

What portion of Croatia's imports and exports, respectively, were accounted for by this sort of special trade operations in a recent representative period? (WT/ACC/HRV/3)

ANSWER:

In accordance with the Law on Trade, special forms of foreign trade are considered to be countertrade, reexport, cross border trade, and distribution of goods from consignment warehouses.

The Ministry of Economy participates to a certain extent in the supervision of countertrade, that is to say trade in which goods and services are exchanged without the use of money. Not one of the contracts mentioned contains state to state elements.

It is impossible to provide a list of companies that entered long term cooperation or reexport, since they do not keep track of those companies or the goods exchanged in these types of trade. It is the companies themselves that decide as to what business they will perform, the type of goods and their foreign business partners. The state bodies, on the other hand, do not limit the free exercise of the activities mentioned. For that reason it is not possible to assess the participation of these types of activities in the total exports and imports of the Republic of Croatia.

QUESTION 16:

The draft Law on Trade contained in Appendix 8 provides for the continuation of such "special trade operations" in Articles 34-37. Article 34 states that "the criteria and conditions for conducting business (for such arrangements) are specified by the Government of the Republic of Croatia". It also states that "(T)he Ministry in charge of trade issues approval for compensation deals with foreign countries.."are also necessary for deals involving "the import of goods which are not produced in the Republic of Croatia or are not produced in the quantities large enough to supply the domestic market".

- (i) Please describe in detail the conditions referred to in Article 34 concerning "compensation deals" with special reference to those involving "the import of equipment, input materials and raw materials for the production of goods and services intended for export;"**
- (ii) Please explain the nature of the "cross-border trade" provided for in Article 36.**
- (iii) Please explain the nature of the trade in "consignments" provided for in Article 37. (WT/ACC/HRV/4/Add.1, Appendix 8)**

ANSWER:

(i) The new Law on Trade which, among other things, sets forth the conditions for trade with foreign countries, has retained a certain extent of control over compensation deals. In accordance with this Law, Croatian companies may enter into compensation transaction with foreign countries if they obtain approval from the Ministry of Economic Affairs. Priority will be given to traders compensating their exports by the import of equipment, raw materials and intermediary products intended for export-orientated production, or to traders importing goods which are either not produced at all or produced in insufficient quantities which are either not produced at all or produced in insufficient quantities to meet the needs of the Croatian market. Similarly, a compensation transaction is approved if it involves exports which cannot be compensated otherwise.

Full liberalization in concluding compensation transactions may be expected when the domestic market and overall Croatian economy have been stabilised and consolidated, as well as when the same occurs in the countries with which Croatia most frequently enters into compensation deals, i.e. the countries created following the disintegration of the former Yugoslavia (Bosnia-Herzegovina, the Former Yugoslav Republic of Macedonia, Slovenia). Under the current conditions of a stable and convertible

domestic currency, the procedure for approving compensation transactions with foreign countries has been considerably simplified, i.e. consists of reporting back such deals to the MEA. This means that companies are free to conclude compensation deal contracts, that is, to make decisions on the methods of trade with foreign countries.

In 1995, the Ministry of Economy registered 930 compensation contracts. Their individual values range from US\$ 1,000 or 2,000 to as high as US\$ 20 million. Not a single contract or request for concluding a compensation transaction was rejected. All manner of goods were traded on the basis of compensation contracts. These include spare car parts, electrical fittings, electrical appliances and machines, electrical power, raw oil, PVC products, cardboard packaging, metal sheets, wires, textile industry products, animal feed, lumber, detergents, etc. In the light of the fierce competition in the Croatian market, which reduced the marketability of certain goods and, especially, the possibility of collecting the receivables for goods sold, Croatian companies preferred to collect their export revenue in foreign exchange. Consequently, both interests in compensation transactions and the share of such operations in overall foreign trade shrunk. In 1995, the total value of Croatia's compensation trade amounted to US\$ 630 million or 5% of total trade volume.

(ii) Article 36 of the Law on Trade states the conditions for cross-border trade. The cross-border and neighbouring overseas areas envisaged for this type of trade are defined by an agreement between states. Specifically speaking, this would be the Agreement between the Republic of Italy and the SR Yugoslavia signed in 1955 in Rome, in accordance with the London Memorandum of Understanding from 1954. Based on this Agreement, trade with certain goods included in a special list and up to a limited amount (for 1996, 22.623 mil lira) between the regions of former Yugoslavia, now Slovenia, Croatia (municipalities of Buje, Novigrad, Umag) and Italy (Trieste) can be performed without limitation of quantities, but under the condition that the exchange of goods is conducted by companies whose head offices are located in the areas stated in the Agreement, and that the goods imported are used exclusively within this area.

The significance of cross-border trade is not substantial. In 1995, for instance, cross-border trade accounted for a mere 1,25% of total foreign trade between Italy and Croatia amounting to US\$ 2463,5 million.

(iii) Consignment sale (Article 37 of the Law on Trade) means the distribution of foreign goods in the manner that a domestic legal entity signs a contract with the foreign legal entity on storage of foreign goods in consignment warehouses and sale of these goods to other domestic legal entities. The key elements in this type of contract are the following:

1. a domestic legal entity sells goods whose owner is a foreigner (principal);
2. customs duties are collected when the foreign goods are sold to a purchaser. This means that the goods are not cleared through customs when they are stored at the consignment warehouse, but when a purchaser is found. Since the consignment goods are under customs supervision, they are sold at a special type of customs warehouse before passing customs clearance;

According to former Law on Foreign Trade Operations, contracts on selling foreign goods from consignment warehouses had to be ratified by the Ministry of Economy. The new Law on Trade further admits the signing of such contracts and distribution of goods in the stated manner, but since it is a customs issue and deals with customs warehouses, the conditions and manner of opening consignment warehouses are left to the jurisdiction of the Customs Law.

III.1(d) Long-term Production Cooperation

QUESTION 17:

L/7466 states that the Company Law allows domestic entrepreneurs to enter into contracts for long-term production cooperation with foreign persons provided that the contracts are in writing, for a term not shorter than three years, and that the value of export transactions covered by the contract must be at least equal to the value of import transactions covered by the same contract. The response to question 124 in WT/ACC/HRV/3 states that this is a clearing/accounting measure to ensure that the liability of the firm does not exceed a certain amount.

The response to question 124 also states that at present there are 90 long-term production cooperation agreements still in effect that but that these agreements are (a) mostly holdovers from before Croatia's independence, and (b) no longer receiving any privileges except "current accounting".

Please list these agreements and the products covered, noting those that have been concluded or renewed after Croatia's independence.

What firms currently engage in this sort of trade? Is a special approval or license from the State required? If so, please describe how it is administered.

We require a much better picture of the nature of such agreements, the role of the State (Ministry) in their execution, and the trade-balancing (or "accounting") aspects of the contracts noted in L/7466.

Approximately what percentage of Croatia's trade is accounted for by such arrangements? Does Croatian intend to encourage these of commerce in the future?

ANSWER :

The Law on Foreign Trade Operations, which regulated long-term production transactions, does not exist and is not enforced any more.

The Company Law does not regulate long-term production transactions.

Croatia's foreign trade regime is based on the new Law on Trade which entered into force on February 17, 1996 and which does not specifically regulate transactions involving so-called long-term production cooperation. Transactions concluded on the basis of the agreement on long-term production cooperation have been put on the same level as other foreign trade export and import operations. Contracting parties are free to determine the terms of transactions involving long-term production cooperation. Since the Ministry of Economic Affairs no longer has control over transactions concluded on the basis of such agreements, the interest in, and responsibility for, carrying out transactions involving long-term production cooperation has been transferred to companies themselves.

QUESTION 18:

Please explain more fully the nature of the "current accounting" provided by Croatia to firms engaged in these agreements. Why is this service necessary if the firms are no longer subject to State requirements or assistance in operating under such agreements?

ANSWER:

Croatian firms engaged in long-term cooperation agreements with foreign firms may (or may not) agree that no payment is exchanged, rather the difference between the trade is paid out through a bank account. This type of record keeping of the exchange of goods is in fact called current accounting.

Current accounting in this instance does not refer to the banking term of current account.

QUESTION 19:

L/7466 stated that certain exemptions from import/export quotas and licences for this trade could be granted based on approvals issued by the Ministry that oversees the operation of the agreements. The response to question 124 in WT/ACC/HRV/3, however, states that all/all imports and exports generated by such contracts are subject to all normal duties, taxes, fees, and other regulations of commerce.

Please give a detailed clarification of this apparent contradiction.

ANSWER:

There are no exemptions from import/export quotas and licences, hence all contracts are treated equally as any other foreign trade activity.

III.1(e) Compensation Agreements with Foreign Countries

QUESTION 20:

Please provide information what is the share of compensation contracts in overall imports and exports of Croatia? When does the Government of Croatia intend to introduce external convertibility of its domestic currency? When the complete liberalization of compensatory contracts is foreseen?

Thanks to a stable domestic currency and its internal convertibility, Croatia has been able to simplify the approval of compensatory deals. When may full convertibility of the national currency be expected? Will compensatory deals then be completely liberalized? (WT/ACC/HRV/3, Question 6)

ANSWER:

In 1995, the Ministry of Economy has registered 930 compensation contracts. Not a single contract or request for concluding a compensation contract has been rejected.

In 1995, the total value of Croatia's compensation trade amounted to US\$ 630 million or 5% of the total trade volume.

Under the current conditions of a stable and convertible domestic currency, the procedure for approving compensation contracts with foreign countries has been simplified, i.e. consists of reporting back such deals to the Ministry of Economy. Full liberalization in concluding compensation contracts may be expected when the domestic market and overall Croatian economy will be stabilised and consolidated as well as when the same occurs in the countries with which Croatia most frequently enters into compensation deals (Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia etc.).

On May 29, 1995, the Republic of Croatia formally accepted the obligations with regard to externally converting the Croatian Kuna, which are stipulated in the International Monetary Fund Statute Article 8, paragraph 2, 3 and 4.

QUESTION 21:

Please indicate the current scope and nature of compensation trade in Croatia, e.g., update the information provided in WT/ACC/HRV/3. Please elaborate on the role of the State in such trade? Does the Ministry enforce compensation trade contracts?

Please confirm that such trade subject to all/all duties, taxes, fees, and other regulations of commerce that would be applied if the imports or exports were conducted under normal circumstances.

ANSWER:

The answer to this question was given in question III. 1. (c). For the first six months of 1996 there were 400 requests for performing international compensation trade, primarily with the following countries: Slovenia, the Former Yugoslav Republic of Macedonia, Czech Republic, Slovak Republic, and European Union members.

The Ministry of Economy does not in any way promote companies to perform compensation trade, rather when companies have already drawn-up compensation contracts they submit their requests to the Ministry.

Compensation trade is not exempt from tariffs, obligations or any other regulations of trade applied to imported and exported products, just as if the imports and exports were conducted under normal circumstances.

III.1(h) New Legal Requirements in Operations with Foreign Countries

QUESTION 22:

The new foreign trade law establishes various criteria for transactions with foreign countries. These new provisions were being drawn up at the time of writing of the memorandum. What is the situation today? Has this law been adopted? Has it entered into force? (L/7466, page 23)

Among the basic features of this new law, paragraph (5) on page 26 indicates that the government may, in cases it considers necessary, set quotas on imports and exports. In what specific situations is this the case? (L/7466)

ANSWER:

The new Law on Trade was submitted to the WTO Secretariat on March 21, 1996. The Law does not set up different criteria for trading on the domestic market and for carrying out foreign trade transactions. All those who are registered at the Commercial Court for trading activities may engage in both foreign and domestic trade under identical conditions.

Articles 40-43 of the Law contain the provisions for the imposition of import and export quotas. In accordance with the Law, the Government of Croatia may determine import quotas in the following cases: as safeguard measures to protect the domestic industry from excessive imports, for balance of payment purposes, to offset disturbances, and for the purpose of protecting infant industries. In exceptional cases, export quotas may be set up for the purpose of protecting unrenovable natural resources.

QUESTION 23:

What is the status of the (draft) Trade Bill which was submitted to Croatian Parliament in April 1995? Has the text in Appendix 8 been altered during legislative consideration? (WT/ACC/HRV/3, Question 12)

ANSWER:

The new Law on Trade entered into force in February 1996 and was submitted (in English) to the WTO Secretariat on March 21, 1996.