

FREE TRADE AGREEMENT BETWEEN THE SLOVAK REPUBLIC
AND THE REPUBLIC OF BULGARIA

Communication from the Parties

The following communication has been received from the Permanent Mission of the Slovak Republic and the Republic of Bulgaria, with the request that it be distributed to WTO Members.

I. BACKGROUND INFORMATION ON THE AGREEMENT

1. Membership, Dates of Signature, Ratification and Entry into Force

Membership:	the Slovak Republic and the Republic of Bulgaria
Date of signature:	8 December 1995 in Sofia (Slovak Republic)
Provisional application:	from 1 January 1996
Date of ratification:	20 June 1996
Entry into force:	20 June 1996

2. Type of Agreement

Type of agreement:	Free-trade area
Plan and schedule:	The Parties to the Agreement shall gradually establish a free-trade area in a transitional period ending on 1 January 1998 at the latest.

3. Scope

The provisions of the Agreement are applied to all products (industrial and agricultural) originating in the Parties to the Agreement and falling within Chapters 1 to 97 of the Harmonized Commodity Description and Coding System, without any exclusions (see Articles 2 and 11). The Agreement envisages the elimination of duties and other barriers to trade in respect of substantially all the trade between the Parties in accordance with the requirement of Article XXIV:8 of the GATT 1994. In order to ensure the proper functioning of the Agreement it also contains provisions on state aid, state monopolies, competition, intellectual property rights and public procurement.

4. Trade Data

See Annex.

II. TRADE PROVISIONS

Pursuant to Article 4, for each industrial product the basic duty, to which the reductions of customs duties set out in the Agreement are applied, is the Most Favoured Nation rate of duty applied on 1 January 1995. However, if after entry into force of the Agreement any tariff reduction is applied on an *erga omnes* basis, such reduced duties will replace the basic duties.

The Agreement in its Chapter II provides also for liberalization of trade in agricultural products. The Parties to the Agreement granted each other concessions on a number of these products through the annual tariff quotas enjoying a preferential rate. The level of liberalization in agricultural sector, laid down in the Agreement, represents the first phase of liberalization of trade in agricultural products. Although trade in agriculture will not be free of all restrictions at the end of the transitional period, the Agreement contains the provisions on the basis of which the Parties to the Agreement could grant each other further concessions.

1. Import Restrictions

1.1 Duties and charges

In accordance with Articles 3 and 6, respectively, the Parties to the Agreement shall introduce no new customs duties on imports of industrial products as well as no duties of a fiscal nature. The existing customs duties shall be abolished on 1 January 1998 at the latest, with few exceptions. By the end of the transitional period, i.e. on 1 January 1998, the Republic of Bulgaria shall apply import customs duties on imports of a part of metallurgical products originating in the Slovak Republic (3 tariff lines). These exceptions shall be eliminated on 1 January 2000 at the latest.

In conformity with the provisions of Article 32 of the Agreement as well as Article XII GATT 1994 and other relevant balance-of-payment provisions, Bulgaria introduced, on 4 June 1996, a temporary import surcharge which is expected to be eliminated on 1 July 2000. The Slovak Republic, pursuant to the same provisions, introduced, on 1 May 1997 an import deposit scheme, which was replaced by an import surcharge on 21 July 1997. For further details on both measures see relevant documents of WTO Committee on Balance-of-Payments Restrictions.¹

In accordance with Article 5, the Parties to the Agreement shall introduce no new charges having an effect equivalent to customs duties on imports of industrial products. The existing charges were abolished on the date of entry into force of the Agreement, except for the products specified in Annex II for which the import tax was abolished before the end of 1996.

1.2 Quantitative restrictions

Pursuant to Article 8, the Parties to the Agreement shall introduce no new quantitative restrictions (QRs) or measures having an equivalent effect. The existing restrictions were abolished on the date of entry into force of the Agreement, with few exceptions. The Slovak Republic applies QRs on imports of industrial products and measures having equivalent effect thereto on certain products originating in Bulgaria (uranium or thorium ores and their concentrates, coal, lignite, radioactive chemical elements and isotopes, natural and enriched uranium and nuclear fuel rods). These QRs shall be abolished on 1 January 2001 at the latest.

¹WT/BOP/N/18, WT/BOP/G/4, WT/BOP/S/4 and WT/BOP/R/34 for the Republic of Bulgaria and WT/BOP/N/21 and Corr.1-2, WT/BOP/N/28, WT/BOP/G/5 and WT/BOP/S/5 for the Slovak Republic.

1.3 Common External Tariff

The Agreement does not envisage the establishment of a Common External Tariff.

2. Export Restrictions

2.1 Duties and charges

Export duties and charges are governed by the provisions of Article 7. The Parties to the Agreement shall introduce no new customs duty on exports or charges having an equivalent effect. The existing duties and charges were abolished on the date of entry into force of the Agreement, with the exception of the export taxes applied by the Republic of Bulgaria on certain products exported into the Slovak Republic (sea snails, fuel wood and wood in the rough, waste of paper, waste and scrap of stainless steel and copper products). These export restrictions are of a specific nature and they shall be abolished on 1 January 2001 at the latest.

2.2 Quantitative restrictions

In accordance with Article 9, the Parties to the Agreement shall introduce no new QRs and measures having an equivalent effect to QRs. The existing restrictions were abolished on the date of entry into force of the Agreement, except for the temporary export bans for several products exported from Bulgaria into the Slovak Republic. These export bans are applied on an *erga omnes* basis and shall be terminated when conditions no longer justify their maintenance.

On 1 January 1997, the Slovak Republic abolished measures having equivalent effect to QRs on exports of products listed in Annex Va.

3. Rules of Origin

Rules of origin of goods and related methods of administrative co-operation are specified in Article 16 and in Protocol 3 to the Agreement which is an integral part of it. In this Protocol, the principles and the rules for a definition of the concept of "originating products", for a proof of origin, for a rule of "drawback or exemption", territorial requirements, arrangements for administrative co-operation and other provisions are laid down.

The general criteria used for the purpose of determining the origin of products to which the Agreement applies are, as follows: wholly obtained products and sufficiently worked or processed products are defined, together with conditions which have to be fulfilled, for manufacturing or processing operations to each commodity item, and they are specified in the annex to the Protocol. The similar criterion of substantial transformation applies to cases of insufficient working or processing operations, which are also defined. With regard to the changes in tariff classification, the Parties to the Agreement shall be guided by a principle that such changes shall not affect timetables and schedules of liberalization and concessions established in the Agreement.

In respect of a cumulation of origin, the Parties to the Agreement apply a principle of bilateral cumulation, with a possibility of its extension to the paneuropean diagonal cumulation. The diagonal cumulation of origin shall be applied between the Parties to the Agreement and a third party on condition that this third party (the European Union (EU), Central European Free Trade Agreement, European Free Trade Association and Baltic countries) has a Free Trade Agreement or Agreement Establishing Customs Union with both Parties to the Agreement and that identical rules of origin apply.

With regard to the territorial requirements, the principle of territoriality is established and the terms related to direct transport and exhibitions, as well as the prohibition of drawback of, or exemption from, customs duties, are set out in the protocol. This concept was to be derogated temporarily until applied within the framework of the diagonal cumulation between both Parties to the Agreement and the EU. However, each Party may decide on its partial application in full accordance with the possible modalities of partial application agreed upon with the EU.

In the area of proof of origin, the document EUR 1 is used as a movement certificate in trade between the Parties to the Agreement. The arrangements for administrative co-operation cover, *inter alia*, mutual assistance, dispute settlement, penalties, free zones etc.

4. Standards

4.1 Technical barriers to trade

The Agreement contains Annex VI dealing with the issue of technical regulations and amendments thereto, where the provisions of the procedure for the notification of draft technical regulations are set out and specified. However, the above mentioned provisions are not in force and the Joint Committee shall decide in the future on the date from which these provisions shall be implemented.

4.2 Sanitary and phytosanitary measures

The Agreement contains provisions (Article 15) on the application of veterinary, health-related and phytosanitary measures. The Parties to the Agreement agreed that the measures concerning veterinary and phytosanitary control shall be harmonized with the EU legislation and between the Parties and that the veterino-sanitary measures and the work of the veterinary services shall be in accordance with the Office International des Epizooties Codex and other international conventions in this field. The Parties to the Agreement also commit themselves not to introduce discriminatory or other measures which would limit the flow of information, animals, plants or products.

5. Safeguards

Each Party to the Agreement can apply safeguard and emergency measures on the conditions and in conformity with the procedures specified in the Agreement. These safeguard measures cover general safeguards (Article 27), structural adjustment (Article 28), re-export and serious shortage of goods (Article 29), balance-of-payments difficulties (Article 32) and special safeguard measures in the agricultural sector (Article 14).

Article 31 of the Agreement provides for a procedure for the application of safeguard measures which foresees consultations within a Joint Committee (JC) with a view of solving any differences and finding a mutually acceptable solution, as well as periodic reviews of the measures with a view to their gradual relaxation and abolition.

6. Anti-Dumping Measures

As contained in Article 26, the application of the above mentioned measures has to be in accordance with Article VI of the GATT 1994 and the Agreement on Implementation of Article VI of the GATT 1994, as well as with the conditions and provisions laid down in the Agreement.

7. Subsidies and State-Aid

The Agreement contains provisions relating to subsidies, state aid, state monopolies, rules of competition concerning undertakings and public procurement.

7.1 State aid

As provided for in Article 23, the Parties to the Agreement adopted an obligation to avoid any aid granted by a state being a Party to the Agreement or through state resources in any form whatever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods. The agricultural products are excluded from the above mentioned provisions.

If a party to the Agreement considers that a particular practice, including that in agriculture, is incompatible with the provisions of the Agreement or if such a practice causes or threatens to cause a serious prejudice to the interests of that party or material injury to its domestic industry, the concerned party may take appropriate measures in accordance with the procedure set out in the Agreement. Such measures may only be taken in conformity with the commitments undertaken in the WTO.

7.2 State monopolies

The Agreement in its Article 20 contains an obligation for the Parties to adjust progressively any state monopoly of a commercial nature so as to ensure, that by 1 July 1999 no discrimination exists in this field between nationals of the Parties.

7.3 Rules of competition

The Agreement in its Article 22 calls also for an observance of a principle of free competition between the undertakings of the Parties to the Agreement with the aim to refrain from such practices which have as their object or effect the prevention, restriction or distortion of competition, as well as to avoid the abuse by one or more undertakings of a dominant position on the territories of the Parties.

Certain exemptions, in the form of advantages, concessions and other favouring elements, from the provisions relating to rules of competition concerning undertakings are possible. They may be granted to undertakings of particular public tasks assigned to them, and to those entities which are entrusted with the operation of services of general economic interest or which have a character of a revenue-producing monopoly. The similar exclusions in this field are possible for agricultural products, since in this area the respective provisions of the Agreement do not apply.

If a party to the Agreement considers that a particular practice is incompatible with the provisions of the Agreement in the field of rules of competition and if such practice causes or threatens to cause a serious prejudice to the interests of that party or material injury to its domestic industry, the concerned party may take appropriate measures according to the procedure set out in the Agreement.

7.4 Public procurement

In Article 24, the Parties to the Agreement commit themselves to progressively develop their respective public procurement regulations with the aim to grant suppliers of the other Party, by the end of 1998 at the latest, access to contract award procedures on their respective public procurement markets. This access should be based on a principle of "free competition" and has to be in accordance with the provisions of the WTO Agreement on Government Procurement.

8. Sector-Specific Provisions

With the exception of agriculture, the Agreement does not contain any specific provisions applicable to trade between the Parties to the Agreement in individual sectors.

9. Other Issues

The Agreement contains Protocol 3 which is an integral part of it and which deals with the co-operation in customs administration. The Protocol includes provisions on the mutual assistance in customs matters between respective customs administrative authorities of the Parties to the Agreement. The Parties should change information on their situation in customs matters and provide the assistance each other.

III. GENERAL PROVISIONS OF THE AGREEMENT

1. Exceptions and Reservations

The Agreement also includes provisions regarding general and security exceptions (Articles 18 and 19). The Parties to the Agreement may prohibit or restrict their imports, exports or goods in transit justified on the grounds of public morality, public policy or public security and on the grounds of protection of human, animal or plant life or health, the protection of national treasures possessing artistic, historic or archaeological value; protection of intellectual property or rules relating to gold or silver and the conservation of exhaustible natural resources if such measures are made in conjunction with restrictions on domestic production or consumption.

Such prohibitions or restrictions must not be a means of arbitrary discrimination or a disguised restriction on trade between the parties to the Agreement. For the reason of security each Party to the Agreement may take any appropriate measures, which it considers necessary, in order to prevent disclosure of information contrary to its essential security interests and for their protection or for the implementation of its international obligations or its national policies.

2. Accession

There is no provision in the Agreement that allows other countries to accede to the Agreement.

3. Dispute Settlement Procedures

The provisions regarding the dispute settlement are not contained in the Agreement.

4. Relation with Other Trade Agreements

As contained in Article 36, the Agreement applies to trade relations between the Slovak Republic and Bulgaria. It does not prevent the maintenance or establishment of customs unions, free-trade areas or arrangements for border trade to the extent that they do not affect negatively the trade regime and, in particular, the provisions concerning the rules of origin provided for by the Agreement.

The Agreement does not contain any provision which establishes any specific relation with other bilateral, plurilateral and/or multilateral trade agreements. However, in the preamble to the Agreement, a reference to the GATT 1994 and the WTO is made.

5. Institutional Framework

In accordance with Article 34, the JC was established. It consists of two members, each from one Party to the Agreement. The members of the JC are representatives of the Governments. The JC is not an intergovernmental or supranational institution created to operate the Agreement. The main task of the JC is to supervise and to administer the implementation of the Agreement.

The JC may take decisions in the cases provided for in the Agreement. On other matters, it may make recommendations. In respect of the procedures of the JC referred to in Article 35, the JC meets, whenever necessary, but at least once a year, and acts by a common agreement. Each party to the Agreement may request that a meeting of the JC be held. The JC may decide to set up such subcommittees and working groups as it considers necessary to assist it in accomplishing its tasks.

For the purpose of the Agreement, the JC shall adopt its rules of procedure which, *inter alia*, contain provisions for convening meetings and for the designation of the Chairman and his term of office. The operation of national entities of the Parties to the Agreement is subject to the provisions of the Agreement and also to implementing policies relating to the Agreement.

IV. OTHER

Before the entry into force the Agreement was applied provisionally. The Agreement covers trade in goods; trade in services is not subject to the provisions of the Agreement. In Article 33 it contains an evolutionary clause providing for the possibility of extending the coverage of the Agreement to new fields.

Imports of Bulgaria from the Slovak Republic
(in '000 USD, c.i.f.)

HS Sections	1994	1995	1996
I	63.8	1.5	
II	322.2	126.4	134.8
III	15.7	0.0	0.0
IV	36.5	335.3	288.8
V	7.1	43.5	69.6
VI	1,188.1	5,055.9	2,803.0
VII	1,675.6	4,233.8	4,212.8
VIII	1,104.3	767.8	1,020.8
IX	0.3	16.4	136.1
X	101.6	284.6	238.2
XI	1,548.1	1,390.7	945.8
XII	9.7	4.7	20.6
XIII	730.1	1,767.9	2,831.7
XIV	1.1	0.0	0.0
XV	1,232.0	2,499.2	2,081.3
XVI	1,006.2	1,486.1	1,963.4
XVII	805.8	850.0	1,211.1
XVIII	202.4	173.4	100.6
XX	189.3	145.9	118.6
XXI	0.0	0.0	0.0
TOTAL	10,284.9	19,183.0	18,177.2

Imports of Slovak Republic from Bulgaria
(in '000 USD, f.o.b.)

HS Sections	1994	1995	1996
I	0.0	41.2	0.0
II	382.3	982.3	232.6
III	0.0	0.0	0.0
IV	728.4	322.3	618.7
V	4,505.8	3,731.9	111.2
VI	128.9	917.6	1,688.4
VII	132.5	148.5	686.8
VIII	0.0	0.0	0.0
IX	28.7	91.2	218.2
X	10.3	10.1	0.0
XI	228.9	101.6	69.3
XII	48.3	59.4	21.6
XIII	10.1	48.7	117.7
XIV	20.3	19.9	28.6
XV	1,528.4	1,721.3	2,342.8
XVI	1,521.3	1,386.7	2,117.6
XVII	968.7	609.5	1,138.5
XVIII	241.9	348.6	32.8
XX	48.7	57.9	42.3
XXI	0.0	0.0	0.0
TOTAL	10,533.5	11,107.1	9,759.7