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Eurooppa - osasto  
EUR-15 Kuivalainen Kim

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Ohessa lähetetään Eduskunnan suurelle valiokunnalle tiedoksi perustuslain 97§:n mukaisesti ensimmäinen luonnos (12590/05) EU:n ja Serbia ja Montenegron väliseksi vakautus- ja assosiaatiosopimukseksi. Liitteenä on asiaa koskeva muistio.

Ensimmäinen neuvottelukierros sopimusluonnoksesta EU:n ja Serbia ja Montenegron välillä käytiin Belgradissa 7.11.2005. Neuvotteluja jatketaan vuoden 2006 aikana.

Katariina Niemenmaa

Yksikönpäällikön sijainen  
UM/Länsi-Balkanin yksikkö

LIITTEET 12590/05, SeMoSAA-tausta 201205

**SERBIA JA MONTENEGRON EU-INTEGRAATION TILANNE;  
EU:N JA SERBIA JA MONTENEGRON VÄLINEN VAKAUTUS- JA  
ASSOSIAATIOSOPIMUS; NEUVOTTELUJEN ALOITTAMINEN**

Euroopan unioni omaksui vuonna 1996 suhteiden kehittämisessä Länsi-Balkanin valtioihin (Albania, Bosnia-Hertsegovina, Kroatia, Makedonia<sup>1</sup> sekä Serbia ja Montenegro) ns. alueellisen lähestymistavan. Huhtikuussa 1997 neuvosto teki päätöksen alueen maiden avustamista koskevista poliittisista ja taloudellisista ehdoista. Kesäkuussa 1999 alueellisen lähestymistavan pohjalta kehitettiin vakautus- ja assosiaatioprosessi (*Stabilisation and Association Process* eli SAP).

Prosessiin tarkoituksena on edistää Länsi-Balkanin maiden lähentämistä EU:hun ja etenemistä kohti sopimussuhteita eli vakautus- ja assosiaatiosopimusta (*Stabilisation and Association Agreement* eli SAA). Prosessi kattaa taloudellisen ja rahoitusavun (demokratisoituminen, kansalaisyhteiskunta, koulutus ja instituutioiden kehittäminen), poliittisen dialogin (myös alueellisen), kauppasuhteiden kehittämisen alueen maiden kanssa ja niiden kesken (mm. alueellinen vapaakauppa), lainsäädännön harmonisoinnin sekä yhteistyön muilla aloilla ml. sisä- ja oikeusasiat.

Entinen Jugoslavian liittotasavalta eli nykyinen Serbia ja Montenegro (SeMo) kävi vuosina 2002-2003 läpi perustuslakiuudistuksen. Serbian sekä Montenegron tasavaltojen parlamentit hyväksyivät yhteisen valtioliiton perustuslain ja sitä koskevan toimeenpanolain tammikuussa 2003. SeMo hyväksyi myös sisämarkkinoita ja kauppasuhteita koskevan toimintasuunnitelman kesällä 2003, joka mahdollisti komission toteutettavuustutkimuksen käynnistämisen SeMo:n osalta.

Viivytykset uuden perustuslain sekä sisämarkkinoita ja kauppasuhteita koskevan toimintasuunnitelman implementoinnissa tyrehtyttivät SeMo:n SAA-sopimusneuvottelujen aloittamisen. Elvyttääkseen SeMo:n SAA-neuvotteluihin johtavan prosessin komissio ehdotti heinäkuussa 2004 ns. twin-track -lähestymistapaa, joka vastaa SeMo:n monimutkaiseen institutionaaliseen rakenteeseen, ja mahdollistaa neuvottelujen aloittamisen kummankin tasavallan, Serbian sekä Montenegron, kanssa erikseen.<sup>2</sup> Neuvosto ilmaisi tukensa twin-track -lähestymistavalle lokakuussa 2004. Tuleva SAA-sopimus kattaa sekä SeMo:n valtiunionin että yksittäisten valtioentiteettien kompetenssiin kuuluvat aihealueet, riippuen miten Serbia ja Montenegro näistä kompetensseista tulevaisuudessa sopivat. SeMo:n valtiunioni hajonnee ensi vuonna Montenegron huhtikuuksi 2006 suunnitteleman kansanäänestyksen jälkeen. Montenegron itsenäisyys merkitsisi kummallekin tasavallalle omaa SA-prosessia.

Huhtikuussa 2005 komissio esitti SeMo:a koskevan toteutettavuustutkimuksen,<sup>3</sup> todeten SeMo:n olevan valmis aloittamaan SAA-sopimusneuvotte lut, edellyttäen kuitenkin ICTY-ehdollisuuden<sup>4</sup> täytäntöönpanoa ennen prosessia ja sen kuluessa. EU:n ja SeMo:n mahdollinen SAA-sopimus vastannee pääosin FYROM:in ja Kroatian kanssa solmittuja sopimuksia. Siinä kuitenkin huomioidaan valtiunionin erityispiirteistä johtuvat kompetenssikysymykset, alueellinen integraatio sekä YK:n

<sup>1</sup> Makedoniasta käytetään virallisissa yhteyksissä usein termiä *former Yugoslav Republic of Macedonia* (FYROM). Mm Kreikka ei ole hyväksynyt Makedonian perustulailista nimimuotoa *Republic of Macedonia*, mutta monet maat käyttävät kahdenvälisissä suhteissaan nimeä Makedonia.

<sup>2</sup> Montenegrossa järjestettäneen viimeistään ensi keväällä itsenäisyyttä koskeva kansanäänestys.

<sup>3</sup> COM(2005) 476 lopullinen.

<sup>4</sup> SeMo:n tulee olla täydessä yhteistyössä entisen Jugolavian sotarikoksia tutkivan tuomioistuimen (ICTY) kanssa. Keskeisenä ehtona on ollut sotarikoksista syytettyjen, erityisesti Karadzicin ja Mladicin, luovuttaminen Haagiin.

resoluutioon 1244 perustuva Kosovon erityisasema, jota tulevat SAA-neuvottelujen velvoitteet eivät koske.

Komissio antoi ehdotuksensa Serbia ja Montenegron SAA-neuvottelumandaatiksi 11.7.2005. Neuvottelumandaatin käsittely saatiin päätökseen neuvostossa syksyn 2005 aikana ja YAUN suositti SAA-neuvottelujen aloittamista 3.10.2005. Neuvottelujen ensimmäinen virallinen kierros pidettiin Belgradissa 7.11.2005. Komission toiveena on saada neuvottelut päätökseen vuoden kuluessa.



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 26 September 2005**

**12590/05**

**LIMITE**

**YU 3  
COWEB 137**

**Draft negotiating directives for a  
Stabilisation and Association Agreement  
with Serbia and Montenegro**

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## **1. NATURE OF THE AGREEMENT**

The aim of the negotiation is to conclude a Stabilisation and Association Agreement (SAA) with Serbia and Montenegro (SCG). It will be a preferential Agreement, designed to contribute to socio-economic development, strengthening of democracy and the rule of law and political stabilisation of the country and the region, to foster regional cooperation and to establish a close, long-term association between the contracting parties.

The Stabilisation and Association Agreement will be the first association agreement with Serbia and Montenegro.

The SAA as a whole will be a single instrument concluded by both the state union and the constituent Member States in accordance with their respective powers. It will be a mixed Agreement; the one part of the agreement will be the European Community and its Member States and the other part the state union of Serbia and Montenegro, Republic of Montenegro and the Republic of Serbia<sup>5</sup>.

## **2. SCOPE OF THE AGREEMENT**

The Agreement is intended to govern the political, economic, trade and development relations between the parties. It will include provisions on political dialogue, wide-ranging cooperation, establishment of free trade between the parties, legal approximation, assistance and necessary institutional arrangements for its application.

As far as the territorial scope is concerned, the Agreement shall not apply in Kosovo which is at present under international administration pursuant to United Nations Security Council Resolution 1244 of 10 June 1999. This is without prejudice to the current status of Kosovo or the determination of its final status under the same Resolution.

## **3. CONTENT OF THE AGREEMENT**

### **3.1. Preamble**

The preamble could refer to:

- 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 Serbia and Montenegro to further strengthen and extend the relations with the Community;
- 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 cooperation, of which the European Union is a mainstay, as well as in the framework of the Stability Pact;
- the European Union's readiness to integrate to the fullest possible extent Serbia and Montenegro into the political and economic mainstream of Europe and its status as a

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<sup>5</sup> The state union of Serbia and Montenegro comprises two member states: the Republic of Serbia and the Republic of Montenegro. Both the state union and the two constituent member states possess treaty making powers. Throughout these Negotiating Directives the terms Republic(s) or Republican refer to the Republic of Serbia and the Republic of Montenegro as member states of the state union of Serbia and Montenegro.



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 of the SAP conditionalities, subject to the successful implementation of this Agreement, notably regarding regional cooperation.

- the commitment of the parties to contribute by all means to the political, economic and institutional stabilisation in Serbia and 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 cooperation, wide-ranging cooperation, particularly in justice and home affairs, and the strengthening of national and regional security;
- 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;
- 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, as well as to compliance with the obligations under the Dayton/Paris and Erdut agreements, and of the Stability Pact for south-eastern Europe, so as to contribute to regional stability and cooperation among the countries of the region;
- the commitment of the parties to the principles of free market economy and the readiness of the Community to contribute to the economic reforms in Serbia and Montenegro, as well as the commitment of the parties to the principles of sustainable development
- the commitment of the parties to free trade, in compliance with the rights and obligations arising out of the WTO and to apply them in a transparent and non-discriminatory manner;
- the wish of the parties to develop regular political dialogue on bilateral and international issues of mutual interest, including regional aspects, taking into account the Common Foreign and Security Policy of the European Union;
- 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;
- the belief 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;
- the commitment of Serbia and Montenegro to approximate their legislation in the relevant sectors to that of the Community, and to implement it effectively;

- the Constitutional Charter of Serbia and Montenegro which establishes the repartition of competences between the state union and the two constituent Republics;
- The commitment of the state union of Serbia and Montenegro and the two constituent Republics to cooperate and coordinate their policies in order to assure the effective implementation of the Stabilisation and Association Agreement;
- the Community's willingness to provide decisive support for the implementation of reform, and to use all available instruments of cooperation and technical, financial and economic assistance on a comprehensive indicative multi-annual basis to this endeavour;
- the understanding 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 Serbia and 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;
- 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 cooperation;
- the Thessaloniki summit, which 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;
- the Memorandum of Understanding on Trade Facilitation and Liberalisation, signed in Brussels on 27 June 2001 and the Stability Pact Ministerial Statement of 10 June 2005 by which Serbia and Montenegro, together with other countries of the region, committed itself to implement a network of bilateral Free Trade Agreements and to work towards transforming this network into a single regional Free Trade arrangement so as to enhance the region's ability to attract investments and the prospects of its integration into the global economy.
- The European Partnership with Serbia and Montenegro, which identifies priorities for action in order to support the country's efforts to move closer to the European Union.

### **3.2. General Principles**

1. 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 cooperation with the

ICTY, and the rule of law and the principle 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.

2. The fight against the proliferation of weapons of mass destruction and their means of delivery constitutes an essential element of the Agreement.
3. The reaffirmation of the importance the contracting parties attach to the implementation of international obligations, notably the full cooperation with ICTY.
4. The reaffirmation of the importance the contracting parties attach to the fight against terrorism.
5. The commitment by the contracting parties to international and regional peace and stability. The development of good neighbourly relations and the respect for human and minority rights are central to the Stabilisation and Association Process. The conclusion and the implementation of the Stabilisation and Association Agreement will therefore remain subject to the conditionalities of the SAP and based on the merits of Serbia and Montenegro.
6. Reference to Serbia and Montenegro's commitment to foster cooperation 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 combating organised crime, corruption, money laundering, illegal migration and trafficking, including in particular in human beings and illicit drugs. This commitment constitutes a key factor in the development of the relations and cooperation between the contracting parties and thus contributes to regional stability.
7. The association will be progressively and fully realised over a transitional period of a maximum of 10 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 Serbia and 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 the future 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, there would be referred to the mechanisms of dispute settlement established under the Agreement.

The full association will be progressively realised. No later than the fifth 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 Serbia and Montenegro and may take decisions governing the following stages of association.

The aforementioned reviews will not apply to the free movement of goods (3.5), for which a specific schedule will be foreseen in the provisions of the Agreement.

The Agreement shall be fully compatible 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.

### **3.3. Political Dialogue**

The Agreement will include suitable provisions for political dialogue contributing to the establishment of close links of solidarity and new forms of cooperation between the parties, and which will have, in particular, the aim to promote:

- Serbia and Montenegro's full integration 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 cooperation and the development of good neighbourly relations;
- common views on security and stability in Europe, including cooperation in the areas covered by the Common Foreign and Security Policy of the European Union; the co-operation and the contribution 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.

Political dialogue will primarily take place within the Stabilisation and Association Council, which will have general responsibility for any issue the parties might wish to put to it.

At the request of the parties, political dialogue might also take place in the following formats:

- meetings, where necessary, of senior officials representing Serbia and 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.

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

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 Balkans forum.

### **3.4. Regional Cooperation**

In conformity with its commitment to international and regional peace and stability, and to the development of good neighbourly relations, Serbia and Montenegro will actively promote regional cooperation. The European Community assistance programme will support projects having a regional or cross-border dimension.

Whenever Serbia and Montenegro foresees to reinforce its cooperation with one of the countries mentioned in 3.4.1 to 3.4.3 below, it should inform and consult the EU as described in the institutional, general and final provisions of this Agreement.

Serbia and Montenegro will be encouraged to implement as well as to review the existing bilateral Free Trade Agreements with partners of the region or to conclude new ones in order to ensure that they are all compatible with the principles set out in the Memorandum of Understanding on Trade Facilitation and Liberalisation signed in Brussels on 27 June 2001. Serbia and Montenegro will also be encouraged to support the transformation of the network of bilateral Free Trade Agreements into a single regional Free Trade arrangement, in line with the Stability Pact Ministerial Declaration of 10 June 2005.

#### *3.4.1. Cooperation with other countries having signed a Stabilisation and Association Agreement with the EU*

After the signature of the Stabilisation and Association Agreement, Serbia and Montenegro will start negotiations with the countries which have already signed a Stabilisation and Association Agreement with a view to concluding bilateral conventions on regional cooperation, with the aim of enhancing the scope of cooperation between the countries concerned.

The main elements of these conventions will be:

- political dialogue;
- the establishment of a free trade area between the parties, 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 cooperation in other fields, whether or not covered by this Agreement, and notably the field of Justice and Home Affairs.

These conventions will contain provisions for the creation of the necessary institutional mechanisms, as appropriate and will be concluded following the entry into force of this Agreement within a period to be defined during the negotiations. Readiness by Serbia and Montenegro to conclude such conventions will be a condition for the further development of the relations between the European Union and Serbia and Montenegro.

Similar negotiations will have to be launched with other countries in the region as soon as they have signed Stabilisation and Association Agreements.

#### *3.4.2. Cooperation with other countries concerned by the Stabilisation and Association Process*

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

### 3.4.3. *Cooperation with candidates for EU accession*

Serbia and Montenegro should foster its cooperation and conclude a convention on regional cooperation with *candidates* for EU accession in all the fields of cooperation covered by this Agreement. Such convention should aim to gradually align bilateral relations between Serbia and Montenegro and these countries to the relevant part of the relations between the European Community and its Member States and this country.

## 3.5. **Free Movement of Goods**

During a transitional period defined as described under 3.2, the Community will gradually establish a free trade area with respectively the Republic of Serbia and the Republic of Montenegro based on balanced obligations. Each of the free trade areas will be in conformity with Article XXIV of the GATT 1994 and other relevant WTO provisions. The Community will move substantially faster along this path than either Serbia or Montenegro.

Serbia and Montenegro should use the Combined Nomenclature for the classification of goods in trade between the parties.

The basic duties to which the successive reductions are to be applied shall be those actually applied by the two Republics *erga omnes* on the day before the signing of the Agreement. If, after the signature of Agreement any tariff reduction is applied on an *erga omnes* basis, such reduced duties should replace the basic duties referred to above, and successive reductions will be calculated according to these new base rates. The contracting parties shall communicate to each other their respective basic duties.

The agreement should not affect the ability of the Republic of Serbia or the Republic of Montenegro to grant preferential treatment to imports from other countries covered by the EU's Stabilisation and Association Process in South-Eastern Europe, as well as other adjacent countries which are not EU members, in order to promote regional trade.

### 3.5.1. *Trade in industrial products*

The provisions of this section will apply to all products originating in the contracting parties listed in Chapters 25 to 97 of the Combined Nomenclature, with the exception of those listed in an Annex to the Agreement (identifying those products considered to be agricultural rather than industrial). 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.

#### 3.5.1.1. *Imports into the Community*

The Community will confirm the abolition of quantitative restrictions, customs duties and any measures having equivalent effect on imports into the Community of goods of Serbia and Montenegro origin upon the entry into force of the Agreement.

#### 3.5.1.2. Imports into Serbia and into Montenegro

The following measures will be provided for:

- upon the entry into force of the Agreement, quantitative restrictions or measures having an equivalent effect on imports into the two Republics of goods originating in the Community will be abolished;
- upon entry into force of the Agreement, both Republics will abolish all customs duties for all products not included in the lists of sensitive products. These lists will be laid down as annexes to the Agreement.
- The two Republics will phase out duties applicable to products originating in the

Community listed in the said annexes to the Agreement according to timetables to be negotiated in the light of 1) the product's sensitivity and 2) the two Republics' need to ensure fiscal sustainability.. All customs duties must be abolished by the end of the transition period.

### 3.5.1.3. Measures common to both parties

Upon entry into force of the Agreement, the parties will abolish as between themselves any charges having an effect equivalent to customs duties on imports.

The parties will abolish, on the Agreement's entry into force, all customs duties on exports and charges having equivalent effect and all quantitative restrictions on exports and measures having equivalent effect. All quantitative restrictions and measures having equivalent effect will be abolished on the agreement's entry into force, except where otherwise specified.

### 3.5.1.4. Special Arrangements

#### *Textiles*

Trade in textile products will be governed by specific provisions incorporating all the measures contained in the Autonomous Trade Measures, the relevant provisions of the textile Agreement between the Republic of Serbia and the European Community<sup>6</sup> as well as the appropriate autonomous textile measures<sup>7</sup>.

### 3.5.2. Trade in agricultural and fishery products

The provisions of this heading will apply to trade in agricultural (including processed agricultural products) and fishery products originating in Serbia and in Montenegro and in the Community.

The term "agricultural products and fishery products" refers to the products listed in Chapters 1 to 24 of the Combined Nomenclature and the products listed in Annex 1 §I (ii) of the Agreement on Agriculture (GATT, 1994).

This definition includes fish and fisheries 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").

Processed agricultural products regarded for the purposes of the Agreement as "agricultural products", will be regulated by special provisions which will take account of their industrial and agricultural aspects. The Community provisions in force will not be obstructed by the reciprocal concessions made in the Agreement regarding processed agricultural products not listed in Annex I to the Treaty establishing the European Community.

From the date of entry into force of the Agreement, the Community will abolish all quantitative restrictions and measures having an equivalent effect affecting imports of agricultural and fishery products originating in Serbia and Montenegro.

From the date of entry into force of the Agreement, the two Republics will abolish any quantitative restrictions and measures having equivalent effect on imports of agricultural and fishery products originating in the Community.

The contracting parties will accord each other concessions on a reciprocal basis on the terms laid down in the annexes to the Agreement, taking into consideration previous free trade arrangements involving the parties concerned.

<sup>6</sup> Council Decision of 14 March 2005 on the conclusion of the bilateral agreement between the European Community and the Republic of Serbia on trade in textile products (2005/272/EC) Official Journal of the European Union L 90/2005

<sup>7</sup> as per Regulation 517/94

The equivalent of the concessions granted to Serbia and to Montenegro under the EC autonomous trade measures, including tariff quotas, applied at the moment of entry into force of this Agreement will be incorporated in the SAA. These concessions are subject to Serbia and Montenegro abiding by the provisions under section 3.5.3. They may be adjusted in the event of serious disturbances of the community markets or the ir regulatory mechanisms that may result from them in accordance with specific safeguard and anti-fraud clauses which will be included in the Agreement.

Taking account of the volume of the trade between the EC and Serbia and Montenegro in agricultural and fishery products, its particular sensitivity, the rules of the Community's common agricultural and fishery policies, the role of agriculture and fisheries in the economy of Serbia and of Montenegro and the consequences of the accession of Serbia and of Montenegro to the WTO and the consequences of the multilateral trade negotiations under the WTO, the contracting parties will examine in the Stabilisation and Association Council, product by product, the scope for granting each other further concessions on reciprocal basis. Concessions granted by the parties on trade in fishery products will be listed in supporting annexes.

Provisions should be established between the contracting parties to seek to obtain full protection of geographical indications in the agricultural and fishery sectors, including a specific protocol for wines and spirits.

### *3.5.3. Common Provisions*

In order to ease the process of progressive liberalisation referred to in points 3.5.1 and 3.5.2, the Agreement should provide for general provisions that will cover all products, except where otherwise provided. Any such provisions will be in conformity with relevant WTO rules.

#### *3.5.3.1. Standstill*

Without prejudice to the parties' present or future agricultural policies and save for exceptions agreed by them, no new duty or charge with equivalent effect and no new quantitative restriction or measure with equivalent effect will be introduced in trade between the contracting parties, and those already applied may be neither increased nor made more restrictive from the day before the start of negotiations.

#### *3.5.3.2. Non-discrimination*

The parties will refrain from any domestic tax measure or practice and abolish existing ones which discriminate, directly or indirectly, between the products of one contracting party and like products originating in the other.

Products exported to the other party's territory may not benefit from repayment of internal taxation in excess of the amount of direct or indirect taxation imposed on them.

The trade arrangements of Serbia and Montenegro with third parties may not result in discrimination against the Community.

#### *3.5.3.3. Customs 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.

#### *3.5.3.4. Customs unions, free trade areas and arrangements for frontier trade*

The Agreement will include a clause similar to that in other association agreements. These other agreements and arrangements will all be in conformity with relevant WTO rules.



### 3.5.3.5. Special clauses and procedures

The Agreement will include an anti-dumping/countervailing clause, a general safeguard clause, a state monopolies clause and a "shortage" clause and a direct tax carve out clause comparable to those found in similar agreements, and provisions on the procedures governing these clauses, taking into account previous experiences.

### 3.5.3.6. Preferential rules of origin and methods of administrative cooperation

A Protocol defining the term "originating product" setting out methods of administrative cooperation will be annexed to the Agreement. If, in the meantime, it is decided to extend diagonal cumulation to the SAP countries, due account will be taken in the course of the negotiations.

### 3.5.3.7. Restrictions

The Agreement will not preclude the enforcement of prohibitions or restrictions on imports, exports or goods in transit referred to in Articles 30, 296 and 297 of the EC Treaty.

### 3.5.3.8. Administrative cooperation in the field of fraud and management of preferential imports

The Agreement will empower the contracting parties to take appropriate measures in case of lack of administrative cooperation or management and/or of irregularities or fraud. With respect to the issue of losses of customs duties linked to the management of preferential imports, appropriate measures could be identified on the basis of a Council decision.

## **3.6. Movement of Workers, Establishment, Services, Capital**

### *3.6.1. Movement of workers*

The Agreement will, subject to the conditions and modalities applicable in each Member State, ensure that workers who are nationals of Serbia and Montenegro and who are legally employed in the territory of a Member State shall be free from any discrimination based on nationality, as regards working conditions, remuneration or dismissal, compared to its own nationals.

Subject to the conditions and modalities applicable in each Member State, in particular legislation concerning family reunification, 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 established between Serbia and Montenegro and Member States, will have access to the labour market of that Member State during the period of that worker's authorised stay of employment.

The parties will adopt the rules necessary for the coordination of social security systems for workers with citizenship of Serbia and Montenegro, legally employed in the territory of a Member State, and for the members of their families legally resident there. 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, will put the following provisions in place:

- all periods of insurance, employment or residence completed by such workers in the various EU 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 EU Member State or States;

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

A reciprocity clause for these provisions will be included in the Agreement.

### 3.6.2. *Establishment*

An approach to the freedom of establishment similar to that found in comparable agreements would incorporate the following main components:

- the contracting parties would, upon entry into force of the Agreement, grant one another national treatment or MFN status, whichever is better, with regard to the establishment and operations of companies. EC companies established in one of the Republics should also enjoy the same national or MFN treatment in the other Republic;
- after a period to be defined during the negotiations taking into account 1) the length of the transition period, 2) the relevant European Court of Justice jurisprudence, and 3) the situation on the labour market of the parties, the Stabilisation and Association Council should extend the above provisions to self-employed nationals of the parties to the Agreement;
- the two Republics would, if necessary, be allowed transition periods in a limited number of sectors, to be defined in Annexes to the Agreement;
- notwithstanding the general provisions on the free movement of workers, the beneficiaries of the right of establishment accorded by the contracting parties respectively will be entitled, in accordance with the legislation in force in the host country of establishment, to employ, or have employed by one of their establishments there, employees who are nationals of Community Member States and Serbia and Montenegro respectively, provided that such employees are key personnel;
- special provisions concerning land, maritime cabotage and air transport. In the latter field, the results of negotiations on the so called “Horizontal Agreement” should be taken into account;
- provisions on Community shipping firms identical to those featuring in similar agreements.

### 3.6.3. *Temporary movement of services suppliers*

With regard to the temporary movement of services suppliers, the Agreement should only deal with temporary movement of key personnel and other carefully defined groups of services suppliers taking into account the GATS definitions, in particular the definitions for Mode 4 in the EC schedules of commitments. Furthermore, in order to avoid potential circumvention, the Commission should negotiate, as necessary, more precise definitions for the particularly sensitive sectors. The Commission should also ensure that nothing in the Agreement should prevent the parties from applying their national laws, regulations and requirements regarding entry and stay, work, labour conditions, the establishment of natural

persons and the supply of services provided that, in doing so, they do not nullify or impair the benefits accruing from the Agreement.

#### 3.6.4. *Mutual recognition of qualifications*

In order to make it easier for the nationals of one party to take up and pursue professional activities in the territory of the other party, the Stabilisation and Association Council shall examine which conditions are necessary for the mutual recognition of qualifications and may take all the necessary measures to that end.

#### 3.6.5. *Supply of services*

##### 3.6.5.1. General provisions

The Agreement shall provide for a progressive and reciprocal liberalisation of trade in services between the community and respectively the Republic of Serbia and the Republic of Montenegro. This will be consistent with the relevant WTO rules, in particular Article V of GATS. The agreement would include the following main components:

- companies not established in the territory of the other party will gradually acquire the right to provide services, in accordance with the GATS provisions and taking account, in particular, of progress in approximation of laws in the various fields. The specific obligations undertaken by the Republic of Serbia and the Republic of Montenegro will be reviewed after the accession to the WTO;
- the Stabilisation and Association Council will monitor the implementation of this liberalisation and notably the progress made in the field of financial services (the banking reform, the strengthening of the supervisory structures, the legislation regarding securities and the Stock Exchange).

##### 3.6.5.2. Transport Services

The Agreement will also provide for liberalisation of transport services, including a specific protocol on land transport. It will contain the following main elements:

- specific provisions on land transport, in particular road, rail and combined transport, in order to grant unrestricted road transit traffic across Serbia and Montenegro and the Community as a whole, whilst ensuring non-discriminatory treatment for Serbian and Montenegrin lorries with reference to the rules applicable to Community lorries when transiting through Community territory. In this field (transiting Community territory), Serbia and Montenegro will observe any Community regulation governing heavy duty vehicles. Serbian and Montenegrin heavy duty vehicles shall also be covered by a regime similar to any future Community regulations aiming at reducing pollution and at improving traffic safety that may be applied. The effective application of the principle of non-discrimination, notably in the field of road charges and specific technical, environmental and social requirements, will also be ensured. The ratification and implementation of international conventions by Serbia and Montenegro relating to road safety will be encouraged. While paying particular attention to the core regional network in South East Europe, the main road and rail routes and the projects of particular interest to the contracting parties will be identified in order to promote

primarily their complete development. Appropriate actions to progressively improve inland navigation services will also be considered;

- air transport provisions that provide for a special agreement, on conditions of mutual access with a view to ensuring a coordinated development and progressive liberalisation of transport between the parties adapted to their reciprocal commercial needs;
- as regards maritime transport, the application of the principles of unrestricted access, on a commercial basis, to the international maritime market and traffic, and respect of international and European obligations in the field of safety, security and environmental standards.

#### *3.6.6. Current payments and movement of capital*

Provisions on current payments are required to underpin provisions in other chapters of the future Agreement. Free movement of capital is an essential feature of an integrated market, from which also Serbia and Montenegro will benefit as soon as their competitiveness allows. The Agreement will include provisions on acquisition of real estate by non-residents. The Agreement will include the commitment by the two Republics to liberalisation of the movement of capital relating to direct investments made in accordance with the chapter on establishment and the protection of investors as regards liquidation and repatriation of investments and profits stemming therefrom. Such provisions should not affect any more favourable treatment provided for under Serbia and Montenegro's existing bilateral and multilateral commitments. The Agreement will include a standstill clause and a development clause providing for further liberalisation of movement of capital in the medium term. It will also contain a commitment by Serbia and Montenegro to ensure free movement of capital for EU investors between the two Republics.

#### *3.6.7. General provisions*

The general provisions, including tax provisions, will be modelled on those of similar agreements.

### **3.7. Approximation of Laws, Law Enforcement and Competition Rules**

The Agreement will contain provisions on the gradual approximation of the existing and future legislation of the state union of Serbia and Montenegro, the Republic of Serbia and the Republic of Montenegro to that of the Community, and will place particular emphasis on its effective implementation.

Within a time framework agreed upon during the negotiations the state union of Serbia and Montenegro, the Republic of Serbia and the Republic of Montenegro will start ensuring that legislation will be made compatible with the fundamental elements of the *acquis*, notably in key areas of the Internal Market legislation, in line with the European Partnership priorities. At a further stage the state union of Serbia and Montenegro, the Republic of Serbia and the Republic of Montenegro will approximate their laws with other elements of the *acquis*.

The Agreement will contain provisions concerning 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 harmonisation in the following sectors: competition, intellectual, industrial and commercial property rights, public procurement, standards and certification, financial services, land, air and maritime transport - with special emphasis on safety and environmental standards as well as social aspects - energy, company law, accounting, consumer protection, data protection, health and safety at work and equal

opportunities. Legal approximation in other sectors of the internal market will be an obligation to be met at the end of the transition period.

### 3.7.1 *Competition*

#### 3.7.1.1. Competition including state aid

Provisions on competition will be modelled on those of comparable agreements, in particular the Stabilisation and Association Agreement with Croatia. They will, in particular, include:

- provision for transparency in the area of state aid, including *inter alia* annual reporting;
- As appropriate, the steel products will be subject to a specific regime on the model of Protocol 2, article 5 of the SAA with Croatia; It will stress the exceptional character of aid for restructuring and the fact that such aid will be limited in time and will be linked to capacity reductions within the framework of feasibility programmes
- competition rules based on Articles 81, 82 and 87 of the EC Treaty as well as provisions on public undertakings, and undertakings to which special or exclusive rights have been granted which are to be enforced by operationally independent authorities. The provisions based on Articles 81 and 82 should apply from the signing of the Agreement, whereas the provisions based on Article 87 should enter into force gradually within a period to be determined during the negotiations.;
- the right of either party to take appropriate measures, if it feels that practices are incompatible with the terms of the Agreement.

#### 3.7.1.2. State Monopolies

Provision will be made for the adjustment, within a period to be determined during the negotiations, of state monopolies of commercial character, so as to ensure that no discrimination exists between the parties regarding the conditions under which goods are marketed.

#### 3.7.1.3. Public undertakings

Within a period to be determined during the negotiations, , and without prejudice to stricter obligations to apply Articles 81, 82 and 87 to public undertakings as are specified under 3.7.1.1, Serbia and Montenegro will apply to public undertakings 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 will not include the possibility to impose quantitative restrictions or measures having an equivalent effect on imports from the Community into Serbia and Montenegro.

### 3.7.2. *Intellectual, industrial and commercial property*

The state union of Serbia and Montenegro, the Republic of Serbia and the Republic of Montenegro will introduce all measures necessary to ensure effective and adequate protection for and enforcement of intellectual, industrial and commercial property rights, including protection against counterfeiting and pirating, so as to guarantee a level of protection comparable to that existing in the Community before the end of the transitional period, within a timeframe to be determined during the negotiations, and to accord treatment to Community

companies and nationals no less favourable than that offered to third countries under bilateral Agreements from the entry into force of the Agreement. Serbia and Montenegro undertakes to ratify or accede to the multilateral conventions in this field to which it is not yet party, on condition that the Member States of the Community are parties to them or apply them *de facto*.

### 3.7.3 *Public procurement*

Provisions for access to public procurement will be similar to those included in the SAA for Croatia, and also encompass an obligation to enhanced accountability in the field namely:

- from entry into force of the Agreement, the Community will accord any company from Serbia or Montenegro, whether or not established in the Community, access to public contract award procedures terms no less favourable than those accorded to Community companies;
- from the entry into force of the Agreement, each Republic will accord Community companies established in its territory access to public contracts on terms no less favourable than those accorded to Montenegrin and Serbian companies. An EC company established in one Republic should also enjoy national treatment for public contracts in the other Republic or for contracts awarded by state union entities.
- within a period to be determined during the negotiations, Serbia and Montenegro will accord Community companies not established in Serbia and Montenegro access to public contracts on terms no less favourable than those applicable to the companies in the two Republics
- as far as the fulfilment of public contracts is linked to areas such as establishment, operations, supply of services between the contracting parties as well as employment and movement of labour, the respective general provisions on movement of workers, establishment, supply of services and capital remain fully applicable.
- Serbia and Montenegro will progressively introduce, in their domestic legal orders, mechanisms that enhance transparency, and provide for effective judicial review of decisions taken in the area of public procurement.

### 3.7.4. *Standardisation, metrology, accreditation and conformity assessment*

Provisions in this area will aim to gradually achieve conformity of legislation in Serbia and in Montenegro with the Community technical regulations and European standardisation, metrology, accreditation and conformity assessment procedures.

To this end, the provisions will refer in particular:

- to promoting the use of Community technical regulations, standards and conformity assessment procedures
- to providing assistance to fostering the development of quality infrastructure: standardisation, metrology, accreditation and conformity assessment;
- to promoting Serbia and Montenegro's participation 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, to the conclusion of the Agreement on Conformity Assessment and Acceptance of Industrial Products once legislative framework and procedures of Serbia and Montenegro are sufficiently aligned on that of the Community and appropriate expertise is available.

#### *3.7.5. Consumer protection*

Effective consumer protection is needed 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, provisions in this area will 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 Serbia and 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.

#### *3.7.6. Working conditions and equal opportunities*

The two Republics will progressively harmonise their legislation concerning working conditions, notably on health and safety at work and equal opportunities with Community legislation.

### **3.8. Justice, Freedom and Security.**

#### *3.8.1. Reinforcement of institutions*

In their cooperation on justice and home affairs the parties will 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 administration of justice in particular. Cooperation will notably aim at strengthening the independence of the judiciary and improving its efficiency, developing adequate structures for the police and other law enforcement bodies, providing adequate training and fighting corruption.

#### *3.8.2. Protection of Personal Data*

Effective protection of personal data is needed so as to allow for the transfer of personal data between the EU and Serbia and Montenegro, to reinforce democracy, and to set the basis for cooperation in the justice and home affairs field whilst guaranteeing the protection of fundamental rights and freedoms of individuals.

The two Republics will harmonise their legislation concerning personal data protection with Community law and other European and international legislation on privacy. This protection will depend on the setting up of independent supervisory bodies with sufficient financial and

human resources in order to efficiently monitor and guarantee the enforcement of national personal data protection legislation, and the Parties will cooperate to achieve this goal.

### 3.8.3. *Visa, border control, asylum and migration*

The parties will cooperate in the areas of visa, border control, asylum and migration and will set up a framework for the cooperation, including at a regional level, in these fields, taking into account and making full use of other existing initiatives in this area as appropriate.

Cooperation in the matters above will be based on mutual consultations and close coordination 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 the travel documents and detection of false documents;
- border control management;

Cooperation will focus in particular:

- in 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 ensuring that the principle of ‘non-refoulement’ is respected as well as other rights of asylum seekers and refugees.
- in 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.

### 3.8.4. *Prevention and control of illegal immigration; readmission*

The parties will cooperate in order to prevent and control illegal immigration. To this end, the parties will agree, upon request and without further formalities:

- to readmit any of their nationals illegally present on the territory of the other party;
- to readmit nationals of third countries and stateless persons having entered EU territory via Serbia and Montenegro or Serbian and Montenegrin territory via an EU Member State.

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

The parties will agree to conclude an agreement between Serbia and Montenegro and the European Community regulating the specific obligations for Serbia and Montenegro and for the Member States of the European Union for readmission, including an obligation for the readmission of nationals of other countries and stateless persons.



Serbia and Montenegro agrees to conclude readmission agreements with the other countries of the Stabilisation and Association process and undertakes to take any necessary measures to ensure the flexible and rapid implementation of those agreements.

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.

#### *3.8.5. Money laundering and terrorism financing*

The parties will cooperate in order to prevent the use of their financial systems for laundering of proceeds from criminal activities in general and drug offences in particular.

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

#### *3.8.6. Cooperation on illicit drugs*

Within their respective powers and competencies, the parties shall cooperate 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.

The parties will agree on the necessary methods of cooperation to attain these objectives. Actions shall be based on commonly agreed principles along the lines of the EU Drug Strategy 2005-2012.

#### *3.8.7. Preventing and combating crime and other illegal activities*

The parties will cooperate 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 currencies, illegal transactions on products such as industrial waste, radioactive material and transactions involving illegal or counterfeit products;
- Corruption, both in the private and public sector, in particular linked to non-transparent administrative practices;
- fiscal fraud;
- illicit trafficking in drugs and psychotropic substances;
- smuggling;
- illicit arms trafficking;
- forging documents;
- illicit car trafficking;
- cyber crime.

### 3.8.8 *Combating terrorism*

In compliance with the international conventions to which they are party and their respective laws and regulations, the parties agree to cooperate in order to prevent and suppress acts of terrorism and their financing, especially those involving cross-border activities:

- in the framework of full implementation of Security Council Resolution 1373 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.

### 3.8.9 *The special position of the UK, Ireland and Denmark.*

The special position of the UK, Ireland and Denmark in relation to matters covered by Title IV of the EC Treaty will be taken into account.

## **3.9. Cooperation Policies**

The parties will establish a close cooperation aimed at contributing to the development and growth potential of Serbia and Montenegro. Such cooperation will strengthen existing economic links on the widest possible foundation, to the benefit of both parties.

Policies and other measures will be designed to bring about sustainable economic and social development of Serbia and Montenegro, and contribute to the reduction of poverty. 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. Cooperation policies should be integrated into a regional framework of cooperation. Special attention will be devoted to measures which can foster cooperation between Serbia and Montenegro and its neighbouring countries including Member States of the EU, thus contributing to regional stability. The Stabilisation and Association Council may define priorities between and within the cooperation policies described hereinafter in line with the priorities set out by the European Partnership.

### 3.9.1. *Economic and trade policy*

The contracting parties shall facilitate the process of economic reform by cooperating to improve understanding of the fundamentals of their respective economies and the formulation and implementation of economic policy in market economies.

At the request of the authorities of Serbia and Montenegro, the Community may provide assistance designed to support Serbia and Montenegro's efforts to establish functioning market economies and to gradually approximate their policies to the stability-oriented policies of the Economic and Monetary Union.

Cooperation will also aim to strengthen the rule of law in the business area through a stable and non-discriminatory trade-related legal framework. It will also include exchange of information concerning the principles and functioning of the European Economic and Monetary Union.

### 3.9.2. *Statistical cooperation*

Cooperation between the parties will primarily focus on priority areas related to the Community *acquis* in the field of statistics. It will notably be aimed at developing an efficient

and sustainable statistical system capable of providing, reliable, objective and accurate data needed to plan and monitor the process of transition and reform in Serbia and Montenegro. It should also enable the Statistical Offices in Serbia and Montenegro to meet better the needs of their customers (both public administration and private sector). The statistical system should respect the fundamental principles of statistics issued by the UN, the stipulations of the European Statistical law and the European Statistics Code of Practice and develop towards the Community *acquis*.

#### 3.9.3. *Banking, insurance and other financial services*

Cooperation between the contracting parties will focus on priority areas related to the Community *acquis* in the fields of banking, insurance and financial services. The parties will cooperate with the aim of establishing and developing a suitable framework for the encouragement of the banking, insurance and financial services sectors in the two Republics.

#### 3.9.4. *Audit and financial control cooperation*

Cooperation will focus on priority areas related to the Community *acquis* in the field of public internal financial control (PIFC) and external audit. The parties will, in particular, cooperate with the aim of developing efficient PIFC and external audit systems in the two Republics in accordance with internationally accepted standards and methodologies and EU best practices.

#### 3.9.5. *Investment promotion and protection*

Cooperation between the parties will primarily focus on priority areas related to investment promotion and protection. Cooperation between the parties, within the scope of their respective competencies, in the field of investment promotion and protection will aim to bring about a favourable climate for private investment, both domestic and foreign.

#### 3.9.6. *Industrial cooperation*

Cooperation will aim at promoting the modernisation and restructuring of the Serbian and Montenegrin industry and individual sectors. It will also cover industrial cooperation between economic operators, with the objective of strengthening the private sector under conditions, which ensure that the environment is protected.

Industrial cooperation initiatives will reflect the priorities determined by all parties to the Agreement. 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.

Cooperation will take due account of the Community *acquis* in the field of industrial policy.

#### 3.9.7. *Small and medium-sized enterprises*

Cooperation between the parties will be aimed at developing and strengthening private sector small and medium-sized enterprises (SMEs) and will take due account of priority areas related to the Community *acquis* in the field of SMEs. This includes the commitment of Serbia and Montenegro to the European Charter for Small Enterprises, introduced at the Thessaloniki summit and which contains ten guidelines on how governments can improve the business environment for small companies.

#### 3.9.8. *Tourism*

Cooperation between the parties in the field of tourism will aim at strengthening the flow of information on tourism (through international networks, databanks, etc.), strengthening the cooperation between tourism enterprises, experts and government(s) and their competent

agencies in the field of tourism, and to transfer know-how (through training, exchanges, seminars). Cooperation will take due account of Community *acquis* related to this sector.

#### 3.9.9. *Agriculture and the agro-industrial sector*

Cooperation between the parties will focus on priority areas related to the Community *acquis* in the field of agriculture. Cooperation will notably aim at modernising and restructuring the Serbian and Montenegrin agriculture and the agro-industrial sector, and at supporting the gradual approximation of legislation and practices to Community rules and standards.

#### 3.9.10. *Fisheries*

The parties will explore the possibility of identifying mutually beneficial areas of common interest in the fisheries sector. Cooperation will take due account of priority areas related to the Community *acquis* in the field of fisheries.

#### 3.9.11. *Customs*

The parties will establish cooperation in this area with a view to guaranteeing compliance with the provisions to be adopted in the area of trade and to achieving the approximation of the customs systems of the Republic of Montenegro and the Republic of Serbia to that of the Community. This will help to pave the way for the liberalisation measures planned under the Stabilisation and Association Agreement and for the gradual approximation of the Republican customs legislation to the *acquis*.

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

Protocols on mutual administrative cooperation in the customs field will be added to the Agreement.

#### 3.9.12. *Taxation*

The parties will establish cooperation in the field of taxation including measures aiming at further reform of the fiscal system and further restructuring of the tax administration with a view to ensuring effective tax collection and reinforcing the fight against fiscal fraud.

Cooperation 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 should also include the improvement of transparency and the exchange of information with the Member States of the European Union in order to facilitate the enforcement of measures preventing tax fraud, evasion or avoidance.. This should also include a commitment to complete the network of bilateral agreements with Member States, on the basis of the OECD model agreement to exchange information.

#### 3.9.13. *Social cooperation*

The parties will cooperate to facilitate the reform of the employment policy in the two Republics, in the context of strengthened economic reform and integration. Cooperation will also seek to support the adaptation of the social security systems of the two Republics to the new economic and social requirements. This may involve the adjustment of the legislation on working conditions and equal opportunities for women, as well as improved health and safety protection for workers, taking as a reference the level of protection existing in the Community.

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

#### 3.9.14. *Education and Training*

The parties will cooperate with the aim of raising the level of general education and vocational education and training in the two Republics as well as youth policy and youth work. A priority for higher education systems shall be the achievement of the objectives of the Bologna Declaration in the intergovernmental Bologna process.

The parties will also cooperate with the aim of ensuring that access to all levels education and training in Serbia and Montenegro is free of discrimination on 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 Serbia and Montenegro.

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

#### 3.9.15. *Cultural cooperation*

The parties undertake to promote cultural cooperation. This cooperation will serve *inter alia* to raise mutual understanding and esteem between individuals, communities and peoples.

#### 3.9.16. *Cooperation in the audio-visual field*

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

Cooperation could include *inter alia* programmes and facilities for training journalists and other media professionals for instance through participation in the MEDIA programme, as well as technical assistance to the public and private media so as to reinforce their independence, professionalism and links with European media.

Serbia and 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*. Serbia and Montenegro will pay particular attention to matters relating to the acquisition of intellectual property rights for programmes broadcast by satellite and cable .

#### 3.9.17. *Information society*

Cooperation will primarily focus on priority areas related to the Community *acquis* regarding the information society. It will mainly support the gradual alignment of policies and legislation in this sector with those of the Community.

The parties will also cooperate with a view to further developing the Information Society in Serbia and Montenegro. Global objectives will include preparing society as a whole for the digital age, attracting investments and ensuring the interoperability of networks and services.

#### 3.9.18 *Electronic Communications Networks and Services*

Cooperation will primarily focus on priority areas related to the Community *acquis* in this field.

The parties will, in particular, strengthen cooperation in the area of electronic communications networks, and associated services, with the ultimate objective of the adoption by the two Republic of the *acquis* in these sectors.

#### 3.9.19. *Information and Communication*

The contracting parties will 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 Serbia and Montenegro with more specialised information.

### *3.9.20. Transport*

Cooperation between the parties will focus on priority areas related to the Community *acquis* in the field of transport.

Cooperation may notably aim at restructuring and modernising the transport modes of the republics, improving the free movement of passengers and goods, enhancing the access to the transport market and facilities, including ports and airports, supporting the development of multimodal infrastructures in connection with the main Trans-European networks, notably to reinforce regional links in the South East Europe in line with the MoU of the development of the Core Regional Transport Network, achieving operating standards comparable to those in the Community, developing a transport system in Serbia and Montenegro compatible and aligned with the Community system and improving environmental protection in transport.

### *3.9.21. Energy*

Cooperation will focus on priority areas related to the Community *acquis* in the field of energy, including, as appropriate, nuclear safety aspects. It will reflect the principles of the market economy and the European Energy Charter Treaty, and will develop with a view to the gradual integration of Serbia and Montenegro into Europe's energy markets, particularly to establish the Energy Community in South East Europe (ECSEE).

### *3.9.22. Environment*

The parties will develop and strengthen their cooperation 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 will, in particular, establish cooperation 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 Serbia and Montenegro's alignment to the Community *acquis*. Cooperation could also centre on the development of strategies to significantly reduce local, regional and trans-boundary air and water pollution, to establish a system 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.

### *3.9.23. Research and technological development*

The parties will encourage cooperation 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). Cooperation will take due account of the priority areas related to the Community *acquis* in the field of research and technical development.

### *3.9.24. Regional and local development*

The parties will seek to strengthen regional and local development cooperation, with the objective of contributing to economic development and reducing regional imbalances. Specific attention will be given to cross-border, trans-national and interregional cooperation. Cooperation will take due account of the priorities in the Community *acquis* in the field of regional development.

### 3.9.25 *Public administration reform*

Cooperation will aim to further develop an efficient and accountable public administration in Serbia and Montenegro building on the reform efforts undertaken to date in this area. Cooperation 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. Cooperation will cover the state union, the republican and the local administrations.

### **3.10. Financial Cooperation**

In order to achieve the objectives of the SAA, Serbia and 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 European Partnership, of the results of the Regular Report with Serbia and Montenegro. Community assistance shall also be subject to the conditionalities of the Stabilisation and Association Process, in particular as regards the recipients' undertaking to carry out democratic, economic and institutional reforms. Aid granted to Serbia and Montenegro will be geared to observe needs, agreed priorities, reflect the capacity to absorb and repay, and implement measures to reform and restructure the economy.

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

The financial assistance from the Community will cover all sectors of cooperation, paying particular attention to Justice and Home Affairs and approximation of legislation and economic development.

At the request of Serbia and Montenegro and in case of special need, the Community may examine in coordination with international financial institutions, the possibility of granting on 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 program agreed between the Republic of Montenegro and the Republic of Serbia and the IMF.

In order to permit an optimum use of the resources available, the parties will ensure that Community contributions are made in close coordination 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 will be exchanged regularly between the parties.

### **3.11. Institutional, General and Final Provisions**

#### *3.11.1. Stabilisation and Association Council (SAC)*

The SAC will be the supreme body established under the Agreement and will supervise its implementation. It will meet at regular intervals, at an appropriate level, and call extraordinary meetings when circumstances require. It will consist of members of the Council of the European Union and members of the European Commission on the one hand, and members of the Governments of the state union of Serbia and Montenegro, the Republic of Montenegro and the Republic of Serbia on the other. It will examine any major issues, including dispute settlement, relating to the implementation of the Agreement and any other bilateral or international issues of mutual interest. The SAC may delegate to the Stabilisation

and Association Committee (SACOM, see below) any of its powers. For matters within its competence, the EIB will be involved as an observer in the SAC's discussion. The SAC will establish its rules of procedure.

#### *3.11.2. Stabilisation and Association Committee (SACOM)*

The SACOM will assist the SAC and prepare for its meetings. It will meet at senior civil servant level at least once a year and as circumstances require. It will ensure continuity between meetings of the SAC. The SACOM will consist of representatives of the Council of the European Union and representatives of the European Commission on the one hand, and representatives of Serbia and Montenegro on the other.

The SACOM will examine any issue relating to the implementation of the Agreement and any other matter of mutual interest.

In specific areas, the SACOM may set up subcommittees.

#### *3.11.3. Stabilisation and Association Parliamentary Committee (SAPC)*

The SAPC will be a forum for members of Parliaments of the state union of Serbia and Montenegro, Republic of Montenegro and the Republic of Serbia and the European Parliament to meet and exchange views. It will meet at least once a year. The SAPC may make recommendations to the SAC.

#### *3.11.4. General and final provisions*

The parties will adopt provisions in order:

- to ensure that natural and legal persons have access free of discrimination to the competent courts and administrative tribunals for the defence of their rights;
- to enable the parties to take any measures considered necessary for security reasons (national defence, state of war, etc.);
- to ensure non-discrimination in the application of measures taken under Agreement;
- to set out the consultation and dispute settlement procedures for taking measures in the event of a failure to fulfil obligations under the Agreement;
- to allow for the maintenance of rights accorded by existing agreements between Serbia and Montenegro and one or more EU Member States, where these are more advantageous to the parties' economic operators;
- to set out the duration of the Agreement (unlimited, in principle), with the possibility of denunciation after notification (the Agreement shall cease to apply six months after the date of such notification), and suspension, with immediate effect, in the event of violation of one of the essential elements of the Agreement;
- to include territorial clauses, in particular that the Agreement shall not apply in Kosovo which is at present under international administration pursuant to United Nations Security Council Resolution 1244 of 10 June 1999. This is without prejudice to the current status of Kosovo or the determination of its final status under the same Resolution;



- to define the concept of "parties" to the Agreement;
- to define the concept of authentic languages, as well as the ratification and entry into force of the Agreement.

During the negotiations, the contracting parties will examine the relevance of concluding an Interim Agreement, which would enter into force after the signature of the Stabilisation and Association Agreement, including the provisions on free movement of goods of the Stabilisation and Association Agreement as well as the relevant provisions on Transport. The Secretary General of the Council of the EU will be the depository of the Agreement.