**Belgrade, September 6 and 7, 2011**

**INTER-REGIONAL SYMPOSIUM on ENFORCEMENT**

**of INTELLECTUAL PROPERTY RIGHTS (IPRs)**

***COUNTRY REPORT***

***BOSNIA AND HERZEGOVINA***

***INDIRECT TAXATION AUTHORITY***

***OF BOSNIA AND HERZEGOVINA (ITA)***

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The Indirect Taxation Authority of Bosnia and Herzegovina (ITA) is an autonomous administrative organization responsible for its activities, through its Governing Board, to the Council of Ministers of Bosnia and Herzegovina. The ITA is managed by the Director. The organizational structure of the ITA Headquarters is following: 5 sectors and 4 departments comprising the Office of the Director. The field activities are run by 4 regional centers, 30 customs sub-offices and 59 customs posts, with a total of about 2.400 employees. The ITA is responsible for enforcement of legal provisions and policies on indirect taxation, as well as for the collection and allocation of indirect taxes revenue (VAT, customs duties, excise duties and road taxes).

The Customs Sector of the ITA provides the customs service of Bosnia and Herzegovina. The Customs Sector has, in cooperation with other institutions and inspection services, considerable responsibility for ensuring the quality and authenticity of goods, for the prevention of illegal movement of goods, fighting against trafficking in prohibited goods and substances, as well as for the security of the citizens. The internal organizational units of the Customs Sector are: Tariff and Valuation, Procedures and Control.

Border enforcement or customs measures are regulated by 7 laws concerning intellectual property rights (IPR), which have been effective from January 1, 2011:

* *Trademark law,*
* *Patent law,*
* *Law on industrial designs,*
* *Law on the protection of indications of geographical origin,*
* *Law on the protection of topographies of integrated circuits,*
* *Copyright and related rights law,*
* *Law on the protection of new varieties of plants* (effective from year 2004).

All 7 laws are in compliance with the law institutes of the WTO - TRIPS Agreement and the Acquis in the field of IPR, as well as with other relevant international conventions.

Based on all 7 laws will be adopted subordinate regulations (bylaws) which will allow customs authorities to carry out activities within its jurisdiction in the field of IPR and to regulate the procedure of implementation of customs measures for protection of the IPR.

The regulations for the implementation of customs measures under the Laws shall be brought by the Council of Ministers, on the proposal of the ITA. So far, the procedure of bylaws` adoption is in progress.

*The Law on the establishment of the Institute for intellectual property of Bosnia and Herzegovina* establishes the Institute for Intellectual Property of Bosnia and Herzegovina as an independent state administrative organization.

Upon the recommendation by the Institute for Intellectual Property of B&H, the Council of Ministers of B&H passed on June, 2010:

* *Decision on constituting the Council for Intellectual Property Protection*,
* *Decision on constituting the Council for the Development of Intellectual Property Users,*
* *Decision on constituting the Copyright and Related Rights Council.*

The Council for Intellectual Property Protection is an advisory and coordinating body of the Institute for Intellectual Property of B&H.

The Council is composed of the representatives of the following institutions:

* Institute for Intellectual property of Bosnia and Herzegovina,
* Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina,
* Ministry of Justice of Bosnia and Herzegovina,
* Ministry of Security of Bosnia and Herzegovina – State Investigation and Protection Agency (SIPA),
* Indirect Taxation Authority of Bosnia and Herzegovina (ITA),
* High Judicial and Prosecutorial Council of Bosnia and Herzegovina,
* Administrations for Inspection Issues – Market Inspections,
* Ministries of Justice,
* Ministries of Interior.

The above mentioned Council has the role in coordinating with all other institutions and in further development of IPR, which activities are still developing.

Cooperation between ITA and for example market inspectorates, police is not on sufficient level, and will be a task for future activities.

The right holders may apply for protection of their rights, through application - request for customs measures, with all necessary attached documents stated in Law. All customs measures taken for now, are carried out by an administrative procedure. The customs authority requests right holders` statement certified by a notary, that they will bear all expenses in connection with the goods to a customs authority and to the owner of the goods. The request is provided with administrative tax as only cost. Time period within which customs authorities shall act may not be longer than 2 years. Possibility of electronic filing will be regulated with bylaws for customs measures, but still not exists in practice, and depends of IT capabilities.

Identification of the goods is based on direct observations of customs officers, and additional indications are: received notices from the right holders, the country of origin, the supplier, the quality of goods, authenticity of documentation etc.

Simplified procedure for application for customs measures still does not exist, but will be regulated in the future with bylaws - decisions for implementation of customs measures for protection of IPR.

All costs of transportation, storage and destruction are borne by the right holder, which can be reimbursed by the importer (peacefully or by court). Storage is organized in the customs warehouses. Way of destruction of the goods depends on the type of the goods. Environmental friendly processes are not sufficiently developed, and they apply through standard procedures of companies for destruction.

Ex officio procedures are provided by law, but they are not common yet in practice, because of lack of information on right holders, not using online databases etc.

Import, export, or transit of goods is regulated by laws, but there are few cases of inspection of goods in transit and therefore detection of violations of law.

For the protection of IPR, there are administrative, civil and misdemeanor measures regulated by the laws for IPR and criminal measures stated in Criminal Laws. All procedures in courts (civil, misdemeanor and criminal) last too long, and have to be improved further in the future, especially through work of recently established economic courts.

Some of the current obstacles in the protection of IPR refer to a lack of databases about right holders, cases of disclosure of violations, not having access to international databases etc. Also encouraging awareness of citizens and the public about the hazards of counterfeit products is not enough.

Enforcement of IPR is one of high priorities for future development of ITA – Customs Sector. With further approaching to the European Union and international organizations, enforcement of IPR certainly would be much more effective.

*Statistics*

Number of applications for customs measures in year 2009 is 13, year 2010 is 6, and in first 7 months of 2011 is 11.

Value of seized goods in year 2006 is about 1.200.000 €, in year 2007 is about 1.200.000 €, and in years later is much more beneath.

The most common types of seized goods are: sports shoes and clothes, beauty products, computer equipment, vehicle spare parts, medicines, molds for trademarks, etc.

Number of ITA reports submitted to the prosecutor's office for criminal prosecution in year 2006 is 14, in year 2007 is 18, in year 2008 is 7, in year 2009 is 5, and in year 2010 is 2.

*Recent success examples*

Authorized officials of the Sarajevo Customs Office prevented the illegal attempt of import of counterfeit goods - about 5.280 pieces of electric and non-electric massagers KOSMODISK Classic and Relax Tone, which market value is estimated at 585,000.00 BAM. The counterfeit goods arrived in B&H in container from China and importers were 2 companies from B&H owned by Chinese nationals. The goods were temporarily impounded and were treated in cooperation with the authorized representatives of the trademarks, and in accordance with legal provisions. For these goods had been initiated legal proceeding in front of the court, because importers stated that the goods are not counterfeit.

Attachment:

- Organizational chart.