit goods with special emphasis on investigating cases of possible fraud and customs avoidance. In addition, an impact analysis should be conducted to evaluate the effects that goods-transit has on the use and condition of transit routes. Using popular routes⁵¹ for the transit of goods may cause traffic jams (hindering the ease of movement) at the crossings and on main motorways. As road infrastructure in Kosovo and Serbia is not advanced for lorry traffic (since there are no modern highways that connect the two territories), high volumes of transit goods which lead to road congestion cause problems for freedom of movement (of persons and authorities) that should be urgently addressed.

VI. CONCLUSIONS

The EU-facilitated dialogue has shown some successful in normalizing relations between Kosovo and Serbia and for progress regarding a number of issues, particularly freedom of movement and trade. The implementation processes for agreements on freedom of movement, customs, and IBM have ultimately produced positive developments, yet they remain incomplete in many ways. The Freedom of Movement Agreement has renewed opportunities for travel from Kosovo into and throughout Serbia. The Freedom of Movement agreement is also important for strengthening family ties, business and cultural exchange, as well as tourism. However, a number of aspects already negotiated must be revisited; high insurance rates and license plate variations complicate freedom of movement. A number of aspects relating to freedom of movement have yet to be negotiated including railway transportation and air traffic.

The implementation processes for customs and IBM were more complicated and are farther from completion. However, a number of improvements are visible. Both Kosovan and Serbian crossings are now functional and embargoes have all been lifted allowing goods to pass unimpaired between Kosovo and Serbia. Exports from Kosovo to Serbia have risen steadily, mirroring pre-2008 values. IBM is functional at Jarinje, Merdare, Brnjak, and Končulj/Dheu i Bardhe crossings, and Kosovo and Serbia have begun the process of identifying other crossing points where (with the help of the EU) the permanent IBM infrastructure will be built. However, certain customs issues need to be revisited. Kosovo and Serbia (and Kosovo Serbs in the North) remain in dispute over tax codes regulating Serbian imports destined for the North of Kosovo. IBM has yet to come far enough to predict challenges that may occur when permanent unified crossing points are developed. Establishing permanent IBM crossings where Serbian and Kosovo

⁴⁹ In first six months of 2013 traffic of Serbian export was highest in Jarinje (45.2%) then Merdare (36.2%), Končulj / Dheu i Barthe (9.6%) and Brnjak (8.9%).

⁵⁰ A visualization of patterns of goods-transit can be found in Figure I in the statistical annex.

⁵¹ In 2009-2011 the main traffic routes of transit goods were crossings at Merdare and Končulj /Dheu i Bardhe, while the share of two crossings in the North of Kosovo is significantly lower.

authorities function together would illustrate great progress in adopting EU structures and would likely indicate both Serbia's and Kosovo's readiness for greater EU integration.

The high level political dialogue which began in late 2012 has prompted advancement and high hopes surrounding the potential of the high-level EU-facilitated dialogue between Kosovo and Serbia to yield greater results than the former technical dialogue. With Kosovo's and Serbia's EU futures, integration, and accession processes directly linked and conditional on the commitment of both parties to the success of the dialogue and its aims, both Kosovo and Serbia must maintain their commitment to fully implementing all previous agreements, negotiating solutions to the challenges met during implementation of agreements, and the long-term success of the dialogue. Maintaining a high-level political dialogue between Kosovo and Serbia is a prerequisite to actual changes in attitudes and results on the ground.

VI. RECCOMANDATIONS

Freedom of Movement

1. A timely agreement on vehicle insurance rates should be negotiated; vehicle insurance rates should be lowered for Kosovo residents travelling to Serbia and vice versa to mirror rates for residents travelling to Kosovo and Serbia from other states in the region.
2. The EU, Kosovan, and Serbian officials should ensure that routes to and from the border/boundary points where IBM is implemented remain open for authorities and people to travel freely.
3. Research should be conducted to evaluate the use and condition of high transit areas. Kosovo and Serbian authorities should build upon research findings to invest in road infrastructure, targeting routes that are susceptible to high levels of congestion.
4. The dialogue should expand upon the Freedom of Movement Agreement to address the issues of railway transportation and air traffic.

Trade:

1. With the facilitation of the EU, authorities from Serbia and Kosovo should seek a satisfactory solution on taxation of goods destined for the North of Kosovo. The EU and Serbian and Kosovan authorities should consider negotiations on the Development Fund for the North and future financing of the Association of Serb-Majority municipalities;
2. Belgrade and Pristina must make good on their commitment to exchange customs information;
3. The EU, EULEX, Kosovo and Serbia must continue to make joint visits to confirm locations where additional permanent IBM crossing points will be established. This should happen by 2014, when Serbia is set to open accession negotiations;
4. The EU, Serbian, and Kosovan authorities should monitor the existence and impacts of alternative crossings that allow for trafficking of people and goods between Kosovo and Serbia; the EU should devise strategies in cooperation with local authorities to eliminate use of these alternative routes, considering strategic placement of permanent IBM crossings as one mechanism to inhibit use of alternative routes;
5. With support of the EU, the two governments should work on improvement of main road infrastructure since the current network of motorways cannot support the amount of traffic, especially lorry transport.

Continuation of the Dialogue:

1. The high-level political dialogue between Serbia and Kosovo should be maintained; the full implementation of IBM and tax codes applicable for goods destined for the North of Kosovo should remain on the table, while the dialogue should be broadened to include issues important for the normalization for the lives of citizens, such as missing persons and cultural heritage, that were not resolved in previous rounds of the dialogue.
2. Accession conditionality should be further linked to the normalization of relations and progress in the dialogue.
3. In order to avoid post-agreement political disputes like that over the taxation of goods destined for the North of Kosovo, the EU should make all agreements public to provide for external oversight and accountability of both parties in regards to implementation.
4. The EU should monitor the implementation of agreements, making public all related documents and monitoring reports.

Statistical Annexes

Table 1: Movement of Persons between Kosovo and Serbia⁵²

Year	# Persons from Serbia to Kosovo	# Persons from Kosovo to Serbia
2007	1,987,415	1,780,730
2008	1,763,149	1,662,606
2009	2,404,628	2,205,310
2010	2,356,704	2,092,877
2011	1,631,928	1,237,901
2012	1,961,677	1,848,778

Table 2: Annual Kosovo – Serbia Trade Data (in 000 Euro)⁵³

Year	Kosovo: Imports from Serbia ⁵⁴	Serbia: Exports to Kosovo ⁵⁵	Difference	Kosovo: Exports to Serbia ⁵⁶	Serbia: Imports from Kosovo ⁵⁷	Difference
2005	152,257			8,158		
2006	191,053			20,910		
2007	222,534			19,280		
2008	208,951			9,893		
2009	210,901	293.871	+82.970	3,504	1.473	-2.031
2010	260,471	332.431	+71.960	3,941	1.734	-2.207
2011	254,917	300.672	+45.755	7,198	2.178	-5.020
2012	278,388	327.182	+48.794	14,968	12.535	-2.433
2013 (as of June 30 th)	126,005	186.739	+60.734	5,897	6.939	+1.042

⁵² Data from Kosovo Police.

⁵³ The data on the Serbian side is not available for years 2005 – 2008, as it is considered by Serbian authorities to be internal trade data.

⁵⁴ 2005 – 2011 trade statistics with Serbia: Kosovo Agency of Statistics of the Office of the Prime Minister. “Export by Countries (2005 – 2011)” and “Import by Countries (2005 – 2011).” Accessed at <http://esk.rks-gov.net/ENG/external-trade/tables>. 2012 and 2013 trade statistics with Serbia: provided directly by the officer responsible for access to public documents from the Kosovo Ministry of Trade and Industry.

⁵⁵ Data from Serbian Authorities.

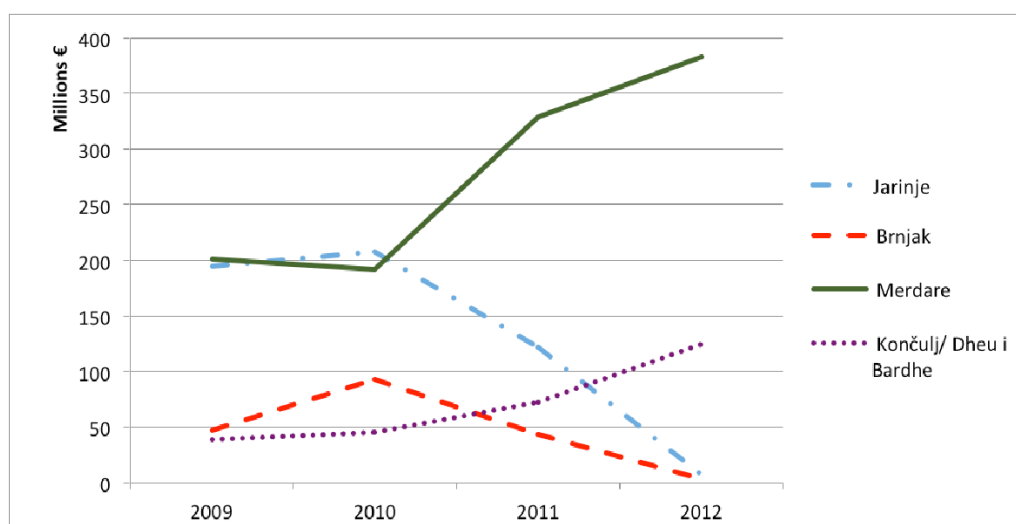
⁵⁶ 2005 – 2011 trade statistics with Serbia: Kosovo Agency of Statistics of the Office of the Prime Minister. “Export by Countries (2005 – 2011)” and “Import by Countries (2005 – 2011).” Accessed at <http://esk.rks-gov.net/ENG/external-trade/tables>. 2012 and 2013 trade statistics with Serbia: provided directly by the officer responsible for access to public documents from the Kosovo Ministry of Trade and Industry.

⁵⁷ Data from Serbian Authorities

Table 3: Kosovo Monthly Trade Data with Serbia (in 000 Euro)⁵⁸

Month	2011 Imports	2012 Imports	2013 Imports	2011 Exports	2012 Exports	2013 Exports
January	15,967	11,931	13,790	93	580	974
February	19,152	10,930	17,167	518	528	677
March	30,482	22,823	22,841	613	1,660	1,085
April	23,054	24,055	22,838	557	1,188	1,183
May	26,849	24,584	23,914	419	1,509	1,125
June	28,909	23,500	25,456	495	1,267	854
July	18,733	27,108	25,165	597	1,168	1,283
August	3,808	31,462		1,066	1,223	
September	13,341	32,202		626	1,398	
October	26,066	23,273		796	2,145	
November	23,465	22,763		535	876	
December	24,983	23,534		859	732	

Figure 1: Transit Goods from Serbia to Kosovo per Crossing Point⁵⁹



⁵⁸ Monthly trade data: Kosovo Agency of Statistics of the Office of the Prime Minister. “External Trade Statistics” by year. Accessed at <http://esk.rks-gov.net/ENG/external-trade/publications>

⁵⁹ Calculations based on data received from the Customs Administration of the of Government of Serbia

POLICY REPORTS

Policy Reports are lengthy papers which provide a tool/forum for the thorough and systematic analysis of important policy issues, designed to offer well informed scientific and policy-based solutions for significant public policy problems. In general, Policy Reports aim to present value-oriented arguments, propose specific solutions in public policy – whereby influencing the policy debate on a particular issue – through the use of evidence as a means to push forward the comprehensive and consistent arguments of our organization. In particular, they identify key policy issues through reliable methodology which helps explore the implications on the design/structure of a policy. Policy Reports are very analytical in nature; hence, they not only offer facts or provide a description of events but also evaluate policies to develop questions for analysis, to provide arguments in response to certain policy implications and to offer policy choices/solutions in a more comprehensive perspective. Policy Reports serve as a tool for influencing decision-making and calling to action the concerned groups/stakeholders.