



Council of the European Union
General Secretariat

Trade Policy Committee

| | |
|-----------------|-----------------------|
| m.d. : | 220/16 |
| source : | SI Delegation |
| for : | Information |
| date : | 14 - 09 - 2016 |

Note for the attention of the Trade Policy Committee

Subject: Questions of Slovenia relating to provisions on water in CETA.

Delegations will find attached SI letter to Mr. Jean Luc Demarty on the above-mentioned subject.



REPUBLIC OF SLOVENIA
MINISTRY OF ECONOMIC DEVELOPMENT AND TECHNOLOGY
DIRECTORATE FOR TOURISM AND INTERNATIONALIZATION

Kotnikova ulica 5, 1000 Ljubljana

T: +386 1 400 32 00

F: +386 1 400 36 11

E: gp.mgrt@gov.si

www.mgrt.gov.si

EUROPEAN COMMISSION
Directorate General for Trade
Jean-Luc Demarty
Director General
Jean-Luc.Demarty@ec.europa.eu

Number: 542-2/2016/218
Date: 14 September 2016

Subject: Questions of Slovenia relating to provisions on water in CETA

Dear Mr Demarty,

In the process of taking position of Slovenia with regard to the proposals on Council decisions on signing, provisional application and conclusion of CETA agreement, concerns were raised regarding the provisions on water included in the agreement. We have accordingly consulted on the issue with the Commission and the Council Legal Services, however the views presented, though swift and much appreciated, have been of personal nature and somewhat divergent and general.

As this is a highly relevant question we therefore seek further reassurances from the Commission, which was responsible for conducting negotiations with respect to CETA and which surely has the best overview of the substance and relevance of respective commitments.

Let me recapture the most relevant concerns, which relate mostly to the provision of the 3rd paragraph of article 1.9 (*Rights and obligations relating to water*) in Chapter 1 stating: "*If a Party permits the commercial use of a specific water source, it shall do so in a manner consistent with this Agreement*".

Could you please, as specifically as possible, clarify the following:

1. Which provisions of the Agreement are relevant if a Member State allows the commercial use of a specific water source (e.g. relevant provisions relating to the trade in goods, provisions relating to investment etc.)?
2. What is covered by the term "commercial use of a water source"? Would this include e.g. concessions for the production of drinks, concessions for the use of thermal water for heating and spa, concessions for the use of water sources by hydropower plants, water permits for irrigation?
3. Is the "commercial use of water" as qualified in the previous paragraph covered by the following reservation of the EU in Annex II (the personal views presented by EC and the CLS on this question were quite contradictory):

Sector: Collection, purification and distribution of water

Sub-Sector:

Industry Classification: ISIC rev 3.1 41

Type of Reservation: Market access

National treatment

**Description: Investment
Investment and Cross-Border Trade in Services**

The EU reserves the right to adopt or maintain any measure with respect to activities, including services relating to the collection, purification and distribution of water to household, industrial, commercial or other users, including the supply of drinking water, and water management.

Existing Measures:

4. Will the agreement apply also to existing water rights for commercial use?
5. Could you confirm that in relation to Canada, CETA agreement will not create obligations for EU Member States going beyond the obligations arising from the EU Water Framework directive (Directive 2000/60/ES)?
6. With regard to the concessions already granted: would Slovenia still be able to (e.g.) limit the quantity of water accorded for commercial use (e.g. for the production of drinks) if such possibility (e.g. for the reasons of protection of the water sources/water supply) existed in Slovenian legislation; or could Slovenia be subject to claim under ICS in case of such limitation?
- 6 a) Would Slovenia be able to implement such limitations/restrictions in relation to the concessions already granted (for the reasons of management and protection of its water sources/water supply) also on the basis of future legislation?

Due to the on-going decision-making process prompt clarifications would be most appreciated.

Thank you very much for your help!

Best regards,

for Eva Štravs Podlogar
Director General

