

WORLD TRADE
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Committee on Regional Trade Agreements

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FREE TRADE AGREEMENT BETWEEN THE SLOVAK REPUBLIC
AND THE REPUBLIC OF BULGARIA

Communication from the Permanent Mission of the Slovak Republic

The following text reproduces the Agreement¹ between the Slovak Republic and the Republic of Bulgaria.

¹The Annexes and Protocols thereto have been submitted to the Secretariat for consultation by interested Member (Office 3006).

PREAMBLE

The Slovak Republic and the Republic of Bulgaria hereinafter called the Parties,

Having regard to the Memorandum between the Government of the Slovak Republic and the Government of the Republic of Bulgaria on the liberalization of the mutual trade relations of 31 May 1995,

Recalling their intention to participate actively in the process of economic integration as an important dimension of the stability on the European continent and expressing their preparedness to co-operate in seeking ways and means to strengthen this process,

Reaffirming their firm commitment to the principles of a market economy, which constitutes the basis for their relations,

Recalling their firm commitment to the Final Act of the Conference on Security and Co-operation in Europe, the Paris Charter, and, in particular, the principles contained in the final document of the Bonn Conference on Economic Co-operation in Europe,

Resolved to this end to eliminate progressively the obstacles to substantially all their mutual trade, in accordance with the provisions of the General Agreement on Tariffs and Trade 1994,

Firmly convinced that this Agreement will foster the intensification of mutually beneficial trade relations between them and contribute to the process of integration in Europe,

Considering that no provision of this Agreement may be interpreted as exempting the Parties from their obligations under other international agreements, especially the Agreement Establishing the World Trade Organization,

Hereby agreed as follows:

Article 1

Objectives

1. The Parties shall gradually establish a free-trade area in a transitional period ending on 1 January 1998 at the latest in accordance with the provisions of the present Agreement and in conformity with Article XXIV of the General Agreement on Tariffs and Trade 1994 and with the Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade 1994.

2. The objectives of the present Agreement are:

- (a) to promote through the expansion of trade the harmonious development of the economic relations between the Parties and thus to foster in the advance of economic activity in the Parties, the improvement of living and employment conditions, and increased productivity and financial stability;
- (b) to provide fair conditions of competition for trade between the Parties;
- (c) to contribute in this way, by the removal of barriers to trade, to the harmonious development and expansion of world trade.

CHAPTER I

Industrial Products

Article 2

Scope

The provisions of this Chapter shall apply to industrial products originating in the Parties. The term "industrial products" means for the purpose of this Agreement the products falling within Chapters 25 to 97 of the Harmonized Commodity Description and Coding System, with the exception of the products listed in Annex Ia and including the products listed in Annex Ib.

Article 3

Customs duties on imports

1. No new customs duty on imports shall be introduced in trade between the Parties.
2. Customs duties on imports shall be abolished in accordance with the provisions of Protocol 1 of this Agreement.

Article 4

Basic duties

1. For each product the basic duty to which the successive reductions set out in this Agreement are to be applied shall be the most favoured nation rate of duty in force on 1 January 1995.
2. If, after entry into force of this Agreement, any tariff reduction is applied on an erga omnes basis, such reduced duties shall replace the basic duties referred to in paragraph 1 as from that date when such reductions are applied.
3. The reduced duties calculated in accordance with paragraph 2 shall be applied rounded to the first decimal place.
4. The Parties shall communicate to each other their respective national basic rates of duties in accordance with the provisions of paragraph 2.

Article 5

Charges equivalent to duties

1. No new charge having an effect equivalent to a customs duty on imports shall be introduced in trade between the Parties.
2. All charges having an effect equivalent to customs duties on imports shall be abolished on the date of entry into force of this Agreement, except as provided for in Annex II.

Article 6

Fiscal duties

The provisions of Article 3 shall also apply to customs duties of a fiscal nature.

Article 7

Customs duties on exports and charges having equivalent effect

1. No new customs duty on exports or charge having equivalent effect shall be introduced in trade between the Parties.
2. The Parties shall abolish between them on the date of entry into force of this Agreement all customs duties on exports and charges having equivalent effect, except as provided for in Annex III.

Article 8

Quantitative restrictions on imports and measures having equivalent effect

1. No new quantitative restriction on imports or measure having equivalent effect shall be introduced in trade between the Parties.
2. All quantitative restrictions and measures having equivalent effect on imports of products originating in the Parties shall be abolished on the date of entry into force of this Agreement, except as provided for in Annex IV.

Article 9

Quantitative restrictions on exports and measures having equivalent effect

1. No new quantitative restriction on exports or measures having equivalent effect shall be introduced in trade between the Parties.
2. All quantitative restrictions and measures having equivalent effect on exports of products originating in the Parties shall be abolished on the date of entry into force of this Agreement, except as provided for in Annexes Va and Vb.

Article 10

Information procedure on draft technical regulations

1. The Parties shall notify each other at the earliest practicable stage and in accordance with the provisions as set out in Annex VI on the draft technical regulations and draft amendments thereto, which they intend to issue.
2. The Joint Committee shall decide on the date for implementing the provisions in paragraph 1.

CHAPTER II

Agricultural Products

Article 11

Scope

The provisions of this Chapter shall apply to agricultural products originating in the Parties. The term "agricultural products" means for the purpose of this Agreement the products falling within Chapters 1 to 24 of the Harmonized Commodity Description and Coding System, with the exception of the products listed in Annex Ib and including the products listed in Annex Ia.

Article 12

Exchange of concessions

1. The Parties grant each other the concessions, specified in Protocol 2 in accordance with the provisions of this Chapter.

2. Taking account of:

- the role of agriculture in their economies;
- the development of trade in agricultural products between the Parties;
- the particular sensitivity of the agricultural products;
- the rules of their agricultural policies;
- the respective provisions of the Agreement Establishing the World Trade Organization

the Parties shall examine the possibilities of granting each other further concessions.

Article 13

Concessions and agricultural policies

1. Without prejudice to the concessions granted under Article 12, the provisions of this Chapter shall not restrict in any way the pursuance of the respective agricultural policies of the Parties or the taking of any measures under such policies, including the implementation of the respective provisions of the Agreement Establishing the World Trade Organization.

2. The Parties shall notify each other changes in their respective agricultural policies pursued or measures applied which may affect the conditions of agricultural trade between them as provided for in this Agreement. Prompt consultations shall be held, upon request of any Party, to examine the situation.

Article 14

Specific safeguards

Notwithstanding other provisions of this Agreement and, in particular, Article 27, if, given the particular sensitivity of the agricultural markets, imports of products originating in a Party, which are subject to concessions granted under this Agreement, cause serious disturbance to the markets of the other Party, the Party concerned shall enter into consultations immediately to find the appropriate solution. Pending such solution, the Party concerned may take measures it deems necessary.

Article 15

Veterinary, health and phytosanitary measures

1. Measures concerning veterinary and phytosanitary control will be harmonized with European Union legislation and between the Parties.
2. The veterino-sanitary measures and the work of the veterinary services will be in accordance with the Office International des Epizooties Codex and other international conventions in this field.
3. The Parties commit themselves not to introduce discriminatory or other unusual measures which would limit the flow of information, animals, plants or products.

CHAPTER III

General Provisions

Article 16

Rules of origin and co-operation in customs administration

1. Protocol 3 lays down the rules of origin and related methods of administrative co-operation.
2. The Parties shall take appropriate measures, including regular reviews by the Joint Committee and arrangements for administrative co-operation, to ensure that the provisions of Protocol 3 and Articles 3 to 9, 12, 17 and 28 of this Agreement are effectively and harmoniously applied, and to reduce, as far as possible, the formalities imposed on trade, and to achieve mutually satisfactory solutions to any difficulties arising from the operation of those provisions.

Article 17

Internal taxation

1. The Parties shall refrain from any measure or practice of an internal fiscal nature establishing, whether directly or indirectly, discrimination between the products originating in the Parties.
2. Products exported to the territory of one of the Parties may not benefit from repayment of internal taxation in excess of the amount of direct or indirect taxation imposed on them.

Article 18

General exceptions

This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of human, animal or plant life or health; the protection of national treasures possessing artistic, historic or archaeological value; protection of intellectual property or rules relating to gold or silver or the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties.

Article 19

Security exceptions

Nothing in this Agreement shall prevent a Party from taking any appropriate measure which it considers necessary:

- (a) to prevent the disclosure of information contrary to its essential security interests;
- (b) for the protection of its essential security interests or for the implementation of international obligations or national policies;
 - (i) relating to the traffic in arms, ammunition and implements of war, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes, and to such traffic in other goods, materials and services as is carried on directly or indirectly for the purpose of supplying a military establishment,
or
 - (ii) relating to the non-proliferation of biological and chemical weapons, nuclear weapons or other nuclear explosive devices;
or
 - (iii) taken in time of war or other serious international tension.

Article 20

State monopolies

1. The Parties shall adjust progressively any State monopoly of commercial character so as to ensure that by 1 July 1999 no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of the Parties.

2. The provisions of this Article shall apply to any body through which the competent authorities of the Parties, in law or in fact, either directly or indirectly supervise, determine or appreciably influence imports or exports between the Parties. These provisions shall likewise apply to monopolies delegated by a Party to other bodies.

Article 21

Payments

1. Payments in freely convertible currencies relating to trade in goods between the Parties and the transfer of such payments to the territory of the Party to this Agreement, where the creditor resides, shall be free from any restrictions.
2. The Parties shall refrain from any exchange or administrative restrictions on the grant, repayment or acceptance of short and medium term credits related to trade in goods in which a resident participates.
3. Notwithstanding the provisions of paragraph 2, until Article VIII of the Articles of the Agreement of the International Monetary Fund becomes applicable for some of the Parties, the Parties reserve the right to apply exchange restrictions on the grant or acceptance of short and medium term credits related to trade in goods to the extent permitted according to their status under the International Monetary Fund, provided that these restrictions are applied in a non-discriminatory manner with regard to the origin of the products and that they are not applied only to specific products or kind of products. The restrictions shall be of limited duration and shall be eliminated when conditions no longer justify their maintenance. A Party shall inform the other Party promptly of the introduction of such measures and of any changes therein.

Article 22

Rules of competition concerning undertakings

1. The following are incompatible with the proper functioning of this Agreement insofar as they may affect trade between the Parties:
 - (a) 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;
 - (b) abuse by one or more undertakings of a dominant position in the territories of the Parties as a whole or in substantial part thereof.
2. The provisions of paragraph 1 shall apply to the activities of all undertakings including public undertakings and undertakings to which the Parties grant special or exclusive rights. Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly, shall be subject to provisions of paragraph 1 insofar as the application of these provisions does not obstruct the performance, in law or fact, of the particular public tasks assigned to them.
3. With regard to products referred to in Chapter II the provisions stipulated in paragraph 1(a) shall not apply to such agreements, decisions and practices which form an integral part of a national market organization.
4. If a Party considers that a given practice is incompatible with paragraphs 1, 2 and 3 and if such practice causes or threatens to cause serious prejudice to the interest of that Party or material injury to its domestic industry, it may take appropriate measures under the conditions and in accordance with the procedure set out in Article 31.

Article 23

State aid

1. Any aid granted by a State being a Party to this Agreement or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it may affect trade between the Parties, be incompatible with the proper functioning of this Agreement.
2. The provisions of paragraph 1 shall not apply to products referred to in Chapter II.
3. The Joint Committee shall, at the latest by 1 July 1997, adopt the criteria on the basis of which the practices contrary to paragraph 1 shall be assessed, as well as the rules for their implementation.
4. The Parties shall ensure transparency in the area of State aid, *inter alia*, by reporting annually to each other on the total amount and the distribution of the aid given and by providing to the other Party, upon request, information on aid schemes and on particular individual cases of State aid.
5. If a Party considers that a particular practice, including that in agriculture:
 - 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 prejudice to the interest of that Party or material injury to its domestic industry,

it may take appropriate measures under the conditions of and in accordance with the provisions of Article 31. Such appropriate measures may only be taken in conformity with the procedures and under the conditions of the Agreement Establishing the World Trade Organization and any other relevant instrument negotiated under its auspices which are applicable between the Parties.

Article 24

Public procurement

1. The Parties consider the liberalization of their respective public procurement markets as an objective of this Agreement.
2. The Parties shall progressively develop their respective regulations for public procurement with a view to grant suppliers of the other Party, by the end of 1998 at the latest, access to contract award procedures on their respective public procurement markets according to the provisions of the Agreement on Government Procurement done at Marrakesh on 15 April 1994.
3. The Joint Committee shall examine developments related to the achievement of the objectives of this Article and may recommend practical modalities of implementing the provisions of paragraph 2 so as to ensure free access, transparency and full balance of rights and obligations.
4. During the examination referred to in paragraph 3, the Joint Committee may consider, especially in the light of developments in this area in international relations, the possibility of extending the coverage and/or the degree of the market opening provided for in paragraph 2.

Article 25

Protection of intellectual property

1. The Parties shall grant and ensure protection of intellectual property rights on a non-discriminatory basis, including measures for granting and enforcing such rights. The protection shall be gradually improved on a level corresponding to the substantive standards of the multilateral agreements which are specified in Annex VII before 1 July 1999.
2. For the purpose of this Agreement "intellectual property protection" includes in particular protection of copyright, comprising computer programs and databases, and neighbouring rights, trade marks, geographical indications, industrial designs, patents, topographies of integrated circuits, as well as undisclosed information on know-how.
3. The Parties shall co-operate in matters of intellectual property. They shall hold, upon request of any Party, expert consultations on these matters, in particular, on activities relating to the existing or to future international conventions on harmonization, administration and enforcement of intellectual property and on activities in international organizations, such as the Agreement Establishing the World Trade Organization, World Intellectual Property Organization, as well as relations of Parties with third countries on matters concerning intellectual property.

Article 26

Dumping

If a Party finds that dumping within the meaning of Article VI of the General Agreement on Tariffs and Trade 1994 is taking place in trade relations governed by this Agreement, it may take appropriate measures against that practice in accordance with Article VI of the General Agreement on Tariffs and Trade 1994 and the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 under the conditions and in accordance with the procedure laid down in Article 31.

Article 27

General safeguards

Where any product is being imported in such increased quantities and under such conditions as to cause or threaten to cause:

- (a) serious injury to domestic producers of like or directly competitive products in the territory of the importing Party; or
- (b) serious disturbances in any related sector of the economy or difficulties which could bring about serious deterioration in the economic situation of a region,

the Party concerned may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 31.

Article 28

Structural adjustment

1. Exceptional measures of limited duration which derogate from the provisions of Article 3 may be taken by any of the Parties in the form of increased customs duties.
2. These measures may only concern infant industries, or certain sectors undergoing restructuring or facing serious difficulties, particularly where these difficulties produce important social problems.
3. Customs duties on imports applicable in the Party concerned to products originating in the other Party introduced by these measures may not exceed 25 per cent *ad valorem*. The total value of imports of the product which are subject to these measures may not exceed 15 per cent of total imports of industrial products from the other Party as defined in Chapter I during the last year for which statistics are available.
4. These measures shall be applied for a period not exceeding five years. They shall cease to apply by 31 December 2000 at the latest.
5. No such measures can be introduced in respect of a product if more than three years elapsed since the elimination of all duties and quantitative restrictions or charges or measures having an equivalent effect concerning that product.
6. The Party concerned shall inform the other Party of any exceptional measures it intends to take and, upon request of the other Party, consultations shall be held within the Joint Committee on such measures and the sectors to which they apply prior their introduction. When taking such measures the Party concerned shall provide the Joint Committee with a calendar for the elimination of the customs duties introduced under this Article. This calendar shall provide for a phasing out of these duties starting at the latest two years after their introduction, at equal annual rates. The Joint Committee may decide on a different schedule.

Article 29

Re-export and serious shortage

Where compliance with the provisions of Articles 7 and 9 leads to:

- (a) re-export towards a third country against which the exporting Party maintains for the product concerned quantitative export restrictions, export duties or measures or charges having equivalent effect; or
- (b) a serious shortage, or threat thereof, of a product essential to the exporting Party,

and where the situations referred to above give rise or are likely to give rise to major difficulties for the exporting Party, that Party may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 31.

Article 30

Fulfilment of obligations

1. The Parties shall take any general or specific measures required to fulfil their obligations under this Agreement. They shall see to it that the objectives set out in this Agreement are attained.
2. If a Party considers that the other Party has failed to fulfil an obligation under this Agreement, the Party concerned may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 31.

Article 31

Procedure for the application of safeguard measures

1. Before initiating the procedure for the application of safeguard measures set out in the following paragraphs of this Article, the Parties shall endeavour to solve any differences between them through direct consultations.
2. In the event of a Party subjecting imports of products liable to give rise to the situation referred to in Article 27 to an administrative procedure having as its purpose the rapid provision of information on the trend of trade flows, it shall inform the other Party.
3. Without prejudice to paragraph 7, a Party which considers resorting to safeguard measures shall promptly notify the other Party thereof and supply all relevant information. Consultations between the Parties shall take place without delay in the Joint Committee with a view to finding a solution.
4.
 - (a) With regard to Articles 26, 27 and 29, the Joint Committee shall examine the case or the situation and may take any decision needed to put an end to the difficulties notified by the Party concerned. In the case of the absence of such decision within thirty days of the matter being referred to the Joint Committee, the Party concerned may adopt the measures necessary in order to remedy the situation.
 - (b) With regard to Article 30, the Party concerned may take appropriate measures after the consultations have been concluded or a period of three months has elapsed from the date of first notification to the other Party.
 - (c) With regard to Articles 22 and 23, the Party concerned shall give the Joint Committee all the assistance required in order to examine the case and, where appropriate, eliminate the practice objected to. If the Party in question fails to put an end to the practice objected to within the period fixed by the Joint Committee or if the Joint Committee fails to reach an agreement within thirty working days of the matter being referred to it, the Party concerned may adopt the appropriate measures to deal with the difficulties resulting from the practice in question.
5. The safeguard measures taken shall be immediately notified to the other Party. They shall be restricted with regard to their extent and to their duration to what is strictly necessary in order to rectify the situation giving rise to their application and shall not be in excess of the injury caused by the practice or the difficulty in question. Priority shall be given to such measures which will least disturb the functioning of this Agreement.

6. The safeguard measures taken shall be the subject of periodic consultations within the Joint Committee with a view to their relaxation as soon as possible, or abolition when conditions no longer justify their maintenance.

7. Where exceptional circumstances requiring immediate action make prior examination impossible, the Party concerned may, in the cases of Articles 26, 27 and 29, apply forthwith the provisional measures strictly necessary to remedy the situation. The measures shall be notified without delay and consultations between the Parties shall take place as soon as possible within the Joint Committee.

Article 32

Balance of payments difficulties

1. The Parties shall endeavour to avoid the imposition of restrictive measures including measures relating to imports for balance of payments purposes.

2. Where one of the Parties is in serious balance of payments difficulties, or under imminent threat thereof, the Party concerned may, in accordance with the relevant provisions of the General Agreement on Tariffs and Trade 1994 adopt restrictive measures, including measures related to imports, which shall be of limited duration and may not go beyond what is necessary to remedy the balance of payments situation. The measures shall be progressively relaxed as balance of payments conditions improve and they shall be eliminated when conditions no longer justify their maintenance. The Party concerned shall inform the other Party forthwith of their introduction and, whenever practicable, of a calendar for their removal.

Article 33

Evolutionary clause

1. Where a Party considers that it would be useful in the interests of the economies of the Parties to develop and deepen the relations established by this Agreement by extending them to fields not covered thereby, it shall submit a reasoned request to the other Party. The Parties may instruct the Joint Committee to examine such a request and, where appropriate, to make recommendations, particularly with a view to opening negotiations.

2. Agreements resulting from the procedure referred to in paragraph 1 will be subject to ratification or approval by the Parties in accordance with their national legislation.

Article 34

The Joint Committee

1. The Joint Committee is hereby established and shall consist of a member of the Government of the Slovak Republic, on the one hand, and of a member of the Government of the Republic of Bulgaria, on the other hand.

2. The implementation of this Agreement shall be supervised and administered by the Joint Committee.

3. For the purpose of the proper implementation of this Agreement, the Parties shall exchange information and, upon request of any Party, shall hold consultations within the Joint Committee. The

Joint Committee shall keep under review the possibility of further removal of the obstacles to trade between the Parties.

4. The Joint Committee may take decisions in the cases provided for in this Agreement. On other matters the Joint Committee may make recommendations.

Article 35

Procedures of the Joint Committee

1. For the proper implementation of this Agreement the Joint Committee shall meet whenever necessary but at least once a year. Each Party may request that a meeting be held.

2. The Joint Committee shall act by common agreement.

3. If a representative in the Joint Committee of a Party has, under the reservation, accepted a decision subject to the fulfilment of constitutional requirements, the decision shall enter into force, if no later date is contained therein, on the day the lifting of the reservation is notified.

4. For the purpose of this Agreement the Joint Committee shall adopt its rules of procedure which shall, *inter alia*, contain provisions for convening meetings and for the designation of the Chairman and his term of office.

5. The Joint Committee may decide to set up such sub-committees and working groups as it considers necessary to assist it in accomplishing its tasks.

Article 36

Trade relations governed by this and other Agreements

1. This Agreement shall apply to trade relations between the Slovak Republic and the Republic of Bulgaria.

2. This Agreement shall not prevent the maintenance or establishment of customs unions, free-trade areas or arrangements for frontier trade to the extent that these do not negatively affect the trade regime and, in particular, the provisions concerning rules of origin provided for by this Agreement.

Article 37

Annexes and Protocols

1. The Annexes Ia to VII and the Protocols 1 to 4 to this Agreement are hereby made an integral part of this Agreement.

2. The Joint Committee may decide to amend the Annexes and Protocols. In this case the amendments shall enter into force on the date of a receipt of the latter diplomatic note confirming their approval by the Government of a respective Party.

Article 38

Amendments

Amendments to this Agreement other than those referred to in paragraph 2 of Article 37 shall enter into force on the date of a receipt of a last diplomatic note confirming that all procedures required by the national legislations of each Party for the entry into force of the amendments have been completed.

Article 39

Entry into force

1. This Agreement is subject to the ratification and shall enter into force on the date of exchange of the instruments of ratification.
2. This exchange of the instruments of ratification shall take place in Bratislava.
3. The Parties shall apply this Agreement provisionally from 1 January 1996 if this Agreement cannot enter into force by 1 January 1996.

Article 40

Validity and termination

Each Party may terminate this Agreement by a written notification to the other Party. The termination shall take effect on the first day of the seventh month following the date on which the notification was received by the other Party.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto, have signed the present Agreement.

Done at Sofia this eighth day of December one thousand nine hundred and ninety five, in two originals, in the English language, both texts being equally authentic.

For the Slovak Republic

For the Republic of Bulgaria

RECORD OF UNDERSTANDINGS

1. With regard to the Articles 8 and 9 of this Agreement, the Parties confirm that besides the exceptions listed in Annex IV and Annexes Va and Vb they apply measures resulting from their international multilateral obligations in accordance with Articles 18 and 19 of this Agreement.
2. By the end of 1998 at the latest, the Parties shall, in the Joint Committee, examine the impact of agricultural concessions provided by this Agreement on the mutual trade. The Parties shall consider the possibilities of further liberalization in this field after 1 January 1999, having in mind the interest of the Republic of Bulgaria on the access to the Central European Free Trade Agreement.
3. The diagonal cumulation laid down in Article 4 of Protocol 3 may only be applied when the countries mentioned in the said Article have a free trade agreement or an agreement establishing a customs union, containing identical rules of origin, with both Parties. For the countries not complying with this condition on the date of entry into force of this Agreement, Article 4 shall apply from the date of entry into force either of a free trade agreement or an agreement establishing a customs union or of an amendment of such an agreement, containing identical rules of origin, between the country and the Parties. Each reference to the Article 4 of the Protocol 3 shall apply according to this Record of Understandings.
4. The prohibition of drawback of, or exemption from, customs duties laid down in Article 15 of Protocol 3 shall be temporarily derogated until it will be applied in the framework of the diagonal cumulation between both Parties and the European Union. Each Party may decide on partial application of the said Article in full accordance with the possible modalities of its partial application with the European Union.