

# STABILISATION AND ASSOCIATION AGREEMENT BETWEEN THE EUROPEAN COMMUNITIES AND THEIR MEMBER STATES, OF THE ONE PART, AND THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA OF THE OTHER PART<sup>104</sup>

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## TITLE IV FREE MOVEMENTS OF GOODS

### CHAPTER III COMMON PROVISIONS

#### *Article 39–State monopolies*

The former Yugoslav Republic of Macedonia shall progressively adjust any State monopolies of a commercial character so as to ensure that, by the end of the fifth 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 of the former Yugoslav Republic of Macedonia. The Stabilisation and Association Council shall be informed about the measures adopted to attain this objective.

[...]

## TITLE VI APPROXIMATION OF LAWS AND LAW ENFORCEMENT

#### *Article 68*

1. The Parties recognise the importance of the approximation of the existing and future laws of the former Yugoslav Republic of Macedonia to those of the Community. The former Yugoslav Republic of Macedonia shall endeavour to ensure that its laws will be gradually made compatible with those of the Community.
2. This gradual approximation of law will take place in two stages.
3. Starting on the date of signing of the Agreement and lasting as explained in Article 5, the approximation of laws shall extend to certain fundamental elements of the Internal Market *acquis* as well as to other trade-related areas, along a programme to be defined in coordination with the Commission of the European Communities. The former Yugoslav Republic of Macedonia will also define, in coordination with the Commission of

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OJ L 84, 20.3.2004, p. 13 Approved by Council and Commission Decision of 23 February 2004 concerning the conclusion of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part (2004/239/EC, Euratom) (OJ L 84, 20.3.2004, p.1)

the European Communities, the modalities for the monitoring of the implementation of approximation of legislation and law enforcement actions to be taken, including reform of the judiciary. Deadlines will be set for competition law, intellectual property law, standards and certification law, public procurement law and data protection law. Legal approximation in other sectors of the internal market will be an obligation to be met at the end of the transition period.

4. During the second stage of the transitional period laid down in Article 5 the approximation of laws shall extend to the elements of the *acquis* that are not covered by the previous paragraph.

### ***Article 69–Competition and other economic provisions***

1. The following are incompatible with the proper functioning of the Agreement, insofar as they may affect trade between the Community and the former Yugoslav Republic of Macedonia:

- (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 the former Yugoslav Republic of Macedonia as a whole or in a substantial part thereof;
- (iii) any public 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 rules of Articles 81, 82 and 87 of the Treaty establishing the European Community.

3.(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 the former Yugoslav Republic of Macedonia shall be assessed taking into account the fact that the former Yugoslav Republic of Macedonia 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) Each Party shall ensure transparency in the area of public aid, *inter alia* by reporting annually to the other Party on the total amount and the distribution of the aid given and by providing, upon request, information on aid schemes. Upon request by one Party, the other Party shall provide information on particular individual cases of public aid.

Each Party shall ensure that the provisions of this Article are applied within five years of the Agreement's entry into force.

4. 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.

5. If the Community or the former Yugoslav Republic of Macedonia considers that a particular practice is incompatible with the terms of paragraph 1, and:

- if such practice causes or threatens to cause serious injury to the interests of the other Party or material injury to its domestic industry, including its services industry, it may take appropriate measures after consultation within the Stabilisation and Association Council or after thirty working days following referral for such consultation.

In the case of practices incompatible with paragraph 1(iii), such appropriate measures may, where the WTO Agreement applies thereto, only be adopted in accordance with the procedures and under the conditions laid down thereby or the relevant Community internal legislation.

6. The Parties shall exchange information taking into account the limitations imposed by the requirements of professional and business confidentiality.

#### **Article 70**

With regard to public undertakings, and undertakings to which special or exclusive rights have been granted, each Party shall ensure that as from the third year following the date of entry into force of this Agreement, the principles of the Treaty establishing the European Community, in particular Article 86 thereof, are upheld.

## **PROTOCOL 2 ON STEEL PRODUCTS<sup>105</sup>**

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### **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 the former Yugoslav Republic of Macedonia under the above chapter.

### **Article 2**

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

### **Article 3**

Customs duties applicable in the former Yugoslav Republic of Macedonia on imports of steel products originating in the Community shall be progressively abolished in accordance with the following timetable:

1. each duty shall be reduced to 80 % of the basic duty at the beginning of the first year after the entry into force of the Agreement;
2. further reductions to 60 %, 40 %, 20 % and 0 % of the basic duty shall be made at the beginning of the second, third, fourth and fifth year respectively after the entry into force of the Agreement.

### **Article 4**

1. Quantitative restrictions on imports into the Community of steel products originating in the former Yugoslav Republic of Macedonia 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 the former Yugoslav Republic of Macedonia 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 69 of this Agreement, the Parties recognise the need and urgency that each Party addresses promptly any structural weaknesses of its steel sector to ensure the global competitiveness of its industry. The former Yugoslav Republic of Macedonia 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 former Yugoslav Republic of Macedonia with the appropriate technical advice to achieve this objective.

2. Further to the disciplines stipulated by Article 69 of this Agreement, any practices contrary to that Article shall be assessed on the basis of specific criteria arising from the application of the State aid disciplines of the Community, including its 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 69 of this Agreement with regard to steel

products, the Community recognises that during five years after the entry into force of this Agreement, the former Yugoslav Republic of Macedonia 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 the former Yugoslav Republic of Macedonia.

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 paragraph 2 and 3 of this Article.

5. The Stabilisation and Association Council shall monitor the implementation of the requirements set out at 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 8, or after thirty working days following referral for such consultation.

### **Article 6**

The provisions of Articles 19, 20 and 34 of the Agreement shall apply to trade between the Parties in steel products.

### **Article 7**

1. The Contracting Parties recognise the need for an administrative procedure having as its purpose the rapid provision of information on the trend in trade flows in respect of

the trade in steel products originating in the former Yugoslav Republic of Macedonia in order to increase transparency and to avoid possible diversions of trade.

2. The Contracting Parties therefore agree to establish a double-checking system, without quantitative limits, for the import into the Community of steel products originating in the former Yugoslav Republic of Macedonia; to exchange statistical information on export and surveillance documents and to hold consultations promptly on any problems arising from the operation of such a system.

3. The details of the double-checking system are contained in Annex I to this Protocol. The continuing need for this system shall be regularly reviewed. The Annex may subsequently be amended or the double-checking system abolished by means of a Decision of the Stabilisation and Association Council.

### **Article 8**

The Parties agree that one of the special bodies established by the Stabilisation and Association Council shall be a contact group, which will discuss the implementation of this Protocol.