

**Željko Batinović**

**„ZAJEDNIČKA TRGOVINSKA POLITIKA EUROPSKE UNIJE – REFLEKSIJE NA PRAVNI SUSTAV I TRGOVINSKU POZICIJU BOSNE I HERCEGOVINE“**

**Sažetak**

Autor u ovom radu ukazuje na značaj zajedničke trgovinske politike Europske unije, kao i na refleksije te politike na trgovinsku poziciju Bosne i Hercegovine iskazanu kroz trgovinske sporazume, te njihove doprinose integracijskim procesima u našoj zemlji. U tom smislu analizirane su osnovne komponente neophodne za nastanak i funkcioniranje zajedničke trgovinske politike, koje se ogledaju kroz kontekst uspostavljanja zajedničkog tržišta i stvaranja carinske unije, te istaknut značaj uvođenja slobode prometa roba na kome se zasniva cjelokupan razvoj Zajednice, kako u ekonomskom tako i u pravnom i političkom smislu. U člancima 2. i 3. Rimskog ugovora ukazano je na važnost zajedničkog tržišta, čije će osnivanje dovesti do unaprjeđenja gospodarskog razvoja, te bržeg porasta životnog standarda unutar čitave Zajednice. Posebno je apostrofirana važnost temeljnih poluga funkcioniranja zajedničkog tržišta, počevši od ukidanja carina i količinskih ograničenja uvoza i izvoza među državama članicama, svih drugih mjera koje imaju isti učinak, te utvrđivanja zajedničke carinske stope i zajedničke trgovinske politike prema trećim zemljama, preko ukidanja prepreka slobodnom kretanju osoba, usluga i kapitala, pa sve do usvajanja zajedničke poljoprivredne politike, pravila tržišnog natjecanja, te usklađivanja ekonomskih politika država članica, što su pretpostavke za nesmetano funkcioniranje i razvoj zajedničkog tržišta.

Zajednička trgovinska politika predstavlja najznačajniju oblast vanjskih odnosa Europske unije, a zasniva se na poštivanju dvaju načela: jednoobraznosti i liberalizacije, s tim da se ovo prvo odnosi na intrakomunitarni promet, a ostvaruje se uspostavljanjem i funkcioniranjem unutarnjeg tržišta - vođenjem jedinstvene politike konkurencije i uspostavljanjem monetarne unije, dok se načelo liberalizacije ogleda kroz razmjenu između Zajednice i trećih država, a referira se na pravni režim uvoza i izvoza. Za razliku od izvoza koji je reguliran na komunitarnom nivou, roba uvezena iz trećih zemalja u Uniju uključuje mogućnost primjene mjera zaštite u vidu antidampinga i antisubvencija, ali i mjera zaštite iz „sive zone“. Analizirani su i vanjskotrgovinski odnosi Zajednice, pri čemu se odnosi sa razvijenim zemljama temelje na klauzuli najvećeg povlaštenja, dok se prema zemljama u razvoju vodi politika „suradnje za razvoj“, institucionalizirana kroz zaključivanje različitih vrsta

preferencijalnih sporazuma. U radu autor ukazuje i na specifičan tretman zajedničke poljoprivredne politike, koja se zbog svojeg strateškog značaja tretira na poseban način.

Proces institucionalizacije međunarodne trgovine započeo je osnivanjem Međunarodnog monetarnog fonda i Svjetske banke, netom po okončanju Drugog svjetskog rata (1945.), a dvije godine poslije stvoren je Opći sporazum o carinama i trgovini, apostrofiran kao prijelazno rješenje do osnivanja Međunarodne trgovinske organizacije. Početkom devedesetih godina dolazi do promjena na gospodarskoj i političkoj sceni, a na trgovinskom planu na redu je liberalizacija trgovine uslugama i problematika zaštite intelektualnog vlasništva, što je implicitno dovelo do osnivanja Svjetske trgovinske organizacije, sa inkorporiranim sporazumima za svako od tri velika područja trgovine, i to GATT za robe, GATS za usluge i TRIPS za trgovinske aspekte intelektualnog vlasništva. Promjenama na međunarodnom planu prilagođava se i Unija, pa je tako, Ugovorom iz Nice, proširena nadležnosti zajedničke trgovinske politike na trgovinu uslugama, proizvode intelektualnog vlasništva i investicije, ali i dogovorene potrebne institucionalne promjene za novi val proširenja. U poglavlje institucionalizacije međunarodne trgovine inkorporirana je i Organizacija za europsku suradnju i razvoj, koja u svom članstvu okuplja više od trideset zemalja tržišne ekonomije, te Konferencija Ujedinjenih naroda o trgovini i razvoju osnovana radi brže integracije zemalja u razvoju u svjetske ekonomske tijekove.

Poseban naglasak stavljen je na analizu utjecaja zajedničke trgovinske politike Europske unije na integracijske procese u našoj zemlji, promatran kroz kontekst zaključenih trgovinskih sporazuma od strane Bosne i Hercegovine, počevši od Sporazuma o slobodnoj trgovini potpisanih početkom 2000. godine, preko CEFTA-e 2006, pa sve do Sporazuma o stabilizaciji i pridruživanju. Početak procesa integracije Bosne i Hercegovine veže se za potpisivanje bilateralnih sporazuma o slobodnoj trgovini sa zemljama susjedstva i regije, što je impliciralo i početak uvođenja komunitarnih instituta u naš poslovni i pravni sistem: konkurencije, državne potpore i javne nabave, s temeljnim ciljem stvaranja zone slobodne trgovine. Središnji dio ovog poglavlja pripada Sporazumu o izmjeni i pristupanju Srednjoeuropskom sporazumu o slobodnoj trgovini (CEFTA 2006) iniciranom od strane Europske unije, s ciljem stabilizacije i poticanja regionalne suradnje, te pripreme zemlje za buduće članstvo u Uniji. Uz ekonomske učinke Sporazuma CEFTA 2006 za našu zemlju, ostvarene kroz proces liberalizacije trgovine sa zemljama susjedstva, ostali benefiti ogledaju se kroz introdukciju, odnosno reafirmaciju pojedinih pravnih i ekonomskih instituta u poslovni sustav Bosne i Hercegovine.

Posebno treba apostrofirati značaj potpisivanja Sporazuma o stabilizaciji i pridruživanju, čime je otvoren proces institucionalne suradnje naše zemlje sa Europskom unijom, te intenziviranju preuzimanja njene pravne stečevine, što je u značajnoj mjeri utjecalo na ekonomske, političke i ukupne društvene odnose u Bosni i Hercegovini.

Nakon provedenog istraživanja urađena je analiza vanjskotrgovinske razmjene Bosne i Hercegovine sa zemljama, odnosno regionalnim grupacijama, te potvrđena konstatacija o ambivalentnom karakteru trgovinskih sporazuma. Na kraju rada prezentirani su prijedlozi de lege ferenda.

**Ključne riječi:** zajedničko tržište, carinska unija, zajednička trgovinska politika, načelo jednoobraznosti, institucionalizacija međunarodne trgovine, trgovinski sporazumi, integracijski proces, pravna stečevina, vanjskotrgovinski odnosi, poslovni sustav.

**Željko Batinović**

**„COMMON COMMERCIAL POLICY OF THE EUROPEAN UNION –  
REFLECTIONS ON THE LEGAL SYSTEM AND TRADE POSITION OF BOSNIA  
AND HERZEGOVINA“**

**Abstract**

The author in this paper points to the importance of the common commercial policy of the European Union, as well as reflections and policy in the trade position of Bosnia and Herzegovina expressed through trade agreements, and their contributions to the integration processes in our country. In this sense, the basic components required for the creation and functioning of the common trade policy, which is reflected through the context of the establishment of common market and the creation of the Customs Union, and the enhanced importance of the introduction of the freedom of the traffic of goods on which is based the entire development community, both in economic and in legal and political terms. In articles 2. and 3. The Rome Treaty was pointed out to the importance of the common market, which will lead to the establishment of the promotion of economic development and living standards rise faster within the entire community. It is especially the importance placed on the fundamental lever of the functioning of the common market, starting from the abolition of customs duties and quantitative restrictions on imports and exports between Member States, all the other measures that have the same effect, and to determine the common customs rates and the common commercial policy towards third countries, through the Elimination of obstacles to the free movement of persons, services and capital, all the way to the adoption of the common agricultural policy, competition rules and the harmonization of economic policies of the Member States, which are preconditions for the smooth functioning and development of the common market.

Common commercial policy represents the most significant area of the external relations of the European Union, and is based on respect for the two principles: liberalization and applies, with the first one refers to the trade between Member States, and is achieved by establishing and the functioning of the internal market-management policy by establishing a single competition and Monetary Union, while the principle of trade liberalization is reflected through the exchange between the community and third countries, and referred to the legal regime of import and export. Unlike the export of which is regulated at the level of the *acquis*, the goods imported from third countries into the Union, includes the possibility of application

of protection measures in the form of anti-dumping and anti-subsidies, but also a measure of protection from the "grey zone". Also analysed are the foreign trade relations of the community and relations with the developed countries, based on the clause of the large discounts, while according to the developing countries in the water policy of "cooperation for development", institutionalized through the various different types of preferential agreements. In this paper the author points out on the specific treatment of the common agricultural which is due to its strategic importance is treated in a special way.

The process of institutionalization of international trade began with the establishment of the International Monetary Fund and the World Bank, just after the end of World War II (1945), and two years later created the General Agreement on tariffs and trade, as placed on a transitional solution until the founding of the International Trade Organization. In the early 1990s, changes in the economic and political scene, and on the trade agenda is the liberalisation of trade in services, and the problems of intellectual property protection, which is implicitly led to the founding of the world trade the Organization, with incorporating agreements for each of the three major areas of the store, and that GATT for goods, GATS for services and TRIPS for trade aspects of intellectual property rights. The changes at the international level is adjusted and the Union, the Treaty of Nice extended the jurisdiction of the common commercial policy on trade in services, products, intellectual property and investments, but also agreed the necessary institutional changes for the new wave of enlargement. In the chapter of the institutionalization of international trade incorporated's and the Organisation for cooperation and development, which in its membership brings together more than 30 countries of the market economy and the United Nations Conference on trade and development was established in works faster integration of developing countries in world economic flows.

Special emphasis has been placed on the analysis of the impact of the common commercial policy of the European Union on the integration processes in our country, watched through the context of the trade agreements concluded by Bosnia and Herzegovina, starting from the agreement on the free Shop signed in early 2000, through the CEFTA 2006, all the way up to the Stabilisation and association agreement. The beginning of the process of integration of Bosnia and Herzegovina tied in for the signing of bilateral free trade agreements with countries in the neighbourhood and the region, which is the implication and the beginning of the introduction of the Institute in our business and the legal system: competition, State aid and public procurement, with the aim of creating a free trade zone. The central part of this chapter belongs to the agreement on modification and joining the Central European free trade

agreement (CEFTA 2006)-initiated Office, by the European Union, with the aim of stabilisation and promoting regional cooperation, and preparation of the country for future membership in the Union. With the economic effects of the CEFTA agreement 2006 for our country, achieved through the process of trade liberalisation with the neighbourhood countries, other benefits are reflected through the individual legal and economic Institute of business system Of Bosnia and Herzegovina. In particular, the importance of signing a stabilisation and association agreement, which is open to the process of institutional cooperation of our country with the European Union, and intensifying her downloads of the *acquis communautaire*, which is significantly impact on the economic, political and social relations in Bosnia and Herzegovina.

The analysis of the BH foreign trade with regional countries has been conducted and conclusion about ambivalent character of the trade agreements was confirmed. At the end of the dissertation, proposals *de lege ferenda* were presented.

**Key words:** common market, Customs Union, common commercial policy, the principle of uniformity, institutionalization of international trade, trade agreements, the integration process, the *acquis*, foreign trade relations, business the system.