

2. Bosnia and Herzegovina shall conclude before the end of the transitional period referred to in Article 18(1) with Turkey, which has established a customs union with the Community, 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.

TITLE IV

FREE MOVEMENT OF GOODS

ARTICLE 18

1. The Community and Bosnia and Herzegovina shall gradually establish a free trade area over a period lasting a maximum of five 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 ¹, actually applied *erga omnes* on the day of the signature of this Agreement;
- (b) the Bosnia and Herzegovina's applied Customs Tariff for 2005 ².

¹ Council Regulation (EEC) No 2658/87 (OJ L 256, 7.9.1987, p. 1) as amended.

² Official Gazette of Bosnia and Herzegovina No 58/04 of 22.12.2004.

5. The reduced duties to be applied by Bosnia and Herzegovina calculated as set out in this Agreement shall be rounded to the nearest decimal numbers using common arithmetical principles. Therefore, all figures which have less than 5 after the first decimal point shall be rounded down to the nearest decimal number and all figures which have more than 5 (included) after the first decimal point shall be rounded up to the nearest decimal number.

6. 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 Bosnia and Herzegovina to the WTO or,
- (c) from subsequent reductions after the accession of Bosnia and Herzegovina 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.

7. The Community and Bosnia and Herzegovina shall communicate to each other their respective basic duties and any changes thereof.

CHAPTER I

INDUSTRIAL PRODUCTS

ARTICLE 19

Definition

1. The provisions of this Chapter shall apply to products originating in the Community or in Bosnia and Herzegovina 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 Bosnia and Herzegovina.

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 Bosnia and Herzegovina.

ARTICLE 21

Bosnia and Herzegovina concessions on industrial products

1. Customs duties on imports into Bosnia and Herzegovina 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 Bosnia and Herzegovina shall be abolished upon the entry into force of this Agreement on industrial products originating in the Community.
3. Customs duties on imports into Bosnia and Herzegovina of industrial products originating in the Community which are listed in Annex I(a), I(b) and I(c) shall be progressively reduced and abolished in accordance with timetables indicated in that Annex.
4. Quantitative restrictions on imports into Bosnia and Herzegovina 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 Bosnia and Herzegovina 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 Bosnia and Herzegovina 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

Bosnia and Herzegovina 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 Bosnia and Herzegovina.
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, 1902 20 10 and 2301 20 00.

ARTICLE 25

Processed agricultural products

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

ARTICLE 26

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

ARTICLE 27

Agricultural products

1. From the date of entry into force of this Agreement, the Community shall abolish the customs duties and charges having equivalent effect on imports of agricultural products originating in Bosnia and Herzegovina, 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.

2. 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 Bosnia and Herzegovina 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 1 500 tonnes expressed in carcass weight.

3. 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 Bosnia and Herzegovina of headings 1701 and 1702 of the Combined Nomenclature, within the limit of an annual tariff quota of 12 000 tonnes (net weight).

4. From the date of entry into force of this Agreement, Bosnia and Herzegovina shall:
 - (a) abolish the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Annex III(a);
 - (b) reduce progressively the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Annex III(b), III(c) and III(d) in accordance with the timetable indicated for each product in that Annex;
 - (c) abolish the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Annex III(e) within the limit of the tariff quota indicated for the products concerned.
5. Protocol 7 lays down the arrangements applicable to the wine and spirit drinks products referred to therein.

ARTICLE 28

Fish and fishery products

1. From the date of entry into force of this Agreement the Community shall abolish all customs duties or charges having equivalent effect on fish and fishery products originating in Bosnia and Herzegovina, other than those listed in Annex IV. Products listed in Annex IV shall be subject to the provisions laid down therein.

2. From the date of entry into force of this Agreement Bosnia and Herzegovina shall abolish customs duties or charges having an equivalent effect on fish and fishery products originating in the Community in line with the provisions as specified in Annex V.

ARTICLE 29

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 Bosnia and Herzegovina of the role of agriculture and fisheries in the economy of Bosnia and Herzegovina, of the consequences of the multilateral trade negotiations in the framework of the WTO as well as of the eventual accession of Bosnia and Herzegovina to the WTO, the Community and Bosnia and Herzegovina 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 30

Notwithstanding other provisions of this Agreement, and in particular Article 39, 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 to 28, cause serious disturbance to the markets or to their domestic regulatory mechanisms, in the other Party, both Parties shall enter into consultations immediately to find an appropriate solution. Pending such solution, the Party concerned may take the appropriate measures it deems necessary.

ARTICLE 31

Protection of geographical indications for agricultural and fishery products and foodstuffs other than wine and spirit drinks

1. Bosnia and Herzegovina shall provide protection of 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,¹ in accordance with the terms of this Article. Geographical indications of Bosnia and Herzegovina for agricultural and fishery products shall be eligible for registration in the Community under the conditions set out in that Regulation.

¹ OJ L 93, 31.3.2006, p. 12. Regulation as amended by Council Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

2. Bosnia and Herzegovina 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. Bosnia and Herzegovina shall refuse the registration of a trademark the use of which corresponds to the situations referred to in paragraph 2.
4. Trademarks which have been registered in Bosnia and Herzegovina or established by use, the use of which corresponds to the situations referred to in paragraph 2, shall no longer be used within six years following the entry into force of this Agreement. However, this shall not apply to trademarks registered in Bosnia and Herzegovina 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 as terms customary in common language as the common name for such goods in Bosnia and Herzegovina shall cease at the latest on 31 December 2013.
6. Bosnia and Herzegovina shall ensure the protection referred to in paragraphs 1 to 5 on its own initiative as well as at the request of an interested party.

CHAPTER III

COMMON PROVISIONS

ARTICLE 32

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.

ARTICLE 33

Improved concessions

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

ARTICLE 34

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 Bosnia and Herzegovina.
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 Bosnia and Herzegovina.
3. Without prejudice to the concessions granted under Articles 25, 26, 27 and 28, 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 Bosnia and Herzegovina and of the Community and the taking of any measures under those policies in so far as the import regime in Annexes III to V and Protocol 1 is not affected.

ARTICLE 35

Prohibition of fiscal discrimination

1. The Community and Bosnia and Herzegovina 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 36

Customs 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 37

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 Bosnia and Herzegovina or resulting from the bilateral agreements specified in Title III concluded by Bosnia and Herzegovina 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 Bosnia and Herzegovina stated in this Agreement.

ARTICLE 38

Dumping and subsidy

1. None of the provisions in this Agreement shall prevent any Party from taking trade defence action in accordance with paragraph 2 of this Article and Article 39.
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 39

General safeguard 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(4)(a) and (b) and (6) 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 a maximum of 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, at least, four 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 Bosnia and Herzegovina on the other part, as the case may be, 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 two Parties concerned.

5. For the implementation of 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 forth with provisional measures necessary to deal with the situation and shall inform the other Party immediately thereof.

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

- 6. In the event of the Community or Bosnia and Herzegovina 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 40

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 Bosnia and Herzegovina, as the case may be, shall supply the Stabilisation and Association Council with all relevant information, with a view to seeking a solution acceptable to the Parties. The Parties within the Stabilisation and Association Council may agree on any means needed to put an end to the difficulties. If no agreement is reached within 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 Bosnia and Herzegovina, whichever is concerned, may apply forthwith the precautionary measures necessary to deal with the situation and shall inform the other Party immediately thereof.

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

ARTICLE 41

State monopolies

Bosnia and Herzegovina shall adjust any state monopolies of a commercial character so as to ensure that, following 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 and of Bosnia and Herzegovina.

ARTICLE 42

Rules of origin

Except if otherwise stipulated in this Agreement, Protocol 2 lays down the rules of origin for the application of the provisions of this Agreement.

ARTICLE 43

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 44

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, that is linked to objective information concerning irregularities or fraud.

4. The application of a temporary suspension shall be subject to the following conditions:

- (a) the Party which has made a finding, on the basis of objective information, of a failure to provide administrative cooperation and/or of irregularities or fraud shall without undue delay notify the Stabilisation and Association Committee of its finding together with the objective information and enter into consultations within the Stabilisation and Association Committee, on the basis of all relevant information and objective findings, with a view to reaching a solution acceptable to both Parties;
- (b) where the Parties have entered into consultations within the Stabilisation and Association Committee 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 the minimum necessary to protect the financial interests of the Party concerned. They shall not exceed a period of six months, which may be renewed. Temporary suspensions shall be notified immediately after their adoption to the Stabilisation and Association Committee. They shall be subject to periodic consultations within the Stabilisation and Association Committee in particular with a view to their termination as soon as the conditions for their application no longer prevail.

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 45

Financial responsibility

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 2, where this error leads to consequences in terms of import duties, the Party facing such consequences may request the Stabilisation and Association Council to examine the possibilities of adopting all appropriate measures with a view to resolving the situation.

ARTICLE 46

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