

# **EUROPE AGREEMENT establishing an association between the European Economic Communities and their Member States, of the one part, and Romania, of the other part**

THE KINGDOM OF BELGIUM,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE GRAND DUCHY OF LUXEMBOURG,

THE KINGDOM OF THE NETHERLANDS,

THE PORTUGUESE REPUBLIC,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty establishing the EUROPEAN ECONOMIC COMMUNITY, the Treaty establishing the EUROPEAN COAL AND STEEL COMMUNITY, and the Treaty establishing the EUROPEAN ATOMIC ENERGY COMMUNITY, hereinafter referred to as 'Member States', and

The EUROPEAN ECONOMIC COMMUNITY, the EUROPEAN ATOMIC ENERGY COMMUNITY and the EUROPEAN COAL AND STEEL COMMUNITY, hereinafter referred to as 'the Community',

of the one part,

and ROMANIA

of the other part,

CONSIDERING the importance of the traditional links existing between the Community, its Member States and Romania and the common values that they share,

RECOGNIZING that the Community and Romania wish to strengthen these links and to establish close and lasting relations, based on reciprocity, which would allow Romania to take part in the process of European integration, thus strengthening and widening the relations established in the past notably by the Agreement on Trade and Commercial and Economic Cooperation, signed on 22 October 1990,

CONSIDERING the opportunities for a relationship of a new quality offered by the emergence of a new democracy in Romania,

CONSIDERING the commitment of the Community and its Member States and of Romania to strengthening the political and economic freedoms which constitute the very basis of the association,

RECOGNIZING the need to continue and complete, with the assistance of the Community, Romania's transition towards a new political and economic system which respects the rule of law and human rights, including the rights of persons belonging to minorities, operates a multi-party system with free and democratic elections, and provides for economic

liberalization in order to establish a market economy,

CONSIDERING the firm commitment of the Community and its Member States and of Romania to the full implementation of all principles and provisions contained in the Final Act of the Conference on Security and Cooperation in Europe (CSCE), the concluding documents of Vienna and Madrid, the Charter of Paris for a New Europe, the CSCE Helsinki document 'The Challenges of Change', and the European Energy Charter,

CONSCIOUS of the importance of this Agreement to establishing and enhancing in Europe a system of stability based on cooperation, with the Community as one of the cornerstones,

BELIEVING that a link should be made between full implementation of association on the one hand, and continuation of the actual accomplishment of Romania's political, economic and legal reforms on the other hand, as well as the introduction of the factors necessary for cooperation and the actual rapprochement between the Parties' systems, notably in the light of the conclusions of the CSCE Bonn Conference,

DESIROUS of establishing and developing regular political dialogue on bilateral and international issues of mutual interest,

TAKING ACCOUNT of the Community's willingness to provide decisive support for the implementation of reform and to help Romania cope with the economic and social consequences of structural readjustment,

TAKING ACCOUNT furthermore of the Community's willingness to set up instruments of cooperation and economic, technical and financial assistance on a global and multiannual basis,

CONSIDERING the commitment of the Community and Romania to free trade, and in particular to comply with the rights and obligations arising out of the General Agreement on Tariffs and Trade,

CONSCIOUS of the need to establish the necessary conditions for the freedom of establishment, the freedom to provide services and the free movement of capital,

BEARING in mind the economic and social disparities between the Community and Romania and thus recognizing that the objectives of this association should be reached through appropriate provisions of this Agreement,

CONVINCED that this Agreement will create a new climate for their economic relations and in particular for the development of trade and investment, instruments which are indispensable for economic restructuring and technological modernization,

DESIROUS of establishing cultural cooperation and developing exchanges of information,

RECOGNIZING the fact that Romania's ultimate objective is to become a member of the Community, and that this association, in the view of the Parties, will help Romania to achieve this objective,

HAVE DECIDED to conclude this Agreement and to this end have designated as their plenipotentiaries,

THE KINGDOM OF BELGIUM:

Willy CLAES,

Minister for Foreign Affairs;

THE KINGDOM OF DENMARK:

Niels Helveg PETERSEN,

Minister for Foreign Affairs;

THE FEDERAL REPUBLIC OF GERMANY:

Klaus KINKEL,

Federal Minister for Foreign Affairs;

THE HELLENIC REPUBLIC:

Michel PAPACONSTANTINOU,

Minister for Foreign Affairs;

THE KINGDOM OF SPAIN:

Javier SOLANA,

Minister for Foreign Affairs;

THE FRENCH REPUBLIC:

Roland DUMAS,

Ministre d'État,

Minister for Foreign Affairs;

IRELAND:

Dick SPRING,

Minister for Foreign Affairs;

THE ITALIAN REPUBLIC:

Emilio COLOMBO,

Minister for Foreign Affairs;

THE GRAND DUCHY OF LUXEMBOURG:

Jacques POOS,

Minister for Foreign Affairs;

THE KINGDOM OF THE NETHERLANDS:

P. KOOIJMANS,

Minister for Foreign Affairs;

THE PORTUGUESE REPUBLIC:

J. M. DURÃO BARROSO,

Minister for Foreign Affairs;

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND:

Douglas HURD,

Minister for Foreign Affairs;

THE EUROPEAN ECONOMIC COMMUNITY, THE EUROPEAN ATOMIC ENERGY COMMUNITY AND THE EUROPEAN COAL AND STEEL COMMUNITY:

Niels Helveg PETERSEN,

Minister for Foreign Affairs of the Kingdom of Denmark,

President-in-Office of the Council of the European Communities;

Leon BRITTAN,

Member of the Commission;

H. van den BROEK,

Member of the Commission;

ROMANIA:

Nicolae VACAROIU,

Prime Minister;

Teodor Viorel MELESCANU,

Ministre d'État,

Minister for Foreign Affairs;

WHO, having exchanged their full powers, formed in good and due form,

HAVE AGREED AS FOLLOWS:

## **Article 1.**

An association is hereby established between the Community and its Member States on the one part, and Romania on the other part. The objectives of this association are:

- to provide an appropriate framework for the political dialogue between the Parties allowing the development of close political relations,
- to promote the expansion of trade and the harmonious economic relations between the Parties and so to foster the economic development in Romania,
- to provide a basis for economic, social, financial and cultural cooperation,
- to support Romania's efforts to develop its economy and to complete the conversion into a market economy, and consolidate its democracy,
- to set up institutions suitable to make the association effective,
- to provide a framework for Romania's gradual integration into the Community. To this end, Romania shall work towards fulfilling the necessary conditions.

## **Title I. POLITICAL DIALOGUE**

### **Article 2.**

A regular political dialogue shall be established between the Parties which they intend to develop and intensify. It shall accompany and consolidate the rapprochement between the Community and Romania, support the political and economic changes underway in that country and contribute to the establishment of new links of solidarity and new forms of cooperation. The political dialogue:

- will facilitate Romania's full integration into the community of democratic nations and progressive rapprochement with the Community. The economic rapprochement provided for in this Agreement will lead to greater political convergence,
- will bring about an increasing convergence of positions on international issues, and in particular on those matters likely to have substantial effects on one or the other Party,
- will contribute to the rapprochement of the Parties' positions on security issues and will enhance security and stability in the whole of Europe.

### **Article 3.**

1. Consultations as appropriate shall be held between the Parties at the highest political level.
2. At ministerial level, political dialogue shall take place within the Association Council. This shall have general responsibility for all matters which the Parties might wish to put to it.

### **Article 4.**

Other procedures and mechanisms for political dialogue shall be set up by the Parties, and in particular in the following forms:

- meetings at senior official level (political directors) between officials of Romania on the one hand, and the Presidency of

the Council of the European Communities and the Commission of the European Communities, on the other,

- taking full advantage of diplomatic channels,
- including Romania in the group of countries receiving regular information on the issues dealt with by the European Political Cooperation as well as exchanging information with a view to achieving the objectives set out in Article 2,
- any other means which would contribute to consolidating, developing and stepping up this dialogue.

## **Article 5.**

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

## **Title II. GENERAL PRINCIPLES**

### **Article 6.**

Respect for the democratic principles and human rights established by the Helsinki Final Act and the Charter of Paris for a New Europe, as well as the principles of market economy, inspire the domestic and external policies of the Parties and constitute essential elements of the present association.

### **Article 7.**

1. The association includes a transitional period of a maximum duration of 10 years divided into two successive stages, each in principle lasting five years. The first stage shall begin when the Agreement enters into force.
2. The Association Council, bearing in mind that the principles of the market economy and the support by the Community through this Agreement are essential to the present association, shall proceed regularly to examine the application of the Agreement and the accomplishment of Romania's economic reforms on the basis of the principles established in the preamble.
3. During the course of the 12 months preceding the expiration of the first stage, the Association Council shall meet to decide the transition to the second stage as well as on any possible changes to be brought about as concerns the dispositions governing the second stage. In doing this, it will take into account the results of the examination mentioned in paragraph 2.
4. The two stages envisaged under 1 and 3 do not apply to Title III.

## **Title III. FREE MOVEMENT OF GOODS**

### **Article 8.**

1. During the transitional period referred to in Article 7, the Community and Romania shall gradually establish a free trade area based on reciprocal and balanced obligations, in accordance with the provisions of this Agreement and in conformity with those of the General Agreement on Tariffs and Trade (GATT).
2. The combined nomenclature of goods shall be applied to the classification of goods in trade between the two Parties.
3. For each product the basic duty to which the successive reductions set out in this Agreement are to be applied shall be that actually applied erga omnes on the day preceding the entry into force of the Agreement.
4. If, after the entry into force of the Agreement, any tariff reduction is applied on an erga omnes basis, such reduced duties shall replace the basic duties referred to in paragraph 3 as from that date when such reductions are applied.
5. The Community and Romania shall communicate to each other their respective basic duties.

## **Chapter I. Industrial Products**

### **Article 9.**

1. The provisions of this Chapter shall apply to products originating in the Community and in Romania listed in Chapters 25 to 97 of the combined nomenclature with the exception of the products listed in Annex I.

2. The provisions of Articles 10 to 14 included do not apply to products mentioned in Articles 16 and 17.

## **Article 10.**

1. Customs duties on imports applicable in the Community to products originating in Romania other than those listed in Annexes IIa, IIb and III shall be abolished on the entry into force of the Agreement.

2. Customs duties on imports applicable in the Community to products originating in Romania which are listed in Annex IIa shall be progressively abolished in accordance with the following timetable:

- on the date of entry into force of the Agreement, each duty shall be reduced to 50 % of the basic duty,
- one year after the date of entry into force of the Agreement the remaining duties shall be eliminated.

Customs duties on imports applicable in the Community to products originating in Romania listed in Annex IIb shall be progressively reduced, from the date of entry into force of the Agreement, by annual reductions of 20 % of the basic duty so as to arrive at total abolition by the end of the fourth year after the date of entry into force of the Agreement.

3. The products of Romanian origin listed in Annex III shall benefit from a suspension of customs duties on imports within the limits of annual Community tariff quotas or ceilings increasing progressively in accordance with the conditions defined in that Annex so as to arrive at a complete abolition of customs duties on imports of the products concerned at the end of the fifth year at the latest.

At the same time, the customs duties on imports to be applied when the quotas have been exhausted or when the levying of customs duties has been reintroduced with respect to products covered by a tariff ceiling, shall be progressively dismantled, from the entry into force of the Agreement by annual reductions of 15 % of the basic duty. By the end of the fifth year, remaining duties shall be abolished.

4. Quantitative restrictions and measures having an effect equivalent to quantitative restrictions on imports to the Community shall be abolished on the date of entry into force of the Agreement with regard to the products originating in Romania.

## **Article 11.**

1. Customs duties on imports applicable in Romania to products originating in the Community which are listed in Annex IV shall be abolished on the date of entry into force of the Agreement.

2. Customs duties on imports applicable in Romania to products originating in the Community which are listed in Annex V shall be progressively reduced in accordance with the following timetable:

- on the date of entry into force of the Agreement, to 80 % of the basic duty,
- three years after the entry into force of the Agreement, to 40 % of the basic duty,
- five years after the entry into force of the Agreement, to 0 % of the basic duty.

3. Customs duties on imports applicable in Romania to products originating in the Community which are listed in Annex VI shall be abolished in accordance with the timetable mentioned in that Annex.

4. Customs duties on imports applicable in Romania to products originating in the Community other than those listed in Annexes IV, V and VI shall be progressively reduced according to the following timetable:

- three years after the entry into force of the Agreement, to 80 % of the basic duty,
- five years after the entry into force of the Agreement, to 60 % of the basic duty,
- six years after the entry into force of the Agreement, to 50 % of the basic duty,
- seven years after the entry into force of the Agreement, to 35 % of the basic duty,
- eight years after the entry into force of the Agreement, to 20 % of the basic duty,
- nine years after the entry into force of the Agreement, to 0 % of the basic duty.

5. The products originating in the Community listed in Annex VII shall benefit from a suspension of customs duties on

imports in Romania within the limits of annual quotas which will be increased progressively as foreseen in that Annex. Customs duties on imports applicable to quantities in excess of the abovementioned quotas shall be progressively dismantled according to the timetable mentioned in paragraph 4.

6. Quantitative restrictions on imports into Romania of products originating in the Community shall be abolished upon entry into force of the Agreement.

7. Measures having an effect equivalent to quantitative restrictions on imports into Romania of products originating in the Community shall be abolished upon entry into force of the Agreement, except for those listed in Annex VIII which shall be abolished according to the timetable in that Annex.

## **Article 12.**

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

## **Article 13.**

1. The Community shall abolish in its imports from Romania any charges having an equivalent effect to customs duties on imports upon entry into force of the Agreement.

2. Romania shall abolish in its imports from the Community any charges having an equivalent effect to customs duties on imports upon entry into force of the Agreement, except for the charges of 0,5 % ad valorem for the customs formalities which will be abolished according to the following timetable:

- reduction to 0,25 % ad valorem at the end of the third year,
- elimination at the latest by the end of the fifth year upon entry into force of the Agreement.

## **Article 14.**

1. The Community and Romania shall progressively abolish between them at the latest by the end of the fifth year after entry into force of the Agreement any customs duties on exports and charges having equivalent effect.

2. Quantitative restrictions on exports to Romania and any measures having equivalent effect shall be abolished by the Community upon entry into force of the Agreement.

3. Quantitative restrictions on exports to the Community and any measures having equivalent effect shall be abolished by Romania upon entry into force of the Agreement except for those listed in Annex IX which shall be progressively reduced and shall be eliminated at the latest by the end of the fifth year after the entry into force of the Agreement.

## **Article 15.**

Each Party declares its readiness to reduce its customs duties in trade with the other Party more rapidly than is provided for in Articles 10 and 11 if its general economic situation and the situation of the economic sector concerned so permit.

The Association Council may make recommendations to this effect.

## **Article 16.**

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

## **Article 17.**

Protocol 2 lays down the arrangements applicable to products covered by the Treaty establishing the European Coal and Steel Community.

## **Article 18.**

1. The provisions of this Chapter do not preclude the retention by the Community of an agricultural component in the duties applicable to products listed in Annex X in respect of products originating in Romania.

2. The provisions of this Chapter do not preclude the introduction of an agricultural component by Romania in the duties applicable to the products listed in Annex X in respect of products originating in the Community.

## **Chapter II. Agriculture**

### **Article 19.**

1. The provisions of this Chapter shall apply to agricultural products originating in the Community and in Romania.
2. The term 'agricultural products` means the products listed in Chapters 1 to 24 of the combined nomenclature and the products listed in Annex I, but excluding fishery products as defined by Regulation (EEC) No 3687/91.

### **Article 20.**

Protocol 3 lays down the trade arrangements for processed agricultural products which are listed in such protocol.

### **Article 21.**

1. The Community shall abolish at the date of entry into force of the Agreement the quantitative restrictions on imports of agricultural products originating in Romania maintained by virtue of Council Regulation (EEC) No 3420/83 in the form existing on the date of signature hereof.
2. The agricultural products originating in Romania listed in Annexes XIa and XIb shall benefit, upon the date of entry into force of this Agreement, from the reduction of levies within the limit of Community quotas or from the reduction of customs duties and upon the conditions provided in the same Annexes.
3. Romania shall abolish quantitative restrictions on imports of agricultural products originating in the Community upon entry into force of the Agreement.
4. The Community and Romania shall grant each other the concessions referred to in Annexes XIIa, XIIb and XIII, on a harmonious and reciprocal basis, in accordance with the conditions laid down therein.
5. Taking account of the volume of trade in agricultural products between them, of their particular sensitivity, of the rules of the common agricultural policy of the Community, of the role of agriculture in Romania's economy, and of the consequences of the multilateral trade negotiations under the General Agreement on Tariffs and Trade, the Community and Romania shall examine in the Association Council, product by product and on an orderly and reciprocal basis, the possibilities of granting each other further concessions.
6. Taking account of the need for an increased harmony between the agricultural policies in the Community and Romania, as well as Romania's objective of becoming a member of the Community, both Parties will have regular consultations in the Association Council on the strategy and practical modalities of their respective policies.

### **Article 22.**

Notwithstanding other provisions of this Agreement, and in particular Article 31, if, given the particular sensitivity of the agricultural markets, imports of products originating in one Party, which are the subject of concessions granted in Article 21, cause serious disturbance to the markets in the other Party, both Parties shall enter into consultations immediately to find an appropriate solution. Pending such a solution, the Party concerned may take the measures it deems necessary.

## **Chapter III. Fisheries**

### **Article 23.**

The provisions of this Chapter shall apply to fishery products originating in the Community and in Romania, which are covered by Regulation (EEC) No 3687/91 on the common organization of the market in fishery products.

### **Article 24.**

1. The Community and Romania shall grant each other the concessions referred to in Annexes XIV and XV on a harmonious and reciprocal basis, in accordance with the conditions laid down therein. The provisions of Article 21 (5) shall apply mutatis



mutandis to fishery products.

2. The Association Council will examine the possibility of concluding an Agreement on fishery products between the Parties when the necessary conditions so permit.

## **Chapter IV. Common Provisions**

### **Article 25.**

The provisions of this Chapter shall apply to trade in all products, except where otherwise provided herein or in Protocols 1, 2 or 3.

### **Article 26.**

1. No new customs duties on imports or exports or charges having equivalent effect shall be introduced, nor shall those already applied be increased, in the trade between the Community and Romania from the date of entry into force of the Agreement.

2. No new quantitative restrictions on imports or exports or measures having equivalent effect shall be introduced, nor shall those existing be made more restrictive, in the trade between the Community and Romania from the date of entry into force of the Agreement.

3. Any new customs duties on imports or exports or charges having equivalent effect or increases thereof or any new quantitative restrictions or charges having equivalent effect or increases thereof introduced by Romania after the beginning of the negotiations shall be abolished at the latest at the entry into force of the Agreement.

4. Without prejudice to the concessions granted under Article 21, the provisions of paragraphs 1 and 2 of this Article shall not restrict in any way the pursuance of the respective agricultural policies of Romania and the Community or the taking of any measures under such policies.

### **Article 27.**

1. The two Parties shall refrain from any measure or practice of an internal fiscal nature establishing, whether directly or indirectly, discrimination between the products of one Party and like products originating in the territory of the other Party.

2. Products exported to the territory of one of the two Parties may not benefit from repayment of internal taxation in excess of the amount of direct or indirect taxation imposed on them.

### **Article 28.**

1. This Agreement shall not preclude the maintenance or establishment of customs unions, free trade areas or arrangements for frontier trade except in so far as they alter the trade arrangements provided for in this Agreement.

2. Consultations between the Parties shall take place within the Association Council concerning Agreements establishing such customs unions or free trade areas and, where requested, on other major issues related to their respective trade policies with third countries. In particular in the event of a third country acceding to the Community, such consultations shall take place so as to ensure that account can be taken of the mutual interests of the Community and Romania stated in this Agreement.

### **Article 29.**

Exceptional measures of limited duration which derogate from the provisions of Articles 11 and 26 (1) may be taken by Romania in the form of increased customs duties.

These measures may only concern infant industries, or certain sectors undergoing restructuring or facing serious difficulties, particularly where these difficulties produce important social problems.

Customs duties on imports applicable in Romania to products originating in the Community introduced by these measures may not exceed 25 % ad valorem and shall maintain an element of preference for products originating in the Community. The total value of imports of the products which are subject to these measures may not exceed 15 % of total imports from the Community of industrial products as defined in Chapter I, during the last year for which statistics are available.

These measures shall be applied for a period not exceeding five years, unless a longer duration is authorized by the Association Council. They shall cease to apply at the latest at the expiration of the transitional period.

No such measures can be introduced in respect of a product if more than three years have elapsed since the elimination of all duties and quantitative restrictions or charges or measures having an equivalent effect concerning that product.

Romania shall inform the Association Council of any exceptional measures it intends to take and, at the request of the Community, consultations shall be held in the Association Council on such measures and the sectors to which they apply before they are applied. When taking such measures, Romania shall provide the Association Council with a schedule for the elimination of the customs duties introduced under this Article. This schedule shall provide for a phasing out of these duties starting at the latest two years after their introduction at equal annual rates. The Association Council may decide on a different schedule.

### **Article 30.**

If one of the Parties finds that dumping is taking place in trade with the other Party within the meaning of Article VI of the General Agreement on Tariffs and Trade, it may take appropriate measures against this practice in accordance with the Agreement relating to the application of Article VI of the General Agreement on Tariffs and Trade, with related internal legislation and with the conditions and procedures laid down in Article 34.

### **Article 31.**

Where any product is being imported in such increased quantities and under such conditions as to cause, or threaten to cause:

- serious injury to domestic producers of like or directly competitive products in the territory of one of the Parties, or
- serious disturbances in any sector of the economy or difficulties which could bring about serious deterioration in the economic situation of a region,

the Community or Romania, whichever is concerned, may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 34.

### **Article 32.**

Where compliance with the provisions of Articles 14 and 26 leads to:

(i) re-export towards a third country against which the exporting Party maintains, for the product concerned, quantitative export restrictions, export duties or measures having equivalent effect;

or

(ii) a serious shortage, or threat thereof, of a product essential to the exporting Party,

and where the situations above referred to give rise, or are likely to give rise to major difficulties for the exporting Party, that Party may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 34. The measures shall be non-discriminatory and be eliminated when conditions no longer justify their maintenance.

### **Article 33.**

The Member States and Romania shall progressively adjust any State monopolies of a commercial character so as to ensure that, by the end of the fifth year following the entry into force of this Agreement, no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of the Member States and of Romania. The Association Council will be informed about the measures adopted to implement this objective.

### **Article 34.**

1. In the event of the Community or Romania subjecting imports of products liable to give rise to the difficulties referred to in Article 31 to an administrative procedure having as its purpose the rapid provision of information on the trend of trade flows, it shall inform the other Party.

2. In the cases specified in Articles 30, 31 and 32, before taking the measures provided for therein or, in cases to which

paragraph 3 (d) applies, as soon as possible, the Community or Romania as the case may be shall supply the Association Council with all relevant information, with a view to seeking a solution acceptable to the two Parties.

In the selection of measures, priority must be given to those which least disturb the functioning of this Agreement.

The safeguard measures shall be notified immediately to the Association Council and shall be the subject of periodic consultations within that body, particularly with a view to establishing a timetable for their abolition as soon as circumstances permit.

3. For the implementation of paragraph 2, the following provisions shall apply:

(a) as regards Article 31, the difficulties arising from the situation referred to in that Article shall be referred for examination to the Association Council, which may take any decision needed to put an end to such difficulties.

If the Association Council or the exporting Party has not taken a decision putting an end to the difficulties or no other satisfactory solution has been reached within 30 days of the matter being referred, the importing Party may adopt the appropriate measures to remedy the problem. These measures must not exceed the scope of what is necessary to remedy the difficulties which have arisen;

(b) as regards Article 30, the Association Council shall be informed of the dumping case as soon as the authorities of the importing Party have initiated an investigation. When no end has been put to the dumping or no other satisfactory solution has been reached within 30 days of the matter being referred to the Association Council, the importing Party may adopt the appropriate measures;

(c) as regards Article 32, the difficulties arising from the situations referred to in that Article shall be referred for examination to the Association Council.

The Association Council may take any decision needed to put an end to the difficulties. If it has not taken such a decision within 30 days of the matter being referred to it, the exporting Party may apply appropriate measures on the exportation of the product concerned;

(d) where exceptional circumstances requiring immediate action make prior information or examination, as the case may be, impossible, the Community or Romania whichever is concerned may, in the situations specified in Articles 30, 31 and 32, apply forthwith the precautionary and provisional measures strictly necessary to deal with the situation, and the Association Council will be informed immediately.

## **Article 35.**

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

## **Article 36.**

This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of natural resources; the protection of national treasures of artistic, historic or archaeological value or the protection of intellectual, industrial and commercial property or rules relating to gold and silver. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties.

## **Article 37.**

Protocol 5 lays down the specific provisions to apply to trade between Romania of the one part and Spain and Portugal of the other part.

## **Title IV. MOVEMENT OF WORKERS, ESTABLISHMENT, SUPPLY OF SERVICES CHAPTER I Movement of Workers**

### **Article 38.**

1. Subject to the conditions and modalities applicable in each Member State:

- the treatment accorded to workers of Romanian nationality, 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, as compared

to its own nationals,

- 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 in the sense of Article 42, unless otherwise provided by such agreements, shall have access to the labour market of that Member State, during the period of that worker's authorized stay of employment.

2. Romania shall, subject to the conditions and modalities applicable in that country, accord the treatment referred to in paragraph 1 to workers who are nationals of a Member State and are legally employed in its territory as well as to their spouse and children who are legally resident in the said territory.

## **Article 39.**

1. With a view to coordinating social security systems for workers of Romanian nationality, legally employed in the territory of a Member State and for the members of their family, legally resident there, and subject to the conditions and modalities applicable in each Member State:

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

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

2. Romania shall accord to workers who are nationals of a Member State and legally employed in its territory, and to members of their families legally resident there, treatment similar to that specified in the second and third indents of paragraph 1.

## **Article 40.**

1. The Association Council shall by decision adopt the appropriate provisions to implement the objective set out in Article 39.

2. The Association Council shall by decision adopt detailed rules for administrative cooperation providing the necessary management and control guarantees for the application of the provisions referred to in paragraph 1.

## **Article 41.**

The provisions adopted by the Association Council in accordance with Article 40 shall not affect any rights or obligations arising from bilateral agreements linking Romania and the Member States where those agreements provide for more favourable treatment of nationals of Romania or of the Member States.

## **Article 42.**

1. Taking into account the labour market situation in the Member State, subject to its legislation and to the respect of rules in force in that Member State in the area of mobility of workers:

- the existing facilities for access to employment for Romanian workers accorded by Member States under bilateral agreements ought to be preserved and if possible improved,

- the other Member States shall consider favourably the possibility of concluding similar agreements.

2. The Association Council shall examine granting other improvements including facilities of access for professional training, in conformity with rules and procedures in force in the Member States, and taking account of the labour market situation on the Member States and in the Community.

## **Article 43.**

During the second stage referred to in Article 7, or earlier if so decided, the Association Council shall examine further ways of improving the movement of workers, taking into account inter alia the social and economic situation and requirements in

Romania and the employment situation in the Community. The Association Council shall make recommendations to such end.

## **Article 44.**

In the interest of facilitating the restructuring of labour resources resulting from the economic restructuring in Romania the Community shall provide technical assistance for the establishment of a suitable social security system in Romania as set out in Article 89.

## **Chapter II. Establishment**

### **Article 45.**

1. Each Member State shall grant, from entry into force of the Agreement, for the establishment of Romanian companies and nationals and for the operation of Romanian companies and nationals established in its territory, a treatment no less favourable than that accorded to its own companies and nationals, save for the areas described in Annex XVI.
2. Without prejudice to paragraph 3, Romania shall grant, from entry into force of the Agreement, for the establishment of Community companies and nationals and for the operation of Community companies and nationals established in its territory, a treatment no less favourable than that accorded to its own companies and nationals save for the areas described in Annex XVII. Should the existing laws and regulations not grant such treatment of Community companies and nationals for certain economic activities in Romania upon entry into force of this Agreement, Romania shall amend such laws and regulations as to ensure such treatment at the latest at the end of the fifth year following the date of entry into force of this Agreement.
3. For the areas and matters described in Annex XVIII, except for banking activities as referred to in Law No 33 of 1991, Romania shall grant gradually and at the latest by the end of the transitional period referred to in Article 7, a treatment no less favourable than that accorded to its own nationals and companies for the establishment of Community companies and nationals. As regards the abovementioned banking activities, national treatment shall be granted at the latest by the end of the fifth year following the entry into force of this Agreement.
4. Romania shall, during the transitional periods referred to in paragraphs 2 and 3 not adopt any new regulations or measures which introduce discrimination as regards to establishment and operations of Community companies and nationals in its territory in comparison to its own companies and nationals.
5. For the purposes of this Agreement:
  - (a) establishment shall mean
    - (i) as regards nationals, the right to take up and pursue economic activities as self-employed persons and to set up and manage undertakings, in particular companies, which they effectively control. Self-employment and business undertakings by nationals shall not extend to seeking or taking employment in the labour market or confer a right of access to the labour market of another Party. The provisions of this Chapter do not apply to those who are not exclusively self-employed;
    - (ii) as regards companies, the right to take up and pursue economic activities by means of the setting up and management of subsidiaries, branches and agencies;
  - (b) subsidiary of a company shall mean a company which is effectively controlled by the first company;
  - (c) economic activities shall in particular include activities of an industrial character, activities of a commercial character, activities of craftsmen and activities of the professions.
6. The Association Council shall examine regularly the possibility of accelerating the granting of national treatment in the sectors referred to in Annex XVIII and the inclusion of areas and matters listed in Annexes XVI and XVII within the scope of application of the provisions of paragraphs 1, 2, 3 and 4 of this Article. Amendments may be made to these Annexes by decision of the Association Council.

Following the expiration of the transitional periods referred to in paragraphs 2 and 3, the Association Council may exceptionally, upon request by Romania, and if the necessity arises, decide to prolong the duration of those transitional periods for certain areas or matters for a limited period of time.
7. Notwithstanding the provisions of this Article, Community companies established in the territory of Romania shall have, from entry into force of the Agreement, the right to acquire, use, rent and sell real property, and as regards public property,

land and forestry, the right to lease, where these are directly necessary for the conduct of the economic activities for which they are established. This right does not include establishment for the purpose of dealing and agency in the area of real estate and natural resources.

Romania shall grant these rights to branches and agencies established in Romania of Community companies at the latest by the end of the first five years following the date of entry into force of the Agreement.

Romania shall grant these rights to Community nationals established as self-employed persons in Romania at the latest by the end of the transitional period referred to in Article 7.

## **Article 46.**

1. Subject to the provisions of Article 45 with the exception of financial services described in Annex XVIII, each Party may regulate the establishment and operation of companies and nationals on its territory, in so far as these regulations do not discriminate against companies and nationals of the other Party in comparison to its own companies and nationals.

2. In respect of financial services, described in Annex XVIII, this Agreement does not prejudice the right of the Parties to adopt measures necessary for the conduct of the Party's monetary policy, or for prudential grounds in order to ensure the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed, or to ensure the integrity and stability of the financial system. These measures shall not discriminate on grounds of nationality against companies and nationals of the other Party in comparison to its own companies and nationals.

## **Article 47.**

In order to make it easier for Community nationals and Romanian nationals to take up and pursue regulated professional activities in Romania and the Community respectively, the Association Council shall examine which steps are necessary to be taken to provide for the mutual recognition of qualifications. It may take all necessary measures to that end.

## **Article 48.**

The provisions of Article 46 do not preclude the application by a Party of particular rules concerning the establishment and operation in its territory of branches and agencies of companies of another Party not incorporated in the territory of the first Party, which are justified by legal or technical differences between such branches and agencies as compared to branches and agencies of companies incorporated in its territory, or, as regards financial services, for prudential reasons. The difference in treatment shall not go beyond what is strictly necessary as a result of such legal or technical differences, or, as regards financial services, described in Annex XVIII, for prudential reasons.

## **Article 49.**

1. A 'Community company' and a 'Romanian company' respectively shall, for the purpose of this Agreement, mean a company or a firm set up in accordance with the laws of a Member State or of Romania respectively and having its registered office, central administration, or principal place of business in the territory of the Community or Romania respectively. However, should the company or firm, set up in accordance with the laws of a Member State or of Romania respectively, have only its registered office in the territory of the Community or Romania respectively, its operations must possess a real and continuous link with the economy of one of the Member States or Romania respectively.

2. With regard to international maritime transport, shall also be beneficiaries of the provisions of this Chapter and Chapter III of this Title, a national or a shipping company of the Member States or of Romania, respectively established outside the Community or Romania respectively and controlled by nationals of a Member State, or Romanian nationals respectively, if their vessels are registered in that Member State or in Romania respectively in accordance with their respective legislations.

3. A Community and a Romanian national respectively shall, for the purpose of this Agreement, mean a natural person who is a national of one of the Member States or of Romania respectively.

4. The provisions of this Agreement shall not prejudice the application by each Party of any measure necessary to prevent the circumvention of its measures concerning third country access to its market, through the provisions of this Agreement.

## **Article 50.**

For the purpose of this Agreement 'financial services' shall mean those activities described in Annex XVIII. The Association

Council may extend or modify the scope of Annex XVIII.

## **Article 51.**

During the first five years following the date of entry into force of the Agreement, Romania may introduce measures which derogate from the provisions of this Chapter as regards the establishment of Community companies and nationals if certain industries:

- are undergoing restructuring, or
- are facing serious difficulties, particularly where these entail serious social problems in Romania, or
- face the elimination or a drastic reduction of the total market share held by Romanian companies or nationals in a given sector or industry in Romania, or
- are newly emerging industries in Romania.

Such measures:

(i) shall cease to apply at the latest two years after the expiration of the fifth year following the date of entry into force of this Agreement; and

(ii) shall be reasonable and necessary in order to remedy the situation; and

(iii) shall only relate to establishments in Romania to be created after the entry into force of such measures and shall not introduce discrimination concerning the operations of Community companies or nationals already established in Romania at the time of introduction of a given measure compared to Romanian companies or nationals.

The Association Council may exceptionally, upon request by Romania, and if the necessity arises, decide to prolong the period referred to in indent (i) above for a given sector for a limited period of time not exceeding the duration of the transition period referred to in Article 7.

While devising and applying such measures, Romania shall grant whenever possible to Community companies and nationals a preferential treatment, and in no case a treatment less favourable than that accorded to companies or nationals from any third country.

Prior to the introduction of these measures, Romania shall consult the Association Council and shall not put them into effect before a one month period following the notification to the Association Council of the concrete measures to be introduced by Romania, except where the threat of irreparable damage requires the taking of urgent measures in which case Romania shall consult the Association Council immediately after their introduction.

Upon the expiration of the fifth year following the entry into force of the Agreement, Romania may introduce such measures only with the authorization of the Association Council and under conditions determined by the latter.

## **Article 52.**

1. The provisions of this Chapter shall not apply to air transport services, inland-waterways transport services and maritime cabotage transport services.

2. The Association Council may make recommendations for improving establishment and operations in the areas covered by paragraph 1.

## **Article 53.**

1. Notwithstanding the provisions of Chapter I of this Title, the beneficiaries of the rights of establishment granted by Romania and the Community respectively shall be entitled to employ, or have employed by one of their subsidiaries, in accordance with the legislation in force in the host country of establishment, in the territory of Romania and the Community respectively, employees who are nationals of Community Member States and Romania respectively, provided that such employees are key personnel as defined in paragraph 2, and that they are employed exclusively by such beneficiaries or their subsidiaries. The residence and work permits of such employees shall only cover the period of such employment.

2. Key personnel of the beneficiaries of the rights of establishment herein referred to as 'organization' are:

(a) senior employees of an organization who primarily direct the management of the organization, receiving general

supervision or direction principally from the board of directors or shareholders of the business, including:

- directing the organization or a department or sub-division of the organization,
- supervising and controlling the work of other supervisory, professional or managerial employees,
- having the authority personally to engage and dismiss or recommend engaging, dismissing or other personnel actions;

(b) persons employed by an organization who possess high or uncommon:

- qualifications referring to a type of work or trade requiring specific technical knowledge,
- knowledge essential to the organization's service, research equipment, techniques or management.

These may include, but are not limited to, members of accredited professions.

Each such employee must have been employed by the organization concerned for at least one year preceding the detachment by the organization.

#### **Article 54.**

1. The provisions of this Chapter shall be applied subject to limitations justified on grounds of public policy, public security or public health.
2. They shall not apply to activities which in the territory of each Party are connected, even occasionally, with the exercise of official authority.

#### **Article 55.**

Companies which are controlled and exclusively owned jointly by Romanian companies or nationals and Community companies or nationals shall also be beneficiaries of the provisions of this Chapter and Chapter III if this Title.

### **Chapter III. Supply of Services between the Community and Romania**

#### **Article 56.**

1. The Parties undertake in accordance with the provisions of this Chapter to take the necessary steps to allow progressively the supply of services by Community or Romanian companies or nationals who are established in a Party other than that of the person for whom the services are intended taking into account the development of the services sectors in the Parties.
2. In step with the liberalization process mentioned in paragraph 1, and subject to the provisions of Article 59 (1), the Parties shall permit the temporary movement of natural persons providing the service or who are employed by the service provider as key personnel as defined in Article 53 (2), including natural persons who are representatives of a Community or Romanian company or national and are seeking temporary entry for the purpose of negotiating for the sale of services or entering into Agreements to sell services for that service provider, where those representatives will not be engaged in making direct sales to the general public or in supplying services themselves.
3. The Association Council shall take the measures necessary to progressively implement the provisions of paragraph 1 of this Article.

#### **Article 57.**

With regard to supply of transport services between the Community and Romania, the following replaces the provisions of Article 56:

1. with regard to international maritime transport, the Parties undertake to apply effectively the principle of unrestricted access to the market and traffic on a commercial basis.
- (a) The above provision does not prejudice the rights and obligations under the United Nations Code of Conduct for Liner Conferences, as applied by one or the other Contracting Party to this Agreement. Non-conference liners will be free to operate in competition with a conference as long as they adhere to the principle of fair competition on a commercial basis.



(b) The Parties affirm their commitment to a freely competitive environment as being an essential feature of the dry and liquid bulk trade;

2. in applying the principles of point 1, the Parties shall:

(a) not introduce cargo sharing clauses in future bilateral Agreements with third countries, other than in those exceptional circumstances where liner shipping companies from one or other Party to this Agreement would not otherwise have an effective opportunity to ply for trade to and from the third country concerned;

(b) prohibit cargo sharing arrangements in future bilateral Agreements concerning dry and liquid bulk trade;

(c) abolish, upon entry into force of the Agreement, all unilateral measures, administrative, technical and other obstacles which could have restrictive or discriminatory effects on the free supply of services in international maritime transport.

3. With a view to assuring a coordinated development and progressive liberalization of transport between the Parties adapted to their reciprocal commercial needs, the conditions of mutual market access in air transport and in inland transport shall be dealt with by special transport Agreements to be negotiated between the Parties after the entry into force of the Agreement.

4. Prior to the conclusion of the Agreements referred to in paragraph 3, the Parties shall not take any measures or actions which are more restrictive or discriminatory as compared to the situation existing on the day preceding the day of entry into force of the Agreement.

5. During the transitional period, Romania shall progressively adapt its legislation including administrative, technical and other rules to that of the Community legislation existing at any time in the field of air and inland transport insofar as it serves liberalization purposes and mutual access to markets of the Parties and facilitates the movement of passengers and of goods.

6. In step with the common progress in the achievement of the objectives of this Chapter, the Association Council shall examine ways of creating the conditions necessary for improving freedom to provide air and inland transport services.

## **Article 58.**

The provisions of Article 54 shall apply to the matters covered by this Chapter.

# **Chapter IV. General Provisions**

## **Article 59.**

1. For the purpose of Title IV of this Agreement, nothing in the Agreement shall prevent the Parties from applying their laws and regulations regarding entry and stay, work, labour conditions and establishment of natural persons and supply of services, provided that, in so doing, they do not apply them in a manner as to nullify or impair the benefits accruing to any Party under the terms of a specific provision of the Agreement. The above provision does not prejudice the application of Article 54.

2. The provisions of Chapter II, III and IV of Title IV shall be adjusted by decision of the Association Council in the light of the result of the negotiations on services taking place in the Uruguay Round and in particular to ensure that under any provision of this Agreement a Party grants to the other Party a treatment no less favourable than that accorded under the provisions of a future General Agreement on Trade and Services (GATS).

3. The exclusion of Community companies and nationals established in Romania in accordance with the provisions of Chapter II of Title IV from public aid granted by Romania in the areas of public education services, health-related and social services and cultural services shall, for the duration of the transitional period referred to in Article 7, be deemed compatible with the provisions of Title IV and with the competition rules referred to in Title V.

# **Title V. PAYMENTS, CAPITAL, COMPETITION AND OTHER ECONOMIC PROVISIONS, APPROXIMATION OF LAWS**

## **Chapter I. Current Payments and Movement of Capital**

## **Article 60.**

The Parties undertake to authorize in freely convertible currency, any payments on the current account of balance of payments to the extent that the transactions underlying the payments concern movements of goods, services, or persons between the Parties which have been liberalized pursuant to this Agreement.

## **Article 61.**

1. With regard to transactions on the capital account of balance of payments, from entry into force of the Agreement, the Member States and Romania respectively shall ensure the free movement of capital relating to direct investments made in companies formed in accordance with the laws of the host country and investments made in accordance to the provisions of Chapter II of Title IV, and the liquidation or repatriation of these investments and of any profit stemming therefrom.
2. Notwithstanding the above provision, such free movement, liquidation and repatriation shall be ensured by the end of the first stage referred to in Article 7 for all investments linked to establishment of Community nationals establishing in Romania as self-employed persons pursuant to Chapter II of Title IV.
3. Without prejudice to paragraph 1, the Member States, as from the entry into force of the Agreement, and Romania as from the end of the fifth year following the entry into force of the Agreement, shall not introduce any new foreign exchange restrictions on the movement of capital and current payments connected therewith between residents of the Community and Romania and shall not make the existing arrangements more restrictive.
4. The Parties shall consult each other with a view to facilitating the movement of capital between the Community and Romania in order to promote the objectives of this Agreement.

## **Article 62.**

1. During the five years following the date of entry into force of the Agreement, the Parties shall take measures permitting the creation of the necessary conditions for the further gradual application of Community rules on the free movement of capital.
2. By the end of the fifth year from the entry into force of the Agreement, the Association Council shall examine ways of enabling Community rules on the movement of capital to be applied in full.

## **Article 63.**

With reference to the provisions of this Chapter, and notwithstanding the provisions of Article 65, until a full convertibility of Romanian currency in the meaning of Article VIII of the International Monetary Fund (IMF) is introduced, Romania may in exceptional circumstances apply exchange restrictions connected with the granting or taking up of short and medium-term credits to the extent that such restrictions are imposed on Romania for the granting of such credits and are permitted according to Romania's status under the IMF.

Romania shall apply these restrictions in a non-discriminatory manner. They shall be applied in such a manner as to cause the least possible disruption to this Agreement. Romania shall inform the Association Council promptly of the introduction of such measures and of any changes therein.

# **Chapter II. Competition and other Economic Provisions**

## **Article 64.**

1. The following are incompatible with the proper functioning of this Agreement, in so far as they may affect trade between the Community and Romania:
  - (i) all Agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;
  - (ii) abuse by one or more undertakings of a dominant position in the territories of the Community or of Romania as a whole or in a substantial part thereof;
  - (iii) any public aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods.
2. Any practices contrary to this Article shall be assessed on the basis of criteria arising from the application of the rules of

Articles 85, 86, and 92 of the Treaty establishing the European Economic Community.

3. The Association Council shall, within three years of the entry into force of the Agreement, adopt the necessary rules for the implementation of paragraph 1 and 2.

4. (a) For the purposes of applying the provisions of paragraph 1, point (iii), the Parties recognize that during the first five years after the entry into force of the Agreement, any public aid granted by Romania shall be assessed taking into account the fact that Romania shall be regarded as an area indetentical to those areas of the Community described in Article 92 (3) (a) of the Treaty establishing the European Economic Community. The Association Council shall, taking into account the economic situation of Romania, decide whether that period should be extended by further periods of five years.

(b) Each Party shall ensure transparency in the area of public aid, inter alia by reporting annually to the other Party on the total amount and the distribution of the aid given and by providing, upon request, information on aid schemes. Upon request by one Party, the other Party shall provide information on particular individual cases of public aid.

5. With regard to products referred to in Chapters II and III of Title III:

- the provision of paragraph 1 (iii) does not apply,

- any practices contrary to paragraph 1 (i) should be assessed according to the criteria established by the Community on the basis of Articles 42 and 43 of the Treaty establishing the European Economic Community and in particular of those established in Council Regulation No 26/1962.

6. If the Community or Romania considers that a particular practices is incompatible with the terms of paragraph 1 and:

- is not adequately dealt with under the implementing rules referred to in paragraph 3, or

- in the absence of such rules, and if such practice or threatens to cause serious prejudice to the interest of the other Party or material injury to its domestic industry, including its services industry,

it may take appropriate measures after consultation within the Association Council or after 30 working days following referral for such consultation.

In the case of practices incompatible with paragraph 1 (iii) of this Article, such appropriate measures may, where the General Agreement on Tariffs and Trade applies thereto, only be adopted in conformity with the procedures and under the conditions laid down by the General Agreement on Tariffs and Trade and any other relevant instrument negotiated under its auspices which are applicable between the Parties.

7. Notwithstanding any provisions to the contrary adopted in conformity with paragraph 3, the Parties shall exchange information taking into account the limitations imposed by the requirements of professional and business secrecy.

8. This Article shall not apply to the products covered by the Treaty establishing the European Coal and Steel Community which are the subject of Protocol 2.

## **Article 65.**

1. The Parties shall endeavour to avoid the imposition of restrictive measures including measures relating to imports for balance of payments purposes. In the event of their introduction, the Party having introduced the same shall present to the other Party a time schedule for their removal.

2. Where one or more Member States or Romania is in serious balance of payments difficulties, or under imminent threat thereof, the Community or Romania, as the case may be, may, in accordance with the conditions established under the General Agreement on Tariffs and Trade, adopt restrictive measures, including measures relating to imports, which shall be of limited duration and may not go beyond what is necessary to remedy the balance of payments situation. The Community or Romania, as the case may be, shall inform the other Party forthwith.

3. Any restrictive measures shall not apply to transfers related to investments and in particular to the repatriation of amounts invested or reinvested and of any kind of revenues stemming therefrom.

## **Article 66.**

With regard to public undertakings and undertakings to which special or exclusive rights have been granted, the Association Council shall ensure that, as from the third year from the date of entry into force of the Agreement, the principles of the Treaty establishing the European Economic Community, notably Article 90, and the principles of the concluding document of

the April 1990 Bonn meeting of the Conference on Security and Cooperation in Europe (notably entrepreneurs' freedom of decision) are applied in the operation of this Agreement.

## **Article 67.**

1. Romania shall continue to improve the protection of intellectual, industrial and commercial property rights in order to provide, by the end of the fifth year after the entry into force of the Agreement, for a level of protection similar to that existing in the Community, including comparable means of enforcing such rights.
2. Within the same time, Romania shall apply to accede to the Munich Convention on the Grant of European Patents of 5 October 1973. Romania shall also accede to the other multilateral conventions on intellectual, industrial and commercial property rights (referred to in paragraph 1 of Annex XIX) to which Member States are Parties, or which are de facto applied by Member States.
3. Upon entry into force of the Agreement treatment no less favourable than that granted to any third country under any bilateral agreement shall be granted by Romania.

## **Article 68.**

1. The Parties consider the opening up of the award of public contracts on the basis of the principles of non-discrimination and reciprocity, in particular in the GATT context, to be a desirable objective.
2. The Romanian companies as defined in Article 49 shall be granted access to contract award procedures in the Community pursuant to Community procurement rules under a treatment no less favourable than that accorded to Community companies as of the entry into force of the Agreement.

Community companies as defined in Article 49 shall be granted access to contract award procedures in Romania under a treatment no less favourable than that accorded to Romanian companies at the latest at the end of the transitional period referred to in Article 7.

Community companies established in Romania under the provisions of Chapter II of Title IV in the form of subsidiaries as described in Article 45 and in the forms described in Article 55 shall have upon entry into force of the Agreement access to contract award procedures under a treatment no less favourable than that accorded to Romanian companies. Community companies established in Romania in the form of branches and agencies as described in Article 45 shall be granted such treatment at the latest by the end of the transitional period referred to in Article 7.

The Association Council shall periodically examine the possibility for Romania to introduce access to award procedures in Romania for all Community companies prior to the end of the transitional period.

3. As regards establishment, operations, supply of services between the Community and Romania, as well as employment and movement of labour linked to the fulfilment of public contracts, the provisions of Articles 38 to 59 are applicable.

## **Chapter III. Approximation of Laws**

### **Article 69.**

The Parties recognize that an important condition for Romania's economic integration into the Community is the approximation of Romania's existing and future legislation to that of the Community. Romania shall endeavour to ensure that its legislation will be gradually made compatible with that of the Community.

### **Article 70.**

The approximation of laws shall extend to the following areas in particular: customs law, company law, banking law, company accounts and taxes, intellectual property, protection of workers at the workplace, social security, financial services, rules on competition, protection of health and life of humans, animals and plants, consumer protection, indirect taxation, technical rules and standards, nuclear law and regulation, transport and the environment.

### **Article 71.**

The Community shall provide Romania with technical assistance for the implementation of these measures, which may include inter alia:

- the exchange of experts,
- the provision of early information especially on relevant legislation,
- organization of seminars,
- training activities,
- aid for the translation of Community legislation in the relevant sectors.

## **Title VI. ECONOMIC COOPERATION**

### **Article 72.**

1. The Community and Romania shall establish economic cooperation aimed at contributing to Romania's development and growth potential. Such cooperation shall strengthen existing economic links on the widest possible foundation, to the benefit of both Parties.
2. Policies and other measures will be designed to bring about economic and social development of Romania and will be guided by the principle of sustainable development. 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.
3. To this end the cooperation should focus in particular on policies and measures related to industry including the mining sector, investment, agriculture, energy, transport, regional development and tourism.
4. Special attention shall be devoted to measures capable of fostering cooperation between the countries of central and eastern Europe with a view to a harmonious development of the region.

### **Article 73. Industrial Cooperation**

1. Cooperation shall aim at promoting the following in particular:
  - industrial cooperation between economic operators of both sides, with the particular objective of strengthening the private sector,
  - Community participation in Romania's efforts in both public and private sectors to modernize and restructure its industry, which will effect the transition from a centrally planned system to a market economy under conditions which ensure that the environment is protected,
  - the restructuring of individual sectors,
  - the establishment of new undertakings in areas offering potential for growth,
  - transfer of technology and know-how.
2. Industrial cooperation initiatives shall take into account priorities determined by Romania. The initiatives should seek in particular to establish a suitable framework for undertakings, to improve management know-how and to promote transparency as regards markets and conditions for undertakings, and will include technical assistance where appropriate.

### **Article 74. Investment Promotion and Protection**

1. Cooperation shall aim to establish a favourable climate for private investment, both domestic and foreign, which is essential to economic and industrial reconstruction in Romania.
2. The particular aims of cooperation shall be:
  - for Romania to establish and improve a legal framework which favours and protects investment,
  - the conclusion by the Member States and Romania of Agreements for the promotion and protection of investment,
  - to implement suitable arrangements for the transfer of capital,
  - to bring about better investment protection,
  - to proceed with deregulation and to improve economic infrastructure,

- to exchange information on investment opportunities in the form of trade fairs, exhibitions, trade weeks and other events.

## **Article 75.**

### Agro and industrial standards and conformity assessment

1. The Parties shall cooperate with the aim to reduce differences in the fields of standardization and conformity assessment procedures.

2. To this end, the cooperation shall seek:

- to promote compliance by Romania with Community technical regulations and European standards concerning quality of industrial and agricultural food products,
- to promote the use of Community technical regulations and European standards and conformity assessment procedures,
- where appropriate, to achieve the conclusion of agreements on mutual recognition in these fields,
- to encourage Romania's active and regular participation in the work of specialized organizations (CEN, Cenelec, ETSI, EOTC).

3. The Community will provide Romania with technical assistance where appropriate.

## **Article 76. Cooperation In Science and Technology**

1. The Parties shall promote cooperation in research and technological development activities. They shall devote special attention to the following:

- the exchange of scientific and technical information, including information on each other's science and technology policies and activities,
- the organization of joint scientific meetings (seminars and workshops),
- joint R&D activities aimed at encouraging scientific progress and the transfer of technology and know-how,
- training activities and mobility programmes for researchers and specialists from both sides,
- the development of an environment conducive to research and the application of new technologies and adequate protection of intellectual property of the results of research,
- participation of Romania in the Community programmes in accordance with paragraph 3.

Technical assistance shall be provided where appropriate.

2. The Association Council shall determine the appropriate procedures for developing cooperation.

3. Cooperation under the Community's framework programme in the field of research and technological development shall be implemented according to specific arrangements to be negotiated and concluded in accordance with the legal procedures of each Party.

## **Article 77. Education and Training**

1. The Parties shall cooperate with the aim of raising the level of general education and professional qualifications in Romania, both in public and private sectors, taking into consideration the priorities of Romania. Institutional frameworks and plans of cooperation will be established (starting on the European Training Foundation, when established, and the Tempus programme). Participation of Romania in other Community programmes could also be considered in this context.

2. The cooperation shall focus in particular on the following areas:

- reform of the education and training system in Romania,
- initial training, in-service training and retraining, including the training of public and private sector executives and senior civil servants, particularly in priority areas to be determined,
- cooperation between universities, cooperation between universities and firms, and mobility for teachers, students,

administrators and young people,

- promoting teaching in the field of European Studies within the appropriate institutions,
- mutual recognition of periods of studies and diplomas,
- teaching Community languages,
- training translators and interpreters and promoting the use of Community linguistic norms and terminology and developing an appropriate infrastructure for translation between Romanian and the Community languages,
- development of distant education and new training technologies,
- granting scholarships and fellowships,
- provision of training materials and equipment.

In order to promote integration of Romania with the Community level of education, establishments and the research institutions as stated in Article 76, the Community shall take appropriate measures to facilitate Romania's participation in the activities of these institutions as well as establishment of their filials in Romania. The objectives of the abovementioned establishments should concentrate on educating, scholars, professionals and public servants to be involved in the process of European integration and cooperation with the Community institutions.

## **Article 78. Agriculture and the Agro-industrial Sector**

1. Cooperation in this area shall have as its aim the modernization, restructuring and privatization of agriculture and the agro-industrial sector in Romania. It shall endeavour notably to:

- develop private farms and distribution channels, methods of storage, marketing, management etc.,
- modernize the rural infrastructure (transport, water supply, telecommunications),
- improve agricultural land-use planning, including construction and urban planning,
- improve productivity, quality and efficiency by using appropriate methods and products; provide training and monitoring in the use of anti-pollution methods connected with inputs,
- promote complementarity in agriculture,
- promote the exchange of know-how, particularly between the private sectors in the Community and Romania,
- develop and modernize processing firms and their marketing techniques,
- develop cooperation on animal health, agrifood health (including ionization) and plant health with the aim of bringing about gradual harmonization with Community standards through assistance for training and the organization of checks,
- establish and promote effective cooperation on agriculture information systems,
- develop and promote effective cooperation on quality assurance systems compatible with the Community models,
- exchange of information in respect of agricultural and legislation policy,
- provide technical assistance and transfer of know-how to Romania concerning the system of milk supply to schools.

2. To these ends, technical assistance shall be provided by the Community as appropriate.

## **Article 79. Energy**

1. Within the framework of the principles of the market economy and the European Energy Charter, the Parties shall cooperate to develop the progressive integration of the energy markets in Europe.

2. Cooperation shall include inter alia technical assistance when appropriate in the following areas:

- formulation and planning of energy policy,
- management and training for the energy sector,

- the promotion of energy saving and energy efficiency,
- the development of energy resources,
- improvement of distribution as well as improvement and diversification of supply,
- the environmental impact of energy production and consumption,
- the nuclear energy sector,
- opening up the energy market to a greater degree, including facilitating transit of gas and electricity,
- the electricity and gas sectors, including the consideration of the possibility of the interconnection of the supply networks,
- modernization of energy infrastructures,
- the formulation of framework conditions for cooperation between undertakings in this sector, which could include the encouragement of joint-ventures,
- the transfer of technology and know-how, which may include if appropriate the promotion and commercialization of efficient energy technologies.

## **Article 80. Cooperation In the Nuclear Sector**

1. The aim of cooperation is to provide for a safer use of nuclear energy.
2. Cooperation shall mainly cover the following topics:
  - industrial measures for the operational safety of Romanian nuclear power plants,
  - upgrading training of management and other personnel of nuclear installations,
  - upgrading Romania's laws and regulations on nuclear safety and strengthening the supervisory authorities and their resources,
  - nuclear safety, nuclear emergency preparedness and management,
  - radiation protection, including environmental radiation monitoring,
  - fuel cycle problems and safeguarding of nuclear materials,
  - radioactive waste management,
  - decommissioning and dismantling of nuclear installations,
  - decontamination.
3. Cooperation will include exchange of information and experience and R& D activities in accordance with Article 76.

## **Article 81. Environment**

1. The Parties shall develop and strengthen their cooperation on environment and human health, which they have judged to be a priority.
2. Cooperation shall aim at combating the deterioration of the environment and in particular:
  - effective monitoring of pollution levels; system of information on the state of the environnement,
  - combating local, regional and transboundary air and water pollution,
  - ecological restoration,
  - sustainable, efficient and environmentally effective production and use of energy; safety of industrial plants,
  - classification and safe handling of chemicals,
  - water quality, particularly of cross-border waterways (the Danube, Black Sea),



- waste reduction, recycling and safe disposal, implementation of the Basle Convention,
- the environmental impact of agriculture, soil erosion, and chemical pollution,
- the protection of forests,
- the conservation of biodiversity,
- land-use planning, including construction and urban planning,
- use of economic and fiscal instruments,
- global climate change,
- environmental education and awareness.

3. Cooperation shall take place particularly through:

- exchange of information and experts, including information and experts dealing with the transfer of clean technologies and the safe and environmentally sound use of biotechnologies,
- training programmes,
- joint research activities,
- approximation of laws (Community standards),
- cooperation at regional level (including cooperation within the framework of the European Environment Agency when established by the Community) and at international level,
- development of strategies, particularly with regard to global and climatic issues,
- environmental impact studies.

## **Article 86. Water Management**

The Parties shall develop cooperation in various fields of water management with special regard to:

- environment-friendly utilization of the water of trans-boundary watershed and cross-boundary rivers and lakes,
- harmonization of regulations concerning water management, and means of technical water regulation (directives, limits, standards, normatives, logistics),
- modernization of research and development (R& D) and scientific basis of water management.

## **Article 83. Transport**

1. The Parties shall develop and strengthen their cooperation so as to enable Romania to

- restructure and modernize transport,
- improve the movement of passengers and goods and the access to the transport market by removing administrative, technical and other obstacles,
- facilitate Community transit through Romania by road, rail, inland waterway and combined transport,
- achieve operating standards comparable to those in the Community.

2. Cooperation shall include the following in particular:

- economic, legal and technical training programmes,
- the provision of technical assistance and advice, and the exchange of information,
- the provision of means to develop transport infrastructure in Romania.

3. Cooperation shall include the following priority areas:

- the construction and modernization of road transport, including the gradual easing of transit conditions,
- the management of railways and airports, including cooperation between the appropriate national authorities,
- the modernization, on major routes of common interest and trans-European links, of road, inland waterway, railway, port and airport infrastructure,
- land use planning including construction and urban planning connected to transport,
- the upgrading of technical equipment to meet Community standards, particularly in the fields of road and rail transport, multimodal transport and transshipment,
- the setting up of consistent transport policies compatible with those applicable in the Community,
- the promotion of joint technological and research programmes in accordance with Article 76.

## **Article 84. Telecommunications, Postal Services and Broadcasting**

1. The Parties shall expand and strengthen cooperation in this area, and shall to this end initiate notably the following actions:

- exchange information on telecommunications, postal services and broadcasting policies,
- exchange technical and other information and organize seminars, workshops and conferences for experts of both sides,
- conduct training and advisory operations,
- carry out transfers of technology,
- have the appropriate bodies from both sides carry out joint projects,
- promote European standards, systems of certification and regulatory approaches,
- promote new communications facilities, services and installations, particularly those with commercial applications.

2. These activities shall focus on the following priority areas:

- the modernization of Romania's telecommunications network and its integration into European and world networks,
- cooperation within the structures of European standardization,
- the integration of trans-European systems; the legal and regulatory aspects of telecommunications,
- the management of telecommunications, postal and broadcasting services in the new economic environment: organizational structures, strategy and planning, purchasing principles,
- land-use planning, including construction and urban planning,
- the modernization of Romania's postal and broadcasting services, including the legal and regulatory aspects.

## **Article 85. Banking, Insurance, other Financial Services and Audit Cooperation**

1. The Parties shall cooperate with the aim of establishing and developing a suitable framework for the encouragement of a banking, insurance and financial services sector in Romania.

(a) Cooperation shall focus on:

- the adoption of an accounting system compatible with European standards,
- the strengthening and restructuring of the banking and financial systems,
- the improvement of the monitoring and regulation of banking and financial services,
- the preparation of glossaries of terminology,
- the exchange of information on the laws in force or being drafted.

(b) To this end, the cooperation shall include the provision of technical assistance and training.

2. The Parties shall cooperate with the aim of developing efficient auditing systems in Romania based on standard Community methods and procedures.

## **Article 86. Monetary Policy**

At the request of Romanian authorities, the Community shall provide technical assistance designed to support the efforts of Romania towards the introduction of full convertibility of the leu and the gradual approximation of its policies to those of the European Monetary System. This will include informal exchange of information concerning the principles and the functioning of the European Monetary System.

## **Article 87. Money Laundering**

1. The Parties will establish a framework for cooperation aimed at preventing the use of their financial systems for laundering of proceeds from criminal activities in general and drug offences in particular.

2. Cooperation in this area shall include administrative and technical assistance with the purpose of establishing suitable standards against money laundering equivalent to those adopted by the Community and international fora in this field, including the Financial Action Task Force (FATF).

## **Article 88. Regional Development**

1. The Parties shall strengthen cooperation between them on regional development and land-use planning.

2. To this end, any of the following measures may be undertaken:

- the exchange of information by national, regional or local authorities on regional and land-use planning policy, and, where appropriate, the provision of assistance to Romania for the formulation of such policy,
- joint action by regional and local authorities in the area of economic development,
- exchange visits to explore the opportunities for cooperation and assistance,
- the exchange of civil servants or experts,
- the provision of technical assistance, with special emphasis on the development of disadvantaged areas,
- the establishment of programmes for the exchange of information and experience, by methods including seminars.

## **Article 89. Social Cooperation**

1. With regard to health and safety, the Parties shall develop cooperation between them with the aim of improving the level of protection of the health and safety of workers, taking as a reference the level of protection existing in the Community. Cooperation shall comprise the following in particular:

- the provision of technical assistance,
- the exchange of experts,
- cooperation between firms,
- information and training operations,
- cooperation in public health.

2. With regard to employment, cooperation between the Parties shall focus notably on:

- the organization on the labour market,
- the modernization of job-finding and careers advice services,
- the planning and the implementation of regional restructuring programmes,
- the encouragement of local employment development.

Cooperation in this field will take the form of studies, provision of the services of experts and information and training.

3. With regard to social security, cooperation between the Parties shall seek to adapt the Romanian social security system to the new economic and social situation, primarily by providing the services of experts and information and training.

## **Article 90. Tourism**

The Parties shall increase and develop cooperation between them, which shall include:

- facilitating the tourist trade and encouraging tourist exchanges among young people,
- increasing the flow of information through international networks, data bases, etc.,
- transferring know-how through training, exchanges, seminars,
- studying the opportunities for joint operations (cross-border projects, town-twinning, etc.),
- Romania's participation in relevant European tourism organizations,
- harmonization of the statistical systems and the rules regarding tourism:
- exchanging news and providing for appropriate exchanges of information on major issues of mutual interest affecting the tourism sector,
- technical assistance for the commercial development of infrastructure conducive to the tourism sector.

## **Article 91. Small and Medium-sized Enterprises**

1. The Parties shall aim to develop and strengthen small and medium-sized enterprises (SMEs) and cooperation between SMEs in the Community and Romania.

2. They shall encourage the exchange of information and know-how in the following areas:

- bringing about the legal, administrative, technical, tax and financial conditions necessary to the setting-up and expansion of SMEs and for cross-border cooperation,
- the provision of the specialized services required by SMEs (management training, accounting, marketing, quality control, etc.) and the strengthening of agencies providing such services,
- the establishment of appropriate links with Community operators in order to improve the flow of information to SMEs and promoting cross-border cooperation (e.g. the Business Cooperation Network (BC-NET), Euro-Info Centres, conferences, etc.).

3. Cooperation will include the supply of technical assistance in particular for the establishment of appropriate institutional support for SME's, at both national and regional level, regarding financial, training, advisory, technological and marketing services.

## **Article 92. Information and Communication**

1. The Community and Romania shall take appropriate steps to stimulate the effective mutual exchange of information. Priority shall be given to programmes aimed at providing the general public with basic information about the Community and professional circles in Romania with more specialized information, including, where possible, access to Community databases.

## **Article 93. Consumer Protection**

1. The Parties shall cooperate with the aim of achieving full compatibility between the systems of consumer protection in Romania and the Community.

2. To this end, cooperation shall comprise, within existing possibilities:

- the exchange of information and experts,
- access to Community databases,

- training operations and technical assistance.

## **Article 94. Customs**

1. The aim of cooperation shall be to guarantee compliance with all the provisions scheduled for adoption in connection with trade and fair trade and to achieve the approximation of Romania's customs system to that of the Community, thus helping to ease the steps towards liberalization planned under this Agreement.

2. Cooperation shall include the following in particular:

- the exchange of information,
- the introduction of the single administrative document and the combined nomenclature,
- the interconnection between the transit systems of the Community and Romania,
- the simplification of inspections and formalities in respect of the carriage of goods,
- the organization of seminars and placements of trainees.

Technical assistance shall be provided where appropriate.

3. Without prejudice to further cooperation foreseen in this Agreement, and in particular Article 97, the mutual assistance between administrative authorities in customs matters of the Parties shall take place in accordance with the provisions of Protocol 6.

## **Article 95. Statistical Cooperation**

1. Cooperation in this area shall have as its aim the development of an efficient statistical system to provide, in a rapid and timely fashion, the reliable statistics needed to support and monitor the process of economic reform and contribute to the development of private enterprise in Romania.

2. The Parties shall cooperate in particular:

- to strengthen Romania's statistical apparatus,
- to bring about harmonization with international (and particularly Community) methods, standards and classifications,
- to provide the data needed to maintain and monitor economic and social reform,
- to provide private-sector economic operators with the appropriate macro-economic and micro-economic data,
- to guarantee the confidentiality of data,
- to exchange statistical information,
- to build up databases.

3. Technical assistance shall be provided by the Community as appropriate.

## **Article 96. Economics**

1. The Community and Romania will facilitate the process of economic reforms and integration by cooperating to improve understanding of the fundamentals of their respective economies and the devising and implementing of economic policy in market economies.

2. To these ends the Community and Romania will:

- exchange information on macroeconomic performance and prospects and on strategies for development,
- analyse jointly economic issues of mutual interest, including the framing of economic policy and the instruments for implementing it,
- through the programme of Action for Cooperation in Economics (ACE) in particular, encourage extensive cooperation among economists and managers in the Community and Romania, in order to expedite the transfer of know-how for the

drafting of economic policies, and provide for wide dissemination of the results of policy-relevant research.

## **Article 97. Drugs**

1. The cooperation is in particular aimed at increasing the efficiency of policies and measures to counter the supply and illicit traffic of narcotics and psychotropic substances and the reduction of abuse of these products.

2. The Parties shall agree on the necessary methods of cooperation to attain these objectives, including the modalities of the implementation of common actions. Their actions will be based on consultation and close coordination over the objectives and the policy measures in the fields targeted in paragraph 1.

3. Cooperation between the Parties will comprise technical and administrative assistance which could deal in particular with the following areas:

- the drafting and implementation of national legislation,
- the creation of institutions and information centres and of social and health centres,
- the training of personnel and research,
- the prevention of diversion of precursors and other chemical substances used for the purpose of illicit manufacture of narcotic drugs or psychotropic substances.

Cooperation in this area shall include administrative and technical assistance with the purpose of establishing suitable standards against the misuse of the products in question equivalent to those adopted by the Community and relevant international bodies, in particular the Chemical Action Task Force (CATF).

The Parties may agree to include other areas.

## **Article 98. Public Administration**

The Parties shall promote cooperation between their public administration authorities, including the setting up of exchange programmes, in order to improve mutual knowledge of the structure and functioning of their respective systems.

## **Title VII. CULTURAL COOPERATION**

### **Article 99.**

1. Taking into account the Solemn Declaration on European Union, the Parties undertake to promote, encourage and facilitate cultural cooperation. Where appropriate, the Community's cultural cooperation programmes or those of one or more Member States may be extended to Romania and further activities of interest to both sides developed.

This cooperation may notably cover:

- non commercial exchange of works of art and artists,
- literary translations,
- conservation and restoration of monuments and sites (architectural and cultural heritage),
- training for those dealing with cultural affairs,
- the organization of European-oriented cultural events,
- dissemination of outstanding cultural achievements including the training of Romanian specialists in this field.

2. The Parties shall cooperate in the promotion of the audiovisual industry in Europe. The audiovisual sector in Romania could most notably take part in activities set up by the Community in the framework of the Media programme under procedures laid down by the bodies responsible for managing each activity and in accordance with the provisions of the Decision of the Council of the European Communities of 21 December 1990, which established the programme. The Community will encourage the Romanian audiovisual sector to participate in the appropriate Eureka programmes.

The Parties shall coordinate, and where appropriate, harmonize their policies regarding the regulation of cross-border broadcasting, technical norms in the audiovisual field and the promotion of European audiovisual technology.

Cooperation could include inter alia the exchange of programmes, bursaries and facilities for the training of journalists and other media professionals.

## **Title VIII. FINANCIAL COOPERATION**

### **Article 100.**

In order to achieve the objectives of this Agreement and in accordance with Articles 101, 102, 104 and 105, without prejudice to Article 103, Romania shall benefit from temporary financial assistance from the Community in the form of grants and loans, including loans from the European Investment Bank according to the provisions of Article 18 of the Statute of the Bank, to accelerate the economic transformation of Romania and to help Romania to cope with the economic and social consequences of structural readjustment.

### **Article 101.**

This financial assistance shall be covered:

- either within the framework of the Operation Phare foreseen in Council Regulation (EEC) No 3906/89, as amended, on a multiannual basis, or within a new financial multiannual framework established by the Community following consultations with Romania and taking into account the considerations set out in Articles 104 and 105 of this Agreement,
- by the loans provided by the European Investment Bank until the expiry date of the availability thereof; following consultations with Romania the Community shall fix the maximum amount and period of availability of loans from the European Investment Bank for Romania for subsequent years.

### **Article 102.**

The objectives and the areas of the Community's financial assistance shall be laid down in an indicative programme to be agreed between the two Parties. The Parties shall inform the Association Council.

### **Article 103.**

1. The Community shall, in case of special need, taking into account the G-24's guidelines for action and the availability of all financial resources, on request of Romania and in coordination with international financial institutions, in the context of the G-24, examine the possibility of granting temporary financial assistance

- to support measures with the aim to introduce and maintain the convertibility of the Romanian currency,
- to support medium-term stabilization and structural adjustment efforts, including balance of payments assistance.

2. This financial assistance is subject to Romania's presentation of IMF supported programmes in the context of the G-24, as appropriate, for convertibility and/or for restructuring its economy, to the Community's acceptance thereof, to Romania's continued adherence to these programmes and, as an ultimate objective, to rapid transition to reliance on finance from private sources.

3. The Association Council will be informed of the conditions under which this assistance will be provided and of the respect of the obligations undertaken by Romania concerning such assistance.

### **Article 104.**

The Community financial assistance shall be evaluated in the light of the needs which arise and of Romania's development level, and taking into account established priorities and the absorption capacity of Romania's economy, the ability to repay loans and progress towards a market economy system and restructuring in Romania.

### **Article 105.**

In order to permit optimum use of the resources available, the Parties shall ensure that Community contributions are made in close coordination with those from other sources such as the Member States, other countries, including the G-24, and international financial institutions, such as the International Monetary Fund, the International Bank for Reconstruction and Development and the European Bank for Reconstruction and Development.

## **Title IX. INSTITUTIONAL, GENERAL AND FINAL PROVISIONS**

### **Article 106.**

An Association Council is hereby established which shall supervise the implementation of this Agreement. It shall meet at ministerial level once a year and when circumstances require. It shall examine any major issues arising within the framework of the Agreement and any other bilateral or international issues of mutual interest.

### **Article 107.**

1. The Association Council shall consist of the members of the Council of the European Communities and members of the Commission of the European Communities, on the one hand, and of members appointed by the Government of Romania, on the other.
2. Members of the Association Council may arrange to be represented, in accordance with the conditions to be laid down in its rules of procedure.
3. The Association Council shall establish its rules of procedure.
4. The Association Council shall be presided in turn by a member of the Council of the European Communities and a member of the Government of Romania, in accordance with the provisions to be laid down in its rules of procedure.
5. Where appropriate, the European Investment Bank will take part, as an observer, in the work of the Association Council.

### **Article 108.**

The Association Council shall, for the purpose of attaining the objectives of the Agreement, have the power to take decisions in the cases provided for therein. The decisions taken shall be binding on the Parties which shall take the measures necessary to implement the decisions taken. The Association Council may also make appropriate recommendations.

It shall draw up its decisions and recommendations by Agreement between the two Parties.

### **Article 109.**

1. Each of the two Parties may refer to the Association Council any dispute relating to the application or interpretation of this Agreement.
2. The Association Council may settle the dispute by means of a decision.
3. Each Party shall be bound to take the measures involved in carrying out the decision referred to in paragraph 2.
4. In the event of it not being possible to settle the dispute in accordance with paragraph 2, either Party may notify the other of the appointment of an arbitrator; the other Party must then appoint a second arbitrator within two months. For the application of this procedure, the Community and the Member States shall be deemed to be one Party to the dispute.

The Association Council shall appoint a third arbitrator.

The arbitrators' decisions shall be taken by majority vote.

Each Party to the dispute must take the steps required to implement the decision of the arbitrators.

### **Article 110.**

1. The Association Council shall be assisted in the performance of its duties by an Association Committee composed of representatives of the members of the Council of the European Communities and of members of the Commission of the European Communities on the one hand and of representatives of the Government of Romania on the other, normally at senior civil servant level.

In its rules of procedure the Association Council shall determine the duties of the Association Committee, which shall include the preparation of meetings of the Association Council and how the Committee shall function.

2. The Association Council may delegate to the Association Committee any of its powers. In this event the Association



Committee shall take its decisions in accordance with the conditions laid down in Article 108.

### **Article 111.**

The Association Council may decide to set up any other special committee or body that can assist it in carrying out its duties.

In its rules of procedure, the Association Council shall determine the composition and duties of such committee or bodies and how they shall function.

### **Article 112.**

An Association Parliamentary Committee is hereby established. It shall be a forum for Members of the Romanian Parliament and the European Parliament to meet and exchange views. It shall meet at intervals which it shall itself determine.

### **Article 113.**

1. The Association Parliamentary Committee shall consist of members of the European Parliament, on the one hand, and of members of the Romanian Parliament, on the other.
2. The Association Parliamentary Committee shall establish its rules of procedure.
3. The Association Parliamentary Committee shall be presided in turn by each the European Parliament and the Romanian Parliament, in accordance with the provisions to be laid down in its rules of procedure.

### **Article 114.**

The Association Parliamentary Committee may request relevant information regarding the implementation of this Agreement from the Association Council, which shall then supply the Committee with the requested information.

The Association Parliamentary Committee shall be informed of the decisions of the Association Council.

The Association Parliamentary Committee may make recommendations to the Association Council.

### **Article 115.**

Within the scope of this Agreement, each Party undertakes to ensure that natural and legal persons of the other Party have access free of discrimination in relation to its own nationals to the competent courts and administrative organs of the Parties to defend their individual rights and their property rights, including those concerning intellectual, industrial and commercial property.

### **Article 116.**

Nothing in this Agreement shall prevent a Contracting Party from taking any measures:

- (a) which it considers necessary to prevent the disclosure of information contrary to its essential security interests;
- (b) which relate to the production of, or trade in arms, ammunition or war materials or to research, development or production indispensable for defence purposes, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes;
- (c) which it considers essential to its own security in the event of serious internal disturbances affecting the maintenance of law and order, in time of war or serious international tension constituting threat of war or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.

### **Article 117.**

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

- the arrangements applied by Romania in respect of the Community shall not give rise to any discrimination between the Member States, their nationals, or their companies or firms,

- the arrangements applied by the Community in respect of Romania shall not give rise to any discrimination between Romanian nationals or its companies or firms.

2. The provisions of paragraph 1 are without prejudice to the right of the Parties to apply the relevant provisions of their fiscal legislation to tax payers who are not in identical situations as regards their place of residence.

## **Article 118.**

Products originating in Romania shall not enjoy more favourable treatment when imported into the Community than that applied by Member States among themselves.

The treatment granted to Romania under Title IV and Chapter I of Title V shall not be more favourable than that accorded by Member States among themselves.

## **Article 119.**

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

2. If either Party considers that the other Party has failed to fulfil an obligation under the Agreement, it may take appropriate measures. Before so doing, except in cases of special urgency, it shall supply the Association Council with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.

In the selection of measures, priority must be given to those which least disturb the functioning of the Agreement. These measures shall be notified immediately to the Association Council and shall be the subject of consultations within the Association Council if the other Party so requests.

## **Article 120.**

This Agreement shall not, until equivalent rights for individuals and economic operators have been achieved under the present Agreement, affect rights assured to them through Agreements binding one or more Member States, on the one hand, and Romania, on the other, except for areas of Community competence and without prejudice of Member States' obligations resulting from this Agreement in sectors of their competence.

## **Article 121.**

Protocols 1, 2, 3, 4, 5, 6 and 7, and Annexes I to XIX shall form an integral part of this Agreement.

## **Article 122.**

This Agreement is concluded for an unlimited period.

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

## **Article 123.**

This Agreement shall apply, on the one hand, to the territories in which the Treaties establishing the European Economic Community, the European Atomic Energy Community and the European Coal and Steel Community are applied and under the conditions laid down in those Treaties and, on the other hand, to the territory of Romania.

## **Article 124.**

This Agreement is drawn up in duplicate in the Danish, Dutch, English, French, German, Italian, Spanish, Greek, Portuguese and Romanian languages, each of these texts being equally authentic.

## **Article 125.**

This Agreement will be approved by the Parties in accordance with their own procedures.

This Agreement shall enter into force on the first day of the second month following the date on which the Parties notify each other that the procedures referred to in the first paragraph have been completed.

Upon its entry into force, the Agreement shall replace the Agreement between the European Economic Community, the European Atomic Energy Community and Romania on trade and economic and commercial cooperation signed in Luxembourg on 22 October 1990.

## **Article 126.**

1. In the event that, pending the completion of the procedures necessary for the entry into force of the Agreement, the provisions of certain parts of this Agreement, in particular those relating to the movement of goods, are put into effect in 1993 by means of an Interim Agreement between the Community and Romania, the Contracting Parties agree that, in such circumstances for the purposes of Title III, Articles 64 and 67 of this Agreement and Protocol 1, 2, 3, 4, 5, 6 and 7 hereto, the terms 'date of entry into force of the Agreement` shall mean

- the date of entry into force of the Interim Agreement in relation to obligations taking effect on that date, and
- 1 January 1993 in relation to obligations taking effect after the date of entry into force by reference to the date of entry into force.

2. In the case of entry into force after 1 January the provisions of Protocol 7 shall apply.

In witness whereof the undersigned Plenipotentiaries have signed this Agreement.

Done at Brussels on the first day of February in the year one thousand nine hundred and ninety-three.

For the Kingdom of Belgium

For the Kingdom of Denmark

For the Federal Republic of Germany

For the Hellenic Republic

For the Kingdom of Spain

For the French Republic

For Ireland

For the Italian Republic

For the Grand Duchy of Luxembourg

For the Kingdom of Netherlands

For the Portuguese Republic

For the United Kingdom of Great Britain and Northern Ireland

For the Council and the Commission of the European Communities

For Romania