

# GENERAL AGREEMENT ON

## TARIFFS AND TRADE

RESTRICTED

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### ACCESSION OF SLOVENIA

#### Questions and Replies to the Memorandum on Foreign Trade Régime (L/7090)

##### Addendum

As foreshadowed in document L/7191, additional questions submitted by contracting parties in connection with the foreign trade régime of Slovenia and the replies thereto provided by the authorities of Slovenia are reproduced hereunder.

#### **I. CHARACTERISTICS OF SLOVENE ECONOMY**

##### **1.2. Restructuring of the Slovenian Economy**

###### **Question 1:**

What is the current status of the Law on privatization? Please give a brief description of its provisions, and a status report of efforts to privatize the Slovene economy.

###### **Reply:**

The law on Ownership transformation of Enterprises has been passed by the Parliament in December 1992. Its provisions are now being implemented.

Its main characteristics are:

- the law applies to all business entities with exception of public utilities and some enterprises engaged in similar activities defined by law, including gambling, enterprises owned by cooperatives; banks and insurance companies; enterprises under legal bankruptcy procedure and forestry enterprises; for all listed types of enterprises special laws apply;
- the transformation under this law is a process that ends when the "social Capital" gets its identifiable owner, be it a private physical or legal person, a fund, established in compliance with legal provisions, or in some exceptional cases the Government owned Development Fund;
- the law provides the ownership transformation to be completed with some exceptions in 18 months from the day the law entered into force i.e. by June 5, 1994; titles of enterprises that fail to comply with these provisions are then transferred to the Development fund by force of law;
- the responsibility to prepare and carry out the privatization programme within the above time limits rests with the enterprise;

- the prevailing method is a combination of free share distribution and payable privatization;
- all citizens of Slovenia, alive on the day of this law entering into force, have in principle equal right to participate at the free distribution of capital; adjustments are made for years of service; the right of free distribution can be materialized in the enterprise the citizen is employed in, or through special Investment Funds; issuing of "Ownership Certificates" in values from SIT 200,000 up to SIT 400,000 to individual citizens is foreseen;
- the legitimate and duly filed claims of previous owners to restitution of their confiscated property are safeguarded;
- the starting point of the transformation is the "Opening Balance" that each enterprise has to prepare and declare its "Social Capital", that is subject to ownership transformation;
- there are provisions in the law for a request to audit previous transactions of the socially owned enterprises in case that unlawful activities are suspected;
- the Agency for Privatization and Restructuring is the main supervisory body that monitor the transformation process from the legal point of view;
- the Development Fund administers the proceeds from sales of the socially owned enterprises and is under certain conditions also entitled to sell and enterprise.

The methods of ownership transformation among which the enterprise can choose are the following:

- Transfer of Shares to the Funds

The enterprise has to transfer 10% of its social capital to the Pension Fund, 10% to the Compensation Fund and 20% to the Development Fund for Special Investment Funds to be created later. In case that the transformation is executed by selling the company, than 40% of the proceeds have to be distributed as per above scheme.

- Internal distribution of shares

Up to 20% of shares can be freely distributed to the employees of the company.

- Internal Buy Out of Shares

Up to 40% of shares can be offered for sale to the employees and ex-employees of the enterprise. The sale has to be complete in four years time i.e. in five instalments of 20% of the value of the social capital, adjusted for inflation, on 25% discount.

- Sale of shares

Sale of shares can be executed by open bidding, public sale of shares or auction.

- Sale of Assets

The same methods as at sale of shares apply.

- Increase of Company's Capital

If the company's capital is increased by more than 30% the investor can acquire ownership rights in the process of ownership transformation.

- Transfer of Shares to the Development Fund

The enterprises may transfer any portion of shares not allocated according to above methods to the Development Fund.

**Question 2:**

L/7090 states that "total business results still predominantly depend on socially owned companies which have generated 78 percent of total income in the economy and employed 88 percent of work force".

Please describe any changes in these statistics since the publication of L/7090.

Reply:

Out of 16,140 operating enterprises at the end of June 1992, 78% were private, 16% socially-owned, 5% were of mixed ownership and 1% in cooperative ownership. The number of private companies more than doubled and their share in total economic activity more than tripled over the last two years and a half. Rapid expansion of the private sector has been accompanied by a decreasing role of the social sector, nevertheless is still remains the dominant sector of the economy. In the first half of 1992 it accounted for 74.1 of total revenue (income) (83.6% in 1990), 44.1% of total profits (75% in 1990), 90% of total losses (92.5% in 1990) and employed 85% of the work force (90.4% in 1990). Changes in ownership have been closely associated with the shift in the structure of enterprises by size. The lack of small and medium-sized has been greatly reduced; in 1991, the number of small enterprises (employing up to 50 workers) doubled over the number in 1990, amounting to 11,582 and employing 36,569 workers or 6.1% of the total work force. Small enterprises had a 13.3% share in total revenue, 6.1% in total loss and accounted for as much as 38% of total profit in the economy.

**Question 3:**

What is the legal and financial relationship between the Government of Slovenia and the "socially owned" companies? Please describe the responsibilities of the Government in selecting and directing management, covering capital and operating losses, meeting payrolls, and decision-making in purchases, sales, and distribution of profits.

Reply:

The "socially owned enterprises" are business entities where most of the ownership functions are suspended and replaced by rights of employees. By their status the Government has no possibility to influence their operations directly. It can however prescribe certain very general rules that these enterprises have to follow (e.g. limitation on wages, provisions on distribution of profits, etc). The management had been appointed by an elected "Worker's Council". This practice has been in most cases abolished and a management board has assumed Worker's Council's responsibilities. Nevertheless the Government has no direct influence on the enterprise operations, nor has it and obligation to cover its losses or guarantee payrolls. In some cases the enterprises have been transformed in joint stock companies or limited liability companies. Unless private owners from within the company or external investors have acquired ownership, most of the shares are in hands of other "socially owned" enterprises. In cases of most loss making companies the title has been transferred to the Government owned Development Fund which now exercise classical ownership rights and responsibilities. At present some 100 enterprises are owned by this fund.

Question 4:

Please list the major "socially owned" companies engaged in international trade and the products they trade. Do any of these firms have a de jure or de facto monopoly on the production and/or distribution of specific goods within Slovenia? If so, please describe the operations.

Reply:

It is not possible to list these firms as they are often at least partially private owned. Since liberalisation of the foreign trade in the beginning of 1990 the great majority of companies trade with all kinds of products without precise specialisation. The main chains of trading firms are "Emona", "Mercator", "Slovenijales", "Metalka".

None of the socially owned firms has a monopoly position on the market.

Question 5:

What portion of Slovenia's imports and exports to areas of the republics of the former Yugoslavia are accounted by "socially-owned" firms, by mixed firms, and by privately owned firms at the current time?

Reply:

Above required data are not available.

**Question 6:**

**Which Slovenian foreign trade organisations still dominate trade in major agricultural commodity groups?**

Reply:

Please find reply to the question 4.

**Question 7:**

**Is Slovenia prepared to apply the provisions of Article XVII of the GATT to these companies, including reporting requirements?**

Reply:

Slovenia does not have state trading enterprises as stipulated in Article XVII of the GATT. Although it is true that most of the companies are, in terms of capital, socially owned, their management is completely independent of the state in the decision-making and business operations as a whole, and function like any other privately owned company, the only difference being that they have no concrete owner to whom their management would be directly accountable. The state does not appoint the management or board of directors and is therefore not responsible for the company's business performance. Should these companies operate in the red, the law on bankruptcy would be applied, the same as is the case in the private sector.

As it is stipulated in reply to the question 17 in document L/7191 only the Directorate of National Reserves in its partial role as a state commercial enterprise has so far carried out business transactions in accordance with the provisions of Article XVII and will act accordingly in the future as well when its role within the framework of state reserves will be modified as stated above. As stated in the document L/7090, the role of the Directorate is basically to import, not directly, but on the basis of a public tender or invitations to bid. In this way, those importers are selected who submit the most favourable bid for the import in their own name and for the account of the Directorate. Thereby, the general principle of indiscriminatory treatment (para 1(a), Article XVII) is respected and such procurement is entirely in accordance with commercial considerations, including price, quality, availability, marketability, transport and other conditions of purchase, and the companies from all countries are given the appropriate chance to compete for participation in such purchases (para 1(b)(c) of Article XVII). With regard to paragraph 4 of Article XVII, there is no authorised monopoly in Slovenia for the importation of any product.

**Question 8:**

**This section of L/7090 also states that "the Slovene economy must be privatized within the next three years."**

Does this mean by the end of 1995? What percentage of employment and what percentage of GDP does the Government of Slovenia contemplate will remain in state or "socially owned" companies or industries at the end of this period? How much progress has there been to date in meeting this goal? Is Slovenia planning to privatize all agricultural state trading enterprises?

Reply:

By the law of ownership transformation all "socially owned" firms will have its identifiable owner by mid 1994. Some enterprises will still have as their owners state owned funds (pension funds, indemnity fund, and investment funds in process of privatization). In some cases the enterprises will be still owned by the Development fund.

The public utilities and infrastructure will remain for a certain period of time in ownership of the Government or the local communities.

The privatization process has started and will be in full swing by the end of this year. No estimate of the present situation could be given nor it is relevant.

All agricultural trading enterprises will be privatized under the law of ownership transformation.

Question 9:

Please describe in general terms the distinguishing ownership and operational characteristics of "mixed" firms when compared with private or "socially owned" companies.

Reply:

Most of the enterprises including the "socially owned" ones are organised as joint stock companies. There is no difference in operational characteristics of these firms. The different ownership structure is reflected in the shareholders assemblies and management boards of these enterprises.

### III. TRADE POLICY

#### 3.1. Foreign Exchange Regime and Exchange Rate Policy

Question 10:

Do any restrictions exist on the retention of foreign exchange by Slovenian firms?

Reply:

Total liberalisation has been introduced in the field of the foreign exchange system, since no foreign exchange restrictions are imposed on economic subjects with regard to payment transfer abroad, and

foreign currency can be freely purchased and sold on the foreign exchange market, and there is no prescribed obligation for repatriation sources from current transactions. If claims from such transactions are not paid within one year period, the entity is obliged to register such claims as credit arrangement.

A permit is necessary for export of capital abroad; there are, however, at present no special restrictions with regard to the issuing of the same. The permits have to be issued for the purpose of controlling the export of capital.

**Question 11:**

**What are Slovenia's plans concerning the remaining "trade clearing arrangements" with former CMEA countries? Will these be allowed lapse, or will they be continued?**

**Reply:**

Slovenia has no clearing payment arrangements with any of former CMEA countries. To the Trade Agreement between Slovenia and Russian Federation is attached indicative list of goods which will be traded. But even those list is not obligatory and trade flows are paid by convertible currency.

Only in Agreement on Payments between Slovenia and Macedonia as one of possible ways of payments, beside convertible payment, through clearing account opened by one commercial bank in Slovenia and by Central bank of Macedonia. But provision was not implemented, because there is no real interest on carrying out payments by such way.

**3.2. Instruments of Foreign Trade Regulations and Basic Legal Provisions**

**3.2.1. Law on Foreign Trade Transactions**

**Question 12**

**Are all laws, regulations, requirements, decrees, etc., affecting trade published prior to implementation and in a manner allowing traders to be aware of them? Where does Slovenia publish such information's? Where can importers and exporters go to determines which products are under quota, licensing, or some other form of Government restriction?**

**Reply:**

All laws, regulations, requirements, decrees, etc., affecting trade are officially published in Official Gazette of the Republic of Slovenia, which is available to anyone. Slovenia does not publish "secret" Official Gazettes. Economic entities can became all information on products under quotas, licensing and other forms of Government restrictions in the published and edited Official Gazettes and in regular publications of the Chamber of Economy of the Republic of Slovenia.

Question 13:

Please describe more fully the specific restrictions that current exist on or firms in Slovenia who wish to engage in foreign trade. In particular:

Do these requirements apply to private or foreign-owned firms as well as to state-owned or mixed firms?

Reply:

Slovene legislation, for example in the field of foreign trade transactions, is on equal footing applied to companies established in Slovenia by foreigners (with the exception of representative offices of foreign companies, which have more beneficial conditions as representative offices of domestic companies - duty free provisional import of equipment) as well as to private, state-owned and mixed firms.

Question 14:

Please describe the process of registration with "the appointed Court" that is required to engage in trade.

Why is such registration necessary? Is there a fee or charge for the registration and what criteria must a firm meet in order to register? Must the registration be periodically renewed, and if so, based on what criteria?

Please describe how a firm or person not previously engaged international trade would go about meeting the definitional and registration requirements described in this section.

What barriers exist to the development of an act of establishment or association for a company?

Reply:

As the new law on foreign trade operations was passed and has been in force since 27 March 1993, we think that only the answers concerning the new law are relevant.

According to this law a special foreign trade registration is no longer necessary for performance of foreign trade operations.

Question 15:

Please describe provisions of the Law on Foreign Trade Transaction or other existing legislation or regulations that restrict import e.g., licensing restrictions, quotas, sanitary or phytosanitary requirements. If these restrictions include quantitative restrictions, please indicate on what basis these restrictions can be justified under GATT Articles. Please include farm products that are highly restricted or outright banned from entry into Slovenia for animal or plant health reasons.



Reply:

As specified in the document L/7090 (page 25) certain goods which undergo control according to international conventions are subject to a permit regime: drugs, arms, precious metals, works of art and items of historical value.

For the import of seed and animals for breeding, and for use by the veterinary service or in vegetation protection, consent from the Ministry of Agriculture and Forestry is required. In this respect the good must not be harmful and must reach determined quality levels.

The Ministry of Agriculture and Forestry issue consents on the basis of the:

- Law on Standardization (Official Gazette SFRY 80/91);
- Law on Protection of Plants against diseases and pests, which are threatening the whole country (Official Gazette SFRY 74/89);
- Law on Quality Control of Agricultural Products and Food in Foreign Trade Exchange (Official Gazette 28/75, 70/78, 54/86, 30/91);

and other regulations based on above laws. All these regulations are officially published in Official Gazette. All these restriction or requirements and their application are fully consistent with and justified under GATT Articles XX and XXI.

The quota regime determines primarily those agricultural products which are not protected by special variable duties in the import of agricultural produce such as those applicable in countries trading with Slovenia.

Since textile agreements have not been signed with the countries from which we import textiles, the import of certain textile products will be regulated by quantity quotas until such agreements are signed. The list of products under quantity quotas regime is attached to the document L/7191.

Quantity Quotas for some agricultural and textile products means for Slovenia in this period of transition from non-market to market economy, an instrument for managing and preserving the use of economic factors through less painful restructuring. According to the needs of sensible management of the painful transition, Slovenia and Slovenian Agriculture sector is in such a difficult situation that need some time to comply fully with the requirements of the Article XI regarding some agriculture products.

**Question 16:**

Concerning the "special forms of transactions in foreign trade" provided for long-term industrial cooperation agreements and transactions conducted under a barter agreement:

- What are these "special forms?"
- Please list such agreements currently in force and the partner countries or entities covered by them.
- Do these agreements specify quantities of trade to be conducted? If so, how are these agreements enforced, i.e., how does the Government of Slovenia intervals to ensure that these agreements are fulfilled?
- The law, as quoted in this section, seems to imply that imports and exports generated by such agreements must balance. Is this an accurate understanding? Does this provision remain in force and would it be applicable to private or foreign-owned firms engaged in such agreements as well as to state-owned and mixed firms? Does Slovenia contemplate including such provisions in the new Foreign Trade Law under development?
- Approximately what portion of Slovenia's imports are likely be subject to the special regime for such agreements?

Please indicate how the selective issuance of "consent to imports by the Ministry for Foreign Affairs for contracts on long terms production cooperation can be consistent with the provisions of GATT Articles XI and XIII?

Reply:

Law on Foreign Trade valid since March 27, 1993 stipulates as "special forms of transactions in foreign trade" the following: long-term production cooperations, leasing of equipment, border trade - namely with Italy in accordance with provisions of the paragraph 3 Article XXIV of GATT; and selling goods from duty-free shops.

A long-term production cooperation, as one of higher forms of economic cooperation of the domestic companies with foreign companies, has been transferred from the former Yugoslav Law on Foreign Trade Transaction and also included in the new Slovenian Law on Foreign Trade as a special form of foreign trade transactions, in which the value of imports is balanced with the value of exports in the scope of import and export specifications which are an integral part of contracts on long-term production cooperation. Such contracts involve a contractual relationship by which economic entities enhance the realisation of intensive, long-term engagement in the international trade (specialisation, economics of scale), on an equal footing, along with the introduction of modern technology, production specialisation, selective encouragement of exports, rational substitution of imports, creating new jobs, winning new markets, rational exploitation of domestic raw materials and contractual agreed goals.

The main reason why such contracts between economic entities have been included in the ex-Yugoslav Law was scarcity of hard currencies and foreign exchange restrictions in the former Yugoslavia. Namely, registered and approved contracts have had free access to unrestricted "counter trade" - payments through special current accounts between contractual partners, where 40% annual balance has been allowed.

Foreign exchange restrictions are now in Slovenia unnecessary and from this respect there is no reason any more for regulation of such contracts. On other hand Slovenian companies are interested for such regulation, because of the fact that companies do not have sufficient working capital, which is on domestic market very expensive (17 - 30% interest rates in real terms), trade is, in the frame of these contracts, mostly financed on a short-term basis. It should be stressed that no specific measures exist to equalise the value of imports and the value of effected exports beside the provision that 40 % annual balance on special current account is allowed. This obligation companies can fulfil by imports and/or exports of goods or by convertible payments. The purpose of the approved specifications for each contract on long-term production cooperation (specifications of products are supplements which constitute integral part of a contract) is that only products listed therein could be paid through cited special current account opened for each contract. Payments for same products and other transactions between contractual partners can be also freely made by convertible currencies.

All above is applied equally on all in Slovenia established firms regardless their ownership. In 1992, approximately 21% of Slovenia's imports was carried out through mentioned way of payment, which is completely independently agreed between economic entities. A consent to imports by Ministry for Economic Relations and Development is needed only in case, when the goods imported within such contract are on quota regime, the case very rare since liberalization. Concerning the consistency with the GATT Articles XI and XIII please refer to the document L/7191 replies to the questions 23 and 24.

**Question 17:**

Are imports from the free and customs zones into the customs territory of Slovenia subject to the same taxes, customs charges and formalities, and other restrictions applied to imports from other countries directly?

Reply:

Yes, imports from the free and customs zones into the customs territory of Slovenia are subject to the same import duties as imports of goods from abroad. All other limitations in the import of goods are equally applied.

**Question 18:**

When will the new Law of Foreign Trade replace the temporarily adopted ex-Yugoslav law? Please outline the provisions of the new law with special emphasis in restrictions on imports.

Reply:

No restrictions for the exports of goods are imposed by the new law itself, it authorises, however, the Government of the Republic of Slovenia to restrict the import of goods by introducing by-laws imposing quotas or permits for individual items. At the moment the quotas are fixed in Slovenia only for certain agricultural and textile items (see the Annex to the document L/7191) and the protection will not be extended beyond the quotas to other fields or respectively, goods. Exports and import licences are obligatory mainly for works of art (creations) and works of historical importance, some precious metals, arms and military equipment, narcotics and products for which the trade control is imposed by international treaties.

**Question 19:**

**Please specify more concretely the tax refunds and return of customs duties and other charges that are currently provided for Slovene law and that will be provided for in the new foreign trade law. Are direct as well as indirect taxes be refunded? Are customs duties refunds also allowed on imports used in the production of the exported goods but not directly incorporated in the export, e.g., capital goods?**

Reply:

The law on foreign trade operations merely stipulates which instruments and mechanisms may be used by the Government to encourage exports of goods and services.

The companies are exempted from payment of indirect taxes (sales tax) for exported products. The same applies to the imported goods intended for further production. In 1993, on the basis of new law the reimbursement of customs duties is cancelled.

**Question 20:**

**Regarding standards applied to imports. Please clarify how standards and certification requirements are applied to imports. This section refers to the application of such measures to temporary imports under the current law, and implies that "clearer and more concise legislation in the field of standardisation, tests, and technical and quality standards" are required in the future.**

Reply:

Certain items used in Slovene market are to comply with the prescribed standards and norms (this obligation has been imposed by the law on standardisation and the ensuing prescriptions).

This applies also to the products imported to be used on the Slovene market (this is an obligation imposed by the law on foreign trade operations). Goods imported on a temporary basis to be processed,

touched up or treated do not have to comply with the related standards provided they do not endanger human life, health and environment.

On accession to independence, Slovenia retained the previous Yugoslav standardisation law. Now the draft of a new standardisation law is under elaboration and is expected to be adopted by the end of 1993. It will thoroughly regulate this area which means that it will impose the obligation of complying with the relevant standards, if available, for both domestically produced and imported product's.

**Question 21:**

In what way does the current foreign trade law apply a different set of standards and certification requirements to imports than to domestic goods?

Reply:

Article 16 of the Law on Foreign Trade, which entering into force on March 27, 1993 (Off. Gazette of RS No 13/93), stipulate that imported goods are to comply with valid standards and certification requirements, which are applied to domestic goods.

**Question 22:**

The GATT Agreement on Technical Barriers to Trade (TBT) requires, inter alia, that Parties notify proposed regulation to other Code signatories, allow for comments from interest Parties, take these comments into account when formulating final regulations and allow an adequate amount of time between publication of a final regulation and its entry into force. Does Slovenia intend to notify other GATT TBT Code signatories of the planned new regulations resulting from new legislation on standards-related measures as referred to in this section.

Reply:

Yes, Slovenia has intention to become Party to the GATT Agreement on Technical Barriers to Trade as soon as possible within the procedure of accession to the GATT.

Then Slovenia will respect its obligations including notification and consultation.

**Question 23:**

Regarding the Acquisition and Assignment of Rights to Industrial Property:

This section states that in the case of contracts concluded between domestic organisations and foreign parties, Slovenia law provides that "the domestic organisation (shall not be obliged) to pay compensation for the use of patent and know-how after the expiry of the contract."

Does this mean that domestic organisations can use patents and know-how without reference to the intellectual property rights of the foreign owner after the expiry of the contract, or does the foreign party retain control over these rights?

This section states that contracts for the acquisition and assignment of intellectual property are checked by the Ministry for Foreign Affairs for compliance with the Law. What requirements, other than those stipulated in this section are reviewed by the Ministry for Foreign Affairs?

Reply:

Above stated questions are no more relevant, because Slovenian Parliament passed the new Law on Foreign Trade, published in Official Gazette 13/93 on March 12, 1993, declares null and void previously applicable (former) Yugoslav Law on Foreign Trade (Off. Gazette of SFRJ No 63/89) which contained provisions on licensing and know-how contracts and approval procedure for them. There is no more any approval procedure and it is left to contracting parties to agree upon the use of patents, know-how, e.t.c., after the expiration of the agreement.

### 3.2. Instruments of Foreign Trade Resolutions and Basic Legal Provisions

#### 3.2.2. Tariff and Customs system--Customs system

Question 24:

Is valuation for customs purposes determined on this basis of the transaction value of imports, or does the Government of Slovenia also rely on price lists or other criteria for this purpose? If so, please specify the methods other than transaction value that are employed, ranked by order of use. Does Slovenia use reference prices to ensure a minimum import value for certain goods? If so please list these goods and explain the purpose and operation of the mechanism.

Reply:

In its customs valuation of goods the Republic of Slovenia complies with the GATT by applying Article VI, which prescribes in detail the manner in which the customs tariff is determined.

The customs value of goods or "customs tariff" is determined according to the following principles:

1. The import customs value of goods is the agreed (transaction) value of goods, that is the price actually paid, or in other words the prices to be paid on account of import into the Republic of Slovenia. As a rule it is the value specified in the invoice, providing that it complies with the principles listed in the following point. The foreign currency in which the invoice is made out is translated into domestic currency according to the exchange rate applicable on the day on which customs duties become payable.

2. The term "agreed price":
  - incorporates all costs and other expenses related to the sale and purchase of goods before the Slovenian customs line. These include costs related to transport, insurance, packing, agents commission, loading and reloading, proportionate shares of the value of raw materials, semi-manufactures and parts purchased abroad, proportionate shares of the value of other goods, models, tools, master copies. etc. supplied to the buyer free of charge or at reduced prices and used in the manufacture of imported goods, compensations and costs related to rights deriving from the use of patents, prototypes, trademarks, etc. (unless the goods are imported with a right to reproduction), shares in the resale, transfer or use of imported goods payable to the seller, and proportionate shares of the value of services performed abroad which are paid separately by the buyer and which are necessary for the production (however, this does not include costs of research carried out abroad);
  - excludes all expenses, taxes and duties levied in the customs territory of the Republic of Slovenia;
  - means that there are no restrictions on the use of goods which would strongly affect their prices;
  - means that a contract on the purchase of goods does not contain conditions or liabilities the value of which cannot be determined from the value of goods under customs duties;
  - means that the seller will enjoy no further direct or indirect benefit from resale;
  - means that previous communication between the buyer and the seller has not affected the agreed price of the goods, or that such communication is non-existent.
3. The customs value of imported goods is the invoice value of goods, franco the Slovenian border;
4. If the customs value of imported goods cannot be established in accordance with Points 1 and 2, it is represented by the agreed price of goods of one type for which it is necessary to pay for import into Slovenia at the exact or approximate time of import of goods for which the customs value cannot be established.

If the customs value of goods cannot be established in this way either, the agreed price of similar goods for which it is necessary to pay for import into Slovenia is taken into consideration at the exact or approximate time of import of goods for which the customs value cannot be established.

In the procedures outlined in paragraphs 1 and 2 above, the manner of purchase is also taken into consideration (retail sale, wholesale) as well as the quantity of goods, if these factors affect or could affect the price of the goods;

If the procedures of this point establish more than one agreed price, the lowest will apply.

5. If, in accordance with Point 4. the customs value of goods still cannot be established, it is calculated on the basis of the price per measurement unit at which goods of one type or similar goods are sold to entities or individuals in the Republic of Slovenia who are independent from one another; here the quantity and time at which the goods are imported into the Republic of Slovenia are considered. This domestic price is decreased by the normal commission, sales costs etc., normal transport and insurance costs and the customs, import taxes and duties levied in the sale of goods in Slovenia.

If this procedure cannot be carried out either, the customs value is established on the basis of calculated value. The calculated value corresponds to the amount of the value of material and costs incurred in the manufacture of imported goods, normal profits made on imports of goods of one type or similar goods into Slovenia and other costs incorporated in the customs value. The payer of customs duty may require that the customs value of goods be determined irrespective of the order of individual rules.

6. If the customs value cannot be determined on the basis of any of the above rules, it may be established in another appropriate manner, based on available data and the following restrictions:
  - the customs value may not be determined on the basis of the price of domestic goods of one type sold in the home market,
  - the customs value may not be determined on the basis of the price of goods of one type in the market of the exporting country,
  - the customs value may not be determined on the basis of production costs, except normal transport, insurance and other costs incurred in Slovenia (see: Point 5),
  - the customs value may not be determined on the basis of the price of goods exported to a third country,
  - the customs value may not be determined on the basis of arbitrary or fictitious values;
7. Other rules of customs valuation;
  - when several types of goods for which customs duties are levied according to different customs rates are imported in a single shipment, costs related to their sale, transport, insurance and supply relevant to customs valuation are distributed among individual types of goods according to the value of individual types of goods;
  - interest on credit and costs of taking out credit relating to the payment of imported goods are not included in the customs value, when the financial agreement is made out in writing, when the interest is separated from the price actually paid or when the buyer is able to prove that the price paid or to be paid corresponds to the price actually paid for goods of one type or similar goods purchased without a financial agreement, and that the interest rate is within the rate limits for such transactions in the country which has granted the credit;



- all price discounts agreed upon or determined before the import are exempt from the customs tariff, which also applies to any costs related to assembly in Slovenia;
- the methods described under Points 1 - 6 also apply to the customs valuation of goods imported without any payment of compensation and for used goods. In the latter case the customs value is decreased by the percentage depreciation of goods;
- the customs value of goods damaged before or during customs procedures is decreased by the percentage of damage which is determined by the customs office.

**Question 25:**

Which agency of the Government of Slovenia makes determinations of customs valuation? Please describe the process by which an importer may dispute the valuation as determined by this agency. How do importer appeal valuation and classification decisions of the Slovenian customs service?

Reply:

The customs value of concrete goods is determined by the customs office at the time of import of concrete goods based on the provisions of the customs law and the decree issued on the basis of the law. A complaint relating to the classification of goods and customs valuation may be submitted by the importer at the customs office at which the customs procedure was carried out, while the matter is decided upon by the Republic Customs Administration. Complaints procedures run according to the general regulation on complaints in administrative procedure.

**3.2.2. Tariff and Customs System--Customs tariff and rates**

**Question 26:**

Has Slovenia provided a current copy of its customs tariff for the review of the Contracting Parties and trade data concorded to it for a recent representative period, by tariff item, by supplier country?

Reply:

Slovenian customs tariff is still the identical as customs tariff of the former SFRY and is available in the GATT Secretariat for the review of the Contracting Parties. Slovenia is preparing requested information on trade data and will be available before bilateral negotiations on tariff concessions for establishing Slovenian Schedule.

Concerning the average level and distribution of Slovenia's tariff rates:

**Question 27:**

What portion of Slovenia's total imports are currently subject to preferential tariff rates, i.e., non-MFN tariffs, under various free trade agreements and other preferences? Are there any product sectors of Slovenia's trade schedule which are exempted from such preferences?

Reply:

The share of import in 1992, which was subject to:

- preferential tariff rates is amounted to 0,14 %;
- non-MFN tariffs is amounted to 0,36%;
- free trade agreement under FTA between Republic of Slovenia and Republic of Macedonia is amounted to 1,2% (At the moment the exact figures of Slovenian export and export are not available, because Slovene authorities started to follow trade with Macedonia, separately from the rest of the republics of former Yugoslavia, in the middle of 1992).

**Question 28:**

In a recent representative period, what percentage of non-preferential import trade entered at rates of duty of 5 percent or less, at 10 percent or less, at 15 percent or less, at 20 percent or less, and at 25 percent or less?

Reply:

Percentage of non-preferential import that enter in Slovenia at rates of duty:

- 5% or less is amounted to 30.5;
- from 6% up to 10% is amounted to 18.8;
- from 11% up to 15% is amounted to 24.2;
- from 16% up to 20% is amounted to 13.9;
- from 21% up to 25% is amounted to 4.3;
- higher than 25% is amounted to 0.0.

**Question 29:**

What is Slovenia's current average trade weighted tariff as applied to MFN trade?

Reply:

Average trade weighted tariff as applied to MFN trade is amounted to 13.76%. Taking into consideration all reliefs and exemptions average collected rate in 1992 was 4.8% and/or 6.2% (excluding the states on the territory of former Yugoslavia, because of different structure of import).

**Question 30:**

What authority does the Slovenian Government have to administratively alter tariff levels or to apply import or export surcharge without recourse to legislative approval? In what Ministry or Ministries would such authority be wasted?

Reply:

The Government of Slovenia has no legal basis for increasing tariff levels and/or rates. Tariff rates are a constituent part of The Law on Customs Tariff, which can be changed by Parliament. On the basis of that law the Government can temporary decrease tariff rates for certain goods through customs quotas, which are used at the moment. Government can only impose or change import duty in the form of equalisation tax on the basis of the Law on application of special equalisation tax on imported goods (Official Gazette of SFR Yugoslavia No 63/80), which was taken over by the Republic of Slovenia. On the basis of the Law on special import levies on imports of agricultural products and foodstuffs (Official Gazette of SFR Yugoslavia No 70/89), which was also taken over, Government of Slovenia can also stipulate the products on which special import levy shall be paid in the amount of difference between guaranteed domestic price and import entry price.

**Question 31:**

Please indicate approximately what percentage of MFN tariff lines have import tariffs of 5 percent or below, 5-10 percent, 10-15 percent, 15-20 percent, and 20-25 percent. Does Slovenia apply tariffs above the level of 25 percent ad valorem?

Reply:

Percentage of MFN tariff lines that have import tariffs:

- 5% or less, is amounted to 29.5;
- from 6% up to 10%, is amounted to 18.8;
- from 11% up to 15%, is amounted to 30.8;
- from 16% up to 20%, is amounted to 16.3;
- from 21% up to 25%, is amounted to 4.4.

Slovenia does not apply tariffs above the level of 25 percent ad valorem.

**3.2.2. Tariff and Customs System--Non-customs taxes**

**Question 32:**

Please explain the purpose of the 1 percent customs formality tax and how the revenues from this tax are used. How is a flat-rate valorem customs charge of this sort consistent with Article VIII the GATT? If the tax is an "equalisation" tax, please specify the taxes on domestic products that it is designed to balance.

Reply:

The purpose of customs formality tax is to refund costs for customs clearance and is not of an equalisation nature. It is one of Slovene non-customs taxes (surcharges) which Slovenia inherited from ex-Yugoslavia.

Slovenia is aware that this tax is not in compliance with the provisions of Articles VIII of the GATT. It is therefore believed that this tax would be tariffed within Slovenian Schedule annexed to its Protocol of accession.

**Question 33:**

Please indicate how the 7.5 percent tax on imported alcoholic beverages and tobacco products is consistent with Article III of the GATT? What are Slovenia's plans for the elimination of this discriminatory import tax or its extension on an equal basis to similar domestic products?

Reply:

The 7.5 percent tax on imported alcoholic beverages and tobacco product is not of the nature of internal tax in the sense of Article III of the GATT. It is one of three, from ex-Yugoslavia inherited, but in general reduced, import surcharges. Because of pure fiscal reasons the Government of Slovenia in 1993 increased the percentage of this tax on amount of 15 percent and extended the tax also on import of used cars. In the future the import of alcohol and cigarettes will be regulated by higher customs duties, because at the moment the customs duty levied on imported alcohol and cigarettes is only 10% to 25%, which is very low compared to other countries which levy up to 90% customs duty on such imports.

**Question 34:**

Please elaborate on the reason for application of the 8.5 percent "equalisation tax balancing the tax charges on imported goods". Please list the domestic taxes it is designed to balance and the levels at which they are applied to domestically produced goods. Are all of these taxes applied equally to imports from other countries subject to preferential tariff regimes, e.g., duty-free imports from other republics of the former Yugoslavia or the EC?

If not, please list countries exempted from these taxes.

Reply:

The equalisation tax on imported goods was introduced already in the former Yugoslavia, mainly for fiscal purposes and is applied also in order to equalise the indirect taxes apply to domestic goods in comparison with the like imported goods. Domestic goods are indirectly charged with tax on corporate income and with obligatory contributions

which companies must pay for Social Insurance, Unemployment Fund and Pension Fund. Such indirect taxation of domestic goods on the average exceeds by far comparable taxation applied on imported goods. The Government of the Republic of Slovenia has already reduced this tax from 8.5 % to 1% and will completely abolish it on the adoption of the new customs tariff in the sense of tariffication.

All of these taxes are applied equally to imports from all countries. Slovenia doesn't apply customs duty and other import surcharges, except 1% customs formality tax for customs clearance, only on imported goods originated in Republic of Macedonia with which Slovenia signed Free Trade Agreement and on imported goods from Republic of Bosnia and Herzegovina, with which the draft of such agreement exist.

According to the sales tax legislation in force, the same tax rates apply for domestic and imported products. Slovenia has four internal tax rates: 5%, 10%, 20% (general rate) and 32% for products, and 0.1 %, 3 %, 5 % (general rate) and 20 % for services.

**Question 35:**

What plans does Slovenia have to regularize the application of its domestic taxes to imports and to bring its taxes on imports into conformity with Articles III and VIII of the GATT.

Reply:

It is believed that those surcharges would be tariffed within Slovenian Schedule annexed to its Protocol of accession.

**Question 36:**

This section states that export duties were introduced as a temporary measure for certain raw materials and metal wastes. Later in L/7090, however (section 3.7, paragraph 1), it is stated clearly that "exports are not taxed." How can these statements be reconciled? Has a date been set for the repeal of the "temporary export duties?"

Reply:

Slovenia as a temporary measure introduced export duty in the amount stated in document L/7090. The measure is in conformity with the provision of Article XX, paragraph (g) and (i) of the GATT. These information (in L/7090) is not contrary to the fact that the exports are not taxed with sales tax. In the Decree on introduction of export duty the date of expiration is not set but it is clearly stated that measure is temporary during period when domestic prices are below the world prices.

**3.2. Instruments of Foreign Trade Regulations and Basic Legal Provisions**

**3.2.3. Other Non-Tariff Measures**

**Question 37:**

Please list, by tariff line, the 355 imported goods subject to quantity quotas and regime permits. Please specify import supplying countries whose trade is exempt from these restrictions and the criteria for issuing licenses and permits. How are quota allocated in practices?

**Reply:**

Good which are subject to quantity quotas are listed in Annex 1 to document L/7191.

The Republic of Macedonia is exempt from these restrictions, because of the concluded agreement between Republic of Slovenia and Republic of Macedonia on economic cooperation, content of which is in fact the establishment of a free trade area. In addition, quotas are applied on all import of specified product regardless country of origin, without any discrimination, except from countries on the territory of former Yugoslavia, with which Slovenia is striving to arrange a free-trade zone.

Import permits are not intended as a restriction, but as control measure, which means that the appropriate government body issues permits without quantity consideration.

The import quotas are allocated, within the framework of the Chamber of Economy of Slovenia, to the companies - importer or user- and private companies according to mutual agreement within 30 days following the issue of quota regulations. Companies established in Slovenia by foreigners (with the exception of representative offices of foreign companies, which are not legal entities) have the same rights as domestic companies, i.e. they can be members of the chamber of Economy of Slovenia, and can as such participate in the allocation of quotas on an equal footing.

**Question 38:**

Which Ministry or Ministries are responsible for administering these measures? Does Slovenia intend to eliminate those restrictions that are not consistent with GATT provisions? If so, is there a time-table for this elimination?

**Reply:**

The import quotas are determined by the Government of the Republic of Slovenia, upon proposal prepared by the Ministry of Economic Affairs and Development on the basis of previously acquired opinion of the Chamber of Economy of the Republic of Slovenia. Before the public bid for allocation of quotas, the amount of quota, determined by the Government, is published.

The applicable quotas are consistent with Article XIII of the GATT because they apply to imports from all countries, except from countries on the territory of former Yugoslavia, with which Slovenia is striving to arrange a free-trade zone.

Import licensing are applied only for goods which are under international conventions subject to special control of states. Ministry of the Interior is issuing permits for import of arms and ammunition, Ministry of Health for import of pharmaceutical products containing drugs chemicals harmful to the ozone layer, Ministry of Economic Affairs and Development for import of precious metals and Ministry of Culture for export antiques. Defence and cultural policies are taken into consideration in the import of arms and export of antiques.

### 3.3. Preferential Treatment

Concerning Slovenia's preferential tariff and tax system for imports from the republics of the former Yugoslavia:

#### Question 39:

Please describe the status of free trade or other agreements or arrangements that affect the application of customs measures on trade with these entities. With which of these entities is trade currently conducted on a preferential basis vis-a-vis normal MFN treatment?

Please describe the terms of the preferential treatment.

#### Reply:

As stated in the document L/7090 (page 26), the Republic of Slovenia signed, in the beginning of 1992, an agreement on economic cooperation with the Republic of Croatia and the Republic of Macedonia, the contents of which are practically identical. Following the reciprocal ratification of the agreement on economic cooperation between the Republic of Slovenia and the Republic of Macedonia, the said agreement entered into force at the end of May 1992. A similar agreement, concluded with the Republic of Croatia, was ratified by the Parliament of the Republic of Slovenia, but did not enter into force since the Parliament of the Republic of Croatia refused its ratification. Furthermore, the Republic of Croatia lifted, on 1 June, preferential treatment of the goods originating in the Republic of Slovenia and imposed import levies amounting to 22.5%, based on the MFN clause. Following unsuccessful negotiations on 1 November 1992, the Republic of Slovenia also introduced the same treatment which is valid for third countries, i.e. MFN treatment in the import of goods originating in the Republic of Croatia.

It was agreed with the Government of the Republic of Croatia that a new draft of the agreement on economic cooperation would be prepared.

The major points of the agreement with the Republic of Macedonia now in force are as follows:

1. Establishment of the free trade area pursuant to article XXIV of the GATT, namely:
  - lifting (prohibiting the imposition of) duties and import levies for all industrial and agricultural products according to Harmonised Commodity Description and Coding System (HS) with the exception of 1% customs formality tax;
  - lifting (prohibiting the imposition of) trade quotas;
  - free movement of services, capital, and movement and employment of key personnel of legal entities;
  - prohibition of dumping and subsidising;
  - rules for establishing the origin of goods.
2. Re-registration of banks and insurance companies of the contracting parties as foreign or mixed ownership companies according to the principle of reciprocity.
3. Free establishment and operation of companies of the other contracting party on the principle of reciprocity.
4. Reciprocal possibility to use the assets of the legal entities other contracting party as the assets for establishing of companies and transfer of shareholders' capital.
5. Ensuring national treatment in reference to the assets of legal and physical entities of the other contracting party.
6. Main provisions for separate agreements on employment and social insurance, payment operations, transport and telecommunications.

**Question 40:**

Are imports from the former Yugoslav republics exempt from the "equalisation tax" of 8.5 percent and "special import tax" of 7.5 percent applied to imports from other countries? If so, how is this consistent with the provisions of Article III of the GATT? Please list all domestic taxes not applied to such imports that would normally be assessed.

**Reply:**

Only goods originating from the Republic of Macedonia are exempt from the equalisation tax and special import tax on the basis of concluded agreement between Republic of Slovenia and the Republic of Macedonia on economic cooperation, which established free trade area between both states. All domestic taxes are applied also on imports from the former Yugoslav republics. Imports regardless of the origin after passing customs clearance enjoy "national treatment".



**Question 41:**

What is the relationship between the "administrative tax" applied to imports from the republics of the former Yugoslavia and the "customs formality tax" applied to imports generally.

Reply:

The administrative tax and customs formality tax are the same taxes, only different translated.

**Question 42:**

What rules of origin, if any, does Slovenia apply in determining whether a good imported from another republic of the former Yugoslavia is entitled to the exemption from customs duties, taxes, and other restrictions.

Reply:

The two fundamental rules applied in the determination of origin of goods imported from republic of the former Yugoslavia are:

1. that the goods were manufactured in the export country entirely;
2. that the value of good manufactured in the export country was increased by 51% in that country. This rule, however, does not apply to an increase in the value of goods resulting from sorting, measurements, labelling, packaging, equalising, assembly, disassembling, sampling, etc.

In the import of combined machines, apparatuses, etc. from section XVI, XVII and XVIII of the harmonised tariffs, combined in such a way that they represent integral units, or of multifunctional machines whose component parts have been manufactured in various countries, their origin is considered to be that country where the component part was manufactured which gives a machine its characteristics features and the value of which amounts to a minimum of 51% of the value of the imported machine. Slovenian Customs authorities requests Certificate of origin issued by competent authority in the exporting country as the base for the preferential treatment.

**Question 43:**

Please elaborate on how Article XXIV:11 can apply to any part of the former Yugoslavia since its terms are restricted to India and Pakistan?

Reply:

Slovenia will agree to hold consultations under the GATT Article XXIV as soon as it becomes a party to the GATT, although it considers that, in this particular case, it is possible to use the provisions under Article XXIV, in the spirit of the paragraph 11.

**Question 44:**

What is the current status of these free trade arrangements? Will Slovenia submit these free trade arrangements to review by working parties under GATT Article XXIV? Will Slovenia offer for GATT review under Article XXIV any "unilaterally declared" free trade agreements?

**Reply:**

Slovenia has not yet been a party to the GATT, therefore no legal basis existed so far for notifying any of the adopted measures of economic and trade policies. It has nevertheless tried, on adopting measures and implementing of trade policy to respect as strictly as possible the basic rules set out within the framework of the GATT system. In this particular case, Slovenia is of the opinion that consultations about the agreements on establishing free trade areas between the countries which are not parties to the GATT e.g. Slovenia and Macedonia, should not be held within the framework of the GATT. However Slovenia will agree to hold consultations under the GATT Article XXIV as soon as it becomes a party to the GATT.

**Concerning other countries and entities, other than the other republics of the former Yugoslavia, with which Slovenia has preferential trade relationships:**

**Question 45:**

Please list them and describe the terms of this trade treatment for both exports and imports.

Other than the preferences extended to former Yugoslav Republics, does the Republic of Slovenia provide special (non-MFN) tariff preferences, such as GSP, to any other nation?

**Reply:**

All other agreements the Republic of Slovenia has concluded with other countries (document L/7090, page 31) do not maintain provisions on customs concessions and establish neither free trade area nor customs union.

On the basis of the Decree on Preferential Customs Tariffs for Import of Certain Goods From Developing Countries, which was taken over from the ex-Yugoslav legislation, the Republic of Slovenia guarantees preferential customs tariffs for imports of goods from: Bangladesh, Brazil, Egypt, Pakistan, Peru, Romania, Tunisia, Turkey, Uruguay, Macedonia and Bosnia and Herzegovina, providing that the goods actually originate in these countries.

Goods are considered to originate in the above countries when they have been manufactured there entirely, or when the value of imported goods has been increased through industrial processing by a minimum of 51% in these countries. The origin of goods is proven on the basis of and origin of goods certificate issued by the authorised body in the export country.

**Question 46:**

Please describe Slovenia's plans for further departures from Article I of the GATT?

Reply:

Slovenia has no other intentions for departures from Article I of the GATT than those recognised under Article XXIV of the GATT and under the provision set up therein.

**Question 47:**

Does Slovenia intend to notify these departures from Article I to other GATT contracting parties after accession and to abide by the terms of Article XXIV of the GATT?

Reply:

Yes, these will be an integral part of the Slovenian obligations as a contracting party to the GATT.

**3.4. Measures against Unfair Trade Practices**

**Question 48:**

Please report on progress towards the institution of a "Law on Fair Competition". If it has been drafted, is under consideration by the legislature, or been adopted, please outline its provisions. Does the Law provide for appeal of contested rulings? If so, please outline the process and mechanisms employed.

Does Slovenia have any existing legislation on the application of safeguard measures to protect Slovenian goods from injury by excessive levels of imports, or other safeguard provisions? If so, please describe their provisions in this area.

Reply:

On 25 March 1993 was, by the Slovenian Parliament, adopted the Law on Fair Competition. The Law defines, in conformity with the Article VI of the GATT, the basic ground for further regulation of anti-dumping procedures and a control institution for supervision of possible dumping and damage trade, i.e. an Office for Fair Competition. Slovenia has no other legislation on the application of safeguard measures to protect Slovenian goods from injury by excessive levels of imports beside those measures explained in documents L/7090 and L/7191.

**3.5. Protection of Industrial Property**

This section of L/7090 reports that on 11 March 1992, Slovenia adopted a new Law on Industrial Property.

**Question 49:**

Are the provisions of this new law consistent with the provisions of the Draft Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, of December 1991, with regard to trade-related aspect of intellectual property rights?

Reply:

The provisions of the Law on Industrial Property are fully compatible with the draft Final Act. During drafting the Law, the GATT documents were explicitly taken into account. In the GATT Secretariat is available a copy of these law.

**Question 50:**

Does the current Law on Copyright (adopted from the law of the former Yugoslavia) which includes the protection of computer programs, also protect computer programs as literary works under the Bern Convention?

Reply:

The current Copyright Law covers protection of computer programs as literary work under Berne Convention. However, the new Copyright Law is under preparation which will address the protection of all works, including computer programs more into depth to make the scope of protection and its enforcement even more effective.

**Question 51:**

Has Slovenia passed the legislation on semiconductor design noted in this section in October 1992? What is the status of legislation to protect integrated circuit layout designs? Will this new legislation be consistent with the provisions that Draft Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, of December 1991, with regard to trade-related aspects of intellectual property rights?

Reply:

The text of the Law on Protection of Semiconductor Topographies was approved by the Government on March 4, 1993, and was consequently sent through the Parliament. First reading is expected to take place in May 1993, the final reading and adoption of the Law in July 1993. The proposal of the Law is based on the relevant EEC Directive and on U.S. Semiconductor Chip Protection Act. The Law complies with the draft Final Act with regard to trade-related aspects of intellectual property rights.

**Question 52:**

**Does Slovenia intend to adopt and apply fully the intellectual property treaties that were applicable in the former Yugoslavia?**

**Reply:**

On June 12, 1992, Slovenia adopted and declared the continuation of applicability of all the intellectual property treaties that were applicable in the former Yugoslavia, as of June 25, 1991. Following treaties are adopted: Paris Convention, Berne Convention, Madrid Agreement, Nice Agreement, Locarno Agreement and WIPO Convention. See enclosure No.2.

Preparations to adopt PCT, Budapest Treaty, Madrid Protocol and Nairobi Treaty are under way.

Furthermore, the so-called "extension agreement" between Slovenia and European Patent Organisation is expected to be signed in June/July 1993. By this agreement, the possibility to obtain protection in Slovenia through European patents shall be offered in addition to filing classic national patent application. For this purpose, the IPL shall be slightly amended and further improved. For example, the possibility to extend the term of patent protection for certain categories, such as pharmaceutical patents, over usual 20 years up to additional 5 years shall be introduced.

**3.6. Procurement for State Reserves**

**Question 53:**

**This section indicates that Slovenia will purchase and store certain goods which are "urgently needed for the unhindered functioning of the society" in the National Reserves.**

**Does the Directorate of National Reserves have a monopoly or other state-sanctioned special role in the purchase or distribution of such goods in Slovenia? Are the goods cover listed anywhere? Please describe the operations of the National Reserves as they relate to international trade and distribution of imports or similar domestic products in Slovenia.**

**Is this institution intended to be permanent?**

**What percentage of Slovenia's annual demand for such goods is anticipated to be accounted for by purchases for the reserves? When will the reserves be filled to their final level?**

**Reply:**

The Government of the Republic of Slovenia is preparing a new Law on State Reserves which should be passed in the Parliament in the second half of 1993. The Government of the Republic of Slovenia plans to adapt the system of National State Reserves to systems applicable in other

European countries. To this end, the Republic of Slovenia will propose a special expertise within the PHARE programme for 1993. The role of the Directorate of National Reserves will be modified accordingly and it will no longer have the function of a commercial company. It will carry out commercial transactions only as far as the renewal of permanent strategic State Reserves is concerned. Its basic function will therefore be the care for permanent reserves as well as interventions in the market in order to break monopolies.

The Directorate of National Reserves in its partial role as a state commercial enterprise has so far carried out business transactions in accordance with the provisions of Article XVII and will act accordingly in the future as well when its role within the framework of state reserves will be modified as stated above. As stated in the document L/7090, the role of the Directorate is basically to import, not directly, but on the basis of a public tender or invitations to bid. In this way, those importers are selected who submit the most favourable bid for the import in their own name and for the account of the Directorate. Thereby, the general principle of indiscriminatory treatment (para 1(a), Article XVII) is respected and such procurement is entirely in accordance with commercial considerations, including price, quality, availability, marketability, transport and other conditions of purchase, and the companies from all countries are given the appropriate chance to compete for participation in such purchases (para 1(b)(c) of Article XVII). With regard to paragraph 4 of Article XVII, there is no authorised monopoly in Slovenia for the importation of any product.

**Question 54:**

What conditions would constitute a "major upheaval" or "irregularity" in the market for a certain good that would be sufficient to require sales from the "market reserves"? In the event that sales from the "market reserves" are necessary will Slovenia also eliminate all tariff and non-tariff barriers to imports of these goods?

**Reply:**

State Reserves are used to support the production of wheat by purchasing it at prices above the world stock exchange prices for sale on the domestic market at prices which are, for some basic types of flour and bread, below world prices. Such a way of managing state reserves was a temporary measure in 1992, i.e. for the crop of 1992, and will be gradually abolished during 1993 (with regard to the sales at lower prices). The purpose of this measure has been to restrain inflation and/or maintain the basic cost of living. The GOS is successful in maintaining parity between domestic prices and prices on foreign markets in those cases where domestic prices rise above world prices and where, in spite of liberalised imports, no equalisation is possible due to the monopoly of the market which continue to exist due to relatively weak (in terms of capital) private sector. In some cases when intervention sales from state reserves were not efficient in pushing down domestic prices, the Government also temporary lower import duties.

Question 55:

Does Slovenia own or manage productive enterprises that engage in international trade? If so, why shouldn't these enterprises be subject to Article XVII of the GATT, which covers all state-owned or sanctioned enterprises?

Reply:

In Slovenia doesn't exist any State Trading Enterprise beside mentioned partial such role of the Directorate of National Reserves. For other part of question, please refer to reply to the questions 4 - 8.

3.7. Internal Taxes Levied on Products

Question 56:

Is the "single rate tax" applied at the retail point of sale the same as the "turnover tax"? If not, please specify the single tax rate and describe its application.

Are the "internal tax rates" listed in this section the rates of turnover tax applied?

Would the turnover tax be applied to a finished good imported for resale by a retail outlet (a) at the point of importation, or (b) at the point of retail sale, or (c) at both points of sale? At what point in the production process (e.g., wholesale to final seller or at point of retail sale) is the turnover tax applied to domestic output?

Is the turnover tax applied to "temporary imports refunded when these goods are re-exported?"

It is stated that Slovenia is considering introducing added value add tax. Please describe the scope and level of planned application this tax. Please indicate, as possible, the proposed date of introduction for the tax. Would the value added tax replace the turnover tax?

Reply:

A reply to the above questions regarding the current system of taxes on products and services is contained in its entirety in the document L/7090, Chapter 3.7. (Internal Taxes Levied on Products) under Point 1. Turnover tax is single rate tax system, because it is collected only once on particular product and its components, when goods is intended for final consumption. The turnover tax is applied at the point of retail sale to the consumer equally to domestic or imported goods.

The adoption of a new law on value added tax is anticipated for the end of this year or the beginning of 1994. The Law on Value Added Tax should replace the present taxation of end consumption.

### **3.8. Subsidies**

**Question 57:**

**Given the pervasiveness of Slovenian production and operational subsidies for state-owned enterprises reported in this section, how can it be said that there are no indirect subsidies that affect trade?**

**Reply:**

Slovenia stated in document L/7090 that no direct or indirect subsidies exist which are aimed at increasing exports of any products from Slovenia. As the consequence of the problems on the field of financing of the public debt through the budget, for 1993 was abolished also the system of refundation of customs duties and other taxes to the exporters paid on their inputs incorporated in exported products or so called draw-back.

**Question 58:**

**Please describe agricultural export subsidy programs currently in place, and plans to alter or dismantle them as part of ongoing economic reforms or the Uruguay Round.**

**Reply:**

Slovenia currently does not make use of any subsidies intended for exports. Slovenia is prepared to commit itself in the GATT Uruguay Round content not to introduce export subsidies in the field of specific agricultural products, during the reform period in line with the agriculture text of the Draft Final Act of the Uruguay Round.

**Question 59:**

**Is Slovenia willing to report these subsidies, and to consult as provided for in Article XVI of the GATT?**

**Reply:**

Slovenia is not a party to GATT and for this reason has not prepared a notification on the existing scope of subsidies.

## **IV. FOREIGN INVESTMENT IN SLOVENIA**

**Question 60:**

**Does the reference in section 3.2.1. (Performance of Activities Abroad) to "our economic entities abroad" also refer to the overseas activities of Slovenia-based subsidiaries of non-Slovenian companies for the purpose of these conditions on investment abroad?**



Reply:

Performance in section 3.2.1. referred only to Slovenian foreign capital investments such as: establishing of firms, banks and insurance companies. The new Law on foreign trade transactions regulates Slovenian capital investments abroad with permits for capital investments issued by the Ministry of Finance.

Question 61:

This section states that foreign investors are prohibited from investing in several forms of economic activity, including, for example, telecommunications. Are joint ventures permitted in the sectors?

Reply:

Pursuant to the Law on Foreign Investment, foreign investors in the territory of the Republic of Slovenia cannot found enterprises which are 100% the property of such investors in the fields of rail and air transport, communications and telecommunications, insurance, publishing and public information as well as in the production and trade of military equipment.

Question 62:

This section also states that the "Law on Foreign Investments" guarantees foreign investors the right to management. Does this mean that foreign investors are free to select all managers and directors at any and all levels regardless of nationality? If there are restrictions or conditions, please outline them and discuss plane, if any, for alteration of the current regime.

Reply:

"The right to management" which is guarantee to foreign investors by the Law on Foreign Investments means that foreign investors manage or co-manage their joint investment. The Law guarantees this right to foreign investors in proportion to their invested assets. The right to management or co-management means or includes right of a foreign investor to participate in all management bodies of the enterprise, usually the assembly or management board. Management is a function on which the management board decides, for the function of management is performed by the enterprise director, who is appointed and dismissed by the management board or assembly (depending on the status of the enterprise). Foreign investors exercise, through these bodies, and influence on the appointing or dismissing of the enterprise, than the Law on Employing Foreigners is valid. According to this law Slovenian citizens have priority for employment. If Slovenians do not meet the requirements set by the employer, than this actual post of director can be assumed by a foreigner.

Question 63:

This section states that the Law on Foreign Investments guarantee to foreign investors the right to profit and its free transfer, and the right to repatriation of invested capital in contractual join venture.

How is this guarantee of rights consistent with the provision of the Law on Foreign Trade Transactions referred to in section 3.2.1., "Performance of Economic Activities Abroad", which states in paragraph 6 that "the (Law) allows the use of generated profits for further investment into companies on to basis of the appropriate agreements in investment"?

What constitutes an "appropriate" agreement in this regard, and what institution of the Government of Slovenia decides what is "appropriate"? In what fashion would such an "appropriate" agreement restrict the rights enumerated in Section IV?

Section 3.2.1. states that "Slovenia law envisages that permits to taking assets out of the country will be issued by the Ministry of Finance under the condition that the domestic organisation has settled all its obligations to the state and shows positive business results." Permits are also discussed in Section 3.1.1., "Internal Convertibility of domestic Currency," paragraph (a).

In light of the guarantees to the free transfer of profit and the repatriation of capital contained in the Law on Foreign Investments as outlined in Section IV, are these permits required for the transfer of assets used in connection with foreign investments? If these permits are required, are they be granted automatically?

Reply:

There is no connection between investments abroad made by Slovenian entities and foreign investments into Slovenia. The purpose of regulation of the first is controlling outflows of capital of Slovenian origin.

The law on Foreign Investments guarantees profit which pertains to the foreign investor after division on the basis and in proportion to their invested assets, which may be freely transferred abroad. In the same way, the valid Law on Foreign Exchange Transactions (Official Gazette, No. 1/91) determines in Article 19 that the performance of payments abroad, which arise from capital investments by foreigners in Slovenia, are free after the settlement of all obligations to the state. A foreign person who transfers profit abroad must pay a 15% tax in the Republic of Slovenia, where the tax basis is the profit which pertains to him. No other provisions of other laws except for the two already mentioned are relevant for the area of capital transfers. All the above-stated also holds for the repatriation of capital.

**V. ECONOMIC AND INTERNATIONAL TRADE RELATIONS OF SLOVENIA**

**Question 64:**

Please indicate what portion of Slovenia's total imports (including those from the republics of the former Yugoslavia) are currently conducted under the terms of a free trade agreement, unilaterally declared free trade arrangement, or other preferential trade agreement (including long term agreements with other central and eastern European countries).

Reply:

Please refer to the answers to the questions 27, 39 - 42 and 45.

**Question 65:**

Please indicate any such agreements likely to be concluded in the future and indicate what percentage of current trade would be covered if these agreements were currently in place.

Reply:

Slovenia reach an agreement on the political level with Poland, Czech Republic, Slovak Republic and Hungary that bilateral agreements on free trade area will be concluded, if possible till the end of this year. FTA's will cover all industrial products and partially also some agricultural products. Currently these countries represent approximately 8 percent of the total Slovenian trade.

**VII. SLOVENIAN POSITION CONCERNING THE SCHEDULE OF CONCESSIONS AND OTHER OBLIGATIONS OF THE FORMER SFRJ IN THE FRAMEWORK OF GATT**

**Question 66:**

In the context of this accession and in light of Uruguay Round Market Access negotiations, will Slovenia bind its entire schedule and negotiate additional concessions from the current level of GATT obligations contained in the schedule of the former Yugoslavia?

Reply:

Slovenia believes that the following two principles should be considered in the negotiations for drawing up a schedule of concessions for Slovenia:

1. Slovenia is prepared to assume the existing level of concessions as specified in the schedule of the former Yugoslavia;
2. the said schedule is to be supplemented with new products for which ex-Yugoslavia did not assume liability, or for which it did not consolidated the tariff levels, and that in much greater scope in view of all items in the customs tariffs of Slovenia.