

EUROPEAN COMMUNITY – CROATIA INTERIM AGREEMENT

The following communication, dated 17 March 2004, is being circulated at the request of the Delegations of the European Communities and Croatia.

Communication from the Parties

I. BACKGROUND INFORMATION ON THE AGREEMENT

1. Membership, Dates Of Signatures, Ratification And Entry Into Force

Pending entry into force of the Stabilisation and Association Agreement (SAA) between the European Communities and its Member States with Croatia, signed on 29 October 2001, the trade and trade-related provisions of the SAA have been implemented by means of an Interim Agreement on Trade and Trade-related Matters.

The Interim Agreement on Trade and Trade-related Matters between the European Communities and Croatia (hereinafter the Interim Agreement) was signed in Luxembourg on 29 October 2001 and entered into force on 1st March 2002.

It consolidates and enhances, on a contractual basis, the Autonomous Trade Preferences to the South East Europe countries approved by the EU on 18 September 2000 and applied to Croatia with immediate effect.

2. Type Of Agreement

The Interim Agreement establishes a free-trade area with a transitional period lasting a maximum of six years starting from its entry into force.

3. Scope

All sectors (HS Chapter 1-97) are covered by the Interim Agreement. Textiles and clothing, Steel and Processed agricultural products are dealt with within respectively Protocols 1, 2 and 3 to the Agreement.

The arrangements regarding trade in wine are defined in an additional Protocol to the Interim Agreement.

4. Trade Data

Croatian exports to the European Union (EU) amounted to €2.460 million in 2002, while EU exports to Croatia were €6.480 million in the same year. About 55% of Croatia's total external trade is with the EU. Textiles and clothing, machinery and agricultural products dominate Croatian exports

to the EU; Machinery, transportation material and chemicals are the most significant EU exports. Annex 1 contains statistical data on EU trade with Croatia.

II. TRADE PROVISIONS

The trade provisions of the Interim Agreement establish a free-trade area on the basis of asymmetry by the EC: i.e. immediate liberalisation on the side of the EC, gradual liberalisation for Croatia. Establishment of the FTA is completed within a maximum six-year transitional period.

1. Import Restrictions

The provisions on the gradual and asymmetric abolition of import restrictions for products originating in the EC or Croatia relate to almost all products covered by Chapters 1-97 of the Combined Nomenclature with specific arrangements regarding textiles and clothes (Protocol N°1), steel (Protocol N°2) and processed agricultural products (Protocol 3).

1.1 Duties And Charges

1.1.1. Industrial Products

All Products within Chapters 25-97 of the combined nomenclature are considered to be industrial products, with the exception of the products listed in Annex I § I, (ii) of the WTO Agreement on Agriculture.

1.1.1. A - *EC tariff elimination on industrial products*

All customs duties on industrial products, or equivalent measures, are eliminated upon entry into force.

1.1.1. B - *Croatian tariff elimination on industrial products*

All customs duties on industrial products, or equivalent measures, are eliminated upon entry into force with the exception of:

- Products listed in Annex I: reduction over a period of three years, from entry into force, i.e. 1st March 2002 (to 60% of the basic duty on entry into force, 30% on the second year) to 1st January 2004 when remaining duties shall be abolished,
- Products listed in Annex II: reduction over a period of six years, from 1st March 2002 (reduction to 70% the first year, to 50% of the basic duty in the second year, then 40%, 30%, 15%), until 1st January 2007 when all remaining duties shall be abolished.
- Textiles and Clothing (Protocol N°1): For products in Annex I of protocol 1: reduction over a period of three years from 1st March 2002 (to respectively 60% of the basic duty and to 30% in the second year) to 1st January when all remaining duties shall be abolished. For products in Annex II of protocol 1: reduction over a period of five years (to respectively 65% of the basic duty on 1st March 2002, to 50% the 2nd year, then 35% and 20%) to 1 January 2006 when all remaining duties shall be abolished.

- Steel, CET chapter 72 (Protocol N°2): reduction over a period of five years, from 1st March 2002 (to 65% of the basic duty, 50% the 2nd year, then 35%, 20%) to 1st January 2006 when all remaining duties shall be abolished.

1.1.2. Agricultural And Fisheries Products

All products within Chapters 1-24 of the combined nomenclature, together with the products listed in Annex I § I, (ii) of the WTO Agreement on Agriculture.

1.1.2. A – EC tariff elimination on agricultural and fishery products

All customs duties and measures having equivalent effect, on imports of agricultural and fishery products, are abolished upon entry into force of the Interim Agreement other than those of heading Nos 0102, 0201, 0202 and 2204 with specific arrangements and exceptions regarding:

- Products covered by chapters 7 and 8 of the combined nomenclature for which the Common Customs Tariff provides for the application of *ad valorem* customs duties and a specific customs duty, the elimination applies only to the *ad valorem* part of the duty.
- “Baby beef” as defined in Annex III: the customs duties applicable is 20% of the *ad valorem* duty and 20% of the specific duty as laid down in the Common Customs Tariff of the EC, within the limit of an annual tariff quota of 9,400 tonnes expressed in carcass weight.
- The arrangements regarding trade of wine are defined in an additional protocol to the Interim Agreement: exemption from customs duties within the limit of an annual tariff quota of 45,000 hl with yearly increases of 10,000 hl provided that at least 80% of the eligible quantity has been utilised in the previous year. The yearly increase is applied until the sum of the tariff quota reaches 70,000 hl.
- Certain fisheries products: the tariff lines concerned and the tariff conditions being listed in Annex V(a).

1.1.2. B – Croatia tariff elimination on agricultural and fishery products

From the entry into force of the Interim Arrangement, Croatia is to:

- Abolish its customs duties applicable on agricultural products listed in Annex IV (a) upon entry into force of the agreement and on products listed in Annex IV (c) from the first year after entry into force of the agreement.
- Abolish its customs duties applicable on agricultural products listed in Annex IV (b) within limits of tariff quotas indicated for each product listed in that Annex. The tariff quotas are to be increased yearly by the quantities indicated for each product in that annex.
- Progressively reduce its customs duties applicable on agricultural products listed in Annex IV (d) within the limits of tariff quotas and in accordance with a timetable indicated for each product.

- Reduce progressively to 50% of the MFN duty the customs duties on imports originating in the EC listed in Annex IV(e), in accordance with the timetable indicated for each product in that annex;
- Reduce progressively to 50% of the MFN duty the customs duties on imports originating in the EC listed in Annex IV(f), within the limits of tariff quotas and in accordance with the timetable indicated for each product in that annex;

From the date of entry into force of the Agreements, Croatia is to grant specific concessions on imports of certain fish and fisheries products originating in the EC, listed in Annex V(b), in accordance with the provisions specified therein.

1.1.3. Processed Agricultural Products

The EC and Croatia are to apply to processed agricultural products the duties detailed in, respectively, annexes I and II of Protocol 3, in accordance with the timetable and conditions specified therein.

1.2 Quantitative Restrictions

The EC and Croatia abolished all quantitative restrictions and measures having equivalent effects upon entry into force of the Interim Agreement (1st March 2002).

1.3 Common External Tariff

There is no provision for the establishment of a Common External Tariff.

2. Export restrictions

Special provisions outlined in the Standstill, General Safeguard and Shortage clauses (see Safeguards).

3. Rules Of Origin

The criteria for defining the originating status of products in the framework of the Interim Agreement with Croatia (rules of origin) is defined in Protocol 4 of the Interim Agreement, as mentioned in Article 28 (SAA Art 41).

The normal criteria for defining the originating status of a product has been retained (Protocol 4 Title II) and includes provisions for non-originating materials that have been sufficiently transformed to be considered originating (Article 6). The processing requirements are listed on product-by-product basis in Article 7 and Annexes I and II to Protocol 4. Cumulation possibilities exist on a bilateral basis (Articles 3 and 4).

The “no-drawback rule” has been introduced in order to avoid circumvention of tariffs (Title IV). Provisions on this matter are to be applied from 1st January 2003, while a partial derogation to the rule in favour of Croatia is applicable until 31st December 2005, with possible review on a mutual agreement.

The necessary administrative procedures to claim preferential treatment are established under Title V. Evidence of the originating status of products is to be furnished on the basis of a movement certificate EUR.1 or an “invoice declaration”, as provided in Annex III and IV to the Protocol.

The rules of origin are 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 will not result in higher tariff barriers to third countries.

4. Standards

The Interim Agreement does not provide for co-operation to reduce differences in the field of conformity assessment.

(a) Technical Barriers To Trade

No provision.

(b) Sanitary And Phytosanitary Measures

No provision.

5. Safeguards

Under the Interim Agreement the parties can take emergency measures in the following cases:

- (a) Appropriate measures (priority being 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 importing parties, or
 - serious disturbances in any sector of the economy or difficulties which could bring about serious deterioration in the economic situation of the region (art. 25).
- (b) Appropriate measures (priority being given to those which least disturb the functioning of the Agreement) may be undertaken in case of:
 - a critical shortage, or threat of, of foodstuffs or other products essential to the exporting Party, or
 - re-export to a third country of a product against which the exporting Party maintains quantitative export restrictions, export duties or measures or charges having equivalent effect (Article 26).

The difficulties arising from one or the other situations are referred for examination to the Interim Committee which may take any decision needed to put an end to such difficulties. If no satisfactory solution has been reached within 30 days of the matter being referred to the Interim Committee, the importing Party may adopt the appropriate measures to remedy the problem. On exceptional and critical circumstances, precautionary measures may be taken by one Party which shall inform the other Party immediate thereof.

The EC and Croatia shall not take safeguard measures that exceed what is necessary to remedy the difficulties arisen. When taken, the safeguard measures are notified immediately to the Interim Committee and shall be subject to periodic consultations.

When serious balance of payments difficulties, or imminent threat thereof, occur, restrictive measures may be adopted in accordance with the conditions established under the WTO Agreement, 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).

If, given the particular sensitivity of agricultural and fisheries 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 appropriate measures it deems necessary (Article 18).

6. Anti-Dumping And Countervailing Measures

The parties of the Interim Agreement may take anti-dumping measures in accordance with the Agreement on implementation of Article VI of the GATTT 1994 and its own related internal legislation.

The Interim Committee shall be informed of the dumping case as soon as the authorities of the importing Party have initiated an investigation. When no end has been put to the dumping within the meaning of Article VI of the GATT or no other satisfactory solution has been reached within 30 days of the matter being referred to the Interim Committee, the importing Party may adopt the appropriate measures.

The Interim Agreement does not contain any provisions relating to countervailing measures.

7. Subsidies And State-Aid

Are considered as incompatible with the proper functioning of the Agreement in so far as they may affect trade between the Parties:

- any agreement which would prevent, restrict or distort competition,
- any abuse of dominant position,
- any state aid which distorts or threatens trade, with the exception of provisions regarding trade in agricultural and fisheries products.

These practices shall be regulated on the basis of the relevant rules of the Treaty establishing the European Community, each party ensuring that the relevant provisions are applied within four years after entry into force of the Agreement. The Agreement includes transparency provisions on public aid.

In case of practices incompatible with these rules, a Party to the Agreement may take appropriate measures, after consultation within the Interim Committee, or after thirty working days following referral for such consultation.

Croatia shall progressively adjust any State monopolies of a commercial character so as to ensure that, by the end of the fourth year following the entry into force of this Agreement, no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of the Member States and Croatia. The Interim Committee shall be informed about the measures adopted to attain this objective.

8. Sector-Specific Provisions

(a) Textiles:

Protocol N°1 sets out the conditions and timetable for Croatia's reduction of its customs duties on certain categories of textiles and clothing (as listed in Annex I of the Protocol).

(b) Steel :

Protocol N°2 contains four main provisions :

- It sets out the conditions and timetable for Croatia's reduction of its customs duties on steel products over a four years period;
- It sets the principle of a restructuring of the Croatia's steel sector within a period of two years;
- It specifies the conditions under which Croatia may exceptionally, within a period of five years after entry into force of the Agreement, grant public aid dedicated to the reform and conversion of its steel industry;
- It entrusts the Interim Committee to monitor the implementation aspects of this Protocol. Appropriate measures may be taken by either party, when they consider that a particular practice is incompatible with the terms of the Protocol and that it causes or threatens to cause prejudice to the interests of the party or material injury to its domestic industry. Such measures may be taken after consultation within a contact group on steel, after 30 working days following such consultation.

(c) Agricultural and Fisheries products: Chapter II

- Agricultural products originating in Croatia benefit on imports into EC from the abolition of customs duties and charges having equivalent effect with the exception of heading Nos 0102, 0201, 0202 and 2204 and special provisions (products covered by chapter 7 and 8) of the combined nomenclature as set out in Article 14.1. Article 14.2. (baby beef), Article 14.4. and Article 15.1. (fisheries listed in Annex V.a.),
- Agricultural products originating in the EC benefit on imports into Croatia from the provisions set out in Art. 14.3. which singles out four categories of products:
 - ❖ Products listed in Annex IV (a) for which all customs duties are abolished, from the date of entry into force of the Agreement,
 - ❖ Products listed in Annex IV (b) for which customs duties are abolished within tariff quotas with yearly increases in the tariff quotas quantities,
 - ❖ Products listed in Annex IV (c) for which all customs duties are abolished, from the first year after the date of entry into force of the Agreement,
 - ❖ Products listed in Annexes IV(d), (e) and (f) for which customs duties are reduced progressively in accordance with a specific timetable for each product.
 - ❖ The arrangements regarding trade in wines are defined in an additional protocol to the Interim Agreement.

No later than 1st July 2006, the EC and Croatia will assess, in the Interim Committee, the situation of their trade in agricultural and fisheries products with a view to determining further liberalising measures to be applied by the Community and Croatia.

(d) Processed Agricultural Products

Protocol N°3 sets out the duties, conditions and timetables to be applied by the EC and Croatia on processed agricultural products.

9. Other

A. Co-Operation In Customs Administration

Mutual assistance between administrative authorities in customs matters of the Parties will take place in accordance with the provisions of Protocol 5 (art.6).

B. Customs Unions, Free Trade Areas Or Arrangements For Frontier Trade

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 (art 23).

III. GENERAL PROVISIONS OF THE AGREEMENT

1. Exceptions And Reservations

Articles 29 and 44 contain standard exceptions clauses on national security, 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 rules related to gold and silver.

2. Accession

Either Party may denounce this Agreement by notifying the other party, the Interim Agreement ceasing to apply six months after the date of such notification.

The Interim Agreement does not contain any provision allowing other countries to accede to this Agreement. Neither does the Stabilisation and Association Agreement.

3. Dispute Settlement Procedures

The parties may refer to the Interim Committee any dispute relating to the application or interpretation of the Interim Agreement. The Interim Committee may settle the dispute by means of binding decision (Article 42).

4. Relations With Other Trade Agreements

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 Interim Agreement and the future Stabilisation and Association Agreement are intended to contribute to regional trade integration within the South East Europe region. This objective is to be met by the implementation by the countries of the region of the series of measures for trade

liberalisation and facilitation agreed upon in the Memorandum of Understanding signed on 27 June 2001 in the framework of the Stability Pact for South Eastern Europe.

5. Institutional Framework

Articles 38 to 41 establish an Interim Committee which shall perform the duties assigned to it in the Interim Agreement. It shall have the power to take decisions and make recommendations in the cases provided for in the Agreement. The Interim Committee may be assisted in the performance of its duties by subcommittees. It will be composed of representatives of the EC and representatives of the Government of the Republic of Croatia.

IV. OTHER

(a) Investment And Related Payments

The Interim Agreement includes provisions on exchange rate policy, balance-of-payments difficulties, and transfers. On the latter, Article 33 stipulates that no restrictive measures shall apply to transfers related to investment and to the repatriation of amounts invested or reinvested. Article 43 specifies that the application of the Arrangement by both Parties shall not give rise to any discrimination between the nationals and the companies of one of the Party and those of the other.

(b) Competition Provisions

Anti-competitive activities are recognised as incompatible with the proper functioning of the Interim Agreement and will be assessed on the basis of the criteria arising from the application of the rules of the Treaty establishing the European Community (Article 35).

(c) Intellectual Property Rights

Provisions on intellectual property rights are included under Article 36 and Annex VI.

Croatia shall take the necessary measures in order to guarantee no later than three years after entry into force of the agreement a level of protection on intellectual, industrial and commercial property rights similar to that existing in the Community, including effective means of enforcing such rights. The Interim Committee may decide to oblige Croatia to accede to specific multilateral conventions in this area.

The Interim Committee shall be referred to in case difficulties arise with the protection of intellectual, industrial and commercial property with the view to reaching mutually satisfactory solutions.

(d) Co-operation

The Interim Agreement foresees the strengthening of co-operation, notably through mutual assistance between administrative authorities in customs matters.

ANNEX 1

Trade Data

Note: The following tables show the development of trade between the EC and CROATIA over the period 1998-2002. For ease of comparison, figures are also given for the development of EC trade with all third countries.

Table I

Share of CROATIA in Total EU Trade 1998-2002 (Billion ECU/EUR)

Year	Extra-EU			CROATIA		
	Exports	Imports	Total	Exports	Imports	Total
1998	733.4	710.5	1444.0	4.4	1.8	6.2
1999	760.2	779.8	1540.0	4.0	1.9	5.9
2000	941.3	1033.3	1974.6	4.6	2.2	6.8
2001	983.0	1028.1	1995.6	5.4	2.5	7.9
2002	990.9	987.3	1978.2	6.5	2.4	8.9

(Source: Eurostat/Comext)

Table II

Share of CROATIA in Total EU Trade 1998-2002 (Percentage)

Year	Trade in Croatia with the EU, % of total			Trade in EU with Croatia, % of total		
	Exports	Imports	Total	Exports	Imports	Total
1998	54.4	43.9	50.6	0.6	0.3	0.4
1999	54.7	48.1	52.4	0.5	0.2	0.4
2000	53.8	54.4	54.2	0.5	0.2	0.3
2001	60.5	58.5	59.2	0.6	0.2	0.4
2002	51.3	54.5	53.5	0.7	0.2	0.5

(Source: Eurostat/Comext and IMF)