

**AGREEMENT ON SOCIAL SECURITY BETWEEN THE
GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF
THE REPUBLIC OF SLOVENIA, DONE AT VIENNA
ON 19 DECEMBER 2002**

Documents tabled on 14 May 2003

National Interest Analysis

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NATIONAL INTEREST ANALYSIS: CATEGORY B TREATY

SUMMARY PAGE

Agreement on Social Security between the Government of Australia and the Government of the Republic of Slovenia, done at Vienna on 19 December 2002

Date of Tabling of Proposed Treaty Action

1. 14 May 2003

Nature and Timing of Proposed Treaty Action

2. The Agreement was signed on 19 December 2002.
3. In accordance with Article 19, the Agreement shall enter into force on the first day of the month following the month in which notes are exchanged between Australia and Slovenia notifying that all constitutional requirements necessary to give effect to the Agreement have been fulfilled. It is proposed that this exchange of notes will take place in December 2003 so that the Agreement enters into force on 1 January 2004.

Overview and National Interest Summary

4. The Agreement will bring economic and political benefits to Australia. It will assist in maximising the foreign income of Australian residents and there will be a flow-on effect of these funds into the Australian economy. The Agreement will also reinforce Australia's political, business and strategic interests. The Agreement will further strengthen bilateral relations between Australia and Slovenia and provide choices on retirement for individuals who have migrated (or will migrate) between Australia and Slovenia.
5. The Agreement provides for enhanced access to certain Australian and Slovenian social security benefits and guaranteed portability of these benefits between the countries. Portability of benefits allows for the payment of a benefit from one country into another country. This is an underlying principle of Australia's bilateral agreements on social security where the responsibility for providing benefits is shared. Under the Agreement, residents of Australia and Slovenia will be able to move between Australia and Slovenia with the knowledge that their right to benefits is recognised in both countries.

Reasons for Australia to take the proposed treaty action

6. Australia's network of bilateral social security agreements improves access to income support for people whose adult lives are split between Australia and a country with which Australia has entered a social security agreement. Most of the people benefiting from these agreements are age pensioners.
7. The Agreement with Slovenia incorporates the same general principles as the other agreements that Australia has on social security (see Annexure E). A key element of this Agreement, and the other social security agreements, is the sharing of responsibility between the parties in providing adequate social security coverage for former residents of their countries.
8. The Australian Government currently pays pensions under the *Social Security Act 1991* (the Act) to around 1,800 Slovenian born pensioners, the vast majority of whom are resident in Australia. Under portability provisions in the Act, as at February 2003 Australia paid pensions to approximately 100 people (not necessarily Slovenian born) residing in Slovenia.
9. Slovenian legislation requires a person to have a minimum amount of insurance in the Slovenian social security scheme to qualify for pensions. The Agreement will help overcome this restriction.
10. The Department of Family and Community Services estimates that the Agreement will assist approximately 450 people residing in Australia and Slovenia to claim payments to which they currently do not have access.
11. For Australia, the Agreement will cover access to age pensions and disability support pensions for the severely disabled. For Slovenia, the Agreement will cover old-age benefits, invalidity benefits and survivor benefits.
12. The Agreement provides that both countries will share the financial responsibility for providing these benefits. This means that individuals may be eligible for benefits from both countries if they meet certain eligibility criteria and they have lived and/or worked in both countries during their working lives. Residents of Australia and Slovenia will be able to move between Australia and Slovenia knowing that their right to benefits is recognised in both countries and that each country will contribute fairly to support those who have spent part of their working lives in both countries.

Obligations

13. The Agreement places reciprocal obligations on both Australia and Slovenia.
14. Article 2 sets out for both countries the scope of social security benefits covered by the Agreement as described in paragraph 11 of this National Interest Analysis.
15. Article 3 describes the group of people to whom the Agreement applies. It provides that the Agreement shall apply to any person who is or has been an Australian resident, or is or has been subject to the legislation of Slovenia.
16. Article 4 of the Agreement requires that all persons to whom the Agreement applies must be treated equally in relation to the application of laws regarding social security benefits.
17. Article 5 of the Agreement deals with the portability of benefits and provides for the payment of benefits by Australia and Slovenia into the other country. It also requires Australia and Slovenia to implement measures to ensure delivery of benefits in the event of currency controls being introduced by either country.
18. Article 7 of the Agreement provides for persons who are qualified to claim an Australian benefit – but for the fact that they are not Australian residents. Article 7 allows such a person who is residing in Slovenia or a third State with which Australia has concluded an appropriate Agreement, to lodge a claim for a benefit listed in the Agreement if they are in Slovenia or that third State.
19. Article 8 establishes the circumstances in which a Slovenian period of insurance can be used to satisfy the minimum residence requirements for an Australian benefit stipulated in the Act. Under this Article, claimants are able to add these Slovenian periods to actual periods of residence in Australia in order to qualify for an Australian benefit. This means that people who do not meet the minimum period of Australian residence to qualify for payment can add periods of insurance in Slovenia to their actual periods of residence in Australia to qualify for payment. However, the rate of Australian benefit will still be based on their actual periods of working life residence in Australia.
20. Article 9 describes the method of calculating the rate of Australian benefit. Where an Australian benefit is payable to a person who is outside Australia, that benefit is determined according to Australian law. The benefit is adjusted proportionally according to the length of the person's working life residence in Australia. Where an Australian benefit is only payable by virtue of the Agreement to a person who is in Australia, any Slovenian benefit the person receives is directly deducted from the maximum rate of Australian benefit payable.
21. Article 12 provides that a claim, notice or appeal may be lodged in the territory of the other Party, and that the date of lodgement with one Party will be accepted as the date of lodgement with the other Party. Article 12 also provides for the exemption from diplomatic and consular authentication of documents and fees or taxes for documents required under the Agreement.
22. Article 13 provides a mechanism by which Australia may recover an overpayment of a benefit resulting from the subsequent grant (with arrears) of a benefit

from Slovenia. This Article is particularly necessary for Australia's income tested social security system and is a common provision in Australia's bilateral agreements on social security.

23. Article 14 requires Australian and Slovenian authorities to assist each other, subject to relevant domestic law, regulations and policies, in the implementation of the Agreement, including the exchange of information to assist in processing payments made under the social security laws of each country. Australia and Slovenia must also notify each other of measures taken for the application of this Agreement and of changes in domestic laws which may affect the application of the Agreement.

24. Under Article 15, Australia and Slovenia must make the necessary administrative arrangements for the implementation of the Agreement and designate liaison agencies.

25. Article 16 provides that the Agreement shall not establish any entitlement to benefits for any period prior to its entry into force. Australia and Slovenia will also consider all events and periods that have a bearing on a person's entitlement when determining eligibility to a benefit, regardless of whether these periods occurred before, or after, the Agreement commences.

26. Article 17 obliges Australian and Slovenian authorities (to the extent possible) to resolve by consultation any disagreement with regard to the interpretation or application of the Agreement.

Implementation

27. A new Schedule containing the full text of the Agreement will be added to the *Social Security (International Agreements) Act 1999*. This Act gives effect to Australia's international social security agreements. These agreements are attached as schedules to the Act. The regulation making powers contained in Sections 8 and 25 of this Act will be used to implement the Agreement. Article 15 of the Agreement specifies that it will be implemented in accordance with a separate Administrative Arrangement.

28. No action is required by the States or Territories, and no change to existing roles of the Commonwealth, States and Territories in social security matters will arise as a consequence of implementing this Agreement.

Costs

29. The Agreement with Slovenia is expected to result in an increase in administered outlays of A\$0.429m over the forward estimate period to 30 June 2006. Family and Community Services and Centrelink Departmental costs of A\$4.252m over the same period represent the combined cost of implementing this Agreement and the Agreements with Croatia, Switzerland and Norway. This cost includes the development of new computer systems, administrative processes, forms and staff training. However, as implementation of the four Agreements is funded through a single budget allocation, it is not possible to apportion a part of the combined costs to the implementation of this Agreement alone.

Consultation

30. Annexure A fully documents the consultation process.

Regulation Impact Statement

31. The Office of Regulation Review (Productivity Commission) has been consulted and confirms that a Regulation Impact Statement is not required (RIS ID number 5544).

Future Treaty Action

32. There is no formal amendment procedure specified in the Agreement. However, Article 18 requires Australia and Slovenia to meet to review the Agreement when so requested by the other country.

33. In the absence of a formal amendment procedure in the Agreement, Article 39 of the Vienna Convention on the Law of Treaties applies. This provides that a treaty may be amended by agreement between the parties.

34. Any proposed amendment would have to go through the normal Australian procedures for a treaty action, including scrutiny by the Joint Standing Committee on Treaties.

Withdrawal or Denunciation

35. Article 19(2) provides that the Agreement shall remain in force until the expiration of six months from the date either country notifies the other country through diplomatic channels of their intention to terminate the Agreement. If Australia should terminate the Agreement, this would be subject to the domestic treaty process.

36. In the event of termination, Article 19(3) preserves the rights of those people who are receiving benefits or who have lodged claims and would have been entitled to receive benefits under the Agreement.

Contact Details

International Branch
Department of Family and Community Services

Agreement on Social Security between the Government of Australia and the Government of the Republic of Slovenia, done at Vienna on 19 December 2002

Consultations

State and Territory Governments were advised of the proposed Agreement through the Commonwealth-States-Territories Standing Committee on Treaties, and through separate explanatory information sent out by mail on 4 March 2003. Replies were received from the South Australian Government, the Queensland Government and the ACT Government.

The South Australian Government had no particular views to offer.

The Queensland Government supports the principle of sharing responsibility for social security between countries and advised that the Agreement would not significantly impact on it. It suggested that to avoid potential confusion for citizens and agencies future social security agreements and health agreements be negotiated together as part of a whole of government approach. The Department of Family and Community Services acknowledges this view and, where there is mutual interest in such a 'package' by another country, it and the Department of Health and Ageing would work to progress both agreements if they were seen to be of sufficient priority to the Australian Government.

The ACT Government expressed concern over the impact social security agreements have on State and Territory Budgets. The Department of Family and Community Services is of the view that the impact of increased access to Australia's social security entitlements is negligible.

Letters were sent to 19 Slovenian community groups in Australia in March 2003 seeking their views on the new Agreement. An explanation of the Agreement was attached. No replies were received. A list of Slovenian community groups whose views were sought is below.

Letters were also sent to major welfare organisations in Australia in March 2003 seeking their views on the new Agreement. No replies were received. A list of these organisations is below.

The views of the Southern Cross Group (representing expatriate Australians) were also sought via email in March 2003. No reply has been received to date.

Slovenian Community Groups Consulted:

Slovenian Association Sydney	Triglav Club Ltd
Austral Slovenian Society Tivoli Newcastle Inc	Slovenian Australian Club Planica Wollongong Inc
Slovenian Twin City Club Albury- Wodonga Sneznik	Council of Slovenian Organisations of Victoria
Slovenian Sport Association of St Albans Inc	Slovenian Association Planica Springvale Inc
Slovenian Australian Social and Sports Club "Jadran" Inc	Slovenian Association Melbourne Inc
Slovenian Association Ivan Cankar Geelong	Slovenian Australian Association of Canberra Inc
Slovenian Club Adelaide Inc	Slovenian Australian Association Planinka
Gold Coast Bocce Club Lipa	Slovenian Club of Perth WA Inc
SS Cyril and Methodius Slovenian Mission	St Raphael Slovenian Mission
Holy Family Slovenian Mission	Former Yugoslav Communities in Australia

Major Welfare Organisations and Community Groups Consulted:

Welfare Organisations

Australian Council of Social Services	COTA National Seniors Policy Secretariat
Federation of Ethnic Communities' Councils	ACT Multicultural Community Council
Ethnic Communities' Council of NSW	Multicultural Council of NT
Ethnic Communities' Council of QLD	Multicultural Council of Tasmania
Ethnic Communities' Council of Victoria	Ethnic Communities' Council of Western Australia
ACROD (National Office)	Welfare Rights Centre
Association of Independent Retirees	National Seniors Association
Combined Pensioners and Superannuants Association	Physical Disabilities Council of Australia Ltd
Council of Intellectual Disabilities Agencies	National Ethnic Disability Alliance

Community Groups

Southern Cross Group
Brussels, BELGIUM
www.southern-cross-group.org

State and Territory Government Contacts:

Director
Government Branch
Department of Premier and Cabinet
Melbourne VIC 3001

Branch Manager
Intergovernmental and Regulatory Reform
Branch
Cabinet Office
Sydney NSW

Director
Policy Systems Division
Department of Premier and Cabinet
Brisbane QLD

Director
Policy Division
Department of Premier and Cabinet
Hobart TAS 7001

Assistant Director General
Federal Affairs
Perth WA 6000

Executive Director
Cabinet Office
Department of Premier and Cabinet
Adelaide SA 5001

Director
Policy and Co-ordination Division
Department of Chief Minister
Darwin NT 0801

Cabinet Office
Chief Minister's Department
Canberra ACT 2601

Slovenia - Political Brief

Relations between Australia and Slovenia are cordial, based on modest but growing trade and community ties. There is a small but active Slovenian migrant community in Australia, which numbers around 16,000. Two-way trade with Slovenia totalled \$67 million in 2002. The most recent official visit to Australia was by President Milan Kucan, accompanied by Minister for Sport and Education Dr Lovro Sturm, to attend the Sydney 2000 Olympic Games. A Parliamentary Trade Sub-Committee delegation of the Joint Standing Committee on Foreign Affairs, Defence and Trade visited Slovenia in April 2003.

The Slovenian Parliament is bicameral with a National Assembly (Državni Zbor) and a National Council (Državni Svet). The National Assembly is composed of 90 deputies who serve a four-year term, 40 of which are directly elected, while 50 are elected on a proportional basis by the parties represented in the chamber. The National Assembly is the chief legislative body and authorises adherence to international agreements. The National Council, composing 40 councillors who serve a five-year term, is an advisory body with limited legislative powers, which represents employers, employees, farmers, small business, non-profit organisations and local interests.

The Slovenian Constitution was enacted on 23 December 1991 and guarantees the independence of the judiciary. The Constitutional Court, composed of nine judges, is empowered to decide, inter alia, matters relating to the conformity of national legislation with the Constitution and international agreements. The Supreme Court is the highest authority for civil and criminal law. There are also district courts, regional courts, labour courts and social courts, which adjudicate in disputes over pensions, welfare allocations and other social benefits.

Janez Drnovsek was elected President of Slovenia in November 2002. A four-party coalition government led by Prime Minister Anton Rop was sworn in December 2002. Both Drnovsek and Rop are members of the Liberal Democracy of Slovenia Party, the senior partner in the coalition government.

Slovenia is coping well with the economic reform process launched following independence in 1991 and has performed much more strongly than the other former Yugoslav states. It enjoys a GDP per capita of US\$10,000, around 35 per cent of the EU average. Privatisation of state-owned assets proceeded at an accelerated pace in 2002, and steps were taken to bring down the budget deficit from 2.9 per cent of GDP in 2002 to 1.2 per cent in 2003. Despite the economic slowdown in Europe in 2001-02, Slovenia maintained 3 per cent growth.

Since 1991, Slovenia has gained increasing international standing and recognition through its commitment to participating in international organisations. It has been a member of the UN and the Organisation for Security Cooperation in Europe since 1992, and a member of the Council of Europe, the IMF and the World Bank since 1993. It has also been a member of the World Trade Organisation since 1995. In June 1995, Slovenia joined the European Free Trade Association and in January 1996 became a member of the Central European Free Trade Agreement. EU accession negotiations were completed in December 2002 and the EU Summit in Copenhagen the same month agreed to invite Slovenia to become an EU member by 1 May 2004. The NATO

Summit in Prague in November 2002 invited Slovenia to join the Alliance. In a referendum on 23 March 2003, Slovenians voted in favour of membership of both the EU and NATO. Slovenia signed the NATO Protocol of Accession on 27 March 2003 and is due to become a member of the Alliance by May 2004.



SLOVENIA

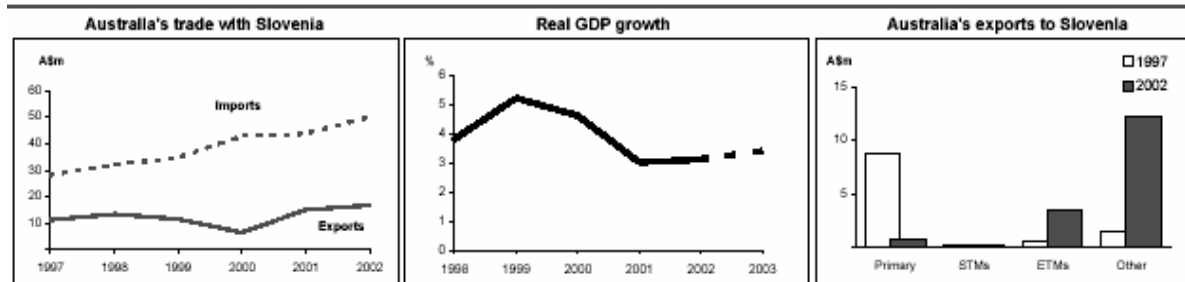
Fact Sheet

General information:

Capital:	Ljubljana	Head of State:	H.E. President Dr Janez Drnovšek
Surface area:	20 thousand sq km		
Official language:	Slovene	Head of Government:	H.E. Prime Minister Mr Tone Roop
Population:	2.0 million (2002)		
Exchange rate:	A\$1 = 127.4071 Tolars (Dec 2002)		

Recent economic indicators:

	1998	1999	2000	2001	2002(a)	2003(b)
GDP (US\$bn):	19.6	20.1	18.1	18.7	21.7	27.2
GDP per capita (US\$):	9,876	10,107	9,107	9,390	10,907	13,622
Real GDP growth (% change YOY):	3.8	5.2	4.6	3.0	3.1	3.4
Current account balance (US\$m):	-118	-698	-548	31	415	433
Current account balance (% GDP):	-0.6	-3.5	-3.0	0.2	1.9	1.6
Goods & services exports (% GDP):	56.6	52.5	59.1	59.8	60.9	62.0
Inflation (% change YOY):	7.9	6.1	8.9	8.4	7.5	5.4
Unemployment rate (%):	14.5	13.6	12.2	11.6	11.5	11.3



Australia's trade relationship with Slovenia:

Major Australian exports*, 2002 (A\$m):		Major Australian imports, 2002 (A\$m):	
Furniture	1	Rubber tyres	9
Computers	1	Household type equipment	6
Bovine meat	1	Measuring and controlling instruments	5
*Includes A\$12m of confidential items, 72.8% of total exports.		Aluminium	2
		Medicinal & pharmaceutical products	2

Australian merchandise trade with Slovenia, 2002:		Total share:	Rank:	Growth (yoy):
Exports to Slovenia (A\$m):	17	0.0%	100th	10.6%
Imports from Slovenia (A\$m):	50	0.0%	57th	14.7%
Total trade (exports + imports) (A\$m):	67	0.0%	75th	13.6%
Merchandise trade deficit with Slovenia (A\$m):	33			

Australia's trade in services with Slovenia, 2002:		Total share:
Exports of services to Slovenia (A\$m):	n.a.	n.a.
Imports of services from Slovenia (A\$m):	n.a.	n.a.
Services trade balance with Slovenia (A\$m):	n.a.	

Slovenia's global trade relationships:

Slovenia's principal export destinations, 2001:			Slovenia's principal import sources, 2001:		
1	Germany	25.1%	1	Germany	18.7%
2	Italy	12.0%	2	Italy	17.5%
3	Croatia	8.2%	3	France	10.2%
4	Austria	7.3%	4	Austria	8.1%
5	France	6.4%	5	Croatia	3.9%
33	Australia	0.2%	46	Australia	0.1%

Compiled by the Market Information and Analysis Section, DFAT, using the latest data from the ABS, the IMF and various international sources.

(a): all recent data subject to revision; (b): EIU forecast.

n.a. Data not available.

Fact sheets are updated biannually; next update: September 2003

Annexure D

List of other treaties with Slovenia

(Slovenia was part of the Serb-Croat-Slovene State from 1918-29 and subsequently of Yugoslavia. Recognised by Australia as an Independent State from 1 May 1992.)

- Treaty [between the United Kingdom and Serbia] for the Mutual Extradition of Fugitive Criminals.
Continues in force between Australia and Slovenia.
- Convention [between the United Kingdom and Yugoslavia] on Legal Proceedings in Civil and Commercial Matters.
Continues in force between Australia and Slovenia.
- Agreement on Cultural Cooperation [with Yugoslavia].
Continues in force for Slovenia.
- Exchange of Notes constituting an Agreement [with Yugoslavia] relating to the Abolition of Visa Fees.
Continues in force with Slovenia.
- Trade Agreement and Exchange of Letters [with Yugoslavia].
Continues in force with Slovenia.
- Agreement [with Yugoslavia] on the Residence and Employment of Yugoslav Citizens in Australia.
Continues in force with Slovenia.

Annexure E

List of treaties on social security with other countries:

- Austria
- Canada
- Cyprus
- Denmark
- Germany
- Ireland
- Italy
- Malta
- Netherlands
- New Zealand
- Portugal
- Spain
- United States of America
- Belgium (a)
- Chile (a)

(a) Not yet in force.