

# WORLD TRADE ORGANIZATION

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**Committee on Regional Trade Agreement**

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## **INTERIM AGREEMENT BETWEEN SLOVENIA AND THE EUROPEAN COMMUNITIES**

### Questions and Replies

This document reproduces questions addressed to the Parties and the joint responses provided by them. The questions and replies are organized in accordance with document WT/REG32/2.

#### I. BACKGROUND INFORMATION ON THE AGREEMENT

##### 3. Scope

**Are there any sectors which are permanently excluded from this Agreement? If so, what are they and is there an agreed timetable to bring these sectors under the Agreement?**

##### **Information on the wine and spirits regime.**

All sectors (HS Chapters 1-97) are covered by the Agreement and its Protocols. Wine and spirits are excluded from the Interim Agreement and a separate Agreement is being negotiated. The separate wine Agreement will draw on the principles of the preferential treatment enjoyed by the former Yugoslavia (SFRY) since 1980 and will aim to redistribute the 545,000 hl global tariff quota on the basis of traditional shares of trade. With the break-up of the former Yugoslavia, and the denunciation of the Cooperation Agreement of 1980, this global quota is currently granted to Slovenia, Bosnia-Herzegovina, Croatia, the Federal Republic of Yugoslavia (FRY) and the Former Yugoslav Republic of Macedonia (FYROM). However, the country shares are difficult to establish due to the war situation in the former Yugoslavia and the trade embargo imposed to the FRY between 1992 and 1995.

The Commission has been negotiating a Wine and Spirits Agreement with, among other countries, Slovenia, on the basis of a mandate adopted by the Council on 29 April 1996. As from September 1997, negotiations with Slovenia aim both at a redistribution of the global tariff quota of 545,000hl of wine and at the reciprocal protection and control of (geographical) denominations of wines, aromatised wines and spirits.

The Council decided that a maximum duty free tariff quota of 100,000hl might be granted to Slovenia, as a reflection of the already existing de facto situation. No agreement has been reached so far.

**Could the Parties explain how the textiles, steel, coal products and processed agricultural products are excluded from the scope of elimination of duties among Parties? Is this consistent with GATT Article XXIV:8?**

Customs duties on Textiles, Steel and Coal products will be eliminated on trade between the Parties according to the timetables established by Protocols 1 and 2 of the Agreement. All such duties on these products will be eliminated by 2001. Bilateral trade concessions on processed agricultural products are set out in Protocol 3 of the Agreement. Trade in these products is therefore not excluded from the coverage of the Agreement, even if full liberalisation is not immediately foreseen. The Parties are of the firm opinion that the Agreement is consistent with GATT Article XXIV:8.

**From the information provided it is not obvious what this Agreement actually covers. Could the Parties explain what the Agreement covers, what is excluded, and what is covered by better than MFN - greater than zero tariff preferences, including percentage of trade covered and number of tariff lines covered in each category. Please break out agricultural trade separately.**

The Interim Agreement with Slovenia covers all sectors (HS Chapter 1-97): industrial products, agriculture and fisheries. Textiles and clothing, steel and coal products and processed agricultural products are dealt with separately in Protocols to the Agreement. These Protocols form an integral part of the Agreement.

Protocol 1	On textile and clothing products.
Protocol 2	On products covered by the Treaty establishing the European Coal and Steel Community.
Protocol 3	On trade between Slovenia and the Community in process agricultural products.

Wine and spirits are not covered by the Interim 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. The inclusion of Slovenia in the global tariff quota of 545,000hl is a transitional measure until a separate Wine and Spirit Agreement is concluded and entered into force.

**We understand that only limited trade data was available when WT/REG/32/2 was prepared. When data is available, we would appreciate advice from each of the Parties as to what proportion of trade between the EC and Slovenia is:**

- **currently duty-free?**
- **will become duty free by the time the free trade area is fully implemented?**
- **currently free of tariff quotas and quantitative restrictions?**
- **will become free of tariff quotas and quantitative restrictions by the time the free trade area is fully implemented?**

EU exports to Slovenia reached 6.3 billion ECU in 1997 (compared to 5.3 billion in 1996). EU imports from Slovenia in 1997 were 4.6 billion ECU (compared to 4.2 billion in 1996). Other data requested in this question is not available.

**What percentage of the trade (preferably based on the most recent three-year average) between the Parties to the Interim Agreement:**

- (a) **is accounted for by tariff lines that will be subject to full elimination of duties under the Agreement (including through any additional protocols); and,**

- (b) **is accounted for by tariff lines that will be subject to a treatment more favourable than MFN duties although not subject to full elimination of duties under the Agreement (including through any additional protocols).**

**Could the Parties to the Interim Agreement provide an estimate of the proportion of tariff lines in the Parties' national tariffs, that will be subject to full elimination of duties under the Interim Agreement?**

Information on this matter is not available.

**What proportion of bilateral trade in agriculture and fisheries products will be free of tariffs, import levies and quantitative import restrictions by 2003?**

Information on this matter is not available. From the date of entry into force of the Agreement (1 January 1997) quantitative import restrictions on agricultural products were abolished by the EC and Slovenia. Only import levies and specific taxes are still applied to trade. It should also be noted, in the context of bilateral trade in agriculture and fisheries products, that the provisions of this Agreement are liable to be overtaken by the completion of negotiations for the accession of Slovenia to the European Union.

#### 4. Trade Data

**The Parties note that about 65 per cent of Slovene external trade is with the EU. What portion of each of the Parties' external trade is conducted with preferential partners?**

It is not possible to make a reliable calculation of the extent of the preferential trade of the European Communities. The WTO Secretariat (in its report for the EU TPRM in 1997) noted that the majority of imports into the EU entered at MFN rates. A recent analysis by the OECD suggested that the shares of imports into the EU from countries covered by reciprocal trade agreements, by unilateral concessions and from countries receiving MFN treatment were all roughly equal. In addition, this study also noted that the overall share of imports entering the Community on a non-discriminatory basis is larger than a third due to the fact that more than 30 per cent of imports enter duty free.

**Have the Parties undertaken any studies of the likely trade creation and trade diversion effects of the Agreement? If so, what were their findings? How do the Parties plan to monitor the on-going trade creation and trade diversion effects of the Agreement?**

**Could the Parties to the Agreement provide us with data which indicates trade creation effects of the Agreement on third countries?**

No such studies have been undertaken. The Cooperation Council, assisted by the Joint Committee, provides a forum for the Parties to consider any issue relating to the operation of the Agreement.

The Parties are confident that the Agreement will have an overall very positive economic impact, contributing to increased levels of trade between the Parties and to trade creation effects outweighing those of trade diversion. It should be noted, however, that the Parties do not consider that WTO rules in this area require any consideration of the Agreement from the perspective of trade creation or diversion.

## II. TRADE PROVISIONS

### 1. Import Restrictions

**It appears that tariffs on only some products included in the Agreement will be eliminated, while others are subjected to “preferential” – less than MFN but greater than zero - tariffs. Article XXIV provides for the elimination of tariffs, not the reduction of tariffs. How do the Parties justify the reduction, but not elimination of tariffs on intra-trade?**

The Parties are of the firm opinion that the Agreement is consistent with the requirements of GATT Article XXIV in that duties are eliminated on substantially all the trade between them.

**The standard format notes that Annex I contains exceptions to the coverage of industrial products; Annex II industrial items subject to progressive tariff reductions for the EU; and Annexes III and IV industrial items subject to progressive tariff reductions for Slovenia. Does “reduction” imply tariff elimination within the time periods specified? Could the Parties summarise the products covered by each annex?**

In the case of the products listed in Annex II, customs duties on imports into the Community of products of Slovenian origin shall be suspended within the limits of annual Community tariff ceilings increasing progressively in accordance with the conditions specified in that Annex with a view to complete abolition of customs duties on imports of the products concerned on 1 January 2000.

Customs duties on imports into Slovenia of products originating in the Community which are listed in Annex III shall be progressively reduced in accordance with the following timetable:

- on 1 January 1997 each duty was reduced to 55 per cent of the basic duty
- on 1 January 1998 each duty was reduced to 30 per cent of the basic duty
- on 1 January 1999 each duty shall be reduced to 15 per cent of the basic duty
- on 1 January 2000 the remaining duties shall be abolished

Customs duties on imports into Slovenia of products originating in the Community which are listed in Annex IV shall be progressively reduced in accordance with the following timetable:

- on 1 January 1997 each duty was reduced to 70 per cent of the basic duty
- on 1 January 1998 each duty was reduced to 45 per cent of the basic duty
- on 1 January 1999 each duty shall be reduced to 35 per cent of the basic duty
- on 1 January 2000 each duty shall be reduced to 20 per cent of the basic duty
- on 1 January 2001 the remaining duties shall be abolished

### 3. Rules of Origin

**Protocol 4 (Originating Products): Article 15 refers to the prohibition of drawback of/exemption from customs duties. It appears from our reading of Article 15:2 that drawback of/exemption from customs duty is prohibited on imported inputs into products produced for export. We would be grateful for confirmation of whether our interpretation is correct.**

The drawback or exemption from customs duty is prohibited on imported inputs into products produced for export only in the cases where the products will be exported to other Contracting Party and if the exporter wants to benefit from the preferential treatment foreseen in the Agreement. Otherwise, if the product will be exported outside (for instance, to Australia) the drawback of/exemption from customs duty can be applied according to the customs legislation of each one of the Parties.

**Are the rules of origin among the Parties restrictive to third countries? Could the Parties prove that the rules of origin do not create restrictive, distorting, or disruptive effects on third countries' trade and investment interest? Was there a drawback rule? Why has the no-drawback rule been introduced? Does this introduction mean raising of barriers to third countries?**

**Could the Parties explain why they believe the rules of origin will not result in higher tariff barriers to third countries, particularly in view of the rules on cumulation?**

The purpose of the rules of origin is to determine whether a product is eligible to benefit from preferential treatment. In that sense they can be considered restrictive but the scope of Article XXIV is to establish a Free Trade Agreement between the contracting parties and not with all the WTO Members. The rules of origin do not impose any conditions concerning the nationality of investment. A full answer on the no-drawback rule is provided in response to the question above. No barriers have been raised to third countries trade since the customs duties applied are the ones bounds in the WTO.

4. Standards

**Does the standards regime create more obstacles to trade or restrictions to third countries, compared with the facilitated treatment among Parties?**

The Agreement does not include any specific provisions on standards.

**Do the Parties have plans to negotiate any provisions on TBT or SPS?**

The Agreement does not contain provisions on these areas, and the Parties do not have plans to negotiate any.

5. Safeguards

**Article 30: What is the precise interpretation to be placed on the term "public policy"?**

The term "public policy" in this Article is likely to be given the same interpretation as the same term in Article 36 of the EC Treaty and is probably best understood by reference to the equivalent French term of "ordre public". It is a residual term designed to cover situations which may not fall under the notions of "public morality", "public security", etc. but otherwise threatening the security and integrity of the state and social cohesion.

**Article 25 - What measures, pending solution, do the Parties envisage taking to deal with serious injury/disturbance? Would such measures by WTO consistent? Can the contracting parties give assurances that such measures would not prejudice the rights of non-parties to this Agreement? What criteria are to be used to determine whether a "serious disturbance" to agriculture markets is being caused?**

Since the entry into force of the Agreement, neither party has taken measures under this Article. The appropriate measures to deal with serious injury/disturbance would be in accordance with the procedures laid down in Article 28. This Article states that:

"1. In the event of the Community or Slovenia subjecting imports of products liable to give rise to the difficulties referred to in Article 25 to an administrative procedure having as

its purpose the rapid provision of information of the trend of trade flows, it shall inform the other Party.

2. In the cases specified in Article 25, before taking the measures provided for therein or, in cases to which paragraph 3(d) applies, as soon as possible, the Community or Slovenia, as the case may be, shall supply the Cooperation Council with all relevant information, with a view to seeking a solution acceptable to the two Parties.

The safeguard measures shall be notified immediately to the Cooperation Council and shall be the subject of periodic consultations with that body, notably with a view to establishing a timetable for their abolition as soon as circumstances permit.

3. For the implementation of paragraph 2, the following provisions shall apply:

(a) As regards Article 25, the difficulties arising from the situation referred to in that Article shall be referred for examination to the Cooperation Council; which may take any decision needed to put an end to such difficulties.

If the Cooperation Council or the exporting Party has not taken a decision putting an end to the difficulties or no other satisfactory solution has been reached within 30 days of the matter being referred, the importing Party may adopt the appropriate measures to remedy the problem. These measures must not exceed the scope of what is necessary to remedy the difficulties which have arisen.

(d) Where exceptional circumstances requiring immediate action make prior information or examination, as the case may be, impossible, the Community or Slovenia, whichever is concerned, may in the situation specified in Article 25, apply forthwith the safeguard measures strictly necessary to deal with the situation and inform the Cooperation Council immediately."

In the event that a party to the Agreement does take measures under Article 25, this will be done in a manner consistent with the Parties' WTO obligations, and in a manner that the WTO rights of third parties will not be prejudiced

**With respect to safeguards, it is stated that appropriate measures (priorities must be given to those which least disturb the functioning of the Agreement) may be undertaken as safeguards. What is the meaning of "least disturb the functioning of the Agreement"? In this context are the interests of third countries protected? When injury is caused by products originating in a party to the Agreement, will the Parties impose safeguards against products from third countries?**

See the answer to the question above. Neither party has taken any measures in the area of safeguards. In the event that a party to the Agreement does take measures under Article 25, this will be done in a manner consistent with the Parties' WTO obligations, and in a manner that the WTO rights of third parties will not be prejudiced. Any safeguard measure taken under the Agreement would not affect trade from countries not party to the Agreement.

**Could the Parties explain the provision on structural adjustment? Has this provision ever been used?**

Article 23 of the Agreement allows for exceptional measures which derogate from the provisions of Article 5 and 20(1) to be taken by Slovenia in the form of increased customs duties.

These measures may only concern infant industries, or certain sectors undergoing restructuring or facing serious difficulties, particularly where these difficulties produce major social problems.

Customs duties introduced by these measures on imports into Slovenia of products originating in the Community may not exceed 25 per cent ad valorem and must maintain an element of preference for products originating in the Community. The total value of imports of the products which are subject to these measures may not exceed 15 per cent of total imports from the Community of industrial products during the last year for which statistics are available.

The measure shall be applied for a period not exceeding five years unless a longer duration is authorised by the Cooperation Council. They shall cease to apply at the latest on the expiry of the transitional period.

Slovenia has not used this provision.

**Could the Parties explain how balance-of-payments measures would be applied towards the other Parties to the Agreement?**

When a Party decides to impose restrictive measures, including measures relating to imports for balance of payment purposes, it shall present as soon as possible to the other Party a timetable for their removal.

When one or more Member States of the Community or Slovenia is in serious balance of payments difficulties or under imminent threat thereof, the Community or Slovenia, as the case may be, may, in accordance with the conditions established under the WTO Agreement, adopt restrictive measures, including measures relating to imports, which shall be of limited duration and may not go beyond what is strictly necessary to remedy the balance of payments situation. The Community or Slovenia, as the case may be, shall inform the other Party forthwith.

Any restrictive measures shall not apply to transfers related to investment and in particular to the repatriation of amounts invested or reinvested or any kind of revenues stemming therefrom.

6. Anti-dumping and Countervailing Measures

**Article 24: The Interim Agreement provides for the application of anti-dumping as outlined in GATT Article VI. We note, however, that GATT Article XXIV:8(b) does not allow for this exception and that this clause may not therefore be compliant.**

The Parties are of the firm opinion that the Agreement is consistent with Article XXIV:8(b).

**Can the Parties confirm that they will not impose anti-dumping measures just because other parties impose the anti-dumping measures against third country products?**

Yes.

7. Subsidies and State-aid

**Could the Parties explain the rationale for exempting trade in agricultural products and fisheries from provisions on subsidies and state-aid? Do other rules apply to these sectors?**

A response to this question will be provided in due course.

8. Sector-specific Provisions

## (a) Textiles

**Annex II(a) and II(b) refer the progressive reduction of customs duties on some textile products. Does this mean reduction to zero? No time period is specified – what is the applicable time period?**

Customs duties on imports into the Republic of Slovenia of textiles products listed in Annex II(a) and originating in the Community shall be progressively reduced in accordance with the following timetable:

- on 1 January 1997 each duty was reduced to 55 per cent of the basic duty
- on 1 January 1998 each duty was reduced to 30 per cent of the basic duty
- on 1 January 1999 each duty shall be reduced to 15 per cent of the basic duty
- on 1 January 2000 the remaining duties shall be abolished

Customs duties on imports into the Republic of Slovenia of textile products listed in Annex II(b) and originating in the Community shall be progressively reduced in accordance with the following timetable:

- on 1 January 1997 each duty was reduced to 70 per cent of the basic duty
- on 1 January 1998 each duty was reduced to 45 per cent of the basic duty
- on 1 January 1999 each duty shall be reduced to 35 per cent of the basic duty
- on 1 January 2001 the remaining duties shall be abolished

**The documentation notes that the EU eliminated quantitative restrictions in this sector (i.e. textiles) with respect to Slovenia on 1.1.1998. The entry for Slovenia refers to an additional protocol. Could the Parties explain the provisions of this additional protocol?**

The quantitative arrangements and other related issues (quantitative limits for exports, rules, procedures and categorisation of textile products, provisions on procedures) regarding the trade in textile and clothing products originating in the Republic of Slovenia and in the Community were stipulated in a protocol on trade in textile and clothing products initialled on 24 November 1995 between the European Community and the Republic of Slovenia.

According to this Protocol, exports from Slovenia to the Community were free from quantitative limits from 1 January 1996. The Protocol, however, contained the conditions under which quantitative limits may be introduced. Exports of textiles products from the Community to Slovenia were not subject to quantitative limits.

This protocol, applied on a provisional basis from 1 January 1996, was applicable until 31 December 1997. From 1 January 1998 only Protocol 1 of the Interim Agreement applies to trade in textiles and clothing products.

**Protocol 1 (Textile and Clothing Products): Article 3 refers to quantitative arrangements and other related issues - we would be grateful if the Parties could summarise the arrangements which apply/will apply.**

The quantitative arrangements and other related issues regarding exports of textile products originating in Slovenia to the Community and originating in the Community to the Republic of Slovenia were stipulated in an Additional Protocol to the Europe Agreement on trade in textiles products between the European Community and the Republic of Slovenia. This Protocol was applied



on a provisional basis from 1 January 1996 and applicable until 31 December 1997. After expiry of the application of the Additional Protocol, trade in textile and clothing products is governed by Protocol No 1 of the Interim Agreement.

(c) Agricultural, processed agricultural and fishery products

**Regulations on agriculture and fisheries.**

The scope of this question is not clear.

**Could the Parties explain the specific rules applying to agriculture in this Agreement?**

The provisions applying to agriculture are set out in Articles 13-16 of the Agreement.

**Do the Parties intend to negotiate further concessions on agriculture and fisheries in the future?**

The Agreement only entered into force recently (on 1/1/97). The Parties have not so far expressed any intention to negotiate further concessions on these products. Under Article 15:5 of the Agreement the Community and Slovenia shall examine in the Cooperation Council the scope for further concessions on agricultural products.

**Will substantial barriers to trade in agriculture and fisheries between the Parties remain by 1/1/2003? If so, can the Parties comment on how the provisions on agriculture and fisheries would be compatible with the requirement of Article XXIV:8(b) that duties and other regulations of commerce be eliminated on substantially all the trade between the members?**

The Parties are of the firm opinion that the Agreement is consistent with the provision of Article XXIV:8(b). Trade in industrial products will be completely liberalised by the end of the transitional period, while specific concessions will apply in respect of agricultural products. Under Article 15:5 of the Agreement the Community and Slovenia shall examine in the Cooperation Council the scope for further concessions on agricultural products. It should also be noted that the provisions of this Agreement are liable to be overtaken in the medium term by the completion of negotiations for the accession of Slovenia to the European Union

**Article 12 advises that Slovenia is not precluded from introducing an agricultural component in the duties on products listed in Annex V. Has Slovenia introduced, or does it plan to introduce, an agricultural component on any of these products?**

Slovenia has not introduced an agricultural component in the duties on any of these products, and has no current plans to do so.

**Reference is made to a global tariff quota on wine that will apply until a separate Wine and Spirit Agreement is concluded and enters into force. With the exception of Slovenia, this quota applies to non-WTO Members. Could the EU explain why, if Slovenia is now a WTO Member, a Wine and Spirit Agreement would be necessary? What would such an Agreement include?**

**Information on the wine and spirits regime.**

The Agreement covers more than tariff quotas. In accordance with the draft Agreement, the Parties will protect and control the name of products referred to in Article 1 of the Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organisation of the market in wine originating in

the Community and in the Republic of Slovenia on the conditions provided for in the Agreement. The Agreement aims at the protection of geographical names of wines, aromatised wines and spirits. The protection of geographical names offered under such an Agreement goes further than that offered by Articles 22-24 of the TRIPS Agreement.

The Contracting Parties shall ensure, in accordance with the draft Agreement, the reciprocal protection of the names referred to in Article 4 which are used for the description and presentation of products referred to in the Council Regulation on the common organisation of the market in wine originating in the territory of the Contracting Parties.

#### **Tariff quotas for agricultural products.**

Concessions relating to trade in agricultural products, including the related tariff quotas, are set out in Annexes VI and VII of the Agreement.

**The documentation refers to “quantitative restrictions having equivalent effect” with respect to agricultural products. Could the Parties indicate what these measures are? Could the Parties also explain what kind of “concessions” are contained in Annexes VI and VII?**

The “quantitative measures and measures having equivalent effect” referred to in Article 15 of the Agreement concerned for example restrictions applied on a seasonal and/or regional basis, and were abolished on entry into force of the Agreement.

Annex VI contains the quantity and the duty applied to imports into the Community of products originating in Slovenia. It details the quantities that may be imported under the quota opened by the Interim Agreement and the reduction of the ad valorem and specific customs duties set out in the Common Customs Tariff.

Annex VII. The products originating in the Community and imported into Slovenia shall be subject to 50 per cent reduction of the applying duty.

#### **9. Other**

**Article 21: Are there any measures or practices of an internal fiscal nature establishing (directly or indirectly) discrimination against other countries not party to the Agreement? If so, what are they? Do the provisions of Article 21, paragraph 1 differ in any way from the provisions of GATT Article III?**

There are no such measures or practices in the EU. Article 21:1 of the Agreement does not imply any effective departure from GATT Article III. This provision would not lead to a commitment between the Parties which would go beyond those arising from GATT Article III, paragraphs 1 and 2.

**Article 27: Which products are currently subject to state monopolies? What proportion of trade in products subject to state monopolies is covered by this Agreement? This article suggests that state monopolies currently discriminate in their commercial decisions - can the Parties confirm that such monopolies operate in a manner consistent with GATT Article XVII in their purchases from and sales to third countries?**

The European Communities understand that state monopolies operate in Slovenia in the telecommunications, energy and steel sectors. All state trading enterprises established in the EU operate in a manner consistent with the EC's obligations under GATT Article XVII.