

TITLE III

Payments, Competition and Other Economic Provisions

Article 32 (EA 62)

The Parties undertake to authorize, in freely convertible currency, any payments on the balance of payments current account to the extent that the transactions underlying the payments concern movements of goods, services or persons between the Parties which have been liberalized pursuant to this Agreement.

Article 33 (EA 65)

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

- (i) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;
- (ii) abuse by one or more undertakings of a dominant position in the territories of the Community or of Slovenia as a whole or in a substantial part thereof;
- (iii) any public aid which distorts or threatens to distort competition by favouring certain undertakings or certain products.

2. Any practices contrary to this Article shall be assessed on the basis of criteria arising from the application of the rules of Articles 85, 86 and 92 of the Treaty establishing the European Community.

3. The Cooperation Council shall, within three years of the entry into force of this Agreement, adopt the necessary rules for the implementation of paragraphs 1 and 2. Until the implementing rules are adopted, practices incompatible with paragraph 1 shall be dealt with by the Parties on their respective territories according to their respective legislation. This shall be without prejudice to paragraph 6.

- 4.
- (a) For the purposes of applying the provisions of paragraph 1(iii), the Parties recognize that during the first four years after the entry into force of this Agreement, any public aid granted by Slovenia shall be assessed taking into account the fact that Slovenia shall be regarded as an area identical to those areas of the Community described in Article 92(3)(a) of the Treaty establishing the European Community. The Cooperation Council shall, taking into account the economic situation of Slovenia, decide whether that period should be extended by further periods of four years.
 - (b) Each Party shall ensure transparency in the area of public aid, *inter alia*, by reporting annually to the other Party on the total amount and the distribution of the aid given and by providing, upon request, information on aid schemes. Upon request by one Party, the other Party shall provide information on particular individual cases of public aid.

5. With regard to products referred to in Chapters II and III of Title II:

- paragraph 1(iii) shall not apply;
- any practices contrary to paragraph 1(i) must be assessed according to the criteria established by the Community on the basis of Articles 42 and 43 of the Treaty establishing the European Community and in particular of those established in Council Regulation No. 26/1962.

6. If the Community or Slovenia considers that a particular practice is incompatible with the terms of paragraph 1, and:

- is not adequately dealt with under the implementing rules referred to in paragraph 3; or
- in the absence of such rules, and if such practice causes or threatens to cause serious injury to the interests of the other Party or material injury to its domestic industry, including its services industry,

it may take appropriate measures after consultation within the Cooperation Council or after thirty working days following referral for such consultation.

In the case of practices incompatible with paragraph 1(iii), such appropriate measures may, where the WTO Agreement applies thereto, only be adopted in accordance with the procedures and under the conditions laid down by thereby and any other relevant instrument negotiated under its auspices which are applicable between the Parties.

7. Notwithstanding any provisions to the contrary adopted in accordance with paragraph 3, the Parties shall exchange information taking into account the limitations imposed by the requirements of professional and business confidentiality.

8. This Article shall not apply to the products covered by the Treaty establishing the European Coal and Steel Community which are the subject of Protocol 2.

Article 34 (EA 66)

1. The Parties shall endeavour wherever possible to avoid the imposition of restrictive measures, including measures relating to imports for balance of payments purposes. A Party adopting such measures shall present as soon as possible to the other Party a timetable for their removal.

2. Where one or more Member States of the Community or Slovenia is in serious balance of payments difficulties, or under imminent threat thereof, the Community or Slovenia, as the case may be, may, in accordance with the conditions established under the WTO Agreement, adopt restrictive measures, including measures relating to imports, which shall be of limited duration and may not go beyond what is strictly necessary to remedy the balance of payments situation. The Community or Slovenia, as the case may be, shall inform the other Party forthwith.

3. Any restrictive measures shall not apply to transfers related to investment and in particular to the repatriation of amounts invested or reinvested or any kind of revenues stemming therefrom.

Article 35 (EA 67)

With regard to public undertakings, and undertakings to which special or exclusive rights have been granted, the Cooperation Council shall ensure that as from the third year following the date of entry into force of this Agreement, the principles of the Treaty establishing the European Community, in particular Article 90 thereof, and the principles of the concluding document of the April 1990 Bonn meeting of the Conference on Security and Cooperation in Europe, in particular entrepreneurs' freedom of decision, are upheld.

Article 36 (EA 68)

1. Pursuant to the provisions of this Article and Annex X, the Parties confirm the importance that they attach to ensure adequate and effective protection and enforcement of intellectual, industrial and commercial property rights.

2. By the end of the third year after the entry into force of this agreement, and in any case from the entry into force of the Europe Agreement, Slovenia shall protect intellectual, industrial and commercial property rights at a level of protection similar to that provided in the Community by Community acts, in particular the ones referred to in Annex X, including effective means of enforcing such rights.

Article 37 (EA 94,2)

Mutual assistance between administrative authorities in customs matters of the Parties shall take place in accordance with the provisions of Protocol 5.

TITLE IV

Institutional, General and Final Provisions

Article 38

The Cooperation Council set up by the Cooperation Agreement signed between the European Economic Community and Slovenia on 5 April 1993 shall perform the duties assigned to it by this Agreement.

Article 39 (EA 112)

The Cooperation Council shall, for the purpose of attaining the objectives of this Agreement, have the power to take decisions in the cases provided for therein. The decisions taken shall be binding on the Parties, which shall take the measures necessary to implement the decisions taken. The Cooperation Council may also make appropriate recommendations.

It shall draw up its decisions and recommendations by agreement between the two Parties.

1. The Cooperation Council shall be assisted in the performance of its duties by a Joint Committee composed of representatives of the Community, on the one hand, and of representatives of the Government of Slovenia, on the other, normally at senior civil servant level.

The duties of the Joint Committee shall include the preparation of meetings of the Cooperation Council.

2. The Cooperation Council may delegate to the Joint Committee any of its powers. In this event