

TITLE VI

APPROXIMATION OF LAWS, LAW ENFORCEMENT AND COMPETITION RULES

ARTICLE 70

1. The Parties recognise the importance of the approximation of the existing legislation of Bosnia and Herzegovina to that of the Community and of its effective implementation. Bosnia and Herzegovina shall endeavour to ensure that its existing laws and future legislation will be gradually made compatible with the Community *acquis*. Bosnia and Herzegovina 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 shall, at an early stage, focus on fundamental elements of the Internal Market *acquis* as well as on other trade-related areas. At a further stage Bosnia and Herzegovina 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 Bosnia and Herzegovina.

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

ARTICLE 71

Competition and other economic provisions

1. The following are incompatible with the proper functioning of this Agreement, insofar as they may affect trade between the Community and Bosnia and Herzegovina:

- (a) 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;
- (b) abuse by one or more undertakings of a dominant position in the territories of the Community or of Bosnia and Herzegovina as a whole or in a substantial part thereof;

(c) 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 public authority is entrusted with the powers necessary for the full application of paragraph 1(a) and (b), regarding private and public undertakings and undertakings to which special rights have been granted.

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

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

6. Bosnia and Herzegovina shall establish a comprehensive inventory of aid schemes instituted before the establishment of the authority referred to in paragraph 4 and shall align such aid schemes with the criteria referred to in paragraph 2 within a period of no more than four years from the entry into force of this Agreement.
7. (a) For the purposes of applying the provisions of paragraph 1(c), the Parties recognise that during the first six years after the entry into force of this Agreement, any public aid granted by Bosnia and Herzegovina shall be assessed taking into account the fact that Bosnia and Herzegovina shall be regarded as an area identical to those areas of the Community described in Article 87(3)(a) of the EC Treaty.
- (b) By the end of the fifth year from the entry into force of this Agreement, Bosnia and Herzegovina 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 Bosnia and Herzegovina 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. Protocol 4 establishes the special rules on State aid applicable to the restructuring of the steel industry.

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

- (a) paragraph 1(c) shall not apply;
- (b) any practices contrary to paragraph 1(a) 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 either Party, of anti-dumping or countervailing measures in accordance with the relevant Articles of the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures and the respective related internal legislation.

ARTICLE 72

Public undertakings

By the end of the third year following the entry into force of this Agreement, Bosnia and Herzegovina 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 Bosnia and Herzegovina.

ARTICLE 73

Intellectual, industrial and commercial property rights

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 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. Bosnia and Herzegovina shall take all 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. Bosnia and Herzegovina 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 Parties affirm the importance they attach to the principles of the Agreement on Trade-Related Aspects of Intellectual Property Rights. The Stabilisation and Association Council may decide to oblige Bosnia and Herzegovina 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 74

Public contracts

1. The Community and Bosnia and Herzegovina 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. Companies of Bosnia and Herzegovina, whether established in the Community or not, 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 Bosnia and Herzegovina has adopted the legislation introducing the Community rules in this area. The Community shall examine periodically whether Bosnia and Herzegovina has indeed introduced such legislation.

3. Community companies established in Bosnia and Herzegovina 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 Bosnia and Herzegovina under treatment no less favourable than that accorded to companies of Bosnia and Herzegovina.

4. Community companies not established in Bosnia and Herzegovina shall be granted access to contract award procedures in Bosnia and Herzegovina under treatment no less favourable than that accorded to companies of Bosnia and Herzegovina at the latest five years after the entry into force of this Agreement. In the five year transitional period Bosnia and Herzegovina shall ensure gradual reduction of existing preferences so that the preferential rate upon the entry into force of this Agreement shall amount to a maximum of 15 % in the first and the second year, a maximum of 10 % in the third and the fourth year, and a maximum of 5 % in the fifth year.

5. The Stabilisation and Association Council shall periodically examine the possibility for Bosnia and Herzegovina to introduce access to contract award procedures in Bosnia and Herzegovina for all Community companies. Bosnia and Herzegovina 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 Bosnia and Herzegovina, and also employment and movement of labour linked to the fulfilment of public contracts, the provisions of Articles 47 to 69 are applicable.

ARTICLE 75

Standardisation, metrology, accreditation and conformity assessment

1. Bosnia and Herzegovina 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 Bosnia and Herzegovina's participation in the work of organisations related to standards, conformity assessment, metrology and similar functions (e.g. CEN, CENELEC, ETSI, EA, WELMEC, EUROMET) ¹;
 - (d) Where appropriate, conclude an Agreement on Conformity Assessment and Acceptance of Industrial Products once the legislative framework and the procedures of Bosnia and Herzegovina are sufficiently aligned on that of the Community and appropriate expertise is available.

¹ European Committee for Standardisation, European Committee for Electrotechnical Standardisation, European Telecommunications Standards Institute, European cooperation for Accreditation, European Cooperation in Legal Metrology, European Organisation of Metrology.

ARTICLE 76

Consumer protection

The Parties shall cooperate in order to align the standards of consumer protection in Bosnia and Herzegovina 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 encourage and ensure:

- (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 Bosnia and Herzegovina with 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.

ARTICLE 77

Working conditions and equal opportunities

Bosnia and Herzegovina 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 78

Reinforcement of institutions and rule of law

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

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