

INTERIM AGREEMENT ON TRADE AND TRADE-RELATED
MATTERS BETWEEN THE EUROPEAN COMMUNITY, OF THE ONE
PART, AND THE REPUBLIC OF ALBANIA, OF THE OTHER PART

THE EUROPEAN COMMUNITY,
hereinafter referred to as "the Community",

of the one part, and

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

of the other part,

WHEREAS:

(1) The Stabilisation and Association Agreement between the European Communities and its Member States, of the one part, and Albania, of the other part (hereinafter referred to as "the Stabilisation and Association Agreement"), was signed in Luxembourg on 12 June 2006.

(2) The Stabilisation and Association Agreement is intended to establish a close and lasting relationship based on reciprocity and mutual interest, which should allow Albania to further strengthen and extend the already established relationship with the European Union.

(3) It is necessary to ensure the development of trade links by strengthening and widening the relations established previously, notably by the Agreement between the European Economic Community and the Republic of Albania, on Trade and Commercial and Economic Cooperation (hereinafter referred to as "Agreement on Trade and Commercial and Economic Cooperation"), signed on 11 May 1992, which entered into force on 4 December 1992.

(4) To this end it is necessary to implement as speedily as possible, by means of an Interim Agreement, provisions of the Stabilisation and Association Agreement on trade and trade-related matters.

(5) Some of the provisions included in Protocol 5 to the Stabilisation and Association Agreement on land transport, which are related to road transit traffic, are directly linked to free movement of goods and should consequently be included in this Interim Agreement.

(6) It is necessary to ensure that pending the entry into force of the Stabilisation and Association Agreement and the establishment of the Stabilisation and Association Council, the Joint Committee set up by the Agreement on Trade and Commercial and Economic Cooperation can exercise the powers assigned by the Stabilisation and Association Agreement to the Stabilisation and Association Council and the Stabilisation and Association Committee, which are necessary in order to implement the Interim Agreement,

HAVE DECIDED to conclude this Agreement and to this end have designated as their plenipotentiaries:

THE EUROPEAN COMMUNITY

- [Presidency to designate the representative]
- Olli REHN, Member of the European Commission

ALBANIA

- [to be designated]

WHO, having exchanged their full powers, found in good and due form,

HAVE AGREED AS FOLLOWS:

TITLE I

GENERAL PRINCIPLES

ARTICLE 1 (SAA Article 2)

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

ARTICLE 2 (SAA Article 7)

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

TITLE II

FREE MOVEMENT OF GOODS

ARTICLE 3 (SAA Article 16)

1. The Community and Albania shall gradually establish a free trade area over a period lasting a maximum of ten years starting from the date of entry into force of this Agreement in accordance with the provisions of this Agreement and in conformity with those of the GATT 1994 and the WTO. In so doing they shall take into account the specific requirements laid down hereinafter.

2. The Combined Nomenclature of goods shall be applied to the classification of goods in trade between the two Parties.

3. For each product the basic duty to which the successive reductions set out in this Agreement are to be applied shall be the duty actually applied *erga omnes* on the day preceding the signature of this Agreement.

4. The reduced duties to be applied by Albania calculated as set out in this Agreement shall be rounded to whole numbers using common arithmetical principles. Therefore, all figures which have less than 50 (included) after the decimal point shall be rounded down to the nearest whole number and all figures which have more than 50 after the decimal point shall be rounded up to the nearest whole number.

5. If, after the signature of this Agreement, any tariff reduction is applied on an erga omnes basis, in particular reductions resulting from the tariff negotiations in the WTO, such reduced duties shall replace the basic duty referred to in paragraph 3 as from the date when such reductions are applied.

6. The Community and Albania shall communicate to each other their respective basic duties.

CHAPTER I

INDUSTRIAL PRODUCTS

ARTICLE 4 (SAA Article 17)

1. The provisions of this Chapter shall apply to products originating in the Community or in Albania listed in Chapters 25 to 97 of the Combined Nomenclature, with the exception of the products listed in Annex I, § I, (ii) of the Agreement on agriculture (GATT 1994).

2. Trade between the Parties in products covered by the Treaty establishing the European Atomic Energy Community shall be conducted in accordance with the provisions of that Treaty.

ARTICLE 5 (SAA Article 18)

1. Customs duties on imports into the Community of products originating in Albania shall be abolished upon the date of entry into force of this Agreement.

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

ARTICLE 6 (SAA Article 19)

1. Customs duties on imports into Albania of goods originating in the Community other than those listed in Annex I shall be abolished upon the date of entry into force of this Agreement.

2. Customs duties on imports into Albania of goods originating in the Community which are listed in Annex I shall be progressively reduced in accordance with the following timetable:

– on the date of entry into force of this Agreement, the import duty shall be reduced to 80% of the basic duty;

– on 1 January of the first year following the date of entry into force of this Agreement, the import duty shall be reduced to 60% of the basic duty;

- on 1 January of the second year following the date of entry into force of this Agreement, the import duty shall be reduced to 40% of the basic duty;

- on 1 January of the third year following the date of entry into force of this Agreement, the import duty shall be reduced to 20% of the basic duty;

- on 1 January of the fourth year following the date of entry into force of this Agreement, the import duty shall be reduced to 10% of the basic duty;

- on 1 January of the fifth year following the date of entry into force of this Agreement, the remaining import duties shall be abolished.

3. Quantitative restrictions on imports into Albania of goods originating in the Community and measures having equivalent effect shall be abolished upon the date of entry into force of this Agreement.

ARTICLE 7 (SAA Article 20)

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

ARTICLE 8 (SAA Article 21)

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

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

ARTICLE 9 (SAA Article 22)

Albania declares its readiness to reduce its customs duties in trade with the Community more rapidly than is provided for in Article 6, if its general economic situation and the situation of the economic sector concerned so permit.

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

ARTICLE 10 (SAA Article 23)

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

CHAPTER II AGRICULTURE AND FISHERIES

ARTICLE 11 (SAA Article 24)

Definition

1. The provisions of this Chapter shall apply to trade in agricultural and fishery products originating in the Community or in Albania.

2. The term "agricultural and fishery products" refers to the products listed in Chapters 1 to 24 of the Combined Nomenclature and the products listed in Annex I, § I, (ii) of the Agreement on agriculture (GATT, 1994).

3. This definition includes fish and fisheries products covered by Chapter 3, Headings 1604 and 1605, and Sub-headings 0511 91, 2301 20 00 and 1902 20 10.

ARTICLE 12 (SAA Article 25)

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

ARTICLE 13 (SAA Article 26)

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

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

ARTICLE 14 (SAA Article 27)

Agricultural products

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

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

2. From the date of entry into force of this Agreement, the Community shall apply duty-free access on imports into the Community for products originating in Albania of Headings 1701 and 1702 of the Combined Nomenclature, within the limit of an annual tariff quota of 1000 tonnes.

3. On the date of entry into force of this Agreement, Albania shall:

(a) abolish the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Annex II(a);

(b) reduce progressively the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Annex II(b) in accordance with the timetable indicated for each product in that Annex;

(c) abolish the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Annex II(c) within the limit of the tariff quota indicated for the products concerned.

4. Protocol 3 lays down the arrangements applicable to the wine and spirit products referred to therein.

5. Albania shall benefit from the full amount of the quotas set out in this Agreement during the remainder of the calendar year in which this Agreement enters into force.

ARTICLE 15 (SAA Article 28)

Fish and fisheries products

1. On the date of entry into force of this Agreement the Community shall eliminate all customs duties on fish and fisheries products, other than those listed in Annex III originating in Albania. Products listed in Annex III shall be subject to the provisions laid down therein.

Albania shall benefit from the full amount of the quotas set out in this Agreement during the remainder of the calendar year in which this Agreement enters into force.

2. From the date of entry into force of this Agreement Albania shall not apply any customs duties or charges having an equivalent effect to a customs duty on fish and fisheries products originating in the Community.

ARTICLE 16 (SAA Article 29)

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

ARTICLE 17 (SAA Article 30)

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

ARTICLE 18 (SAA Article 31)

Notwithstanding other provisions of this Agreement, and in particular Articles 25 and 30, given the particular sensitivity of the agricultural and fisheries markets, if imports of products originating in one of the two Parties, which are the subject of concessions granted pursuant to Articles 12, 14 and 15, cause serious disturbance to the markets or to their domestic regulatory mechanisms in the other Party, both Parties shall enter into consultations immediately to find an appropriate solution. Pending such solution, the Party concerned may take the appropriate measures it deems necessary.

CHAPTER III COMMON PROVISIONS

ARTICLE 19 (SAA Article 32)

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

ARTICLE 20 (SAA Article 33)

Standstill

1. From the date of entry into force of this Agreement no new customs duties on imports or exports or charges having equivalent effect shall be introduced, nor shall those already applied be increased, in trade between the Community and Albania.

2. From the date of entry into force of this Agreement no new quantitative restriction on imports or exports or measure having equivalent effect shall be introduced, nor shall those existing be made more restrictive, in trade between the Community and Albania.

3. Without prejudice to the concessions granted under Article 13, the provisions of paragraphs 1 and 2 of this Article shall not restrict in any way the pursuit of the respective agricultural policies of Albania and the Community or the taking of any measures under those policies insofar as the import regime in Annexes II and III is not affected.

ARTICLE 21 (SAA Article 34)

Prohibition of fiscal discrimination

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

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

ARTICLE 22 (SAA Article 35)

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

ARTICLE 23 (SAA Article 36)

Customs unions, free trade areas, cross-border arrangements

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

2. During the transitional periods specified in Article 6, this Agreement shall not affect the implementation of the specific preferential arrangements governing the movement of goods either laid down in frontier Agreements previously concluded between one or more Member States and Albania or resulting from the bilateral Agreements concluded by Albania in order to promote regional trade.

3. Consultations between the Parties shall take place within the Stabilisation and Association Council concerning the Agreements described in paragraphs 1 and 2 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 Community, such consultations shall take place so as to ensure that account is taken of the mutual interests of the Community and Albania stated in this Agreement.

ARTICLE 24 (SAA Article 37)

Dumping and subsidy

1. None of the provisions in this Agreement shall prevent either Party from taking trade defence action in accordance with paragraph 2 of this Article and Article 25.

2. If one of the Parties finds that dumping and/or countervailable subsidisation is taking place in trade with the other Party, the first Party may take appropriate measures against this practice in accordance with the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 and the WTO Agreement on Subsidies and Countervailing Measures and its own related internal legislation.

ARTICLE 25 (SAA Article 38)

General safeguard clause

1. The provisions of Article XIX GATT 1994 and the WTO Agreement on Safeguard are applicable between the Parties.

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

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

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

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

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

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

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

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

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

3. Before taking the measures provided for in paragraph 1 or, as soon as possible in cases to which paragraph 4 applies the Community or Albania, as the case may be, shall supply the Stabilisation and Association Council with all relevant information, with a view to seeking a solution acceptable to the Parties. The Parties within the Stabilisation and Association Council may agree on any means needed to put an end to the difficulties. If no agreement is reached within thirty days of the matter being referred to the Stabilisation and Association Council, the exporting Party may apply measures under this Article on the exportation of the product concerned. ARTICLE 26 (SAA Article 39)

Shortage clause

1. Where compliance with the provisions of this Title leads to:
4. Where exceptional and critical circumstances requiring immediate action make prior information or examination, as the case may be, impossible, the Community or Albania, whichever is concerned, may apply a critical shortage of foodstuffs or other products essential to the exporting Party; Party immediately thereof.

(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.
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.

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

ARTICLE 27 (SAA Article 40)

State monopolies

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

ARTICLE 28 (SAA Article 41)

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

ARTICLE 29 (SAA Article 42)

Restrictions authorised

This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures of artistic, historic or archaeological value or the protection of intellectual, industrial and commercial property, or rules relating to gold and silver. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties.

ARTICLE 30 (SAA Article 43)

1. The Parties agree that administrative cooperation is essential for the implementation and the control of the preferential treatment granted under this Title and underline their commitment to combat irregularities and fraud in customs and related matters.

2. Where a Party has made a finding, on the basis of objective information, of a failure to provide administrative cooperation and/or of irregularities or fraud under this Title, the Party concerned may temporarily suspend the relevant preferential treatment of the product(s) concerned in accordance with this Article.

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

(a) a repeated failure to respect the obligations to verify the originating status of the product(s) concerned;

(b) a repeated refusal or undue delay in carrying out and/or communicating the results of subsequent verification of the proof of origin;

(c) a repeated refusal or undue delay in obtaining authorisation to conduct administrative cooperation missions to verify the authenticity of documents or accuracy of information relevant to the granting of the preferential treatment in question.

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

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

(a) The Party which has made a finding, on the basis of objective information, of a failure to provide administrative cooperation and/or of irregularities or fraud shall without undue delay notify the Stabilisation and Association Committee of its finding together with the objective information and enter into consultations within the Stabilisation and Association Committee, on the basis of all relevant information and objective findings, with a view to reaching a solution acceptable to both Parties.

(b) Where the Parties have entered into consultations within the Stabilisation and Association Committee 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 extent necessary to protect the financial interests of the Party concerned. They shall not exceed a period of six months, which may be renewed. Temporary suspensions shall be notified immediately after their adoption to the Stabilisation and Association Committee. They shall be subject to periodic consultations within the Stabilisation and Association Committee in particular with a view to their termination as soon as the conditions for their application no longer exist.

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

ARTICLE 31 (SAA Article 44)

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

ARTICLE 32 (SAA Article 45)

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

TITLE III

OTHER TRADE AND TRADE-RELATED PROVISIONS

ARTICLE 33 (SAA point 1 of Article 59) Transit traffic Definitions

(Protocol 5 SAA, Article 3(a) and (b))

1. For the purposes of this Article, the following definitions shall apply:

(a) "Community transit traffic" means the carriage, by a carrier established in the Community, of goods in transit through Albanian territory en route to or from a Member State of the Community;

(b) "Albanian transit traffic" means the carriage, by a carrier established in Albania, of goods in transit from Albania through Community territory and destined for a third country or of goods from a third country destined for Albania.

General Provisions (Protocol 5 SAA, Article 11(2), (3) and (5))

2. The Parties agree to grant unrestricted access to Community transit traffic through Albania and to Albanian transit traffic through the Community with effect from the date of entry into force of this Agreement.

3. If, as a result of the rights granted under paragraph 2, transit traffic by Community hauliers increases to such a degree as to cause or threaten to cause serious harm to road infrastructure and/or traffic fluidity on the axes mentioned in Article 5 of Protocol 5 on land transport to the Stabilisation and Association Agreement, and under the same circumstances problems arise on Community territory close to the Albanian borders, the matter shall be submitted to the Stabilisation and Association Council in accordance with Article 43 of this Agreement. The Parties may propose such exceptional, temporary, non-discriminatory measures as are necessary to limit or mitigate such harm.

4. The Parties shall refrain from taking any unilateral action that might lead to discrimination between Community and Albanian carriers or vehicles. Each Party shall take all steps necessary to facilitate road transport to or through the territory of the other Party.

Simplification of formalities (Protocol 5 SAA, Article 19(1) and (3))

5. The Parties agree to simplify the flow of goods by rail and road, whether bilateral or in transit.

6. The Parties agree, to the extent necessary, to take joint action on, and to encourage, the adoption of further simplification measures.

Implementation (Protocol 5 SAA, Article 21(1) and (2)(d))

7. Cooperation between the Parties shall be carried out within the framework of the Stabilisation and Association Committee in accordance with Article 43 of this Agreement. It shall, in particular, coordinate the monitoring, forecasting and other statistical work relating to international transport and in particular transit traffic.

ARTICLE 34 (SAA Article 60)

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

ARTICLE 35 (SAA Article 67)

1. The Parties shall endeavour wherever possible to avoid the imposition of restrictive measures, including measures relating to imports, for balance of payments purposes. A Party adopting such measures shall present as soon as possible to the other Party a timetable for their removal.

2. Where one or more Member States or Albania is in serious balance of payments difficulties, or under imminent threat thereof, the Community or Albania, as the case may be, may, in accordance with the conditions established under the WTO Agreement, adopt restrictive measures, including measures relating to imports, which shall be of limited duration and may not go beyond what is strictly necessary to remedy the balance of payments situation. The Community or Albania, as the case may be, shall inform the other Party forthwith.

3. Any restrictive measures shall not apply to transfers related to investment and in particular to the repatriation of amounts invested or reinvested or any kind of revenues stemming therefrom.

ARTICLE 36 (SAA Article 69)

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

ARTICLE 37 (SAA 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 Albania:

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

(ii) abuse by one or more undertakings of a dominant position in the territories of the Community or of Albania as a whole or in a substantial part thereof;

(iii) any State aid which distorts or threatens to distort competition by favouring certain undertakings or certain products.

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

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

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

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

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

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

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

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

- paragraph 1(iii) shall not apply;

- any practices contrary to paragraph 1(i) shall be assessed according to the criteria established by the Community on the basis of Articles 36 and 37 of the Treaty establishing the European Community and specific Community instruments adopted on this basis.

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

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

ARTICLE 38 (SAA Article 72)

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

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

ARTICLE 39 (SAA Article 73)

Intellectual, industrial and commercial property

1. Pursuant to the provisions of this Article and Annex IV, the Parties confirm the importance that they attach to ensuring adequate and effective protection and enforcement of intellectual, industrial and commercial property rights.

2. Albania shall take all the necessary measures in order to guarantee no later than four years after the date of entry into force of this Agreement a level of protection of intellectual, industrial and commercial property rights similar to that existing in the Community, including effective means of enforcing such rights.

3. Albania undertakes to accede, within four years after the date of entry into force of this Agreement, to the multilateral Conventions on intellectual, industrial and commercial property rights referred to in paragraph 1 of Annex IV. The Stabilisation and Association Council may decide to oblige Albania to accede to specific multilateral Conventions in this area.

4. If problems in the area of intellectual, industrial and commercial property affecting trading conditions occur, they shall be referred urgently to the Stabilisation and Association Council, at the request of either Party, with a view to reaching mutually satisfactory solutions.

ARTICLE 40 (SAA Article 74)

Public contracts

1. The Parties consider the opening-up of the award of public contracts on the basis of non-discrimination and reciprocity, in particular in the WTO context, to be a desirable objective.

2. Albanian companies, whether established or not in the Community, shall be granted access to contract award procedures in the Community pursuant to Community procurement rules under treatment no less favourable than that accorded to Community companies as from the date of entry into force of this Agreement.

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

3. Community companies not established in Albania shall be granted access to contract award procedures in Albania pursuant to the Albanian Law on Public Procurement under treatment no less favourable than that accorded to Albanian companies at the latest four years after the date of entry into force of this Agreement.

4. The Stabilisation and Association Council shall periodically examine the possibility of Albania introducing access to contract award procedures in Albania for all Community companies.

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

ARTICLE 41 (SAA Article 97)

Customs

1. The Parties shall establish cooperation in this area with a view to guaranteeing compliance with the provisions to be adopted in the area of trade and to achieving the approximation of the customs system of Albania to that of the Community, thereby helping to pave the way for the liberalisation measures planned under the Stabilisation and Association Agreement and for the gradual approximation of the Albanian customs legislation to the *acquis*.

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

3. Protocol 5 establishes the rules on mutual administrative assistance between the Parties in the customs field.

TITLE IV

INSTITUTIONAL, GENERAL AND FINAL PROVISIONS

ARTICLE 42

The Joint Committee set up by the Agreement on Trade and Commercial and Economic Cooperation shall exercise the powers and perform the duties assigned by this Agreement to the Stabilisation and Association Council or to the Stabilisation and Association Committee.

Subject to the provisions of Article 43, the Joint Committee shall act according to the same modalities as practised so far in the context of the Agreement on Trade and Commercial and Economic Cooperation.

ARTICLE 43 (SAA Articles 117 and 118)

The Joint Committee 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 Joint Committee may also make appropriate recommendations. It shall draw up its decisions and recommendations by agreement between the Parties.

The Joint Committee shall adopt its own Rules of Procedure. The Joint Committee shall meet at regular intervals, and when circumstances require. The Joint Committee shall be chaired alternately by each of the Parties. Whenever possible the agenda of the Joint Committee shall be agreed beforehand.

ARTICLE 44 (SAA Article 119)

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

ARTICLE 45 (SAA Article 123)

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

ARTICLE 46 (SAA Article 124)

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

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

ARTICLE 47 (SAA Article 125)

1. In the fields covered by this Agreement and without prejudice to any special provisions contained therein: the arrangements applied by Albania in respect of the Community shall not give rise to any discrimination between the Member States, their nationals or its companies or firms; the arrangements applied by the Community in respect of Albania shall not give rise to any discrimination between the nationals of Albania or its 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 48 (SAA Article 15)

Cooperation with countries candidate for accession to the European Union

1. Albania may foster its cooperation and conclude a Convention on regional cooperation with any country candidate for accession to the European Union in any of the fields of cooperation covered by this Agreement. Such Convention should aim gradually to align bilateral relations between Albania and that country to the relevant part of the relations between the Community and its Member States and that country.

2. Albania shall start negotiations with Turkey with a view to concluding, on a mutually advantageous basis, an Agreement establishing a free trade area between the two Parties in accordance with Article XXIV of the GATT.

These negotiations shall be opened as soon as possible, with a view to concluding such Agreement before the end of the transitional period referred to in Article 3(1).

ARTICLE 49 (SAA Article 126)

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

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

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

ARTICLE 50 (SAA Article 127)

The Parties agree to consult promptly through appropriate channels at the request of either Party to discuss any matter concerning the interpretation or implementation of this Agreement and other relevant aspects of the relations between the Parties. The provisions of this Article shall in no way affect and are without prejudice to Articles 18, 24, 25, 26 and 30.

ARTICLE 51 (SAA Article 129)

Annexes I to IV and Protocols 1 to 5 shall form an integral part of this Agreement.

The references in the Annexes and Protocols are references to the Articles of the Stabilisation and Association Agreement and should be read as referring to the corresponding Articles of this Agreement as indicated in the titles of the Articles thereof.

ARTICLE 52

This Agreement shall be applicable until the entry into force of the Stabilisation and Association Agreement signed in Luxembourg on 12 June 2006.

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

ARTICLE 53 (SAA Article 132)

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty, and to the territory of Albania on the other.

ARTICLE 54 (SAA Article 133)

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

□

ARTICLE 55 (SAA Article 134)

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

ARTICLE 56 (SAA Article 135)

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

The instruments of ratification or approval shall be deposited with the General Secretariat of the Council of the European Union. This Agreement shall enter into force on the first day of the second month following the date of the deposit of the last instrument of ratification or approval. Upon the entry into force of this Agreement, Articles 3 to 14 of the Agreement on Trade and Commercial and Economic Cooperation shall be suspended.