

**INTERIM AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND
THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA**

INTERIM AGREEMENT

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

The European Community (hereinafter referred to as the "Community"), of the one part, and

The Former Yugoslav Republic Of Macedonia, of the other part,

Whereas:

- (1) 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, was signed by way of Exchange of Letters in Luxembourg on 9 April 2001.
- (2) The Stabilisation and Association Agreement is intended to establish a close and lasting relationship based on reciprocity and mutual interest, which should allow the Former Yugoslav Republic of Macedonia to further strengthen and extend the already established relationship.
- (3) It is necessary to ensure the development of trade links by strengthening and widening the relations established previously, notably by the Cooperation Agreement signed on 29 April 1997 by way of Exchange of Letters, which entered into force on 1 January 1998.
- (4) To this end it is necessary to implement as speedily as possible, by means of an Interim Agreement, provisions of the Stabilisation and Association Agreement on trade and trade related matters.
- (5) It is necessary to ensure that pending the entry into force of the Stabilisation and Association Agreement and the establishment of the Stabilisation and Association Council, the Cooperation Council set up by the Cooperation Agreement can exercise the powers assigned by the Stabilisation and Association Agreement to the Stabilisation and Association Council, which are necessary in order to implement the Interim Agreement,

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

The European Community:

Anna LINDH,
Minister for Foreign Affairs of the Kingdom of Sweden,
President-in-office of the Council of the European Union,

Christopher PATTEN,
Member of the Commission of the European Communities,

The Former Yugoslav Republic of Macedonia:

Ljubco GEORGIEVSKI,
Prime Minister of the Government of the Former Yugoslav Republic of Macedonia,

Who, having exchanged their full powers, found in good and due form,

Have agreed as follows:

TITLE I

General Principles

Article 1 (SAA 2)

Respect for the democratic principles and human rights as proclaimed in the Universal Declaration of Human Rights and as defined in the Helsinki Final Act and the Charter of Paris for a New Europe, respect for international law principles and the rule of law as well as the principles of market economy as reflected in the Document of the CSCE Bonn Conference on Economic Cooperation, shall form the basis of the domestic and external policies of the Parties and constitute essential elements of this Agreement.

TITLE II

Free Movement of Goods

Article 2 (SAA 15)

1. The Community and the Former Yugoslav Republic of Macedonia shall gradually establish a free trade area over a period lasting a maximum of ten years starting from the entry into force of this Agreement in accordance with the provisions of this Agreement and in conformity with those of the GATT 1994 and the WTO. In so doing they shall take into account the specific requirements laid down hereinafter.
2. The combined nomenclature of goods shall be applied to the classification of goods in trade between the two Parties.
3. For each product the basic duty to which the successive reductions set out in this Agreement are to be applied shall be the duty actually applied erga omnes on the day preceding the signature of this Agreement.
4. If, after the signature of this Agreement, any tariff reduction is applied on an erga omnes basis, in particular reductions resulting from the tariff negotiations in the WTO, such reduced duties shall replace the basic duty referred to in paragraph 3 as from the date when such reductions are applied.
5. The Community and the Former Yugoslav Republic of Macedonia shall communicate to each other their respective basic duties.

CHAPTER I

Industrial Products

Article 3 (SAA 16)

1. The provisions of this Chapter shall apply to products originating in the Community or the Former Yugoslav Republic of Macedonia listed in chapters 25 to 97 of the combined nomenclature, with the exception of the products listed in Annex I paragraph 1(ii) of the Agreement on agriculture (GATT 1994).
2. The provisions of Articles 4 and 5 shall neither apply to textile products nor to steel products, as specified in Articles 9 and 10.
3. Trade between the Parties in products covered by the Treaty establishing the European Atomic Energy Community shall be conducted in accordance with the provisions of that Treaty.

Article 4 (SAA 17)

1. Customs duties on imports into the Community of products originating in the Former Yugoslav Republic of Macedonia shall be abolished upon the entry into force of this Agreement.
2. Quantitative restrictions on imports into the Community and measures having equivalent effect shall be abolished on the date of entry into force of this Agreement with regard to products originating in the Former Yugoslav Republic of Macedonia.

Article 5 (SAA 18)

1. Customs duties on imports into the Former Yugoslav Republic of Macedonia of goods originating in the Community other than those listed in Annexes I and II shall be abolished upon the entry into force of this Agreement.
2. Customs duties on imports into the Former Yugoslav Republic of Macedonia of goods originating in the Community which are listed in Annex I shall be progressively reduced in accordance with the following timetable:
 - on 1 January of the first year after the entry into force of this Agreement each duty shall be reduced to 90 per cent of the basic duty,
 - on 1 January of the second year after the entry into force of this Agreement each duty shall be reduced to 80 per cent of the basic duty,
 - on 1 January of the third year after the entry into force of this Agreement each duty shall be reduced to 70 per cent of the basic duty,
 - on 1 January of the fourth year after the entry into force of this Agreement each duty shall be reduced to 60 per cent of the basic duty,
 - on 1 January of the fifth year after the entry into force of this Agreement each duty shall be reduced to 50 per cent of the basic duty,
 - on 1 January of the sixth year after the entry into force of this Agreement each duty shall be reduced to 40 per cent of the basic duty,

- on 1 January of the seventh year after the entry into force of this Agreement each duty shall be reduced to 30 per cent of the basic duty,
- on 1 January of the eighth year after the entry into force of this Agreement each duty shall be reduced to 20 per cent of the basic duty,
- on 1 January of the ninth year after the entry into force of this Agreement each duty shall be reduced to 10 per cent of the basic duty,
- on 1 January of the tenth year after the entry into force of this Agreement the remaining duties shall be abolished.

3. Customs duties on imports into the Former Yugoslav Republic of Macedonia of goods originating in the Community which are listed in Annex II shall be progressively reduced and eliminated in accordance with the timetable specified in the Annex.

4. Quantitative restrictions on imports into the Former Yugoslav Republic of Macedonia of goods originating in the Community and measures having equivalent effect shall be abolished upon the date of entry into force of this Agreement.

Article 6 (SAA 19)

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

Article 7 (SAA 20)

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

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

Article 8 (SAA 21)

The Former Yugoslav Republic of Macedonia declares its readiness to reduce its customs duties in trade with the Community more rapidly than is provided for in Article 5 if its general economic situation and the situation of the economic sector concerned so permit. The Cooperation Council shall make recommendations to this effect.

Article 9 (SAA 22)

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

Article 10 (SAA 23)

Protocol 2 lays down the arrangements applicable to steel products referred to therein.

CHAPTER II

Agriculture and Fisheries

Article 11 (SAA 24)

Definition

1. The provisions of this chapter shall apply to trade in agricultural and fishery products originating in the Community or Former Yugoslav Republic of Macedonia.
2. The term "agricultural and fishery products" refers to the products listed in chapters 1 to 24 of the combined nomenclature and the products listed in Annex I paragraph 1(ii) of the Agreement on agriculture (GATT, 1994).
3. This definition includes fish and fisheries products covered by chapter 3, heading No. 1604 and 1605, and subheading No. 0511 91, 2301 20 00 and No. ex 1902 20¹.

Article 12 (SAA 25)

Protocol 3 lays down the trade arrangements for processed agricultural products that are listed therein.

Article 13 (SAA 26)

1. On the date of entry into force of this Agreement, the Community shall abolish all quantitative restrictions and measures having equivalent effect, on imports of agricultural and fishery products originating in the Former Yugoslav Republic of Macedonia.
2. On the date of entry into force of this Agreement, the Former Yugoslav Republic of Macedonia shall abolish all quantitative restrictions and measures having equivalent effect, on imports of agricultural and fishery products originating in the Community.

Article 14 (SAA 27)

Agricultural Products

1. From the date of entry into force of this Agreement, the Community shall abolish the customs duties and charges having equivalent effect, on imports of agricultural products originating in the Former Yugoslav Republic of Macedonia, other than those of heading No. 0102, 0201, 0202 and 2204 of the combined nomenclature.

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

2. From the date of entry into force of this Agreement, the Community shall fix the customs duties applicable to imports into the Community of "baby-beef" products defined in Annex III and originating in the Former Yugoslav Republic of Macedonia, at 20 per cent of the *ad valorem* duty and 20 per cent 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 1,650 tonnes expressed in carcass weight.

¹ Ex 1902 20 is 'stuffed pasta containing more than 20 per cent by weight of fish, crustaceans, molluscs or other aquatic invertebrates'.

3. From the date of entry into force of this Agreement, the Former Yugoslav Republic of Macedonia shall:

- (a) abolish the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Annex IV (a);
- (b) abolish the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Annex IV (b) within the limits of tariff quotas indicated for each product in that Annex. For the quantities exceeding the tariff quotas the Former Yugoslav Republic of Macedonia shall reduce progressively the customs duties in accordance with the timetable indicated for each product in that Annex;
- (c) reduce progressively the customs duties applicable on imports of certain agricultural products originating in the Community, listed in Annex IV (c) within the limits of tariff quotas and in accordance with the timetable indicated for each product in that Annex.

4. The trade arrangements to apply to wine and spirit products will be defined in a separate wine and spirit agreement.

Article 15 (SAA 28)

Fisheries Products

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

2. From the entry into force of this Agreement the Former Yugoslav Republic of Macedonia shall abolish all charges having an equivalent effect to a custom duty and reduce customs duties on fish and fisheries products originating in the European Community by 50 per cent of the MFN duty. The residual duties shall be reduced over a period of six years to be eliminated at the end of this period.

The rules contained in this paragraph shall not apply to products listed in Annex V (b) which shall be subject to tariff reductions laid down in the said Annex.

Article 16 (SAA 29)

1. 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 for agriculture and fisheries, of the rules of the agricultural policies of the Former Yugoslav Republic of Macedonia, of the role of agriculture in the Former Yugoslav Republic of Macedonia's economy, of the production and export potential of its traditional branches and markets and of the consequences of the multilateral trade negotiations under the WTO, the Community and the Former Yugoslav Republic of Macedonia shall examine in the Cooperation Council, no later than 1 January 2003, 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.

2. The provisions of this chapter shall in no way affect the application, on a unilateral basis, of more favourable measures by one or the other Party.

Article 17 (SAA 30)

Notwithstanding other provisions of this Agreement, and in particular Article 24, given the particular sensitivity of the agricultural and fisheries markets, if imports of products originating in one of the two Parties, which are the subject of concessions granted pursuant to Articles 12, 14 and 15, cause serious disturbance to the markets or to their domestic regulatory mechanisms, in the other Party, both Parties shall enter into consultations immediately to find an appropriate solution. Pending such solution, the Party concerned may take the appropriate measures it deems necessary.

CHAPTER IIICommon Provisions*Article 18 (SAA 31)*

The provisions of this chapter shall apply to trade in all products between the Parties except where otherwise provided herein or in Protocols 1, 2 and 3.

*Article 19 (SAA 32)*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 the Former Yugoslav Republic of Macedonia.
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 the Former Yugoslav Republic of Macedonia.
3. Without prejudice to the concessions granted under Article 13, the provisions of paragraphs 1 and 2 of this Article shall not restrict in any way the pursuit of the respective agricultural policies of the Former Yugoslav Republic of Macedonia and the Community nor the taking of any measures under those policies in so far as the import regime in the Annexes III, IV (a), (b), (c) and V (a), (b) is not affected.

*Article 20 (SAA 33)*Prohibition of Fiscal Discrimination

1. The Parties shall refrain from, and abolish where existing, any measure or practice of an internal fiscal nature establishing, whether directly or indirectly, discrimination between the products of one Party and like products originating in the territory of the other Party.
2. Products exported to the territory of one of the Parties may not benefit from repayment of internal indirect taxation in excess of the amount of indirect taxation imposed on them.

Article 21 (SAA 34)

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

*Article 22 (SAA 35)*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 Articles 4 and 5, this Agreement shall not affect the implementation of the specific preferential arrangements governing the movement of goods either laid down in frontier agreements previously concluded between one or more Member States and the Socialist Federal Republic of Yugoslavia and succeeded to by the Former Yugoslav Republic of Macedonia or resulting from the bilateral agreements concluded by the Former Yugoslav Republic of Macedonia in order to promote regional trade.
3. Consultations between the Parties shall take place within the Cooperation 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 the Former Yugoslav Republic of Macedonia stated in this Agreement.

*Article 23 (SAA 36)*Dumping

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

*Article 24 (SAA 37)*General Safeguard Clause

1. Where any product of one Party is being imported into the territory of the other Party in such increased quantities and under such conditions as to cause or threaten to cause:
 - serious injury to the domestic industry of like or directly competitive products in the territory of the importing Party; or
 - serious disturbances in any sector of the economy or difficulties which could bring about serious deterioration in the economic situation of a region of the importing Party,

the importing Party may take appropriate measures under the conditions and in accordance with the procedures laid down in this Article.

2. The Community and the Former Yugoslav Republic of Macedonia shall only apply safeguard measures between themselves in accordance with the provisions of this Agreement. Such measures shall not exceed what is necessary to remedy the difficulties which have arisen, and should normally consist of the suspension of the further reduction of any applicable rate of duty provided for under this Agreement for the product concerned or the increase of the rate of duty for that product.

Such measures shall contain clear elements progressively leading to their elimination at the end of the set period, at the latest. Measures shall not be taken for a period exceeding one year. In very exceptional circumstances, measures may be taken up to a total maximum period of three years. No safeguard measure shall be applied to the import of a product that has previously been subject to such a measure for a period of, at least, three years since the expiry of the measure.

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

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

- (a) The difficulties arising from the situation referred to in this Article shall be referred for examination to the Cooperation Council, which may take any decisions needed to put an end to such difficulties. If the Cooperation Council or the exporting Party has not taken a decision putting an end to the difficulties or no other satisfactory solution has been reached within 30 days of the matter being referred to the Cooperation 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.
- (b) Where exceptional and critical circumstances requiring immediate action make prior information or examination, as the case may be, impossible, the Party concerned may, in the situations specified in this Article, apply forthwith precautionary measures necessary to deal with the situation and shall inform the other Party immediately thereof.

5. The safeguard measures shall be notified immediately to the Cooperation 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 or the Former Yugoslav Republic of Macedonia subjecting imports of products liable to give rise to the difficulties referred to in this Article to an administrative procedure having at its purpose the rapid provision of information on the trend of trade flows, it shall inform the other Party.

Article 25 (SAA 38)

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 the Former Yugoslav Republic of Macedonia, as the case may be, shall supply the Cooperation Council with all relevant information, with a view to seeking a solution acceptable to the Parties. The Parties within the Cooperation 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 Cooperation 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 the Former Yugoslav Republic of Macedonia, whichever is concerned, may apply forthwith the precautionary measures necessary to deal with the situation and shall inform the other Party immediately thereof.

5. Any measures applied pursuant to this Article shall be immediately notified to the Cooperation 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 26 (SAA 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 Cooperation Council shall be informed about the measures adopted to attain this objective.

Article 27 (SAA 40)

Protocol 4 lays down the rules of origin for the application of tariff preferences provided for in this Agreement.

Article 28 (SAA 41)

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 29 (SAA 42)

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

Notwithstanding other provisions of this Agreement, and in particular Articles 17, 24 and 36 and Protocol 4, where one Party finds that there is sufficient evidence of fraud such as a significant increase in trade of products by one Party to the other Party, beyond the level reflecting economic conditions such as normal production and export capacities, or failure to provide administrative cooperation as required for the verification of evidence of origin by the other Party, both Parties shall enter into consultations immediately to find an appropriate solution. Pending such solution, the Party concerned may take the appropriate measures it deems necessary. In the selection of the measure priority must be given to those which least disturb the functioning of the arrangements established in this Agreement.

Article 30 (SAA 43)

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

TITLE III**Payments, Competition and other Economic Provisions***Article 31 (SAA 58)*

The Parties undertake to authorise, in freely convertible currency, in accordance with the provisions of Article VIII of the Articles of Agreement of the International Monetary Fund, any payments and transfers on the current account of balance-of-payments between the Community and the Former Yugoslav Republic of Macedonia.

Article 32 (SAA 65)

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 the Former Yugoslav Republic of Macedonia is in serious balance of payments difficulties, or under imminent threat thereof, the Community or the Former Yugoslav Republic of Macedonia, as the case may be, may, in accordance with the conditions established under the WTO Agreement, adopt restrictive measures, including measures relating to imports, which shall be of limited duration and may not go beyond what is strictly necessary to remedy the balance of payments situation. The Community or the Former Yugoslav Republic of Macedonia, as the case may be, shall inform the other Party forthwith.
3. Any restrictive measures shall not apply to transfers related to investment and in particular to the repatriation of amounts invested or reinvested or any kind of revenues stemming there from.

*Article 33 (SAA 69)***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 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 II:
 - paragraph 1(iii) shall not apply.
 - any practices contrary to paragraph 1(i) shall be assessed according to the criteria established by the Community on the basis of Articles 36 and 37 of the Treaty establishing the European Community and specific Community instruments adopted on this basis.
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 Cooperation Council or after 30 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 34 (SAA 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.

Article 35 (SAA 71)

Intellectual, Industrial and Commercial Property

1. Pursuant to the provisions of this Article and Annex VI, the Parties confirm the importance that they attach to ensure adequate and effective protection and enforcement of intellectual, industrial and commercial property rights.
2. The Former Yugoslav Republic of Macedonia 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.
3. The Former Yugoslav Republic of Macedonia undertakes to accede, within the period referred above, to the multilateral conventions on intellectual, industrial and commercial property rights referred to in Annex VI.
4. If problems in the area of intellectual, industrial and commercial property affecting trading conditions occur, they shall be referred urgently to the Cooperation Council, at the request of either Party, with a view to reaching mutually satisfactory solutions.

Article 36 (SAA 88(3))

Customs

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

TITLE IV

Institutional, General and Final Provisions

Article 37

The Cooperation Council set up by the Cooperation Agreement signed on 29 April 1997, by way of Exchange of Letters between the European Community and the Former Yugoslav Republic of Macedonia, shall perform the duties assigned to it by this Agreement according to the same modalities as practised so far in the context of the Cooperation Agreement.

Article 38 (SAA 110 and 112)

1. The Cooperation 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.
2. The Cooperation Council may also make appropriate recommendations. It shall draw up its decisions and recommendations by agreement between the Parties.

3. The Cooperation Council may be assisted in the performance of his duties by a Joint Committee composed by representatives of the Community, on the one hand, and of representatives of the Government of the Former Yugoslav Republic of Macedonia, on the other, normally at senior civil servant level.

The duties of the Joint Committee should include the preparation of meetings of the Cooperation Council.

4. The Cooperation Council may delegate to the Joint Committee any of its powers. In that event the Joint Committee shall take decisions in accordance with the conditions laid down in paragraphs 1 and 2.

5. The Joint Committee should, as necessary, adopt its own rules of procedure. The Joint Committee would meet once a year. Special meetings may be convened by mutual agreement, at the request of either party. The Joint Committee would be chaired alternately by each of the Parties. Whenever possible the Agenda of the Joint Committee shall be agreed beforehand.

Article 39 (SAA 111)

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

Article 40 (SAA 115)

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 41 (SAA 116)

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 a threat of war or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.

Article 42 (SAA 117)

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

- the arrangements applied by the Former Yugoslav Republic of Macedonia in respect of the Community shall not give rise to any discrimination between the Member States, their nationals or their companies or firms;
- the arrangements applied by the Community in respect of the Former Yugoslav Republic of Macedonia shall not give rise to any discrimination between the nationals of the Former Yugoslav Republic of Macedonia or its 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 43 (SAA 118)

1. The Parties shall take any general or specific measures required to fulfil their obligations under this Agreement. They shall see to it that the objectives set out in this Agreement are attained.

2. If either Party considers that the other Party has failed to fulfil an obligation under this Agreement, it may take appropriate measures. Before so doing, except in cases of special urgency, it shall supply the Cooperation 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 Cooperation Council and shall be the subject of consultations within the Cooperation Council if the other Party so requests.

Article 44 (SAA 119)

The Parties agree to consult promptly through appropriate channels at the request of either Party to discuss any matter concerning the interpretation or implementation of this Agreement and other relevant aspects of the relations between the Parties.

The provisions of this Article shall in no way affect and are without prejudice to Articles 17, 24, 25 and 29.

Article 45 (SAA 121)

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

Article 46 (SAA 122)

This Agreement shall be applicable until the entry into force of the Stabilisation and Association Agreement signed in Luxembourg on 9 April 2001.

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

Article 47 (SAA 124)

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community, applies and under the conditions laid down in this Treaty, and to the territory of the Former Yugoslav Republic of Macedonia on the other.

Article 48 (SAA 125)

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

Article 49 (SAA 126)

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

Article 50 (SAA 127)

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.

Upon the entry into force of this Agreement, Articles 13 to 32 of the Cooperation Agreement between the European Community and the Former Yugoslav Republic of Macedonia signed on 29 April 1997 by way of Exchange of Letters, shall be suspended.
