

FREE TRADE AGREEMENT BETWEEN THE REPUBLIC OF SLOVENIA AND BOSNIA AND HERZEGOVINA

The Republic of Slovenia and Bosnia and Herzegovina (hereinafter "the Parties"),

Reaffirming their firm commitment to pluralistic democracy based on the rule of law, human rights and fundamental freedoms;

Recalling their intention to participate actively in the process of economic integration in Europe as an important dimension of the stability on the European continent and expressing their preparedness to co-operate in seeking ways and means to strengthen this process;

Reaffirming their commitment to the principles of a market economy, which constitutes the basis for their relations;

Considering the importance of the links existing between the Parties, their desire to strengthen those links and to further extend the relations established previously, in particular through the Agreement on Economic Co-operation between the Republic of Slovenia and Bosnia and Herzegovina signed on 7 November 1997, which entered into force on 22 November 1999;

Convinced that this Agreement will create a new climate for economic relations between the Parties and above all for the development of trade and investment;

Resolved to eliminate progressively the obstacles to substantially all their mutual trade, in accordance with the provisions of the General Agreement on Tariffs and Trade 1994 (hereinafter "GATT 1994") and the Agreement establishing the World Trade Organisation (hereinafter "WTO"), Bosnia and Herzegovina having objective to become a member of the WTO;

Considering that no provision of this Agreement may be interpreted as exempting the Parties from their obligations under other international agreements;

Firmly convinced that this Agreement will foster the intensification of mutually beneficial trade relations between the Parties and contribute to the process of integration in Europe;

Have agreed as follows:

Article 1 Objectives

1. The Parties shall establish a free trade area on substantially all their bilateral trade in a transitional period ending on 31 December 2004, in accordance with the provisions of this Agreement and in conformity with Article XXIV of the GATT 1994 and the WTO.

2. The objectives of this Agreement are:

- (a) to promote through the expansion of mutual trade the harmonious development of economic relations between the Parties and thus to foster in the Parties the advance of economic activity, the improvement of living and employment conditions, and financial stability;
- (b) to provide fair conditions of competition for trade between the Parties;
- (c) to contribute by the removal of barriers to trade, to the harmonious development and expansion of world trade.

CHAPTER I

Product Coverage

Article 2

Scope

The provisions of this Chapter shall apply to products listed in Chapters 1 to 24 of the Harmonized Commodity Description and Coding System (hereinafter referred to as "agricultural products") and products listed in Chapters 25 to 97 of the Harmonized Commodity Description and Coding System (hereinafter referred to as "industrial products") originating in the Parties.

Article 3

Basic duties

1. For each product the basic duty to which the successive reductions set out in this Agreement are to be applied shall be the Most Favoured Nation rate of duty in force on 1 January 2002.

2. If, after 1 January 2002, any tariff reduction is applied on an erga omnes basis, in particular reductions resulting from the tariff negotiations in the WTO, such reduced duties shall replace the basic duty referred to in paragraph 1 of this Article as from the date when such reductions are applied.

3. The reduced duties calculated in accordance with paragraph 2 of this Article shall be applied rounded to the first decimal place.

4. The Parties shall communicate to each other their respective basic duties.

Article 4

Customs duties on imports, charges having equivalent effect and import duties of a fiscal nature

1. The Parties shall not introduce new customs duties on imports, charges having an effect equivalent to customs duties on imports and import duties of a fiscal nature in trade between them.

2. Customs duties on imports applicable in the Republic of Slovenia to products originating in Bosnia and Herzegovina shall be abolished on 1 January 2002.

3. Customs duties on imports, charges having equivalent effect and import duties of a fiscal nature applicable in Bosnia and Herzegovina on 1 January 2002 to products originating in the Republic of Slovenia shall be progressively reduced in accordance with the following timetable:

- | | |
|---------------------|--|
| - on 1 January 2002 | - to 70% of their value, |
| - on 1 January 2003 | - to 50% of their value, |
| - on 1 January 2004 | - to 30% of their value, |
| - on 1 January 2005 | - the remaining duties shall be abolished. |

Article 5

Customs duties on exports, charges having equivalent effect and export duties of a fiscal nature

1. The Parties shall not introduce new customs duties on exports, charges having equivalent effect and export duties of a fiscal nature in trade between them.

2. The Parties shall abolish all customs duties on exports, charges having equivalent effect and export duties of a fiscal nature on 1 January 2002.

Article 6

Quantitative restrictions and measures having equivalent effect

1. The Parties shall not introduce new quantitative restrictions on imports and exports or measures having equivalent effect in trade between them.

2. All quantitative restrictions on imports and exports and measures having equivalent effect shall be abolished on 1 January 2002.

Article 7

Elimination of technical barriers to trade

1. The rights and obligations of the Parties relating to technical regulations or standards and related measures shall be governed by the WTO Agreement on Technical Barriers to Trade.

2. The Parties shall co-operate and exchange information in the field of conformity assessment, standardisation, metrology and accreditation with the aim of reducing and/or eliminating technical barriers to trade.

3. Each Party, upon request of the other Party, shall provide information on particular individual cases of technical norms, standards and related measures.

4. To eliminate technical barriers and effectively implement this Agreement, the Parties shall conclude an agreement on mutual recognition of test reports, certificates of conformity and other documents directly or indirectly related to

conformity assessment of the products which are the subject of trade between the Parties.

Article 8

Agricultural policy

1. Without prejudice to the concessions granted under Article 4 of this Agreement, the provisions of this Chapter shall not restrict in any way the pursuance of the respective agricultural policies of the Parties or the taking of any measures under such policies, including the implementation of the results of the Uruguay Round agreements.

2. The Parties shall notify to the Joint Committee changes in their respective agricultural policies pursued or measures applied which may affect the conditions of trade in agricultural products between them. On the request of a Party, prompt consultations shall be held to examine the situation.

Article 9

Specific safeguards

Notwithstanding other provisions of this Agreement, and in particular Article 22, given the particular sensitivity of the agricultural market, if imports of products originating in one of the Parties, which are the subject of concessions granted under this Agreement cause serious disturbance to the market or to its domestic regulatory mechanisms in the other Party, both Parties shall enter into consultations immediately to find an appropriate solution. Pending such solution, the Party concerned may take appropriate measures it deems necessary.

Article 10

Sanitary and phytosanitary measures

1. The Parties shall apply their regulations in veterinary, phytosanitary and sanitary matters, in particular in the exchange of information on infectious animal diseases, quarantine diseases, plant pests and weed, taking into account the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

2. The Parties shall apply their regulations in veterinary, phytosanitary and sanitary matters in a non-discriminatory fashion and shall not introduce any new measures that have the effect of unduly obstructing trade.

3. The measures related to the veterinary and sanitary control between the Parties shall be adjusted to the relevant legislation of the European Union (hereinafter "EU").

4. The Parties shall exchange the information on sanitary and phytosanitary protection of animals, plants and products.

CHAPTER II

General provisions

Article 11

Rules of origin and co-operation in customs administration

1. The Parties agree to apply the harmonized European preferential rules of origin in the mutual trade including all existing and further amendments thereto.
2. Protocol 1 to this Agreement (hereinafter "Protocol 1") lays down the rules of origin and related methods of administrative co-operation.
3. The Parties shall take appropriate measures, including regular reviews by the Joint Committee and arrangements for administrative co-operation, to ensure that the provisions of Protocol 1 and Articles 3 to 8, 12, 22, 23 and 24 of this Agreement are effectively and harmoniously applied, and to reduce, as far as possible, the formalities imposed on trade, and to achieve mutually satisfactory solutions to any difficulties arising from the operation of those provisions.

Article 12

Internal taxation

1. The Parties shall refrain from any measure or practice of an internal fiscal nature establishing, whether directly or indirectly, discrimination between the products originating in the Parties.
2. Products exported to the territory of one of the Parties may not benefit from repayment of internal taxation in excess of the amount of direct or indirect taxation imposed on them.

Article 13

General exceptions

This 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; the protection of intellectual property; the rules relating to gold and silver, or the protection of environment or the conservation of exhaustible natural resources, if such measures are made effective in conjunction with restrictions on domestic production or consumption. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties.

Article 14

Security exceptions

Nothing in this Agreement shall prevent a Party from taking any appropriate measure which it considers necessary:

- (a) to prevent the disclosure of information contrary to its essential security interests;
- (b) for the protection of its essential security interests or for the implementation of international obligations or national policies:
 - (i) relating to the traffic in arms, ammunition and implements of war, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes, and to such traffic in other goods, materials and services as is carried on directly or indirectly for the purpose of supplying a military establishment; or
 - (ii) relating to the non proliferation of biological and chemical weapons, nuclear weapons or other nuclear explosive devices; or
 - (iii) taken in time of war or other serious international tension.

Article 15

State monopolies

1. The Parties shall adjust progressively any State monopoly of a commercial character so as to ensure that by the end of the transitional period laid down in Article 1 of this Agreement, no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of the Parties. The Parties shall inform each other about the measures adopted to implement this objective.
2. The provisions of this Article shall apply to any body through which the competent authorities of the Parties, in law or in fact, either directly or indirectly supervise, determine or appreciably influence imports or exports between the Parties. These provisions shall likewise apply to monopolies delegated by the State to other bodies.

Article 16

Payments

1. Payments in freely convertible currencies relating to trade in goods between the Parties and the transfer of such payments to the territory of the Party where the creditor resides shall be free from any restrictions.
2. The Parties shall refrain from any exchange or administrative restrictions on the grant, repayment or acceptance of short and medium term credits to trade in goods in which a resident of a Party participates.
3. Notwithstanding the provisions of paragraph 2 of this Article, any measures concerning current payments connected with the movement of goods shall be in conformity with the conditions laid down under Article VIII of the Agreement of the International Monetary Fund and shall be applied on a non-discriminatory basis.

Article 17

Rules of competition concerning undertakings

1. The following are incompatible with the proper functioning of this Agreement insofar as they may affect trade between the Parties:

- (a) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;
- (b) abuse by one or more undertakings of a dominant position in the territories of the Parties as a whole or in a substantial part thereof.

2. The provisions of paragraph 1 of this Article shall apply to the activities of all undertakings including public undertakings and undertakings to which the Parties grant special or exclusive rights. Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly, shall be subject to provisions of paragraph 1 of this Article insofar as the application of these provisions does not obstruct the performance, in law or in fact, of the particular public tasks assigned to them.

3. With regard to agricultural products the provisions of paragraph 1 a. of this Article shall not apply to such agreements, decisions and practices which form an integral part of a national market organisation.

4. If a Party considers that a given practice is incompatible with paragraphs 1, 2 and 3 of this Article and if such practice causes or threatens to cause serious prejudice to the interest of that Party or material injury to its domestic industry, it may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 26 of this Agreement.

Article 18

State aid

1. Any aid granted by a State being Party to this Agreement or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it may affect trade between the Parties, be incompatible with the proper functioning of this Agreement.

2. For agricultural products the provisions of paragraph 1 of this Article shall comply with the relevant WTO Agreements.

3. The Joint Committee shall, within three years from the entry into force of this Agreement, adopt the criteria on the basis of which the practices contrary to paragraph 1 of this Article shall be assessed, as well as the rules for their implementation.

4. The Parties shall ensure transparency in the area of state aid, inter alia by reporting annually to the Joint Committee on the total amount and the distribution

of the aid given and by providing to the other Party, upon request, information on aid schemes and on particular individual cases of state aid.

5. If a Party considers that a particular practice:

- is incompatible with the terms of paragraph 1 of this Article, and is not adequately dealt with under the implementing rules referred to in paragraph 3 of this Article, or
- in the absence of rules, referred to in paragraph 3 of this Article, causes or threatens to cause serious prejudice to the interest of that Party or material injury to its domestic industry,

it may take appropriate measures under the conditions of and in accordance with the provisions laid down in Article 26 of this Agreement.

6. Such appropriate measures may only be taken in conformity with the procedures and under the conditions laid down by the GATT 1994 and the WTO, and any other relevant instruments negotiated under their auspices, which are applicable between the Parties concerned.

Article 19

Public procurement

1. The Parties consider the liberalization of their respective public procurement markets as an objective of this Agreement.

2. The Parties shall progressively adjust their respective rules, conditions and practices with a view to grant suppliers of the other Party access to contract award procedures on their respective public procurement markets.

3. The Joint Committee shall examine developments related to the achievement of the objectives of this Article and may recommend practical modalities of implementing the provisions of paragraph 2 of this Article so as to ensure free access, transparency and mutual opening of their respective public procurement markets.

4. The Parties shall endeavour to accede to the relevant Agreements negotiated under the auspices of the GATT 1994 and the WTO.

Article 20

Protection of intellectual property

1. The Parties shall in accordance with their national legislation grant and ensure protection of intellectual property rights (industrial property rights and protection of copyright and related rights) to the nationals, companies and institutions of the other Party as well as to their legal successors under the same conditions applicable for the domestic nationals, companies and institutions.

2. In addition, the Parties agree to respect mutually in accordance with their national legislation the intellectual property rights (industrial property rights and protection of copyright and related rights) of their nationals, companies and

institutions in accordance with the standards of protection, which shall not be lower than that arising from the Bern Convention, Rome Convention and Paris Convention.

Article 21 Dumping

If a Party finds that dumping within the meaning of Article VI of the GATT 1994 is taking place in trade relations governed by this Agreement, it may take appropriate measures against that practice in accordance with the WTO Agreement on Implementation of Article VI of the GATT 1994 under the conditions and in accordance with the procedure laid down in Article 26 of this Agreement.

Article 22 General safeguards

Where any product is being imported in such increased quantities and under such conditions as to cause or threaten to cause:

- (a) serious injury to domestic producers of like or directly competitive products in the territory of the importing Party, or
- (b) serious disturbances in any related sector of the economy or difficulties which could bring about serious deterioration in the economic situation of a region,

the Party concerned may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 26 of this Agreement.

Article 23 Structural adjustment

1. Exceptional measures of limited duration which derogate from the provisions of Article 4 of this Agreement, may be taken for industrial products by any of the Parties in the form of increased customs duties.

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

3. Customs duties on imports applicable in the Party concerned to products originating in the other Party introduced in accordance with paragraphs 1 and 2 of this Article may not exceed 25 % ad valorem and shall maintain an element of preference in customs duties for products originating in the other Party. The total value of imports of the products which are subject to these measures may not exceed 15 % of total imports of industrial products from the other Party as defined in Chapter I of this Agreement, during the last year for which statistics are available.

4. These measures shall be applied for a period not exceeding the transitional period determined in paragraph 1 of Article 1 of this Agreement.

5. The Party concerned shall inform the other Party of any exceptional measures it intends to take and, at the request of the other Party, consultations shall be held immediately within the Joint Committee on such measures and the sectors to which they apply prior to their introduction. When taking such measures the Party concerned shall provide the Joint Committee with a schedule for the elimination of the customs duties introduced under this Article. This schedule shall provide for a phasing out of these duties starting at the latest two years after their introduction, at equal annual rates. The Joint Committee may decide on a different schedule.

Article 24

Re-export and serious shortage

Where compliance with the provisions of Articles 5 and 6 of this Agreement leads to:

- (a) re-export towards a third country against which the exporting Party maintains for the product concerned quantitative export restrictions, export duties or measures or charges having equivalent effect; or
- (b) a serious shortage, or threat thereof, of a product essential to the exporting Party;

and where the situations referred to above give rise or are likely to give rise to major difficulties for the exporting Party, that Party may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 26 of this Agreement.

Article 25

Fulfilment of obligations

1. The Parties shall take any measures required to fulfil their obligations under this Agreement. They shall ensure that the objectives set out in this Agreement are attained.

2. If a Party considers that the other Party has failed to fulfil an obligation under this Agreement, the Party concerned may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 26 of this Agreement.

Article 26

Procedure for the application of safeguard measures

1. Before initiating the procedure for the application of safeguard measures set out in the following paragraphs, the Parties shall endeavour to solve any differences between them through direct consultations.

2. In the event of a Party subjecting imports of products liable to give rise to the situation referred to in Article 22 of this Agreement to an administrative procedure having as its purpose the rapid provision of information on the trade flows, it shall inform the other Party.

3. Without prejudice to paragraph 7 of this Article, a Party which considers resorting to safeguard measures shall promptly notify the other Party thereof and supply all relevant information. Consultations between the Parties shall take place without delay within the Joint Committee with a view to finding a solution acceptable to the Parties.

4. (a) With regard to Articles 21, 22 and 24 of this Agreement, the Joint Committee shall examine the case or the situation and may take any decision needed to put an end to the difficulties notified by the Party concerned. In the case of the absence of such decision within thirty days of the matter being referred to the Joint Committee, the Party concerned may adopt the measures necessary in order to remedy the situation.
- (b) As regards Article 25 of this Agreement, the Party concerned may take appropriate measures after the consultations have been concluded or a period of three months has elapsed from the date of the notification to the other Party.
- (c) With regard to Articles 17 and 18 of this Agreement, the Party concerned shall give the Joint Committee all the assistance required in order to examine the case and, where appropriate, eliminate the practice objected to. If the Party in question fails to put an end to the practice objected to within the period fixed by the Joint Committee, or if the Joint Committee fails to reach an agreement within thirty working days of the matter being referred to it, the Party concerned may adopt the appropriate measures to deal with the difficulties resulting from the practice in question.

5. The safeguard measures taken shall be immediately notified to the other Party. They shall be limited with regard to their extent and to their duration to what is strictly necessary in order to rectify the situation giving rise to their application and shall not be in excess of the injury caused by the practice or the difficulty in question. Priority shall be given to such measures which will least disturb the functioning of this Agreement.

6. The safeguard measures taken shall be the subject of periodic consultations within the Joint Committee with a view to their relaxation as soon as possible, or abolition when conditions no longer justify their maintenance.

7. Where exceptional circumstances requiring immediate action make prior examination impossible, the Party concerned may, in the cases of Articles 21, 22 and 24 of this Agreement, apply forthwith the provisional measures strictly necessary to remedy the situation. The measures taken shall be notified without delay and consultations between the Parties shall take place as soon as possible within the Joint Committee.

Article 27

Balance of payments difficulties

1. The Parties shall endeavour to avoid the imposition of restrictive measures including measures relating to imports for balance of payments difficulties.

2. Where one of the Parties is in serious balance of payments difficulties, or under imminent threat thereof, the Party concerned may, in accordance with the conditions established under the GATT 1994 and the WTO, adopt restrictive measures, including measures related to imports, which shall be of limited duration and may not go beyond what is necessary to remedy the balance of payments situation. The measures shall be progressively relaxed as balance of payments conditions improve and they shall be eliminated when conditions no longer justify their maintenance. The Party concerned shall inform the other Party forthwith of their introduction and, whenever practicable, of a time schedule for their removal.

Article 28

Evolutionary clause

1. Where a Party considers that it would be useful in the interests of the economies of the Parties to develop and deepen the relations established by this Agreement by extending them to fields not covered thereby, it shall submit a reasoned request to the other Party. The Joint Committee may examine such request and, where appropriate, may make recommendations, particularly with a view to opening negotiations.

2. Agreements resulting from the procedure referred to in paragraph 1 of this Article will be subject to ratification by the Parties in accordance with their internal legislation.

Article 29

Joint Committee

1. A Joint Committee is hereby established and shall be composed of the representatives of the Parties.

2. The implementation of this Agreement shall be supervised and administered by the Joint Committee.

3. For the purpose of the proper implementation of this Agreement, the Parties shall exchange information and, at the request of a Party, shall hold consultations within the Joint Committee. The Joint Committee shall keep under review the possibility of further removal of the obstacles to trade between the Parties.

4. The Joint Committee may take decisions in the cases provided for in this Agreement. On other matters the Joint Committee may make recommendations.

Article 30

Procedures of the Joint Committee

1. For the proper implementation of this Agreement the Joint Committee shall meet whenever necessary but at least once a year. Each Party may request that a meeting be held.

2. The Joint Committee shall act by consensus.
3. If the representative of a Party in the Joint Committee has accepted, under reservation, a decision subject to the fulfilment of internal legal requirements, the decision shall enter into force, if no later date is contained therein, on the date of the receipt of a written notification as to the fulfilment of such requirements.
4. For the purpose of this Agreement the Joint Committee shall adopt its rules of procedure which shall inter alia contain provisions for conveying meeting and for the designation of the Chair person and his/her term of office.
5. The Joint Committee may decide to set up such subcommittees and working groups as it considers necessary to assist it in accomplishing its tasks.

Article 31

Services and investments

1. The Parties recognise the growing importance of certain areas, such as services and investments. In their efforts to gradually develop and broaden their co-operation, in particular in the context of the European integration, they will co-operate with the aim of achieving a progressive liberalisation and mutual opening of markets for investments and trade in services, taking into account relevant provisions of the General Agreement on Trade in Services.
2. The Parties shall examine within the Joint Committee the possibilities to extend their relations to the fields of foreign direct investment and trade in services by separate agreements.

Article 32

Customs unions, free trade areas and frontier trade

This Agreement shall not prevent the maintenance or establishment of customs unions, free trade areas or arrangements for frontier trade to the extent that these do not negatively affect the trade regime of the Parties and in particular the provisions concerning rules of origin provided for by this Agreement.

Article 33

Annexes, protocols and amendments

1. Record of understanding and Protocol 1 to this Agreement are an integral part of it. The Joint Committee may decide to amend them in accordance with the provisions of paragraph 3 of Article 30 of this Agreement.
2. Amendments to this Agreement other than those decided upon in accordance with paragraph 4 of Article 29 of this Agreement, and which are approved by the Joint Committee, shall be submitted to the other Party for acceptance and shall enter into force if accepted by both Parties.

Article 34

Entry into force

This Agreement shall enter into force on the first day of the month following the date when the Parties have notified each other through diplomatic channels that their respective internal requirements for the entry into force of this Agreement have been fulfilled.

Article 35
Provisional application

This Agreement shall be applied provisionally from 1 January 2002.

Article 36
Validity and denouncement

1. This Agreement is concluded for an indefinite period of time.
2. Each Party may denounce it through diplomatic channels by a written notification to the other Party. In such case the Agreement shall be terminated on the first day of the seventh month after the date on which the other Party received the notification.
3. The Parties agreed, that in case of accession of one of the Parties to the EU, the Agreement will be terminated without any compensations for the other Party, on the day before the date of the accession to the EU, and in accordance with the procedure laid down in paragraph 2 of this Article.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto, have signed this Agreement.

Done at Zenica this 3 day of October 2001 in two originals in English language.

For the Republic of Slovenia
Herzegovina

For Bosnia and

Tea Petrin, (s)

Azra Had_iahmetovi_, (s)

Record Of Understanding

1. Customs duties referred to in paragraph 2 of Article 4 of this Agreement concerning agricultural products include ad valorem and specific customs duties.
2. The Parties agreed that inclusion of charges having equivalent effect into customs duties referred to paragraph 3 of Article 4 of this Agreement shall not be regarded as an increase of customs duties.
3. The Parties agreed to conclude separate agreements on co-operation in the field of veterinary and phytosanitary matters within reasonable period of time.

4. In case of the termination of the Agreement by one of the Parties on the grounds of the accession to the EU referred to paragraph 3 of Article 36 of this Agreement the termination shall take effect one day before the date of the accession of the respective Party to the EU. The Parties understand that the Agreement shall be denounced at least six months before the date of the accession of the respective Party to the EU. The other Party shall renounce any compensation vis-à-vis the enlarged EU or vis-à-vis the Party withdrawing from the Agreement.