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CROATIAN BAN ON ROAD TRANSIT OF CRUDE OIL AND OIL PRODUCTS

Communication from the Republic of Slovenia

Addendum

The following communication, dated 28 February 2002, has been received from the Permanent Mission of the Republic of Slovenia.

Further to the communication by Slovenia, contained and circulated in the document G/C/W/346 dated 5 February 2002, this communication is intended to inform the Members of further steps taken by the Government of Croatia in connection with the transit of certain goods through its territory.

The Government of Croatia supplanted the initial total ban on road transit of crude oil and oil products by a set of government decisions, which were enforced on 27 January 2002. These subsequent measures were again imposed without prior notice on consultations with the authorities of neighbouring countries, although they directly affect border regimes concerning the importation and the exportation of goods. Therefore, new border controls and procedures and fees were introduced on a *fait accompli* basis.

The measures currently imposed have a broader coverage of goods and refer not only on road transit but also on international road carriage (import and export of the same goods). Apart from crude oil and oil products, the measures include a wide range of chemical products, internationally classified as dangerous goods. The measures include liquid natural gas, a vital source of energy for Slovenia, and, for example, household paints.

Croatia still maintains a partial ban on the road transit of oil and oil derivatives and maintains a general clause that road transit, import and export of oil and oil derivatives shall be carried out under the provisions established by the Government, Ministry of the Interior, Ministry of Maritime, Transport and Communications, Ministry of Health, Ministry of Finance, Ministry of Environmental Protection and Physical Planning, and the State Inspectorate. Only oil and oil products are treated in such an exceptional way. Under such a general clause any of the mentioned authority may, unilaterally, at any time, introduce a ban or any unjustified limitations on transit through its territory, without prior limitations or justification of such a measure, i.e. on a completely arbitrary basis.

The measures include strictly controlled transit corridors. The points of entry and exit are defined regardless of obvious technical and logistical prerogatives. Strictly executed, the corridors preclude direct access to customers or production facilities and access to sources of supply. Direct deliveries by road are not possible. The corridors have increased the required travel distances by two to five times because the routes are not the shortest nor direct but circuitous.

Unilaterally imposed road corridors, as they are strictly applied, partially prevent exports by Slovene companies to third countries, other than Bosnia and Herzegovina, such as the Federal Republic of Yugoslavia (Monte Negro), Hungary, and the Former Yugoslav Republic of Macedonia, and vice-versa by prohibiting to use the shortest, most convenient and direct routes to the place of destination in those countries.

Transit through corridors requires escort (by a domestic private company upon payment of a high flat fee), upon an imposed time schedule with fines for tardiness. There are no allowances for technical breakdowns, adverse weather conditions, which all increases the risks for safety.

The Croatian Government introduced border measures at points of entry and exit and procedures which are not customary in the transit of goods (such as mandatory weighing of every vehicle, sampling and laboratory analyses of goods), resulting in additional unreasonable costs. Croatia imposed a new levy on the transit of goods. The cumbersome procedures result in long delays at border crossings and extend the time of crossings by days in comparison to procedures, which previously required a few hours to complete. The transporters are charged high parking fees. The transit of goods by the set corridors requires the payment of higher road tolls.

The immediate result of the border procedures is a much higher total cost of transport through Croatian territory, causing it to be uneconomical.

The economic impacts of the measures, including the previous total ban on transit, were immediate and a cause for serious concern due to broader regional implications. They caused immediate downturn in economic activity and readjustment of business plans according to much risk of doing business in the region. Some 50 Slovene businesses have to completely readjust their logistics on a short-term basis, facing a rise in the cost of transport by at least 50 per cent. Alternative means of transport are not fully viable due to insufficient rail and storage capacity and they require more frequent charging and discharging and greater manipulation. The rail terminals are not prepared to receive the required volumes of freight. This increases the risk of accidents.

Economic losses are rising on a daily basis. The long-term cost has yet to be properly assessed.

Croatia is justifying the measures with environmental protection arguments and the need to combat the grey economy. The ill-conceived measures are both inappropriate and not logical from this point of view. Croatia has not provided any information to substantiate the declared reasons for the introduction of the measures.

The Government of Slovenia believes that the new imposed measures are in direct conflict with Articles III:4 and V of the GATT 1994 as well as with the Articles 2 and 5 of the Agreement on Technical Barriers to Trade. Slovenia maintains the view that Croatia is in violation of other international agreements, a number of bilateral agreements and its terms of accession to the World Trade Organisation. Slovenia considers that its benefits under the GATT 1994 are being nullified or impaired in the meaning of the Article XXIII of the GATT 1994 as the result of the application of the described measures by the Government of Croatia.

The measures represent a serious systemic concern. They involve a landlocked territory in a region yet striving to stabilise economically and politically.

Traditional and well-established transit routes have been disrupted. For reasons that no advance notice was provided by Croatia to the authorities of neighbouring countries, the previously

established points of contact between states, in the full line of transit of goods, are now maladjusted, causing unreasonable delays.

Slovenia considers the measures as unjustified administrative barriers to trade of a protectionist nature and have unnecessarily increased regional tensions.

Slovenia requests that the measures be withdrawn and requests Croatia to honour its international commitments related to the free transit of goods and the normal conduct of trade.

Slovenia reserves its rights under the WTO provisions including recourse to the WTO Dispute Settlement Mechanism.
