



COMMISSION OF THE EUROPEAN COMMUNITIES

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2006/0128 (ACC)

Proposal for a

**COUNCIL REGULATION**

**on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part, and for applying the Interim Agreement between the European Community, of the one part, and the Republic of Albania, of the other part**

(presented by the Commission)

## **EXPLANATORY MEMORANDUM**

A Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part, was signed in Luxembourg on 12 June 2006. It will be concluded once Albania, the Communities and the Member States have completed the ratification process.

On 12 June 2006 the Council concluded an Interim Agreement on trade and trade-related matters between the European Community, of the one part, and the Republic of Albania, of the other part, which provides for the early entry into force of the trade and trade-related provisions of the Stabilisation and Association Agreement. This agreement will enter into force the first day of the second month following the date of deposit of the last instrument of ratification or approval.

An Implementing Regulation is required to lay down the procedures for applying certain provisions of the said Agreements in order to ensure their correct implementation.

It is therefore proposed that the Council adopt the attached regulation.

Proposal for a

## COUNCIL REGULATION

**on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part, and for applying the Interim Agreement between the European Community, of the one part, and the Republic of Albania, of the other part**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) A Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part,<sup>1</sup> (hereinafter referred to as 'SAA') was signed in Luxembourg on 12 June 2006. The SAA is in the process of ratification.
- (2) On 12 June 2006 the Council concluded an Interim Agreement on trade and trade-related matters between the European Community, of the one part, and the Republic of Albania, of the other part,<sup>2</sup> (hereinafter referred to as the 'Interim Agreement') which provides for the early entry into force of the trade and trade-related provisions of the SAA. The Interim Agreement will enter into force the first day of the second month following the date of deposit of the last instrument of ratification or approval.
- (3) It is necessary to lay down the procedures for applying certain provisions of both the SAA and the Interim Agreement. Since the trade and trade-related provisions of these instruments are to a very large extent identical, this regulation should also apply to the implementation of the SAA after its entry into force.
- (4) The SAA and the Interim Agreement stipulate that fishery products originating in Albania may be imported into the Community at a reduced customs duty, within the limits of tariff quotas. It is therefore necessary to lay down provisions regulating the management of these tariff quotas.
- (5) Where trade defence measures become necessary, they should be adopted in accordance with the general provisions laid down in Council Regulation (EC) No

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<sup>1</sup> OJ C[...],[...]2006, p.[...]

<sup>2</sup> OJ L[...],[...]2006, p. [...]

3285/94 of 22 December 1994 on the common rules for imports<sup>3</sup>, Council Regulation (EEC) No 2603/69 of 20 December 1969 establishing common rules for exports<sup>4</sup>, Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community<sup>5</sup> or, as the case may be Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidized imports from countries not members of the European Community<sup>6</sup>.

- (6) For the purposes of implementing the relevant provisions of this Regulation the Commission should be assisted by the Customs Code Committee established by Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing Community Customs Code<sup>7</sup>.
- (7) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>8</sup>,

HAS ADOPTED THIS REGULATION:

### *Article 1*

#### *Subject matter*

This Regulation sets down certain procedures for adopting detailed rules on the implementation of certain provisions of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part, (hereinafter referred to as 'SAA'), and of the Interim Agreement on trade and trade-related matters between the European Community, of the one part, and the Republic of Albania, of the other part (hereinafter referred to as the 'Interim Agreement').

### *Article 2*

#### *Concessions for fish and fishery products*

Detailed rules on the implementation of Article 15(1) of the Interim Agreement, and thereafter Article 28(1) of the SAA, concerning the tariff quotas for fish and fishery products, shall be adopted by the Commission in accordance with the management procedure set out in Article 12(2).

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<sup>3</sup> OJ L 349, 31.12.1994, p. 53. Regulation as last amended by Regulation (EC) No 2200/2004 (OJ L 374, 22.12.2004, p. 1).

<sup>4</sup> OJ L 324, 27.12.1969, p. 25. Regulation as last amended by Regulation (EEC) No 3918/91 (OJ L 372, 31.12.1991, p. 31).

<sup>5</sup> OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

<sup>6</sup> OJ L 288, 21.10.1997, p. 1. Regulation as amended by Regulation (EC) No 1973/2002 (OJ L 305, 7.11.2002, p. 4).

<sup>7</sup> OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 648/2005 (OJ L 117, 4.5.2005, p. 13).

<sup>8</sup> OJ L 184, 17.7.99, p.23

### *Article 3*

#### *Tariff reductions*

1. Subject to paragraph 2, rates of preferential duty shall be rounded down to the first decimal place.
2. Where the result of calculating the rate of the preferential duty in application of paragraph 1 is one of the following, the preferential rate shall be considered a full exemption:
  - (a) 1 % or less in the case of ad valorem duties, or
  - (b) EUR 1 or less per individual amount in the specific duties.

### *Article 4*

#### *Technical adaptations*

Any amendments and technical adaptations to the provisions adopted pursuant to this Regulation rendered necessary by changes to the Combined Nomenclature codes and to the TARIC subdivisions or arising from the conclusion of new or modified agreements, protocols, exchanges of letters or other acts between the Community and the Republic of Albania, shall be adopted in accordance with the procedure set out in Article 12(2).

### *Article 5*

#### *General safeguard clause*

Without prejudice to Article 7, where the Community needs to take a measure as provided for in Article 25 of the Interim Agreement, and thereafter Article 38 of the SAA, it shall be adopted in accordance with the conditions and procedures laid down in Regulation (EC) No 3285/94, unless otherwise specified in Article 25 of the Interim Agreement, and thereafter Article 38 of the SAA.

### *Article 6*

#### *Shortage clause*

Without prejudice to Article 7, where the Community needs to take a measure as provided for in Article 26 of the Interim Agreement, and thereafter Article 39 of the SAA, it shall be adopted in accordance with the procedures laid down in Regulation (EEC) No 2603/69.

## *Article 7*

### *Exceptional and critical circumstances*

Where exceptional and critical circumstances arise within the meaning of Article 26(4) of the Interim Agreement, and thereafter Article 39(4) of the SAA, the Commission may take immediate measures as provided for in Article 26 of the Interim Agreement, and thereafter Article and 39 of the SAA.

If the Commission receives a request from a Member State, it shall take a decision thereon within five working days of receipt of the request.

The Commission shall notify the Council of its decision.

Any Member State may refer the Commission's decision to the Council within ten working days of receiving notification of the decision.

The Council, acting by a qualified majority, may take a different decision within two months.

## *Article 8*

### *Safeguard clause for agricultural and fisheries products*

Notwithstanding the procedures provided for in Articles 5 and 6, where the Community needs to take a safeguard measure as provided in the Interim Agreement, and thereafter the SAA, concerning agricultural and fisheries products, it shall be adopted in accordance with the procedures provided for by the relevant rules establishing the common organisation of the agricultural markets or markets in fishery and aquaculture products, or in specific provisions adopted pursuant to Article 308 of the Treaty and applicable to products resulting from the processing of agricultural and fisheries products, provided that the conditions laid down by the relevant provision of the Interim Agreement, and thereafter the SAA, are met.

## *Article 9*

### *Dumping and subsidy*

In the event of a practice which is liable to warrant application by the Community of the measures provided for in Article 24(2) of the Interim Agreement, and thereafter Article 37(2) of the SAA, the introduction of anti-dumping and/or countervailing measures shall be decided upon in accordance with the provisions laid down in, respectively, Regulation (EC) No 384/96 and/or Regulation (EC) No 2026/97.

## *Article 10*

### *Competition*

1. In the event of a practice that may justify application by the Community of the measures provided for in Article 37 of the Interim Agreement, and thereafter Article 71 of the SAA, the Commission shall, after examining the case, on its own initiative or on the request of a Member State, decide whether such practice is compatible with the Agreement.

The measures provided for in Article 37(9) of the Interim Agreement, and thereafter Article 71(9) of the SAA, shall be adopted in the cases of aid in accordance with the procedures laid down in Regulation (EC) No 2026/97 and in the other cases in accordance with the procedure laid down in Article 133 of the Treaty.

2. In the event of a practice that may cause measures to be applied to the Community by the Republic of Albania on the basis of Article 37 of the Interim Agreement, and thereafter Article 71 of the SAA, the Commission shall, after examining the case, decide whether the practice is compatible with the principles set out in the Interim Agreement, and thereafter the SAA. Where necessary, it shall take appropriate decisions on the basis of criteria which result from the application of Articles 81, 82 and 87 of the Treaty.

## *Article 11*

### *Fraud or failure to provide administrative co-operation*

Where the Commission finds that the conditions laid down in Article 30 of the Interim Agreement and thereafter in Article 43 of the SAA are fulfilled, the Commission shall:

- inform the Council;
- notify the Joint Committee, and thereafter the Stabilisation and Association Committee, of its finding together with the objective information, and enter into consultations within the Stabilisation and Association Committee;
- Any publication under Article 30 (5) of the Interim Agreement, and thereafter in Article 43 (5) of the SAA, shall be done by the Commission in the *Official Journal of the European Union*.

The Commission may decide, in accordance with the advisory procedure set out in Article 12(3), to suspend temporarily the relevant preferential treatment of the products as provided for in Article 30(4) of the Interim Agreement, and thereafter Article 43(4) of the SAA.

## *Article 12*

### *Committee*

1. The Commission shall be assisted by the Customs Code Committee set up by Article 248a of Regulation (EEC) No 2913/92.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply. The period laid down in Article 4(3) of Decision 1999/468/EC shall be three months.
3. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.
4. The Committee shall adopt its rules of procedure.

### *Article 13*

#### *Notification*

Notification to the Joint Committee, and thereafter the Stabilisation and Association Council and the Stabilisation and Association Committee, respectively, as required by the Interim Agreement or the SAA shall be the responsibility of the Commission, acting on behalf of the Community.

### *Article 14*

#### *Entry into force*

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Council*  
*The President*