

## **STABILISATION AND ASSOCIATION AGREEMENT BETWEEN THE EUROPEAN COMMUNITIES AND THEIR MEMBER STATES, OF THE ONE PART, AND THE REPUBLIC OF ALBANIA, OF THE OTHER PART<sup>106</sup>**

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### **TITLE IV FREE MOVEMENT OF GOODS**

#### **CHAPTER III COMMON PROVISIONS**

##### ***Article 40***

##### *State monopolies*

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

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

##### ***Article 71<sup>107</sup>***

##### *Competition and other economic provisions*

1. The following shall be incompatible with the proper functioning of this Agreement, insofar as they may affect trade between the Community and Albania:
  - (i) all agreements between undertakings, decisions by Associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;

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106 The Agreement was signed on 12 June 2006. Pending the completion of the procedures necessary for the entry into force of this Agreement, the provisions on trade and trade-related matters are implemented by means of an Interim Agreement (Interim Agreement on trade and trade-related matters between the European Community, of the one part, and the Republic of Albania, of the other part)

107 Article 37 of the Interim Agreement.

- (ii) abuse by one or more undertakings of a dominant position in the territories of the Community or of Albania as a whole or in a substantial part thereof;
- (iii) any State aid which distorts or threatens to distort competition by favouring certain undertakings or certain products.

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

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

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

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

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

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

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

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

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

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

### **Article 72<sup>108</sup>**

#### *Public undertakings*

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

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

## **PROTOCOL 1 ON IRON AND STEEL PRODUCTS**

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### **Article 1**

This Protocol shall apply to the products listed in Chapters 72 and 73 of the Combined Nomenclature. It shall also apply to other finished iron and steel products that may originate in future in Albania under the above Chapters.

### **Article 2**

Customs duties on imports applicable in the Community on iron and steel products originating in Albania shall be abolished on the date of entry into force of the Agreement.

### **Article 3**

1. Upon the date of entry into force of the Agreement, customs duties applicable in Albania on imports of iron and steel products originating in the Community that are referred to in Article 19 of the Agreement and listed in Annex I thereto shall be progressively reduced in accordance with the timetable contained therein.
2. Upon the date of entry into force of the Agreement, customs duties applicable in Albania on imports of all other iron and steel products originating in the Community shall be abolished.

### **Article 4**

1. Quantitative restrictions on imports into the Community of iron and steel products originating in Albania as well as measures having equivalent effect shall be abolished on the date of entry into force of the Agreement.
2. Quantitative restrictions on imports into Albania of iron and steel products originating in the Community, as well as measures having equivalent effect, shall be abolished on the date of entry into force of the Agreement.

### **Article 5**

1. In view of the disciplines stipulated by Article 71 of the Agreement, the Parties recognise the need and urgency for each Party to address promptly any structural weaknesses in its iron and steel sector to ensure the global competitiveness of its industry. Albania shall therefore establish within three years the necessary restructuring and conversion programme for its iron and steel industry to achieve viability of this sector under normal market conditions. Upon request, the Community shall provide Albania with the appropriate technical advice to achieve this objective.

2. Further to the disciplines stipulated by Article 71 of the Agreement, any practices contrary to this Article shall be assessed on the basis of specific criteria arising from the application of the State aid disciplines of the Community, including secondary legislation, and including any specific rules on State aid control applicable to the iron and steel sector after the expiry of the Treaty establishing the European Coal and Steel Community.

3. For the purposes of applying the provisions of paragraph 1(iii) of Article 71 of the Agreement with regard to iron and steel products, the Community recognises that during five years after the date of entry into force of the Agreement Albania may exceptionally grant State aid for restructuring purposes provided that:

- it leads to the viability of the benefiting firms under normal market conditions at the end of the restructuring period, and
- the amount and intensity of such aid are strictly limited to what is absolutely necessary in order to restore such viability and are progressively reduced, and
- the restructuring programme is linked to a global rationalisation and compensatory measures to counter the distorting effect of the aid granted in Albania.

4. Each Party shall ensure full transparency with respect to the implementation of the necessary restructuring and conversion programme by a full and continuous exchange of information to the other Party, including details of the restructuring plan as well as the amount, intensity and purpose of any State aid granted on the basis of paragraphs 2 and 3.

5. The Stabilisation and Association Council shall monitor the implementation of the requirements set out in paragraphs 1 to 4.

6. If one of the Parties considers that a particular practice of the other Party is incompatible with the terms of this Article, and if that practice causes or threatens to cause prejudice to the interests of the first Party or material injury to its domestic industry, this Party may take appropriate measures after consultation within the contact group referred to in Article 7 or after thirty working days following referral for such consultation.

### **Article 6**

The provisions of Articles 20, 21 and 22 of the Agreement shall apply to trade between the Parties in iron and steel products.

### **Article 7**

The Parties agree that for the purpose of following and reviewing the proper implementation of this Protocol, a Contact Group shall be created in accordance with Article 120(4) of the Agreement.