

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

RESTRICTED

L/7501

15 July 1994

Limited Distribution

(94-1476)

Original: English

WORKING PARTY ON THE CUSTOMS UNION BETWEEN
THE CZECH REPUBLIC AND THE SLOVAK REPUBLIC

Report

1. The Working Party was established by the Council at its meeting of 12-13 May 1993 with the following terms of reference: "to examine in the light of the relevant provisions of the General Agreement, the Agreement establishing a Customs Union between the Czech Republic and the Slovak Republic, and to report to the Council".
2. The Working Party met on 7 June and 7 July 1994 under the Chairmanship of Mr. Joseph W. P. Wong (Hong Kong). The terms of reference and membership of the Working Party appeared in document L/7464/Rev.1.
3. The Working Party had before it the following documentation:
 - (i) Text of the Agreement (L/7212)
 - (ii) Text of the Agreement on Mutual Relations and Principles of Cooperation in Agriculture, Food Processing, Forestry and Water Management (L/7212/Add.1)
 - (iii) Questions and replies (L/7415)

I. General Statements

4. In an introductory statement, the representative of the Czech Republic, speaking on behalf of the Parties to the Agreement, stated that the Agreement establishing the Customs Union between the Czech Republic and the Slovak Republic had been an important element in the political decision to dissolve the former Czech and Slovak Federal Republic (CSFR). It had been signed on 29 October 1992 prior to the dissolution of the CSFR and had entered into force on 1 January 1993 at the moment of the creation of the Czech Republic and the Slovak Republic. Both Parties had wished to preserve their past links from the former Federation and the Customs Union Agreement was one among a number of agreements and arrangements existing between the Parties. The Czech Republic and the Slovak Republic also wanted to ensure the continuation of international obligations towards third countries inherited by each of the two Republics from Czechoslovakia. He went on to say that the main objective of the Agreement was to ensure the free movement of goods and services, the pursuance of conforming commercial and customs policies and the provision of favourable conditions for the development of trade with third countries.

5. The representative of the Czech Republic said that the Agreement responded to, and reflected, specific circumstances related to its creation. Since no tariff or non-tariff barriers had existed within the former CSFR, the Agreement did not contain any transitional period which was usually necessary for the elimination of such measures. The Agreement also stipulated that such barriers could not be introduced in mutual trade, with the exception of some well-defined cases such as restrictions to safeguard the balance of payments.

6. The representative of the Czech Republic also stated that the Agreement covered all products falling within Chapters 1 to 97 of the Harmonized System, thereby fully conforming with Article XXIV. An Agreement on Agriculture and other related areas had also been signed. The trade provisions of the Agreement on Agriculture conformed to the objectives of the Customs Union Agreement and they provided a mechanism for the renegotiation of commitments in agriculture of the former CSFR. He said that the Parties applied a common commercial and customs policy towards third countries. The common Customs Tariff was composed of two identical national Customs Tariffs. Since the duties and other regulations of commerce in respect of third countries and their scope and effect were the same as in the former CSFR, there had been no increase in their incidence, and no negotiations with third countries had been required. The same principle applied to non-tariff measures in respect of trade with third countries.

7. The Customs Union Agreement contained provisions on safeguards, anti-dumping, public aid, rules of competition and intellectual property rights. With respect to trade in services, free movement between the Parties was ensured and the principle of national treatment was granted. Any problems arising from the implementation of the Agreement would be solved through consultations carried out in the bodies established by the Agreement.

8. The representative of the Czech Republic pointed out that the experience of the Parties since the entry into force of the Customs Union Agreement had confirmed its usefulness, necessity and positive impact on the trade performance of both parties. The Customs Union had ensured that the reduction in mutual trade following the dissolution of the former CSFR had been substantially less than expected.

9. In closing his introductory remarks, the representative of the Czech Republic stated that both Parties had been pursuing a coordinated trade and economic policy since January 1993. They had become contracting parties to the GATT through the same procedures and on the same date. Both Parties had been actively engaged in the Uruguay Round negotiations, carrying out their bilateral negotiations jointly with other participants of the Round and their final schedules were, in principle, identical. In conclusion, he stated that the Customs Union Agreement between the Czech Republic and the Slovak Republic met the requirements of Article XXIV and was in full conformity with the General Agreement.

10. There was wide support expressed in the Working Party for the rationale leading to the establishment of the Customs Union. Several members referred to the special and historic reasons leading to the establishment of the Agreement. One member expressed her country's admiration and support for the economic reintegration between the two countries. The representative of a group of countries expressed his support for the Customs Union Agreement which he considered as a choice for continuity and political responsibility vis-à-vis the multilateral trading system. Several members pointed out the importance of this Customs Union in a global context, with one member highlighting its importance for the Central European region.

11. With regard to the examination of the Agreement, the representative of a group of countries pointed to the particular nature of this customs union. He said that as sub-units of a former single country there had been no restrictions on trade between the Czech Republic and the Slovak Republic. Therefore, unlike other working party examinations which had to ensure that restrictions were removed on substantially all the trade between the parties, in this case, since the structure for a customs union corresponding totally to the criteria of Article XXIV was in place prior to the establishment of the Customs Union, the Working Party examination had to ensure that the Customs Union did not adversely affect this situation. The provisions of the Agreement prohibited the introduction of future customs barriers. Therefore, by construction, this agreement complied with all the provisions of Article XXIV of the General Agreement. He was supported in this view by several members of the Working Party.

12. Another member, based on the documentation provided by the Parties to the Agreement, considered it a model customs union in terms of its observance of GATT rules and in terms of the resulting economic benefits to both Parties.

II. Conclusions

13. The members of the Working Party welcomed the transparency shown by the Parties to the Agreement with regard to the furnishing of information in accordance with Article XXIV:7(a) and the examination of the Agreement.

14. There was wide support within the Working Party with regard to the rationale for the Agreement. The members recognized the special circumstances which led to the establishment of the Customs Union and regarded the Agreement as an act of political responsibility vis-a-vis the multilateral trading system.

15. The Working Party expressed support for the modalities of the Agreement. The Working Party noted that the scope of the Agreement covered all of Chapters 1 to 97 of the Harmonised System nomenclature. Members noted that since no tariff or non-tariff barriers had existed within the former CSFR, the Agreement did not contain a transitional period which was usually necessary for the elimination of such measures. They also noted that such restrictions could not be introduced in mutual trade in the future, with the exception of some well-defined cases, such as the safeguard of the balance of payments.

16. With regard to the effect of the Customs Union on third countries, the Working Party noted that the duties and other regulations of commerce in respect of third countries and their scope and effect remained unchanged from those of the former CSFR. Members also noted the full conformity of the commercial and customs policies of both Parties towards third countries, and noted in particular the identical rules of origin applied by the Parties.

17. The Working Party agreed that, based on the documentation provided by the Parties to the Agreement, the Customs Union Agreement between the Czech Republic and the Slovak Republic was consistent with the provisions of Article XXIV of the General Agreement.

18. The Parties to the Agreement were invited to submit biannual reports on the operation of the Agreement in accordance with the Decision of the CONTRACTING PARTIES (BISD18S/38), the first such report to be submitted in 1996.