

## EUROPEAN COMMUNITY – CROATIA INTERIM AGREEMENT

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### INTERIM AGREEMENT

on trade and trade-related matters between the European Community, of the one part, and the Republic of Croatia, of the other part

*The European Community,*

hereinafter referred to as "the Community",

of the one part, and

*The Republic Of Croatia,*

hereinafter referred to as "Croatia"

of the other part,

*Whereas:*

1. The Stabilisation and Association Agreement between the European Communities and its Member States, of the one part, and the Republic of Croatia, of the other part, was signed at Luxembourg, on 29 October 2001.
2. The Stabilisation and Association Agreement is intended to establish a close and lasting relationship based on reciprocity and mutual interest, which should allow Croatia to formalise and strengthen the existing relationship with the European Union.
3. It is necessary to ensure the development of trade links through the establishment of a contractual relation.
4. To this end it is necessary to implement as speedily as possible, by means of an Interim Agreement, the provisions of the Stabilisation and Association Agreement on trade and trade-related matters.
5. Some of the provisions included in Protocol 6 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 consequently have to 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, and in the absence of any other contractual institutional structure a specific framework is created to assist in the implementation of the Interim Agreement,

*Have decided* to conclude this Agreement and to this end have designated as their plenipotentiaries:

*The European Community:*

- Louis MICHEL  
Deputy Prime Minister and Minister for Foreign Affairs of the Kingdom of Belgium  
President-in-Office of the Council of the European Union
- Christopher PATTEN  
Member of the Commission of the European Communities,

*Croatia:*

- Tonino PICULA  
Minister of Foreign Affairs of the Republic of Croatia

*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 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.

**TITLE II**

Free Movement Of Goods

*Article 2 (SAA Article 15)*

1. The Community and Croatia shall gradually establish a free trade area over a period lasting a maximum of six years starting from the entry into force of this Agreement in accordance with the provisions of this Agreement and in conformity with those of the GATT 1994 and the WTO. In so doing they shall take into account the specific requirements laid down hereinafter.
2. The Combined Nomenclature 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 or the duty bound in the WTO for the year 2002, whichever is the lowest.
4. 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.
5. The Community and Croatia shall communicate to each other their respective basic duties.

## CHAPTER I

### Industrial Products

#### *Article 3 (SAA Article 16)*

1. The provisions of this Chapter shall apply to products originating in the Community or in Croatia 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 Agreement on agriculture (GATT 1994).
2. The provisions of Articles 4 and 5 shall neither apply to textile products nor to steel products of Chapter 72 of the Combined Nomenclature, as specified in Articles 9 and 10.
3. 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 4 (SAA Article 17)*

1. Customs duties on imports into the Community of products originating in Croatia shall be abolished upon the 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 Croatia.

#### *Article 5 (SAA Article 18)*

1. Customs duties on imports into Croatia of goods originating in the Community other than those listed in Annexes I and II shall be abolished upon the entry into force of this Agreement.
2. Customs duties on imports into Croatia of goods originating in the Community which are listed in Article I shall be progressively reduced and eliminated in accordance with the following timetable:
  - on the entry into force of the Agreement each duty shall be reduced to 60 % of the basic duty,
  - on 1 January 2003 each duty shall be reduced to 30 % of the basic duty,
  - on 1 January 2004 the remaining duties shall be abolished.
3. Customs duties on imports into Croatia of goods originating in the Community which are listed in Article II shall be progressively reduced and eliminated in accordance with the following timetable:
  - on the entry into force of the Agreement each duty shall be reduced to 70 % of the basic duty,
  - on 1 January 2003 each duty shall be reduced to 50 % of the basic duty,
  - on 1 January 2004 each duty shall be reduced to 40 % of the basic duty,

- on 1 January 2005 each duty shall be reduced to 30 % of the basic duty,
- on 1 January 2006 each duty shall be reduced to 15 % of the basic duty,
- on 1 January 2007 the remaining duties shall be abolished.

4. Quantitative restrictions on imports into Croatia 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 6 (SAA Article 19)*

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

*Article 7 (SAA Article 20)*

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

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

*Article 8 (SAA Article 21)*

Croatia declares its readiness to reduce its customs duties in trade with the Community more rapidly than is provided for in Article 5, if its general economic situation and the situation of the economic sector concerned so permit.

The Interim Committee shall make recommendations to this effect.

*Article 9 (SAA Article 22)*

Protocol 1 lays down the arrangements applicable to the textile products referred to therein.

*Article 10 (SAA Article 23)*

Protocol 2 lays down the arrangements applicable to the steel products of Chapter 72 of the Combined Nomenclature referred to therein.

## **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 Croatia.

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 Agreement on agriculture (GATT, 1994).

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

*Article 12 (SAA Article 25)*

Protocol 3 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 Croatia.

2. On the date of entry into force of this Agreement, Croatia 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 Croatia, other than those of heading Nos 0102, 0201, 0202 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 III and originating in Croatia at 20 % of the *ad valorem* duty and 20 % of the specific duty as laid down in the Common Customs Tariff of the European Communities, within the limit of an annual tariff quota of 9400 tonnes expressed in carcase weight.

3. (a) From the date of entry into force of this Agreement, Croatia shall:
- (i) abolish the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Article IV(a);
  - (ii) abolish the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Article IV(b) within the limits of tariff quotas indicated for each product in that Annex. The tariff quotas will be increased yearly by a quantity indicated for each product in that Annex.
- (b) From the first year after the date of entry into force of this Agreement, Croatia shall:
- (i) abolish the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Article IV(c).
- (c) From the date of entry into force of this Agreement, Croatia shall:

- (i) abolish progressively the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Article IV(d) within the limits of tariff quotas and in accordance with the timetable indicated for each product in that Annex;
- (ii) reduce progressively to 50 % of the most-favoured nation treatment (MFN) duty the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Article IV(e) in accordance with the timetable indicated for each product in that Annex;
- (iii) reduce progressively to 50 % of the MFN duty the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Article IV(f) within the limits of tariff quotas in accordance with the timetable indicated for each product in that Annex.

4. The trade arrangements to apply to wine and spirit products will be defined in an additional protocol on wine and spirits.

*Article 15 (SAA Article 28)*

Fisheries Products

1. From the entry into force of this Agreement, the Community shall totally eliminate customs duties on fish and fisheries products, other than those listed in Annex V(a), originating in Croatia. Products listed in Annex V(a) shall be subject to the provisions laid down therein.

2. From the entry into force of this Agreement, Croatia shall abolish all charges having an equivalent effect to a custom duty and totally eliminate customs duties on fish and fisheries products, other than those listed in Annex V(b), originating in the European Community. Products listed in Annex V(b) shall be subject to provisions laid down therein.

*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 Croatian policies for agriculture and fisheries, of the role of agriculture and fisheries in Croatia's economy and of the consequences of the multilateral trade negotiations under the WTO, the Community and Croatia shall examine in the Interim Committee, no later than 1 July 2006, 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 Article 25, 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 Article 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 Croatia.
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 Croatia.
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 Croatia and the Community or the taking of any measures under those policies in so far as the import regime in the Annexes III, IV(a), (b), (c), (d), (e), (f) and V(a) and (b) 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 in so far as they alter the trade arrangements provided for in this Agreement.
2. During the transitional periods specified in Article 5, 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 the Socialist Federal Republic of Yugoslavia and succeeded to by Croatia or resulting from the bilateral agreements concluded by Croatia in order to promote regional trade.
3. Consultations between the Parties shall take place within the Interim Committee 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 Croatia stated in this Agreement.

*Article 24 (SAA Article 37)*

Dumping

1. If one of the Parties finds that dumping is taking place in trade with the other Party within the meaning of Article VI of the GATT 1994, it may take appropriate measures against this practice in accordance with the Agreement on implementation of Article VI of the GATT 1994 and its own related internal legislation.
2. As regards paragraph 1 of this Article, the Interim Committee shall be informed of the dumping case as soon as the authorities of the importing Party have initiated an investigation. When no end has been put to the dumping within the meaning of Article VI of the GATT 1994 or no other satisfactory solution has been reached within 30 days of the matter being referred to the Interim Committee, the importing Party may adopt the appropriate measures.

*Article 25 (SAA Article 38)*

General Safeguard Clause

1. 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.

2. The Community and Croatia shall only apply safeguard measures between themselves in accordance with the provisions of this Agreement. Such measures 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. Such measures shall contain clear elements progressively leading to their elimination at the end of the set period at the latest. Measures 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 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.

3. In the cases specified in this Article, before taking the measures provided for therein or, in the cases to which paragraph 4(b) applies, as soon as possible, the Community or Croatia, as the case may be, shall supply the Interim Committee with all relevant information, with a view to seeking a solution acceptable to the two Parties.

4. 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 Interim Committee, which may take any decisions needed to put an end to such difficulties.

If the Interim Committee or the exporting Party has not taken a decision putting an end to the difficulties or no other satisfactory solution has been reached within 30 days of the matter being referred to the Interim Committee, 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;

- (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 precautionary measures necessary to deal with the situation and shall inform the other Party immediately thereof.

5. The safeguard measures shall be notified immediately to the Interim Committee 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 Croatia 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.

#### *Article 26 (SAA Article 39)*

##### 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 of this Article or, as soon as possible in cases to which paragraph 4 of this Article applies, the Community or Croatia, as the case may be, shall supply the Interim Committee with all relevant information, with a view to seeking a solution acceptable to the Parties. The Parties within the Interim Committee 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 Interim Committee, 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 Croatia, 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 Interim Committee 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 27 (SAA Article 40)*

State Monopolies

Croatia shall progressively adjust any state monopolies of a commercial character so as to ensure that, by the end of the fourth year 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 of the European Union and Croatia. The Interim Committee shall be informed about the measures adopted to attain this objective.

*Article 28 (SAA Article 41)*

Protocol 4 lays down the rules of origin for the application of tariff preferences provided for in 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)*

Both Parties agree to cooperate to reduce the potential for fraud in the application of the trade provisions of this Agreement.

Notwithstanding other provisions of this Agreement, and in particular Articles 18, 25 and 37 and Protocol 4, where one Party finds that there is sufficient evidence of fraud such as a significant increase in trade of products by one Party to the other Party, beyond the level reflecting economic conditions such as normal production and export capacities, or failure to provide administrative cooperation as required for the verification of evidence of origin by 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. In the selection of the measures, priority must be given to those which least disturb the functioning of the arrangements established in this Agreement.

*Article 31 (SAA Article 44)*

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

*Article 32 (SAA Article 58(1))*

Road Transit Traffic

Road transit traffic shall be regulated by the provisions of Protocol 6.

**TITLE III**

Payments, Competition And Other Economic Provisions

*Article 33 (SAA Article 59)*

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 Croatia.

*Article 34 (SAA Article 66)*

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 of the European Union or Croatia is in serious balance of payments difficulties, or under imminent threat thereof, the Community or Croatia, 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 Croatia, 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 35 (SAA Article 70)*Competition And Other Economic Provisions

1. The following are incompatible with the proper functioning of the Agreement, in so far as they may affect trade between the Community and Croatia:

- (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 Croatia 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) of this Article, regarding private and public undertakings and undertakings to which special rights have been granted.

4. Croatia shall establish an operationally independent authority which is entrusted with the powers necessary for the full application of paragraph 1(iii) of this Article within one year from the date of entry into force of this Agreement. This authority shall have, inter alia, the powers to authorise state aid schemes and individual aid grants in conformity with paragraph 2 of this Article, 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. Croatia 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 of this Article 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(iii), the Parties recognise that during the first four years after the entry into force of this Agreement, any public aid granted by Croatia shall be assessed taking into account the fact that Croatia 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.

(b) Within three years from the entry into force of this Agreement, Croatia 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 Croatia 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 of this Article, it may take appropriate measures after consultation within the Interim Committee 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 GATT 1994 and WTO Agreement on Subsidies and Countervailing Measures or related internal legislation.

*Article 36 (SAA Article 71)*

Intellectual, Industrial And Commercial Property

1. Pursuant to the provisions of this Article and Annex VI, the Parties confirm the importance that they attach to ensure adequate and effective protection and enforcement of intellectual, industrial and commercial property rights.
2. Croatia shall take the necessary measures in order to guarantee no later than three 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.
3. The Interim Committee may decide to oblige Croatia 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 Interim Committee, at the request of either Party, with a view to reaching mutually satisfactory solutions.

*Article 37 (SAA Article 89)*

Customs

Mutual assistance between administrative authorities in customs matters of the Parties shall take place in accordance with the provisions of Protocol 5.

**TITLE IV**

Institutional, General And Final Provisions

*Article 38*

An Interim Committee is hereby established which shall supervise the application and implementation of this Agreement. It shall hold meetings at regular intervals and when circumstances require.

*Article 39*

1. The Interim Committee shall have the power to take decisions within the scope of the Agreement, in the cases provided for therein. The decisions taken shall be binding on the Parties which shall take the measures necessary to implement them. The Interim Committee may also formulate recommendations which it considers desirable for the purpose of attaining the common objectives and the smooth functioning of this Agreement. It shall draw up its decisions and recommendations by agreement between the Parties.
2. The Interim Committee shall adopt its own rules of procedure.

*Article 40*

1. The Interim Committee shall be composed of representatives of the Community, on the one hand, and of representatives of Croatia, on the other. The members of the Interim Committee may be represented as laid down in its rules of procedure.
2. The chairmanship of the Interim Committee will alternate between the Parties, in accordance with the conditions laid down in the rules of procedures.
3. The Interim Committee shall act by mutual agreement by the Parties.

*Article 41*

The Interim Committee may create subcommittees.

*Article 42 (SAA Article 113)*

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

*Article 43 (SAA Article 117)*

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 44 (SAA Article 118)*

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 45 (SAA Article 119)*

1. In the fields covered by this Agreement and without prejudice to any special provisions contained therein:

- the arrangements applied by Croatia in respect of the Community shall not give rise to any discrimination between the Member States, their nationals, companies or firms,
- the arrangements applied by the Community in respect of Croatia shall not give rise to any discrimination between Croatian nationals, 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 46 (SAA Article 120)*

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 Interim Committee 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 Interim Committee and shall be the subject of consultations within the Interim Committee if the other Party so requests.

*Article 47 (SAA Article 121)*

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, 25, 26 and 30.

*Article 48 (SAA Article 123)*

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

*Article 49 (SAA Article 124)*

This Agreement shall be applicable until the entry into force of the Stabilisation and Association Agreement signed at Luxembourg, on 29 October 2001.

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

*Article 50 (SAA Article 126)*

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 Croatia, on the other.

*Article 51 (SAA Article 127)*

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

*Article 52 (SAA Article 128)*

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

*Article 53 (SAA Article 129)*

1. The Parties shall approve this Agreement in accordance with their own procedures.
2. This Agreement shall enter into force on the first day of the second month following the date on which the Parties notify each other that the procedures referred to in the first paragraph have been completed. In the event of the procedures under paragraph 1 not being completed in time to allow for its entry into force on 1 January 2002, this Agreement shall provisionally apply as from that date.

Done at Luxembourg on the twenty-ninth day of October in the year two thousand and one.

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