

INTERIM AGREEMENT BETWEEN SLOVENIA AND
THE EUROPEAN COMMUNITIES

Communication from the Parties

I. BACKGROUND INFORMATION ON THE AGREEMENT

1. Membership and dates of signature, ratification and entry into force

The Europe Agreement with the Republic of Slovenia was signed in Luxembourg on 10 June 1996. Pending its ratification by the national parliaments, an Interim Agreement, signed on 11 November 1996, applies the trade and trade-related provisions of the Europe Agreement from 1 January 1997 (OJ L344 of 31/12/1996).

The Interim Agreement replaces the trade related parts of the Cooperation Agreement signed in April 1993 and has been concluded for a period extending until the entry into force of the Europe Agreement.

2. Type of Agreement

The Interim Agreement aims at creating a free-trade area with a transitional period lasting a maximum of six years starting from the application of the Interim Agreement.

The Interim Agreement aims at the reduction to zero of tariffs on substantially all trade covered by the Harmonized System (HS) between the parties. Provisions are contained in the relevant articles of the agreement as well as in the Annexes and Protocols to the Agreement.

3. Scope

In more detail, all sectors (HS Chapter 1-97) are covered by the Agreement with textiles and clothing, steel and coal products and processed agricultural products being dealt with separately in Protocols to the Agreement.

The trade of wine is covered by a Council Regulation on the European Community's (EC) autonomous import regime for Croatia, Bosnia-Herzegovina, the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia for 1997. The inclusion of Slovenia in the global tariff quota of 545.000 hl is a transitional measure until a separate Wine and Spirit Agreement is concluded and entered into force.

4. Trade Data

Slovene imports from the European Union (EU) reached 5.3 billion ECU in 1996. Exports to the EU amounted to 4.2 billion ECU. About 65 per cent of Slovene external trade is with the EU.

Electrical and transport equipment constituted the most significant exports, while investment and intermediate goods dominate imports. Tables on EU trade with Slovenia are to be found in Annex I.

II. TRADE PROVISIONS

The Interim Agreement is a preferential agreement, of which the trade-related provisions aim at establishing a free-trade area within a maximum of 6 years, on the basis of asymmetry by the EC (i.e more rapid liberalization on the side of the EC). It provides a framework for gradual integration into the EC.

1. Import Restrictions

The provisions on the gradual and asymmetric abolition of import restrictions for industrial products originating in the EC or Slovenia relate to almost all products covered by Chapters 25-97 of the Combined Nomenclature (some exceptions are listed in Annex I to the Interim Agreement). For these products the basic trade instruments are applied in the following manner.

1.1 Duties and charges

- EC
 - abolished on 1/1/97
 - Annex II: progressive reductions 1/1/97 - 1/1/2000
- Slovenia
 - abolished on 1/1/97
 - Annex III: progressive reductions 1/1/97 - 1/1/2000
 - Annex IV: progressive reductions 1/1/97 - 1/1/2001

1.2 Quantitative restrictions

- EC: abolished on 1/1/97
- Slovenia: abolished on 1/1/97

As regards agricultural products, the EC and Slovenia abolished all quantitative restrictions and measures having equivalent effect on 1 January 1997.

The EC applies to imports into its market of agricultural products originating in Slovenia the concessions listed in Annex VI to the Interim Agreement. Slovenia applies to imports into Slovenia of products originating in the EC the concessions listed in Annex VII.

1.3 Common External Tariff

There exist no provision for the establishment of the Common External Tariff.

2. Export Restrictions

The provisions on exports restrictions for industrial products originating in the EC or Slovenia relate to almost all products covered by Chapters 25-97 of the Combined Nomenclature (some exceptions are listed in Annex I to the Interim Agreement). For these products the basic trade instruments are applied in the following manner.

2.1 Duties and charges

- EC: abolished on 1/1/97
- Slovenia
 - abolished on 1/1/97
 - Annex II: 1/1/98

2.2 Quantitative restrictions

- Abolished on 1/1/97

3. Rules of Origin

The EC and Slovenia have negotiated an agreement for the cumulation of origin among themselves and with other Central and Eastern European Countries (CEECs) (Poland, Hungary, Czech Republic, Slovak Republic, Bulgaria, Latvia, Lithuania, Estonia, Romania), and Norway, Iceland and Switzerland linked by a free-trade area with the EC.

The criteria for defining the originating status of products in the framework of the Interim Agreement with Slovenia (rules of origin) is defined by the protocol 4 to this Agreement, as mentioned in Article 29 of the EU Slovenia Interim Agreement. The new Protocol 4 is an integral part of the Interim Agreement and it is applied from 1.1.97.

The new rules are essentially based upon the existing rules contained in the European Economic Area (EEA) Agreement, traditionally considered to be the most advanced rules in force in European preferential trade.

The normal criteria for defining the origin of products has been retained and includes provisions for non-originating materials that have been sufficiently transformed to be considered originating. The processing requirements are listed on product-by-product basis and annex II to Protocol 4.

Cumulation possibilities exist : manufacturers in a CEEC will be able to use materials from the EC, any other associated country or an European Free Trade Association (EFTA) country. On the EC side, manufacturers will also be able to use materials from the same countries.

The "no-drawback rule" has been introduced in order to avoid circumvention of the tariffs and to ensure that customs duties applicable to third countries are paid somewhere within the zone (EEA/EFTA/Associated countries).

The rules of origin are completely in line with the Common Declaration with regard to Preferential Rules of Origin contained in Annex II to the Agreement on Rules of Origin as set out in the Final Act of the Uruguay Round. The rules of origin contained in Protocol 4 of the Europe Agreements will not result in higher tariff barriers to third countries.

4. Standards

The Interim Agreement does not provide for cooperation to reduce differences in the fields of conformity assessment.

4.1 Technical barriers to trade

None.

4.2 Sanitary and phytosanitary measures

The Interim Agreement does not include any provisions in this regard.

5. Safeguards

Under the Interim Agreement the Parties can take emergency measures in the following cases (please note the first case only applies to Slovenia):

- (a) Exceptional measures concerning infant industries, or certain sectors undergoing restructuring or facing serious difficulties, particularly where these difficulties produce important social problems, may be undertaken by Slovenia in the form of increased customs duties for a limited duration (Article 23).
- (b) Appropriate measures (priority must be given to those which least disturb the functioning of the Agreement) may be undertaken when any product is being imported in such increased quantities and under such conditions as to cause or threaten to cause:
 - **serious injury** to domestic producers of like or directly competitive products in the territory of one of the Contracting Parties, or
 - **serious disturbances** in any sector of the economy or difficulties which could bring about serious deterioration in the economic situation of a region (Article 25).
- (c) Appropriate measures (priority must be given to those which least disturb the functioning of the Agreement) may be undertaken in the case of
 - **re-export towards a third country** against which the exporting Party maintains, for the product concerned, quantitative export restrictions, export duties or measures having equivalent effect,
 - **serious shortage**, or threat thereof, of a product essential to the exporting Party (Article 26).
- (d) The Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or **public security**; the protection of health and life of humans, animals or plants; the protection of national treasures of artistic, historic or archaeological value or the protection of intellectual, industrial and commercial property or rules relating to gold and silver. Such prohibitions or restriction shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties (Article 30).
- (e) When serious **balance of payments difficulties**, or imminent threat thereof, occur, restrictive measures may be adopted in accordance with the conditions established under the General Agreement on Tariffs and Trade (GATT), including measures relating to imports, which shall be of limited duration and may not go beyond what is necessary

to remedy the balance of payments situation. A time schedule to remove the measures shall be presented as soon as possible (Article 34).

- (f) If, given the particular sensitivity of the **agricultural markets**, imports of products originating in one Party, which are the subject of concessions under the Interim Agreement, cause serious disturbance to the markets in the other Party, both Parties shall enter into consultations immediately to find an appropriate solution. Pending such solution, the Party concerned may take the measures it deems necessary.
- (g) Without prejudice to the concessions granted under the Interim Agreement concerning agricultural products, the stand-still provisions in the same agreement (Article 20.1 and 20.2) shall not restrict in any way the pursuance of the respective agricultural policies of Slovenia and the EC or the taking of any measures under such policies.

The Agreement does not provide for the exclusion of parties to the Agreement from safeguard measures applied to imports from third parties.

6. Anti-dumping and Countervailing Measures

The parties of the Interim Agreement may only take anti-dumping measures in accordance with the Agreement on implementation of Article VI of the GATT 1994. The Interim Agreement contains a number of requirements and provisions for procedural steps in the conduct of anti-dumping proceedings. These can be summarized as follows:

- (a) before initiation of an investigation the country is informed of the existence of a complaint and a substantive summary of the allegations in the complaint is provided;
- (b) on initiation of an anti-dumping proceeding, the Association Council is informed immediately, so that consultation can be held, before the EC decides to impose provisional measures or to propose definitive measures; and
- (c) a clear preference is given for price undertakings rather than duties, as they place more responsibility on exporters to monitor their own pricing behaviour. For this, it is necessary to pay particular attention to monitoring actions in order to be able to react urgently by imposition of anti-dumping duties when it is found that the undertaking has been violated.

There are not countervailing measures accounted for in the Interim Agreement.

7. Subsidies and State-aid

Public aid that may affect trade, with the exception of trade in agricultural products, fisheries and European Coal and Steel Community (ECSC) coal and steel products, between the Parties of the Agreement shall be regulated on the basis of the relevant rules of the Treaty establishing the European Community. Slovenia has been granted a possibility to apply flexible criteria for public aid during a specially defined transition period. The Agreement includes transparency provisions on public aid.

In case of practices incompatible with these rules a Party to the Agreement may under certain conditions take appropriate measures. Such appropriate measures may, where the GATT applies thereto, only be adopted in accordance with the procedures and under the conditions laid down by the GATT and any other relevant instrument negotiated under its auspices which are applicable between the Parties.

Public aid in relation to products covered by the Treaty covering the European Coal and Steel Treaty shall be regulated by the relevant provisions in the same Treaty. Under a transitional period and under certain conditions, Slovenia may exceptionally, as regards ECSC steel products, grant public aid for restructuring purposes. Transparency provisions for public aid also apply to this sector.

In case of practices incompatible with these rules a Party to the Agreement may under certain conditions take appropriate measures. Such appropriate measures may only cover measures adopted in conformity with the procedures and under the conditions laid down by the GATT and any other relevant instrument negotiated under its auspices which are applicable between the Parties.

8. Sector-specific Provisions

(a) Textiles

Customs duties

- EC
 - abolished 1/1/97
 - Annex I: 31/12/97
- Slovenia
 - abolished 1/1/97
 - Annex IIa and IIb: progressive reduction

Quantitative restrictions and measures having equivalent effect

- EC: abolished 1/1/98
- Slovenia: see additional protocol

(b) Products covered by the Treaty establishing the ECSC

Customs duties

- EC: abolished 1/1/97
- Slovenia
 - steel:
 - abolished 1/1/97
 - Annex I: progressive reduction 1/1/97 - 1/1/2000
 - coal: abolished 1/1/97

Quantitative restrictions

- EC: abolished 1/1/97
- Slovenia: abolished 1/1/97

(c) Agricultural, processed agricultural and fishery products

Agricultural products

- EC
 - quantitative restrictions and measures having equivalent effect were abolished on 1/1/97
 - Annex VI: concessions

The preferential trade regime for agricultural products is the usual one which is currently being applied in the form of a range of autonomous measures, (until the end of 1997) as for all other associated countries. The major instruments are preferential tariff quotas (for the most of the agricultural products different level of the applied MFN rate reductions have been agreed upon; the 20 per cent reduction of the MFN rate is applied to the quantities listed in the first columns).

(As the Agreement only entered into force on 1 January 1997, there is as yet no data available on what percentage of EU imports of agricultural products are free or preferential)

- Slovenia
 - quantitative restrictions and measures having equivalent effect were abolished on 1/1/97
 - Annex VII: concessions

Imports into Slovenia of the products originating in the EC listed in Annex VII shall be subject to 50 per cent reduction of the applying duty.

Processed agricultural products

Annex I and II to Protocol III lists the duties the EC and Slovenia apply to processed agricultural products.

Fisheries

- Annex VIIIa and VIIIb: concessions.
- Annex VIIIa lists the products originating in Slovenia for which the EC grants tariff quotas.
- Annex VIIIb lists the products originating in the EC for which Slovenia grants tariff quotas.

(d) Automotive sector

For a number of products within the automotive sector, the duties on imports from the EC will not be abolished until the 1 January 2001.

9. Other

(a) Cooperation in customs administration

The Interim Agreement does not contain specific provisions on customs cooperation. However, mutual assistance between administrative authorities in customs matters of the Parties shall take place in accordance with the provisions of Protocol 5 (Article 37).

(b) Free Trade Zones

The Interim Agreement shall not preclude the maintenance or establishment of customs unions, free-trade areas or arrangements for frontier trade except in so far as they alter the trade arrangements provided for in the Agreement. Consultations between the Parties shall take place concerning such customs unions or free-trade areas (Article 22).

III. GENERAL PROVISIONS OF THE AGREEMENT

1. Exceptions and Reservations

Articles 30 and 42 contain standard exceptions related to essential security interest and defense industries, public morality, law and order and public security, the protection of life and health of humans, animals or plants, national treasures, industrial and commercial property and gold and silver. Other than security and defense, these exceptions must not be used so as to constitute a means of arbitrary discrimination or a disguised restriction on trade between the parties.

2. Accession

Each Party may denounce this Agreement by notifying the other Party. The Interim Agreement shall cease to apply six months after the date of such notification. However, the Interim Agreement is only applicable until the entry into force of the Europe Agreement and the Europe Agreement recognises the fact that Slovenia's ultimate objective is to accede to the European Union, and that this Association, in view of the parties, will help Slovenia to achieve this objective.

3. Dispute Settlement Procedures

The parties may refer to the Cooperation Council any dispute relating to the application or interpretation of the Interim Agreement (Article 40 of the Interim Agreement) and the dispute settled by means of a decision. In the event of it not being possible to settle the dispute, either party may notify the other of the appointment of an arbitrator.

4. Relations with Other Trade Agreements

According to Article 47, the Interim Agreement will only be applicable until the entry into force of the Europe Agreement. Articles 14 to 34 of the Cooperation Agreement between the European Economic Community and the Republic of Slovenia (signed in Luxembourg on 5 April) were suspended upon the entry into force of the Interim Agreement. Other provisions (i.e. Title I, Title III and Title IV shall cease to apply upon the entry into force of the Europe Agreement).

The Interim Agreement does not preclude the maintenance or establishment of customs unions, free-trade areas or arrangements for frontier trade except in so far as they alter the trade arrangements provided for in this Agreement. The Osimo Agreement concerning economic cooperation between Slovenia and Italy remain also applicable after entry into force of the Interim Agreement.

5. Institutional Framework

According to Article 38 of the Interim Agreement, the Cooperation Council set up by the Cooperation Agreement have the power to take decisions and make recommendations in the cases provided for in the Agreement. The Cooperation Council is assisted in the performance of its duties

by a Joint Committee composed of representatives of the EC and of representatives of the Government of Slovenia. The Cooperation Council may delegate to the Joint Committee any of its powers.

ANNEX IEU Trade with Slovenia: 1992-1997 (January-June)

Table 1
Overall developments 1992-1997 (January-June)

	Billion ECU			Exp./ imp.	Annual Rate of Change		Share of Slovenia in extra EU Trade	
	EU exp.	EU imp.	balance	%	EU exp. %	EU imp. %	exp. %	imp. %
1992	1.4	1.6	-0.2	87	0.32	0.33
1993	3.1	2.9	+ 0.2	107	122	81	0.62	0.59
1994	3.7	3.4	+ 0.3	107	19	17	0.68	0.63
1995 / EU (12)	4.4	3.8	+ 0.6	116	19	11	0.74	0.66
1995 / EU (15)	5.2	4.2	+ 0.9	122	19*	12*	0.91	0.78
1996 / EU (15)	5.3	4.2	+ 1.0	126	4	0	0.86	0.73
J-J 1996	2.7	2.1	+ 0.6	128			0.90	0.74
J-J 1997	3.0	2.3	+ 0.7	130	11	9	0.91	0.72

*Compared to 1994 EU(12) figure added to 3 new Member States' trade with Slovenia.

Table 2
Most important EU(15) exports: January-June 96/97

Sector by Section of Common Customs Tariff	J-J 1996		J-J 1997		
	MECU	Share of Total %	MECU	Share of Table %	Change over 1996 %
1. Machinery & electrical (XVI)	582	22	699	23	20
2. Transport equipment (XVII)	494	18	491	16	-0.6
3. Textiles (XI)	274	10	296	10	8
4. Base metals & articles (XV)	235	8.7	293	10	24
5. Chemical products (VI)	207	7.7	253	8	22
6. Agriculture, incl. processed (I-IV)	190	7	191	6	0.5
7. Plastic products (VII)	176	6.5	202	6	15
SUB-TOTAL	2,158	80	2,425	79	12
ALL SECTORS	2,681	100	3,048	100	13

Table 3
Most import EU(15) imports: January-June 96/97

Sector by Section of Common Customs Tariff	J-J 1996		J-J 1997		
	MECU	Share of Total %	MECU	Share of Table %	Change over 1996 %
1. Machinery & electrical (XVI)	449	21	489	21	9
2. Transport equipment (XVII)	373	17.5	362	16	-3
3. Textiles (XI)	288	13.5	300	13	4
4. Base metals & articles (XV)	262	12	284	12	8
5. Misc. manufactures (XX)	179	8	217	9	21
6. Wood ... (IX)	97	4.5	99	4	2
7. Paper, pulp (X)	89	4	97	4	9
SUB-TOTAL	1,737	81.5	1,848	81	6
ALL SECTORS	2,130	100	2,276	100	7

Source: Eurostat (Comext)