

# REGIONAL ECONOMIC COOPERATION AND THE EFFECTS OF THE OPEN BALKAN INITIATIVE

- The business perspective –

## List of Abbreviations:

AEO	Authorized Economic Operators for Safety and Security	NBS	National Bank of Serbia
		NBNMK	National Bank of North Macedonia
		NTMs	Non-Tariff Measures
ALB	Republic of Albania	OBI	Open Balkan Initiative
BCPs	Border Crossing Points	SRB	Republic of Serbia
MKD	Republic of North Macedonia		
MoU	Memorandum of Understanding		

## Methodology

AmCham Serbia, AmCham North Macedonia and AmCham Albania have implemented two surveys and one regulatory analysis, between August 2022 and January 2023 with a view of checking demand as well as performance of existing regional economic integrations. Population for the surveys were member companies of participating AmChams.

The first survey, was **awareness survey** measuring perception of companies regarding regional economic initiatives, expectations and real impact on their businesses, with the in-depth case study of the most recently implemented one - the Open Balkan Initiative. Survey sample consisted of 207 companies, from wide variety of sectors. Majority of the respondents represent top management of the companies. Survey method was online questionnaire with the multiple choice answers as well as open answer questions.

The second survey was **in-depth Trade survey**, measuring tangible outcomes of the implementation of the Open Balkan Agreements so far. The survey method was e-mail questionnaire followed with face-to-face (online) interview. The questionnaire consisted of the quantitative and the qualitative part. The **quantitative part** aimed to calculate direct savings by the private sector in time and costs related to exports and imports under the Open Balkan Initiative. The baseline data for comparison in the quantitative part of the Questionnaire was January - September 2021, prior to the launch of the Open Balkan initiative.

The **qualitative part** aimed to capture private sector satisfaction with the existing trade facilitation measures offered under the Open Balkan initiative, and to identify additional areas for further improvement. Sample consisted of 21 companies engaged in regional trade under the Open Balkan initiative covering 30 statistical inputs regarding export or import of goods in individual sectors, such as: fresh products of plant origin (20% of the sample), processed food of plant and mixed origin (23%), milk and dairy products (17%), meat and meat products (14%), pharmaceuticals and cosmetics products (13%, processed industrial goods (e.g. light manufacturing products, automotive parts (13%).

Regulatory analysis of **the main obstacles to the free movement of capital** between the OBI member countries was done focusing on the issues that multinational companies and regional companies looking for expansion see as impediments for regional business growth. The aim of the analysis was to map concrete steps in making the whole region more attractive for foreign investments, from cross border capital controls point of view, and removing obstacles to cross border expansion of companies within the region.

Results of the surveys and of the regulatory analysis have been presented and discussed among the AmCham members and their suggestions and comments implemented in the final report.

## EXECUTIVE SUMMARY

Expectations from regional economic integrations are significant, but still unfulfilled.

- **9 out of 10 businesses** expect to benefit from boosting regional economic integrations.
- Full benefits are expected with the **coverage of all WB6 markets and all 4 freedoms, which is still a distant goal** judging by the implementation of CEFTA, Open Balkan and Berlin process – CRM Action Plan.
- So far, **CEFTA** is seen as the most beneficial to individual businesses, **Open Balkan Initiative** is seen as valuable (although only one year in the implementation), while **Berlin process – CRM Action Plan** is least recognized as be to bringing tangible benefits to businesses so far (respondents know very little about implemented activities and connections to the needs of businesses).

### Open Balkan performance so far:

- **OBI enjoys support from the private sector** as it has initially tackled longest standing obstacles to trade facilitation in the region (related to cross border trade in foodstuffs) with **substantial political support for implementation**, which is viewed as crucial factor for yielding any tangible results in trade facilitation efforts.
- Although it aims to cover all four freedoms, with agreements signed in the area of free movement of goods, free movement of people and some limited and non-binding memorandums in the area of services trade (tourism, audio visual) and none in free movement of capital, **tangible impact on the businesses, one year into implementation, is in the area of trade in goods.**
- **Trade in goods - Major improvements have been noted in the shortening of import/export procedures for trade in goods of plant and animal origin, squeezing the duration of transport and export/import procedures, in some cases, by up to 50% and cutting costs of imports/exports by up to 80%.**

**Key beneficial measures:** Removal of inspections from the border is viewed as the most significant existing trade facilitation measure under OBI, closely followed by acceptance of laboratory results and reduction in fees and charges. However, due to the unequal implementation in OBI signatories – Serbian importers from OBI signatories, and OBI exporters to Serbia, enjoy the benefits of all, while in other OBI signatories the main beneficial measure implemented is **acceptance of laboratory results.**

- **Free movement of people** – all three parliaments ratified signed agreements, but there is no clear deadline when it is going to be operational, nor what steps are needed to achieve implementation.
- **Free movement of services** has been tackled by MoUs in tourism and audiovisual services which are not binding, therefore it is not de facto liberalization of trade in services.
- **Free movement of capital** has not been tackled in any way so far.

### Open Balkan – possible ways for improving implementation of already signed agreements

- **Key functioning suggestions**
  - i. Setting clear governance structure and devising implementation action plans securing consistent implementation of agreements among the signatories;
  - ii. Improving transparency – publish key technical information, key contact point/s, action plans; and
  - iii. Establishing complaint resolution mechanism.
- **Implementation focus per freedoms covered by signed agreements:**
  - **Movement of goods:** Although results are already visible, agreements are still inconsistently applied between countries (fees reduction, removal of inspections from the borders, harmonization of working hours between customs and inspections, streamlining import documentation, implementation of OBI lanes). Establishment of **true one stop shops**/joint border controls or importers only controls should be further considered, instead of one stop and two administrative controls.

- **Movement of People:** Publish clear action plan for implementation, and what/if anything (i.e. technical capacity, administrative work, interconnection issues) is needed for implementation, so that businesses can plan accordingly.

#### **Open Balkan - next steps, beyond signed agreements:**

- **Free movement of goods:**
  - OBI agreements should be broadened to include **acceptance of laboratory results of accredited/authorized laboratories and testing results for all types of goods and inspections – especially sanitary inspection.**
  - **Products safety, quality and labeling requirements should be harmonized** among OBI signatories and across WB6 region to avoid unjustified application of NTMs. **Conduct common trainings for all authorities of sanitary and phytosanitary measures (hereinafter: SPS authorities) in EU rules and practices adoption** as a way for unified interpretation of rules and standards.
  - Additional investments in **infrastructure and technology at BCPs/roads** could help speed up the process and reduce queues. Implementation of the Single window projects and electronic pre arrival processing should additionally expediate the process at the borders. Use of TRACES like systems, as in the EU, to record and exchange trade related documents (certificates).
  - Enhancing AEO benefits within jurisdiction and between signatories. Consider further enabling priority processing with SPS authorities, for holders of AEO certificate.
  - Abolishment of mandatory green insurance card for vehicles which would decrease costs for transport of goods as well as movement of persons.
- **Free movement of capital** has been, to a certain extent, covered by the CRM - Berlin Process, however, effects on movement of capital freedoms in the region has not been detected by the companies. Based on the input from the companies who have invested or consider investment across the region and local players who consider expansion in the region, scan of the current regulations in the OBI region was conducted focusing on freedom of investment, profit repatriation, administration of cross border loans, guarantees, cash pooling etc. The analysis shows that Serbian regulation is by far the most administratively burdensome and strict, North Macedonian a bit less, while Albanian is fully liberal.
  - **Key recommendations are:**
    - i. Introduce ex-post aggregate notification procedure for cross border loans, guarantees and collaterals related to foreign credit transactions for OBI residents by email (SRB, MKD).
    - ii. Liberalize conditions for loans, guarantees and collaterals in cross border transactions between residents from OBI (SRB).
    - iii. Expand the scope of permitted assignments and set-offs for all types of current and capital transactions within OBI signatories (SRB)
    - iv. Relax administrative requirements for cross-border transfers of funds, including ex post notification of foreign cash inflows (SRB)
    - v. Ease registration of direct investments as a precondition for profit repatriation (MKD)
    - vi. Allow cash pooling among OBI members
    - vii. Introduce Albanian LEK in the North Macedonian and Serbian foreign exchange markets
    - viii. Liberalize cross border provision of deposit services.
- **Free movement of services:**
  - According to the respondents, key services that should be **liberalized are financial services (e.g. liberalize cross border provision of deposit services)**, which is closely linked with the free capital movement suggestions above.

## I. GENERAL REGIONAL INTEGRATION PLATFORMS

- **9 out of 10 businesses expect to benefit from regional economic integration.**
- Full benefits are expected with the **coverage of all WB6 markets**. Some respondents also mention inclusion of the neighboring EU countries such as Greece, Bulgaria, Croatia, Slovenia, Romania, and Hungary.
- Given the length of the time in the implementation, **CEFTA is seen as the platform which has so far brought most value to the individual businesses**. Although it has started implementation a year ago, **Open Balkan is seen as showing value, with significant promise still to be fulfilled, while benefits for individual businesses have seldomly been recognized as a result of the Berlin process – CRM Action plan**. Significant portion of the respondents has not recognized any benefits realized so far for their businesses. **Roughly a quarter of the businesses think that none of the mentioned platforms have, so far, been valuable for their business, pointing to the significant room for improvement in raising awareness, but also in implementation of the agreements.**
- Out of the 3 regional economic platforms, businesses have **most knowledge about CEFTA** and see it as a platform for **predominantly facilitating trade in goods**. **Open Balkan is seen as a platform which aims to implement all four freedoms**, as in the EU, however significant portion of businesses do not feel that they have sufficient information about the implementation of the initiative. The least knowledge respondents have about the **Berlin process – CRM Action Plan<sup>1</sup> and its objectives relevant for business**.
- Businesses acknowledge that **recent tangible improvements**, relevant for their business, have been done through **Open Balkan initiative and CEFTA platform**. On the Open Balkan side the most notable achievements are in the area of shortening and reducing costs of import/export procedures and removal of the inspections from the border (notably in Serbia). On the CEFTA side, expectation of application of SEED+ from July 14, 2022, for Albania and North Macedonia, and from October 2022 in Serbia, allowed phytosanitary certificates to be electronically exchanged, allowing pre-arrival processing, and thus shortening additionally procedures for food of plant origin.

## II. OBI – OVERALL CONCLUSIONS

- The Open Balkan Initiative **enjoys support from the private sector** as it has initially tackled longest standing obstacles to trade facilitation in the region (related to cross border trade in foodstuffs) with **substantial political support for implementation**, which is viewed as crucial factor for yielding any tangible results in trade facilitation efforts.
- Although it aims to cover all four freedoms, with agreements signed in the area of free movement of goods, free movement of people and some limited and non-binding memorandums in the area of services trade (tourism), a no agreements tackling free movement of capital, tangible impact on the businesses, one year into implementation, is in the area of trade in goods.
- **Major improvements have been noted in the shortening of import/export procedures for trade in goods of plant and animal origin, squeezing the duration of transport and export/import procedures, in some cases, by up to 50% and cutting costs of imports/exports by up to 80%<sup>1</sup>.**
- **Removal of inspections from the border is viewed as the most significant existing trade facilitation measure under OBI, closely followed by acceptance of laboratory results and reduction in fees and charges**, while the lowest ranked measure is mutual recognition of AEOs;

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<sup>1</sup> Based on the data of a frequent Serbian importer who imports various foodstuffs from the market of Northern Macedonia.

*(From 1 to 5, best evaluations have the following measures: Removal of inspection controls from the border: 4.8, Acceptance of laboratory analysis: 4.7, Abolishment of trade related fees and charges: 4.4, Removal of certain import documents (e.g. ZVUD/CVED): 3.8, Mutual recognition of AEO status 3.1)*

- **Although welcomed by business, OBI is yet to meet the high expectations when it comes to full implementation and delivery of agreed benefits.**  
*(The average ranking of the overall satisfaction of businesses with the implementation and benefits of OBI was 3.8 out of 5. Several businesses have emphasized that the free movement of goods should mean that there are no border controls, no international trade documents, e.g. certificates, only commercial documents as in internal/common markets)*
- **Key concern 1– Transparency - lack of regularly updated technical information and key contact point/s**  
6/10 of surveyed businesses claim that they do not have sufficient knowledge about the detailed streamlined procedure implemented through OBI. Critique is that a lot of the communication is around meetings of the politicians at a very high level, with not enough technical information for follow-up.  
Businesses ask for:
  - Designated, **regularly updated and well communicated website with key contact point/s in all the markets**
  - Web site should contain **explanation of streamlined procedures/measures** as per signed agreements, **related to each of the freedoms, with clearly designated competent institution in charge of implementation (and contact) and indication if such measures are in force** in certain jurisdiction or when is enforcement expected.
  - Regular posting **updated info about effects of the agreements**
- **Key concern 2 – Governance structure and implementation action plans securing consistent application of agreements among the signatories**
  - **Governance structure should be designated with clear responsibilities** (either for whole OBI, or per freedoms covering similar agreements – their roles and responsibilities and operating procedures clearly defined). Consider utilization of already existing bodies such as NTFCs, which include all relevant border authorities and the private sector.
  - It is needed to design a **detailed and comprehensive action plan with ratification and full implementation timeline and allow its published version to also be regularly updated.**
  - **Monitoring/evaluation function with detailed performance indicators should be defined to ensure consistent implementation of all agreements across all OBI signatories;**
  - Governance bodies from each of the participating markets should regularly meet about facilitating implementation of the agreements and conclusions of their meetings, if there is need, should be prepared for the high-level meetings of OBI with Presidents or Prime Ministers.
- **Key concern 3 - Complaint resolution mechanism** should be formalized to:
  - address situations where authorities within own market are not implementing the agreements in force; and
  - address situation where authorities within other markets are not implementing agreements in force.
- **Next steps - demand for 4 freedoms:** The highest demand is still for the streamlining of the procedures in **cross border trade in goods**, where results are already visible. It is followed closely by implementation of streamlined procedures for the **movement of people**. In the area of **free movement of capital and provision of services** respondents have identified

as the largest obstacles barriers to extending cross border guarantees and loans<sup>2</sup> (important in financing regional business), while in the area of free movement of services, respondents prioritized liberalization of cross border financial services provision.

- Although majority of respondents (87%) say that there are no **challenges for digital business**. Suggestions for improvement correlate to general suggestions for e-Government setup and improvement.
  - Different levels of development of eGovernment among signatories limit the possibility of utilizing benefits of digitalization. The acceptance and exchange of digital documents to additionally streamline procedures in different areas requires certain IT infrastructure, its interoperability as well as legal preconditions for document acceptance and exchange in all markets. If this segment is to be further developed, key services should be identified, ongoing and committed projects mapped (e.g. Single Window with the timelines, Seed+ etc.), and action plan designed to fill the gaps.
  - Data privacy and cyber-security aspect of the eGovernment services is deemed underestimated, hence any further projects and action plans should clarify the required levels of cyber security and data privacy for interconnections.

### III. FREE MOVEMENT OF GOODS

Agreement/Protocol/MoU	Signed	Legal Status per Jurisdiction	Implementation	Under consideration
<b>Agreement on Cooperation in the field of Veterinary, Phytosanitary, Food Safety and Animal Feed Control in the Western Balkans</b>	Dec 2021	SRB – signed and ratified RS OG IA No. 27/2021  ALB – signed and approved by Council of Ministers Decision  MKD - pending ratification	ALB implemented. SRB implemented.  Temporary solution in MKD implemented as of July1, 2022.	
<b>Article 6 Protocol on the reduction and/or abolition of charges</b>	<b>Draft of new agreement governing customs and phytosanitary and veterinary related fees has been prepared</b>			SRB and ALB agreed on the text, MKD has outstanding comments
<b>Three bilateral Agreements on mutual recognition of AEOS</b>	Dec 2021	SRB – Signed and ratified both agreements.  MKD - Signed and	SRB implemented. MKD implemented.	

<sup>2</sup> Serbian and North Macedonian market

		ratified both agreements. ALB - pending ratification	ALB signed protocol.	
<b>Agreement on the cooperation of accreditation bodies</b>	Dec 2021		Implemented.	
<b>Removal of non-tariff barriers (NTBs) for trade in goods</b>				WB 6 Chambers mapped the NTBs. Other steps pending.
<b>Agreement on Food Security Mechanism in Western Balkans</b>	Sep 2022	ALB - Signed and approved by Council of Ministers Decision SRB- Signed MKD - Signed, legal text adopted by the government		

#### **i. OBI Achievements**

- **43% of the interviewed businesses have reported significant shortening of import/export procedures after implementation of OBI.** It is important to note that around 25% of the respondents conduct trade in goods which have not, so far, been targeted by sector specific simplified procedures (pharmaceutical, chemical products, light manufacturing).
- **Most notable time savings are reported in imports of perishable goods from North Macedonia to Serbia,** where average time for import (from the time when the consignment is ready for shipment to the time of completion of clearance process/release of goods by inspection) **decreased by 50%** (from 24h on average in 2021 to 12h on average in 2022).
  - **Businesses have confirmed that test reports for food of plant origin from accredited/authorized laboratories not older than 4 months are accepted by inspection authorities in all 3 countries** which contributes to reduced export/import time, especially for fresh products. In case of frequent importers this means that goods are less frequently sampled.
  - **Interviewed businesses have confirmed that Serbia's border phytosanitary inspection and border veterinary inspection no longer perform their import controls at the BCP Preševo.**  
*(Serbia – Phytosanitary controls of imported plants and plant products from list V, part B of the Agreement on Cooperation in the field of Veterinary, Phytosanitary, Food Safety and Animal Feed Control in the Western Balkans are performed at the customs office Vranje, while phytosanitary controls of other products are conducted at destination inland terminals or premises of in-house clearance traders. Serbia has also removed veterinary-sanitary controls of imports from North Macedonia and Albania from BCPs Presevo, Gostun and Gradina, and these are now performed at destination inland terminals or premises of in-house clearance traders)*



- Working hours of main BCPs for customs authorities are 24/7 as mandated by the Agreement, however, further harmonization of working hours of inspections should be conducted, based on the results of cost-benefit analysis.
- OBI has contributed to a significant reduction of sampling rate of imported products, while the number incompliant consignments detected through sampling and laboratory testing was extremely low.

*Sampling rate was reduced by 44%, from 243 to 135 sampled consignments in 2021 and 2022 respectively, according to the data provided by interviewed companies. This data also includes information on sampling by sanitary inspection and other inspections which are not covered by the simplified procedures and have different sampling rates. In case of looking only at change in the sampling rate of products that are covered by existing OBI agreements (food of plant origin, mixed origin, dairy products), in one of the examined cases, **sampling rate has fallen 88% (from 25% in 2021 to only 3% in 2022 of total shipments)**.*

*Case example of imports to Serbia from North Macedonia with sampling rates per type of goods*

Imports to Serbia from North Macedonia	No. of imports in 2021	No. of imports in 2022	Sampled imports in 2021	Sampled imports in 2022	Sampling rate 2021	Sampling rate 2022
Fresh fruits and vegetables (fresh products of plant origin)	28	31	9	0	32%	0
Processed food of plant and mixed origin	112	136	17	4	15%	3%
Milk and dairy products	43	38	19	2	44%	5%
<b>TOTAL</b>	<b>183</b>	<b>205</b>	<b>45</b>	<b>6</b>	<b>25%</b>	<b>3%</b>

- OBI has contributed to reduction of costs per shipment, and although the data from all jurisdictions are not consistent, **in case of Serbia, import costs per shipment have been reduced up to 80%** (cost per shipment includes costs of laboratory analysis as well as cost of inspection controls).

*Case example of imports to SRB from MKD with average costs per shipments in 2021 and 2022.*

Imports to Serbia from North Macedonia	2021 Cost Per Shipment in EUR	2022 Costs Per in Shipments EUR	Cost Decrease in %
Fresh fruits and vegetables (fresh products of plant origin)	89	25	72%
Processed food of plant and mixed origin	71	28	69%
Milk and dairy products	122	4	95%
<b>TOTAL</b>	<b>94</b>	<b>19</b>	<b>80%</b>



- This has been possible, primarily due to the reduced sampling rate in Serbia, as well as due to the fact that **Serbia no longer charges fees for veterinary-sanitary control in international trade for imports from North Macedonia and fee for application to veterinary inspector for unloading of goods in company's warehouse** according to the interviewed companies.
- **AEO status and OBI - Selection of location for control, priority customs controls and reduced physical and documentary checks were the 3 main AEO benefits emphasized by interviewed AEO companies.** Additionally, AEO from Serbia reported that requests for refund of customs duties are processed more quickly after obtaining the AEO status. AEO from North Macedonia reported importance of customs advisor assigned to their company after obtaining AEO status who helps them resolve any clearance related issues.

## ii. Implementation Points

- **Removal of border inspections from BCPs has not been reported for North Macedonia and Albania. North Macedonia and Albania should explore possibilities for implementing similar practice as Serbia** *(this might be a challenging in the case of BCP Tabanovce which is also clearance terminal, not just BCP);*
- **Working hours of main BCPs for customs authorities are 24/7, however, working hours of inspections are not entirely harmonized according to interviewed businesses. Working hours of all inspection authorities at main BCPs should be 24/7, if deemed appropriate based on cost-benefit analysis, or at least harmonized across the OBI countries.**  
*(e.g. at BCP Tabanovce in North Macedonia, veterinary inspection works 24/7, while phytosanitary inspection works only in one 12-hour shift - either from 7:00h to 19:00h or 8:00h to 20:00 - and sanitary inspectors work in one shift from 8:00h to 18:00h according to interviewed companies; in Serbia, customs office Vranje where phytosanitary controls of imported plants and plant products from list V are performed works from 8:00h to 20:00 Monday to Saturday, etc.);*
- **Regarding the reduction of costs for shipments within OBI, although Serbia has implemented significant decreases of fees, which together with reduced sampling rate, result in significant decreases in costs per shipment, none of the import related fees were abolished by North Macedonia and Albania** according to the interviewed companies, nor were their inspection authorities removed from the border.

In addition, in practice there is a difference in fees charged in specific territories, e.g. in Serbia there are no customs clearance related fees, while in the other signatories there are fees for e.g. Terminal use. Therefore, **it would be necessary to finalize negotiations or sign either Protocol or New Agreement that would map all fees and charges (both SPS related and customs clearance related) to be reduced or eliminated, responsible institutions and timeline for implementation.**

Uneven implementation among signatories of OBI has also led to the uneven impact on importers and exporters – e.g. while importers into Serbia acknowledge the benefits of applied measures, exporters from Serbia to Northern Macedonia have a different view, especially given the fact that previously, in most cases, results of accredited laboratories were valid for 6 months, hence their costs for laboratory testing have increased.

- **Removal of import documents was only reported for Serbia**, namely common veterinary entry document - CVED is no longer required for imports, while decision on veterinary sanitary conditions (import license) is required only for live animals, breeding eggs, animal reproductive material. Removal of import documents was not reported for North Macedonia according to the interviewed companies. Transit consignments, exported from Albania and North Macedonia through Serbia, are subject to veterinary controls at BCPs Presevo, Gostun, Gradina and CVED is required for transit consignments.

- Although businesses **recognize** improvements made in procedures of inspection authorities, they also highlight that **without resolving outstanding infrastructural issues, no significant additional time reduction in trade process can be achieved with soft trade measures**;  
*(Implemented soft trade measures cannot compensate large queues that occur at the BCP Presevo/Tabanovce, lack of priority fast lanes for OBI trucks at main BCPs, poor road and BCP infrastructure in Albania (e.g. BCP Kafastan) that largely contribute to the duration of export and import process);*
- Customs authorities in OBI should **further promote the AEO program and in-house clearance customs simplification, expand benefits offered to businesses, as well as ensure full application of signed mutual recognition agreements for AEOS, to increase the uptake rate of these initiatives**;
  - **More than half (57%) of interviewed companies do not utilize benefits of AEO program or customs clearance simplifications**, despite the fact that interviewed companies are predominantly large exporters and importers;
  - **In-house clearance appears more attractive to businesses than AEO program, but this is also due to the fact that AEO is relatively new program offered by customs authorities in the region**;  
*(38% share of in-house clearance simplification vs. 19% share of AEO certificate holders among interviewed companies, while 14% of interviewed companies have both)*
  - OBI signatories should **ensure full application of signed AEOs mutual recognition agreements** (and related verification protocols) in practice and ensure that agreed benefits apply to all AEOS holders from all OBI contracting parties. **All interviewed AEO holders reported utilizing AEO benefits ONLY in the country of issuance of the AEO certificate which questions the efficacy of the implementation of signed mutual recognition agreements**, at least between Serbia and North Macedonia where both parties have ratified agreements and there should be no impediments for their implementation;
  - **Albania should complete the ratification process for AEOS mutual recognition agreements with Serbia and North Macedonia** (other two countries have already completed the ratification process);
  - **Businesses would welcome implementation of designated priority “green/fast” lanes in all BCPs for perishable goods and AEOS holders, and/or OBI trucks** *(similar solution already exists in BCP Presevo/Tabanovce, however interviewed businesses have reported that often this lane is not active in practice)*; and
  - **Implementation of the Agreement for cooperation of the Accreditation bodies has not yet produced tangible results**. Although all OBI signatories recognize CE sign, further steps could be made in the recognition of the lab results of the accredited houses for testing and certification, if they are accredited in compliance with the EU standards.

### iii. Further Improvements

- **Establishment of true one stop shops/joint border controls was the highest ranked next step in OBI** (Average ranking was 4.8 out of 5. Joint controls would reduce export/import time and congestions at BCPs, while businesses would benefit from avoiding multiple controls by authorities from both sides of the border. Companies highlight that countries should attempt to establish joint controls at businesses BCPs with other trading partners in Western Balkans, Montenegro, Bosnia and Herzegovina and Kosovo. Businesses have reported that BCP Preševo/Tabanovce is still very congested despite joint controls. Trucks still stop twice, and documents are controlled by authorities of both countries. They recommend border controls of importers only. Additional investments in infrastructure and technology at BCPs/roads could help speed up the process and reduce queues. Implementation of the Single window projects and electronic pre arrival processing should additionally expediate the process at the borders.
- Interviewed businesses **recommended paperless trade with electronic documents and full digitization and automation of export and import processes** as future next step under

**Further abolishment of import/export documents** (average ranking was 4.8 out of 5). They have also recommended **the use of TRACES like systems as in the EU to record and exchange trade related documents (certificates)**.

- **OBI should be expanded to include similar streamlined practices for pharmaceutical and cosmetic products, chemical products etc.** (average ranking was 4.5 out of 5);
- **The practice of accepting test reports from accredited/authorized laboratories should be expanded to all import inspection authorities, especially sanitary inspection.**

*Companies from Serbia have reported frequent sampling of pharmaceuticals and dietary products by sanitary inspection in North Macedonia.*

- **Interviewed business would welcome extension of the validity period of test reports from accredited/authorized laboratories from 4 months to 6 months by all border inspections, including sanitary inspection. Products safety and quality requirements should be harmonized among OBI signatories and across WB6 region to avoid unjustified application of NTMs** (Average ranking was 4.6 out of 5. Businesses have reported slow process by North Macedonia in accepting disease free status for certain regions in Serbia for African swine fever thus prolonging ban on imports; Slow process of regulating/classifying novel products, e.g. mineral water with fruit flavor and small alcohol content; Requirements on labeling of eggs vary across the region; Certificate for temporary stored products needs to be agreed between Serbia and North Macedonia, etc.); Regarding AEOs, it is necessary to **further consider expansion of the benefits available to AEOs to all Signatories**, such as reduction of amount of bank guarantees (as it would be implemented in Serbia as of July 2023. In addition, it would be important to consider **priority treatment by SPS authorities for all AEO holders.**

#### **IV. FREE MOVEMENT OF CAPITAL**

Although Berlin process, to a certain extent, covers regional capital markets, none of the companies interviewed in any of the surveys recognize regional platforms as beneficial in brining about regional freedom of capital movement. Nevertheless, freedom of capital movement is undoubtedly one of the key preconditions for rendering investments in the region attractive to new foreign investors, or, facilitating business expansion and cooperation within the region. **This research shows how divergent are regulatory regimes governing foreign transactions in the individual OBI signatories with Serbian regime being, by far, the strictest, and Albanian regime being the most liberal.**

Types of restrictions vary from effective blocking conduct of specific transactions (e.g. cash pooling, which is important for regional companies for cash optimization) to excessive administration required (e.g. for provision of loans or extending guarantees). Such excessive administration, especially when required before the transaction can be conducted, as well as the legislative concept and interpretation that only transactions prescribed in the foreign exchange law are allowed (in Serbia and North Macedonia), limit the possibility of novel transactions, such as new funding cross-border mechanisms for SMEs (e.g. cross border crowd funding platforms) and generally increases costs of transactions. There are cases in which favorable treatment of transactions is awarded to the third markets (e.g. EU in Serbian legislation), while same transactions are performed on more burdensome terms with non-EU countries, including OBI countries. Banking deposit services are restricted for North Macedonian and Serbian residents only to the banks registered within own markets, with very limited exceptions. All administrative registration procedures are still conducted paper based, and in certain important areas such as most types of cross-border loans and related guarantees as a precondition for the transactions to occur, although official rationale for their existence is of statistical nature (hence, can be fulfilled without holding off the transaction).

##### **i. Further Improvements**

Based on the provided study, it would be highly beneficial to undertake negotiations with the aim of signing the international agreement between OBI countries that would **clearly allow and facilitate**

**provision of loans, guarantees and collaterals, set offs, deposits and cash pooling within the OBI by removing or simplifying all relevant procedures and allowing post transaction notifications of the authorities as well as digital submission of such documents.**

Protocols for the implementation of such an agreement should develop specific deadlines for amendments of the relevant laws and by-laws within specific jurisdictions.

Below is the initial list of measures that should be carefully considered for such an agreement, while the full list and detailed explanation of the specific restrictions, as well as the suggestions for their improvement, is in Appendix 2.

Specific measures to be covered by the agreement:

- **Introducing ex-post aggregate notification procedure for cross border loans, guarantees and collaterals related to foreign credit transactions for OBI residents by email (SRB, MKD).**
- **Liberalize conditions for loans, guarantees and collaterals in cross border transactions between residents from OBI (at least to the level already granted to EU residents), including expanding the scope of permitted guarantees and collaterals to all types of current and capital transactions and all categories of residents within OBI signatories (SRB).**
- **Expand the scope of permitted assignments and set-offs for all types of current and capital transactions and all categories of residents within OBI signatories (SRB).**
- **Relax administrative requirements for cross-border transfers of funds, including switch to ex post notification of foreign cash inflows (SRB).**
- **Ease registration of direct investments as a precondition for repatriation of funds (MKD)**
- **Allow cash pooling among OBI members.**  
SRB, MKD, ALB: Regulate cash pooling to be fully operational among OBI members.  
Amend FX regulations in North Macedonia and Serbia regulating cross-border loans, set-off, guarantees and keeping of deposits abroad to provide a regulatory framework for implementing cash pooling, as well as insert explicit provision in the Albanian FX law allowing cash pooling to enable efficient outbound payments;
- **Introduce Albanian LEK in the North Macedonian and Serbian foreign exchange markets (MKD, SRB);**
- **Liberalize cross border provision of deposit services** - Allow North Macedonian and Serbian residents to keep deposit accounts in other OBI members (SRB, MKD).

## **V. FREE MOVEMENT OF PEOPLE**

<b>Agreement</b>	<b>Signed</b>	<b>Legal Status per Jurisdiction</b>	<b>Implementation</b>	<b>Under consideration</b>
Agreement on Connecting the Systems of Electronic Identification of Citizens of the Western Balkans	Dec 2021	ALB SRB MKD	Not implemented	
Agreement on Conditions for Free Access to the Labor Market in the Western Balkans	Dec 2021	ALB SRB MKD	Not implemented	
Agreement on Mutual Recognition of Academic Qualifications	June 2022	ALB SRB MKD pending ratification.	Not implemented	

## **VI. FREE MOVEMENT OF SERVICES (freedom to provide services)**

Agreement	Signed	Legal Status per Jurisdiction	Implementation	Under consideration
Memorandum of Understanding on Cooperation in the Field of Tourism in the Western Balkans	June 2022			
MOU on promotion of film and cinematographic coproductions	Sep 2022			

**There are no Agreements so far mandating freedom of services provision.** However, two MoUs have been signed with the aim to foster cooperation in the area of tourist services and audiovisual services. So far, there are no reports of tangible results of these MoUs.

Demand for liberalization of services trade among OBI members is significantly lower than trade in goods or even capital movements liberalization, however, when asked, businesses prefer financial services liberalization (closely connected to freedom of capital movement) and construction services liberalization (recognition of professional qualifications, especially for intra corporate transferees, working for the same firm in all OBI members).

## **APPENDIX 1**

### Other OBI signed documents

- Memorandum of Understanding on Cooperation in the Field of Culture, June 2022.
- Memorandum of Understanding on Cooperation in the Field of Tax Administrations in the Western Balkans, June 2022.
- MOU and operative plan for cooperation in emergency situations, July 2021, and Sep 2022.
- MoU btw Serbia and Albania on mutual support in investing in new energy capacities (renewables and LNG terminal in Albania) and connectivity in transport, transmission, and storage capacities, as well as mining, Sep 2022.

## APPENDIX 2

Review of restrictions to movement of capital per OBI members.

OVERVIEW OF FOREX TREATMENT OF CROSS-BORDER TRANSACTIONS IN OBI				
FOREX REGULATIONS	SERBIA	NORTH MACEDONIA	ALBANIA	PROPOSED SOLUTION
<b>Interpretation of FX transactions</b>	Only transactions that are explicitly regulated by the FX Law <sup>3</sup> are permitted, whereas others are prohibited.	Only transactions that are explicitly regulated by the FX Law <sup>4</sup> are permitted, whereas others are prohibited.	No restrictions.	<b>Prohibited operations to be explicitly prescribed as such, whereas all other activities are considered permitted.</b> Alternatively, introduction of the interpretation article which would provide that any transactions not regulated in the FX Law are permitted in accordance with other relevant laws.
<b>Cross-border loans</b>	<b>Prior notification to the NBS.</b> Cumbersome and largely discretionary process which is a precondition to drawdown/disbursement of loans.	<b>Prior notification to the NBMKD.</b> Cumbersome process which is a precondition to drawdown/disbursement of loans.	No restrictions.	<b>Simplification of the notification procedure</b> by introducing the obligation of ex-post aggregate reporting by e-mail (instead of hard copy), with a reduced volume of documentation. Enabling notification, directly from the companies and not through commercial banks for Serbia.  <u>Amendments to SRB FX regulation:</u> - Article 32 (5)-(7) the FX Law and

<sup>3</sup> Law on Foreign Exchange Operations ("Official Gazette of the Republic of Serbia", Nos. 62/2006, 31/2011, 119/2012, 139/2014 and 30/2018).

<sup>4</sup> Law on Foreign Exchange Operations ("Official Gazette of the Republic of Macedonia", Nos. 34/01, 49/01, 103/01, 51/03, 81/08, 24/11, 135/11, 188/13, 97/15, 153/15 and 23/16 and "Official Gazette of the Republic of Macedonia", No. 110/21).



- the Decision on Reporting on Credit Transactions with Abroad.<sup>5</sup>

Amendments to MKD FX regulation:

- Article 28 (3) of the FX Law
- Decision on the Manner and Condition for Recording and Submitting Reports on Concluded Credit Affairs<sup>6</sup>.

**Restrictive conditions for Serbian residents to grant loans to nonresidents.**

No restrictions.

No restrictions.

**Liberalization of granting loans to debtor residents in North Macedonia or Albania**, at the minimum to equally treat them as EU resident debtors.

(1) a non-EU non-resident company must be majority (directly) owned by the Serbian company; and  
(2) the Serbian lender must obtain an adequate counter-collateral (which is assessed discretionary by the NBS).

In addition, Serbian residents may not grant loans at all to non-resident individuals, not

Amendments to SRB FX regulation:

- Article 23 of the FX Law and,
- Articles 1-4 of the Decision on Granting of the Loans and Guarantees to Non-Residents.<sup>7</sup>

<sup>5</sup> Decision on Reporting on the Credit Transactions with Abroad ("Official Gazette of the Republic of Serbia", Nos. 56/2013, 4/2015 and 42/2020).

<sup>6</sup> Decision on the Manner and Condition for Recording and Submitting Reports on Concluded Credit Affairs ("Official Gazette of Republic of Macedonia", No.173/2015).

<sup>7</sup> Decision on the Conditions and Manner pursuant to which Residents may approve Financial Loans to Non-Residents and Grant Guarantees and other Collaterals for the Credit Transactions with Abroad and Credit Transactions between Non-Residents ("Official Gazette of the Republic of Serbia", Nos. 32/2018, 122/2020 and 3/2021.

even to non-resident employees of local companies which puts them in unfavorable position compared to resident employees. In addition, Serbian resident individuals, entrepreneurs and local branches of foreign companies may not grant loans to abroad.

**Repayment restrictions for non-EU lenders.**

Loans received from non-EU lender (for most purposes) may not be repaid prior to the expiry of one year and repayment may not start before expiry of 6 months.

No restrictions.

No restrictions.

**Alignment of loan repayment rules for loans received from residents in North Macedonia or Albania** at the minimum to equally treat them as loans from EU resident lenders.

Amendments to SRB FX regulation:

- Article 18 of the FX Law and,
- Article 2a of the Decision on the Manner and Conditions on Use of Financial Credits from Abroad.<sup>8</sup>

**Serbian residents are restricted in providing guarantees and other collaterals for credit transactions abroad,**

No restrictions.

No restrictions.

**Liberalization of rules for granting guarantees and collaterals for credit transactions between non-residents with a seat in North Macedonia and/or Albania,** at the minimum with the rules set for EU related transactions. Also, liberalization of rules for

<sup>8</sup> Decision on the Manner and Conditions on Use of Financial Credits from Abroad for Purposes set out in Article 21(2) of the Law on the Foreign Exchange Operations ("Official Gazette of the Republic of Serbia", Nos. 2/2013, 74/2013, 32/2018 and 3/2021).

Guarantees / Collaterals	with more strict regime applicable to non-EU non-residents.			granting guarantees and collaterals by Serbian resident individuals in relation to the cross-border loans.
	In addition, Serbian resident individuals are not allowed at all to provide collaterals in relation to loans abroad or cross-border loans, not even when a Serbian company borrower is majority owned by collateral provider.			<p><u>Amendment to SRB FX regulation:</u></p> <ul style="list-style-type: none"> <li>- Article 23 of the FX Law and,</li> <li>- Articles 1- 4 of the Decision on Granting of the Loans and Guarantees to Non-Residents.</li> </ul>
	The NBS may restrict individual residents from providing guarantees or collaterals for foreign loans or from granting loans to non-residents in order to preserve the public interest and/or financial stability	No restrictions.	No restrictions.	<p><b>Prescribe closed the process and criteria for NBS' right to restrict a resident from granting loans abroad or providing guarantees or collateral in relation to foreign loans</b>, especially in relation to regular inbound cross-border loans.</p> <p><u>Amendments to SRB FX regulation:</u></p> <ul style="list-style-type: none"> <li>- Article 23 of the FX Law and,</li> <li>- Article 6 of the Decision on Granting of the Loans and Guarantees to Non-Residents.</li> </ul>
	Serbian residents are restricted in providing and obtaining guarantees and collaterals in	No restrictions.	No restrictions.	<b>Liberalization of rules for granting and obtaining of guarantees and collaterals in cross-border context to allow guarantees and collaterals in all types of current and capital transactions (for example, provision</b>

	<p>cross-border transactions (other than loans) to limited cases such as export/import of goods or services or investment works. Also, it is not envisaged that Serbian resident individuals, entrepreneurs or local branches of foreign companies may provide collaterals in cross-border transactions.</p> <p>This restriction leads to <i>de facto</i> ban of otherwise allowed transactions, since collateral is often a pre-requisite for conclusion of transaction.</p>			<p><b>of collateral by the resident for the purpose of securing export of goods or services) and to all categories of residents.</b></p> <p><u>Amendment to SRB FX regulation:</u> Article 26 of the FX Law.</p>
Assignments	<p><b>Assignments are not adequately regulated in a cross-border context.</b></p> <p>Assignments in “realised” foreign trade and credit transactions are regulated (but not allowed to resident</p>	No restrictions.	No restrictions.	<p><b>Adequate regulation of assignments (and execution of payments thereunder) for all types of current and capital transactions and all categories of residents.</b></p> <p><u>Amendments to SRB FX regulation:</u> Articles 7, 20 and 33 of the FX Law.</p>

	<p>individuals), while similar rules are missing for all other types of transactions - for example, for receivables arising out of direct investment, guarantees, real estate, etc. Exceptionally, only assignment of claims or debts between two non-residents is regulated for all types of permitted transactions. Also, the requirement to obtain a prior approval of the Government for certain assignments is overly restrictive and not entirely clear.</p>			
<b>Set-off</b>	<p><b>The current set-off rules are limited to only certain types of cross-border transactions and exclude resident individuals.</b></p>	No restrictions.	No restrictions.	<p><b>Broaden the application of set-off to other types of transactions and all categories of residents.</b></p> <p><u>Amendments to SRB FX regulation:</u></p> <ul style="list-style-type: none"> <li>- Article 6 of the FX Law and,</li> <li>- its bylaws<sup>9</sup>.</li> </ul>

<sup>9</sup> Regulation on Set-Off based on the Realised Cross-Border Sales of Goods and Services ("Official Gazette of the Republic of Serbia", Nos. 59/2013) and Decision on Set-Off based on the Credit Transactions with Abroad in Foreign Currency ("Official Gazette of the Republic of Serbia", Nos. 59/2013).

	<p>Set-off may be performed between:</p> <ul style="list-style-type: none"> <li>(i) receivables arising out of realised cross-border sale of goods and services (export-import); and</li> <li>(ii) certain cross-border loans and direct investments, realised cross-border sale of goods/services (export-import) and purchase price for real estate.</li> </ul> <p>Set-off is not allowed to resident individuals.</p>			
<b>Deposits</b>	<p><b>Serbian residents are restricted to keep deposits abroad.</b></p>	<p><b>North Macedonian residents are restricted to keep deposits abroad.</b></p>	<p>No restrictions.</p>	<p><b>Include more basis for keeping of the accounts of the Serbian residents abroad.</b></p> <p><u>Amendments to SRB FX regulation:</u> the Decision on Conditions and Manner in which Residents may keep Foreign Currency on the Bank Account Abroad.<sup>10</sup></p> <p><u>Amendments to the MKD FX regulation:</u> the Decision on the Manner and Conditions under which Residents who are not Authorized Banks can Hold Accounts abroad and Domestic</p>

<sup>10</sup> Decision on Conditions and Manner in which Residents may keep Foreign Currency on the Bank Account Abroad (Official Gazette of the Republic of Serbia” Nos. 31/2012, 71/2013, 98/2013, 125/2014, 102/2015, 37/2018 and 13/2020).

				Companies can Open Bank Accounts in Foreign Banks <sup>11</sup>
Cash pooling	Serbian companies are not permitted to implement either notional or physical cross-border cash pooling.	Lack of regulation on cash pooling.	Lack of regulation on cash pooling.	<b>Amendments to FX bylaws regulating cross-border loans, set-off, guarantees and keeping of deposits abroad in Serbia and North Macedonia i.e. insertion of an explicit provision in the Albanian FX Law allowing cash pooling to enable efficient outbound payments.</b> Implementation in phases could be considered in legalizing such structures. Cash pooling could be initially allowed only between the companies within Open Balkan prior to introducing this possibility for transactions with other foreign companies.
Foreign cash inflows	Rules regulating foreign cash inflows and outflows do not fully allow the automation of international payment transactions.	No restrictions.	No restrictions.	<b>Relaxation of the requirements for cross-border transfers of funds. In particular, enabling foreign inflows without providing prior notification of the ground of payment to the bank.</b> If necessary for statistical purposes, such notification can be made subsequently and electronically at certain time intervals, if possible, directly from the companies and not through commercial banks (e.g. monthly, quarterly, etc.). For individuals, enabling of the automatic distribution of all inflows from abroad, i.e., without exceptions regarding the notification of the bank on certain bases of inflow. Data on invoices not to be required for transfers related to export/import.
				<u>Amendments to SRB FX regulation:</u>

<sup>11</sup> Decision on the Manner and Conditions under which Residents who are not Authorized Banks can Hold Accounts abroad and Domestic Companies can Open Bank Accounts in Foreign Banks ("Official Gazette of the Republic of Macedonia", No. 42/2016).




				- Guidelines for Implementing the Decision on Terms and Conditions of Performing Foreign Payment Transactions <sup>12</sup>
<b>Cross-border donations, grants and other non-refundable givings</b>	No regulated treatment of inflows and outflows of cross-border donations, grants and other non-refundable givings between legal entities, whereby domestic business entities have a need to participate either as recipients or donors.	No restrictions.	No restrictions.	<b>Introduce rules in the FX Law regulating explicitly possibility of Serbian companies to receive or provide cross-border donations, grants and other non-refundable givings.</b>
<b>Conversion of currencies</b>	Albanian LEK is not recognized as convertible currency on the Serbian foreign exchange market.	Albanian LEK is not recognized as convertible currency on the North Macedonian foreign exchange market.	No restrictions.	<b>Introduce Albanian LEK in the Serbian Decision on the Types of Foreign Currency and Foreign Cash that are Purchased and Sold on the Foreign Exchange Market<sup>13</sup> and North Macedonian Decision on the Method of Formation and Publication of Intermediate Courses of the National Bank of the Republic of North Macedonia<sup>14</sup></b>
<b>Capital repatriation</b>	No restrictions, except that an evidence of settled taxes is required for the transfer of the	Registration rules affect repatriation of investments. Direct investments of residents abroad and of	No restrictions.	<b>Further simplification of the rules in North Macedonia by introducing reporting by e-mail (instead delivery in hard copy) with a reduced volume of documentation or in a similar manner.</b>

<sup>12</sup> Guidelines for Implementing the Decision on Terms and Conditions of Performing Foreign Payment Transactions ("Official Gazette of the Republic of Serbia", Nos. 24/2007, 31/2007, 41/2007, 3/2008, 61/2008, 120/2008, 38/2010, 92/2011, 62/2013, 51/2015, 111/2015, 82/2017, 98/2020, 154/2020, 66/2021 and 92/2021).

<sup>13</sup> "Official Gazette of the Republic of Serbia", Nos. 3/2018, 65/2019, 107/2021 and 111/2022.

<sup>14</sup> "Official Gazette of Republic of North Macedonia", No. 224/2022.



**funds from a non-resident account to abroad.**

non-residents in North Macedonia must be registered. Otherwise, the repatriation of the profit, the transfer of funds obtained from the sale of share in the company, as well as the transfer of the rest of the liquidation mass are forbidden.

Amendments to MKD FX regulation:

- Articles 7, 8 and 9 of the FX Law and,
- its bylaws<sup>15</sup>.

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<sup>15</sup> Rulebook on the Method of Registration, Entrance, as well as the Form, Content and Manner of Keeping of the Register of Direct Investments of Non-residents in the Republic of Macedonia (“Official Gazette of the Republic of North Macedonia”, No. 122/2008) and Rulebook on the Method of Registration, Entrance, as well as the Form, Content and Manner of Keeping of the Register of Direct Investments of Residents Abroad (“Official Gazette of the Republic of Macedonia”, No. 122/2008).