

**GENERAL AGREEMENT  
ON TARIFFS AND TRADE**

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**WORKING PARTY ON THE ACCESSION OF SLOVENIA**

**Questions and Replies**

The Ministry of Economic Relations and Development of Slovenia has provided the replies reproduced hereunder to the questions submitted by members of the Working Party on the Accession of Slovenia. This text and the earlier documentation reproduced in L/7090, L/7191, L/7191/Add.1 and Spec(93)20 will be considered at the meeting of the Working Party scheduled to take place on 7-8 and 11 October 1993.

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1.2. **Restructuring of the Slovenian economy**

**Question 1:**

We appreciate the responses of Slovenia concerning its socially-owned firms and privatization programme.

However, we seek a more precise description in this regard.

For example, we do not understand how Slovenia can indicate with some precision the percentage of GDP and employment accounted for by such firms, but lack the ability to give contracting parties some idea of the portion of trade for which they are responsible (see response to question 4 of L/7191/Add.1).

**Reply:**

The basis for data on the percentage of GDP and employment concerning the socially-owned and private companies (and companies of mixed ownership), are their annual (and provisional periodical) balance sheets. These do not specifically expose the income and liabilities based on foreign trade. The basis for data on foreign trade transactions by companies are customs exports and imports declarations, which however do not expose the type of ownership of a specific company. The data are not collected or systematized according to form of ownership of a company. Therefore, it is possible only to provide rough and perhaps inaccurate estimates of the portion of the foreign trade covered by the so-called "socially-owned companies". It is estimated that in 1991 70 per cent of foreign trade was covered by these companies. This share is decreasing as the process of privatization progresses.

The major trading groups which have not yet been transformed into stock companies, into holdings or companies with mixed ownership, are in the process of being privatized within the foreseen period of time, i.e. until the end of 1994.

The major trading groups which still retain any part of social ownership, de facto or de iure have no monopoly on any form of trade or distribution of specific goods. In fact, they operate in an increasingly competitive environment, doing business wherever it can be found, without any prescribed specialization for certain types of commodities other than by tradition, or based on current contracts.

**Question 2:**

We remain interested in developing a clearer understanding of how these firms operate, what precisely is being "privatized" in the absence of direct Government ownership, how their key rôle in national output and employment is addressed by the State, and their rôle in import and export trade.

Please outline for the Working Party what aspect of these firms is being privatized. If there is no direct Government rôle in organizing and maintaining these firms, why are they being "privatized" at all? Who appoints the management board of a socially-owned firm?

**Reply:**

As mentioned earlier in the answer to the question on legal and financial relationships between the Government of Slovenia and the "socially-owned" companies, these companies operate as independent business entities without any direct Government involvement in enterprise operations. "Socially-owned" companies can now be defined as employee co-operatives existing on commercial principles, pending formal privatization.

In the system of "socially-owned" firms monopolies have not been granted to any of them. Though private firms were not allowed to operate in most fields of trade and industry, as a rule, there were more "socially-owned" firms competing among themselves in the market. With the changes in the late eighties, the restrictions to the private sector were abolished, yet "socially-owned" firms maintained a major rôle.

With the decision to abolish the system of social ownership and to replace it with the system common to other countries, the privatization process started. The Law on Ownership Transformation of Enterprises, enacted in December 1992, provides, together with other legislation passed in the last two years, modalities of transition of "social-ownership" to private ones, or in some exceptional cases to State ownership, such as the railways, electricity generation, postal services, other utilities, etc.

The main reason for privatization of the "social capital" is to introduce the private ownership system, where the ownership is executed by a greater number of owners. The system of the past did not provide for ownership rights. There was no owner of the "social capital". All rights of an owner were left to the management and the work force of the enterprise. They appointed the management and they had the right to decide on the distribution of the income (value added). Salaries were a part of the enterprise's income and were dependent on its profitability.

There was almost no incentive for investments outside the existing enterprise, as there was no legal possibility to get a dividend on the capital. This led to the maximization of salaries, rather than profits, to spending and acquisition of non-profitable assets, like housing, free time facilities, social welfare etc., rather than to productive investment and, as a rule, to extensive employment rather than to increased labour productivity.

The Government had a strong influence on investment decisions, based on economic plans, showing the commercial and social profitability of the project. The initial capital was provided through

the banking system. Upon completion of the investment, the new enterprise was left to be managed by the employees, who were also responsible to pay the debts, incurred during the investment stage. The business plans, on which the investment decisions were based, were often politically manipulated with the consequences of bad debts in the banking system and some overstuffed and unprofitable enterprises.

The management of the "socially-owned" enterprises has been appointed by the Workers Council, composed of the elected representatives of the working force. After the introduction of changes in the legislation governing the enterprises, in the late eighties, some of the existing enterprises were transformed into joint stock companies. In these cases the management is appointed by the Assembly of Shareholders, representing the owners. It should be mentioned however, that in most cases the "owners" are other "socially-owned" firms, as the involvement of domestic and foreign private owners (investors) is still very limited, though increasing.

Workers' councils do not exist any more. They have been replaced by single management (small companies) and by management boards. All the decision-making power is at the management level. Policy decisions are adopted by share-holders, by majority vote.

In the previous system the management was formally accountable to the work force and influenced in an informal manner by the politicians inside and outside the enterprise. After the political changes, the informal political influence on the enterprises in most cases vanished, while the rôle of the workers' councils diminished due to the changes in legislation. In the absence of owners, the accountability of management is not clear and also this calls for rapid privatization.

The previous system had also organizational consequences. In order to provide for direct control of the working force on the management, the enterprises were split into small units, which formed a rather loose association, where profitable and less profitable units levelled out their business results. It was possible to introduce a new profitable unit. It was, however, very difficult to close an unprofitable one, as this would have consequences for the working force, who were the bosses of the enterprise. Mergers of less profitable units with better ones, were often used to avoid bankruptcy. It should be mentioned, however, that after the changes in the late eighties, some powers of the working force have been drastically reduced and provisions for liquidation of unprofitable units made. Also the bankruptcy legislation was applied more often, and consequently.

From the explanation above, it could be concluded, that the main reasons for privatization of the "socially-owned" firms were not in their position on domestic and international markets, nor in direct Government intervention in their operations, but in other deficiencies of the previous system. Investments, entering into business of new units, accountability of the management, and organizational reasons are the main ones. Consequent profit motivation, which was absent in the previous system, is expected to help develop the capital market. In fact, already after the first steps toward an environment of private business, these expectations started to materialize and the volume of transactions on the Ljubljana Stock Exchange is in rapid development.

Therefore, according to the Law, the existing property of the firms is being privatized, i.e. the socially-owned or non-private property becomes private, attributable to stock-holders, who are either other private companies or physical persons, or foreign persons. This stock is the basis for the distribution of profits, through payment of dividends and other property rights, such as sales and acquisitions of companies or their parts, and liabilities based on property.

**Question 3:**

Does Slovenia have a time-table for complete privatization of State-owned enterprises?

**Reply:**

According to the Law on Ownership transformation of the Enterprises the "social capital" of the enterprises will be transferred into the private hands by late 1994. The shares of the now "socially-owned" enterprises will be offered for sale. In order to enable the population to participate in the sale of the "social capital" Ownership Certificates will be distributed to the population in values of Slt 100,000 to 400,000, depending on the age of the citizen. The citizens will have the possibility to exchange these certificates for shares of enterprises in the process of privatization, or for shares in Special Investment Companies, which will also receive shares of privatized firms. The questions of the distribution of Ownership Certificates are being presently discussed in the Parliament of the Republic of Slovenia. Sales for cash to domestic and foreign investors are also foreseen. To employees, a discount on price of shares of the enterprise, if they are, or were employed, is granted. Provisions for a "gradual buy-out", over a period of four years have also been made.

The "gradual buy-out" of companies, within four years, is an option which can be granted to companies if the buyers are former and present employees. This is a measure which is regarded as a job-saving solution for companies of low profit levels.

Parts of enterprises that will not be purchased for cash, or exchanged for Ownership Certificates, will be transferred to the Government-owned Development Fund. The Development Fund will act as a trustee and has the task to prepare its property for privatization. Its plans may include also sale of assets and liquidation of unprofitable enterprises.

The Charter of the Development Fund is to be owner or co-owner and fully or in part caretaker of manufacturing companies which are mostly economically depressed. The rôle of the Fund is to restructure the company (provide new management) supervise its operation and possibly privatize it, if the company achieves a greater economic viability, by direct sale or by other means, such as sale of stocks. If a company should prove economically not viable and unmarketable, the Fund has a mandate to liquidate the assets of the company and quit operation.

**Question 4:**

What portion of the economic activity and employment of all the socially-owned firms is accounted for by 100 or so that are owned by the State Development Fund?

**Reply:**

According to our best estimate these firms account for 10 per cent of the working force and 8 per cent of the GDP produced by the socially-owned firms. The State Development Fund, however, is not a 100 per cent owner of all the 100 or so socially-owned firms. In fact, most of the firms are in part or mostly owned by other firms or banks, so that the State Development Fund is merely one of the share-holders.

**Question 5:**

Has the number of Government purchased firms increased since 1992? Does the Development Fund act as the purchaser of last resort to prevent bankruptcy of socially-owned firms? How are these purchases consistent with the response to question No. 7 of L/7191/Add.1 which states, "The State ... is therefore not responsible for the company's business performance. Should these companies operate in the red, the law on bankruptcy would be applied.". How many "socially-owned" firms have been allowed to go out of business in the period that 100 or so have been purchased by the Development Fund?

**Reply:**

As explained above, the "socially-owned" firms operate without an owner and are subject to management decisions taken by the management appointed internally. In cases of joint stock companies the rôle of the owner may be performed by one or more other "socially-owned" firms. The Government has therefore no possibility, nor responsibility to influence the management decisions of the enterprise management.

The firms of the Development Fund ceased to be "socially" owned. By the decision of the elected/appointed management they transferred the title to the "social" capital, to the Development Fund. No price was involved in this transaction and it could therefore not be characterized as a "purchase". These enterprises became State property under the provision of the Company Act, which is applicable to private enterprises with the Development Fund (Government) as the owner. As mentioned above, the Development Fund has a mandate to privatize these enterprises.

Most of the enterprises administered by the Development Fund have problems. A programme of restructuring of these enterprises is being carried out by the Fund. It includes rehabilitation of viable units, liquidation of non-viable ones, sale of assets and sale of complete enterprises. Twelve enterprises have already been sold, and for twenty-five other sales negotiations have been initiated in 1992.

There are problems with the transformation of the manufacturing industry into a private industry, mostly with the industry which is less profitable and technologically outdated. The Development Fund is the vehicle to deal with such industry.

The option for an enterprise to surrender title to the Development Fund existed until 5 December 1992, when the Law on Ownership Transformation of Enterprises entered into force. Therefore no enterprise was acquired by the Development Fund after that date.

The above-mentioned Law provides, however, the possibility that an enterprise adopts an "Ownership Transformation Plan" by which, if approved, the enterprise becomes property of the Fund. This would mean in practice, that the responsibility for privatization is transferred from the enterprise management to the Development Fund.

According to statistics, the courts in Slovenia heard 718 bankruptcy cases in 1992, of which 503 were initiated within that year, 112 cases were closed and of these fifty concerned "socially-owned" enterprises. There are indications that in 1993 the above numbers will be larger.

**Question 6:**

We request a response to question No. 5 of L/7191. If it is possible to calculate the percentage of national output and employment of these firms, can Slovenia please indicate the relative importance of these firms in its international trade?

**Reply:**

The reply to this question is possible on the basis of estimates, because no specific research or data which would cover this particular aspect is available. The relative importance of socially-owned companies in international trade is still substantial. However, this rôle is in decline as the process of privatization proceeds. The small private enterprises, on the other hand have taken over a very significant rôle in international trade, and this includes trade with the former Yugoslav republics. The socially-owned companies base their international trade on previously established contracts and relations and contracts which give them continuity on joint investments etc. and most naturally on the fact that the major part of manufacturing output is still in the hands of the socially-owned companies.

Current revised data shows that at the end of 1992 there were 36,500 registered companies of which 20,300 were already active. The difference in figures are newly registered private companies. There was an increase of 50 per cent in company registration by 1992. Private enterprises by number account for 81 per cent of all registered enterprises in the Republic of Slovenia; they shared 40 per cent of the total earnings of the national economy, and generated 11.5 per cent of revenues, which shows a growing importance of the private sector.

These figures indicate the impact of privatization through the creation of new companies. By income level this impact is much smaller. Most of the manufacturing output remains within the framework of "social-ownership".

The relative importance of companies of mixed (private and non-private) ownership, is also increasing rapidly, i.e. there were 1,094 such companies at the end of 1992.

For a more comprehensive response to this question, please refer to the reply to the question on page 1.

**Question 7:**

We would appreciate more information concerning the organization and ownership structure of Slovenian agriculture, the distribution system of agricultural products within Slovenia, and the rôle of socially-owned or co-operative firms in internal and external trade.

Please describe the organization and ownership structure of Slovenian agriculture, the distribution system of agricultural products in Slovenia, and the rôle of "socially-owned" or co-operative firms in internal and external trade.

**Reply:**

About 85 per cent of the land is private property since 1946, while 15 per cent is cultivated by "socially-owned" firms. Co-operatives, which under the previous system, had a similar status as the "socially-owned" firms are included into this category.

The proportions given above, do not reflect the proportions of production of the marketable surplus. They vary from produce to produce. According to rough estimates, provided by the Ministry for Agriculture and Forestry, the entire milk production is in private hands and so is also 90 per cent of beef, 40 per cent of pork, 85 per cent of cereals, 70 per cent of sugar beet and 95 per cent of wine grapes.

The processing and marketing of this produce is mostly done by "socially-owned" and co-operative firms. There have been only a few private firms acting in the field. Private marketing of the produce is done by the farmers who bring their produce to the market place in the towns themselves, or through some private intermediaries. There is no basic difference in respect of retail prices of "socially-owned" enterprises and the private vendors, as there has always been an open competition for the last twenty years.

The international trade was mostly in the hands of the "socially-owned" firms, as private firms, in the previous system, could not be registered to operate internationally. In the latest time, however, some newly established private traders and trading firms are getting an increased share in this trade.

It should be emphasised also here, that there was no monopoly of a single or a few State-licensed trading firms in the marketing of agricultural produce, and that all of the existing "socially-owned" firms are subject to privatization as explained above.

**Question 8:**

In this regard, the response to the first question in Spec(93)20 is not complete. We are interested in receiving a description, for the Working Party record, of the rôle of social-owned and other non-private firms in agricultural distribution and trade.

**Reply:**

Enterprises engaged in processing and marketing of agricultural produce have a network of acquisition points and they buy the marketable surplus directly from the farmer. The prices are free. Only in the cases of wheat, sugar beet and milk, the Government determines the minimal prices, to safeguard the interest of the farmers. In some cases, binding agreements between the enterprises and the farmers guaranteeing the prices, are made for a certain season and/or crop.

The so called "binding agreements" between farm producers and companies are a normal form of commercial co-operation which on the one hand provides security to the farmer and on the other it provides a certain supply to industry.

The minimum price is a reference price which is contracted between the farm producer and companies.

Minimum price policies are in effect for 1993 for the products indicated. These are determined by a government decree for each year separately, depending on current farm support programmes.

The minimum (reference) price can be contracted only if the parties, i.e. the farm producer and buyer (company) agree. If the price is too high, the (milling) company has an option to directly import a commodity at (lower) prices more suitable to its production needs. It may also buy from National Reserves, if they are engaged in a market intervention scheme to reduce the domestic commodity

prices. It may happen that the farmers may not be able to sell their produce, if there is no price agreement. This kind of situation may vary a great deal from year to year, depending on the size of the crop, extraordinary conditions such as drought, which cause shortages, and on current (government) policies.

Some of the enterprises engaged in processing have their own distribution network, others rely on other "socially" or privately owned companies or shops.

All "socially-owned" enterprises operating in the agriculture will be transformed into privately owned ones.

**Question 9:**

In question No. 6 of L/7191/Add.1, we asked: "Which Slovenian foreign trade organizations still dominate trade in major agricultural commodity groups?" The response referred us to question No. 4, listing four large trading groups, but without any indication if they were involved in agricultural trade. We require information on these issues.

**Reply:**

The following is a list of companies predominantly engaged in trade of agricultural and food products. These companies are engaged in this field of business by traditional business orientation, or based on previously valid rules of registration:

(In 1990, 2.79 per cent of all registered companies in Slovenia were in some part engaged in trade, distribution and production in the field of agriculture).

- ABC Pomurka, business group, general trade in agricultural products and production
- Agraria Brezice, production and trade of crops and fruits
- Adria Commerce, general trade, including agriculture
- Agrokombinat Maribor, wine, fruit, fish
- Agromerkur Murska Sobota, poultry, animal feed, transport services
- Gruda, business group, general foreign trade in agricultural products
- Dana, fruit juices
- Delamaris, export-import and production of a wide variety of foodstuffs and fish products
- Droga, foreign trade in a wide variety of foodstuffs and agricultural products and fish
- Emona, business group
- Emona Obala
- Emona Merkur, foreign trade, distribution
- Fructal, production and trade, fruit and juices
- HP Medex, honey and honey products
- Hmezad, business group, hops, dairy products, agricultural produce, fisheries, fruits
- HP, business group, variety of processed foods
- HP Univit, foreign trade, animal feed, cereals
- Intertrade, general trade, including agricultural products
- Interexport, general trade, including agricultural trade
- Jadran, general trade, including agricultural trade
- Jata, poultry products
- KK Vipava, wine
- KZ Goriska brda, wine

- Mercator, business group, production and trade in agricultural and other food processing
- Mlin-Intes, wheat, processing
- Mlinotest, cereals, processing
- Primex, general trade including agricultural products
- Semenarna, seeds
- Slovenijavino, wines and juices
- Zito, general trade in cereals and processing, production of foodstuffs

Socially-owned companies, to date, still play a major rôle in the field of agricultural trade and distribution. As was stated earlier, these companies will be privatized in accordance with the accepted schedule. However, a number of the above listed companies have already been, at least partially, privatized.

Recently a substantial number of new private operators have emerged, i.e. small sized businesses, especially, on the side of imports. We estimate that there are about 500 such businesses.

Agricultural companies which are listed have a very mixed ownership situation. It is possible to identify the current ownership situation through court records.

The large trading groups have already mostly broken up into segments of individual, relatively free companies. In most cases the trading groups have been transformed into holding companies i.e. retaining property rights. This fact has considerably increased competition within the former groups themselves. The realignment of companies is being forced by the drastically changed market situation with the break-up of Yugoslavia.

**Question 10:**

Can Slovenia elaborate on the privatization of its former agricultural trading organizations? Does Slovenia plan to privatize its entire food processing and marketing system as suggested in the response to question 35 of L/7191?

**Reply:**

Yes, Slovenia will privatize its entire food processing and marketing system. The Law on Ownership Transformation of Enterprises applies to all processing industry and trade in general. Processing and trade of food and agricultural products is included in the stipulated privatization process.

**Question 11:**

Regarding the responses to question 7, 9, 53, 54 and 55 of L/7191/Add.1 and subsequent description of the Directorate of National Reserves in Spec(93)20:

Slovenia has stated in these responses that the Directorate purchases domestic agricultural products to support internal prices, and also intervenes in the import market to the extent of accounting for half of wheat and corn imports in 1992. This appears to contradict the statement by the Slovenian delegation at the last Working Party meeting that no State enterprise was responsible for 50 per cent or more trade in any commodity.

Please describe more fully, and for the Working Party record, the rôle currently filled in agricultural and trade policy by the National Reserves and the agricultural trading enterprises whose privatization is imminent. Specifically, what portion of Slovenia's agricultural imports and exports are accounted for by National Reserves and by enterprises?

What portion of domestic output in major agricultural commodities is purchased by the State Reserves and by the enterprises?

**Reply:**

Currently, in the year 1993, the rôle of the National Reserves has changed and shifted from market intervention towards strategic reserves.

For example, the total domestic wheat production has been bought by individual milling companies. Due to a policy to stimulate domestic wheat production, the State guaranteed a minimum price to domestic wheat producers above the average world market price. The milling companies act in such a way because Directorate of National Reserves credit their purchase from the farmers.

Another item which will be purchased within this year indirect by National Reserves, is rape seed. Total domestic production is only 6 per cent of domestic needs. In order to support the domestic production of this item the National Reserves purchase indirect through oil producing companies all available domestic quantities at minimum State guaranteed prices.

Drought conditions in 1992 have caused a shortage of feed corn in the Republic of Slovenia. To alleviate this shortage, National Reserves indirect imported 48,000 tons of feed corn in 1993 and distributed it to needy farmers. This import did not have a market-price intervention purpose but farmer assistance due to damage by natural causes. In this case, the indirect imports by National Reserves were at a level of 66 per cent of total needed import of feed corn. The remaining needs were covered by free imports by individual entrepreneurs, at a reduced tariff rate. The substance of this assistance was financing of the import of the farmers.

The rôle of National Reserves within 1993, with respect to market intervention and assistance has considerably decreased compared to previous periods. Its future rôle is foreseen to be limited to a system of strategic National Reserves, very close to the new developed and prevailing systems in Europe.

New legislation in this area is under preparation.

The portion of indirect imports of agricultural products by the National Reserves very much depends on the specific item, on current market conditions and needs in cases of shortages; these may vary from 5 per cent, and less, to, normally, not more than 50 per cent.

National Reserves are not engaged in direct or indirect exports of agricultural products. National Reserves import and purchase through commercial companies on the basis of a public tender. Standing instructions require all government purchases to be conducted on the basis of an invitation to bid.

The future tendencies are to award contracts to producers and commercial companies on a non-discriminatory basis, to maintain certain required reserves and to perform services, such as storage, packing, transportation of reserves and to entirely rely on commercial companies to cover market needs in agricultural commodities, on a commercial basis. The National Reserves should cover cases of

shortfalls if they are harming other sectors of the economy or disrupt normal distribution and production, and indirect purchase domestic output in those cases when the Government determines minimum selling prices. As described earlier these products are wheat, rape seed, sugar beet and milk, while the Directorate of National Reserves in the year 1993 indirectly purchased only the domestic output of rape seed.

**Question 12:**

Please give the Working Party a better picture of the "monopoly" situation referred to in the response to question 9 that exists in agricultural production and distribution in Slovenia that makes the intervention of the National Reserves necessary.

This situation is addressed in the response to question No. 54 in L/7191/Add.1, which indicates "in spite of liberalized imports, no equalisation (of prices) is possible due to the monopoly of the market which continues to exist due to a relatively weak private sector".

**Reply:**

Imports of all basic commodities such as wheat, have been liberalized, which means that any company can, in principle, import and distribute such commodities. New private broker companies have emerged and entered, for example, the wheat import business. These companies are small with insufficient capital potential to be able to finance any substantial import deals.

With small value and quantity imports these firms cannot sufficiently influence the market situation, in spite of the fact that they are much more competitive than the larger importers.

Therefore, until this situation improves, the key players in the commodities business will be the "traditional" importing companies, which had created a kind of oligopoly in this trade in the previous régime in spite of the fact that no monopoly has been granted to them by the State or Government. This situation will change, when the private sector develops sufficient competitive strength, and, of course, upon finalization of the privatization process.

The quoted phrase "in spite of liberalized imports, no equalization (of prices) is possible due to the monopoly of the market which continues to exist due to a relatively weak private sector", is a reflection of the actual market situation, rather than inconsistency or policy deviation. The policy is to prevent market monopolisation of any kind. Registration rules do not impede any company to enter the commodities business.

**III. TRADE POLICY**

**3.2. Instruments of foreign trade regulations and basic legal provisions**

**Question 13:**

Could Slovenia describe the status of the new laws and regulations referred to in the response to questions No. 5 of L/7191, i.e., the new customs regulations, the law on commercial associations, foreign exchange and standards regulations, and the new law on customs zones? Can copies of this legislation be provided for the Working Party?

**Reply:**

The Law on Commercial Companies (i.e. companies law) was adopted very recently and became valid on 10 July 1993. The drafts on new Customs Law, the Law on Standardization and the Law on Customs Zones, are currently under preparation. Slovenia still apply ex-Yugoslav legislation on these fields.

Amendments to the Foreign Exchange Transactions Law are also currently under preparation. For the Working Party is provided an English translation of the Law on Commercial Companies.

**3.2.1. Law on Foreign Trade Transactions**

**Question 14:**

In addition to sections on "long-term production co-operation," have any other portions of the Law on Foreign Trade Transactions been retained after implementation of the new Foreign Trade Law?

For example, have the sections authorizing the use of quantity quotas for imports remained in force, or have they been superseded by the new Foreign Trade Law?

What limitations, if any, are placed on co-production enterprises, either initially or overtime, by the Law on Foreign Trade Transactions if the foreign investor cannot or does not wish to absorb part of the output of the co-production enterprise? Are there any rules or guidelines requiring or targeting export performance as a condition of investment or capital repatriation?

- Please explain in detail this co-operation arrangement with specific reference to provisions of the Foreign Trade Transactions Law.
- If this kind of arrangement is completely voluntary, why is a special legal basis for such an arrangement needed?
- For what do the trading partners have to report to the Bank of Slovenia if the level of import and export is not balanced, although this arrangement is voluntary?

It is indicated that, when reported, the Bank of Slovenia applies regulations which relate to credit arrangements with foreign partners.

- Please specify the "regulations which relate to credit arrangements with foreign partners".

It is indicated that there are a number of industrial sectors where these arrangements are still valid although they are carried over from former Yugoslavia.

- Are there any administrative guidance or any measures to encourage or facilitate Slovenian companies to conclude such an arrangement with their foreign trade partners?

This import and export balancing arrangement seems to be compulsory in nature although Slovenia explains that it is voluntary, and it seems to have a trade restrictive affect particularly when foreign exporters are required to buy Slovenian products as much as the value of their export. How

does Slovenia explain the scheme's conformity with Article XI of the GATT?

- Does Slovenia have intention to review or eliminate the relevant provisions in the Foreign Trade Transactions Law? If so, when is the revision or elimination expected to take place? If not, why not?

**Reply:**

The significance of the Law is its provisional-transitional character.

It is much more significant what the Law has omitted or reduced compared to previous Yugoslav legislation on which it is based, mainly in the area of administrative procedures and distinction between private and non-private entrepreneurs.

For example, there is no requirement for specific foreign trade registration, i.e. there is no legal distinction between entrepreneurial activities in the domestic and foreign markets. Most definitions of forms of foreign trade business have been omitted, because they were in conflict with prevailing international practices and practices which are attributable to a market economy; the Law has omitted previous registration requirements for certain types of contracts, it has repealed licensing for compensation business and re-export transactions; in the area of establishment of representative offices in foreign countries, previously valid procedures have been significantly eliminated and simplified and clarified.

Whole portions of the previous Law have been deleted, such as intellectual and industrial property matters.

All other elements, which were contradictory to principles of a market economy have been eliminated, while other elements have been introduced or expanded, which for example, award clearer rights to physical and foreign persons. This applies also to the elimination of a number of restrictions.

Some of the specific elements of the Law have been retained from the previous legislation for the reason of legal security and continuity as long as it may be needed, i.e. until new legislation deals with the areas concerned.

The following sections of the Law have been retained from the previous legislation, apart from the long-term production co-operation:

- leasing of equipment, i.e. exports and imports of equipment, based on a leasing contract for a defined period of time;
- cross border or frontier trade, i.e. trade between the Republic of Slovenia and Italy originating in the border areas of both countries, on the basis of a bilateral agreement;
- duty-free shops;
- régimes of imports and exports of goods;
- import of capital goods after cessation of capital projects abroad;
- imports and exports of goods into and out of customs free zones;

- temporary exports and imports of goods;
- articles pertaining to technical standards of goods, to dates and documentation concerning customs clearance, conditions of exports and imports free of charge;
- the rights of fiscal persons concerning exports and imports of goods for personal use;
- the promotion of exports of goods and services (the basis for duty drawbacks and rebates of taxes and charges).

The chapter of the Law on services is completely new and means a novelty in the legal system, of the Republic of Slovenia.

Quantitative restrictions are authorized in the Law in Article 8, in the chapter on Special Export and Import Provisions, under the heading of "Export and Import Regimes for Goods and Services".

#### Clarification of elements and significance of the long-term production cooperation contracts in the Law on Foreign Trade Transactions

The so-called long-term production co-operation is described in Article 2 of the Law and has been retained from the previous Yugoslav legislation. The significance of this legislation previously was circumvention of payments and currency restrictions, which do not exist now. In the legal system of the Republic of Slovenia, for the time being, this is still treated as a specific form of trade operation, which is rapidly losing significance. This is still necessary because of existing contracts with foreign partners. Some contracts are still executed through current accounts, which means in fact "long-term barter trade". The Law allows the previously contractual relations to continue until contracts remain in force. The Ministry of Economic Relations and Development keeps evidence of valid contracts, which relate to production activities.

These contracts have an attraction for companies only as a means of payment through a current account arrangement. Because of internal convertibility of the domestic currency, even this aspect has lost any particular advantage. It is possible to finance production by way of a revolving commodity credit from a foreign partner. There is no specific registration requirement for these contracts. Such co-operation agreements can also be subject to payments in liquid funds in foreign currency. Therefore, the meaning of Article 4, paragraph 2, that "the value of the goods exported on the basis of the contract ... must be at least equal to the value of the goods imported on the basis of the same contract", is not a firm obligation, but, in fact, indicative. It is desirable that such an obligation should be included in a contract for obvious reasons. If this indeed should be the case, it is up to the contractual partners to determine what happens if such an obligation would not, or could not be met.

Therefore, the long-term production co-operation is an optional form of foreign trade for enterprises, which was transferred into Slovene Law from the legislation of the former Yugoslavia.

It is a completely voluntary arrangement in the field of industry and applies mainly to the export or import of assembly parts and components in exchange for the export or import of finished or semi-finished products.

The Bank of Slovenia is authorized to supervise the application of the contracts from a financial and statistical aspect. This authorization for supervision refers only to those contracts under which Slovenian contractors asked and opened a current account through which they make and receive payments

with the right to reconcile debts and claims. Such rôle of the Bank of Slovenia as Central Bank is obvious for controlling exports of capital and for monitoring foreign credit transactions.

If companies choose to enter or to maintain this kind of arrangements with a foreign partner, it is a matter of mutual convenience to both parties. If the exchanged goods between the partners are not levelled, the balance has to be paid at the end of a calendar - fiscal year, or it is transformed into a credit arrangement.

This arrangement can always be covered by direct payments in foreign currency from one partner to another, depending on whose side the balance is outstanding. If the outstanding balance may be overdue over a certain period of time the Bank of Slovenia may apply rules which govern credit relations with foreign partners, namely, the Law on Credit Transactions with Foreign Countries, Articles 5-8 and 13-14.

Payments for same products and other transactions between contractual partners can be also made freely by convertible currencies. For imports or exports of the same products there is no need or even legislative requirements to conclude "long-term production co-operation contract". The only difference is that such imports or exports cannot be paid through "current account" by convertible currencies. In normal import, which is not paid through "current account" foreign exporters are not required to buy Slovenian products at all.

Long-term co-operation agreements have nothing specifically to do with the so-called "exclusion" sectors. Sectors and products covered by long-term co-operation contracts which are still valid are in the assembly industry, such as the production of motor vehicles, automotive parts, household appliances, electronics, machinery, and other industrial components and parts.

In practice there is no legal connection between foreign investments and trading or production co-operation. Foreign investor is not forced with any legislative provision or guideline requiring or targeting export performance as a condition of investment or capital repatriation. Foreign investor is free to repatriate (transfer) invested capital and profit in foreign currency any time. This form of foreign trade does not affect foreign direct investment. Foreign direct investors rarely conclude with Slovenian partners also long-term production cooperation contracts. Although most of the previous co-operation contracts were, for example, an introduction to joint ventures and direct investment.

If a foreign investor, which is at the same time trading partner, does not wish to absorb a part of the output, stemming from production co-operation, this situation does not result in any legal limitations based on the Law, nor does the Law require or impose any export performance upon the foreign partners. Such matters concern the basic contract between partners.

The total number of valid contracts at the present time is 718. The value of exports of goods in 1992 based on these contracts, was US\$1,249 million. The value of imports based on the same contracts was US\$1,251 million.

The companies in the Republic of Slovenia concluded contracts on long-term production co-operation with companies in twenty-eight countries.

The top ranking countries with which contracts were made, by number of contracts, were Germany (238), Italy (197) and Austria (143).

By sector, the most important area for these contracts is the automotive industry, electrical engineering and production of machinery and construction equipment.

It is expected that the long-term production co-operation will be legally abolished before the expiration of most of the currently valid contracts. The current validity of contracts on average extends to up to three years. When contracts expire it is common practice to renegotiate the contract on different commercial terms mainly in the direction of straight-forward trade, which does not require a government procedure.

3.2.2. Tariff and customs system - customs tariff and rates

Question 15:

It appears from the response to a question in this section in Spec(93)20 that the variable levies applied to imports of live cattle and pigs, beef, pork, and wine are applied in lieu of countervailing duties to protect domestic production from subsidized imports.

Does Slovenia intend to develop anti-dumping and anti-subsidy legislation that would address the problem of subsidized or other unfairly traded imports in conformity with the provisions of Article VI of the General Agreement?

Reply:

The "Law on the Protection of Competition" specifically, Chapter V, Article 15 and 16, provide a general legal basis for the development of more specific legislation in the area of dumping and export subsidization. The Law defines dumping and export subsidies, and provides authorization for the imposition of anti-dumping and countervailing measures.

Special legislation, which should specify procedures is in a phase of preparation. The authority in the area of control of unfair competition is delegated to the Office for the Protection of Competition, with defined responsibilities.

The new legislation which will specify procedures for the imposition of anti-dumping and countervailing measures will be in full conformity with the basic provisions of the Law and rules of the GATT (Article VI and relevant Code).

Specific anti-dumping and countervailing legislation will be prepared by the end of this year and enacted in early 1994.

Question 16:

What are the criteria for issuing variable import levies on specific commodities? How are variable levies calculated and adjusted? Does Slovenia plan to eliminate or otherwise discipline variable levies upon accession to the GATT?

In addition in the response to question 15, Slovenia indicates that "the quota régime 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."

Will import quotas be converted to variable levies?

Does Slovenia intend to extend the system of variable levies? Have any new products been added since 3 April 1993?

Reply:

Regulations pertaining to the application of variable levies to agricultural products have been recently adopted by the Government (29 July 1993).

The basis for the methodology of determining variable levies are so-called threshold and import prices.

The threshold price is a matter of policy; it is determined for domestically produced products, taking into account economic and agricultural policies and development needs.

Elements and criteria which influence the determination of input prices are:

- average domicile prices in the EEC and price information for Austria, Hungary and Croatia (i.e. neighbouring countries);
- prevailing or established domestic market prices;
- current costs of production, calculated on a monthly basis, for specific agricultural products;
- supply and demand situation in the domestic market and current production trends.

The import price is the lowest purchase price in the foreign market, increased by the customs duty, import costs, import charges.

The lowest purchase prices are defined as a prices quoted at commodity exchanges, prices which are in evidence in customs declarations and documentation, and prices publicised in commercial bulletins and price information sources.

The import prices reflect certain standards of quality. These prices are also regularly checked if they reflect current market conditions.

Variable levies are determined in a fixed value as a price difference between the import and threshold price.

Variable levies are determined for the most typical (basic) products. For all other products which are derived or processed from the basic products, a levy is determined on the basis of a relative value added by processing.

Variable levies, in all cases, take into account price fluctuations, especially if commodities have been purchased from stocks at reduced prices.

Quantitative restrictions for major products are being replaced by variable levies. Recently, the Government has adopted regulations which abolished all quotas in the area of agricultural products and replaced some of them with variable levies.

The list of import products which will be subject to variable levies has been updated and is enclosed.

The choice of products, which are subject to variable levies, is very selective. The list (see Annex I) is limited to key products, which are most sensitive and urgent.

The new average amounts of variable levies are as follows:

- between US\$0.2 to US\$1.20 per kilogramme for livestock and meat;
- and from US\$0.7 to US\$2.5 per kilogramme for milk and milk products;
- US\$2.5 to US\$3.5 per kilogramme for butter;
- US\$1.5 to US\$3.8 per kilogramme for cheese;
- US\$0.5 to US\$2.0 per kilogramme for eggs;
- US\$0.7 to US\$1.6 for sausages;
- US\$0.4 to US\$1.5 per kilogramme for processed meat;
- US\$0.25 per kilogramme for sugar and related products;
- US\$0.4 to US\$0.6 per litre for wines.

Regulations on the application of variable levies can be circulated to the Working Party. Slovenia regards variable levies as a transition measure. It is planned that they should be abolished within three years.

### 3.2.2. Tariff and customs system - non-customs taxes

#### Question 17:

At the last meeting, Slovenia indicated that it recognized that the customs formality tax of 1 per cent was probably inconsistent with Article VIII. What precisely does Slovenia intend to do to bring this practice into conformity with the General Agreement and within what time-frame?

Concerning the equalization taxes discussed in the response to question No. 11 of L/7191 and 34 of L/7191/Add.1:

When does Slovenia plan to eliminate the measure?

#### Reply:

Upon accession of the Republic of Slovenia to the GATT, both of the above taxes will be absorbed by the new customs tariff and become obsolete. Because of uncertainty when the new Law on Customs Tariff will be adopted by the Parliament, Slovenia, declares that both surcharges will be abolished within a period of three years.

**Question 18:**

Concerning the import surcharges on imported alcoholic beverages, cigarettes, and used cars discussed in the responses to questions No. 15 of L/7191 and 33 of L/7191/Add.1, Slovenia listed the affected products in Spec(93)20:

When will Slovenia eliminate the surcharge? Will it be extended to other products? Will the incidence of the tax be reduced?

**Reply:**

Concerning the import surcharges on imported alcoholic beverages, cigarettes, and used cars, these surcharges will be regulated by the new customs tariff. These surcharges will not be extended to other products. The Republic of Slovenia declares that the surcharges will also be eliminated within a period of three years.

**3.2.3. Other non-tariff measures**

**Question 19:**

Does Slovenia plan to expand the number of items currently covered by quantity quotas, listed in Annex 1 of L/7191? Does Slovenia foresee the possibility of gradually eliminating the current quantity quotas by 31 December 1995?

With the exception of the variable levies, import taxes and surcharges, and quantity quotas, does Slovenia apply any other measure to imports as a purely protective device for domestic output?

**Reply:**

The Republic of Slovenia recently (29 July 1993) eliminated all quantity quotas on all agriculture products. Quantity quotas are applied only on textile products. For textiles, quantitative restrictions will be brought into compliance with the Agreement Regarding International Trade in Textiles, upon accession to this agreement. The Republic of Slovenia will accept all the obligations deriving from the Uruguay Round in this sector.

Slovenia does not apply any other measure to imports, except those described in the materials for the Working Party, as a purely protective device for domestic output.

**Question 20:**

Under the new Law, which farm products will be highly restricted or outright banned from entering Slovenia for animal or plant health reasons?

**Reply:**

At this time there are no restricted or banned imports by Law for animal or plant products for health reasons. The Law only provides a basis for health control procedures.

Only special imports of live animals for breeding purposes and insemination material is closely controlled by authorities.

### 3.3. Preferential treatment

#### Question 21:

Concerning the GSTP preferences referred to in the response to question 45 of L/7191/Add.1 and listed in the Annex to Spec(93)20:

Approximately what portion of Slovenia's imports are covered by these particular preferences?

#### Reply:

The Republic of Slovenia temporarily grants GSTP status (i.e. preferential status to developing countries) and preferential status to the former Yugoslav Republic of Macedonia and Bosnia and Herzegovina. In 1992 a free-trade agreement was signed with the former Yugoslav Republic of Macedonia.

The countries which have preferential status in trade with the Republic of Slovenia are stated in the document L/7191/Add.1, on page 26.

This situation has been inherited from the former Yugoslavia, based on a multilateral agreement concluded between the former Yugoslavia and the countries concerned.

The Republic of Slovenia, as a newly independent country, assumed responsibilities emanating from the above multilateral agreement by granting preferential treatment for imports of goods from designated countries, since the agreement remained in force after the breaking of the former Yugoslavia which was the country designated as the depositor.

The portion of imports to the Republic of Slovenia, based on Article 52 of the Customs Law (preferential treatment to developing countries) in the year 1992 was 17.5 per cent of all imported goods. In the first four months of 1993 the level of these imports dropped to 1.8 per cent of total imports. The reason for such drop was exclusion of the Republic of Croatia from these preferences.

The above percentages include trade with the former Yugoslav Republic of Macedonia and Bosnia and Hercegovina.

### 3.4. Measures against unfair trade practices

#### Question 22:

Concerning the application of import control measures under the Law on Fair Competition:

Please outline the provisions of the new "Law on Fair Competition" dealing with the application on anti-dumping and countervailing measures. Does the Law provide for the appeal of contested rulings? If so, please describe the process and mechanisms employed.

Does Slovenia intend to adhere to the Anti-dumping and Subsidies Codes after its accession to the General Agreement?

**Reply:**

The Law, directly, does not deal with matters of procedure dealing with the application of anti-dumping and countervailing duties. It only provides a general legal basis in this area by introducing into the legal system of the Republic of Slovenia the concept of dumping and subsidised exports as forms of unfair competition. The procedural matters are left to specific legislation which is currently under development. This legislation will address the question of appeals of contested rulings of the competent authorities.

The Republic of Slovenia intends to adhere to the Anti-dumping Code at the moment of its accession to the GATT and later also to the Subsidies Code.

**3.8. Subsidies**

**Question 23:**

Aside from the intervention programme outlined in the responses to questions 40 and 41 of L/7191, which agricultural support programmes are in effect? Does Slovenia plan to phase out these programmes under its ongoing market reforms?

**Reply:**

The Republic of Slovenia uses only a system of premiums and rebates, which are designed to support the restructuring of agricultural production in the direction ecologically cleaner or ecologically friendly production and processing.

**Question 24:**

Could Slovenia reaffirm which MTN Codes it will adhere to and when?

**Reply:**

The Republic of Slovenia intends to accede to the following Codes, at the moment of its accession to the GATT:

- the Agreement on Technical Barriers to Trade;
- the Agreement on Implementation of Article VI of the GATT (Anti-Dumping Code);
- the Agreement on Implementation of Article VII (Customs Valuation Code);
- the Agreement on Import Licensing Procedures.

Apart from the above, the Republic of Slovenia is in the process of accession to the Agreement Regarding International Trade in Textiles.

The Republic of Slovenia will accede to the Agreement on Government Procurement at a later date since there is no national legislation yet in place dealing with this area.

Accession to the Agreement on Interpretation and Application of Article VI, XVI and XXIII of the GATT (Subsidies Code), will also be taken into consideration at a later date.

LIST OF ENCLOSURES<sup>1</sup>

1. Law On Foreign Trade  
Articles 1, 2, 3 and 4  
(long-term production co-operation);
  
2. Law On Foreign Exchange Transactions  
Articles 31 and 32  
(current accounts in connection with long-term production co-operation);
  
3. Law On the Protection of Competition  
Articles 15 and 16  
(anti-dumping and countervailing measures);
  
4. Annex 1.  
List of import products subject to variable levies
  
5. Law on Commercial Companies

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<sup>1</sup>Available in the Secretariat (Office of the Special Adviser to the Director-General, Room 2017)  
for consultation by delegations