

ACCESSION OF THE FEDERAL REPUBLIC OF YUGOSLAVIA

Communication from the Republic of Slovenia

The following communication has been received from the Permanent Mission of the Republic of Slovenia.

The Republic of Slovenia would like to remind Members, with reference to the communication from the Federal Republic of Yugoslavia (Serbia and Montenegro) document WT/L/176/Rev.1 (13 November 1996), of the full text of the decision by the GATT Council taken on 19 June 1992 and modified on 16 June 1993:

"The Council considers that the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot continue automatically the contracting party status of the former Socialist Federal Republic of Yugoslavia in the GATT, and therefore decides that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for accession to the GATT and that it shall not participate in the work of the Council and its subsidiary bodies. The Council further invites other committees and subsidiary bodies of the GATT, including the Committees of the Tokyo Round Agreements and the Committee on Trade and Development, to take the necessary decisions in accordance with the above".

In the most recent communication by the Federal Republic of Yugoslavia (Serbia and Montenegro), this decision is inaccurately represented. The statement claims in its second paragraph that the Federal Republic of Yugoslavia (Serbia and Montenegro) had participated in negotiations of the Uruguay Round since 1986. It furthermore implies that the Federal Republic of Yugoslavia (Serbia and Montenegro) had been unjustifiably excluded from the work of the GATT, hence it "could not complete negotiations within the Uruguay Round and regulated its membership in the WTO".

These claims are at gross variance with the facts. The Federal Republic of Yugoslavia (Serbia and Montenegro), established on 27 April 1992, never participated in the Uruguay Round. The State that participated in the Uruguay Round was the Socialist Federal Republic of Yugoslavia which, according to the UN Security Council resolutions 777 (1992) and 821 (1993) ceased to exist. The same resolutions stated that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations. The above was also stated in the General Assembly's resolutions 47/1 and 47/229.

Therefore, the claims contained in the said communication of the Federal Republic of Yugoslavia (Serbia and Montenegro) are unfounded and there could be no "reintegration" of the Federal Republic of Yugoslavia also into the World Trade Organization. The said statement contains in fact a demand to consider the status of the former State (Socialist Federal Republic of Yugoslavia) as a contracting party in the GATT as a foundation for according the Federal Republic of Yugoslavia (Serbia and Montenegro) membership in the World Trade Organization. In addition to the arguments expressed

above, the Government of the Republic of Slovenia would like to draw attention to the fact that the demand of the Federal Republic of Yugoslavia (Serbia and Montenegro) is also in contradiction with one of the basic principles of international law - the principle of non-retroactivity.

The reference in the communication to Article XII:1 of the WTO Agreement as the basis of accession of the Federal Republic of Yugoslavia (Serbia and Montenegro) can be interpreted as excluding other parts of Article XII without any justification.

The reference to the United Nations Security Council resolution 1074, which conditionally lifted trade sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro), does not have any bearing whatsoever on the question of its membership in international organizations.

In view of the misrepresentations in the application of the Federal Republic of Yugoslavia (Serbia and Montenegro) to the General Council, Slovenia cannot give its consent to the thus formulated request. If accepted, it may have serious negative legal implications. As other successor States of the former Socialist Federal Republic of Yugoslavia, the Federal Republic of Yugoslavia (Serbia and Montenegro) may apply for accession to the World Trade Organization as a new State and accede on the basis of Article XII of the WTO Agreement.

Moreover, the Republic of Slovenia would welcome the accession of the Federal Republic of Yugoslavia (Serbia and Montenegro) but only in full accordance with all relevant provisions of the Marrakesh Agreements.