

Candidate countries

STABILISATION AND ASSOCIATION AGREEMENT BETWEEN THE EUROPEAN COMMUNITIES AND THEIR MEMBER STATES, OF THE ONE PART, AND THE REPUBLIC OF CROATIA, OF THE OTHER PART¹⁰⁰

TITLE IV FREE MOVEMENT OF GOODS

CHAPTER III COMMON PROVISIONS

Article 40–State monopolies

Croatia shall progressively adjust any State monopolies of a commercial character so as to ensure that, by the end of the fourth year following the entry into force of this Agreement, no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of the Member States and Croatia. 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 69

1. The Parties recognise the importance of the approximation of Croatia's existing legislation to that of the Community. Croatia shall endeavour to ensure that its existing laws and future legislation will be gradually made compatible with the Community *acquis*.
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 period defined in article 5 of this Agreement. In particular, at an early stage, it will focus on fundamental elements of the Internal Market *acquis* as well as on other trade-related areas, on the basis of a programme to be agreed between the Commission of the European Communities and Croatia.

100 OJ L 26, 28.1.2005, p.3. Approved by Council and Commission Decision of 13 December 2004 concerning the conclusion of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part (2005/40/EC, Euratom), OJ L 26, 28.1.2005, p.1

Croatia will 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 70–Competition and other economic provisions

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

- (i) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;
- (ii) abuse by one or more undertakings of a dominant position in the territories of the Community or of Croatia as a whole or in a substantial part thereof;
- (iii) any State aid which distorts or threatens to distort competition by favouring certain undertakings or certain products.

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

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

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

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

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

7. (a) For the purposes of applying the provisions of paragraph 1(iii), the Parties recognise that during the first four years after the entry into force of this Agreement, any public aid granted by Croatia shall be assessed taking into account the fact that Croatia

shall be regarded as an area identical to those areas of the Community described in Article 87(3)(a) of the Treaty establishing the European Community.

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

8. With regard to products referred to in Chapters 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 of this Article, it may take appropriate measures after consultation with 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 WTO Agreement on Subsidies and Countervailing Measures or related internal legislation.

PROTOCOL 2 ON STEEL PRODUCTS¹⁰¹

Article 1

This Protocol shall apply to the products listed in Chapters 72 of the Common Customs Tariff. It shall also apply to other finished steel products that may originate in future in Croatia under the above chapter.

Article 2

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

Article 3

1. Customs duties applicable in Croatia on imports of steel products originating in the Community other than those listed in Annex I shall be abolished at the entry into force of the Agreement.

2. Customs duties applicable in Croatia on imports of steel products listed in Annex I, shall be progressively abolished in accordance with the following timetable:

- on the date of entry into force of the Agreement, duty shall be reduced to 65 % of the basic duty
- on 1 January 2003, duty shall be reduced to 50 % of the basic duty
- on 1 January 2004, duty shall be reduced to 35 % of the basic duty
- on 1 January 2005, duty shall be reduced to 20 % of the basic duty
- on 1 January 2006, the remaining duties shall be abolished.

Article 4

1. Quantitative restrictions on imports into the Community of steel products originating in Croatia 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 Croatia of 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 70 of the Agreement, the Parties recognise the need and urgency that each Party addresses promptly any structural weak-

nesses of its steel sector to ensure the global competitiveness of its industry. Croatia shall therefore establish within two years the necessary restructuring and conversion programme for its steel industry to achieve viability of this sector under normal market conditions. Upon request, the Community shall provide Croatia with the appropriate technical advice to achieve this objective.

2. Further to the disciplines stipulated by Article 70 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 steel sector after the expiry of the ECSC Treaty.

3. For the purposes of applying the provisions of paragraph 1(iii) of Article 70 of the Agreement with regard to steel products, the Community recognises that during five years after the entry into force of the Agreement Croatia 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 reduction of capacity in Croatia.

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 on the restructuring plan as well as amount, intensity and purpose for any State aid granted on the basis of paragraphs 2 and 3 of this Article.

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

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 19, 20 and 21 of the Agreement shall apply to trade between the Parties in 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 115 of the Agreement.