

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.