COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.6.2007
COM(2007) 350final

2007/0123 (AVC)

Proposal for a

**COUNCIL DECISION**

**on the signing of the Stabilisation and Association Agreement between the European Communities and its Member States and the Republic of Montenegro on behalf of the European Community**

Proposal for a

**COUNCIL AND COMMISSION DECISION**

**on the conclusion of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

1. The attached two proposals constitute the legal instruments for the signature and the conclusion of the Stabilisation and Association Agreement between the European Communities and their Member States, on the one part, and the Republic of Montenegro, hereinafter called Montenegro, on the other part: (i) Proposal for a Council Decision for the signature of the Agreement; (ii) Proposal for a Council and Commission Decision for the conclusion of the Agreement.

2. The Commission presented in April 2005 its Feasibility Report on an SAA with Serbia and Montenegro[1]. The Report concluded that Serbia and Montenegro were sufficiently prepared to negotiate an SAA the Council decided on 3 October 2005 to authorise the Commission to negotiate a Stabilisation and Association Agreement with Serbia and Montenegro. The negotiation for a Stabilisation and Association Agreement with Serbia and Montenegro was launched on 10 October 2005.

3. Following a referendum in May 2006, the Montenegrin Parliament adopted on 3 June 2006 a Declaration of Independence and the Republic of Montenegro withdrew from the State Union of Serbia and Montenegro. Consequently, new Negotiating Directives for Montenegro was adopted on 24 July 2006 and negotiations resumed on 25 September 2006. These negotiations were finished on 1 December 2006 and after consultations with the EU Member States, the results of the negotiations the Stabilisation and Association Agreement was initialled in Podgorica on 15 March 2007.

4. The Stabilisation and Association Agreement focuses on the following main elements:

   – provision for political dialogue with Montenegro;

   – provisions on enhanced regional co-operation, including the perspective of establishing free trade areas between the countries of the region;

   – the perspective of the establishment of a free-trade area between the Community and Montenegro within five years of the entry into force of the Agreement;

   – provisions on the movement of workers, freedom of establishment, supply of services, current payments and movement of capital;

   – the commitment by Montenegro to approximate its legislation to that of the EC, notably in key areas of the internal market;

   – provisions on co-operation with Montenegro in a wide range of fields, including justice, freedom and security.

   – provision for the establishment of a Stabilisation and Association Council which supervises the implementation of the Agreement, of a Stabilisation and Association Committee and a Stabilisation and Association Parliamentary Committee.

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[1] COM (2005) 476 final of 12 April 2005.

5. The Commission asks the Council to give its final approval to the text of the SAA, which were undertaken in close consultation with the Special Committee created for this purpose (namely COWEB), and to engage the procedures for the signature and conclusion of this Agreement on the basis of the attached two proposals.

6. The procedures for the signature and the conclusion of the Agreement are different for the two European Communities: (the European Community and the European Atomic Energy Community):

   a) as regards signature, the first indent, first sentence of Article 300 (2) of the EC Treaty provides for a separate Council Decision concerning the signing of the Agreement on behalf of the European Community; similar acts are not required under the EAEC Treaty

   b) as regards conclusion of the Agreement:

   – The Council concludes the Agreement on behalf of the European Community, after having received the assent of the European Parliament, by virtue of Article 310 of the Treaty;

   – The Council approves the Agreement on behalf of the European Atomic Energy Community by virtue of the second paragraph of Article 101 of the EAEC Treaty and the Agreement is then concluded by the Commission.

7. In line with the above the Commission requests the Council to (i) decide on the signature of the Agreement on behalf of the European Community (ii) conclude the Agreement on behalf of the European Community and to give its approval for conclusion by Euratom.

   Ratification by all Member States is a prerequisite for the entry into force of the Agreement.

Proposal for a

**COUNCIL DECISION**

**on the signing of the Stabilisation and Association Agreement between the European Communities and its Member States and the Republic of Montenegro on behalf of the European Community**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 310 in conjunction with the first sentence of the first sub paragraph of Article 300 (2) thereof,

Having regard to the proposal from the Commission[2],

Whereas:

(1) Negotiations with Republic of Montenegro on the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Montenegro, of the other part, have been completed.

(2) The commercial provisions contained in this agreement are of an exceptional nature, connected with the policy implemented within the framework of the Stabilisation and Association Process and will not constitute, for the European Union, any precedent in the commercial policy of the Community with regard to third countries other than those of the Western Balkans.

(3) Subject to a possible conclusion at a later date, the Agreement initialled on 15 March 2007 should therefore be signed on behalf of the European Community,

[2] OJ C , , p. .

HAS DECIDED AS FOLLOWS:

*Sole Article*

Subject to its possible conclusion at a later date, the President of the Council is hereby authorised to designate the persons empowered to sign, on behalf of the European Community, the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part.

Done at Brussels,

*For the Council*
*The President*

2007/0123 (AVC)

Proposal for a

# COUNCIL AND COMMISSION DECISION

## on the conclusion of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part

THE COUNCIL OF THE EUROPEAN UNION,
THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 310 in conjunction with Article 300 (2), first subparagraph, last sentence and Article 300 (3), second subparagraph thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the proposal from the Commission,

Having regard to the assent of the European Parliament[3],

Having regard to the approval of the Council granted pursuant to Article 101 of the Treaty establishing the European Atomic Energy Community,

Whereas

(1) The Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro of the other part, has been signed on behalf of the European Community, in [Brussels/Luxembourg] on ... 2007, subject to its possible conclusion at a later date, in accordance with Council Decision no… /CE of …[4].

(2) The commercial provisions contained in this agreement are of an exceptional nature, connected with the policy implemented within the framework of the stabilisation and association process and will not constitute, for the European Union, any precedent in the commercial policy of the Community with regard to third countries other than those of the Western Balkans.

(3) This Agreement should be approved,

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[3] OJ C , , p. .
[4] OJ C , , p. .

HAVE DECIDED AS FOLLOWS:

*Article 1*

The Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, the Annexes and Protocols annexed thereto, as well as the joint declarations and the declaration by the Community attached to the Final Act, are hereby approved on behalf of the European Community and the European Atomic Energy Community.

The texts referred to in the first paragraph are attached to this Decision.

*Article 2*

1. The position to be taken by the Community within the Stabilisation and Association Council and within the Stabilisation and Association Committee when the latter is empowered to act by the Stabilisation and Association Council shall be determined by the Council, on a proposal by the Commission, or, where appropriate, by the Commission, each in accordance with the corresponding provisions of the Treaties.

2. The President of the Council shall, in accordance with Article 120 of the Stabilisation and Association Agreement, preside over the Stabilisation and Association Council. A representative of the Commission shall preside over the Stabilisation and Association Committee, in accordance with the Rules of Procedure thereof.

3. The decision to publish the decisions of the Stabilisation and Association Council and the Stabilisation and Association Committee in the *Official Journal of the European Communities* shall be taken on a case-by-case basis by the Council and the Commission respectively.

*Article 3*

The President of the Council is hereby authorised to designate the persons empowered, on behalf of the European Community, to deposit the act of approval provided for in Article 138 of the Agreement. The President of the Commission shall deposit the said act of approval on behalf of the European Atomic Energy Community.

Done at Brussels,

*For the Council*
*The President*

*For the Commission*
*The President*

**ANNEX**

**STABILISATION AND ASSOCIATION AGREEMENT**
**between the European Communities and their Member States and the Republic of Montenegro**

**STABILISATION AND ASSOCIATION AGREEMENT**
**between the European Communities and their Member States and the Republic of Montenegro**

**THE KINGDOM OF BELGIUM,**

**THE REPUBLIC OF BULGARIA,**

**THE CZECH REPUBLIC,**

**THE KINGDOM OF DENMARK,**

**THE FEDERAL REPUBLIC OF GERMANY,**

**THE REPUBLIC OF ESTONIA,**

**THE HELLENIC REPUBLIC,**

**THE KINGDOM OF SPAIN,**

**THE FRENCH REPUBLIC,**

**IRELAND,**

**THE ITALIAN REPUBLIC,**

**THE REPUBLIC OF CYPRUS,**

**THE REPUBLIC OF LATVIA,**

**THE REPUBLIC OF LITHUANIA,**

**THE GRAND DUCHY OF LUXEMBOURG,**

**THE REPUBLIC OF HUNGARY,**

**THE REPUBLIC OF MALTA,**

**THE KINGDOM OF THE NETHERLANDS,**

**THE REPUBLIC OF AUSTRIA,**

**THE REPUBLIC OF POLAND,**

**THE PORTUGUESE REPUBLIC,**

**ROMANIA,**

**THE REPUBLIC OF SLOVENIA,**

**THE SLOVAK REPUBLIC,**

**THE REPUBLIC OF FINLAND,**

**THE KINGDOM OF SWEDEN,**

**THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND**

Contracting Parties to the Treaty establishing the European Community and the Treaty establishing the European Atomic Energy Community, and the Treaty on European Union, hereinafter referred to as "Member States", and

**THE EUROPEAN COMMUNITY and THE EUROPEAN ATOMIC ENERGY COMMUNITY,**

hereinafter referred to as the "Community",

of the one part, and

**THE REPUBLIC OF MONTENEGRO**, hereinafter referred to as "Montenegro" of the other part,

CONSIDERING the strong links between the Parties and the values that they share, their desire to strengthen those links and establish a close and lasting relationship based on reciprocity and mutual interest, which should allow Montenegro to further strengthen and extend the relations with the Community and its Member States.

CONSIDERING the importance of this Agreement, in the framework of the Stabilisation and Association process (SAp) with the countries of south-eastern Europe, in the establishment and consolidation of a stable European order based on co-operation, of which the European Union is a mainstay, as well as in the framework of the Stability Pact.

CONSIDERING the European Union's readiness to integrate Montenegro to the fullest possible extent into the political and economic mainstream of Europe and its status as a potential candidate for EU membership on the basis of the Treaty on European Union and fulfilment of the criteria defined by the European Council in June 1993 as well as the SAp conditionalities, subject to the successful implementation of this Agreement, notably regarding regional co-operation.

CONSIDERING the European Partnership, which identifies priorities for action in order to support the country's efforts to move closer to the European Union.

CONSIDERING the commitment of the Parties to contribute by all means to the political, economic and institutional stabilisation in Montenegro as well as in the region, through the development of civil society and democratisation, institution building and public administration reform, regional trade integration and enhanced economic co-operation, as well as through co-operation in a wide range of areas, particularly in justice, freedom and security, and the strengthening of national and regional security.

CONSIDERING the commitment of the Parties to increasing political and economic freedoms as the very basis of this agreement, as well as their commitment to respect human rights and the rule of law, including the rights of persons belonging to national minorities, and democratic principles through a multi-party system with free and fair elections.

CONSIDERING the commitment of the Parties to the full implementation of all principles and provisions of the UN Charter, of the OSCE, notably those of the Helsinki Final Act, the concluding documents of the Madrid and Vienna Conferences, the Charter of Paris for a New Europe, and of the Stability Pact for south-eastern Europe, so as to contribute to regional stability and co-operation among the countries of the region;

REAFFIRMING the right of return for all refugees and internally displaced persons and to the protection of their property and other related human rights.

CONSIDERING the commitment of the Parties to the principles of free market economy and to sustainable development as well as the readiness of the Community to contribute to the economic reforms in Montenegro;

CONSIDERING the commitment of the Parties to free trade, in compliance with the rights and obligations arising out of the WTO;

CONSIDERING the wish of the Parties to further develop regular political dialogue on bilateral and international issues of mutual interest, including regional aspects, taking into account the Common Foreign and Security Policy (CFSP) of the European Union;

CONSIDERING the commitment of the Parties to combat organised crime and to strengthen co-operation in the fight against terrorism on the basis of the declaration issued by the European Conference on 20 October 2001;

CONVINCED THAT the Stabilisation and Association Agreement will create a new climate for economic relations between them and, above all, for the development of trade and investment, factors crucial to economic restructuring and modernisation;

BEARING in mind the commitment by Montenegro to approximate its legislation in the relevant sectors to that of the Community, and to effectively implement it;

TAKING ACCOUNT of the Community's willingness to provide decisive support for the implementation of reform and to use all available instruments of co-operation and technical, financial and economic assistance on a comprehensive indicative multi-annual basis to this endeavour;

CONFIRMING that the provisions of this agreement that fall within the scope of Part III, Title IV of the Treaty establishing the European Community bind the United Kingdom and Ireland as separate Contracting Parties, and not as a part of the European Community, until the United Kingdom or Ireland (as the case may be) notifies Montenegro that it has become bound as part of the European Community in accordance with the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and the Treaty establishing the European Community. The same applies to Denmark, in accordance with the Protocol annexed to those Treaties on the position of Denmark;

RECALLING the Zagreb Summit, which called for further consolidation of relations between the countries of the Stabilisation and Association process and the European Union as well as enhanced regional co-operation;

RECALLING that the Thessaloniki Summit reinforced the Stabilisation and Association process as the policy framework for the European Union's relations with the Western Balkan countries and underlined the prospect of their integration with the European Union on the basis of their individual reform progress and merit;

RECALLING the signature of the Central European Free Trade Agreement in Bucharest on 19 December 2006 as a means of enhancing the region's ability to attract investments and the prospects of its integration into the global economy;

DESIROUS of establishing closer cultural co-operation and developing exchanges of information.

HAVE AGREED AS FOLLOWS:

***Article 1***

1. An Association is hereby established between the European Communities and its Member States, of the one part; and the Republic of Montenegro of the other part.

2. The aims of this Association are:

   – to support the efforts of Montenegro to strengthen democracy and rule of law;

   – to contribute to political, economic and institutional stability in Montenegro, as well as to the stabilisation of the region;

   – to provide an appropriate framework for political dialogue, allowing the development of close political relations between the Parties;

   – to support the efforts of Montenegro to develop its economic and international co-operation, including through the approximation of its legislation to that of the Community;

   – to support the efforts of Montenegro to complete the transition into a functioning market economy;

   – to promote harmonious economic relations and gradually develop a free trade area between the Community and Montenegro;

   – to foster regional co-operation in all the fields covered by this Agreement.

## TITLE I
## GENERAL PRINCIPLES

***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, including full co-operation with the International Criminal Tribunal for the former Yugoslavia (ICTY), 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 Co-operation, shall form the basis of the domestic and external policies of the Parties and constitute essential elements of this Agreement.

*Article 3*

The fight against the proliferation of weapons of mass destruction and their means of delivery constitutes an essential element of the Agreement.

*Article 4*

The contracting parties reaffirm the importance they attach to the implementation of international obligations, notably the full co-operation with ICTY.

*Article 5*

International and regional peace and stability, the development of good neighbourly relations, human rights and the respect and protection of minorities are central to the Stabilisation and Association process referred to in the conclusions of the Council of the European Union on 21 June 1999. The conclusion and the implementation of this Agreement come within the framework of the conclusions of the Council of the European Union of 29 April 1997 and are based on the individual merits of Montenegro.

*Article 6*

Montenegro commits itself to continue to foster co-operation and good neighbourly relations with the other countries of the region including an appropriate level of mutual concessions concerning the movement of persons, goods, capital and services as well as the development of projects of common interest, notably those related to border management and combating organised crime, corruption, money laundering, illegal migration and trafficking, including in particular in human beings, small arms and illicit drugs. This commitment constitutes a key factor in the development of the relations and co-operation between the Parties and thus contributes to regional stability.

*Article 7*

The Parties reaffirm the importance that they attach to the fight against terrorism and the implementation of international obligations in this area.

*Article 8*

The association will be progressively and fully realised over a transitional period of a maximum of 5 years.

The Stabilisation and Association Council (SAC) will regularly review, as a rule on an annual basis, the implementation of the Agreement and the adoption and implementation by Montenegro of legal, administrative, institutional and economic reforms. This review will be carried out in the light of the preamble and in accordance with the general principles of this Agreement. It will take duly into account priorities set in the European Partnership relevant to

this Agreement and be in coherence with the mechanisms established under the Stabilisation and Association process, notably the progress report on the Stabilisation and Association process.

On the basis of this review, the SAC will issue recommendations and may take decisions. Where the review identifies particular difficulties, they may be referred to the mechanisms of dispute settlement established under the Agreement.

The full association will be progressively realised. No later than the third year after the entry into force of the Agreement, the SAC will make a thorough review of the application of the Agreement. On the basis of this review the SAC will evaluate progress made by Montenegro and may take decisions governing the following stages of association.

The aforementioned review will not apply to the free movement of goods (Title IV), for which a specific schedule will be foreseen in the provisions of the Agreement.

### *Article 9*

The 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 and Article V of the GATS.

## TITLE II
## POLITICAL DIALOGUE

### *Article 10*

1. Political dialogue between the Parties shall be further developed within the context of this Agreement. It shall accompany and consolidate the rapprochement between the European Union and Montenegro and contribute to the establishment of close links of solidarity and new forms of co-operation between the Parties.

2. The political dialogue is intended to promote in particular:

   – Full integration of Montenegro into the community of democratic nations and gradual rapprochement with the European Union;

   – an increasing convergence of positions of the Parties on international issues, including CFSP issues, also through the exchange of information as appropriate, and, in particular, on those issues likely to have substantial effects on the Parties;

   – regional co-operation and the development of good neighbourly relations;

   – common views on security and stability in Europe, including co-operation in the areas covered by the CFSP of the European Union.

3. The Parties consider that the proliferation of weapons of mass destruction (WMD) and their means of delivery, both to state and non-state actors, represents one of the most serious threats to international stability and security. The Parties therefore agree to co-operate and to contribute to countering the proliferation of weapons of mass destruction and their means of delivery through full compliance with and national implementation of their existing obligations under international disarmament and non-proliferation Treaties and Agreements and other relevant international obligations. The parties agree that this provision constitutes an essential element of this Agreement and will be part of the political dialogue that will accompany and consolidate these elements.

The Parties furthermore agree to co-operate and to contribute to countering the proliferation of weapons of mass destruction and their means of delivery by:

– taking steps to sign, ratify, or accede to, as appropriate, and fully implement all other relevant international instruments;

– establishing an effective system of national export controls, controlling the export as well as the transit of WMD-related goods, including a WMD end-use control on dual use technologies and containing effective sanctions for breaches of export controls.

Political dialogue on this matter may take place on a regional basis.

***Article 11***

1. Political dialogue shall take place within the Stabilisation and Association Council, which shall have the general responsibility for any matter which the Parties might wish to put to it.

2. At the request of the Parties, political dialogue may also take place in the following formats:

– meetings, where necessary, of senior officials representing Montenegro, on the one hand, and the Presidency of the Council of the European Union, the Secretary General/High Representative for the CFSP and the Commission, on the other;

– taking full advantage of all diplomatic channels between the Parties, including appropriate contacts in third countries and within the United Nations, the OSCE, the Council of Europe and other international fora;

– any other means which would make a useful contribution to consolidating, developing and stepping up this dialogue, including those identified in the Thessaloniki agenda.

***Article 12***

Political dialogue at parliamentary level shall take place within the framework of the Stabilisation and Association Parliamentary Committee established under Article 125.

*Article 13*

Political dialogue may take place within a multilateral framework, and as a regional dialogue including other countries of the region, including in the framework of the EU –Western Balkan forum.

## TITLE III
## REGIONAL CO-OPERATION

*Article 14*

In conformity with its commitment to international and regional peace and stability, and to the development of good neighbourly relations, Montenegro shall actively promote regional co-operation. The European Community assistance programmes may support projects having a regional or cross-border dimension through its technical assistance programmes.

Whenever Montenegro foresees to reinforce its co-operation with one of the countries mentioned in Articles 15 to 17 below, it shall inform and consult the Community and its Member States according to the provisions laid down in Title X, Institutional, General and Final Provisions.

Montenegro shall implement fully the existing bilateral Agreements negotiated pursuant to the Memorandum of Understanding on Trade Facilitation and Liberalisation signed in Brussels on 27 June 2001 by Serbia and Montenegro and the Central European Free Trade Agreement signed in Bucharest on 19 December 2006.

*Article 15*
*Co-operation with other countries*
*having signed a Stabilisation and Association Agreement*

After the signature of this Agreement, Montenegro shall start negotiations with the countries which have already signed a Stabilisation and Association Agreement with a view to concluding bilateral conventions on regional co-operation, the aim of which will be to enhance the scope of co-operation between the countries concerned.

The main elements of these conventions will be:

– political dialogue;

– the establishment of free trade areas, consistent with relevant WTO provisions;

– mutual concessions concerning the movement of workers, establishment, supply of services, current payments and movement of capital as well as other policies related to movement of persons at an equivalent level to that of this Agreement;

– provisions on co-operation in other fields whether or not covered by this Agreement, and notably the field of Justice, Freedom and Security.

These conventions will contain provisions for the creation of the necessary institutional mechanisms, as appropriate.

These conventions shall be concluded within 2 years after the entry into force of this Agreement. Readiness by Montenegro to conclude such conventions will be a condition for the further development of the relations between Montenegro and the European Union.

Montenegro shall initiate similar negotiations with the remaining countries of the region once these countries will have signed a Stabilisation and Association Agreement.

### *Article 16*
### *Co-operation with other countries concerned by the Stabilisation and Association process*

Montenegro shall pursue regional co-operation with the other countries concerned by the Stabilisation and Association process in some or all the fields of co-operation covered by this Agreement, and notably those of common interest. Such co-operation should always be compatible with the principles and objectives of this Agreement.

### *Article 17*
### *Co-operation with other countries candidate to EU accession not concerned by the SAp*

1. Montenegro should foster its co-operation and conclude a convention on regional co-operation with any country candidate for EU accession in any of the fields of co-operation covered by this Agreement. Such conventions should aim to gradually align bilateral relations between Montenegro and this country to the relevant part of the relations between the European Community and its Member States and this country.

2. Montenegro shall start negotiations with Turkey which has established a customs union with the European Community, with a view to concluding, on a mutually advantageous basis, an Agreement establishing a free trade area in accordance with Article XXIV of the GATT as well as liberalising the establishment and supply of services between them at an equivalent level of this Agreement in accordance with Article V of the GATS.

   These negotiations should be opened as soon as possible, with a view to concluding the above-mentioned Agreement before the end of the transitional period referred to in Article 18(1).

## TITLE IV
## FREE MOVEMENT OF GOODS

### *Article 18*

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

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

3. For the purpose of this Agreement customs duties and charges having equivalent effect to customs duties include any duty or charge of any kind imposed in connection with the importation or exportation of a good, including any form of surtax or surcharge in connection with such importation or exportation, but do not include any:

– charges equivalent to an internal tax imposed consistently with the provisions of paragraph 2 of Article III of the GATT 1994,

– antidumping or countervailing measures,

– fees or charges commensurate with the costs of services rendered.

4. For each product, the basic duty to which the successive tariff reductions set out in this Agreement are to be applied shall be:

a) the European Community Common Customs Tariff actually applied *erga omnes* on the day of the signature of this Agreement;[5]

b) the Montenegrin applied tariff[6].

5. If, after the signature of this Agreement, any tariff reduction is applied on an *erga omnes* basis, in particular reductions resulting:

a) from the tariff negotiations in the WTO or,

b) in the event of the accession of Montenegro to the WTO or,

c) from subsequent reductions after the accession of Montenegro to the WTO,

Such reduced duties shall replace the basic duty referred to in paragraph 4 as from the date when such reductions are applied.

6. The Community and Montenegro shall communicate to each other their respective basic duties and any changes thereof.

## CHAPTER I
## INDUSTRIAL PRODUCTS

### *Article 19*

### *Definition*

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

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

6 Official Gazette of Montenegro No 75/05

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

***Article 20***
***Community concessions on industrial products***

1. Customs duties on imports into the Community and charges having equivalent effect shall be abolished upon the entry into force of this Agreement on industrial products originating in Montenegro.

2. Quantitative restrictions on imports into the Community and measures having equivalent effect shall be abolished upon the entry into force of this Agreement on industrial products originating in Montenegro.

***Article 21***
***Montenegrin concessions on industrial products***

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

2. Charges having equivalent effect to customs duties on imports into Montenegro shall be abolished upon the entry into force of this Agreement on industrial products originating in the Community.

3. Customs duties on imports into Montenegro of goods originating in the Community which are listed in Annex I shall be progressively reduced and abolished in accordance with the timetable indicated in that Annex.

4. Quantitative restrictions on imports into Montenegro 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 22***
***Duties and restrictions on exports***

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

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

***Article 23***
***Faster reductions in customs duties***

Montenegro declares its readiness to reduce its customs duties in trade with the Community more rapidly than is provided for in Article 21 if its general economic situation and the situation of the economic sector concerned so permit.

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

## CHAPTER II
## AGRICULTURE AND FISHERIES

### *Article 24*
### *Definition*

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

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 WTO Agreement on Agriculture.

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

### *Article 25*
### *Processed agricultural products*

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

### *Article 26*
### *Community concessions on imports of agricultural products originating in Montenegro*

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

2. 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 Montenegro other than those of headings 0102, 0201, 0202, 1701, 1702 and 2204 of the Combined Nomenclature.

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

3. From the date of entry into force of the Agreement, the Community shall fix the customs duties applicable to imports into the Community of “baby beef” products defined in Annex II and originating in Montenegro 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 800 tonnes expressed in carcass weight.

*Article 27*
*Montenegrin concessions on agricultural products*

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

2. From the date of entry into force of this Agreement, Montenegro shall:

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

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

   (c) reduce progressively the customs duties to 50% applicable on imports of certain agricultural products originating in the Community, listed in Annex III(c) in accordance with the timetable indicated for each product in that Annex.

*Article 28*
*Wine and Spirit drinks Protocol*

Protocol 2 lays down the arrangements applicable to the wine and spirit drinks products referred to therein.

*Article 29*
*Community concessions on fish and fishery products*

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

2. From the entry into force of this Agreement the Community shall eliminate all customs duties and measures having equivalent effect on fish and fishery products originating in Montenegro other than those listed in Annex IV. Products listed in Annex IV shall be subject to the provisions laid down therein.

*Article 30*
*Montenegrin concessions on fish and fishery products*

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

2. From the entry into force of this Agreement, Montenegro shall eliminate all customs duties and measures having equivalent effect on fish and fishery products originating in the Community other than those listed in Annex V. Products listed in Annex V shall be subject to the provisions laid down therein.

*Article 31*
*Review clause*

Taking account of the volume of trade in agricultural and fishery products between the Parties, of their particular sensitivities, of the rules of the Community common policies and of the policies for agriculture and fisheries in Montenegro of the role of agriculture and fisheries in the economy of Montenegro , of the consequences of the multilateral trade negotiations under the WTO as well as of the eventual accession of Montenegro to the WTO, the Community and Montenegro shall examine in the Stabilisation and Association Council, no later than 3 years after the entry into force of this Agreement, product by product and on an orderly and appropriate reciprocal basis, the opportunities for granting each other further concessions with a view to implementing greater liberalisation of the trade in agricultural and fishery products.

*Article 32*

Notwithstanding other provisions of this Agreement, and in particular Article 41, given the particular sensitivity of the agricultural and fisheries markets, if imports of products originating in one Party, which are the subject of concessions granted pursuant to Articles 25-30, cause serious disturbance to the markets or to their domestic regulatory mechanisms, in the other Party, both Parties shall enter into consultations immediately to find an appropriate solution. Pending such solution, the Party concerned may take the appropriate measures it deems necessary.

*Article 33*
*Protection of geographical indications for agricultural and fishery products and foodstuffs other than wine and spirits*

1. Montenegro shall provide protection for the geographical indications of the Community registered in the Community under Council Regulation (EC) No 510/2006 of 20 March 2006 as amended from time to time, in accordance with the terms of this article. Geographical indications of Montenegro shall be eligible for registration in the Community under the conditions set out in Council Regulation (EC) No 510/2006 of 20 March 2006 and subsequent modifications.

2. Montenegro shall prohibit any use in its territory of the names protected in the Community for comparable products not complying with the geographical indication's specification. This shall apply even where the true geographical origin of the good is indicated, the geographical indication in question is used in translation, the name is accompanied by terms such as 'kind', 'type', 'style', 'imitation', 'method' or other expressions of the sort.

3. Montenegro shall refuse the registration of a trademark the use of which corresponds to the situations referred to in paragraph 2 of this article.

4. Trademarks the use of which corresponds to the situations referred to in paragraph 2 of this article, which have been registered in Montenegro or established by use, shall no longer be used after 1 January 2009. However, this shall not apply to trademarks registered in Montenegro and trademarks established by use which are owned by nationals of third countries, provided they are not of such a nature as to deceive in any way the public as to the quality, the specification and the geographical origin of the goods.

5. Any use of the geographical indications protected in accordance with paragraph 1 of this article as terms customary in common language as the common name for such goods in Montenegro shall cease at the latest on 1 January 2009.

6. Montenegro shall ensure that goods exported from its territory after 1 January 2009 do not infringe the provisions of this article.

7. Montenegro shall ensure the protection referred to in paragraph 1 to 6 of this article on its own initiative as well as at the request of an interested party.

## CHAPTER III
## COMMON PROVISIONS

### *Article 34*
### *Scope*

The provisions of this Chapter shall apply to trade in all products between the Parties except where otherwise provided herein or in Protocol 1.

### *Article 35*
### *Improved concessions*

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

### *Article 36*
### *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 Montenegro.

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 Montenegro.

3. Without prejudice to the concessions granted under Articles 26-30, the provisions of paragraphs 1 and 2 of this Article shall not restrict in any way the pursuit of the respective agricultural and fishery policies of Montenegro and of the Community and the taking of any measures under those policies in so far as the import regime in Annexes II-V and Protocol 1 is not affected.

### *Article 37*
### *Prohibition of fiscal discrimination*

1. The Community and Montenegro 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 38***
***Duties of a fiscal nature***

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

***Article 39***
***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 21, 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 Serbia and Montenegro or resulting from the bilateral Agreements specified in Title III concluded by Montenegro 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 Montenegro stated in this Agreement.

***Article 40***
***Dumping and subsidy***

1. None of the provisions in this Agreement shall prevent any of the Parties from taking trade defence action in accordance with paragraph 2 of this Article and Article 41.

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

***Article 41***
***Safeguards clause***

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

2. Notwithstanding paragraph 1 of this Article, where any product of one Party is being imported into the territory of the other Party in such increased quantities and under such conditions as to cause or threaten to cause:

– 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 bilateral safeguard measures under the conditions and in accordance with the procedures laid down in this Article.

3. Bilateral safeguard measures directed at imports from the other party shall not exceed what is necessary to remedy the problems, as defined in paragraph 2, which have arisen as a result of application of this Agreement. The safeguard measure adopted should consist of a suspension in the increase or in the reduction of the margins of preferences provided for under this Agreement for the product concerned up to a maximum limit corresponding to the basic duty referred to in Article 18 paragraph 4 (a) and (b) and paragraph 5 for the same product. Such measures shall contain clear elements progressively leading to their elimination at the end of the set period, at the latest, and shall not be taken for a period exceeding 2 years**.**

In very exceptional circumstances, measures may be extended for a further period of maximum 2 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, 4 years since the expiry of the measure.

4. In the cases specified in this Article, before taking the measures provided for therein or, in the cases to which paragraph 5 (b) of this Article applies, as soon as possible, the Community on the one part or Montenegro on the other part, 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 concerned.

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

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

If the Stabilisation and Association Council or the exporting Party has not taken a decision putting an end to the problems, or no other satisfactory solution has been reached within 30 days of the matter being referred to the Stabilisation and Association Council, the importing Party may adopt the appropriate measures to remedy the problem in accordance with this Article. In the selection of safeguard measures, priority must be given to those which least disturb the functioning of the arrangements established in this Agreement. Safeguard measures applied in accordance with Article XIX GATT 1994 and

the WTO Agreement on Safeguards shall preserve the level/margin of preference granted under this Agreement.

(b) Where exceptional and critical circumstances requiring immediate action make prior information or examination, as the case may be, impossible, the Party concerned may, in the situations specified in this Article, apply 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 abolition as soon as circumstances permit.

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

***Article 42***
***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 Montenegro, shall supply the Stabilisation and Association Council with all relevant information, with a view to seeking a solution acceptable to the Parties. The Parties within the Stabilisation and Association Council may agree on any means needed to put an end to the difficulties. If no agreement is reached within 30 days of the matter being referred to the Stabilisation and Association Council, the exporting Party may apply measures under this Article on the exportation of the product concerned.

4. Where exceptional and critical circumstances requiring immediate action make prior information or examination, as the case may be, impossible, the Community or Montenegro may apply forthwith the precautionary measures necessary to deal with the situation and shall inform the other Party immediately thereof.

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

***Article 43***
***State monopolies***

With regard to any state monopolies of a commercial character, Montenegro shall ensure that, by 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 Montenegro.

***Article 44***
***Rules of origin***

Except if otherwise stipulated in this Agreement, Protocol 3 lays down the rules of origin for the application of the provisions of this Agreement.

***Article 45***
***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 46***
***Failure to provide administrative co-operation***

1. The Parties agree that administrative co-operation 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 co-operation 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 co-operation 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 co-operation 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, which 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 co-operation 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 3 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 that 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 are no longer given.

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

***Article 47***

In case of error by the competent authorities in the proper management of the preferential system at export, and in particular in the application of the provisions of Protocol 3 to the present agreement where this error leads to consequences in terms of import duties, the contracting party facing such consequences may request Stabilisation and Association Council to examine the possibilities of adopting all appropriate measures with a view to resolving the situation.

*Article 48*

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

## TITLE V
## MOVEMENT OF WORKERS, ESTABLISHMENT, SUPPLY OF SERVICES, CAPITAL

### CHAPTER I
### MOVEMENT OF WORKERS

*Article 49*

1. Subject to the conditions and modalities applicable in each Member State:

   – treatment accorded to workers who are nationals of Montenegro and who are legally employed in the territory of a Member State shall be free of any discrimination based on nationality, as regards working conditions, remuneration or dismissal, compared to its own nationals;

   – the legally resident spouse and children of a worker legally employed in the territory of a Member State, with the exception of seasonal workers and of workers coming under bilateral Agreements within the meaning of Article 50, unless otherwise provided by such Agreements, shall have access to the labour market of that Member State, during the period of that worker's authorised stay of employment.

2. Montenegro shall, subject to the conditions and modalities in that Republic, accord the treatment referred to in paragraph 1 to workers who are nationals of a Member State and are legally employed in its territory as well as to their spouse and children who are legally resident in the said country.

*Article 50*

1. Taking into account the labour market situation in the Member States, subject to their legislation and to compliance with the rules in force in the Member States in the area of mobility of workers:

   – the existing facilities of access to employment for workers of Montenegro accorded by Member States under bilateral Agreements should be preserved and if possible improved;

   – the other Member States shall examine the possibility of concluding similar Agreements.

2. After 3 years**,** the Stabilisation and Association Council shall examine the granting of other improvements, including facilities for access to professional training, in accordance with the rules and procedures in force in the Member States, and taking into account the labour market situation in the Member States and in the Community.

***Article 51***

1. Rules shall be laid down for the co-ordination of social security systems for workers with nationality of Montenegro, legally employed in the territory of a Member State, and for the members of their families legally resident there. To that effect, a decision of the Stabilisation and Association Council, which should not affect any rights or obligations arising from bilateral Agreements where the latter provide for more favourable treatment, shall put the following provisions in place:

   – all periods of insurance, employment or residence completed by such workers in the various Member States shall be added together for the purpose of pensions and annuities in respect of old age, invalidity and death and for the purpose of medical care for such workers and such family members;

   – any pensions or annuities in respect of old age, death, industrial accident or occupational disease, or of invalidity resulting therefrom, with the exception of non-contributory benefits, shall be freely transferable at the rate applied by virtue of the law of the debtor Member State or States;

   – the workers in question shall receive family allowances for the members of their families as defined above;

2. Montenegro shall accord to workers who are nationals of a Member State and legally employed in their territory, and to members of their families legally resident there, treatment similar to that specified in the second and third indents of paragraph 1.

**CHAPTER II**
**ESTABLISHMENT**

***Article 52***

***Definition***

For the purposes of this Agreement:

a) "Community company" or "Montenegrin company" shall mean, respectively, a company set up in accordance with the laws of a Member State, or of Montenegro and having its registered office or central administration or principal place of business in the territory of the Community or of Montenegro. However, should the company, set up in accordance with the laws of a Member State or of Montenegro, have only its registered office in the territory of the Community or of Montenegro respectively, the company shall be considered a Community or a Montenegrin company if its operations possess a real and continuous link with the economy of one of the Member States or of Montenegro;

b) "Subsidiary" of a company shall mean a company which is effectively controlled by the first company;

c) "Branch" of a company shall mean a place of business not having legal personality which has the appearance of permanency, such as the extension of a parent body, has a management and is materially equipped to negotiate business with third Parties so that the latter, although knowing that there will if necessary be a legal link with the parent body, the head office of which is abroad, do not have to deal directly with such parent body but may transact business at the place of business constituting the extension;

d) "Establishment" shall mean:

(i) as regards nationals, the right to take up economic activities as self-employed persons, and to set up undertakings, in particular companies, which they effectively control. Self-employment and business undertakings by nationals shall not extend to seeking or taking employment in the labour market or confer a right of access to the labour market of another party. The provisions of this Chapter do not apply to those who are not exclusively self-employed;

(ii) as regards Community or Montenegrin companies, the right to take up economic activities by means of the setting up of subsidiaries and branches in Montenegro, or in the Community respectively;

e) "Operations" shall mean the pursuit of economic activities;

f) "Economic activities" shall in principle include activities of an industrial, commercial and professional character and activities of craftsmen;

g) "Community national" and "national of Montenegro" shall mean respectively a natural person who is a national of one of the Member States or Montenegro respectively;

h) with regard to international maritime transport, including inter-modal operations involving a sea leg, nationals of the Member States or of Montenegro established outside the Community and Montenegro, and shipping companies established outside the Community or Montenegro and controlled by nationals of a Member State or nationals of Montenegro, shall also be beneficiaries of the provisions of this Chapter and Chapter III, if their vessels are registered in that Member State or in Montenegro, in accordance with their respective legislation;

i) "Financial services" shall mean those activities described in Annex VI. The Stabilisation and Association Council may extend or modify the scope of that Annex.

***Article 53***

1. Montenegro shall facilitate the setting-up of operations on its territory by Community companies and nationals. To that end, they shall grant, upon entry into force of this Agreement:

(i) as regards the establishment of Community companies on the territory of Montenegro, treatment no less favourable than that accorded to its own companies or to any third country company, whichever is the better;

(ii) as regards the operation of subsidiaries and branches of Community companies on the territory of Montenegro once established, treatment no less favourable than that accorded to their own companies and branches or to any subsidiary and branch of any third country company, whichever is the better.

2. The Community and its Member States shall grant, from the entry into force of this Agreement:

(i) as regards the establishment of Montenegrin companies treatment no less favourable than that accorded by Member States to their own companies or to any company of any third country, whichever is the better;

(ii) as regards the operation of subsidiaries and branches of Montenegrin companies, established in its territory, treatment no less favourable than that accorded by Member States to their own companies and branches, or to any subsidiary and branch of any third country company, established in their territory, whichever is the better.

3. The Parties shall not adopt any new regulations or measures which introduce discrimination as regards the establishment of any other Party's companies on their territory or in respect of their operation, once established, by comparison with their own companies.

4. Four years after the entry into force of this Agreement, the Stabilisation and Association Council shall establish the modalities to extend the above provisions to the establishment of Community nationals and national of Montenegro to take up economic activities as self-employed persons.

5. Notwithstanding the provisions of this Article:

(a) Subsidiaries and branches of Community companies shall have, from the entry into force of this Agreement, the right to use and rent real property in Montenegro;

(b) Subsidiaries and branches of Community companies shall from the entry into force of the Agreement also have the right to acquire and enjoy ownership rights over real property as Montenegrin companies and as regards public goods/goods of common interest, the same rights as enjoyed by Montenegrin companies respectively where these rights are necessary for the conduct of the economic activities for which they are established.

***Article 54***

1. Subject to the provisions of Article 56, with the exception of financial services described in Annex VI, the Parties may regulate the establishment and operation of companies and nationals on their territory, in so far as these regulations do not discriminate against companies and nationals of the other Parties in comparison with its own companies and nationals.

2. In respect of financial services, notwithstanding any other provisions of this Agreement, a Party shall not be prevented from taking measures for prudential reasons, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owned by a financial service supplier, or to ensure the integrity and stability of the financial system. Such measures shall not be used as a means of avoiding the Party's obligations under the Agreement.

3. Nothing in the Agreement shall be construed to require a Party to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

***Article 55***

1. Without prejudice to any provision to the contrary contained in the Multilateral Agreement on the Establishment of a European Common Aviation Area (ECAA), the provisions of this Chapter shall not apply to air transport services, inland waterways transport services and maritime cabotage services.

2. The Stabilisation and Association Council may make recommendations for improving establishment and operations in the areas covered by paragraph 1.

***Article 56***

1. The provisions of Articles 53 and 54 do not preclude the application by a Party of particular rules concerning the establishment and operation in its territory of branches of companies of another Party not incorporated in the territory of the first Party, which are justified by legal or technical differences between such branches as compared to branches of companies incorporated in its territory or, as regards financial services, for prudential reasons.

2. The difference in treatment shall not go beyond what is strictly necessary as a result of such legal or technical differences or, as regards financial services, for prudential reasons.

***Article 57***

In order to make it easier for Community nationals and nationals from Montenegro to take up and pursue regulated professional activities in Montenegro and in the Community respectively, the Stabilisation and Association Council shall examine which steps are necessary for the mutual recognition of qualifications. It may take all necessary measures to that end.

***Article 58***

1. A Community company or a Montenegrin company established in the territory of the Republic of Montenegro or the Community respectively shall be entitled to employ, or have employed by one of its subsidiaries or branches, in accordance with the legislation in force in the host territory of establishment, in the territory of the Republic of Montenegro and the Community respectively, employees who are nationals of the Member States or nationals from Montenegro respectively, provided that such employees are key personnel as defined in paragraph 2 and that they are

employed exclusively by companies, subsidiaries or branches. The residence and work permits of such employees shall only cover the period of such employment.

2. Key personnel of the abovementioned companies herein referred to as 'organisations' are 'intra-corporate transferees' as defined in (c) of this paragraph in the following categories, provided that the organisation is a legal person and that the persons concerned have been employed by it or have been partners in it (other than as majority shareholders), for at least the year immediately preceding such movement:

(a) Persons working in a senior position with an organisation, who primarily direct the management of the establishment, receiving general supervision or direction principally from the board of directors or stockholders of the business or their equivalent including:

– directing the establishment of a department or sub-division of the establishment;

– supervising and controlling the work of other supervisory, professional or managerial employees;

– having the authority personally to recruit and dismiss or recommend recruiting, dismissing or other personnel actions;

(b) Persons working within an organisation who possess uncommon knowledge essential to the establishment's service, research equipment, techniques or management. The assessment of such knowledge may reflect, apart from knowledge specific to the establishment, a high level of qualification referring to a type of work or trade requiring specific technical knowledge, including membership of an accredited profession;

(c) An 'intra-corporate transferee' is defined as a natural person working within an organisation in the territory of a party, and being temporarily transferred in the context of pursuit of economic activities in the territory of the other party; the organisation concerned must have its principal place of business in the territory of a party and the transfer be to an establishment (branch, subsidiary) of that organisation, effectively pursuing like economic activities in the territory of the other party.

3. The entry into and the temporary presence within the territory of the Community or in Montenegro of Montenegrin nationals and Community nationals respectively shall be permitted, when these representatives of companies are persons working in a senior position, as defined in paragraph 2(a) above, within a company, and are responsible for the setting up of a Community subsidiary or branch of a Montenegrin company or of a Montenegrin subsidiary or branch of a Community company in a Member State or in the Republic of Montenegro respectively, when:

– those representatives are not engaged in making direct sales or supplying services, and do not receive remuneration from a source located within the host territory of establishment, and;

– the company has its principal place of business outside the Community or Montenegro, respectively, and has no other representative, office, branch or subsidiary in that Member State or in Montenegro respectively.

## CHAPTER III
## SUPPLY OF SERVICES

### *Article 59*

1. The Community and Montenegro undertake, in accordance with the following provisions, to take the necessary steps to allow progressively the supply of services by Community companies, Montenegrin companies or by Community nationals or nationals of Montenegro which are established in the territory of a Party other than that of the person for whom the services are intended.

2. In step with the liberalisation process mentioned in paragraph 1, the Parties shall permit the temporary movement of natural persons providing the service or who are employed by the service provider as key personnel as defined in Article 58, including natural persons who are representatives of a Community or Montenegrin company or national and are seeking temporary entry for the purpose of negotiating for the sale of services or entering into agreements to sell services for that service provider, where those representatives will not be engaged in making direct sales to the general public or in supplying services themselves.

3. After 4 years**,** the Stabilisation and Association Council shall take the measures necessary to progressively implement the provisions of paragraph 1. Account shall be taken of the progress achieved by the Parties in the approximation of their laws.

### *Article 60*

1. The Parties shall not take any measures or actions which render the conditions for the supply of services by Community and Montenegro nationals or companies which are established in a Party other than that of the person for whom the services are intended significantly more restrictive as compared to the situation existing on the day preceding the day of entry into force of the Agreement.

2. If one Party is of the view that measures introduced by the other Party since the entry into force of the Agreement result in a situation which is significantly more restrictive in respect of supply of services as compared with the situation existing at the date of entry into force of the Agreement, such first Party may request the other Party to enter into consultations.

### *Article 61*

With regard to supply of transport services between the Community and Montenegro, the following provisions shall apply:

1. With regard to land transport, Protocol 4 lays down the rules applicable to the relationship between the Parties in order to ensure, particularly, unrestricted road transit traffic across Montenegro and the Community as a whole, the effective

application of the principle of non discrimination and progressive harmonisation of the transport legislation of Montenegro with that of the Community.

2. With regard to international maritime transport, the Parties undertake to apply effectively the principle of unrestricted access to the international maritime markets and trades on a commercial basis, and to respect international and European obligations in the field of safety, security and environmental standards.

   The Parties affirm their commitment to a freely competitive environment as an essential feature of international maritime transport.

3. In applying the principles of paragraph 2, the Parties shall:

   (a) not introduce cargo-sharing clauses in future bilateral agreements with third countries;

   (b) abolish, upon the entry into force of this Agreement, all unilateral measures and administrative, technical and other obstacles that could have restrictive or discriminatory effects on the free supply of services in international maritime transport.

   (c) Each Party shall grant, *inter alia*, no less favourable treatment for the ships operated by nationals or companies of the other Party than that accorded to a Party's own ships with regard to access to ports open to international trade, the use of infrastructure and auxiliary maritime services of the ports, as well as related fees and charges, customs facilities and the assignment of berths and facilities for loading and unloading.

4. With a view to ensuring a co-ordinated development and progressive liberalisation of transport between the Parties adapted to their reciprocal commercial needs, the conditions of mutual market access in air transport shall be dealt with by the Multilateral Agreement on the Establishment of a European Common Aviation Area (ECAA).

5. Prior to the conclusion of the agreement referred to in paragraph 4, the Parties shall not take any measures or actions which are more restrictive or discriminatory as compared with the situation existing prior to the entry into force of this Agreement.

6. Montenegro shall adapt its legislation, including administrative, technical and other rules, to that of the Community existing at any time in the field of air, maritime, inland waterway and land transport insofar as it serves liberalisation purposes and mutual access to markets of the Parties and facilitates the movement of passengers and of goods.

7. In step with the common progress in the achievement of the objectives of this Chapter, the Stabilisation and Association Council shall examine ways of creating the conditions necessary for improving freedom to provide air, land and inland waterway transport services.

## CHAPTER IV
## CURRENT PAYMENTS AND MOVEMENT OF CAPITAL

### *Article 62*

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 Montenegro.

### *Article 63*

1. With regard to transactions on the capital and financial account of balance of payments, from the entry into force of the Agreement, the Parties shall ensure the free movement of capital relating to direct investments made in companies formed in accordance with the laws of the host country and investments made in accordance with the provisions of Chapter II of Title V, and the liquidation or repatriation of these investments and of any profit stemming there from.

2. With regard to transactions on the capital and financial account of balance of payments, from the entry into force of this Agreement, the Parties shall ensure the free movement of capital relating to credits related to commercial transactions or to the provision of services in which a resident of one of the Parties is participating, and to financial loans and credits, with maturity longer than a year.

3. Montenegro shall, from the entry into force of this Agreement, grant national treatment to EU nationals acquiring real estate on its territory.

4. The Community and Montenegro shall also ensure, from the entry into force of this Agreement, free movement of capital relating to portfolio investment and financial loans and credits with maturity shorter than a year.

5. Without prejudice to paragraph 1, the Parties shall not introduce any new restrictions on the movement of capital and current payments between residents of the Community and Montenegro and shall not make the existing arrangements more restrictive.

6. Without prejudice to the provisions of Article 62 and of this Article, where, in exceptional circumstances, movements of capital between the Community and Montenegro cause, or threaten to cause, serious difficulties for the operation of exchange rate policy or monetary policy in the Community or Montenegro, the Community and Montenegro, respectively, may take safeguard measures with regard to movements of capital between the Community and Montenegro for a period not exceeding 6 months if such measures are strictly necessary.

7. Nothing in the above provisions shall be taken to limit the rights of economic operators of the Parties from benefiting from any more favourable treatment that may be provided for in any existing bilateral or multilateral Agreement involving Parties to this Agreement.

8. The Parties shall consult each other with a view to facilitating the movement of capital between the Community and Montenegro in order to promote the objectives of this Agreement.

*Article 64*

1. During the first year following the date of entry into force of this Agreement, the Community and Montenegro shall take measures permitting the creation of the necessary conditions for the further gradual application of Community rules on the free movement of capital.

2. By the end of the second year following the date of entry into force of this Agreement, the Stabilisation and Association Council shall determine the modalities for full application of Community rules on the movement of capital in Montenegro.

## CHAPTER V
## GENERAL PROVISIONS

*Article 65*

1. The provisions of this Title shall be applied subject to limitations justified on grounds of public policy, public security or public health.

2. They shall not apply to activities that in the territory of any of the Parties are connected, even occasionally, with the exercise of official authority.

*Article 66*

For the purpose of this Title, nothing in this Agreement shall prevent the Parties from applying their laws and regulations regarding entry and stay, employment, working conditions, establishment of natural persons and supply of services, notably insofar as the granting, renewal or refusal of a residence permit is concerned, provided that, in so doing, they do not apply them in such a manner as to nullify or impair the benefits accruing to any Party under the terms of a specific provision of this Agreement. This provision shall be without prejudice to the application of Article 65.

*Article 67*

Companies which are controlled and exclusively owned jointly by Montenegrin companies or nationals of Montenegro and Community companies or nationals shall also be covered by the provisions of this Title.

*Article 68*

1. The Most-Favoured-Nation treatment granted in accordance with the provisions of this Title shall not apply to the tax advantages that the Parties are providing or will provide in the future on the basis of Agreements designed to avoid double taxation or other tax arrangements.

2. None of the provisions of this Title shall be construed to prevent the adoption or enforcement by the Parties of any measure aimed at preventing the avoidance or evasion of taxes pursuant to the tax provisions of Agreements to avoid double taxation and other tax arrangements or domestic fiscal legislation.

3. None of the provisions of this Title shall be construed to prevent Member States or Montenegro from applying the relevant provisions of their fiscal legislation, from distinguishing between taxpayers who are not in identical situations, in particular as regards their place of residence.

*Article 69*

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 Montenegro is in serious balance of payments difficulties, or under imminent threat thereof, the Community and Montenegro 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 and Montenegro 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 there from.

*Article 70*

The provisions of this Title shall be progressively adjusted, notably in the light of requirements arising from Article V of the General Agreement on Trade in Services (GATS).

*Article 71*

The provisions of this Agreement shall not prejudice the application by any 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.

## TITLE VI
## APPROXIMATION OF LAWS, LAW ENFORCEMENT AND COMPETITION RULES

*Article 72*

1. The Parties recognise the importance of the approximation of the existing legislation in Montenegro to that of the Community and of its effective implementation. Montenegro shall endeavour to ensure that its existing laws and future legislation will be gradually made compatible with the Community *acquis*. Montenegro will ensure that existing and future legislation will be properly implemented and enforced.

2. This approximation will start on the date of signing of the Agreement, and will gradually extend to all the elements of the Community *acquis referred* to in this Agreement by the end of the transitional period defined in Article 8 of this Agreement.

3. Approximation will, at an early stage, focus on fundamental elements of the Internal Market *acquis,* including financial sector legislation, Justice, Freedom and Security as well as on trade-related areas. At a further stage, Montenegro will focus of the remaining parts of the *acquis*.

   Approximation will be carried out on the basis of a programme to be agreed between the Commission of the European Communities and Montenegro.

4. Montenegro shall also define, in agreement with the Commission of the European Communities, the modalities for the monitoring of the implementation of approximation of legislation and law enforcement actions to be taken.

***Article 73***
***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 Montenegro:

   (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 Montenegro 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. Montenegro 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 1 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. The Community on one side and Montenegro on the other side shall ensure transparency in the area of State aid, *inter alia* by providing to the other Parties 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. Montenegro 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 4 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 5 years after the entry into force of this Agreement, any public aid granted by Montenegro shall be assessed taking into account the fact that Montenegro 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 4 years from the entry into force of this Agreement, Montenegro 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 Montenegro 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. As appropriate, Protocol 5 establishes the rules on state aid in the steel industry. This protocol establishes the rules applicable in the event restructuring aid is granted to the steel industry. It would stress the exceptional character of such aid and the fact that the aid would be limited in time and would be linked to capacity reductions within the framework of feasibility programmes.

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

- 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.

10. 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 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 the Community or Montenegro, of countervailing measures in accordance with the relevant Articles of the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures and the respective related internal legislation.

*Article 74*
***Public undertakings***

By the end of the third year following the entry into force of this Agreement, Montenegro 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.

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

*Article 75*
***Intellectual, industrial and commercial property***

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

2. From entry into force of this Agreement, the Parties shall grant to each others companies and nationals, in respect of the recognition and protection of intellectual, industrial and commercial property, treatment no less favourable than that granted by them to any third country under bilateral agreements.

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

4. Montenegro undertakes to accede, within the period referred above, to the multilateral conventions on intellectual, industrial and commercial property rights referred to in Annex VII. The Stabilisation and Association Council may decide to oblige Montenegro to accede to specific multilateral Conventions in this area.

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

*Article 76*
***Public procurement***

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

2. Montenegrin 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 entry into force of this Agreement.

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

3. Community companies established in Montenegro under the provisions of Chapter II of Title V shall, from the entry into force of this Agreement, be granted access to contract award procedures in Montenegro under treatment no less favourable than that accorded to Montenegrin companies.

4. Community companies not established in Montenegro shall be granted access to contract award procedures in Montenegro under treatment no less favourable than that accorded to Montenegrin companies as from the entry into force of this Agreement.

5. The Stabilisation and Association Council shall periodically examine the possibility for Montenegro to introduce access to contract award procedures in Montenegro for all Community companies. Montenegro shall report annually to the Stabilisation and Association Council on the measures they have taken to enhance transparency and to provide for effective judicial review of decisions taken in the area of public procurement.

6. As regards establishment, operations, supply of services between the Community and Montenegro, and also employment and movement of labour linked to the fulfilment of public contracts, the provisions of Articles 49-64 are applicable.

***Article 77***
***Standardisation, metrology, accreditation and conformity assessment***

1. Montenegro shall take the necessary measures in order to gradually achieve conformity with Community technical regulations and European standardisation, metrology, accreditation and conformity assessment procedures.

2. To this end, the Parties shall seek to:

– promote the use of Community technical regulations, European standards and conformity assessment procedures

– provide assistance to fostering the development of quality infrastructure: standardisation, metrology, accreditation and conformity assessment;

– promote the participation of Montenegro in the work of organisations related to standards, conformity assessment, metrology and similar functions (e.g. CEN, CENELEC, ETSI, EA, WELMEC, EUROMET etc).

– Where appropriate**,** conclude an Agreement on Conformity Assessment and Acceptance of Industrial Products once the legislative framework and the procedures of Montenegro is sufficiently aligned on that of the Community and appropriate expertise is available.

*Article 78*
*Consumer protection*

The Parties shall co-operate in order to align the standards of consumer protection in Montenegro to those of the Community. Effective consumer protection is necessary in order to ensure that the market economy functions properly, and this protection will depend on the development of an administrative infrastructure in order to ensure market surveillance and law enforcement in this field.

To that end, and in view of their common interests, the Parties shall encourage and ensure:

– a policy of active consumer protection, in accordance with Community law, including the increase of information and development of independent organisations;

– the harmonisation of legislation of consumer protection in Montenegro on that in force in the Community;

– effective legal protection for consumers in order to improve the quality of consumer goods and maintain appropriate safety standards

– monitoring of rules by competent authorities and providing access to justice in case of disputes;

– exchange information on dangerous products.

*Article 79*
*Working conditions and equal opportunities*

Montenegro shall progressively harmonise its legislation to that of the Community in the fields of working conditions, notably on health and safety at work, and equal opportunities.

**TITLE VII**
**JUSTICE, FREEDOM AND SECURITY**

*Article 80*
*Reinforcement of institutions and rule of law*

In their co-operation on justice, freedom and security, the Parties shall attach particular importance to the consolidation of the rule of law, and the reinforcement of institutions at all levels in the areas of administration in general and law enforcement and the administration of justice in particular. Co-operation will notably aim at strengthening the independence of the judiciary and improving its efficiency, improving the functioning of the police and other law enforcement bodies, providing adequate training and fighting corruption and organised crime.

*Article 81*
*Protection of personal data*

Montenegro will harmonise its legislation concerning personal data protection with Community law and other European and international legislation on privacy upon the entry into force of this Agreement. Montenegro will establish one or more independent supervisory bodies with sufficient financial and human resources in order to efficiently monitor and

guarantee the enforcement of national personal data protection legislation. The Parties will co-operate to achieve this goal.

***Article 82***
***Visa, border management, asylum and migration***

The Parties shall co-operate in the areas of visa, border control, asylum and migration and shall set-up a framework for the co-operation, including at a regional level, in these fields**,** taking into account and making full use of other existing initiatives in this area as appropriate.

Co-operation in the matters above will be based on mutual consultations and close co-ordination between the Parties and should include technical and administrative assistance for:

- the exchange of information on legislation and practices;
- the drafting of legislation;
- enhancing the efficiency of the institutions;
- the training of staff;
- the security of travel documents and detection of false documents;
- border management;

Co-operation will focus in particular:

- on the area of asylum on the implementation of national legislation to meet the standards of the 1951 Geneva Convention and the 1967 New York Protocol thereby to ensure that the principle of 'non-refoulement' is respected as well as other rights of asylum seekers and refugees.
- on the field of legal migration, on admission rules and rights and status of the person admitted. In relation to migration, the Parties agree to the fair treatment of nationals of other countries who reside legally on their territories and to promote an integration policy aiming at making their rights and obligations comparable to those of their citizens.

***Article 83***
***Prevention and control of illegal immigration; readmission***

The Parties shall co-operate in order to prevent and control illegal immigration. To this end, Montenegro and the Member States agree to readmit any of their nationals illegally present on their territories and the Parties also agree [to conclude] and fully implement an agreement for readmission, including an obligation for the readmission of nationals of other countries and stateless persons.

The Member States and Montenegro will provide their nationals with appropriate identity documents and will extend to them the administrative facilities necessary for such purposes.

Specific procedures for the purpose of readmission of nationals, third country nationals and stateless persons are laid down in the Agreement between the European Community and Montenegro on the readmission of persons residing without authorisation.

Montenegro agrees to conclude readmission agreements with the Stabilisation and Association process countries and undertakes to take any necessary measures to ensure the flexible and rapid implementation of all readmission agreements referred to in this article.

The Stabilisation and Association Council shall establish other joint efforts that can be made to prevent and control illegal immigration, including trafficking and illegal migration networks**.**

***Article 84***
***Money laundering and financing of terrorism***

1. The Parties shall co-operate in order to prevent the use of their financial systems for laundering of proceeds from criminal activities in general and drug offences in particular, as well as for the purpose of financing terrorism.

2. Co-operation in this area may include administrative and technical assistance with the purpose of developing the implementation of regulations and efficient functioning of the suitable standards and mechanisms to combat money laundering and financing of terrorism equivalent to those adopted by the Community and international fora in this field, in particular the Financial Action Task Force (FATF).

***Article 85***
***Co-operation on illicit drugs***

1. Within their respective powers and competencies, the Parties shall co-operate to ensure a balanced and integrated approach towards drug issues. Drug policies and actions shall be aimed at reinforcing structures for combating illicit drugs, reducing the supply of, trafficking in and the demand for illicit drugs, coping with the health and social consequences of drug abuse as well as at a more effective control of precursors.

2. The Parties shall agree on the necessary methods of co-operation to attain these objectives. Actions shall be based on commonly agreed principles along the lines of the EU Drug Strategy.

***Article 86***
***Preventing and combating organised crime and other illegal activities***

The Parties shall co-operate on combating and preventing criminal and illegal activities, organised or otherwise, such as:

– smuggling and trafficking in human beings;

– illegal economic activities, and in particular counterfeiting of cash and non-cash means of payments, illegal transactions on products such as industrial waste, radioactive material and transactions involving illegal , counterfeit or pirated products;

– corruption, both in the private and public sector, in particular linked to non-transparent administrative practices;

– fiscal fraud;

– identity theft;

– illicit trafficking in drugs and psychotropic substances;

– illicit arms trafficking;

– forging documents;

– smuggling and illicit trafficking of goods including cars;

– cyber crime.

As regards currency counterfeiting, Montenegro shall co-operate closely with the European Community to combat counterfeiting of banknotes and coins and to suppress and punish any counterfeiting of banknotes and coins, which may occur in the territory. At the level of prevention, Montenegro shall aim at implementing measures which are equivalent to those laid down in the relevant Community legislation, and to adhere to any international convention related to this field of law. Montenegro could benefit from Community support, for exchange, assistance and training in the protection against currency counterfeiting.

Regional co-operation and compliance with recognised international standards in combating organised crime will be promoted.

***Article 87***
***Combating terrorism***

In compliance with the international conventions to which they are party and their respective laws and regulations, the Parties agree to co-operate in order to prevent and suppress acts of terrorism and their financing:

– in the framework of full implementation of Security Council Resolution 1373 (2001) and other relevant UN resolutions, international conventions and instruments;

– by exchanging information on terrorist groups and their support networks in accordance with international and national law;

– by exchanging experiences with regard to means and methods of combating terrorism and in technical areas and training, and by exchanging experience in respect of the prevention of terrorism.

## TITLE VIII
## CO-OPERATION POLICIES

### *Article 88*

1. The Community and Montenegro shall establish a close co-operation aimed at contributing to the development and growth potential of Montenegro. Such co-operation shall strengthen existing economic links on the widest possible foundation, to the benefit of both Parties.

2. Policies and other measures will be designed to bring about sustainable_economic and social development of Montenegro. These policies should ensure that environmental considerations are also fully incorporated from the outset and that they are linked to the requirements of harmonious social development.

3. Co-operation policies shall be integrated into a regional framework of co-operation. Special attention will have to be devoted to measures that can foster co-operation between Montenegro and its neighbouring countries including Member States, thus contributing to regional stability. The Stabilisation and Association Council shall define priorities between and within the co-operation policies described hereinafter in line with the European Partnership.

### *Article 89*
### *Economic and trade policy*

The Community and Montenegro shall facilitate the process of economic reform by co-operating to improve understanding of the fundamentals of their respective economies and the formulation and implementation of economic policy in market economies.

To these ends, the Community and Montenegro shall co-operate to:

- exchange information on macroeconomic performance and prospects and on strategies for development;

- analyse jointly economic issues of mutual interest, including the framing of economic policy and the instruments for implementing it;

- promote wider co-operation with the aim to speed up the inflow of know-how and access to new technologies.

Montenegro shall strive to establish a functioning market economy and to gradually approximate its policies to the stability-oriented policies of the European Economic and Monetary Union. At the request of the authorities of Montenegro, the Community may provide assistance designed to support the efforts of Montenegro in this respect.

Co-operation will also aim at strengthening the rule of law in the business area through a stable and non-discriminatory trade-related legal framework.

Co-operation in this area will include exchange of information concerning the principles and functioning of the European Economic and Monetary Union.

*Article 90*
*Statistical co-operation*

Co-operation between the Parties shall primarily focus on priority areas related to the Community *acquis* in the field of statistics, including in the economic, trade, monetary and financial areas. It will notably be aimed at developing efficient and sustainable statistical systems capable of providing, reliable, objective and accurate data needed to plan and monitor the process of transition and reform in Montenegro. It should also enable the Statistical Office in Montenegro to better meet the needs of its customers in the country (both public administration and private sector). The statistical system should respect the fundamental principles of statistics issued by the UN, the European Statistical Code of Practice and the stipulations of the European Statistical law and develop towards the Community *acquis*. The Parties shall co-operate in particular to ensure the confidentiality of individual data, to progressively increase data collection and transmission to the European Statistical System and, to exchange of information on methods, transfer of know-how and training.

*Article 91*
*Banking, insurance and other financial services*

Co-operation between Montenegro and the Community shall focus on priority areas related to the Community *acquis* in the fields of banking, insurance and financial services. The Parties will co-operate with the aim of establishing and developing a suitable framework for the encouragement of the banking, insurance and financial services sectors in Montenegro based on fair competition practices and ensuring the necessary level playing field.

*Article 92*
*Internal control and external audit co-operation*

Co-operation between the Parties shall focus on priority areas related to the Community *acquis* in the fields of public internal financial control (PIFC) and external audit. The Parties will, in particular, co-operate with the aim of - through elaborating and adopting relevant regulation - developing transparent, efficient and economic PIFC including financial management and control and functionally independent internal audit) and independent external audit systems in Montenegro, in accordance with internationally accepted standards and methodologies and EU best practices. Co-operation shall also focus on capacity building of the Supreme Audit institution in Montenegro. In order to be able to fulfill the co-ordination and harmonization responsibilities stemming from the requirements above, co-operation should also focus on the establishment and strengthening of central harmonization units for financial management and control and for Internal Audit.

*Article 93*
*Investment Promotion and Protection*

Co-operation between the Parties, within the scope of their respective competencies, in the field of investment promotion and protection shall aim to bring about a favourable climate for private investment, both domestic and foreign, which is so essential to economic and

industrial revitalisation in Montenegro. The particular aims of co-operation shall be for Montenegro to improve the legal frameworks which favours and protects investment.

### *Article 94*
### *Industrial Co-operation*

Co-operation shall aim to promote the modernisation and restructuring of industry and individual sectors in Montenegro. It shall also cover industrial co-operation between economic operators, with the objective of strengthening the private sector under conditions which ensure that the environment is protected.

Industrial co-operation initiatives will reflect the priorities determined by both Parties. They will take into account the regional aspects of industrial development, promoting trans-national partnerships when relevant. The initiatives should seek in particular to establish a suitable framework for undertakings, to improve management, know-how and to promote markets, market transparency and the business environment. Special attention shall be devoted to the establishment of efficient export promotion activities in Montenegro.

Co-operation will take due account of the Community *acquis* in the field of industrial policy.

### *Article 95*
### *Small and medium-sized enterprises*

Co-operation between the Parties shall be aimed at developing and strengthening private sector small and medium-sized enterprises (SMEs), the establishment of new undertakings in areas offering potential for growth and co-operation between SMEs in the Community and in Montenegro.

Co-operation will take due account of priority areas related to the Community *acquis* in the field of SMEs, as well as the ten guidelines enshrined in the European Charter for Small Enterprises.

### *Article 96*
### *Tourism*

Co-operation between the Parties in the field of tourism will be mainly aimed at strengthening the flow of information on tourism (through international networks, databanks, etc.); encouraging the development of infrastructure conducive to investment in the tourism sector, participation of Montenegro in important European tourism organisations. It will also aim at studying the opportunities for joint operations and strengthening co-operation between tourism enterprises, experts and governments and their competent agencies in the field of tourism, as well as transferring know-how (through training, exchanges, seminars). Co-operation will take due account of Community *acquis* related to this sector.

Co-operation may be integrated into a regional framework of co-operation.

### *Article 97*
### *Agriculture, and the agro-industrial sector*

Co-operation between the Parties will be developed in all priority areas related to the Community *acquis* in the field of agriculture, as well as veterinary and phytosanitary domains. Co-operation will notably aim at modernising and restructuring the agriculture and agro-industrial sector, in particular to reach community sanitary requirements, to improve water management and rural development as well as to develop the forestry sector in Montenegro and at supporting the gradual approximation of Montenegrin legislation and practices to the Community rules and standards.

### *Article 98*
### *Fisheries*

The Parties will explore the possibility of identifying mutually beneficial areas of common interest in the fisheries sector. Co-operation will take due account of priority areas related to the Community *acquis* in the field of fisheries, including the respect of international obligations concerning International and Regional Fisheries Organisation rules of management and conservation of fishery resources.

### *Article 99*
### *Customs*

The Parties shall establish co-operation in this area with a view to guarantee compliance with the provisions to be adopted in the area of trade and to achieve the approximation of the customs systems of Montenegro 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 Montenegrin customs legislation to the *acquis*.

Co-operation will take due account of priority areas related to the Community *acquis* in the field of customs.

Protocol 6 establishes the rules on mutual administrative assistance between the Parties in the customs field.

### *Article 100*
### *Taxation*

The Parties shall establish co-operation in the field of taxation including measures aiming at the further reform of Montenegro's fiscal system and the restructuring of tax administration with a view to ensuring effectiveness of tax collection and the fight against fiscal fraud.

Co-operation will take due account of priority areas related to the Community acquis in the field of taxation and in the fight against harmful tax competition. Elimination of harmful tax competition should be carried out on the basis of the principles of the Code of Conduct for business taxation agreed by the Council on 1 December 1997.

Cooperation will also be geared to enhancing transparency and fighting corruption, and to include exchange of information with the Member States of the European Union in an effort to facilitate the enforcement of measures preventing tax fraud, evasion and avoidance. Montenegro shall also complete the network of bilateral agreements with Member States, along the lines of the latest update of the OECD Model Tax Convention on Income and Capital as well as on the basis of the OECD Model Agreement on Exchange of Information on Tax Matters, to the extent that the requesting Member State subscribes to these.

***Article 101***
***Social co-operation***

With regard to employment, co-operation between the Parties shall focus notably on upgrading job-finding and careers advice services, providing back-up measures and promoting local development to assist industrial and labour market restructuring. It shall also include measures such as studies, the secondment of experts and information and training operations.

The Parties shall co-operate to facilitate the reform of the employment policy in Montenegro, in the context of strengthened economic reform and integration. Co-operation will also seek to support the adaptation of the Montenegrin social security system to the new economic and social requirements, and will involve the adjustment of the legislation in Montenegro concerning working conditions and equal opportunities between women and men, for people with disabilities and for people belonging to minority groups as well as the improvement of the level of protection of the health and safety of workers, taking as a reference the level of protection existing in the Community._Montenegro shall ensure adherence and effective implementation of ILO fundamental conventions

Co-operation will take due account of priority areas related to the Community *acquis* in this field.

***Article 102***
***Education and training***

The Parties shall co-operate with the aim of raising the level of general education and vocational education and training in Montenegro as well as youth policy and youth work, including non-formal education. A priority for higher education systems shall be the achievement of the objectives of the Bologna Declaration in the intergovernmental Bologna process.

The Parties shall also co-operate with the aim of ensuring that access to all levels of education and training in Montenegro is free of discrimination on the grounds of gender, colour, ethnic origin or religion.

The relevant Community programmes and instruments will contribute to the upgrading of educational and training structures and activities in Montenegro.

Co-operation will take due account of priority areas related to the Community *acquis* in this field.

*Article 103*
*Cultural co-operation*

The Parties undertake to promote cultural co-operation. This co-operation serves *inter alia* to raise mutual understanding and esteem between individuals, communities and peoples. The Parties also undertake to co-operate to promote cultural diversity, notably within the framework of the UNESCO Convention on the protection and the promotion of the diversity of cultural expressions.

*Article 104*
*Co-operation in the audio-visual field*

The Parties shall co-operate to promote the audio-visual industry in Europe and encourage co-production in the fields of cinema and television.

Co-operation could include *inter alia* programmes and facilities for the training of journalists and other media professionals, as well as technical assistance to the media, the public and private, so as to reinforce their independence, professionalism and links with European media.

Montenegro will align its policies on the regulation of content aspects of cross-border broadcasting with those of the EC and will harmonise its legislation with the EU *acquis*. Montenegro will pay particular attention to matters relating to the acquisition of intellectual property rights for programmes and broadcast by satellite, cable and terrestrial frequencies**.**

*Article 105*
*Information society*

Co-operation shall be developed in all areas related to the Community *acquis* regarding the information society. It will mainly support Montenegro's gradual alignment of policies and legislation in this sector with those of the Community.

The Parties shall also co-operate with a view to further developing the Information Society in Montenegro. Global objectives will be preparing society as a whole for the digital age, attracting investments and ensuring the interoperability of networks and services.

*Article 106*
*Electronic communications networks and services*

Co-operation shall primarily focus on priority areas related to the Community *acquis* in this field.

The Parties shall, in particular, strengthen co-operation in the area of electronic communications networks and electronic communications services, with the ultimate objective of the adoption by Montenegro of the Community *acquis* in the sector 3 years after the entry into force of this Agreement.

*Article 107*
*Information and communication*

The Community and Montenegro shall take the measures necessary to stimulate the mutual exchange of information. Priority will be given to programmes aimed at providing the general public with basic information about the Community and professional circles in Montenegro with more specialised information.

*Article 108*
*Transport*

Co-operation between the Parties shall focus on priority areas related to the Community *acquis* in the field of transport.

Co-operation may notably aim at restructuring and modernising the Montenegrin transport modes, improving the free movement of passengers and goods, enhancing the access to the transport market and facilities, including ports and airports. Furthermore co-operation may support the development of multi-modal infrastructures in connection with the main Trans-European networks, notably to reinforce regional links in South East Europe in line with the MoU on the development of the Core Regional Transport Network. The objective of the co-operation should be to achieve operating standards comparable to those in the Community as well as to develop a transport system in Montenegro compatible and aligned with the Community system and improving protection of the environment in transport.

*Article 109*
*Energy*

Co-operation shall focus on priority areas related to the Community *acquis* in the field of energy. It will be based on the Energy Community Treaty, and it will be developed with a view to the gradual integration of Montenegro into Europe's energy markets. Co-operation may include in particular:

– the formulation and planning of energy policy, including modernisation of infrastructure, improvement and diversification of supply and improvement of access to the energy market, including facilitation of transit, transmission and distribution and restoration of electricity interconnections of regional importance with neighbouring countries;

– the promotion of energy saving, energy efficiency, renewable energy and studying the environmental impact of energy production and consumption;

– the formulation of framework conditions for restructuring of energy companies and co-operation between undertakings in this sector.

*Article 110*
*Nuclear Safety*

The Parties will co-operate in the field of nuclear safety and safeguards. Co-operation could cover the following topics:

– upgrading the laws and regulations of the Parties on radiation protection, nuclear safety and nuclear materials accountancy and control as well as strengthening the supervisory authorities and their resources;

– encouraging the promotion of Agreements between Member States, or Euratom and Montenegro on early notification and exchange of information in cases of nuclear accidents and on emergency preparedness and on nuclear safety issues in general, if appropriate;

– nuclear third party liability.

***Article 111***
***Environment***

The Parties shall develop and strengthen their co-operation in the environmental field with the vital task of halting further degradation and start improving the environmental situation with the aim of sustainable development.

The parties shall, in particular, establish co-operation with the aim of strengthening administrative structures and procedures to ensure strategic planning of environment issues and co-ordination between relevant actors and will focus on the alignment of Montenegro's legislation to the Community acquis. Co-operation could also centre on the development of strategies to significantly reduce local, regional and trans-boundary air and water pollution, to establish a framework for efficient, clean, sustainable and renewable production and consumption of energy, and to execute environmental impact assessment and strategic environmental assessment. Special attention will be paid to the ratification and the implementation of the Kyoto Protocol.

***Article 112***
***Co-operation in research and technological development***

The Parties shall encourage co-operation in civil scientific research and technological development (RTD) on the basis of mutual benefit and, taking into account the availability of resources, adequate access to their respective programmes, subject to appropriate levels of effective protection of intellectual, industrial and commercial property rights (IPR).

Co-operation will take due account of the priority areas related to the Community *acquis* in the field of research and technical development.

***Article 113***
***Regional and local development***

The Parties will seek to strengthen regional and local development co-operation, with the objective of contributing to economic development and reducing regional imbalances. Specific attention will be given to cross-border, trans-national and interregional co-operation.

Co-operation will take due account of the priority areas related to the Community acquis in the field of regional development.

*Article 114*
*Public administration*

Co-operation shall aim at ensuring the development of an efficient and accountable public administration in Montenegro, notably to support rule of law implementation, the proper functioning of the state institutions for the benefit of the entire population of Montenegro as a whole and the smooth development of the relations between the EU and Montenegro.

Co-operation in this area will mainly focus on institution building, including the development and implementation of transparent and impartial recruitment procedures, human resources management, and career development for the public service, continued training and the promotion of ethics within the public administration. Co-operation will cover all levels of public administration, including local administration.

## TITLE IX
## FINANCIAL CO-OPERATION

*Article 115*

In order to achieve the objectives of this Agreement and in accordance with Articles 5, 116 and 118, Montenegro may receive financial assistance from the Community in the forms of grants and loans, including loans from the European Investment Bank. Community aid is conditional on further progress in satisfying the Copenhagen political criteria and in particular progress in meeting the specific priorities of the European Partnership. Account will also be taken of the results of the annual reviews of the countries of the Stabilisation and Association process, in particular as regards the recipients' undertaking to carry out democratic, economic and institutional reforms and of other Council conclusions, pertaining in particular to the respect of adjustment programmes. Aid granted to Montenegro will be geared to observed needs, agreed priorities, the capacity to absorb and repay, and the measures taken to reform and restructure the economy.

*Article 116*

Financial assistance, in the form of grants, shall be covered by the operation measures provided for in the relevant Council Regulation within a multi-annual indicative framework and based on annual action programmes, established by the Community following consultations with Montenegro.

Financial assistance may cover all sectors of co-operation, paying particular attention to Justice, Freedom and Security, approximation of legislation, economic development and environmental protection.

*Article 117*

At the request of Montenegro and in case of special need, the Community could examine in co-ordination with international financial institutions, the possibility of granting on an exceptional basis macro-financial assistance subject to certain conditions and taking into account the availability of all financial resources. This assistance would be released subject to

the fulfilment of conditions to be established in the context of a programme agreed between Montenegro and the IMF.

*Article 118*

In order to permit optimum use of the resources available, the Parties shall ensure that Community contributions are made in close co-ordination with those from other sources such as the Member States, other countries and international financial institutions.

To this effect, information on all sources of assistance shall be exchanged regularly between the Parties.

## TITLE X
## INSTITUTIONAL, GENERAL AND FINAL PROVISIONS

*Article 119*

A Stabilisation and Association Council is hereby established which shall supervise the application and implementation of this Agreement. It shall meet at an appropriate level at regular intervals and when circumstances require. It shall examine any major issues arising within the framework of this Agreement and any other bilateral or international issues of mutual interest.

*Article 120*

1. The Stabilisation and Association Council shall consist of the members of the Council of the European Union and members of the Commission of the European Communities, on the one hand, and of members of the Government of Montenegro on the other.

2. The Stabilisation and Association Council shall establish its rules of procedure.

3. The members of the Stabilisation and Association Council may arrange to be represented, in accordance with the conditions to be laid down in its rules of procedure.

4. The Stabilisation and Association Council shall be chaired in turn by a representative of the European Community and a representative of Montenegro, in accordance with the provisions to be laid down in its rules of procedure.

5. In matters that concern it, the European Investment Bank shall take part, as an observer, in the work of the Stabilisation and Association Council.

*Article 121*

The Stabilisation and Association Council shall, for the purpose of attaining the objectives of this Agreement, 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 the decisions taken. The Stabilisation and

Association Council may also make appropriate recommendations. It shall draw up its decisions and recommendations by agreement between the Parties.

***Article 122***

1. The Stabilisation and Association Council shall be assisted in the performance of its duties by a Stabilisation and Association Committee, composed of representatives of the Council of the European Union and of representatives of the Commission of the European Communities, on the one hand, and of representatives of the Government of Montenegro on the other.

2. In its rules of procedure the Stabilisation and Association Council shall determine the duties of the Stabilisation and Association Committee, which shall include the preparation of meetings of the Stabilisation and Association Council, and shall determine how the Committee shall function.

3. The Stabilisation and Association Council may delegate to the Stabilisation and Association Committee any of its powers. In this event the Stabilisation and Association Committee shall take its decisions in accordance with the conditions laid down in Article 121.

***Article 123***

The Stabilisation and Association Committee may create subcommittees. Before the end of the first year after the date of the Agreement comes into force, the Stabilisation and Association Committee will set up the necessary sub-committees for the adequate implementation of the Agreement.

A sub-committee that will address migration issues will be created.

***Article 124***

The Stabilisation and Association Council may decide to set up other special committees or bodies that can assist it in carrying out its duties. In its rules of procedure, the Stabilisation and Association Council shall determine the composition and duties of such committees or bodies and how they shall function.

***Article 125***

A Stabilisation and Association Parliamentary Committee is hereby established. It shall be a forum for Members of the Parliament of Montenegro and the European Parliament to meet and exchange views. It shall meet at intervals that it shall itself determine.

The Stabilisation and Association Parliamentary Committee shall consist of members of the European Parliament, on the one hand, and of members of the Parliament of Montenegro, on the other.

The Stabilisation and Association Parliamentary Committee shall establish its rules of procedure.

The Stabilisation and Association Parliamentary Committee shall be chaired in turn, on the one hand, by the European Parliament and, on the other hand, by the Parliament of Montenegro, in accordance with the provisions to be laid down in its rules of procedure.

***Article 126***

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 127***

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 128***

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

   – the arrangements applied by Montenegro 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 Montenegro shall not give rise to any discrimination between nationals of Montenegro as well as between Montenegrin 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 129***

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. 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.

3. Each Party shall refer to the Stabilisation and Association Council any dispute relating to the application or interpretation of this Agreement. In that case, Article 130 and, as the case may be, Protocol No 7 shall apply.

The Stabilisation and Association Council may settle the dispute by means of a binding decision.

4. 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.

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 if the other Party so requests within the Stabilisation and Association Council, the Stabilisation and Association Committee or any other body set up on the basis of Articles 123 or 124.

5. The provisions of paragraphs 2, 3 and 4 shall in no way affect and are without prejudice to Articles 32, 40, 41, 42, 46 and Protocol 3 (Definition of the concept of originating products and methods of administrative co-operation).

***Article 130***

1. When a dispute arises between the Parties concerning the interpretation or the implementation of this Agreement, any Party shall notify to the other Party and the Stabilisation and Association Council a formal request that the matter in dispute be resolved.

Where a Party considers that a measure adopted by the other Party, or a failure of the other Party to act, constitutes a breach of its obligations under this Agreement, the formal request that the dispute be resolved shall give the reasons for this opinion and indicate, as the case may be, that the Party may adopt measures as provided for in Article 129, paragraph 4.

2. The Parties shall endeavour to resolve the dispute by entering into good faith consultations within the Stabilisation and Association Council and other bodies as provided in paragraph 3, with the aim of reaching as soon as possible a mutually acceptable solution.

3. The Parties shall provide the Stabilisation and Association Council with all relevant information required for a thorough examination of the situation.

As long as the dispute is not resolved, it will be discussed at every meeting of the Stabilisation and Association Council, unless the arbitration procedure as provided for in Protocol 7 has been initiated. A dispute shall be deemed to be resolved when the Stabilisation and Association Council has taken a binding decision to settle the matter as provided for in Article 129, paragraph 3, or when it has declared that there is no dispute anymore.

Consultations on a dispute can also be held at any meeting of the Stabilisation and Association Committee or any other relevant committee or body set up on the basis of Articles 123 or 124, as agreed between the Parties or at the request of any of the Parties. Consultations may also be held in writing.

All information disclosed during the consultations shall remain confidential.

4. For matters within the scope of application of Protocol 7, any Party may submit the matter in dispute for settlement through arbitration in accordance with that Protocol, when the Parties have failed to resolve the dispute within two months after the initiation of the dispute settlement procedure in accordance with paragraph 1.

***Article 131***

This Agreement shall not, until equivalent rights for individuals and economic operators have been achieved under this Agreement, affect rights ensured to them through existing agreements binding one or more Member States, on the one hand, and Montenegro, on the other.

***Article 132***

Protocol 8 lays down the general principles for the participation of Montenegro in Community programmes.

Protocols 1, 2, 3, 4, 5, 6, 7 and 8 and Annexes I to VII shall form an integral part of this Agreement.

***Article 133***

This Agreement is concluded for an unlimited period.

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

Either Party may suspend this Agreement, with immediate effect, in the event of the non compliance by the other Party of one of the essential elements of this Agreement.

***Article 134***

For the purposes of this Agreement, the term "Parties" shall mean the Community, or its Member States, or the Community and its Member States, in accordance with their respective powers, of the one part, and the Republic of Montenegro, of the other part.

*Article 135*

This Agreement shall apply, on the one hand, to the territories in which the Treaties establishing the European Community and the European Atomic Energy Community are applied and under the conditions laid down in those Treaties, and to the territory of Montenegro on the other.

*Article 136*

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

*Article 137*

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

*Article 138*

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

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.

*Article 139*
*Interim Agreement*

In the event that, pending the completion of the procedures necessary for the entry into force of this Agreement, the provisions of certain parts of this Agreement, in particular those relating to the free movement of goods as well as the relevant provisions on Transport, are put into effect by means of Interim Agreements between the Community and Montenegro, the Parties agree that, in such circumstances for the purpose of the provisions of Title IV, Articles 73, 74 and 75 of this Agreement, Protocols 1, 2, 3, 5, 6 and 7, and relevant provisions of Protocol 4, hereto, the terms "date of entry into force of this Agreement" mean the date of entry into force of the relevant Interim Agreement in relation to obligations contained in the above-mentioned provisions.