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# **STABILISATION AND ASSOCIATION AGREEMENT**

**between the European Communities and their Member States,  
of the one part,  
and the Republic of Serbia, of the other part**

**THE KINGDOM OF BELGIUM,  
THE REPUBLIC OF BULGARIA,  
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,  
ROMANIA,  
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 and the Treaty establishing the European Atomic Energy Community, and the Treaty on European Union, hereinafter referred to as "Member States", and

**THE EUROPEAN COMMUNITY and THE EUROPEAN ATOMIC ENERGY COMMUNITY,**

hereinafter referred to as the "Community",

of the one part, and

**THE REPUBLIC OF SERBIA,**

hereinafter referred to as "Serbia",

of the other part,

together referred to as "the Parties",

CONSIDERING the strong links between the Parties and the values that they share, their desire to strengthen those links and establish a close and lasting relationship based on reciprocity and mutual interest, which should allow Serbia to further strengthen and extend the relations with the Community and its Member States;

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

CONSIDERING the European Union's readiness to integrate Serbia to the fullest possible extent into the political and economic mainstream of Europe and its status as a potential candidate for EU membership on the basis of the Treaty on European Union (hereinafter referred to as "the EU Treaty") and fulfilment of the criteria defined by the European Council in June 1993 as well as the SAp conditionalities, subject to the successful implementation of this Agreement, notably regarding regional cooperation;

CONSIDERING the European Partnership, which identifies priorities for action in order to support the country's efforts to move closer to the European Union;

CONSIDERING the commitment of the Parties to contribute by all means to the political, economic and institutional stabilisation in Serbia 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 co-operation in a wide range of areas, particularly in justice freedom and security, 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 Final Act of the Conference on Security and Cooperation in Europe (hereinafter referred to as "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;

REAFFIRMING the right of return for all refugees and internally displaced persons and to the protection of their property and other related human rights;

CONSIDERING the commitment of the Parties to the principles of free market economy and to sustainable development as well as the readiness of the Community to contribute to the economic reforms in Serbia;

CONSIDERING the commitment of the Parties to free trade, in compliance with the rights and obligations arising out of the membership 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 (CFSP) 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 the Stabilisation and Association Agreement (hereinafter referred as "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 Serbia 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 multiannual basis to this endeavour;

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

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 co-operation;

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, as reiterated in subsequent European Council Conclusions in December 2005 and December 2006;

RECALLING the signature of the Central European Free Trade Agreement in Bucharest on 19 December 2006 as a means of enhancing the region's ability to attract investments and the prospects of its integration into the global economy;

RECALLING the signature in Brussels on 18 September 2007 of the Agreement on the Facilitation of the Issuing of the Visas and the Agreement on readmission between the European Community and Serbia;

DESIROUS of establishing closer cultural cooperation and developing exchanges of information,

HAVE AGREED AS FOLLOWS:

*Article 1*

1. An Association is hereby established between the Community and its Member States, of the one part, and the Republic of Serbia of the other part.
2. The aims of this Association are:
  - a) to support the efforts of Serbia to strengthen democracy and the rule of law;
  - b) to contribute to political, economic and institutional stability in Serbia, as well as to the stabilisation of the region;
  - c) to provide an appropriate framework for political dialogue, allowing the development of close political relations between the Parties;
  - d) to support the efforts of Serbia to develop its economic and international cooperation, including through the approximation of its legislation to that of the Community;
  - e) to support the efforts of Serbia to complete the transition into a functioning market economy;
  - f) to promote harmonious economic relations and gradually develop a free trade area between the Community and Serbia;
  - g) 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 Convention for the Protection of Human Rights and Fundamental Freedoms, in the Helsinki Final Act and the Charter of Paris for a New Europe, respect for international law principles, including full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY), 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*

The Parties consider that the proliferation of weapons of mass destruction (WMD) 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 co-operate 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 will be part of the political dialogue that will accompany and consolidate these elements.

The Parties furthermore agree to co-operate 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 4*

The contracting parties reaffirm the importance they attach to the implementation of international obligations, notably the full cooperation with ICTY.

#### *Article 5*

International and regional peace and stability, the development of good neighbourly relations, human rights and the respect and protection of minorities are central to the Stabilisation and Association process referred to in the conclusions of the Council of the

European Union on 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 Serbia.

#### *Article 6*

Serbia commits itself to continue to 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 border management and combating organised crime, corruption, money laundering, illegal migration and trafficking, including in particular in human beings, small arms and light weapons, as well as 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 7*

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

#### *Article 8*

The association shall be progressively and fully realised over a transitional period of a maximum of six years.

The Stabilisation and Association Council (hereinafter referred to as "SAC") established under Article 119 shall regularly review, as a rule on an annual basis, the implementation of this Agreement and the adoption and implementation by Serbia of legal, administrative, institutional and economic reforms. This review shall be carried out in the light of the preamble and in accordance with the general principles of this Agreement. It shall take duly into account priorities set in the European Partnership relevant to this Agreement and be in coherence with the mechanisms established under the Stabilisation and Association process, notably the progress report on the Stabilisation and Association process.

On the basis of this review, the SAC will issue recommendations and may take decisions. Where the review identifies particular difficulties, they may be referred to the mechanisms of dispute settlement established under this Agreement.

The full association shall be progressively realised. No later than the third year after the entry into force of this Agreement, the SAC shall make a thorough review of the application of this Agreement. On the basis of this review the SAC shall evaluate progress made by Serbia and may take decisions governing the following stages of association.

The aforementioned review will not apply to the free movement of goods, for which a specific schedule is foreseen in Title IV.

#### *Article 9*

This Agreement shall be fully compatible with and implemented in a manner consistent with the relevant WTO provisions, in particular Article XXIV of the General Agreement

on Tariffs and Trade 1994 (GATT 1994) and Article V of the General Agreement on Trade in Services (GATS).

## **TITLE II**

### **POLITICAL DIALOGUE**

#### *Article 10*

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 Serbia 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:
  - a) full integration of Serbia into the community of democratic nations and gradual rapprochement with the European Union;
  - b) an increasing convergence of positions of the Parties on international issues, including CFSP issues, also through the exchange of information as appropriate, and, in particular, on those issues likely to have substantial effects on the Parties;
  - c) regional cooperation and the development of good neighbourly relations;
  - d) common views on security and stability in Europe, including cooperation in the areas covered by the CFSP of the European Union.

#### *Article 11*

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:
  - a) meetings, where necessary, of senior officials representing Serbia, on the one hand, and the Presidency of the Council of the European Union, the Secretary General/High Representative for the Common Foreign and Security Policy and the Commission of the European Communities (hereinafter referred to as "European Commission"), on the other;
  - b) 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;
  - c) any other means which would make a useful contribution to consolidating, developing and stepping up this dialogue, including those identified in the

Thessaloniki agenda, adopted in the Conclusions of the European Council in Thessaloniki on 19 and 20 June 2003.

*Article 12*

A political dialogue at parliamentary level shall take place within the framework of the Stabilisation and Association Parliamentary Committee established under Article 125.

*Article 13*

Political dialogue may take place within a multilateral framework, and as a regional dialogue including other countries of the region, including in the framework of the EU-Western Balkan forum.

**TITLE III**

**REGIONAL COOPERATION**

*Article 14*

In conformity with its commitment to international and regional peace and stability, and to the development of good neighbourly relations, Serbia 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 Serbia foresees to reinforce its cooperation with one of the countries mentioned in Articles 15, 16 and 17, it shall inform and consult the Community and its Member States according to the provisions laid down in Title X.

Serbia shall implement fully the Central European Free Trade Agreement signed in Bucharest on 19 December 2006.

*Article 15*

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

After the signature of this Agreement, Serbia 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:

- a) political dialogue;
- b) the establishment of free trade areas, consistent with relevant WTO provisions;
- c) 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;

- d) provisions on cooperation in other fields whether or not covered by this Agreement, and notably the field of Justice, Freedom and Security.

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 entry into force of this Agreement. Readiness by Serbia to conclude such conventions will be a condition for the further development of the relations between Serbia and the European Union.

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

*Article 16*

*Cooperation with other countries  
concerned by the Stabilisation and Association process*

Serbia shall pursue regional cooperation with the other States 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 should always be compatible with the principles and objectives of this Agreement.

*Article 17*

*Cooperation with other countries candidate to EU accession  
not concerned by the SAP*

1. Serbia should foster its cooperation and conclude a convention on regional cooperation with any country candidate for EU accession in any of the fields of cooperation covered by this Agreement. Such conventions should aim to gradually align bilateral relations between Serbia and this country to the relevant part of the relations between the Community and its Member States and this country.
2. Serbia shall start negotiations with Turkey which has established a customs union with the Community, with a view to concluding, on a mutually advantageous basis, an Agreement establishing a free trade area in accordance with Article XXIV of the GATT 1994 as well as liberalising the establishment and supply of services between them at an equivalent level of this Agreement in accordance with Article V of the GATS.

These negotiations should be opened as soon as possible, with a view to concluding the abovementioned Agreement before the end of the transitional period referred to in Article 18(1).

**TITLE IV**

**FREE MOVEMENT OF GOODS**

*Article 18*

1. The Community and Serbia shall gradually establish a bilateral free trade area over a period lasting a maximum of six years starting from the 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 shall be applied to the classification of goods in trade between the Parties.
3. For the purpose of this Agreement customs duties and charges having equivalent effect to customs duties include any duty or charge of any kind imposed in connection with the importation or exportation of a good, including any form of surtax or surcharge in connection with such importation or exportation, but do not include any:
  - a) charges equivalent to an internal tax imposed consistently with the provisions of paragraph 2 of Article III of the GATT 1994;
  - b) antidumping or countervailing measures;
  - c) fees or charges commensurate with the costs of services rendered.
4. For each product, the basic duty to which the successive tariff reductions set out in this Agreement are to be applied shall be:
  - a) the Community Common Customs Tariff, established pursuant to Council Regulation (EEC) No 2658/87<sup>1</sup> actually applied *erga omnes* on the day of the signature of this Agreement;
  - b) the Serbian applied tariff<sup>2</sup>.
5. If, after the signature of this Agreement, any tariff reduction is applied on an *erga omnes* basis, in particular reductions resulting:
  - a) from the tariff negotiations in the WTO or,
  - b) in the event of the accession of to the WTO Serbia or,
  - c) from subsequent reductions after the accession of Serbia to the WTO,such reduced duties shall replace the basic duty referred to in paragraph 4 as from the date when such reductions are applied.
6. The Community and Serbia shall communicate to each other their respective basic duties and any changes thereof.

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<sup>1</sup> Council Regulation (EEC) No 2658/87 (OJ L 256, 7.9.1987, p. 1).

<sup>2</sup> Official Gazette of Serbia 62/2005 and 61/2007

## CHAPTER I

### INDUSTRIAL PRODUCTS

#### *Article 19* *Definition*

1. The provisions of this Chapter shall apply to products originating in the Community or in Serbia listed in Chapters 25 to 97 of the Combined Nomenclature, with the exception of the products listed in Annex I, paragraph I, (ii) of the WTO Agreement on Agriculture.
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 20* *Community concessions on industrial products*

1. Customs duties on imports into the Community and charges having equivalent effect shall be abolished upon the entry into force of this Agreement on industrial products originating in Serbia.
2. Quantitative restrictions on imports into the Community and measures having equivalent effect shall be abolished upon the entry into force of this Agreement on industrial products originating in Serbia.

**Article 21**

***Serbian concessions on industrial products***

1. Customs duties on imports into Serbia of industrial products originating in the Community other than those listed in Annex I shall be abolished upon the entry into force of this Agreement.
2. Charges having equivalent effect to customs duties on imports into Serbia shall be abolished upon the entry into force of this Agreement on industrial products originating in the Community.
3. Customs duties on imports into Serbia of industrial products originating in the Community which are listed in Annex I shall be progressively reduced and abolished in accordance with the timetable indicated in that Annex.
4. Quantitative restrictions on imports into Serbia of industrial products originating in the Community and measures having equivalent effect shall be abolished upon the date of entry into force of this Agreement.

**Article 22**

***Duties and restrictions on exports***

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

**Article 23**

***Faster reductions in customs duties***

Serbia declares its readiness to reduce its customs duties in trade with the Community more rapidly than is provided for in Article 21 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.

**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 Serbia.
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, paragraph I, (ii) of the WTO Agreement on Agriculture.

3. This definition includes fish and fishery products covered by Chapter 3, headings 1604 and 1605, and sub-headings 0511 91, 2301 20 and ex 1902 20 ("stuffed pasta containing more than 20 % by weight of fish, crustaceans, molluscs or other aquatic invertebrates").

#### ***Article 25***

#### ***Processed agricultural products***

Protocol 1 lays down the trade arrangements for processed agricultural products which are listed therein.

#### ***Article 26***

#### ***Community concessions on imports of agricultural products originating in Serbia***

1. From 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 products originating in Serbia.
2. 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 Serbia 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 applies only to the ad valorem part of the duty.

3. From the date of entry into force of this Agreement, the Community shall fix the customs duties applicable to imports into the Community of "baby beef" products defined in Annex II and originating in Serbia at 20 % of the *ad valorem* duty and 20 % of the specific duty as laid down in the Common Customs Tariff, within the limit of an annual tariff quota of 8,700 tonnes expressed in carcass weight.
4. 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 Serbia of headings 1701 and 1702 of the Combined Nomenclature, within the limit of an annual tariff quota of 180,000 tonnes (net weight).

#### ***Article 27***

#### ***Serbian concessions on agricultural products***

1. From the date of entry into force of this Agreement, Serbia shall abolish all quantitative restrictions and measures having equivalent effect, on imports of agricultural products originating in the Community.
2. From the date of entry into force of this Agreement, Serbia shall:
  - a) abolish the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Annex III(a);

- b) abolish progressively the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Annex III(b) in accordance with the timetable indicated for each product in that Annex;
- c) reduce progressively the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Annex III (c) and (d) in accordance with the timetable indicated for each product in those Annexes;

***Article 28***

***Wine and Spirit drinks Protocol***

The arrangements applicable to the wine and spirit drinks products referred to in Protocol 2 are laid down in that Protocol.

***Article 29***

***Community concessions on fish and fishery products***

1. From the date of entry into force of this Agreement, the Community shall abolish all quantitative restrictions and measures having equivalent effect on imports of fish and fishery products originating in Serbia.
2. From the entry into force of this Agreement the Community shall eliminate all customs duties and measures having equivalent effect on fish and fishery products originating in Serbia other than those listed in Annex IV. Products listed in Annex IV shall be subject to the provisions laid down therein.

***Article 30***

***Serbian concessions on fish and fishery products***

1. From the date of entry into force of this Agreement, Serbia shall abolish all quantitative restrictions and measures having equivalent effect on imports of fish and fishery products originating in the Community.
2. From the entry into force of this Agreement, Serbia shall eliminate all customs duties and measures having equivalent effect on fish and fishery products originating in the Community other than those listed in Annex V. Products listed in Annex V shall be subject to the provisions laid down therein.

***Article 31***

***Review clause***

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 policies for agriculture and fisheries in Serbia of the role of agriculture and fisheries in the economy of Serbia, of the consequences of the multilateral trade negotiations in the framework of the WTO as well as of the eventual accession of Serbia to the WTO, the Community and Serbia shall examine in the Stabilisation and Association Council, no later than three years after the 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 32*

#### *Safeguard clause concerning Agriculture and Fisheries*

1. Notwithstanding other provisions of this Agreement, and in particular Article 41, given the particular sensitivity of the agricultural and fisheries markets, if imports of products originating in one Party, which are the subject of concessions granted pursuant to Articles 25, 26, 27, 28, 29 and 30, 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.
2. In the event that imports originating in Serbia of products listed in annex V of protocol 3 cumulatively reach in volume 115% of the average of the three previous calendar years, Serbia and the Community shall within five working days enter into consultations to analyse and evaluate the trade pattern of these products into the Community, and when necessary, find appropriate solutions to avoid trade distortion of the imports of these products into the Community.

Without prejudice to paragraph 1, in the event that imports originating in Serbia of products listed in annex V of protocol 3 cumulatively increase by more than 30 percent in volume during a calendar year, compared to the average of the three previous calendar years, the Community may suspend the preferential treatment applicable to the products causing the increase.

If a suspension of the preferential treatment is decided, the Community shall notify within five working days the measure to the Stabilisation and Association Committee and shall enter in consultations with Serbia to agree on measures designed to avoid trade distortion in trade of products listed in annex V of protocol 3.

The Community shall restore the preferential treatment as soon as the trade distortion has been resolved by the effective implementation of the agreed measures or by the effect of any other appropriate measures adopted by the Parties

The provisions of Article 41, paragraphs 3 to 6 shall apply *mutatis mutandis* to action under this paragraph.

3. The Parties shall review the functioning of the mechanism provided for in paragraph 2, no later than three years after the entry into force of the Agreement. The Stabilisation and Association Council can decide on appropriate adaptations to the mechanism provided for in paragraph 2.

### *Article 33*

#### *Protection of geographical indications for agricultural and fishery products and foodstuffs other than wine and spirits drinks*

1. Serbia shall provide protection for the geographical indications of the Community registered in the Community under Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications

and designations of origin for agricultural products and foodstuffs<sup>3</sup>, in accordance with the terms of this Article. Geographical indications of Serbia shall be eligible for registration in the Community under the conditions set out in that Regulation.

2. Serbia shall prohibit any use in its territory of the names protected in the Community for comparable products not complying with the geographical indication's specification. This shall apply even where the true geographical origin of the good is indicated, the geographical indication in question is used in translation, the name is accompanied by terms such as 'kind', 'type', 'style', 'imitation', 'method' or other expressions of the sort.
3. Serbia shall refuse the registration of a trademark the use of which corresponds to the situations referred to in paragraph 2.
4. Trademarks the use of which corresponds to the situations referred to in paragraph 2 of this article, which have been registered in Serbia or established by use, shall no longer be used five years after the entry into force of the Agreement. However, this shall not apply to trademarks registered in Serbia and trademarks established by use which are owned by nationals of third countries, provided they are not of such a nature as to deceive in any way the public as to the quality, the specification and the geographical origin of the goods.
5. Any use of the geographical indications protected in accordance with paragraph 1 of this article as terms customary in common language as the common name for such goods in Serbia shall cease at the latest five years after the entry into force of the Agreement.
6. Serbia shall ensure that goods exported from its territory five years after the entry into force of the Agreement do not infringe the provisions of this Article.
7. Serbia shall ensure the protection referred to in paragraph 1 to 6 of this article on its own initiative as well as at the request of an interested party.

### **CHAPTER III**

#### **COMMON PROVISIONS**

##### *Article 34* *Scope*

The provisions of this Chapter shall apply to trade in all products between the Parties except where otherwise provided herein or in Protocol 1.

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<sup>3</sup> OJ L 93, 31.3.2006, p. 12. Regulation as amended by Council Regulation (EC) No 952/2007 (OJ L 210, 20.12.2007, p. 26).

**Article 35**  
**Improved concessions**

The provisions of this Title shall in no way affect the application, on a unilateral basis, of more favourable measures by any of the Parties.

**Article 36**  
**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 Serbia.
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 Serbia.
3. Without prejudice to the concessions granted under Articles 25, 26, 27, 28, 29 and 30, the provisions of paragraphs 1 and 2 of this Article shall not restrict in any way the pursuit of the respective agricultural and fishery policies of Serbia and of the Community and the taking of any measures under those policies in so far as the import regime in Annexes II-V and Protocol 1 is not affected.

**Article 37**  
**Prohibition of fiscal discrimination**

1. The Community and Serbia 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 38**  
**Duties of a fiscal nature**

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

**Article 39**  
**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 in so far as they alter the trade arrangements provided for in this Agreement.
2. During the transitional period specified in Article 18, 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 Serbia or resulting from the

bilateral Agreements specified in Title III concluded by Serbia 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 of this Article 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 Union, such consultations shall take place so as to ensure that account is taken of the mutual interests of the Community and Serbia stated in this Agreement.

#### *Article 40*

#### *Dumping and subsidy*

1. None of the provisions in this Agreement shall prevent any of the Parties from taking trade defence action in accordance with paragraph 2 of this Article and Article 41.
2. If one of the Parties finds that dumping and/or countervailable subsidisation is taking place in trade with the other Party, that Party may take appropriate measures against this practice in accordance with the WTO Agreement on Implementation of Article VI of the GATT 1994 or the WTO Agreement on Subsidies and Countervailing Measures and the respective related internal legislation.

#### *Article 41*

#### *Safeguards clause*

1. The provisions of Article XIX GATT 1994 and the WTO Agreement on Safeguards are applicable between the parties.
2. Notwithstanding paragraph 1 of this Article, 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:
  - a) serious injury to the domestic industry of like or directly competitive products in the territory of the importing Party or
  - b) 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 bilateral safeguard 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 problems, as defined in paragraph 2, which have arisen as a result of application of this Agreement. The safeguard measure adopted should consist of a suspension in the increase or in the reduction of the margins of preferences provided for under this Agreement for the product concerned up to a maximum limit corresponding to the basic duty referred to in Article 18 paragraph 4(a) and (b) and paragraph 5 for 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 two years.

In very exceptional circumstances, measures may be extended for a further period of maximum two 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 time equal to that during which such measure had been previously applied, provided that the period of non-application is at least, two 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) of this Article applies, as soon as possible, the Community on the one part or Serbia on the other part, 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 concerned.
5. For the implementation of the paragraphs 1, 2, 3 and 4 the following provisions shall apply:
  - a) The problems arising from the situation referred to in this Article shall be immediately referred for examination to the Stabilisation and Association Council, which may take any decisions needed to put an end to such problems.

If the Stabilisation and Association Council or the exporting Party has not taken a decision putting an end to the problems, 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 1994 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 on the one part or Serbia on the other part subjecting imports of products liable to give rise to the problems 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 42***  
***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 Serbia, 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 30 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 Serbia 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 43***  
***State monopolies***

Serbia shall progressively adjust any state monopolies of a commercial character so as to ensure that, three years after the 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 of the European Union and Serbia.

**Article 44**  
**Rules of origin**

Except if otherwise stipulated in this Agreement, Protocol 3 lays down the rules of origin for the application of the provisions of this Agreement.

**Article 45**  
**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 46**  
**Failure to provide administrative cooperation**

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, which 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 as above 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 that 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
5. At the same time as the notification to the Stabilisation and Association Committee under paragraph 4(a) of this Article, 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 47*

In case of error by the competent authorities in the proper management of the preferential system at export, and in particular in the application of the provisions of Protocol 3 to the present Agreement where this error leads to consequences in terms of import duties, the Contracting 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 48*

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

## **TITLE V**

# **WORKERS, ESTABLISHMENT, SUPPLY OF SERVICES, MOVEMENT OF CAPITAL**

## **CHAPTER I**

### **MOWEMENT OF WORKERS**

#### *Article 49*

1. Subject to the conditions and modalities applicable in each Member State:
  - a) treatment accorded to workers who are nationals of Serbia 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 nationals of that Member State;
  - b) 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 50, 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. Serbia shall, subject to the conditions and modalities applicable in that Republic, 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 Serbia.

#### *Article 50*

1. Taking into account the situation in the labour market in the Member States, and subject to their legislation and to compliance with the rules in force in the Member States in the area of mobility of workers:
  - a) the existing facilities of access to employment for workers of Serbia accorded by Member States under bilateral Agreements should be preserved and if possible improved;
  - b) the other Member States shall examine the possibility of concluding similar Agreements.
2. After three years, 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 situation in the labour market in the Member States and in the Community.

### *Article 51*

1. Rules shall be laid down for the co-ordination of social security systems for workers with nationality of Serbia, 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:
  - a) 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;
  - b) 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;
  - c) the workers in question shall receive family allowances for the members of their families as defined above;
2. Serbia shall accord to workers who are nationals of a Member State and legally employed in their territory, and to members of their families legally resident there, treatment similar to that specified in points (b) and (c) of paragraph 1.

## **CHAPTER II**

### **ESTABLISHMENT**

#### *Article 52*

##### *Definition*

For the purposes of this Agreement:

- a) "Community company" or "Serbian company" shall mean, respectively, a company set up in accordance with the laws of a Member State, or of Serbia and having its registered office or central administration or principal place of business in the territory of the Community or of Serbia. However, should the company, set up in accordance with the laws of a Member State or of Serbia, have only its registered office in the territory of the Community or of Serbia respectively, the company shall be considered a Community or a Serbian company if its operations possess a real and continuous link with the economy of one of the Member States or of Serbia;
- b) "Subsidiary" of a company shall mean a company which is effectively controlled by another 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 persons who are not exclusively self-employed;
  - ii) as regards Community or Serbian companies, the right to take up economic activities by means of the setting up of subsidiaries and branches in Serbia, 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 "national of Serbia" shall mean respectively a natural person who is a national of a Member State or Serbia respectively;

With regard to international maritime transport, including inter-modal operations involving a sea leg, Community nationals or nationals of Serbia established outside the Community and Serbia, and shipping companies established outside the Community or Serbia and controlled by Community nationals or nationals of Serbia, shall also be beneficiaries of the provisions of this Chapter and Chapter III, if their vessels are registered in that Member State or in Serbia, in accordance with their respective legislation;

- h) "Financial services" shall mean those activities described in Annex VI. The Stabilisation and Association Council may extend or modify the scope of that Annex.

### *Article 53*

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

- b) as regards the operation of subsidiaries and branches of Community companies on the territory of Serbia 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 Community and its Member States shall grant, from the entry into force of this Agreement:
  - a) as regards the establishment of Serbian 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;
  - b) as regards the operation of subsidiaries and branches of Serbian companies, established in its 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.
3. The Parties shall not adopt any new regulations or measures which introduce discrimination as regards the establishment of any other Party's companies on their territory or in respect of their operation, once established, by comparison with their own companies.
4. Four years after the entry into force of this Agreement, the Stabilisation and Association Council shall establish the modalities to extend the above provisions to the establishment of Community nationals and nationals of Serbia 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 entry into force of this Agreement, the right to use and rent real property in Serbia;
  - b) Subsidiaries of Community companies shall, from the entry into force of this Agreement, have the right to acquire and enjoy ownership rights over real property as Serbian companies and as regards public goods/goods of common interest, the same rights as enjoyed by Serbian companies respectively where these rights are necessary for the conduct of the economic activities for which they are established.
  - c) Four years after the entry into force of this agreement, the Stabilisation and Association Council shall examine the possibility of extending the rights under (b) to branches of the Community companies.

#### *Article 54*

1. Subject to the provisions of Article 56, with the exception of financial services described in Annex VI, the Parties may regulate the establishment and operation of companies and nationals on their territory, insofar as these regulations do not

discriminate against companies and nationals of the other Parties 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 55*

1. Without prejudice to any provision to the contrary contained in the Multilateral Agreement on the Establishment of a European Common Aviation Area 4 (hereinafter referred to as "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 56*

1. The provisions of Articles 53 and 54 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 57*

In order to make it easier for Community nationals and nationals from Serbia to take up and pursue regulated professional activities in Serbia and in the Community respectively,

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<sup>4</sup> Multilateral Agreement between the European Community and its Member States, the Republic of Albania, Bosnia and Herzegovina, the Republic of Bulgaria, the Republic of Croatia, the former Yugoslav Republic of Macedonia, the Republic of Iceland, the Republic of Montenegro, the Kingdom of Norway, Romania, the Republic of Serbia and the United Nations Interim Administration Mission in Kosovo on the establishment of a European Common Aviation Area (OJ L 285, 16.10.2006, p. 3).

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 58*

1. A Community company established in the territory of Serbia or a Serbian company established in the Community 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 territory of establishment, in the territory of the Republic of Serbia and the Community respectively, employees who are nationals of the Member States or nationals from Serbia 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 (c) of this paragraph 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:
    - i) directing the establishment of a department or sub-division of the establishment;
    - ii) supervising and controlling the work of other supervisory, professional or managerial employees;
    - iii) 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 in Serbia of Serbian nationals 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) above, within a company, and are responsible for the setting up of a Community subsidiary or branch of a Serbian company or of a Serbian subsidiary or branch of a Community company in a Member State or in the Republic of Serbia respectively, when:
  - a) those representatives are not engaged in making direct sales or supplying services, and do not receive remuneration from a source located within the host territory of establishment, and;
  - b) the company has its principal place of business outside the Community or Serbia, respectively, and has no other representative, office, branch or subsidiary in that Member State or in Serbia respectively.

### **CHAPTER III**

## **SUPPLY OF SERVICES**

#### *Article 59*

1. The Community and Serbia undertake, in accordance with the following provisions, to take the necessary steps to allow progressively the supply of services by Community companies, Serbian companies or by Community nationals or nationals of Serbia which are established in the territory of 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 58, including natural persons who are representatives of a Community or Serbian 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. After four years, the Stabilisation and Association Council shall take the measures necessary to progressively implement the provisions of paragraph 1. Account shall be taken of the progress achieved by the Parties in the approximation of their laws.

#### *Article 60*

1. The Parties shall not take any measures or actions which render the conditions for the supply of services by Community and Serbia 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 day of entry into force of this Agreement.

2. If one Party is of the view that measures introduced by the other Party since the 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 61*

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

1. With regard to land transport, Protocol 4 lays down the rules applicable to the relationship between the Parties in order to ensure, particularly, unrestricted road transit traffic across Serbia and the Community as a whole, the effective application of the principle of non discrimination and progressive harmonisation of the transport legislation of Serbia 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 international maritime markets and trades 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, the Parties shall:
  - a) not introduce cargo-sharing clauses in future bilateral Agreements with third countries;
  - b) abolish, upon the 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 the ECAA.

5. Prior to the conclusion of the ECAA, the Parties shall not take any measures or actions which are more restrictive or discriminatory as compared with the situation existing prior to the entry into force of this Agreement.
6. Serbia 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, inland waterway and land 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, land and inland waterway transport services.

## **CHAPTER IV**

### **CURRENT PAYMENTS AND MOVEMENT OF CAPITAL**

#### *Article 62*

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 Serbia

#### *Article 63*

1. With regard to transactions on the capital and financial account of balance of payments, from the 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 there from.
2. With regard to transactions on the capital and financial account of balance of payments, from the 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.
3. As from the entry into force of this Agreement, Serbia shall authorise, by making full and expedient use of its existing procedures, the acquisition of real estate in Serbia by nationals of Member States of the European Union. Within four years from the entry into force of this Agreement, Serbia shall progressively adjust its legislation concerning the acquisition of real estate in its territory by nationals of the Member States of the European Union to ensure the same treatment as compared to its own nationals.

The Community and Serbia shall also ensure, from four years after the 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.

4. 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 Serbia and shall not make the existing arrangements more restrictive.
5. Without prejudice to the provisions of Article 62 and of this Article, where, in exceptional circumstances, movements of capital between the Community and Serbia cause, or threaten to cause, serious difficulties for the operation of exchange rate policy or monetary policy in the Community or Serbia, the Community and Serbia, respectively, may take safeguard measures with regard to movements of capital between the Community and Serbia for a period not exceeding six months if such measures are strictly necessary.
6. 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.
7. The Parties shall consult each other with a view to facilitating the movement of capital between the Community and Serbia in order to promote the objectives of this Agreement.

#### *Article 64*

1. During the first four years following the date of entry into force of this Agreement, the Community and Serbia 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 fourth 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 in Serbia.

## **CHAPTER V**

### **GENERAL PROVISIONS**

#### *Article 65*

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 any of the Parties are connected, even occasionally, with the exercise of official authority.

### *Article 66*

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, notably insofar as the granting, renewal or refusal of a residence permit is concerned, 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 65.

### *Article 67*

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

### *Article 68*

1. The Most-Favoured-Nation 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 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 Serbia from 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 69*

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 Serbia is in serious balance of payments difficulties, or under imminent threat thereof, the Community and Serbia 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 and Serbia 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 70*

The provisions of this Title shall be progressively adjusted, notably in the light of requirements arising from Article V of the GATS.

#### *Article 71*

The provisions of this Agreement shall not prejudice the application by any 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 72*

1. The Parties recognise the importance of the approximation of the existing legislation in Serbia to that of the Community and of its effective implementation. Serbia shall endeavour to ensure that its existing laws and future legislation will be gradually made compatible with the Community *acquis*. Serbia shall ensure that existing and future legislation will 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 defined in Article 8 of this Agreement.
3. Approximation will, at an early stage, focus on fundamental elements of the Internal Market *acquis*, Justice, Freedom and Security as well as on other trade-related areas. At a further stage, Serbia shall focus on the remaining parts of the *acquis*.

Approximation shall be carried out on the basis of a programme to be agreed between the European Commission and Serbia.

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

#### *Article 73*

#### ***Competition and other economic provisions***

1. The following are incompatible with the proper functioning of this Agreement, insofar as they may affect trade between the Community and Serbia:
  - 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 Serbia 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 EC Treaty and interpretative instruments adopted by the Community institutions.
  3. The Parties shall ensure that an operationally independent authority is entrusted with the powers necessary for the full application of paragraph 1(i) and (ii) of this Article, regarding private and public undertakings and undertakings to which special rights have been granted.
  4. Serbia shall establish an operationally independent authority which is entrusted with the powers necessary for the full application of paragraph 1(iii) within one year 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. The Community on one side and Serbia on the other side shall ensure transparency in the area of State aid, *inter alia* by providing to the other Parties 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. Serbia 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 4 years from the entry into force of this Agreement.
  7. (a) For the purposes of applying the provisions of paragraph 1(iii), the Parties recognise that during the first five years after the entry into force of this Agreement, any public aid granted by Serbia shall be assessed taking into account the fact that Serbia shall be regarded as an area identical to those areas of the Community described in Article 87(3) (a) of the EC Treaty.  
  
(b) Within four years from the entry into force of this Agreement, Serbia shall submit to the European Commission its GDP per capita figures harmonised at NUTS II level. The authority referred to in paragraph 4 and the European Commission shall then jointly evaluate the eligibility of the regions of Serbia 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. As appropriate, Protocol 5 establishes the rules on state aid in the steel industry. This Protocol establishes the rules applicable in the event restructuring aid is granted to the steel industry. It would stress the exceptional character of such aid and the fact that the aid would be limited in time and would be linked to capacity reductions within the framework of feasibility programmes.
9. With regard to products referred to in Chapter II of Title IV:
  - a) paragraph 1(iii) shall not apply;
  - b) 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 EC Treaty and specific Community instruments adopted on this basis.
10. 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 30 working days following referral for such consultation. Nothing in this Article shall prejudice or affect in any way the taking, by the Community or Serbia, of countervailing measures in accordance with the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures and the respective related internal legislation.

***Article 74***  
***Public undertakings***

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

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

***Article 75***  
***Intellectual, industrial and commercial property***

1. Pursuant to the provisions of this Article and Annex VII, the Parties confirm the importance that they attach to ensuring adequate and effective protection and enforcement of intellectual, industrial and commercial property rights.
2. From the entry into force of this Agreement, the Parties shall grant to each others companies and nationals, in respect of the recognition and protection of intellectual, industrial and commercial property, treatment no less favourable than that granted by them to any third country under bilateral Agreements.
3. Serbia shall take the necessary measures in order to guarantee no later than five years after 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.
4. Serbia undertakes to accede, within the period referred to above, to the multilateral conventions on intellectual, industrial and commercial property

rights referred to in Annex VII. The Stabilisation and Association Council may decide to oblige Serbia to accede to specific multilateral Conventions in this area.

5. 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 76**  
**Public procurement**

1. The Community and Serbia consider the opening-up of the award of public contracts on the basis of non-discrimination and reciprocity, following in particular the WTO rules, to be a desirable objective.
2. Serbian 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 entry into force of this Agreement.

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

3. Community companies established in Serbia under the provisions of Chapter II of Title V shall, from the entry into force of this Agreement, be granted access to contract award procedures in Serbia under treatment no less favourable than that accorded to Serbian companies.
4. Community companies not established in Serbia shall be granted access to contract award procedures in Serbia pursuant to the Serbian Law on Public Procurement under treatment no less favourable than that accorded to Serbian companies at the latest 5 years after the entry into force of this Agreement.

Upon the entry into force of this Agreement, Serbia shall convert any existing preference for domestic economic entities to a price preference and, within a period of 5 years, shall gradually reduce the latter in accordance with the following timetable:

- the preferences shall not exceed 15% by the end of the second year following the entry into force of this Agreement;
- the preferences shall not exceed 10% by the end of the third year following the entry into force of this Agreement;
- the preferences shall not exceed 5% by the end of the fourth year following the entry into force of this Agreement; and
- the preferences will be completely abolished no later than the end of the fifth year following the entry into force of this Agreement.

5. The Stabilisation and Association Council shall periodically examine the possibility for Serbia to introduce access to contract award procedures in Serbia for all Community companies. Serbia shall report annually to the Stabilisation and Association Council on the measures they have taken to enhance transparency and to provide for effective judicial review of decisions taken in the area of public procurement.
6. As regards establishment, operations, supply of services between the Community and Serbia, and also employment and movement of labour linked to the fulfilment of public contracts, the provisions of Articles 49 to 64 are applicable.

#### *Article 77*

#### ***Standardisation, metrology, accreditation and conformity assessment***

1. Serbia 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 seek to:
  - a) promote the use of Community technical regulations, European standards and conformity assessment procedures;
  - b) provide assistance to fostering the development of quality infrastructure: standardisation, metrology, accreditation and conformity assessment;
  - c) promote the participation of Serbia in the work of organisations related to standards, conformity assessment, metrology and similar functions (e.g. CEN, CENELEC, ETSI, EA, WELMEC, EUROMET)<sup>5</sup>.
  - d) where appropriate, conclude an Agreement on Conformity Assessment and Acceptance of Industrial Products once the legislative framework and the procedures of Serbia is sufficiently aligned on that of the Community and appropriate expertise is available.

#### *Article 78*

#### ***Consumer protection***

The Parties shall cooperate in order to align the standards of consumer protection in Serbia to those of the Community. Effective consumer protection is necessary in order to ensure the proper functioning of the market economy, 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 ensure:

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<sup>5</sup> European Committee for Standardisation, European Committee for Electrotechnical Standardisation, European Telecommunications Standards Institute, European co-operation for Accreditation, European Cooperation in Legal Metrology, European Organisation of Metrology

- a) a policy of active consumer protection, in accordance with Community law, including the increase of information and development of independent organisations;
- b) the harmonisation of legislation of consumer protection in Serbia on that in force in the Community;
- c) effective legal protection for consumers in order to improve the quality of consumer goods and maintain appropriate safety standards;
- d) monitoring of rules by competent authorities and providing access to justice in case of disputes;
- e) exchange information on dangerous products.

*Article 79*

***Working conditions and equal opportunities***

Serbia 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**

*Article 80*

***Reinforcement of institutions and rule of law***

In their cooperation on justice, freedom and security, 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 81*

***Protection of personal data***

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

*Article 82*

***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 the 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 above shall be based on mutual consultations and close coordination between the Parties and should include technical and administrative assistance for:

- a) the exchange of statistics and information on legislation and practices;
- b) the drafting of legislation;
- c) enhancing the capacity and efficiency of the institutions;
- d) the training of staff;
- e) the security of travel documents and detection of false documents;
- f) border management.

Cooperation shall focus in particular:

- a) on the area of asylum on the implementation of national legislation to meet the standards of the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and the Protocol relating to the Status of Refugees done at New York on 31 January 1967 thereby to ensure that the principle of "non-refoulement" is respected as well as other rights of asylum seekers and refugees;
- b) on 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 83***

#### ***Prevention and control of illegal immigration; readmission***

1. The Parties shall cooperate in order to prevent and control illegal immigration. To this end, Serbia and the Member States shall readmit any of their nationals illegally present on their territories and agree to fully implement the Agreement between the Community and Serbia and bilateral agreements between Member States and Serbia in so far as the provisions of these bilateral agreements are compatible with those of the European Community Agreement on the readmission of persons residing without authorisation, including an obligation for the readmission of nationals of other countries and stateless persons.

The Member States and Serbia shall provide their nationals with appropriate identity documents and shall extend to them the administrative facilities necessary for such purposes.

Specific procedures for the purpose of readmission of nationals, third country nationals and stateless persons are laid down in the Agreement between the Community and Serbia and bilateral agreements between Member States and Serbia in so far as the provisions of these bilateral agreements are compatible

with those of the European Community Agreement on the readmission of persons residing without authorisation.

2. Serbia 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.
3. 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.

#### ***Article 84***

##### ***Money laundering and financing of terrorism***

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

#### ***Article 85***

##### ***Cooperation on illicit drugs***

1. Within their respective powers and competencies, the Parties shall cooperate to ensure a balanced and integrated approach towards drug issues. Drug policies and actions shall be aimed at reinforcing structures for combating illicit drugs, reducing the supply of, trafficking in and the demand for illicit drugs, coping with the health and social consequences of drug abuse 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 Drugs Strategy.

#### ***Article 86***

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

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

- a) smuggling and trafficking in human beings;
- b) illegal economic activities, and in particular counterfeiting of cash and non-cash means of payments, illegal transactions on products such as industrial waste, radioactive material and transactions involving illegal, counterfeit or pirated products;

- c) corruption, both in the private and public sector, in particular linked to non-transparent administrative practices;
- d) fiscal fraud;
- e) identity theft;
- f) illicit trafficking in drugs and psychotropic substances;
- g) illicit arms trafficking;
- h) forging documents;
- i) smuggling and illicit trafficking of goods including cars;
- j) cyber crime.

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

***Article 87***  
***Combating 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:

- a) in the framework of full implementation of United Nations Security Council Resolution 1373 (2001) and other relevant UN resolutions, international conventions and instruments;
- b) by exchanging information on terrorist groups and their support networks in accordance with international and national law;
- c) 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.

**TITLE VIII**

**COOPERATION POLICIES**

***Article 88***

1. The Community and Serbia shall establish a close co-operation aimed at contributing to the development and growth potential of Serbia. 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 Serbia. 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 will have to be devoted to measures that can foster cooperation between Serbia and its neighbouring countries including Member States, thus contributing to regional stability. The Stabilisation and Association Council shall define priorities between and within the cooperation policies described hereinafter in line with the European Partnership.

***Article 89***  
***Economic and trade policy***

The Community and Serbia 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.

To these ends, the Community and Serbia shall cooperate to:

- a) exchange information on macroeconomic performance and prospects and on strategies for development;
- b) analyse jointly economic issues of mutual interest, including the framing of economic policy and the instruments for implementing it; and
- c) promote wider cooperation with the aim to speed up the inflow of know-how and access to new technologies.

Serbia shall strive to establish a functioning market economy and to gradually approximate its policies to the stability-oriented policies of the European Economic and Monetary Union. At the request of the authorities of Serbia, the Community may provide assistance designed to support the efforts of Serbia in this respect.

Co-operation shall also aim at strengthening the rule of law in the business area through a stable and non-discriminatory trade-related legal framework.

Co-operation in this area shall include exchange of information concerning the principles and functioning of the European Economic and Monetary Union.

***Article 90***  
***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 efficient and sustainable statistical systems capable of providing, reliable, objective and accurate data needed to plan and monitor the process of transition and reform in Serbia. It should also enable the Statistical Office in Serbia to better meet the needs of its customers in the country (both public administration and private sector). The statistical system should respect the fundamental principles of statistics issued by the UN, the European Statistical Code of Practice and the stipulations of the European Statistical law and develop towards the Community *acquis*. The Parties shall cooperate in particular to ensure the confidentiality of individual data, to progressively increase data collection and transmission to the European Statistical System and, to exchange of information on methods, transfer of know-how and training.

### ***Article 91***

#### ***Banking, insurance and other financial services***

Cooperation between Serbia and the Community shall focus on priority areas related to the Community *acquis* in the fields of banking, insurance and financial services. The Parties shall co-operate with the aim of establishing and developing a suitable framework for the encouragement of the banking, insurance and financial services sectors in Serbia based on fair competition practices and ensuring the necessary level playing field.

### ***Article 92***

#### ***Internal control and external audit cooperation***

Cooperation between the Parties shall focus on priority areas related to the Community *acquis* in the fields of public internal financial control (PIFC) and external audit. The Parties shall, in particular, cooperate - through elaborating and adopting relevant regulation - with the aim of developing transparent, efficient and economic PIFC (including financial management and control and functionally independent internal audit) and independent external audit systems in Serbia, in accordance with internationally accepted standards and methodologies and EU best practices. Cooperation shall also focus on capacity building of the Supreme Audit institution in Serbia. In order to be able to fulfil the coordination and harmonisation responsibilities stemming from the requirements above, cooperation should also focus on the establishment and strengthening of central harmonisation units for financial management and control and for Internal Audit.

### ***Article 93***

#### ***Investment Promotion and Protection***

Cooperation between the Parties, within the scope of their respective competencies, 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 essential to economic and industrial revitalisation in Serbia. The particular aims of cooperation shall be for Serbia to improve the legal frameworks which favours and protects investment.

### ***Article 94***

#### ***Industrial Cooperation***

Cooperation shall aim to promote the modernisation and restructuring of industry and individual sectors in Serbia. It shall also cover industrial cooperation between economic operators, with the objective of strengthening the private sector under conditions which ensure that the environment is protected.

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 should seek in particular to establish a suitable framework for undertakings, to improve management, know-how and to promote markets, market transparency and the business environment. Special attention shall be devoted to the establishment of efficient export promotion activities in Serbia.

Cooperation shall take due account of the Community *acquis* in the field of industrial policy.

***Article 95***

***Small and medium-sized enterprises***

Cooperation between the Parties shall be aimed at developing and strengthening private sector small and medium-sized enterprises (SMEs), the establishment of new undertakings in areas offering potential for growth and cooperation between SMEs in the Community and in Serbia.

Cooperation shall take due account of priority areas related to the Community *acquis* in the field of SMEs, as well as the ten guidelines enshrined in the European Charter for Small Enterprises.

***Article 96***

***Tourism***

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.); encouraging the development of infrastructure conducive to investment in the tourism sector, participation of Serbia in important European tourism organisations. It shall also aim at studying the opportunities for joint operations and strengthening cooperation between tourism enterprises, experts and governments and their competent agencies in the field of tourism, as well as transferring know-how (through training, exchanges, seminars). Cooperation shall take due account of Community *acquis* related to this sector.

Cooperation may be integrated into a regional framework of cooperation.

***Article 97***

***Agriculture, and the agro-industrial sector***

Cooperation between the Parties shall be developed in all priority areas related to the Community *acquis* in the field of agriculture, as well as veterinary and phytosanitary domains. Cooperation shall notably aim at modernising and restructuring the agriculture and agro-industrial sector, in particular to reach community sanitary requirements, to improve water management and rural development as well as to develop the forestry sector in Serbia and at supporting the gradual approximation of Serbian legislation and practices to the Community rules and standards.

***Article 98***

***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 99***

***Customs***

The Parties shall establish cooperation in this area with a view to guarantee compliance with the provisions to be adopted in the area of trade and to achieve the approximation of

the customs systems of Serbia 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 Serbian customs legislation to the *acquis*.

Cooperation shall take due account of priority areas related to the Community *acquis* in the field of customs.

The rules on mutual administrative assistance between the Parties in the customs field are laid down in Protocol 6.

### ***Article 100*** ***Taxation***

The Parties shall establish cooperation in the field of taxation including measures aiming at the further reform of Serbia's fiscal system and the restructuring of tax administration with a view to ensuring effectiveness of tax collection and the fight against fiscal fraud.

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. Elimination of harmful tax competition should be carried out on the basis of the principles of the Code of Conduct for business taxation agreed by the Council on 1 December 1997.

Cooperation shall also be geared to enhancing transparency and fighting corruption, and to include exchange of information with the Member States in an effort to facilitate the enforcement of measures preventing tax fraud, evasion and avoidance. Serbia shall also complete the network of bilateral Agreements with Member States, along the lines of the latest update of the OECD Model Tax Convention on Income and on Capital as well as on the basis of the OECD Model Agreement on Exchange of Information in Tax Matters, to the extent that the requesting Member State subscribes to these.

### ***Article 101*** ***Social cooperation***

With regard to employment, cooperation between the Parties shall focus notably on upgrading job-finding and careers advice services, providing back-up measures and promoting local development to assist industrial and labour market restructuring. It shall also include measures such as studies, the secondment of experts and information and training operations.

The Parties shall cooperate to facilitate the reform of the employment policy in Serbia, in the context of strengthened economic reform and integration. Co-operation shall also seek to support the adaptation of the Serbian social security system to the new economic and social requirements, and shall involve the adjustment of the legislation in Serbia concerning working conditions and equal opportunities for women and men, for people with disabilities and for people belonging to minority and other vulnerable groups 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.

Cooperation shall take due account of priority areas related to the Community *acquis* in this field.

**Article 102**  
**Education and training**

The Parties shall cooperate with the aim of raising the level of general education and vocational education and training in Serbia as well as youth policy and youth work, including non-formal education. A priority for higher education systems shall be the achievement of the objectives of the Bologna Declaration in the intergovernmental Bologna process.

The Parties shall also cooperate with the aim of ensuring that access to all levels of education and training in Serbia is free of discrimination on the grounds of gender, colour, ethnic origin or religion.

The relevant Community programmes and instruments shall contribute to the upgrading of educational and training structures and activities in Serbia.

Cooperation shall take due account of priority areas related to the Community *acquis* in this field.

**Article 103**  
**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 104**  
**Cooperation in the audio-visual field**

The Parties shall cooperate to promote the audio-visual industry in Europe and encourage co-production in the fields of cinema and television.

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, the public and private, so as to reinforce their independence, professionalism and links with European media.

Serbia shall align its policies on the regulation of content aspects of cross-border broadcasting with those of the EC and shall harmonise its legislation with the EU *acquis*. Serbia shall pay particular attention to matters relating to the acquisition of intellectual property rights for programmes and broadcast by satellite, cable and terrestrial frequencies.

**Article 105**  
**Information society**

Cooperation shall be developed in all areas related to the Community *acquis* regarding the information society. It shall mainly support *Serbia's* gradual alignment of policies and legislation in this sector with those of the Community.

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

#### ***Article 106***

##### ***Electronic communications networks and services***

Cooperation shall primarily focus on priority areas related to the Community *acquis* in this field.

The Parties shall, in particular, strengthen cooperation in the area of electronic communications networks and electronic communications services, with the ultimate objective of the adoption by Serbia of the Community *acquis* in the sector three years after the entry into force of this Agreement.

#### ***Article 107***

##### ***Information and communication***

The Community and Serbia 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 Serbia with more specialised information.

#### ***Article 108***

##### ***Transport***

Cooperation between the Parties shall focus on priority areas related to the Community *acquis* in the field of transport.

Cooperation may notably aim at restructuring and modernising the Serbian transport modes, improving the free movement of passengers and goods, enhancing the access to the transport market and facilities, including ports and airports. Furthermore cooperation may support the development of multi-modal infrastructures in connection with the main Trans-European networks, notably to reinforce regional links in South East Europe in line with the Memorandum of Understanding on the development of the Core Regional Transport Network. The objective of the cooperation should be to achieve operating standards comparable to those in the Community as well as to develop a transport system in Serbia compatible and aligned with the Community system and improving protection of the environment in transport.

#### ***Article 109***

##### ***Energy***

Cooperation shall focus on priority areas related to the Community *acquis* in the field of energy. It shall be based on the Treaty establishing the Energy Community, and it shall be developed with a view to the gradual integration of Serbia into Europe's energy markets. Cooperation may include in particular:

- a) the formulation and planning of energy policy, including modernisation of infrastructure, improvement and diversification of supply and improvement of access to the energy market, including facilitation of

transit, transmission and distribution and improvement of energy interconnections of regional importance with neighbouring countries;

- b) the promotion of energy saving, energy efficiency, renewable energy and studying the environmental impact of energy production and consumption;
- c) the formulation of framework conditions for restructuring of energy companies and cooperation between undertakings in this sector

### ***Article 110*** ***Nuclear Safety***

The Parties shall cooperate in the field of nuclear safety and safeguards. Cooperation could cover the following topics:

- a) upgrading the laws and regulations of the Parties on radiation protection, nuclear safety and nuclear materials accountancy and control as well as strengthening the supervisory authorities and their resources;
- b) encouraging the promotion of Agreements between Member States, or European Atomic Energy Community and Serbia on early notification and exchange of information in cases of nuclear accidents and on emergency preparedness and on nuclear safety issues in general, if appropriate;
- c) nuclear third party liability.

### ***Article 111*** ***Environment***

The Parties shall develop and strengthen their cooperation in the environmental field with the vital task of halting further degradation and start improving the environmental situation with the aim of sustainable development.

The parties shall, in particular, establish cooperation with the aim of strengthening administrative structures and procedures to ensure strategic planning of environment issues and coordination between relevant actors and shall focus on the alignment of Serbia's legislation to the Community acquis. Cooperation could also centre on the development of strategies to significantly reduce local, regional and trans-boundary air and water pollution, to establish a framework for efficient, clean, sustainable and renewable production and consumption of energy, and to execute environmental impact assessment and strategic environmental assessment. Special attention shall be paid to the implementation of the Kyoto Protocol.

### ***Article 112*** ***Cooperation in research and technological development***

The Parties shall encourage cooperation in civil scientific research and technological development (RTD) 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 (IPR).

Cooperation shall take due account of the priority areas related to the Community *acquis* in the field of research and technical development.

*Article 113*

***Regional and local development***

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 cooperation.

Cooperation shall take due account of the priority areas related to the Community *acquis* in the field of regional development.

*Article 114*

***Public administration***

Cooperation shall aim at ensuring the development of an efficient and accountable public administration in Serbia, notably to support rule of law implementation, the proper functioning of the state institutions for the benefit of the entire population of Serbia as a whole and the smooth development of the relations between the EU and Serbia

Cooperation in this area shall mainly focus on institution building, including the development and implementation of transparent and impartial recruitment procedures, human resources management, and career development for the public service, continued training and the promotion of ethics within the public administration. Cooperation shall cover all levels of public administration, including local administration.

**TITLE IX**

**FINANCIAL COOPERATION**

*Article 115*

In order to achieve the objectives of this Agreement and in accordance with Articles 5, 116 and 118, Serbia may receive financial assistance from the Community in the forms of grants and loans, including loans from the European Investment Bank. Community aid is conditional on further progress in satisfying the Copenhagen political criteria and in particular progress in meeting the specific priorities of the European Partnership. Account shall also be taken of the results of the annual reviews of the countries of the Stabilisation and Association process, in particular as regards the recipients' undertaking to carry out democratic, economic and institutional reforms and of other Council conclusions, pertaining in particular to the respect of adjustment programmes. Aid granted to Serbia shall be geared to observed needs, agreed priorities, the capacity to absorb and repay, and the measures taken to reform and restructure the economy.

*Article 116*

Financial assistance, in the form of grants, shall be covered by the operation measures provided for in the relevant Council Regulation within a multiannual indicative planning

document with annual reviews, established by the Community following consultations with Serbia.

Financial assistance may cover all sectors of cooperation, paying particular attention to Justice, Freedom and Security, approximation of legislation, sustainable development and poverty reduction and environmental protection.

#### *Article 117*

At the request of Serbia 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 Serbia and the International Monetary Fund.

#### *Article 118*

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 119*

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

#### *Article 120*

1. The Stabilisation and Association Council shall consist of the members of the Council of the European Union and members of the European Commission, on the one hand, and of members of the Government of Serbia 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 Serbia, 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 121*

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 122*

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 European Commission, on the one hand, and of representatives of the Government of Serbia 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 121.

#### *Article 123*

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 sub-committees for the adequate implementation of this Agreement.

A sub-committee that will address migration issues shall be created.

#### *Article 124*

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 125*

A Stabilisation and Association Parliamentary Committee is hereby established. It shall be a forum for Members of the Parliament of Serbia and of 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 and of members of the Parliament of Serbia.

The Stabilisation and Association Parliamentary Committee shall establish its rules of procedure.

The Stabilisation and Association Parliamentary Committee shall be chaired in turn by a member of the European Parliament and by a member of the Parliament of Serbia, in accordance with the provisions to be laid down in its rules of procedure.

#### *Article 126*

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 127*

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 128*

1. In the fields covered by this Agreement and without prejudice to any special provisions contained therein:
  - a) the arrangements applied by Serbia in respect of the Community shall not give rise to any discrimination between the Member States, their nationals, companies or firms;
  - b) the arrangements applied by the Community in respect of Serbia shall not give rise to any discrimination between nationals of Serbia as well as between Serbian 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 129*

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

2. 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.
3. Each Party shall refer to the Stabilisation and Association Council any dispute relating to the application or interpretation of this Agreement. In that case, Article 130 and, as the case may be, Protocol 7 shall apply.

The Stabilisation and Association Council may settle the dispute by means of a binding decision.
4. 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. 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 if the other Party so requests within the Stabilisation and Association Council, the Stabilisation and Association Committee or any other body set up on the basis of Articles 123 or 124.
5. The provisions of paragraphs 2, 3 and 4 shall in no way affect and are without prejudice to Articles 32, 40, 41, 42, 46 and Protocol 3 (Definition of the concept of originating products and methods of administrative cooperation).

#### *Article 130*

1. When a dispute arises between the Parties concerning the interpretation or the implementation of this Agreement, any Party shall notify to the other Party and the Stabilisation and Association Council a formal request that the matter in dispute be resolved.

Where a Party considers that a measure adopted by the other Party, or a failure of the other Party to act, constitutes a breach of its obligations under this Agreement, the formal request that the dispute be resolved shall give the reasons for this opinion and indicate, as the case may be, that the Party may adopt measures as provided for in Article 129, paragraph 4.
2. The Parties shall endeavour to resolve the dispute by entering into good faith consultations within the Stabilisation and Association Council and other bodies as provided in paragraph 3, with the aim of reaching as soon as possible a mutually acceptable solution.
3. The Parties shall provide the Stabilisation and Association Council with all relevant information required for a thorough examination of the situation.

As long as the dispute is not resolved, it shall be discussed at every meeting of the Stabilisation and Association Council, unless the arbitration procedure as provided for in Protocol 7 has been initiated. A dispute shall be deemed to be

resolved when the Stabilisation and Association Council has taken a binding decision to settle the matter as provided for in Article 129, paragraph 3, or when it has declared that there is no dispute anymore.

Consultations on a dispute can also be held at any meeting of the Stabilisation and Association Committee or any other relevant committee or body set up on the basis of Articles 123 or 124, as agreed between the Parties or at the request of any of the Parties. Consultations may also be held in writing.

All information disclosed during the consultations shall remain confidential.

4. For matters within the scope of application of Protocol 7, any Party may submit the matter in dispute for settlement through arbitration in accordance with that Protocol, when the Parties have failed to resolve the dispute within two months after the initiation of the dispute settlement procedure in accordance with paragraph 1.

#### *Article 131*

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 Serbia, on the other.

#### *Article 132*

**Annexes I to VII and Protocols 1, 2, 3, 4, 5, 6 and 7** shall form an integral part of this Agreement.

The Framework Agreement between the European Community and Serbia and Serbia on the general principles for the participation of Serbia and Montenegro in Community Programmes, signed on 21 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 133*

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.

Either Party may suspend this Agreement, with immediate effect, in the event of the non-compliance by the other Party of one of the essential elements of this Agreement.

#### *Article 134*

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 the Republic of Serbia, of the other part.

### *Article 135*

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 Serbia on the other.

The Agreement shall not apply in Kosovo which is at present under international administration pursuant to United Nations Security Council Resolution 1244 of 10 June 1999. This is without prejudice to the current status of Kosovo or the determination of its final status under the same Resolution.

### *Article 136*

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

### *Article 137*

This Agreement shall be drawn up in duplicate in the Bulgarian, Spanish, Czech, Danish, German, Estonian, Greek, English, French, Italian, Latvian, Lithuanian, Hungarian, Maltese, Dutch, Polish, Portuguese, Romanian, Slovak, Slovene, Finnish and Swedish languages and in the Serbian language, each text being equally authentic.

### *Article 138*

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

This Agreement shall enter into force on the first day of the second month following the date on which the Parties notify each other that the procedures referred to in the first paragraph have been completed.

### *Article 139*

#### *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 Serbia, the Parties agree that, in such circumstances for the purpose of the provisions of Title IV, Articles 73, 74 and 75 of this Agreement, Protocols 1, 2, 3, 5, 6 and 7, and relevant provisions of Protocol 4, 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.

## **FINAL ACT**

**The plenipotentiaries of:**

**THE KINGDOM OF BELGIUM,**

**THE REPUBLIC OF BULGARIA,**

**THE CZECH REPUBLIC,**

**THE KINGDOM OF DENMARK,**

**THE FEDERAL REPUBLIC OF GERMANY,**

**THE REPUBLIC OF ESTONIA,**

**IRELAND,**

**THE HELLENIC REPUBLIC,**

**THE KINGDOM OF SPAIN,**

**THE FRENCH REPUBLIC,**

**THE ITALIAN REPUBLIC,**

**THE REPUBLIC OF CYPRUS,**

**THE REPUBLIC OF LATVIA,**

**THE REPUBLIC OF LITHUANIA,**

**THE GRAND DUCHY OF LUXEMBOURG,**

**THE REPUBLIC OF HUNGARY,**

**MALTA,**

**THE KINGDOM OF THE NETHERLANDS,**

**THE REPUBLIC OF AUSTRIA,**

**THE REPUBLIC OF POLAND,**

**THE PORTUGUESE REPUBLIC,**

**ROMANIA,**

**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 "the Member States", and of

**the EUROPEAN COMMUNITY and the EUROPEAN ATOMIC ENERGY COMMUNITY,**

hereinafter referred to as "the Community"

of the one part, and

**the plenipotentiaries of the THE REPUBLIC OF SERBIA,**

hereinafter referred to as "Serbia",

of the other part,

meeting in Luxembourg on the fifteenth day of October in the year 2007 for the signature of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Serbia, of the other part, hereinafter referred to as "this Agreement", have adopted the following texts:

this Agreement and its Annexes I to VII, namely:

- Annex I (Article 21) – Serbian tariff concessions for Community industrial products
- Annex II (Article 26) – Definition of "baby beef" products
- Annex III (Article 27) – Serbian tariff concessions for Community agricultural products
- Annex IV (Article 29) – Community concessions for Serbian fishery products
- Annex V (Article 30) – Serbian concessions for Community fishery products
- Annex VI (Article 52) – Establishment: "financial services"
- Annex VII (Article 75) – Intellectual, industrial and commercial property rights

and the following Protocols:

- Protocol 1 (Article 25) – Trade on processed agricultural products
- Protocol 2 (Article 28) – Wine and spirit drinks
- Protocol 3 (Article 44) – Definition of the concept of originating products and methods of administrative cooperation
- Protocol 4 (Article 61) – Land transport
- Protocol 5 (Article 73) – State aid to the steel industry
- Protocol 6 (Article 99) – Mutual administrative assistance in customs matters
- Protocol 7 (Article 129) – Dispute settlement

The plenipotentiaries of the Member States and of the Community and the plenipotentiaries of Serbia have adopted the texts of the joint declaration listed below and annexed to this Final Act:

Joint Declaration on Article 75

The plenipotentiaries of Serbia have taken note of the Declaration listed below and annexed to this Final Act:

Declaration by the Community and its Member State.

## **JOINT DECLARATIONS**

### **JOINT DECLARATION ON ARTICLE 3**

The Parties to this Stabilisation and Association Agreement, European Communities and their member states, of the one part, and the Republic of Serbia, of the other part, consider that the proliferation of weapons of mass destruction and their means of delivery, both at state and non-state actors level, represents one of the most serious threats to international peace, stability and security as confirmed by the UNSCR 1540. Non-proliferation of WMD is therefore a joint concern for the European Communities and their member states and Serbia.

The fight against the proliferation of weapons of mass destruction and their means of delivery also constitutes a fundamental element for the European Union when it considers the decision of entering into an agreement with a third country. This is why the Council decided in November 2003 that a non-proliferation clause should be inserted in the new agreements with third countries and agreed on a text of standard clause (see doc. 14997/03). Such a clause has since been inserted in European Union's agreements with nearly one hundred countries.

The European Union and the Republic of Serbia, as responsible members of the international community, reaffirm their full commitment to the principle of non-proliferation of the weapons of mass destruction and their means of delivery and to the full implementation of their international obligations arising out of international instruments they are parties to.

It is in this spirit and in line with the above stated general EU policy and Serbian commitment to the principle of non-proliferation of the weapons of mass destruction and their means of delivery, both Parties agreed to include, in Article 3 of this agreement, the standard clause on WMD as set out by the EU Council.

### **JOINT DECLARATION ON ARTICLE 32**

The purpose of measures defined in Article 32 is to monitor the trade of products with high content of sugar that could be used for further processing and to prevent the possible distortion in patterns of trade of sugar and products not having characteristics essentially different to the characteristics of sugar.

This article should be interpreted in such a manner that does not disturb or disturbs to the least possible scale the trade in products intended for final consumption.

### **JOINT DECLARATION ON ARTICLE 75**

The Parties agree that for the purpose of this Agreement, intellectual and industrial property includes in particular copyright, including the copyright in computer programmes, and neighbouring rights, the rights relating to databases, patents including supplementary protection certificates, industrial designs, trademarks and service marks,

topographies of integrated circuits, geographical indications, including appellation of origins, and plant variety rights.

The protection of commercial property rights includes in particular the protection against unfair competition as referred to in Article 10bis of the Paris Convention for the Protection of Industrial Property and the protection of undisclosed information as referred to in Article 39 of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement).

The Parties further agree that the level of protection referred to in Article 75, paragraph 3, shall include the availability of the measures, procedures and remedies provided for in Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights.

### **DECLARATION BY THE COMMUNITY AND ITS MEMBER STATES**

Considering that exceptional trade measures are granted by the European Community to countries participating or linked to the EU Stabilisation and Association process including Serbia on the basis of Regulation (EC) No. 2007/2000, the European Community and its Member States declare:

- that, in application of Article 35 of this Agreement, those of the unilateral autonomous trade measures which are more favourable shall apply in addition to the contractual trade concessions offered by the Community in this Agreement as long as Council Regulation (EC) No. 2007/2000 as amended applies;
- that, in particular, 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 reduction shall apply also to the specific customs duty in derogation from the relevant provision of Article 26 paragraph 2.