

ARBITRATION AGREEMENT
between the Government of the Republic of Slovenia
and the Government of the Republic of Croatia

The Governments of the Republic of Slovenia and the Republic of Croatia (hereinafter referred to as "the Parties"),

Whereas through numerous attempts the Parties have not resolved their territorial and maritime border dispute in the course of the past years,

Recalling the peaceful means for the settlement of disputes enumerated in Article 33 of the UN-Charter,

Affirming their commitment to a peaceful settlement of disputes, in the spirit of good neighbourly relations, reflecting their vital interests,

Welcoming the facilitation offered by the European Commission,

Have agreed as follows:

Article 1: Establishment of the Arbitral Tribunal

The Parties hereby set up an Arbitral Tribunal.

Article 2: Composition of the Arbitral Tribunal

(1) Both Parties shall appoint by common agreement the President of the Arbitral Tribunal and two members recognized for their competence in international law within fifteen days drawn from a list of candidates established by the President of the European Commission and the Member responsible for the enlargement of the European Commission. In case that they cannot agree within this delay, the President and the two members of the Arbitral Tribunal shall be appointed by the President of the International Court of Justice from the list.

(2) Each Party shall appoint a further member of the Arbitral Tribunal within fifteen days after the appointments referred to in paragraph 1 have been finalised. In case that no appointment has been made within this delay, the respective member shall be appointed by the President of the Arbitral Tribunal.

(3) If, whether before or after the proceedings have begun, a vacancy should occur on account of the death, incapacity or resignation of a member, it shall be filled in accordance with the procedure prescribed for the original appointment.

Article 3: Task of the Arbitral Tribunal

(1) The Arbitral Tribunal shall determine

(a) the course of the maritime and land boundary between the Republic of Slovenia and the Republic of Croatia;

(b) Slovenia's junction to the High Sea;

(c) the regime for the use of the relevant maritime areas.

(2) The Parties shall specify the details of the subject-matter of the dispute within one month. If they fail to do so, the Arbitral Tribunal shall use the submissions of the Parties for the determination of the exact scope of the maritime and territorial disputes and claims between the Parties.

(3) The Arbitral Tribunal shall render an award on the dispute.

(4) The Arbitral Tribunal has the power to interpret the present Agreement.

Article 4: Applicable Law

(1) The Arbitral Tribunal shall apply

(a) the rules and principles of international law for the determinations referred to in Article 3

(1) (a);

(b) international law, equity and the principle of good neighbourly relations in order to achieve a fair and just result by taking into account all relevant circumstances for the determinations referred to in Article 3 (1) (b) and (c).

Article 5: Critical date

No document or action undertaken unilaterally by either side after 25 June 1991 shall be accorded legal significance for the tasks of the Arbitral Tribunal or commit either side of the dispute and cannot, in any way, prejudge the award.

Article 6: Procedure

(1) Each Party shall submit a memorial to the Arbitral Tribunal within twelve months. Each Party has the right to comment on the memorial of the other Party within a deadline fixed by the Arbitral Tribunal.

(2) Unless envisaged otherwise, the Arbitral Tribunal shall conduct the proceedings according to the Permanent Court of Arbitration Optional Rules for Arbitrating Disputes between Two States.

(3) The Arbitral Tribunal may seek expert advice and organize oral hearings.

(4) The Arbitral Tribunal shall, after consultation of the Parties, decide expeditiously on all procedural matters by majority of its members.

(5) The proceedings are confidential and shall be conducted in English.

(6) The Parties shall appoint representatives to act as intermediary between them and the Arbitral Tribunal. They may retain counsels to support their representative.

(7) The Arbitral Tribunal shall be supported by a Secretariat. The costs of the Arbitral Tribunal shall be borne in equal terms by the two Parties. The Parties invite the European

Commission to provide secretarial support to the Arbitral Tribunal. The place of arbitration shall be Brussels, Belgium.

(8) The Arbitration Tribunal may at any stage of the procedure with the consent of both Parties assist them in reaching a friendly settlement.

Article 7: The award of the Arbitral Tribunal

(1) The Arbitral Tribunal shall issue its award expeditiously after due consideration of all relevant facts pertinent to the case. The Arbitral Tribunal adopts the award by majority of its members. The award shall state the reasons on which it is based. No individual or dissenting opinions shall be attached to the award.

(2) The award of the Arbitral Tribunal shall be binding on the Parties and shall constitute a definitive settlement of the dispute.

(3) The Parties shall take all necessary steps to implement the award, including by revising national legislation, as necessary, within six months after the adoption of the award.

Article 8: EU accession negotiation documents

(1) No document presented in the EU accession negotiations unilaterally shall prejudice the Arbitral Tribunal when performing its tasks or commit either side on the dispute.

(2) The above applies to all documents and positions either written or submitted orally, including, *inter alia*, maps, negotiating positions, legal acts and other documents in whatever form, produced, presented or referred to unilaterally in the framework of the EU accession negotiations. It also applies to all EU documents and positions which refer to or summarize the above-mentioned documents and positions.

Article 9: The continuation of the EU accession negotiations according to the negotiating framework

(1) The Republic of Slovenia shall lift its reservations as regards opening and closing of negotiation chapters where the obstacle is related to the dispute.

(2) Both Parties shall refrain from any action or statement which might negatively affect the accession negotiations.

Article 10: Stand-still

(1) Both Parties refrain from any action or statement which might intensify the dispute or jeopardize the work of the Arbitral Tribunal.

(2) The Arbitral Tribunal has the power to order, if it considers that circumstances so require, any provisional measures it deems necessary to preserve the stand-still.

Article 11

(1) The Agreement shall be ratified expeditiously by both sides in accordance with their respective constitutional requirements.

(2) The Agreement shall enter into force on the first day of the week following the exchange of diplomatic notes with which the Parties express their consent to be bound.

(3) All procedural timelines expressed in this Agreement shall start to apply from the date of the signature of Croatia's EU Accession Treaty.

(4) The Agreement shall be registered with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations.

Done at _____, on _____ in three originals in English language.

Signed by

For the Government of the Republic of Slovenia

For the Government of the Republic of Croatia

Witnessed by

For the Presidency of the Council of the European Union