

Interim Agreement on trade and customs union between the European Economic Community and the Republic of San Marino - Joint Declaration - Declaration by the Community

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INTERIM AGREEMENT ON TRADE AND CUSTOMS UNION between the European Economic Community and the Republic of San Marino

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

of the one part, and THE REPUBLIC OF SAN MARINO,

of the other part,

CONSIDERING the agreement on cooperation and customs union signed in Brussels on 16 December 1991 between the European Economic Community and the Republic of San Marino;

CONSIDERING that the said agreement requires, apart from approval by the Community, ratification by the national parliaments, which will delay its enforcement;

CONSIDERING the importance that the Parties attach to the strengthening and development of their relations, notably in the commercial and economic field;

CONSIDERING that the commercial and customs provisions of the said agreement should be rapidly implemented by means of an interim Agreement,

HAVE AGREED ON THE FOLLOWING PROVISIONS:

TITLE 1 Customs Union

Article 1

A customs union is hereby established between the European Economic Community and the Republic of San Marino for products covered by Chapters 1 to 97 of the Common Customs Tariff, except products falling within the scope of the Treaty establishing the European Coal and Steel Community.

Article 2

1. The provisions of this Title shall apply to:

(a) goods produced in the Community or in the Republic of San Marino, including those obtained wholly or in part from products which come from third countries and are in free circulation in the Community or in the Republic of San Marino;

(b) goods which come from third countries and are in free circulation in the Community or in the Republic of San Marino.

2. Products coming from third countries shall be considered to be in free circulation in the Community or in the Republic of San Marino if the import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied, and there has been no total or partial drawback of such duties or charges in respect of the said products.

Article 3

The provisions of this Title shall also apply to goods obtained in the Community or in the Republic of San Marino, in the manufacture of which were used products coming from third countries and not in free circulation either in the Community or in the Republic of San Marino. These provisions shall, however, apply to those goods if the exporting Contracting Party levies the customs duties laid down in the Community for third country products used in their manufacture.

Article 4

1. The Contracting Parties shall refrain from introducing between themselves any new customs duties on imports or exports or charges having equivalent effect.

2. The Republic of San Marino also undertakes not to adjust duties referred to in paragraph 1 as applied to imports from the Community on 1 January 1991, without prejudice to existing commitments between the Republic of San Marino and Italy pursuant to the exchange of letters of 21 December 1972.

Article 5

1. Trade between the Community and the Republic of San Marino shall be exempt from all import and export duties and charges having equivalent effect, subject to the provisions of paragraphs 2 and 3.

2. In order that the charges having equivalent effect currently applied to imports from the Community may be abolished on 1 January 1996, the Republic of San Marino undertakes to introduce, within six months of the entry into force of this Agreement, a supplementary tax corresponding to that currently levied on imported goods, to be chargeable on domestic products intended for home consumption. The supplementary tax will apply in full on the above date. It shall be applicable as a countervailing measure and shall be calculated on the added value of domestic products at rates equal to those applied to imported goods of a similar kind.

3. (a) From the entry into force of the Agreement, the Community, with the exception of the Kingdom of Spain and the Portuguese Republic, shall admit imports from the Republic of San Marino exempt from customs duty.

(b) From the entry into force of the Agreement and during its period of application, the Kingdom of Spain and the Portuguese Republic shall apply the same import duties in respect

of the Republic of San Marino as they apply by virtue of the Act of Accession in respect of the Community as constituted on 31 December 1985.

4. In trade in agricultural products between the Community and San Marino, the Republic of San Marino undertakes to adopt Community veterinary, plant health and quality regulations where necessary for the proper functioning of the Agreement.

Article 6

1. From the entry into force of the Agreement, the Republic of San Marino shall apply in respect of countries not members of the Community:

- the Community customs tariff,
- laws, regulations and administrative provisions applicable to customs matters in the Community and necessary for the proper functioning of the customs union,
- the common commercial policy of the Community,
- Community regulations on trade in agricultural products covered by Annex II to the Treaty establishing the European Economic Community, with the exception of refunds and compensatory amounts accorded for exports,
- Community veterinary, plant health and quality regulations where necessary for the proper functioning of the Agreement.

The provisions referred to in this paragraph shall be those applicable at the time in the Community.

2. The provisions referred to in the second to fifth indents of paragraph 1 shall be determined in greater detail by the Cooperation Committee.

3. By way of derogation from the first indent of paragraph 1, publications, works of art, scientific or teaching materials, medicinal preparations and medical equipment offered to the government of the Republic of San Marino, insignias, medals, stamps, printed matter and other similar objects or paper destined for use by the government shall be exempt from customs duties.

Article 7

1. (a) Over a period of five years from the entry into force of the Agreement, and beyond that period if no agreement can be reached in accordance with paragraph (b), the Republic of San Marino shall authorize the European Economic Community, acting on behalf of and for the Republic of San Marino, to carry out customs clearance formalities, in particular release for free circulation of products sent from third countries to San Marino. Such formalities will be effected by the Community customs offices listed in the Annex to this Agreement.

(b) At the end of this period, and under Article 16, the Republic of San Marino may exercise its right to carry out customs clearance formalities, following agreement of the Contracting Parties.

2. Where import duties are payable on goods pursuant to paragraph 1, these duties shall be levied on behalf of the Republic of San Marino. San Marino shall undertake not to refund these sums directly or indirectly to the parties concerned, subject to the provisions of paragraph 4.

3. The Cooperation Committee shall decide on:

(a) possible changes to the list of the customs offices competent to clear the goods referred to in paragraph 1 and the procedure for forwarding the said goods to the Republic of San Marino;

(b) the agreements for assigning to the San Marino Exchequer the amounts collected in accordance with paragraph 2, and the percentage to be deducted by the European Economic Community to cover administrative costs in accordance with the relevant regulations in force within the Community;

(c) any other arrangements necessary for the proper implementation of this Article.

4. The taxes and levies on imports of agricultural products may be used by the Republic of San Marino for aiding production or exports. San Marino undertakes, however, not to accord higher export refunds or compensatory amounts than those accorded by the European Economic Community for exports to third countries.

Article 8

Quantitative restrictions on imports and exports and all measures having equivalent effect between the Community and the Republic of San Marino shall be prohibited from the entry into force of the Agreement.

Article 9

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 health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic and archaeological value; the protection of intellectual, industrial or commercial property; or controls relating to gold and silver. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Contracting Parties.

Article 10

The Contracting Parties shall refrain from any domestic tax measure or practise leading directly or indirectly to discrimination between the products of one Contracting Party and similar products from the other Contracting Party.

Products sent to the territory of one of the Contracting Parties shall not be eligible for a refund of domestic charges which is higher than the charges which have been levied directly or indirectly.

Article 11

1. If serious disturbances arise in any sector of the economy of one of the Contracting Parties, the Contracting Party concerned may take the necessary safeguard measures in accordance with the procedures, and subject to the conditions, of the paragraphs below.

2. In the case referred to in paragraph 1, before taking the measures provided for therein or, in the cases covered by paragraph 3, as soon as possible, the Contracting Party in question shall provide the Cooperation Committee with all relevant information required for a detailed examination of the situation with a view to seeking a solution acceptable to the Contracting Parties. At the request of the other Contracting Party, consultations shall take place within the Cooperation Committee before the Contracting Party concerned takes appropriate measures.

3. Where exceptional circumstances require immediate action making prior examination impossible, the Contracting Party concerned may apply forthwith such precautionary measures as are strictly necessary to remedy the situation.

4. In the selection measures, priority must be given to those which least disturb the functioning of the Agreement. Such measures must not exceed the limits of what is strictly necessary to counteract the difficulties that have arisen.

The safeguard measures must be notified immediately to the Cooperation Committee, which shall hold regular consultations on them, particularly with a view to their abolition as soon as circumstances permit.

Article 12

1. In addition to the cooperation provided for in Article 13 (8), the administrative authorities of the Contracting Parties responsible for implementing the provisions of this Agreement shall assist each other in other cases so as to ensure compliance with the provisions.

2. Procedures for the application of paragraph 1 shall be laid down by the Cooperation Committee.

TITLE II General and final provisions

Article 13

1. A Cooperation Committee is hereby set up with responsibility for administering this Agreement and ensuring that it is properly implemented. To that end it shall formulate recommendations. It shall take decisions in the cases provided for in this Agreement. The decisions shall be executed by the Contracting Parties in accordance with their own regulations.

2. With a view to the proper implementation of this Agreement, the Contracting Parties shall carry out exchanges of information and, at the request of either Party, shall consult together in the Cooperation Committee.

3. The Cooperation Committee shall draw up its own rules of procedure.

4. The Cooperation Committee shall be composed, on the one hand, of representatives of the Community and, on the other, of representatives of the Republic of San Marino.

5. The Cooperation Committee shall take decisions by common accord.
6. The Cooperation Committee shall be chaired by each of the Contracting Parties in turn in accordance with the arrangements to be established in its rules of procedure.
7. The Cooperation Committee shall meet at the request of either of the Contracting Parties, to be lodged at least one month before the date of the intended meeting. Where the Committee is convened under Article 11, it shall meet within eight working days of the date on which the request is lodged.
8. In accordance with the procedure laid down in paragraph 1, the Cooperation Committee shall establish methods of administrative cooperation for the purposes of applying Articles 2 and 3, taking as a basis the methods adopted by the Community in respect of trade in goods between the Member States.

Article 14

1. Any disputes arising between the Contracting Parties over the interpretation of the Agreement shall be put before the Cooperation Committee.
2. If the Cooperation Committee does not succeed in settling the dispute at its next meeting, each Party may notify the other of the designation of an arbitrator; the other Party shall then be required to designate a second arbitrator within two months.

The Cooperation Committee shall designate a third arbitrator.

The arbitrators' decisions shall be taken by majority vote.

Each Party to the dispute shall be required to take the measures needed to ensure the application of the arbitrators' decision.

Article 15

In trade covered by this Agreement:

- the arrangements applied by the Republic of San Marino in respect of the Community may not give rise to any discrimination between the Member States, their nationals, or their companies,
- the arrangements applied by the Community in respect of the Republic of San Marino may not give rise to any discrimination between San Marino nationals or companies.

Article 16

This Agreement is concluded for an unlimited duration. Within no more than five years of its entry into force, the two Parties shall agree to examine the results of its application and, if necessary, open negotiations on its amendment in the light of that examination.

Article 17

Feito em Bruxelas, em vinte e sete de Novembro de mil novecentos e noventa e dois.

Por el Consejo de las Comunidades Europeas

For Rådet for De Europæiske Fællesskaber

Für den Rat der Europäischen Gemeinschaften

Ἐἰς τὴν Σύνοδον τῶν Κοινοτήτων τῆς Ἑλλάδος

For the Council of the European Communities

Pour le Conseil des Communautés européennes

Per il Consiglio delle Comunità europee

Voor de Raad van de Europese Gemeenschappen

Pelo Conselho das Comunidades Europeias

Por la República de San Marino

For Republikken San Marino

Für die Republik San Marino

Ἐἰς τὴν Ἐπιτροπὴν τῆς Ἑλλάδος

For the Republic of San Marino

Pour la république de Saint-Marin

Per la Repubblica di San Marino

Voor de Republiek San Marino

Pela República de São Marinho

ANNEX

List of customs offices referred to in Article 7 (1) (a):

- LIVORNO

- RAVENNA

- RIMINI

- FORLÌ (CESENA)

- TRIESTE.

Joint Declaration

The European Community and the Republic of San Marino consider it necessary to determine the procedure for forwarding goods from the Community customs offices authorized by the Agreement to the Republic of San Marino, the procedure for movement of goods between the Community and the Republic of San Marino, and the methods of administrative cooperation necessary for implementing the Agreement.

They consider that the rules to be agreed on the matter, in order to ensure proper implementation of the provisions concerning the movement of goods between the Community and San Marino through application of the internal Community transit procedure, should be determined by the Cooperation Committee before 1 January 1993.

In implementing the provisions concerning the movement of goods, they undertake to facilitate, in circumstances which they deem appropriate, the use of simplified procedures at the places of departure and destination of goods, as provided for by the rules concerning the Community transit procedure and the single administrative document.

Declaration by the Community

Where the scale of trade flows so warrants, the Community is prepared to negotiate on behalf of and for the Republic of San Marino with countries with which it has concluded preferential agreements for an appropriate form of recognition of equivalent treatment for products originating in San Marino and products originating in the Community.