

STABILISATION AND ASSOCIATION AGREEMENT  
BETWEEN THE EUROPEAN COMMUNITIES  
AND THEIR MEMBER STATES, OF THE ONE PART,  
AND THE REPUBLIC OF ALBANIA, OF THE OTHER PART

THE KINGDOM OF BELGIUM,  
THE CZECH REPUBLIC,  
THE KINGDOM OF DENMARK,  
THE FEDERAL REPUBLIC OF GERMANY,  
THE REPUBLIC OF ESTONIA  
THE HELLENIC REPUBLIC,  
THE KINGDOM OF SPAIN,  
THE FRENCH REPUBLIC,  
IRELAND,  
THE ITALIAN REPUBLIC,  
THE REPUBLIC OF CYPRUS,  
THE REPUBLIC OF LATVIA,  
THE REPUBLIC OF LITHUANIA,  
THE GRAND DUCHY OF LUXEMBOURG,  
THE REPUBLIC OF HUNGARY,  
THE REPUBLIC OF MALTA,  
THE KINGDOM OF THE NETHERLANDS,  
THE REPUBLIC OF AUSTRIA,  
THE REPUBLIC OF POLAND,  
THE PORTUGUESE REPUBLIC,  
THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,  
THE REPUBLIC OF FINLAND,  
THE KINGDOM OF SWEDEN,  
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty establishing the European Community, the Treaty establishing the European Atomic Energy Community and the Treaty on European Union,

hereinafter referred to as "Member States", and

THE EUROPEAN COMMUNITY, THE EUROPEAN ATOMIC ENERGY COMMUNITY,

hereinafter referred to as the "Community",

of the one part, and

THE REPUBLIC OF ALBANIA, hereinafter referred to as "Albania",

of the other part,

CONSIDERING the strong links between the Parties and the values that they share and their desire to strengthen those links and establish a close and lasting relationship based on reciprocity and mutual interest, which should allow Albania to further strengthen and extend the relations with the Community and its Member States, as previously established with the Community through the Agreement on Trade and Commercial and Economic Cooperation of 1992;

CONSIDERING the importance of this Agreement in the framework of the Stabilisation and Association Process with the countries of south-eastern Europe, in the establishment and consolidation of a stable European order based on cooperation, of which the European Union is a mainstay, as well as in the framework of the Stability Pact;

CONSIDERING the commitment of the Parties to contribute by all means to the political, economic and institutional stabilisation in Albania as well as in the region, through the development of civil society and democratisation, institution building and public administration reform, regional trade integration and enhanced economic cooperation, as well as through cooperation in a wide range of areas, particularly in justice and home affairs, and the strengthening of national and regional security;

CONSIDERING the commitment of the Parties to increasing political and economic freedoms as the very basis of this Agreement, as well as their commitment to respect human rights and the rule of law, including the rights of persons belonging to national minorities, and democratic principles through a multi-party system with free and fair elections;

CONSIDERING the commitment of the Parties to the full implementation of all principles and provisions of the UN Charter, of the OSCE, notably those of the Helsinki Final Act, the concluding documents of the Madrid and Vienna Conferences, the Charter of Paris for a New Europe, and of the Stability Pact for south-eastern Europe, so as to contribute to regional stability and cooperation among the countries of the region;

CONSIDERING the commitment of the Parties to the principles of free market economy and the readiness of the Community to contribute to the economic reforms in Albania;

CONSIDERING the commitment of the Parties to free trade, in compliance with the rights and obligations arising out of the WTO;

CONSIDERING the wish of the Parties to further develop regular political dialogue on bilateral and international issues of mutual interest, including regional aspects, taking into account the Common Foreign and Security Policy of the European Union;

CONSIDERING the commitment of the Parties to combat organised crime and to strengthen cooperation in the fight against terrorism on the basis of the Declaration issued by the European Conference on 20 October 2001;

CONVINCED that this Agreement will create a new climate for economic relations between them and, above all, for the development of trade and investment, factors crucial to economic restructuring and modernisation;

BEARING IN MIND the commitment by Albania to approximate its legislation in the relevant sectors to that of the Community, and to effectively implement it;

TAKING ACCOUNT of the Community's willingness to provide decisive support for the implementation of reform and to use all available instruments of cooperation and technical, financial and economic assistance on a comprehensive indicative multi-annual basis to this endeavour;

CONFIRMING that the provisions of this Agreement that fall within the scope of the Third Part, Title IV of the Treaty establishing the European Community bind the United Kingdom and Ireland as separate Contracting Parties, and not as a part of the European Community, until the United Kingdom or Ireland (as the case may be) notifies Albania that it has become bound as part of the European Community in accordance with the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and the Treaty establishing the European Community. The same applies to Denmark, in accordance with the Protocol on the position of Denmark annexed to those Treaties;

RECALLING the Zagreb Summit which called for further consolidation of relations between the countries of the Stabilisation and Association Process and the European Union, as well as enhanced regional cooperation;

RECALLING that the Thessaloniki Summit reinforced the Stabilisation and Association Process as the policy framework for the European Union's relations with the Western Balkan countries and underlined the prospect of their integration with the European Union on the basis of their individual reform progress and merit;

RECALLING the Memorandum of Understanding on Trade Facilitation and Liberalisation, signed in Brussels on 27 June 2001, by which Albania, together with other countries of the region, committed itself to negotiate a network of bilateral Free Trade Agreements so as to enhance the region's ability to attract investments and the prospects of its integration into the global economy;

RECALLING the European Union's readiness to integrate to the fullest possible extent Albania into the political and economic mainstream of Europe and its status as a potential candidate for European Union membership on the basis of the Treaty on European Union and fulfilment of the criteria defined by the European Council in June 1993, subject to the successful implementation of this Agreement, notably regarding regional cooperation,

HAVE AGREED AS FOLLOWS:

## ARTICLE 1

1. An Association is hereby established between the Community and its Member States, of the one part; and Albania, of the other part.
  
2. The aims of this Association are:
  - to support the efforts of Albania to strengthen democracy and the rule of law;
  
  - to contribute to political, economic and institutional stability in Albania, as well as to the stabilisation of the region;
  
  - to provide an appropriate framework for political dialogue, allowing the development of close political relations between the Parties;
  
  - to support the efforts of Albania to develop its economic and international cooperation, also through the approximation of its legislation to that of the Community;
  
  - to support the efforts of Albania to complete the transition into a functioning market economy, to promote harmonious economic relations and develop gradually a free trade area between the Community and Albania;
  
  - to foster regional cooperation in all the fields covered by this Agreement.



## TITLE I

### GENERAL PRINCIPLES

#### ARTICLE 2

Respect for the democratic principles and human rights as proclaimed in the Universal Declaration of Human Rights and as defined in the European Convention on Human Rights, in the Helsinki Final Act and the Charter of Paris for a New Europe, respect for international law principles and the rule of law as well as the principles of market economy as reflected in the Document of the CSCE Bonn Conference on Economic Cooperation, shall form the basis of the domestic and external policies of the Parties and constitute essential elements of this Agreement.

#### ARTICLE 3

International and regional peace and stability and the development of good neighbourly relations are central to the Stabilisation and Association Process referred to in the conclusions of the Council of the European Union of 21 June 1999. The conclusion and the implementation of this Agreement come within the framework of the conclusions of the Council of the European Union of 29 April 1997, and are based on the individual merits of Albania.

#### ARTICLE 4

Albania commits itself to continue and foster cooperation and good neighbourly relations with the other countries of the region including an appropriate level of mutual concessions concerning the movement of persons, goods, capital and services as well as the development of projects of common interest, notably those related to combating organised crime, corruption, money laundering, illegal migration and trafficking, including in particular in human beings and illicit drugs. This commitment constitutes a key factor in the development of the relations and cooperation between the Parties and thus contributes to regional stability.

#### ARTICLE 5

The Parties reaffirm the importance that they attach to the fight against terrorism and the implementation of international obligations in this area.

#### ARTICLE 6

The Association shall be implemented progressively and shall be fully realised over a transitional period of a maximum of ten years, divided into two successive stages.

The two stages shall not apply to Title IV, for which a specific schedule is laid down under that Title.

The purpose of this division into successive stages is to make a thorough mid-term review of the implementation of this Agreement. In the field of legal approximation and law enforcement, the aim shall be for Albania to concentrate in the first stage on the fundamental elements, with specific benchmarks, of the *acquis* as described under Title VI.

The Stabilisation and Association Council established under Article 116 shall regularly review the application of this Agreement and the accomplishment by Albania of legal, administrative, institutional and economic reforms in the light of the Preamble and in accordance with the general principles laid down in this Agreement.

The first stage shall start upon the date of entry into force of this Agreement. During the fifth year after the date of entry into force of this Agreement, the Stabilisation and Association Council shall evaluate the progress made by Albania, and shall decide whether this progress has been sufficient for the passage into the second stage in order to achieve full Association. It shall also decide on any specific provisions deemed necessary to govern the second stage.

## ARTICLE 7

This Agreement shall be fully compatible with and implemented in a manner consistent with the relevant WTO provisions, in particular Article XXIV of the GATT 1994 and Article V of the GATS.

## TITLE II

### POLITICAL DIALOGUE

#### ARTICLE 8

1. Political dialogue between the Parties shall be further developed within the context of this Agreement. It shall accompany and consolidate the rapprochement between the European Union and Albania and contribute to the establishment of close links of solidarity and new forms of cooperation between the Parties.
2. The political dialogue is intended to promote in particular:
  - Albania's full integration into the community of democratic nations and gradual rapprochement with the European Union;
  - an increasing convergence of positions of the Parties on international issues, also through the exchange of information as appropriate, and, in particular, on those issues likely to have substantial effects on the Parties;
  - regional cooperation and the development of good neighbourly relations;
  - common views on security and stability in Europe, including cooperation in the areas covered by the Common Foreign and Security Policy of the European Union.

3. The Parties consider that the proliferation of weapons of mass destruction and their means of delivery, both to state and non-state actors, represents one of the most serious threats to international stability and security. The Parties therefore agree to cooperate and to contribute to countering the proliferation of weapons of mass destruction and their means of delivery through full compliance with and national implementation of their existing obligations under international disarmament and non-proliferation Treaties and Agreements and other relevant international obligations. The Parties agree that this provision constitutes an essential element of this Agreement and shall be part of the political dialogue that shall accompany and consolidate these elements.

The Parties furthermore agree to cooperate and to contribute to countering the proliferation of weapons of mass destruction and their means of delivery by:

- taking steps to sign, ratify, or accede to, as appropriate, and fully implement all other relevant international instruments;
- the establishment of an effective system of national export controls, controlling the export as well as the transit of WMD-related goods, including a WMD end-use control on dual use technologies and containing effective sanctions for breaches of export controls.

Political dialogue on this matter may take place on a regional basis.

## ARTICLE 9

1. Political dialogue shall take place within the Stabilisation and Association Council, which shall have the general responsibility for any matter which the Parties might wish to put to it.

2. At the request of the Parties, political dialogue may also take place in the following formats:
- meetings, where necessary, of senior officials representing Albania, on the one hand, and the Presidency of the Council of the European Union and the Commission, on the other;
  - taking full advantage of all diplomatic channels between the Parties, including appropriate contacts in third countries and within the United Nations, the OSCE, the Council of Europe and other international fora;
  - any other means which would make a useful contribution to consolidating, developing and stepping up this dialogue.

#### ARTICLE 10

Political dialogue at parliamentary level shall take place within the framework of the Stabilisation and Association Parliamentary Committee established under Article 122.

#### ARTICLE 11

Political dialogue may take place within a multilateral framework, and as a regional dialogue including other countries of the region.

### TITLE III

#### REGIONAL COOPERATION

##### ARTICLE 12

In conformity with its commitment to international and regional peace and stability, and to the development of good neighbourly relations, Albania shall actively promote regional cooperation. The Community assistance programmes may support projects having a regional or cross-border dimension through its technical assistance programmes.

Whenever Albania foresees to reinforce its cooperation with one of the countries mentioned in Articles 13, 14 and 15, it shall inform and consult the Community and its Member States according to the provisions laid down in Title X.

Albania shall review existing bilateral Agreements with all relevant countries, or will conclude new ones, in order to ensure that they are compatible with the principles set out in the Memorandum of Understanding on Trade Facilitation and Liberalisation signed in Brussels on 27 June 2001.

## ARTICLE 13

### Cooperation with other countries having signed a Stabilisation and Association Agreement

After the signature of this Agreement, Albania shall start negotiations with the countries which have already signed a Stabilisation and Association Agreement with a view to concluding bilateral Conventions on regional cooperation, the aim of which shall be to enhance the scope of cooperation between the countries concerned.

The main elements of these conventions shall be:

- political dialogue;
- the establishment of a free trade area between the Parties, consistent with the relevant WTO provisions;
- mutual concessions concerning the movement of workers, establishment, supply of services, current payments and movement of capital as well as other policies related to movement of persons at an equivalent level to that of this Agreement;
- provisions on cooperation in other fields whether or not covered by this Agreement, and notably the field of Justice and Home Affairs.

These Conventions shall contain provisions for the creation of the necessary institutional mechanisms, as appropriate.



These Conventions shall be concluded within two years after the date of entry into force of this Agreement. Readiness by Albania to conclude such Conventions will be a condition for the further development of the relations between Albania and the European Union.

Albania shall initiate similar negotiations with the remaining countries of the region once these countries have signed a Stabilisation and Association Agreement.

#### ARTICLE 14

##### Cooperation with other countries concerned by the Stabilisation and Association Process

Albania shall pursue regional cooperation with the other countries concerned by the Stabilisation and Association Process in some or all the fields of cooperation covered by this Agreement, and notably those of common interest. Such cooperation shall be compatible with the principles and objectives of this Agreement.

## ARTICLE 15

### Cooperation with countries candidate for accession to the European Union

1. Albania may foster its cooperation and conclude a Convention on regional cooperation with any country candidate for accession to the European Union in any of the fields of cooperation covered by this Agreement. Such Convention should aim gradually to align bilateral relations between Albania and that country to the relevant part of the relations between the Community and its Member States and that country.
2. Albania shall start negotiations with Turkey with a view to concluding, on a mutually advantageous basis, an Agreement establishing a free trade area between the two Parties in accordance with Article XXIV of the GATT as well as liberalising the establishment and supply of services between them at a level equivalent to this Agreement in accordance with Article V of the GATS.

These negotiations shall be opened as soon as possible, with a view to concluding such an Agreement before the end of the transitional period referred to in Article 16(1).

## TITLE IV

### FREE MOVEMENT OF GOODS

#### ARTICLE 16

1. The Community and Albania shall gradually establish a free trade area over a period lasting a maximum of ten years starting from the date of entry into force of this Agreement in accordance with the provisions of this Agreement and in conformity with those of the GATT 1994 and the WTO. In so doing they shall take into account the specific requirements laid down hereinafter.
2. The Combined Nomenclature of goods shall be applied to the classification of goods in trade between the two Parties.
3. For each product the basic duty to which the successive reductions set out in this Agreement are to be applied shall be the duty actually applied *erga omnes* on the day preceding the signature of this Agreement.
4. The reduced duties to be applied by Albania calculated as set out in this Agreement shall be rounded to whole numbers using common arithmetical principles. Therefore, all figures which have less than 50 (included) after the decimal point shall be rounded down to the nearest whole number and all figures which have more than 50 after the decimal point shall be rounded up to the nearest whole number.

5. If, after the signature of this Agreement, any tariff reduction is applied on an *erga omnes* basis, in particular reductions resulting from the tariff negotiations in the WTO, such reduced duties shall replace the basic duty referred to in paragraph 3 as from the date when such reductions are applied.
  
6. The Community and Albania shall communicate to each other their respective basic duties.

## CHAPTER I

### INDUSTRIAL PRODUCTS

#### ARTICLE 17

1. The provisions of this Chapter shall apply to products originating in the Community or in Albania listed in Chapters 25 to 97 of the Combined Nomenclature, with the exception of the products listed in Annex I. § I, (ii) of the Agreement on agriculture (GATT 1994).
  
2. Trade between the Parties in products covered by the Treaty establishing the European Atomic Energy Community shall be conducted in accordance with the provisions of that Treaty.

## ARTICLE 18

1. Customs duties on imports into the Community of products originating in Albania shall be abolished upon the date of entry into force of this Agreement.
2. Quantitative restrictions on imports into the Community and measures having equivalent effect shall be abolished on the date of entry into force of this Agreement with regard to products originating in Albania.

## ARTICLE 19

1. Customs duties on imports into Albania of goods originating in the Community other than those listed in Annex I shall be abolished upon the date of entry into force of this Agreement.
2. Customs duties on imports into Albania of goods originating in the Community which are listed in Annex I shall be progressively reduced in accordance with the following timetable:
  - on the date of entry into force of this Agreement, the import duty shall be reduced to 80% of the basic duty;
  - on 1 January of the first year following the date of entry into force of this Agreement, the import duty shall be reduced to 60% of the basic duty;

- on 1 January of the second year following the date of entry into force of this Agreement, the import duty shall be reduced to 40% of the basic duty;
  - on 1 January of the third year following the date of entry into force of this Agreement, the import duty shall be reduced to 20% of the basic duty;
  - on 1 January of the fourth year following the date of entry into force of this Agreement, the import duty shall be reduced to 10% of the basic duty;
  - on 1 January of the fifth year following the date of entry into force of this Agreement, the remaining import duties shall be abolished.
3. Quantitative restrictions on imports into Albania of goods originating in the Community and measures having equivalent effect shall be abolished upon the date of entry into force of this Agreement.

## ARTICLE 20

The Community and Albania shall abolish upon the date of entry into force of this Agreement in trade between themselves any charges having an effect equivalent to customs duties on imports.

## ARTICLE 21

1. The Community and Albania shall abolish any customs duties on exports and charges having equivalent effect upon the date of entry into force of this Agreement.
2. The Community and Albania shall abolish between themselves any quantitative restrictions on exports and measures having equivalent effect upon the date of entry into force of this Agreement.

## ARTICLE 22

Albania declares its readiness to reduce its customs duties in trade with the Community more rapidly than is provided for in Article 19, if its general economic situation and the situation of the economic sector concerned so permit.

The Stabilisation and Association Council shall analyse the situation in this respect and make the relevant recommendations.

## ARTICLE 23

Protocol 1 lays down the arrangements applicable to iron and steel products of Chapters 72 and 73 of the Combined Nomenclature.

## CHAPTER II

### AGRICULTURE AND FISHERIES

#### ARTICLE 24

##### Definition

1. The provisions of this Chapter shall apply to trade in agricultural and fishery products originating in the Community or in Albania.
2. The term "agricultural and fishery products" refers to the products listed in Chapters 1 to 24 of the Combined Nomenclature and the products listed in Annex I, §I, (ii) of the Agreement on agriculture (GATT, 1994)
3. This definition includes fish and fisheries products covered by Chapter 3, Headings 1604 and 1605, and Sub-headings 0511 91, 2301 20 00 and 1902 20 10

#### ARTICLE 25

Protocol 2 lays down the trade arrangements for processed agricultural products which are listed therein.



## ARTICLE 26

1. On the date of entry into force of this Agreement, the Community shall abolish all quantitative restrictions and measures having equivalent effect on imports of agricultural and fishery products originating in Albania.
2. On the date of entry into force of this Agreement, Albania shall abolish all quantitative restrictions and measures having equivalent effect on imports of agricultural and fishery products originating in the Community.

## ARTICLE 27

### Agricultural products

1. From the date of entry into force of this Agreement, the Community shall abolish the customs duties and charges having equivalent effect on imports of agricultural products originating in Albania, other than those of Headings 0102, 0201, 0202, 1701, 1702 and 2204 of the Combined Nomenclature.

For the products covered by Chapters 7 and 8 of the Combined Nomenclature, for which the Common Customs Tariff provides for the application of ad valorem customs duties and a specific customs duty, the elimination shall apply only to the ad valorem part of the duty.

2. From the date of entry into force of this Agreement, the Community shall apply duty-free access on imports into the Community for products originating in Albania of Headings 1701 and 1702 of the Combined Nomenclature, within the limit of an annual tariff quota of 1 000 tonnes.
3. On the date of entry into force of this Agreement, Albania shall:
  - (a) abolish the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Annex II(a);
  - (b) reduce progressively the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Annex II(b) in accordance with the timetable indicated for each product in that Annex;
  - (c) abolish the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Annex II(c) within the limit of the tariff quota indicated for the products concerned.
4. Protocol 3 lays down the arrangements applicable to the wine and spirit products referred to therein.

## ARTICLE 28

### Fish and fisheries products

1. On the date of entry into force of this Agreement the Community shall eliminate all customs duties on fish and fisheries products, other than those listed in Annex III originating in Albania. Products listed in Annex III shall be subject to the provisions laid down therein.
2. From the date of entry into force of this Agreement Albania shall not apply any customs duties or charges having an equivalent effect to a customs duty on fish and fisheries products originating in the Community.

## ARTICLE 29

Taking account of the volume of trade in agricultural and fishery products between the Parties, of their particular sensitivities, of the rules of the Community common policies and of the Albanian policies for agriculture and fisheries, of the role of agriculture and fisheries in Albania's economy and of the consequences of the multilateral trade negotiations under the WTO, the Community and Albania shall examine in the Stabilisation and Association Council, no later than six years after the date of entry into force of this Agreement, product by product and on an orderly and appropriate reciprocal basis, the opportunities for granting each other further concessions with a view to implementing greater liberalisation of the trade in agricultural and fishery products.

## ARTICLE 30

The provisions of this Chapter shall in no way affect the application, on a unilateral basis, of more favourable measures by one or the other Party.

## ARTICLE 31

Notwithstanding other provisions of this Agreement, and in particular Articles 38 and 43, given the particular sensitivity of the agricultural and fisheries markets, if imports of products originating in one of the two Parties, which are the subject of concessions granted pursuant to Articles 25, 27 and 28, cause serious disturbance to the markets or to their domestic regulatory mechanisms in the other Party, both Parties shall enter into consultations immediately to find an appropriate solution. Pending such solution, the Party concerned may take the appropriate measures it deems necessary.

## CHAPTER III

### COMMON PROVISIONS

## ARTICLE 32

The provisions of this Chapter shall apply to trade in all products between the Parties except where otherwise provided herein or in Protocols 1, 2 and 3.

## ARTICLE 33

### Standstill

1. From the date of entry into force of this Agreement no new customs duties on imports or exports or charges having equivalent effect shall be introduced, nor shall those already applied be increased, in trade between the Community and Albania.
2. From the date of entry into force of this Agreement no new quantitative restriction on imports or exports or measure having equivalent effect shall be introduced, nor shall those existing be made more restrictive, in trade between the Community and Albania.
3. Without prejudice to the concessions granted under Article 26, the provisions of paragraphs 1 and 2 of this Article shall not restrict in any way the pursuit of the respective agricultural policies of Albania and the Community or the taking of any measures under those policies insofar as the import regime in Annexes II and III is not affected.

## ARTICLE 34

### Prohibition of fiscal discrimination

1. The Parties shall refrain from, and abolish where existing, any measure or practice of an internal fiscal nature establishing, whether directly or indirectly, discrimination between the products of one Party and like products originating in the territory of the other Party.

2. Products exported to the territory of one of the Parties may not benefit from repayment of internal indirect taxation in excess of the amount of indirect taxation imposed on them.

#### ARTICLE 35

The provisions concerning the abolition of customs duties on imports shall also apply to customs duties of a fiscal nature.

#### ARTICLE 36

##### Customs unions, free trade areas, cross-border arrangements

1. This Agreement shall not preclude the maintenance or establishment of customs unions, free trade areas or arrangements for frontier trade except insofar as they alter the trade arrangements provided for in this Agreement.

2. During the transitional periods specified in Article 19, this Agreement shall not affect the implementation of the specific preferential arrangements governing the movement of goods either laid down in frontier Agreements previously concluded between one or more Member States and Albania or resulting from the bilateral Agreements specified in Title III concluded by Albania in order to promote regional trade.

3. Consultations between the Parties shall take place within the Stabilisation and Association Council concerning the Agreements described in paragraphs 1 and 2 and, where requested, on other major issues related to their respective trade policies towards third countries. In particular in the event of a third country acceding to the Community, such consultations shall take place so as to ensure that account is taken of the mutual interests of the Community and Albania stated in this Agreement.

## ARTICLE 37

### Dumping and subsidy

1. None of the provisions in this Agreement shall prevent either Party from taking trade defence action in accordance with paragraph 2 of this Article and Article 38.
2. If one of the Parties finds that dumping and/or countervailable subsidisation is taking place in trade with the other Party, the first Party may take appropriate measures against this practice in accordance with the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 and the WTO Agreement on Subsidies and Countervailing Measures and its own related internal legislation.

## ARTICLE 38

### General safeguard clause

1. The provisions of Article XIX GATT 1994 and the WTO Agreement on Safeguard are applicable between the Parties.
  
2. Where any product of one Party is being imported into the territory of the other Party in such increased quantities and under such conditions as to cause or threaten to cause:
  - serious injury to the domestic industry of like or directly competitive products in the territory of the importing Party; or
  
  - serious disturbances in any sector of the economy or difficulties which could bring about serious deterioration in the economic situation of a region of the importing Party,the importing Party may take appropriate measures under the conditions and in accordance with the procedures laid down in this Article.



3. Bilateral safeguard measures directed at imports from the other Party shall not exceed what is necessary to remedy the difficulties which have arisen, and should normally consist of the suspension of the further reduction of any applicable rate of duty provided for under this Agreement for the product concerned or the increase of the rate of duty for that product up to a maximum limit corresponding to the Most-Favoured-Nation (MFN) rate applicable to the same product. Such measures shall contain clear elements progressively leading to their elimination at the end of the set period, at the latest, and shall not be taken for a period exceeding one year. In very exceptional circumstances, measures may be taken up to a total maximum period of three years. No bilateral safeguard measure shall be applied to the import of a product that has previously been subject to such a measure for a period of, at least, three years since the expiry of the measure.

4. In the cases specified in this Article, before taking the measures provided for therein or, in the cases to which paragraph 5(b) applies, as soon as possible, the Community or Albania, as the case may be, shall supply the Stabilisation and Association Council with all relevant information, with a view to seeking a solution acceptable to both Parties.

5. For the implementation of the above paragraphs the following provisions shall apply:

- (a) The difficulties arising from the situation referred to in this Article shall be referred for examination to the Stabilisation and Association Council, which may take any decisions needed to put an end to such difficulties.

If the Stabilisation and Association Council or the exporting Party has not taken a decision putting an end to the difficulties or no other satisfactory solution has been reached within 30 days of the matter being referred to the Stabilisation and Association Council, the importing Party may adopt the appropriate measures to remedy the problem in accordance with this Article. In the selection of safeguard measures, priority must be given to those which least disturb the functioning of the arrangements established in this Agreement. Safeguard measures applied in accordance with Article XIX GATT and the WTO Agreement on Safeguards shall preserve the level/margin of preference granted under this Agreement.

- (b) Where exceptional and critical circumstances requiring immediate action make prior information or examination, as the case may be, impossible, the Party concerned may, in the situations specified in this Article, apply forthwith provisional measures necessary to deal with the situation and shall inform the other Party immediately thereof.

The safeguard measures shall be notified immediately to the Stabilisation and Association Council and shall be the subject of periodic consultations within that body, particularly with a view to establishing a timetable for their abolition as soon as circumstances permit.

6. In the event of the Community or Albania subjecting imports of products liable to give rise to the difficulties referred to in this Article to an administrative procedure having as its purpose the rapid provision of information on the trend of trade flows, it shall inform the other Party.

## ARTICLE 39

### Shortage clause

1. Where compliance with the provisions of this Title leads to:
  - (a) a critical shortage, or threat thereof, of foodstuffs or other products essential to the exporting Party; or
  - (b) re-export to a third country of a product against which the exporting Party maintains quantitative export restrictions, export duties or measures or charges having equivalent effect, and where the situations referred to above give rise, or are likely to give rise to major difficulties for the exporting Party

that Party may take appropriate measures under the conditions and in accordance with the procedures laid down in this Article.

2. In the selection of measures, priority must be given to those which least disturb the functioning of the arrangements in this Agreement. Such measures shall not be applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination where the same conditions prevail, or a disguised restriction on trade and shall be eliminated when the conditions no longer justify their maintenance.

3. Before taking the measures provided for in paragraph 1 or, as soon as possible in cases to which paragraph 4 applies the Community or Albania, as the case may be, shall supply the Stabilisation and Association Council with all relevant information, with a view to seeking a solution acceptable to the Parties. The Parties within the Stabilisation and Association Council may agree on any means needed to put an end to the difficulties. If no agreement is reached within thirty days of the matter being referred to the Stabilisation and Association Council, the exporting Party may apply measures under this Article on the exportation of the product concerned.

4. Where exceptional and critical circumstances requiring immediate action make prior information or examination, as the case may be, impossible, the Community or Albania, whichever is concerned, may apply forthwith the precautionary measures necessary to deal with the situation and shall inform the other Party immediately thereof.

5. Any measures applied pursuant to this Article shall be immediately notified to the Stabilisation and Association Council and shall be the subject of periodic consultations within that body, particularly with a view to establishing a timetable for their elimination as soon as circumstances permit.

## ARTICLE 40

### State monopolies

Albania shall progressively adjust any State monopolies of a commercial character so as to ensure that, by the end of the fourth year following the date of entry into force of this Agreement, no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of the Member States and Albania. The Stabilisation and Association Council shall be informed about the measures adopted to attain this objective.

## ARTICLE 41

Except if otherwise stipulated in this Agreement, Protocol 4 lays down the rules of origin for the application of the provisions of this Agreement.

## ARTICLE 42

### Restrictions authorised

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 of artistic, historic or archaeological value or the protection of intellectual, industrial and commercial property, or rules 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 Parties.

## ARTICLE 43

1. The Parties agree that administrative cooperation is essential for the implementation and the control of the preferential treatment granted under this Title and underline their commitment to combat irregularities and fraud in customs and related matters.
2. Where a Party has made a finding, on the basis of objective information, of a failure to provide administrative cooperation and/or of irregularities or fraud under this Title, the Party concerned may temporarily suspend the relevant preferential treatment of the product(s) concerned in accordance with this Article.

3. For the purpose of this Article a failure to provide administrative cooperation shall mean, inter alia:

- (a) a repeated failure to respect the obligations to verify the originating status of the product(s) concerned;
- (b) a repeated refusal or undue delay in carrying out and/or communicating the results of subsequent verification of the proof of origin;
- (c) a repeated refusal or undue delay in obtaining authorisation to conduct administrative cooperation missions to verify the authenticity of documents or accuracy of information relevant to the granting of the preferential treatment in question.

For the purpose of this Article a finding of irregularities or fraud may be made, inter alia, where there is a rapid increase, without satisfactory explanation, in imports of goods exceeding the usual level of production and export capacity of the other Party, that is linked to objective information concerning irregularities or fraud.

4. The application of a temporary suspension shall be subject to the following conditions:
- (a) The Party which has made a finding, on the basis of objective information, of a failure to provide administrative cooperation and/or of irregularities or fraud shall without undue delay notify the Stabilisation and Association Committee of its finding together with the objective information and enter into consultations within the Stabilisation and Association Committee, on the basis of all relevant information and objective findings, with a view to reaching a solution acceptable to both Parties.
  - (b) Where the Parties have entered into consultations within the Stabilisation and Association Committee and have failed to agree on an acceptable solution within three months following the notification, the Party concerned may temporarily suspend the relevant preferential treatment of the product(s) concerned. A temporary suspension shall be notified to the Stabilisation and Association Committee without undue delay.
  - (c) Temporary suspensions under this Article shall be limited to the extent necessary to protect the financial interests of the Party concerned. They shall not exceed a period of six months, which may be renewed. Temporary suspensions shall be notified immediately after their adoption to the Stabilisation and Association Committee. They shall be subject to periodic consultations within the Stabilisation and Association Committee in particular with a view to their termination as soon as the conditions for their application no longer exist.



5. At the same time as the notification to the Stabilisation and Association Committee under paragraph 4(a), the Party concerned should publish a notice to importers in its Official Journal. The notice to importers should indicate for the product concerned that there is a finding, on the basis of objective information, of a failure to provide administrative cooperation and/or of irregularities or fraud.

#### ARTICLE 44

In case of error by the competent authorities in the proper management of the preferential system of export, and in particular in the application of the provisions of Protocol 4 concerning the definition of the concept of "originating products" and methods of administrative cooperation, where this error leads to consequences in terms of import duties, the Party facing such consequences may request the Stabilisation and Association Council to examine the possibilities of adopting all appropriate measures with a view to resolving the situation.

#### ARTICLE 45

The application of this Agreement shall be without prejudice to the application of the provisions of Community law to the Canary Islands.

## TITLE V

### MOVEMENT OF WORKERS, ESTABLISHMENT, SUPPLY OF SERVICES, CURRENT PAYMENTS AND MOVEMENT OF CAPITAL

#### CHAPTER I

#### MOVEMENT OF WORKERS

#### ARTICLE 46

1. Subject to the conditions and modalities applicable in each Member State:
  - treatment accorded to workers who are Albanian nationals and who are legally employed in the territory of a Member State shall be free of any discrimination based on nationality, as regards working conditions, remuneration or dismissal, compared to its own nationals;
  - the legally resident spouse and children of a worker legally employed in the territory of a Member State, with the exception of seasonal workers and of workers coming under bilateral Agreements within the meaning of Article 47, unless otherwise provided by such Agreements, shall have access to the labour market of that Member State, during the period of that worker's authorised stay of employment.

2. Albania shall, subject to the conditions and modalities in that country, accord the treatment referred to in paragraph 1 to workers who are nationals of a Member State and are legally employed in its territory as well as to their spouse and children who are legally resident in the said country.

#### ARTICLE 47

1. Taking into account the labour market situation in the Member States, subject to their legislation and to compliance with the rules in force in the Member States in the area of mobility of workers:

- the existing facilities of access to employment for Albanian workers accorded by Member States under bilateral Agreements should be preserved and if possible improved;
- the other Member States shall examine the possibility of concluding similar Agreements.

2. The Stabilisation and Association Council shall examine the granting of other improvements, including facilities for access to professional training, in accordance with the rules and procedures in force in the Member States, and taking into account the labour market situation in the Member States and in the Community.

## ARTICLE 48

1. Rules shall be laid down for the coordination of social security systems for workers with Albanian nationality, legally employed in the territory of a Member State, and for the members of their families legally resident there. To that effect, a Decision of the Stabilisation and Association Council, which should not affect any rights or obligations arising from bilateral Agreements where the latter provide for more favourable treatment, shall put the following provisions in place:
  - all periods of insurance, employment or residence completed by such workers in the various Member States shall be added together for the purpose of pensions and annuities in respect of old age, invalidity and death and for the purpose of medical care for such workers and such family members;
  - any pensions or annuities in respect of old age, death, industrial accident or occupational disease, or of invalidity resulting therefrom, with the exception of non-contributory benefits, shall be freely transferable at the rate applied by virtue of the law of the debtor Member State or States;
  - the workers in question shall receive family allowances for the members of their families as defined above;
2. Albania shall accord to workers who are nationals of a Member State and legally employed in its territory, and to members of their families legally resident there, treatment similar to that specified in the second and third indents of paragraph 1.

## CHAPTER II

### ESTABLISHMENT

#### ARTICLE 49

For the purposes of this Agreement:

- (a) "Community company" or "Albanian company" respectively shall mean a company set up in accordance with the laws of a Member State or of Albania respectively and having its registered office or central administration or principal place of business in the territory of the Community or Albania respectively.

However, should the company, set up in accordance with the laws of a Member State or of Albania respectively, have only its registered office in the territory of the Community or of Albania respectively, the company shall be considered a Community or an Albanian company respectively if its operations possess a real and continuous link with the economy of one of the Member States or of Albania respectively.

- (b) "Subsidiary" of a company shall mean a company which is effectively controlled by the first company.

- (c) "Branch" of a company shall mean a place of business not having legal personality which has the appearance of permanency, such as the extension of a parent body, has a management and is materially equipped to negotiate business with third parties so that the latter, although knowing that there will if necessary be a legal link with the parent body, the head office of which is abroad, do not have to deal directly with such parent body but may transact business at the place of business constituting the extension.
- (d) "Establishment" shall mean:
- (i) as regards nationals, the right to take up economic activities as self-employed persons, and to set up undertakings, in particular companies, which they effectively control. Self-employment and business undertakings by nationals shall not extend to seeking or taking employment in the labour market or confer a right of access to the labour market of another Party. The provisions of this Chapter do not apply to those who are not exclusively self-employed;
  - (ii) as regards Community or Albanian companies, the right to take up economic activities by means of the setting up of subsidiaries and branches in Albania or in the Community respectively.
- (e) "Operations" shall mean the pursuit of economic activities.
- (f) "Economic activities" shall in principle include activities of an industrial, commercial and professional character and activities of craftsmen.

- (g) "Community national" and "Albanian national" shall mean a natural person who is a national of one of the Member States or of Albania respectively.
- (h) With regard to international maritime transport, including intermodal operations involving a sea leg, nationals of the Member States or of Albania established outside the Community or Albania respectively, and shipping companies established outside the Community or Albania and controlled by nationals of a Member State or Albanian nationals respectively, shall also be beneficiaries of the provisions of this Chapter and Chapter III, if their vessels are registered in that Member State or in Albania respectively, in accordance with their respective legislation.
- (i) "Financial services" shall mean the activities as defined in Annex IV. The Stabilisation and Association Council may extend or modify the scope of that Annex.

#### ARTICLE 50

1. Albania shall facilitate the setting-up of operations on its territory by Community companies and nationals. To that end, it shall grant, upon the date of entry into force of this Agreement:
  - (i) as regards the establishment of Community companies treatment no less favourable than that accorded to its own companies or to any third country company, whichever is the better, and;

(ii) as regards the operation of subsidiaries and branches of Community companies in Albania, once established, treatment no less favourable than that accorded to its own companies and branches or to any subsidiary and branch of any third country company, whichever is the better.

2. The Parties shall not adopt any new regulations or measures which would introduce discrimination as regards the establishment of Community or Albanian companies on their territory or in respect of their operation, once established, by comparison with their own companies.

3. The Community and its Member States shall grant, from the date of entry into force of this Agreement:

(i) as regards the establishment of Albanian companies, treatment no less favourable than that accorded by Member States to their own companies or to any company of any third country, whichever is the better;

(ii) as regards the operation of subsidiaries and branches of Albanian companies, established in their territory, treatment no less favourable than that accorded by Member States to their own companies and branches, or to any subsidiary and branch of any third country company, established in their territory, whichever is the better.

4. Five years after the date of entry into force of this Agreement, the Stabilisation and Association Council shall establish the modalities to extend the above provisions to the establishment of nationals of both Parties to take up economic activities as self-employed persons.



5. Notwithstanding the provisions of this Article:

- (a) subsidiaries and branches of Community companies shall have, from the date of entry into force of this Agreement, the right to use and rent real property in Albania;
- (b) subsidiaries and branches of Community companies shall also have the right to acquire and enjoy ownership rights over real property as Albanian companies and as regards public goods/goods of common interest, the same rights as enjoyed by Albanian companies, where these rights are necessary for the conduct of the economic activities for which they are established excluding natural resources, agricultural land, forests and forestry land. Seven years after the date of entry into force of this Agreement the Stabilisation and Association Council shall establish the modalities for extending rights under this paragraph to the excluded sectors.

#### ARTICLE 51

1. Subject to the provisions of Article 50, with the exception of financial services as defined in Annex IV, each Party may regulate the establishment and operation of companies and nationals on its territory, insofar as these regulations do not discriminate against companies and nationals of the other Party in comparison with its own companies and nationals.

2. In respect of financial services, notwithstanding any other provisions of this Agreement, a Party shall not be prevented from taking measures for prudential reasons, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system. Such measures shall not be used as a means of avoiding the Party's obligations under this Agreement.

3. Nothing in this Agreement shall be construed to require a Party to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

## ARTICLE 52

1. Without prejudice to the Multilateral Agreement on the Establishment of a European Common Aviation Area (ECAA), the provisions of this Chapter shall not apply to air transport services, inland waterways transport services and maritime cabotage services.

2. The Stabilisation and Association Council may make recommendations for improving establishment and operations in the areas covered by paragraph 1.

#### ARTICLE 53

1. The provisions of Articles 50 and 51 do not preclude the application by a Party of particular rules concerning the establishment and operation in its territory of branches of companies of another Party not incorporated in the territory of the first Party, which are justified by legal or technical differences between such branches as compared to branches of companies incorporated in its territory or, as regards financial services, for prudential reasons.
2. The difference in treatment shall not go beyond what is strictly necessary as a result of such legal or technical differences or, as regards financial services, for prudential reasons.

#### ARTICLE 54

In order to make it easier for Community nationals and Albanian nationals to take up and pursue regulated professional activities in Albania and the Community respectively, the Stabilisation and Association Council shall examine which steps are necessary for the mutual recognition of qualifications. It may take all necessary measures to that end.

## ARTICLE 55

1. A Community company or an Albanian company established in the territory of Albania or the Community respectively shall be entitled to employ, or have employed by one of its subsidiaries or branches, in accordance with the legislation in force in the host country of establishment, in the territory of Albania and the Community respectively, employees who are nationals of the Member States and of Albania respectively, provided that such employees are key personnel as defined in paragraph 2 and that they are employed exclusively by companies, subsidiaries or branches. The residence and work permits of such employees shall only cover the period of such employment.

2. Key personnel of the abovementioned companies, herein referred to as "organisations", are "intra-corporate transferees" as defined in point (c) in the following categories, provided that the organisation is a legal person and that the persons concerned have been employed by it or have been partners in it (other than as majority shareholders), for at least the year immediately preceding such movement:

- (a) Persons working in a senior position with an organisation, who primarily direct the management of the establishment, receiving general supervision or direction principally from the board of directors or stockholders of the business or their equivalent including:
- directing the establishment or a department or sub-division of the establishment;
  - supervising and controlling the work of other supervisory, professional or managerial employees;

- having the authority personally to recruit and dismiss or recommend recruiting, dismissing or other personnel actions;
- (b) Persons working within an organisation who possess uncommon knowledge essential to the establishment's service, research equipment, techniques or management. The assessment of such knowledge may reflect, apart from knowledge specific to the establishment, a high level of qualification referring to a type of work or trade requiring specific technical knowledge, including membership of an accredited profession;
- (c) An "intra-corporate transferee" is defined as a natural person working within an organisation in the territory of a Party, and being temporarily transferred in the context of pursuit of economic activities in the territory of the other Party; the organisation concerned must have its principal place of business in the territory of a Party and the transfer be to an establishment (branch, subsidiary) of that organisation, effectively pursuing like economic activities in the territory of the other Party.

3. The entry into and the temporary presence within the territory of the Community or Albania of Albanian and Community nationals respectively shall be permitted, when these representatives of companies are persons working in a senior position, as defined in paragraph 2(a), within a company, and are responsible for the setting up of a Community subsidiary or branch of an Albanian company or of an Albanian subsidiary or branch of a Community company in a Member State or in Albania respectively, when:

- those representatives are not engaged in making direct sales or supplying services, and
- the company has its principal place of business outside the Community or Albania, respectively, and has no other representative, office, branch or subsidiary in that Member State or in Albania respectively.

## ARTICLE 56

During the first five years following the date of entry into force of this Agreement, Albania may, on a transitional basis, introduce measures which derogate from the provisions of this Chapter as regards the establishment of Community companies and nationals of certain industries which:

- are undergoing restructuring, or are facing serious difficulties, particularly where these entail serious social problems in Albania, or
- face the elimination or a drastic reduction of the total market share held by Albanian companies or nationals in a given sector or industry in Albania, or
- are newly emerging industries in Albania.

Such measures:

- (i) shall cease to apply at the latest seven years after the date of entry into force of this Agreement;
- (ii) shall be reasonable and necessary in order to remedy the situation; and
- (iii) shall not introduce discrimination concerning the activities of Community companies or nationals already established in Albania at the time of introduction of a given measure, by comparison with Albanian companies or nationals.

While devising and applying such measures, Albania shall grant preferential treatment wherever possible to Community companies and nationals, and in no case treatment less favourable than that accorded to companies or nationals from any third country. Prior to the adoption of these measures, Albania shall consult the Stabilisation and Association Council and shall not put them into effect before a one-month period has elapsed following the notification to the Stabilisation and Association Council of the concrete measures to be introduced by Albania, except where the threat of irreparable damage requires the taking of urgent measures, in which case Albania shall consult the Stabilisation and Association Council immediately after their adoption.

Upon the expiry of the fifth year following the date of entry into force of this Agreement, Albania may introduce or maintain such measures only with the authorisation of the Stabilisation and Association Council and under conditions determined by the latter.

### CHAPTER III

#### SUPPLY OF SERVICES

##### ARTICLE 57

1. The Parties undertake in accordance with the following provisions to take the necessary steps to allow progressively the supply of services by Community or Albanian companies or nationals which are established in a Party other than that of the person for whom the services are intended.

2. In step with the liberalisation process mentioned in paragraph 1, the Parties shall permit the temporary movement of natural persons providing the service or who are employed by the service provider as key personnel as defined in Article 55(2), including natural persons who are representatives of a Community or Albanian company or national and are seeking temporary entry for the purpose of negotiating for the sale of services or entering into agreements to sell services for that service provider, where those representatives will not be engaged in making direct sales to the general public or in supplying services themselves.

3. Five years after the date of entry into force of this Agreement, the Stabilisation and Association Council shall take the measures necessary to implement progressively the provisions of paragraph 1. Account shall be taken of the progress achieved by the Parties in the approximation of their laws.

#### ARTICLE 58

1. The Parties shall not take any measures or actions which render the conditions for the supply of services by Community and Albanian nationals or companies which are established in a Party other than that of the person for whom the services are intended significantly more restrictive as compared to the situation existing on the day preceding the date of entry into force of this Agreement.

2. If one Party is of the view that measures introduced by the other Party since the date of entry into force of this Agreement result in a situation which is significantly more restrictive in respect of supply of services as compared with the situation existing at the date of entry into force of this Agreement, such first Party may request the other Party to enter into consultations.



## ARTICLE 59

With regard to supply of transport services between the Community and Albania, the following provisions shall apply:

1. With regard to inland transport, Protocol 5 lays down the rules applicable to the relationship between the Parties in order to ensure, particularly, unrestricted road transit traffic across Albania and the Community as a whole, the effective application of the principle of non-discrimination and progressive harmonisation of the Albanian transport legislation with that of the Community.
2. With regard to international maritime transport, the Parties undertake to apply effectively the principle of unrestricted access to the market and traffic on a commercial basis, and to respect international and European obligations in the field of safety, security and environmental standards. The Parties affirm their commitment to a freely competitive environment as an essential feature of international maritime transport.
3. In applying the principles of paragraph 2:
  - (a) the Parties shall not introduce cargo-sharing clauses in future bilateral Agreements with third countries;
  - (b) the Parties shall abolish, upon the date of entry into force of this Agreement, all unilateral measures and administrative, technical and other obstacles that could have restrictive or discriminatory effects on the free supply of services in international maritime transport.

- (c) each Party shall grant, *inter alia*, no less favourable treatment for the ships operated by nationals or companies of the other Party than that accorded to a Party's own ships with regard to access to ports open to international trade, the use of infrastructure and auxiliary maritime services of the ports, as well as related fees and charges, customs facilities and the assignment of berths and facilities for loading and unloading.
4. With a view to ensuring a coordinated development and progressive liberalisation of transport between the Parties adapted to their reciprocal commercial needs, the conditions of mutual market access in air transport shall be dealt with by special Agreements to be negotiated between the Parties.
5. Prior to the conclusion of the Agreements referred to in paragraph 4, the Parties shall not take any measures or actions which are more restrictive or discriminatory as compared with the situation existing prior to the date of entry into force of this Agreement.
6. Albania shall adapt its legislation, including administrative, technical and other rules, to that of the Community existing at any time in the field of air, maritime and inland transport insofar as it serves liberalisation purposes and mutual access to markets of the Parties and facilitates the movement of passengers and of goods.
7. In step with the common progress in the achievement of the objectives of this Chapter, the Stabilisation and Association Council shall examine ways of creating the conditions necessary for improving freedom to provide air and inland transport services.

## CHAPTER IV

### CURRENT PAYMENTS AND MOVEMENT OF CAPITAL

#### ARTICLE 60

The Parties undertake to authorise, in freely convertible currency, in accordance with the provisions of Article VIII of the Articles of the Agreement of the International Monetary Fund, any payments and transfers on the current account of balance of payments between the Community and Albania.

#### ARTICLE 61

1. With regard to transactions on the capital and financial account of balance of payments, from the date of entry into force of this Agreement, the Parties shall ensure the free movement of capital relating to direct investments made in companies formed in accordance with the laws of the host country and investments made in accordance with the provisions of Chapter II of Title V, and the liquidation or repatriation of these investments and of any profit stemming therefrom.
2. With regard to transactions on the capital and financial account of balance of payments, from the date of entry into force of this Agreement, the Parties shall ensure the free movement of capital relating to credits related to commercial transactions or to the provision of services in which a resident of one of the Parties is participating, and to financial loans and credits, with maturity longer than a year.

As from the date of entry into force of this Agreement, Albania shall authorise, by making full and expedient use of its legal framework and procedures, the acquisition of real estate in Albania by nationals of Member States of the European Union, except for the limitations provided for in Albania's Schedule of Specific Commitment under the General Agreement on Trade in Services (GATS). Within seven years from the date of entry into force of this Agreement, Albania shall progressively adjust its legislation concerning the acquisition of real estate in Albania by nationals of the Member States of the European Union to ensure no less favourable treatment than that accorded to Albanian nationals. Five years after the date of entry into force of this Agreement, the Stabilisation and Association Council shall examine the modalities for the progressive elimination of such limitations.

The Parties shall also ensure, from the fifth year after the date of entry into force of this Agreement, free movement of capital relating to portfolio investment and financial loans and credits with maturity shorter than a year.

3. Without prejudice to paragraph 1, the Parties shall not introduce any new restrictions on the movement of capital and current payments between residents of the Community and Albania and shall not make the existing arrangements more restrictive.

4. Without prejudice to the provisions of Article 60 and of this Article, where, in exceptional circumstances, movements of capital between the Community and Albania cause, or threaten to cause, serious difficulties for the operation of exchange rate policy or monetary policy in the Community or Albania, the Community and Albania, respectively, may take safeguard measures with regard to movements of capital between the Community and Albania for a period not exceeding one year if such measures are strictly necessary.

5. Nothing in the above provisions shall be taken to limit the rights of economic operators of the Parties from benefiting from any more favourable treatment that may be provided for in any existing bilateral or multilateral Agreement involving Parties to this Agreement.

6. The Parties shall consult each other with a view to facilitating the movement of capital between the Community and Albania in order to promote the objectives of this Agreement.

#### ARTICLE 62

1. During the first three years following the date of entry into force of this Agreement, the Parties shall take measures permitting the creation of the necessary conditions for the further gradual application of Community rules on the free movement of capital.

2. By the end of the third year following the date of entry into force of this Agreement, the Stabilisation and Association Council shall determine the modalities for full application of Community rules on the movement of capital.

## CHAPTER V

### GENERAL PROVISIONS

#### ARTICLE 63

1. The provisions of this Title shall be applied subject to limitations justified on grounds of public policy, public security or public health.
2. They shall not apply to activities that in the territory of either Party are connected, even occasionally, with the exercise of official authority.

#### ARTICLE 64

For the purpose of this Title, nothing in this Agreement shall prevent the Parties from applying their laws and regulations regarding entry and stay, employment, working conditions, establishment of natural persons and supply of services, provided that, in so doing, they do not apply them in such a manner as to nullify or impair the benefits accruing to any Party under the terms of a specific provision of this Agreement. This provision shall be without prejudice to the application of Article 63.

## ARTICLE 65

Companies which are controlled and exclusively owned jointly by Albanian companies or nationals and Community companies or nationals shall also be covered by the provisions of this Title.

## ARTICLE 66

1. The MFN treatment granted in accordance with the provisions of this Title shall not apply to the tax advantages that the Parties are providing or will provide in the future on the basis of Agreements designed to avoid double taxation or other tax arrangements.
2. None of the provisions of this Title shall be construed to prevent the adoption or enforcement by the Parties of any measure aimed at preventing the avoidance or evasion of taxes pursuant to the tax provisions of Agreements designed to avoid double taxation and other tax arrangements or domestic fiscal legislation.
3. None of the provisions of this Title shall be construed to prevent Member States or Albania, in applying the relevant provisions of their fiscal legislation, from distinguishing between taxpayers who are not in identical situations, in particular as regards their place of residence.

## ARTICLE 67

1. The Parties shall endeavour wherever possible to avoid the imposition of restrictive measures, including measures relating to imports, for balance of payments purposes. A Party adopting such measures shall present as soon as possible to the other Party a timetable for their removal.
2. Where one or more Member States or Albania is in serious balance of payments difficulties, or under imminent threat thereof, the Community or Albania, as the case may be, may, in accordance with the conditions established under the WTO Agreement, adopt restrictive measures, including measures relating to imports, which shall be of limited duration and may not go beyond what is strictly necessary to remedy the balance of payments situation. The Community or Albania, as the case may be, shall inform the other Party forthwith.
3. Any restrictive measures shall not apply to transfers related to investment and in particular to the repatriation of amounts invested or reinvested or any kind of revenues stemming therefrom.

## ARTICLE 68

The provisions of this Title shall be progressively adjusted, notably in the light of requirements arising from Article V of the General Agreement on Trade in Services (GATS).



## ARTICLE 69

The provisions of this Agreement shall not prejudice the application by either Party of any measure necessary to prevent the circumvention of its measures concerning third-country access to its market through the provisions of this Agreement.

## TITLE VI

### APPROXIMATION OF LAWS, LAW ENFORCEMENT AND COMPETITION RULES

## ARTICLE 70

1. The Parties recognise the importance of the approximation of Albania's existing legislation to that of the Community and of its effective implementation. Albania shall endeavour to ensure that its existing laws and future legislation shall be gradually made compatible with the Community acquis. Albania shall ensure that existing and future legislation shall be properly implemented and enforced.
2. This approximation shall start on the date of signing of this Agreement, and shall gradually extend to all the elements of the Community acquis referred to in this Agreement by the end of the transitional period as defined in Article 6.

3. During the first stage as defined in Article 6, approximation shall focus on fundamental elements of the Internal Market acquis as well as on other important areas such as competition, intellectual, industrial and commercial property rights, public procurement, standards and certification, financial services, land and maritime transport – with special emphasis on safety and environmental standards as well as social aspects – company law, accounting, consumer protection, data protection, health and safety at work and equal opportunities. During the second stage, Albania shall focus on the remaining parts of the acquis.

Approximation will be carried out on the basis of a programme to be agreed between the Commission of the European Communities and Albania.

4. Albania shall also define, in agreement with the Commission of the European Communities, the modalities for the monitoring of the implementation of approximation of legislation and law enforcement actions to be taken.

## ARTICLE 71

### Competition and other economic provisions

1. The following shall be incompatible with the proper functioning of this Agreement, insofar as they may affect trade between the Community and Albania:

- (i) all agreements between undertakings, decisions by Associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;

- (ii) abuse by one or more undertakings of a dominant position in the territories of the Community or of Albania as a whole or in a substantial part thereof;
- (iii) any State aid which distorts or threatens to distort competition by favouring certain undertakings or certain products.

2. Any practices contrary to this Article shall be assessed on the basis of criteria arising from the application of the competition rules applicable in the Community, in particular from Articles 81, 82, 86 and 87 of the Treaty establishing the European Community and interpretative instruments adopted by the Community institutions.

3. The Parties shall ensure that an operationally independent public body is entrusted with the powers necessary for the full application of paragraph 1(i) and (ii), regarding private and public undertakings and undertakings to which special rights have been granted.

4. Albania shall establish an operationally independent authority which is entrusted with the powers necessary for the full application of paragraph 1(iii) within four years from the date of entry into force of this Agreement. This authority shall have, *inter alia*, the powers to authorise State aid schemes and individual aid grants in conformity with paragraph 2, as well as the powers to order the recovery of State aid that has been unlawfully granted.

5. Each Party shall ensure transparency in the area of State aid, *inter alia* by providing to the other Party a regular annual report, or equivalent, following the methodology and the presentation of the Community survey on State aid. Upon request by one Party, the other Party shall provide information on particular individual cases of public aid.

6. Albania shall establish a comprehensive inventory of aid schemes instituted before the establishment of the authority referred to in paragraph 4 and shall align such aid schemes with the criteria referred to in paragraph 2 within a period of no more than four years from the date of entry into force of this Agreement.

7. For the purposes of applying the provisions of paragraph 1(iii), the Parties recognise that during the first ten years after the date of entry into force of this Agreement, any public aid granted by Albania shall be assessed taking into account the fact that Albania shall be regarded as an area identical to those areas of the Community described in Article 87(3)(a) of the Treaty establishing the European Community.

Within five years from the date of entry into force of this Agreement, Albania shall submit to the Commission of the European Communities its GDP per capita figures harmonised at NUTS II level. The authority referred to in paragraph 4 and the Commission of the European Communities shall then jointly evaluate the eligibility of the regions of Albania as well as the maximum aid intensities in relation thereto in order to draw up the regional aid map on the basis of the relevant Community guidelines.

8. With regard to products referred to in Chapter II of Title IV:

- paragraph 1(iii) shall not apply;
- any practices contrary to paragraph 1(i) shall be assessed according to the criteria established by the Community on the basis of Articles 36 and 37 of the Treaty establishing the European Community and specific Community instruments adopted on this basis.

9. If one of the Parties considers that a particular practice is incompatible with the terms of paragraph 1, it may take appropriate measures after consultation within the Stabilisation and Association Council or after thirty working days following referral for such consultation.

Nothing in this Article shall prejudice or affect in any way the taking, by either Party, of antidumping or countervailing measures in accordance with the relevant Articles of GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures or related internal legislation.

## ARTICLE 72

### Public undertakings

By the end of the third year following the date of entry into force of this Agreement, Albania shall apply to public undertakings and undertakings to which special and exclusive rights have been granted the principles set out in the Treaty establishing the European Community, with particular reference to Article 86 thereof.

Special rights of public undertakings during the transitional period shall not include the possibility of imposing quantitative restrictions or measures having an equivalent effect on imports from the Community into Albania.

## ARTICLE 73

### Intellectual, industrial and commercial property

1. Pursuant to the provisions of this Article and Annex V, the Parties confirm the importance that they attach to ensuring adequate and effective protection and enforcement of intellectual, industrial and commercial property rights.
2. Albania shall take all the necessary measures in order to guarantee no later than four years after the date of entry into force of this Agreement a level of protection of intellectual, industrial and commercial property rights similar to that existing in the Community, including effective means of enforcing such rights.
3. Albania undertakes to accede, within four years after the date of entry into force of this Agreement, to the multilateral Conventions on intellectual, industrial and commercial property rights referred to in paragraph 1 of Annex V. The Stabilisation and Association Council may decide to oblige Albania to accede to specific multilateral Conventions in this area.
4. If problems in the area of intellectual, industrial and commercial property affecting trading conditions occur, they shall be referred urgently to the Stabilisation and Association Council, at the request of either Party, with a view to reaching mutually satisfactory solutions.

## ARTICLE 74

### Public contracts

1. The Parties consider the opening-up of the award of public contracts on the basis of non-discrimination and reciprocity, in particular in the WTO context, to be a desirable objective.
2. Albanian companies, whether established or not in the Community, shall be granted access to contract award procedures in the Community pursuant to Community procurement rules under treatment no less favourable than that accorded to Community companies as from the date of entry into force of this Agreement.

The above provisions shall also apply to contracts in the utilities sector once the government of Albania has adopted the legislation introducing the Community rules in this area. The Community shall examine periodically whether Albania has indeed introduced such legislation.

3. Community companies not established in Albania shall be granted access to contract award procedures in Albania pursuant to the Albanian Law on Public Procurement under treatment no less favourable than that accorded to Albanian companies at the latest four years after the date of entry into force of this Agreement.
4. The Stabilisation and Association Council shall periodically examine the possibility of Albania introducing access to contract award procedures in Albania for all Community companies.

Community companies established in Albania under the provisions of Chapter II of Title V shall have upon the date of entry into force of this Agreement access to contract award procedures under treatment no less favourable than that accorded to Albanian companies.

5. As regards establishment, operations, supply of services between the Community and Albania, and also employment and movement of labour linked to the fulfilment of public contracts, the provisions of Articles 46 to 69 are applicable.

## ARTICLE 75

### Standardisation, metrology, accreditation and conformity assessment

1. Albania shall take the necessary measures in order to gradually achieve conformity with Community technical regulations and European standardisation, metrology, accreditation and conformity assessment procedures.

2. To this end, the Parties shall start at an early stage:

- to promote the use of Community technical regulations, European standards and conformity assessment procedures;
- to provide assistance to fostering the development of quality infrastructure: standardisation, metrology, accreditation and conformity assessment;



- to promote the participation of Albania in the work of organisations related to standards, conformity assessment, metrology and similar functions (in particular CEN, CENELEC, ETSI, EA, WELMEC, EUROMET);
- where appropriate, to conclude European Conformity Assessment Protocols once the Albanian legislative framework and procedures are sufficiently aligned on those of the Community and appropriate expertise is available.

## ARTICLE 76

### Consumer protection

The Parties shall cooperate in order to align the standards of consumer protection in Albania to those of the Community. Effective consumer protection is necessary in order to ensure that the market economy functions properly, and this protection will depend on the development of an administrative infrastructure in order to ensure market surveillance and law enforcement in this field.

To that end, and in view of their common interests, the Parties shall encourage and ensure:

- a policy of active consumer protection, in accordance with Community law;
- the harmonisation of legislation of consumer protection in Albania on that in force in the Community;
- effective legal protection for consumers in order to improve the quality of consumer goods and maintain appropriate safety standards;
- monitoring of rules by competent authorities and providing access to justice in case of disputes.

## ARTICLE 77

### Working Conditions and Equal Opportunities

Albania shall progressively harmonise its legislation to that of the Community in the fields of working conditions, notably on health and safety at work, and equal opportunities.

## TITLE VII

### JUSTICE, FREEDOM AND SECURITY

#### CHAPTER I

#### INTRODUCTION

## ARTICLE 78

### Reinforcement of institutions and rule of law

In their cooperation on justice and home affairs the Parties shall attach particular importance to the consolidation of the rule of law, and the reinforcement of institutions at all levels in the areas of administration in general and law enforcement and the administration of justice in particular. Cooperation shall notably aim at strengthening the independence of the judiciary and improving its efficiency, improving the functioning of the police and other law enforcement bodies, providing adequate training and fighting corruption and organised crime.

## ARTICLE 79

### Protection of personal data

Albania shall harmonise its legislation concerning personal data protection with Community law and other European and international legislation on privacy upon the date of entry into force of this Agreement. Albania shall establish independent supervisory bodies with sufficient financial and human resources in order to efficiently monitor and guarantee the enforcement of national legislation on personal data protection. The Parties shall cooperate to achieve this goal.

## CHAPTER II

### COOPERATION IN THE AREA OF MOVEMENT OF PERSONS

## ARTICLE 80

### Visa, border management, asylum and migration

The Parties shall cooperate in the areas of visa, border control, asylum and migration and shall set up a framework for cooperation, including at a regional level, in these fields, taking into account and making full use of other existing initiatives in this area as appropriate.

Cooperation in the matters referred to in paragraph 1 shall be based on mutual consultations and close coordination between the Parties and shall include technical and administrative assistance for:

- the exchange of information on legislation and practices;
- the drafting of legislation;
- enhancing the efficiency of the institutions;
- the training of staff;
- the security of travel documents and detection of false documents;
- border management.

Cooperation shall focus in particular:

- in the field of asylum on the implementation of national legislation to meet the standards of the 1951 Geneva Convention and the 1967 New York Protocol, thereby to ensure that the principle of non-refoulement is respected as well as other rights of asylum seekers and refugees;
- in the field of legal migration, on admission rules and rights and status of the person admitted. In relation to migration, the Parties agree to the fair treatment of nationals of other countries who reside legally on their territories and to promote an integration policy aiming at making their rights and obligations comparable to those of their citizens.

## ARTICLE 81

### Prevention and control of illegal immigration, and readmission

1. The Parties shall cooperate in order to prevent and control illegal immigration. To this end, the Parties agree that, upon request and without further formalities, Albania and the Member States:
  - shall readmit any of their nationals illegally present on their territories;
  - shall readmit nationals of third countries and stateless persons illegally present on their territories and having entered the territory of Albania via or from a Member State, or having entered the territory of a Member State via or from Albania.
2. The Member States of the European Union and Albania shall provide their nationals with appropriate identity documents and shall extend to them the administrative facilities necessary for such purposes.
3. Specific procedures for the purpose of readmission of nationals and third country nationals and stateless persons are laid down in the Agreement between the European Community and Albania on the readmission of persons residing without authorisation, signed on 14 April 2005.
4. Albania agrees to conclude Readmission Agreements with the Stabilisation and Association Process countries and undertakes to take any necessary measures to ensure the flexible and rapid implementation of all Readmission Agreements referred to in this article.
5. The Stabilisation and Association Council shall establish other joint efforts that can be made to prevent and control illegal immigration, including trafficking and illegal migration networks.

## CHAPTER III

### COOPERATION ON COMBATING MONEY LAUNDERING, TERRORISM FINANCING, ILLICIT DRUGS AND COOPERATION IN COUNTER-TERRORISM

#### ARTICLE 82

##### Money laundering and terrorism financing

1. The Parties shall cooperate closely in order to prevent the use of their financial systems for laundering of proceeds from criminal activities in general and drug offences in particular, as well as for the purpose of terrorist financing.
2. Cooperation in this area may include administrative and technical assistance designed to develop the implementation of regulations and efficient functioning of the suitable standards and mechanisms to combat money laundering and terrorism financing equivalent to those adopted by the Community and international fora in this field, in particular the Financial Action Task Force (FATF).

## ARTICLE 83

### Cooperation on illicit drugs

1. Within their respective powers and competences, the Parties shall cooperate to ensure a balanced and integrated approach towards drug issues. Drug policies and actions shall be aimed at reducing the supply of, trafficking in and the demand for illicit drugs as well as at a more effective control of precursors.
2. The Parties shall agree on the necessary methods of cooperation to attain these objectives. Actions shall be based on commonly agreed principles along the lines of the EU Drug Control Strategy.

## ARTICLE 84

### Counter-terrorism

In compliance with the international Conventions to which they are party and their respective laws and regulations, the Parties agree to cooperate in order to prevent and suppress acts of terrorism and their financing, especially those involving cross-border activities:

- in the framework of full implementation of United Nations Security Council Resolution 1373 (2001) on threats to international peace and security caused by terrorist acts and other relevant United Nations resolutions, international conventions and instruments;
- by exchanging information on terrorist groups and their support networks in accordance with international and national law;

- by exchanging experiences with regard to means and methods of combating terrorism and in technical areas and training, and by exchanging experience in respect of the prevention of terrorism.

## CHAPTER IV

### COOPERATION IN CRIMINAL MATTERS

#### ARTICLE 85

##### Preventing and combating organised crime and other illegal activities

The Parties shall cooperate on fighting and preventing criminal and illegal activities, organised or otherwise, such as:

- smuggling and trafficking in human beings;
- illegal economic activities, and in particular counterfeiting of currencies, illegal transactions relating to products such as industrial waste, radioactive material and transactions involving illegal or counterfeit products;
- corruption, both in the private and public sector, in particular linked to non-transparent administrative practices;
- fiscal fraud;
- illicit trafficking in drugs and psychotropic substances;
- smuggling;
- illicit arms trafficking;



- forging documents;
- illicit car trafficking;
- cybercrime.

Regional cooperation and compliance with recognised international standards in combating organised crime shall be promoted.

## TITLE VIII

### COOPERATION POLICIES

#### ARTICLE 86

##### General provisions on cooperation policies

1. The Community and Albania shall establish a close cooperation aimed at contributing to the development and growth potential of Albania. Such cooperation shall strengthen existing economic links on the widest possible foundation, to the benefit of both Parties.
2. Policies and other measures shall be designed to bring about sustainable economic and social development of Albania. These policies should ensure that environmental considerations are also fully incorporated from the outset and that they are linked to the requirements of harmonious social development.

3. Cooperation policies shall be integrated into a regional framework of cooperation. Special attention shall be devoted to measures that can foster cooperation between Albania and its neighbouring countries including Member States, thus contributing to regional stability. The Stabilisation and Association Council may define priorities between and within the cooperation policies described hereinafter.

## ARTICLE 87

### Economic and trade policy

1. The Community and Albania shall facilitate the process of economic reform by cooperating to improve understanding of the fundamentals of their respective economies and the formulation and implementation of economic policy in market economies.
2. At the request of the Albanian authorities, the Community may provide assistance designed to support Albania's efforts to establish a functioning market economy and gradually to approximate its policies to the stability-oriented policies of the Economic and Monetary Union.
3. Cooperation shall also aim at strengthening the rule of law in the business area through a stable and non-discriminatory trade-related legal framework.
4. Cooperation in this area shall include informal exchange of information concerning the principles and functioning of the European Economic and Monetary Union.

## ARTICLE 88

### Statistical cooperation

Cooperation between the Parties shall primarily focus on priority areas related to the Community acquis in the field of statistics. It shall notably be aimed at developing an efficient and sustainable statistical system capable of providing comparable, reliable, objective and accurate data needed to plan and monitor the process of transition and reform in Albania. It shall also enable the Institute of Statistics of Albania to better meet the needs of its national and international customers (both public administration and private sector). The statistical system shall respect the fundamental principles of statistics issued by the United Nations, the European Statistical Code of Practice and the stipulations of the European Statistical Law, and develop towards the Community acquis.

## ARTICLE 89

### Banking, insurance and other financial services

Cooperation between the Parties shall focus on priority areas related to the Community acquis in the fields of banking, insurance and financial services. The Parties shall cooperate with the aim of establishing and developing a suitable framework for the encouragement of the banking, insurance and financial services sectors in Albania.

## ARTICLE 90

### Audit and financial control cooperation

Cooperation between the Parties shall focus on priority areas related to the Community acquis in the field of public internal financial control (PIFC) and external audit. The Parties shall, in particular, cooperate with the aim of developing efficient PIFC and external audit systems in Albania, in accordance with internationally accepted standards and methodologies and EU best practices.

## ARTICLE 91

### Investment promotion and protection

Cooperation between the Parties, within the scope of their respective competences, in the field of investment promotion and protection shall aim to bring about a favourable climate for private investment, both domestic and foreign, which is so essential to economic and industrial revitalisation in Albania.

## ARTICLE 92

### Industrial cooperation

1. Cooperation shall aim to promote the modernisation and restructuring of the Albanian industry and individual sectors, as well as industrial cooperation between economic operators, with the objective of strengthening the private sector under conditions which ensure that the environment is protected.
2. Industrial cooperation initiatives shall reflect the priorities determined by both Parties. They shall take into account the regional aspects of industrial development, promoting trans-national partnerships when relevant. The initiatives shall seek in particular to establish a suitable framework for undertakings, to improve management and know-how and to promote markets, market transparency and the business environment.
3. Cooperation will take due account of the Community *acquis* in the field of industrial policy.

## ARTICLE 93

### Small and medium-sized enterprises

Cooperation between the Parties shall be aimed at developing and strengthening private sector small and medium-sized enterprises (SMEs) and shall take due account of priority areas related to the Community *acquis* in the field of SMEs, as well as the principles enshrined in the European Charter for Small Enterprises.

## ARTICLE 94

### Tourism

1. Cooperation between the Parties in the field of tourism shall be mainly aimed at strengthening the flow of information on tourism (through international networks, databanks, etc.) and transferring know-how (through training, exchanges, seminars). Cooperation shall take due account of Community acquis related to this sector.
2. Cooperation may be integrated into a regional framework of cooperation.

## ARTICLE 95

### Agriculture and the agro-industrial sector

Cooperation between the Parties shall focus on priority areas related to the Community acquis in the field of agriculture. Cooperation shall notably aim at modernising and restructuring the Albanian agriculture and agro-industrial sector, and at supporting the gradual approximation of Albanian legislation and practices to the Community rules and standards.

## ARTICLE 96

### Fisheries

The Parties shall explore the possibility of identifying mutually beneficial areas of common interest in the fisheries sector. Cooperation shall take due account of priority areas related to the Community acquis in the field of fisheries, including the respect of international obligations concerning International and Regional Fisheries Organisation rules of management and conservation of fishery resources.

## ARTICLE 97

### Customs

1. The Parties shall establish cooperation in this area with a view to guaranteeing compliance with the provisions to be adopted in the area of trade and to achieving the approximation of the customs system of Albania to that of the Community, thereby helping to pave the way for the liberalisation measures planned under this Agreement and for the gradual approximation of the Albanian customs legislation to the *acquis*.
2. Cooperation shall take due account of priority areas related to the Community acquis in the field of customs.
3. Protocol 6 establishes the rules on mutual administrative assistance between the Parties in the customs field.

## ARTICLE 98

### Taxation

1. The Parties shall establish cooperation in the field of taxation, including measures aiming at the further reform of the fiscal system and the restructuring of tax administration with a view to ensuring effectiveness of tax collection and the fight against fiscal fraud.
2. Cooperation shall take due account of priority areas related to the Community acquis in the field of taxation and in the fight against harmful tax competition. In this respect, the Parties recognise the importance of improving transparency and the exchange of information between the Member States of the European Union and Albania in order to facilitate the enforcement of measures preventing the avoidance or evasion of taxes. Furthermore, the Parties shall consult each other, as from the date of entry into force of this Agreement, with a view to eliminating harmful tax competition between the Member States of the European Union and Albania in order to ensure a level playing field in the area of business taxation.



## ARTICLE 99

### Social cooperation

1. The Parties shall cooperate to facilitate the reform of Albanian employment policy, in the context of strengthened economic reform and integration. Cooperation shall also seek to support the adaptation of the Albanian social security system to the new economic and social requirements, and shall involve the adjustment of the Albanian legislation concerning working conditions and equal opportunities for women, as well as the improvement of the level of protection of the health and safety of workers, taking as a reference the level of protection existing in the Community.
2. Cooperation will take due account of priority areas related to the Community acquis in this field.

## ARTICLE 100

### Education and training

1. The Parties shall cooperate with the aim of raising the level of general education and vocational education and training in Albania, as well as youth policy and youth work. A priority for higher education systems shall be the achievement of the objectives of the Bologna Declaration.

2. The Parties shall also cooperate with the aim of ensuring that access to all levels of education and training in Albania is free of discrimination on the grounds of gender, colour, ethnic origin or religion.
3. The relevant Community programmes and instruments shall contribute to the upgrading of educational and training structures and activities in Albania.
4. Cooperation shall take due account of priority areas related to the Community acquis in this field.

## ARTICLE 101

### Cultural cooperation

The Parties undertake to promote cultural cooperation. This cooperation serves *inter alia* to raise mutual understanding and esteem between individuals, communities and peoples. The Parties also undertake to cooperate to promote cultural diversity, notably within the framework of the UNESCO Convention on the protection and the promotion of the diversity of cultural expressions.

## ARTICLE 102

### Cooperation in the audio-visual field

1. The Parties shall cooperate to promote the audio-visual industry in Europe and encourage coproduction in the fields of cinema and television.
2. Cooperation could include inter alia programmes and facilities for the training of journalists and other media professionals, as well as technical assistance to the media, both public and private, so as to reinforce their independence, professionalism and links with the European media.
3. Albania shall align its policies on the regulation of content aspects of cross-border broadcasting with those of the Community and shall harmonise its legislation with the Community acquis. Albania shall pay particular attention to matters relating to the acquisition of intellectual property rights for programmes and broadcasts by satellite, terrestrial frequencies and cable.

## ARTICLE 103

### Information Society

1. Cooperation shall primarily focus on priority areas related to the Community acquis regarding the information society. It shall mainly support Albania's gradual alignment of its policies and legislation in this sector with those of the Community.

2. The Parties shall also cooperate with a view to further developing the Information Society in Albania. Global objectives shall be preparing society as a whole for the digital age, attracting investments and ensuring the interoperability of networks and services.

## ARTICLE 104

### Electronic Communications Networks and Services

1. Cooperation shall primarily focus on priority areas related to the Community acquis in this field.
2. The Parties shall, in particular, strengthen cooperation in the area of electronic communications networks and associated services, with the ultimate objective of the adoption by Albania of the Community acquis in these sectors one year after the date of entry into force of this Agreement.

## ARTICLE 105

### Information and Communication

The Community and Albania shall take the measures necessary to stimulate the mutual exchange of information. Priority shall be given to programmes aimed at providing the general public with basic information about the Community and professional circles in Albania with more specialised information.

## ARTICLE 106

### Transport

1. Cooperation between the Parties shall focus on priority areas related to the Community acquis in the field of transport.
2. Cooperation may notably aim at restructuring and modernising the Albanian transport modes, improving the free movement of passengers and goods, enhancing the access to the transport market and facilities, including ports and airports, supporting the development of multi-modal infrastructures in connection with the main trans-European networks, notably to reinforce regional links, achieving operating standards comparable to those in the Community, developing a transport system in Albania compatible and aligned with the Community system and improving the protection of environment in transport.

## ARTICLE 107

### Energy

Cooperation shall focus on priority areas related to the Community acquis in the field of energy, including nuclear safety aspects as appropriate. It shall reflect the principles of the market economy and it shall be based on the signed regional Energy Community Treaty with a view to the gradual integration of Albania into Europe's energy markets.

## ARTICLE 108

### Environment

1. The Parties shall develop and strengthen their cooperation in the vital task of combating environmental degradation, with the aim of promoting environmental sustainability.
2. Cooperation shall mainly focus on priority areas related to the Community acquis in the field of environment.

## ARTICLE 109

### Cooperation in Research and Technological Development

1. The Parties shall encourage cooperation in civil scientific research and technological development on the basis of mutual benefit and, taking into account the availability of resources, adequate access to their respective programmes, subject to appropriate levels of effective protection of intellectual, industrial and commercial property rights.
2. Cooperation shall take due account of the priority areas related to the Community acquis in the field of research and technical development.
3. Cooperation shall be implemented according to specific arrangements to be negotiated and concluded according to the procedures adopted by each Party.

## ARTICLE 110

### Regional and local development

1. The Parties shall seek to strengthen regional and local development cooperation, with the objective of contributing to economic development and reducing regional imbalances. Specific attention shall be given to cross-border, trans-national and interregional cooperations.
2. Cooperation shall take due account of the priority areas related to the Community acquis in the field of regional development.

## ARTICLE 111

### Public Administration

1. Cooperation shall aim at ensuring the development of an efficient and accountable public administration in Albania, notably to support rule of law implementation, the proper functioning of the state institutions for the benefit of the Albanian population as a whole and the smooth development of the relations between the European Union and Albania.
2. Cooperation in this area shall mainly focus on institution building, including the development and implementation of transparent and impartial recruitment procedures, human resources management, career development for the public service, continued training and the promotion of ethics within the public administration, and e-government. Cooperation shall cover both the central and the local administrations.

## TITLE IX

### FINANCIAL COOPERATION

#### ARTICLE 112

In order to achieve the objectives of this Agreement and in accordance with Articles 3, 113 and 115, Albania may receive financial assistance from the Community in the form of grants and loans, including loans from the European Investment Bank. Community aid remains tied to the fulfilment of the principles and conditions set out in the conclusions of the General Affairs Council of 29 April 1997 taking into account the results of the annual reviews of the countries of the Stabilisation and Association Process, the European Partnerships, and of other Council conclusions, pertaining in particular to the respect of adjustment programmes. Aid granted to Albania shall be geared to observed needs, chosen priorities, the capacity to absorb and repay, and the measures taken to reform and restructure the economy.

#### ARTICLE 113

Financial assistance, in the form of grants, shall be covered by the operation measures provided for in the relevant Council Regulation within a multi-annual indicative framework established by the Community following consultations with Albania.

Financial assistance may cover all sectors of cooperation, paying particular attention to justice, liberty and security, approximation of legislation and economic development.



#### ARTICLE 114

At the request of Albania and in case of special need, the Community could examine in coordination with international financial institutions, the possibility of granting on an exceptional basis macro-financial assistance subject to certain conditions and taking into account the availability of all financial resources. This assistance would be released subject to the fulfilment of conditions to be established in the context of a programme agreed between Albania and the IMF.

#### ARTICLE 115

In order to permit optimum use of the resources available, the Parties shall ensure that Community contributions are made in close coordination with those from other sources such as the Member States, other countries and international financial institutions.

To this effect, information on all sources of assistance shall be exchanged regularly between the Parties.

## TITLE X

### INSTITUTIONAL, GENERAL AND FINAL PROVISIONS

#### ARTICLE 116

A Stabilisation and Association Council is hereby established. Its task shall be to supervise the application and implementation of this Agreement. It shall meet at an appropriate level at regular intervals and when circumstances require to examine any major issues arising within the framework of this Agreement and any other bilateral or international issues of mutual interest.

#### ARTICLE 117

1. The Stabilisation and Association Council shall consist of the members of the Council of the European Union and members of the Commission of the European Communities, on the one hand, and of members of the Government of Albania, on the other.
2. The Stabilisation and Association Council shall establish its Rules of Procedure.
3. The members of the Stabilisation and Association Council may arrange to be represented, in accordance with the conditions to be laid down in its Rules of Procedure.
4. The Stabilisation and Association Council shall be chaired in turn by a representative of the Community and a representative of Albania, in accordance with the provisions to be laid down in its Rules of Procedure.

5. In matters that concern it, the European Investment Bank shall take part, as an observer, in the work of the Stabilisation and Association Council.

#### ARTICLE 118

The Stabilisation and Association Council shall, for the purpose of attaining the objectives of this Agreement, have the power to take decisions within the scope of this Agreement in the cases provided for therein. The decisions taken shall be binding on the Parties, which shall take the measures necessary to implement the decisions taken. The Stabilisation and Association Council may also make appropriate recommendations. It shall draw up its decisions and recommendations by agreement between the Parties.

#### ARTICLE 119

Each Party shall refer to the Stabilisation and Association Council any dispute relating to the application or interpretation of this Agreement. The Stabilisation and Association Council may settle the dispute by means of a binding decision.

## ARTICLE 120

1. The Stabilisation and Association Council shall be assisted in the performance of its duties by a Stabilisation and Association Committee, composed of representatives of the Council of the European Union and of representatives of the Commission of the European Communities, on the one hand, and of representatives of Albania on the other.
2. In its Rules of Procedure the Stabilisation and Association Council shall determine the duties of the Stabilisation and Association Committee, which shall include the preparation of meetings of the Stabilisation and Association Council, and shall determine how the Committee shall function.
3. The Stabilisation and Association Council may delegate to the Stabilisation and Association Committee any of its powers. In this event the Stabilisation and Association Committee shall take its decisions in accordance with the conditions laid down in Article 118.
4. The Stabilisation and Association Council may decide to set up other special committees or bodies that can assist it in carrying out its duties. In its Rules of Procedure, the Stabilisation and Association Council shall determine the composition and duties of such committees or bodies and how they shall function.

## ARTICLE 121

The Stabilisation and Association Committee may create subcommittees.

Before the end of the first year after the date of entry into force of this Agreement, the Stabilisation and Association Committee shall set up the necessary subcommittees for the adequate implementation of this Agreement. When deciding on the setting up of subcommittees and defining their terms of reference, the Stabilisation and Association Committee shall take due account of the importance of adequately handling migration-related issues, notably as regards the implementation of provisions under Articles 80 and 81 of this Agreement and the monitoring of the EU Action Plan for Albania and the neighbouring region.

## ARTICLE 122

A Stabilisation and Association Parliamentary Committee is hereby established. It shall be a forum for Members of the Albanian Parliament and the European Parliament to meet and exchange views. It shall meet at intervals that it shall itself determine.

The Stabilisation and Association Parliamentary Committee shall consist of members of the European Parliament, on the one hand, and of members of the Parliament of Albania, on the other.

The Stabilisation and Association Parliamentary Committee shall establish its Rules of Procedure.

The Stabilisation and Association Parliamentary Committee shall be chaired in turn by the European Parliament and the Parliament of Albania, in accordance with the provisions to be laid down in its Rules of Procedure.

## ARTICLE 123

Within the scope of this Agreement, each Party undertakes to ensure that natural and legal persons of the other Party have access free of discrimination in relation to its own nationals to the competent courts and administrative organs of the Parties to defend their individual rights and their property rights.

## ARTICLE 124

Nothing in this Agreement shall prevent a Party from taking any measures:

- (a) which it considers necessary to prevent the disclosure of information contrary to its essential security interests;
- (b) which relate to the production of, or trade in, arms, munitions or war materials or to research, development or production indispensable for defence purposes, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes;
- (c) which it considers essential to its own security in the event of serious internal disturbances affecting the maintenance of law and order, in time of war or serious international tension constituting threat of war or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.

## ARTICLE 125

1. In the fields covered by this Agreement and without prejudice to any special provisions contained therein:

- the arrangements applied by Albania in respect of the Community shall not give rise to any discrimination between the Member States, their nationals, companies or firms;
- the arrangements applied by the Community in respect of Albania shall not give rise to any discrimination between Albanian nationals, companies or firms.

2. The provisions of paragraph 1 shall be without prejudice to the right of the Parties to apply the relevant provisions of their fiscal legislation to taxpayers who are not in identical situations as regards their place of residence.

## ARTICLE 126

1. The Parties shall take any general or specific measures required to fulfil their obligations under this Agreement. They shall see to it that the objectives set out in this Agreement are attained.

2. If either Party considers that the other Party has failed to fulfil an obligation under this Agreement, it may take appropriate measures. Before so doing, except in cases of special urgency, it shall supply the Stabilisation and Association Council with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.

3. In the selection of measures, priority must be given to those which least disturb the functioning of this Agreement. These measures shall be notified immediately to the Stabilisation and Association Council and shall be the subject of consultations within the Stabilisation and Association Council if the other Party so requests.

#### ARTICLE 127

The Parties agree to consult promptly through appropriate channels at the request of either Party to discuss any matter concerning the interpretation or implementation of this Agreement and other relevant aspects of the relations between the Parties.

The provisions of this Article shall in no way affect and are without prejudice to Articles 31, 37, 38, 39 and 43.

#### ARTICLE 128

This Agreement shall not, until equivalent rights for individuals and economic operators have been achieved under this Agreement, affect rights ensured to them through existing Agreements binding one or more Member States, on the one hand, and Albania, on the other.



#### ARTICLE 129

Annexes I to V and Protocols 1, 2, 3, 4, 5 and 6 shall form an integral part of this Agreement.

The Framework Agreement between the European Community and the Republic of Albania on the general principles for the participation the Republic of Albania in Community Programmes, signed on 22 November 2004, and the Annex thereto shall form an integral part of this Agreement. The review provided for in Article 8 of that Framework Agreement shall be carried out within the Stabilisation and Association Council, which shall have the power to amend, if necessary, the Framework Agreement.

#### ARTICLE 130

This Agreement is concluded for an unlimited period.

Either Party may denounce this Agreement by notifying the other Party. This Agreement shall terminate six months after the date of such notification.

#### ARTICLE 131

For the purposes of this Agreement, the term "Parties" shall mean the Community, or its Member States, or the Community and its Member States, in accordance with their respective powers, of the one part, and Albania, of the other part.

#### ARTICLE 132

This Agreement shall apply, on the one hand, to the territories in which the Treaties establishing the European Community and the European Atomic Energy Community are applied and under the conditions laid down in those Treaties, and to the territory of Albania on the other.

#### ARTICLE 133

The Secretary-General of the Council of the European Union shall be the depository of this Agreement.

#### ARTICLE 134

This Agreement is drawn up in duplicate in each of the official languages of the Parties, each of these texts being equally authentic.

#### ARTICLE 135

The Parties shall ratify or approve this Agreement in accordance with their own procedures.

The instruments of ratification or approval shall be deposited with the General Secretariat of the Council of the European Union. This Agreement shall enter into force on the first day of the second month following the date of the deposit of the last instrument of ratification or approval.

## ARTICLE 136

### Interim Agreement

In the event that, pending the completion of the procedures necessary for the entry into force of this Agreement, the provisions of certain parts of this Agreement, in particular those relating to the free movement of goods as well as the relevant provisions on transport, are put into effect by means of Interim Agreements between the Community and Albania, the Parties agree that, in such circumstances for the purpose of the provisions of Title IV, Articles 40, 71, 72, 73 and 74 of this Agreement, Protocols 1, 2, 3, 4, and 6, and relevant provisions of Protocol 5, hereto, the terms "date of entry into force of this Agreement" mean the date of entry into force of the relevant Interim Agreement in relation to obligations contained in the abovementioned provisions.

## ARTICLE 137

From the date of its entry into force, this Agreement shall replace the Agreement between the European Economic Community and the Republic of Albania on trade and commercial and economic cooperation, signed at Brussels on 11 May 1992. This shall not affect any right, obligation or legal situation of the parties created through the execution of that Agreement.