AGREEMENT ON AMENDMENT OF AND ACCESSION TO THE CENTRAL EUROPEAN FREE TRADE AGREEMENT

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Preamble

The Republic of Albania, Bosnia and Herzegovina, the Republic of Bulgaria, the Republic of Croatia, the Republic of Macedonia, the Republic of Moldova, the Republic of Montenegro, Romania, the Republic of Serbia and the United Nations Interim Administration Mission in Kosovo on behalf of Kosovo in accordance with United Nations Security Council Resolution 1244 (hereinafter referred to as "the Parties"),

Having regard to the aim of eligible Parties to accede to the European Union;

Recognizing the contribution of the Central European Free Trade Agreement (hereinafter referred to as “CEFTA”) to improve the readiness of Parties for membership in the European Union as witnessed by the accession on 1 May 2004 of the Czech Republic, the Republic of Hungary, the Republic of Poland, Slovak Republic and the Republic of Slovenia and the forthcoming accession of the Republic of Bulgaria and Romania;

Convinced of the necessity to amend CEFTA, in order to contribute to the process of integration in Europe through the opening of CEFTA to all Parties ready to observe the provisions of this Agreement;

Having in mind the Declaration of Prime Ministers of CEFTA, done on 29 November 2005 in Zagreb;

Having in mind the Declaration of Prime Ministers of the Parties, done on 6 April 2006 in Bucharest,
have agreed as follows:

Article 1
Accession

The Republic of Albania, Bosnia and Herzegovina, the Republic of Moldova, the Republic of Montenegro, the Republic of Serbia and the United Nations Interim Administration Mission in Kosovo on behalf of Kosovo in accordance with United Nations Security Council Resolution 1244 hereby accede to the Central European Free Trade Agreement as amended in Article 3 of this Agreement and shall apply it in accordance with the provisions of this Agreement.

Article 2
The Parties

References in the Central European Free Trade Agreement, as amended in Article 3 of this Agreement, to its Parties shall be understood to include the Parties to this Agreement.

Article 3
Amendment of CEFTA

The Central European Free Trade Agreement, done at Kraków on 21 December 1992, and amended by the Agreement Amending the Central European Free Trade Agreement, done at Brno on 11 September 1995 and the Agreement Amending the Central European Free Trade Agreement, done at Bled on 4 July 2003, is hereby amended. The consolidated version of the text of the Central European Free Trade Agreement, as amended, (hereinafter referred to as "CEFTA 2006") is attached as Annex 1 to this Agreement.

Article 4
Entry into Force

1. This Agreement is subject to ratification, acceptance or approval in accordance with requirements foreseen by domestic legislation. The instruments of ratification, acceptance or approval shall be deposited with the Depositary.

2. This Agreement shall enter into force on 1 May 2007, provided that all Parties except the Republic of Bulgaria and Romania have deposited their instruments of ratification, acceptance or approval with the Depositary by 31 March 2007.

3. If the Agreement has not entered into force for all Parties in accordance with paragraph 2 of this Article, it shall enter into force on the thirtieth day after the deposit of the fifth instrument of ratification, acceptance or approval.

4. For each Party depositing its instrument of ratification, acceptance or approval after the date of the deposit of the fifth instrument of ratification, acceptance or approval, the Agreement shall enter into force on the thirtieth day after the day on which it deposits its instrument of ratification, acceptance or approval.

5. The bilateral agreements listed in Annex 2 shall be terminated on the date of entry into force of the present Agreement for the Parties concerned.

6. Parties referred to in paragraph 4 shall maintain all preferences provided by their respective bilateral free trade agreements until the present Agreement enters into force for each.

7. If its constitutional requirements permit, any Party may apply this Agreement provisionally. Provisional application of this Agreement under this paragraph shall be notified to the Depositary.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorised thereto, have signed this Agreement.

Done at Bucharest this nineteenth day of December 2006 in a single authentic copy in the English language, which shall be deposited with the Depositary of the Central European Free Trade Agreement, which shall transmit certified copies to all Parties.

For the Republic of Albania

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For the Republic of Moldova

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For Bosnia and Herzegovina

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For the Republic of Montenegro

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For the Republic of Bulgaria

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For Romania

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For the Republic of Croatia

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For the Republic of Serbia

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For the Republic of Macedonia

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For the United Nations Interim Administration Mission in Kosovo on behalf of Kosovo in accordance with United Nations Security Council Resolution 1244

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ANNEX 1 TO

THE AGREEMENT ON AMENDMENT OF AND ACCESSION TO THE CENTRAL EUROPEAN FREE TRADE AGREEMENT

Consolidated Version of the

Central European Free Trade Agreement (CEFTA 2006)

PREAMBLE

The Republic of Albania, Bosnia and Herzegovina, the Republic of Bulgaria, the Republic of Croatia, the Republic of Macedonia, the Republic of Moldova, the Republic of Montenegro, Romania, the Republic of Serbia and the United Nations Interim Administration Mission in Kosovo on behalf of Kosovo in accordance with United Nations Security Council Resolution 1244 (hereinafter called "the Parties"),

Reaffirming their commitment to pluralistic democracy based on the rule of law, human rights and fundamental freedoms;

Reaffirming their commitment to the principles of market economy, which constitute the basis for their economic relations;

Having regard to the Visegrad Declaration of 15 February 1991, the Kraków Declaration of 6 October 1991, the Poznan Declaration of 25 November 1994 and the Zagreb Declaration of 29 November 2005 adopted as the results of the meetings of the highest representatives of the CEFTA Parties;

Reaffirming their commitment to the Final Act of the Conference on Security and Co-Operation in Europe, the Paris Charter, and in particular the principles contained in the final document of the Bonn Conference on Economic Co-operation in Europe;

Having regard to the principles contained in the Memorandum of Understanding on Trade Liberalisation and Facilitation of 27 June 2001 adopted by the Parties under the auspices of the Stability Pact for South Eastern Europe and to the resulting network of bilateral free trade agreements concluded between them;

Expressing their preparedness to cooperate with each other in seeking ways and means to strengthen the process of economic integration in Europe;

Resolved to this end to eliminate the obstacles to their mutual trade, in accordance with the provisions of the Marrakesh Agreement Establishing the World Trade Organisation (hereinafter referred to as "WTO"), and to establish progressively closer trade relations;

Desiring to create favourable conditions for the development and diversification of trade between the Parties and for the promotion of commercial and economic co-operation in areas of common interest on the basis of equality, mutual benefit, non-discrimination and international law;

Convinced that this Agreement will foster the intensification of mutually beneficial economic relations among the Parties and contribute to the process of integration in Europe;

Wishing to contribute to the development of each Party's relation to the European Union and integration into the multilateral trading system;

Resolved to conduct their mutual trade relations in accordance with the rules and disciplines of the WTO whether or not they are members of WTO;

Considering that no provision of this Agreement may be interpreted as exempting the Parties from their obligations in other international agreements, especially the WTO,

Have decided as follows:

Article 1
Objectives

1. The Parties shall establish a free trade area in accordance with the provisions of the present Agreement and in conformity with the relevant rules and procedures of the WTO. The free trade area shall be established in a transitional period ending at the latest on 31 December 2010.

2. The objectives of the present Agreement are to:

   a. Consolidate in a single agreement the existing level of trade liberalisation achieved through the network of bilateral free trade agreements already concluded between the Parties;

   b. Improve conditions further to promote investment, including foreign direct investment;

   c. Expand trade in goods and services and foster investment by means of fair, clear, stable and predictable rules;

   d. Eliminate barriers to and distortions of trade and facilitate the movement of goods in transit and the cross-border movement of goods and services between the territories of the Parties;

   e. Provide fair conditions of competition affecting foreign trade and investment and gradually open the government procurement markets of the Parties;

   f. Provide appropriate protection of intellectual property rights in accordance with international standards;

g. Provide effective procedures for the implementation and application of this Agreement; and

h. Contribute thereby to the harmonious development and expansion of world trade.

CHAPTER I
GENERAL OBLIGATIONS APPLICABLE TO TRADE IN ALL GOODS

Article 2
Basic Duties

1. The Combined Nomenclature (hereinafter referred to as "CN") of goods shall be applied to the classification of goods in the trade between the Parties covered by this Agreement.

2. For each product the basic duty, to which the successive reductions set out in this Agreement are to be applied, shall be the duty actually applied in trade between the Parties on the day preceding the entry into force of this Agreement.

3. The Parties shall communicate to each other their respective basic duties.

4. If, after the date of signature of this Agreement, any tariff reduction is applied to the basic duties defined in paragraph 2, in particular following a reduction of *erga omnes* duties resulting from the tariff agreement concluded as a result of membership in the WTO or tariff negotiations within the WTO, such reduced duty shall replace the basic duty referred to in paragraph 2 of this Article as from the date when such reductions are applied.

5. The reduced duties calculated in accordance with paragraphs 2 and 4 of this Article shall be applied rounded to the first decimal place. A Party not utilising a first decimal point shall round the duty to whole

numbers using common arithmetical principles. Therefore, all figures which have 50 or less after the decimal point shall be rounded down to the nearest whole number and all figures which have more than 50 after the decimal point shall be rounded up to the nearest whole number.

Article 3
Quantitative Restrictions

1. All quantitative restrictions on imports and exports and measures having equivalent effect shall be abolished in trade between the Parties on the date of entry into force of this Agreement.

2. No new quantitative restrictions on imports and exports and measures having equivalent effect shall be introduced in trade between the Parties as from the date of entry into force of this Agreement.

Article 4
Customs Duties on Exports

1. The Parties shall abolish all customs duties on exports, charges having equivalent effect, and export duties of a fiscal nature in trade between the Parties on the date of entry into force of this Agreement.

2. No new customs duties on exports, charges having equivalent effect, and export duties of a fiscal nature shall be introduced in trade between the Parties as from the date of entry into force of this Agreement.

Article 5
Customs Duties on Imports: Standstill

No new customs duties on imports, charges having equivalent effect, and import duties of a fiscal nature shall be introduced, nor shall those already

applied be increased, in trade between the Parties as from the day preceding the signature of this Agreement.

Article 6
Customs Fees

From the entry into force of this Agreement, the Parties shall abolish customs fees contrary to Article VIII of The General Agreement on Tariffs and Trade 1994 (hereinafter referred to as "GATT") in their mutual trade and any other similar charges.

CHAPTER II
INDUSTRIAL PRODUCTS

Article 7
Scope

The provisions of this Chapter shall apply to industrial products originating in the Parties. The term "industrial products" means for the purpose of this Agreement the products falling within CN Chapters 25 to 97, with the exception of the products listed in Annex 1 to this Agreement.

Article 8
Customs Duties on Imports: Elimination

1. The Parties shall abolish all customs duties on imports, all charges having equivalent effect, and all import duties of a fiscal nature in trade between the Parties on the date of entry into force of this Agreement, on all products other than those subject to bilateral concessions as listed in Annex 2.

2. For products listed in Annex 2 the customs duties on imports, all charges having equivalent effect, and all import duties of a fiscal nature in trade between the Parties will be progressively reduced and

abolished within a transitional period ending on 31 December 2008, according to the schedules listed in that Annex.

CHAPTER III
AGRICULTURAL PRODUCTS

Article 9
Scope

The provisions of this Chapter shall apply to agricultural products originating in the Parties. The term "agricultural products" means for the purpose of this Agreement the products falling within CN Chapter 1 to 24 and the products listed in Annex 1 to this Agreement.

Article 10
Customs Duties on Imports

1. Customs duties on imports, all charges having equivalent effect, and other import duties of a fiscal nature on products specified in Annex 3 to this Agreement shall be reduced or abolished according to the schedules listed in that Annex.

2. The Parties shall apply Most Favoured Nation (hereinafter referred to as "MFN") duty on imports of products listed in Annex 3 when this is lower than the preferential customs duties specified in Annex 3.

3. The Parties shall examine within the Joint Committee the possibilities of granting to each other further concessions no later than 1 May 2009.

Article 11
Concessions and Agricultural Policies

1. Without prejudice to the concessions granted under Article 10, the provisions of this Chapter shall not restrict in any way the pursuance of the respective agricultural policies of the Parties or the taking of any measures under such policies, including the implementation of agreements in the WTO framework.

2. The Parties shall promptly inform the Joint Committee of changes in their respective agricultural policies pursued or measures applied, which may affect the conditions of agricultural trade among them as provided for in this Agreement. On the request of a Party prompt consultations shall be held to examine the situation.

3. Notwithstanding Article 21, paragraph 2, all Parties shall refrain from the use of export subsidies, and abolish any such existing subsidies, in their mutual trade.

Article 12
Sanitary and Phytosanitary Measures

1. The rights and obligations of the Parties, relating to the application of sanitary and phytosanitary measures, shall be governed by the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

2. The Parties shall co-operate in the field of sanitary and phytosanitary measures, including veterinary matters, with the aim of applying relevant regulations in a non-discriminatory manner. Each Party, upon request of another Party, shall provide information on sanitary and phytosanitary measures.

3. The Parties shall enter, where appropriate, into negotiations to conclude agreements on harmonization or mutual recognition in these matters in accordance with the relevant provisions of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures and other relevant international agreements.

4. Any issue arising in the application of this Article shall be dealt with in accordance with the provisions of Article 42.

CHAPTER IV
TECHNICAL BARRIERS TO TRADE

Article 13
Technical Barriers to Trade

1. The rights and obligations of the Parties relating to the application of technical barriers to trade, shall be governed by the WTO Agreement on Technical Barriers to Trade, except as otherwise provided for in this Article.

2. The Parties undertake to identify and eliminate unnecessary existing technical barriers to trade within the meaning of the WTO Agreement on Technical Barriers to Trade. The Joint Committee, or a special committee on technical barriers to trade issues, that may be established according to Article 41, paragraph 5, shall oversee the process of elimination of unnecessary technical barriers to trade.

3. a. The Parties undertake not to introduce new unnecessary technical barriers to trade. They shall co-operate, in the Joint Committee, or in a special committee on technical barriers to trade issues, to facilitate and harmonise technical regulations, standards and mandatory conformity assessment procedures with the aim of eliminating technical barriers to trade.

b. The Parties shall inform the Joint Committee, or a special committee on technical barriers to trade issues, of any draft text for a new technical regulation (including any mandatory conformity assessment procedures) or standard, at least ninety days prior to its adoption except in case of urgency as referred to in the WTO Agreement on Technical Barriers to Trade. If a Party proposes to transpose a European or international technical regulation or standard, the respective period is thirty days.

c. The Parties are strongly encouraged, without prejudice to the WTO Agreement on Technical Barriers to Trade, to harmonize their technical regulations, standards, and procedures for assessment of conformity with those in the European Community unless their use would be an ineffective or inappropriate means for the fulfilment of the legitimate objective pursued by the Parties.

4. The Parties undertake to enter into negotiations to conclude plurilateral agreements on harmonization of their technical regulations and standards, and the mutual recognition of conformity assessment procedures in accordance with the relevant provisions of the WTO Agreement on Technical Barriers to Trade and other relevant international agreements before 31 December 2010.

5. If a Party considers that any other Party has adopted or is in the process of adopting a measure constituting an unnecessary technical barrier to trade, the Party concerned shall notify the Joint Committee, or a special committee on technical barriers to trade issues, which shall decide on the action to be taken.

6. Any issue arising in the application of this Article shall be dealt with in accordance with the provisions of Article 42 of this Agreement.

CHAPTER V
GENERAL PROVISIONS

A. — Operating rules

Article 14
Rules of Origin and Co-operation in Customs Administration

1. Except if otherwise stipulated in this Agreement, Annex 4 lays down the rules of origin for the application of the provisions of this Agreement and the methods for administrative co-operation in customs matters. The Joint Committee may decide to amend the provisions of Annex 4.

2. Annex 5 lays down the common rules on mutual administrative assistance in customs matters.

3. The Parties shall take appropriate measures, including regular reviews by the Joint Committee, to ensure effective and harmonised application of Annexes 4 and 5 and of the related Articles of this Agreement.

4. The Parties shall simplify and facilitate customs procedures and reduce, as far as possible, the formalities imposed on trade. They shall resolve any difficulties arising from the application of these provisions in accordance with the provisions of Article 42.

Article 15
Fiscal Discrimination

1. The Parties shall refrain from any measure or practice of an internal fiscal nature establishing, whether directly or indirectly, discrimination between the products originating in the Parties and shall abolish such measures where existing from the entry into force of this Agreement.

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

Article 16
Payments

1. Payments in freely convertible currencies relating to trade in goods between the Parties and the transfer of such payments to the territory of the Party, where the creditor resides shall be free from any restrictions.

2. The Parties shall refrain from any exchange or administrative restrictions on the grant, repayment or acceptance of short and medium term credits to trade in goods in which a resident participates.

3. Notwithstanding the provisions of paragraph 2 of this Article, all measures concerning current payments connected with the movement of goods shall be in conformity with the conditions laid down under Article VIII of the Articles of Agreement of the International Monetary Fund and shall be applied on a non-discriminatory basis.

Article 17
General Exceptions

This Agreement shall not preclude the prohibition or restriction 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, animal or plants, the protection of national treasures possessing artistic, historic or archaeological value, protection of intellectual property or rules relating to gold or silver or the conservation of exhaustible natural resources, if such measures are made effective in conjunction with restrictions on domestic production or consumption. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties.

Article 18
Security Exceptions

Nothing in this Agreement shall prevent a Party from taking any measure, which it considers necessary:

1. to prevent the disclosure of information contrary to its essential security interests;

2. for the protection of its essential security interests or for the implementation of international obligations or domestic policies:

    a. relating to the traffic in arms, ammunition and implements of war, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes, and to such traffic in other goods, materials and services as is carried on directly or indirectly for the purpose of supplying a military establishment; or

b. relating to the non-proliferation of biological and chemical weapons, nuclear weapons or other nuclear explosive devices; or

c. taken in time of war or other serious international tension constituting threat of war.

B.— Competition Rules

Article 19
State Monopolies and State Trading Enterprises

1. The Parties shall adjust any State monopolies of a commercial character or State-trading enterprises so as to ensure that, in accordance with WTO provisions, no discrimination exists between enterprises of the Parties regarding the conditions under which products are marketed. The Parties shall inform the Joint Committee about the measures they adopt to implement this provision.

2. The provisions of paragraphs 1 and 3 of this Article shall apply to any body through which the competent authorities of the Parties, in law or in fact, either directly or indirectly supervise, determine or appreciably influence imports or exports between the Parties. These provisions shall likewise apply to monopolies delegated by the State to others.

3. The Parties shall refrain from introducing any new measure which is contrary to the principles laid down in paragraphs 1 and 2 of this Article or which restricts the scopes of the Articles dealing with the prohibition of customs duties and quantitative restrictions between the Parties.

Article 20
Rules of Competition Concerning Undertakings

1. The following are incompatible with the proper functioning of this Agreement in so far as they may affect trade between the Parties:

    a. 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 in the territories of the Parties as a whole or in a substantial part thereof;

    b. abuse by one or more undertakings of a dominant position in the territories of the Parties as a whole or in a substantial part thereof.

2. Any practice contrary to this Article shall be assessed on the basis of the principles of the competition rules applicable in the European Community, in particular Articles 81, 82 and 86 of the Treaty establishing the European Community.

3. By 1 May 2010 the provisions of paragraphs 1 and 2 shall apply to the activities of all undertakings, including public undertakings and undertakings to which the Parties grant special or exclusive rights. Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly, shall be subject to provisions of paragraphs 1 and 2 insofar as the application of these provisions does not obstruct the performance, in law or fact, of the particular public tasks assigned to them.

4. With regard to products referred to in Chapter III the provisions stipulated in paragraph 1(a) shall not apply to such agreements, decisions and practices which form an integral part of a domestic market organization.

5. The Parties undertake to apply their respective competition laws with a view to removing practices referred to in paragraph 1.

6. The Parties shall notify each other of relevant enforcement activities and exchange information. No Party shall be required to disclose information that is confidential according to its domestic legislation. Upon request, competition authorities and/or other relevant authorities of the Parties concerned shall enter into consultations in order to facilitate the removal of the practices referred to in paragraphs 1 and 2. The Party addressed shall accord full consideration to that request. This co-ordination shall not prevent the Parties from taking autonomous decisions.

7. If a Party considers that a given practice is incompatible with paragraphs 1 - 4 of this Article and if such practice causes or threatens to cause serious prejudice to the interest of that Party or material injury to its domestic industry, it may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 24.

Article 21
State Aid

1. Any aid granted by a Party or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain goods shall, in so far as it may affect trade between the Party concerned and other Parties to this Agreement, be incompatible with the proper functioning of this Agreement.

2. The provisions of paragraph 1 shall not apply to products referred to in Chapter III.

3. The Parties undertake to apply their respective laws with a view to ensure the application of the principles referred to in paragraph 1.

4. Any practice contrary to this Article shall be assessed on the basis of the principles of the state aid rules applicable in the European Community, in particular from Article 87 of the Treaty establishing the European Community.

5. If a Party considers that a particular practice is incompatible with the terms of paragraph 1 and causes or threatens to cause serious prejudice to the interest of that Party or material injury to its domestic industry, it may take appropriate measures under the conditions of and in accordance with the provisions laid down in Article 24.

6. Nothing in this Article shall prejudice or affect in any way the taking by any Party of countervailing measures in accordance with the relevant Articles of GATT and the WTO Agreement on Subsidies and Countervailing Measures or related internal legislation.

7. Each Party shall ensure transparency in the area of state aid, *inter alia* by reporting annually to the Joint Committee on the total amount and the distribution of the aid given and by providing to the other Parties, upon request, information on aid schemes and on particular individual cases of state aid.

C.— Contingent Protection Rules

Article 22
Anti-Dumping Measures

1. If a Party finds that dumping is taking place in trade with another Party within the meaning of Article VI of GATT, it may take appropriate measures against the practice in accordance with the WTO Agreement on Implementation of Article VI of the GATT and under the conditions laid down in the Joint Declaration referring to this Article.

2. The Party will promptly notify any concerned Party and the Joint Committee on the actions and measures it takes and promptly supply all relevant information.

Article 23
General Safeguards

1. The Parties confirm their rights to take a safeguard measure in accordance with Article XIX of GATT and the WTO Agreement on Safeguard Measures under conditions laid down in the Joint Declaration referring to this Article.

2. Notwithstanding paragraph 1, where as a result of the obligations incurred by a Party under this Agreement any product is being imported in such increased quantities and under such conditions from a Party to this Agreement as to cause or threaten to cause:

   a. serious injury to domestic producers of like or directly competitive products in the territory of the importing Party, or
   b. serious disturbances in any sector of the economy which could bring about serious deterioration in the economic situation of the importing Party,

   the importing Party may take appropriate bilateral safeguard measures against the other Party to this Agreement under the conditions and in accordance with the relevant procedures laid down in Article 24.

Article 23 *bis*

Notwithstanding other provisions of this Agreement, and in particular Article 23, given the particular sensitivity of the agricultural market, if imports of products originating in one Party, which are the subject of concessions granted pursuant to Annex 3, cause serious disturbance to the markets or to their domestic regulatory mechanisms, in another

Party, both Parties shall enter into consultations immediately to find an appropriate solution. Pending such solution, the Party concerned may take the appropriate measures it deems necessary.

Article 24
Conditions and Procedures for Taking Measures

1. Before initiating the procedure for the application of measures provided for in Articles 20, 21 and 23 the Parties shall endeavour to solve any differences between them through direct consultations.

2. If a Party subjects, to an administrative procedure having as its purpose the rapid provision of information on the trend of trade flows, imports of products that may give rise to a situation referred to in Article 23, it shall inform the Parties concerned.

3. Without prejudice to paragraph 7 of the present Article, a Party, which considers resorting to measures provided for in Articles 20, 21 and 23, shall promptly notify any concerned Party and the Joint Committee thereof and supply all relevant information. The Joint Committee shall examine the case without delay and may make any recommendation needed to put an end to the difficulties notified. In the absence of such recommendation within 30 calendar days of the matter being referred to the Joint Committee, or if the practice objected to is not abolished within the period fixed by the Joint Committee, and if the problem persists, the complaining Party may adopt appropriate measures necessary in order to remedy the situation.

4. Measures as provided for in Articles 21, 23 and 42 shall be restricted with regard to their extent and duration to what is strictly necessary in order to remedy the problem and shall not be in excess of the injury caused by the practice. Priority shall be given to those measures which least disturb the functioning of this Agreement.

5. Bilateral safeguard measures under Article 23, paragraph 2 shall consist of an increase in the corresponding rate of duty applicable under this Agreement. The resulting rate of duty shall not exceed the lesser of:
   a. the MFN applied rate of duty in effect at the time the action was taken, or
   b. the MFN applied rate of duty in effect on the day immediately preceding the date of entry into force of this Agreement.

   Bilateral safeguard measures shall contain clear elements progressively leading to their elimination and shall not be taken for a period exceeding one year. They can be renewable two times at most. No measure shall be applied to the import of a product that has previously been subject to such a measure for a period of two years since the expiry of the measure.

6. Measures taken in accordance with the Articles referred to in paragraphs 4 and 5 shall be notified immediately to the other Parties and to the Joint Committee. The Joint Committee shall monitor the implementation of these measures, in particular with a view to their relaxation or abolition as soon as possible.

7. Where exceptional and critical circumstances requiring immediate action make prior examination or information, as the case may be, impossible, the Party concerned may, in the case of Article 23, paragraph 2 apply forthwith provisional measures strictly necessary to remedy the situation. Such provisional measures may only apply for at most 200 calendar days. Provisional measures shall be notified without delay and consultations between the Parties shall take place as soon as possible within the Joint Committee and in accordance with the relevant paragraphs of this Article.

Article 25
Balance of Payments Difficulties

Where one of the Parties is in serious balance of payments difficulties, or under imminent threat thereof, the Party concerned may adopt restrictive import measures on an *erga omnes* basis in accordance with WTO provisions. Such measures shall, in particular, be of limited duration and may not go beyond what is necessary to remedy the balance of payments situation. The measures shall be progressively relaxed as balance of payments conditions improve and they shall be eliminated when conditions no longer justify their maintenance. The Party shall inform the other Parties forthwith of their introduction and, whenever practicable, of a time schedule for their removal.

CHAPTER VI
NEW TRADE ISSUES

A. — Services

Article 26
Scope and Definitions

Articles in Part A of this Chapter apply to measures adopted by Parties which affect trade in services. For the purposes of this Agreement, trade in services is defined in accordance with Article I and, if appropriate, Article XXVIII of the General Agreement on Trade in Services (hereinafter referred to as "GATS").

Article 27
Objectives

The Parties will gradually develop and broaden their co-operation with the aim of achieving a progressive liberalisation and mutual opening of their services markets, in the context of European integration, taking into account the relevant provisions of the GATS and commitments entered into under GATS by Parties being WTO members.

Article 28
Electronic Commerce

The Parties, recognizing that the use of electronic means increases trade opportunities in many sectors, agree to promote the development of electronic commerce between them, in particular by cooperating on the market access and regulatory issues raised by electronic commerce.

Article 29
Evolutionary Clause

The Joint Committee shall review on an annual basis the results of the co-operation referred to in Article 27 and, if appropriate, recommend, following its rules of procedure, the launching of negotiations with the aim to achieve progressively a high level of liberalization in accordance with Article V of GATS. The commitments undertaken further to such negotiations shall be set out in schedules forming an integral part of this Agreement.

B. — Investment

Article 30
Scope

1. The Parties confirm their rights and obligations existing under the bilateral investment agreements enumerated in Annex 6.

2. The provisions of Articles 30-33 of this Agreement are without prejudice to the rights and obligations of the Parties arising from the Agreements enumerated in Annex 6.

3. The Parties agree that any dispute related to the interpretation or application of the provisions of Articles 30-33 shall not be submitted to the arbitral procedure set out in Article 43 if that dispute can be submitted to the arbitration procedures provided for by one of the agreements set out in Annex 6.

Article 31
Objectives

1. The Parties shall create and maintain stable, favourable and transparent conditions for investors of the other Parties that are making or seeking to make investments in their territories.

2. Each Party shall promote as far as possible investments made by investors of the other Parties on its territory and admit such investments in accordance with its domestic laws and regulations.

3. When a Party shall have admitted an investment made by investors from the other Parties, it shall, in accordance with its domestic laws and regulations, grant the necessary permits and administrative authorisations in connection with such an investment.

4. To this extent, the Parties shall exchange, within the framework of the Joint Committee, information about their laws and regulations regarding the establishment of investments, as well as any investment opportunities.

Article 32
Treatment of Investments

1. Each Party shall ensure fair and equitable treatment and full protection and security to investments of the investors of the other Parties.

2. Each Party shall protect investments made in accordance with its domestic laws and regulations by investors of the other Parties and shall not impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment, extension, sale or liquidation of such investments. Nor shall the Parties adopt any new regulations or measures which introduce discrimination as regards the establishment of any other Party’s companies on their territory.

3. The Parties shall provide, as regards the establishment and operation of other Parties’ investments, a treatment no less favorable than that granted by each Party to investments made by its own investors, or than that granted by each Party to the investments by investors of any third State, if this latter treatment is more favorable.

4. The non-discriminatory treatment, the national treatment and the Most Favoured Nation treatment provisions of this Agreement shall not apply to all actual or future advantages accorded by either Party by virtue of its membership of a customs, economic or monetary union, a common market or a free trade area. Nor shall such treatment relate to any advantage which either Party accords to investors of a third State by virtue of a double taxation agreement or other agreements on a reciprocal basis regarding tax matters.

Article 33
Evolutionary Clause

1. The Parties shall consult within the Joint Committee, aiming for the gradual achievement of a broad coordination of their investment policies.

2. To this extent, the Parties affirm their commitment progressively to review their internal legal framework regarding investments, with the aim of facilitating the investment conditions. The Parties shall exchange information on these aspects within the Joint Committee, according to Article 31, paragraph 4.

3. The Parties shall also examine the possibilities of granting similar supplementary advantages, in accordance with their laws and regulations, to investors of the other Parties or, as the case may be, to investors of third States.

C. — Government Procurement

Article 34
Scope and Definitions

This Agreement applies to all laws, regulations, procedures or practices regarding any procurement by central or sub-central government entities or other relevant entities. Nothing in Articles 26-29 of this Agreement shall be construed to impose any obligation with respect to government procurement. The definitions of Article I of the WTO Agreement on Government Procurement shall apply.

Article 35
Objectives

1. Each Party shall as of the date of entry into force of this Agreement ensure that the procurement of its entities takes place in a

transparent and reasonable manner, treats all suppliers of the other Parties equally, and is based on the principle of open and effective competition.

2. Each Party shall no later than 1 May 2010 ensure the progressive and effective opening of its government procurement market so that, with respect to any relevant laws, regulations, procedures and practices, the goods, services and suppliers of the other Parties are granted a treatment no less favourable than that accorded to domestic goods, services and suppliers. In particular, the Parties shall ensure that their entities:

   a. do not treat a locally-established supplier less favourably than another locally-established supplier on the basis of the degree of foreign affiliation to, or ownership by, a person of another Party; and

   b. do not discriminate against a locally-established supplier on the basis that the goods or services offered by that supplier for a particular procurement are goods or services of another Party.

3. This Article shall not apply to measures concerning customs duties or other charges of any kind imposed on or in connection with importation, the method of levying such duties and charges, other import regulations, including restrictions and formalities, nor to measures affecting trade in services other than measures specifically governing procurement.

Article 36
Evolutionary Clause

1. The Parties shall review in the Joint Committee, on a regular basis, progress in the opening of their government procurement markets. The first review shall take place no later than 1 May 2008 and focus on fulfilment of Article 35, paragraph 1. On the basis of these

reviews, the Joint Committee may recommend further actions to fulfil the objectives of Article 35, paragraph 2.

2. If either Party in the future should grant a third party advantages with regard to access to their respective procurement markets beyond what has been agreed upon in this Agreement, it shall offer adequate opportunities to the other Parties to enter into negotiations with a view to extending these advantages to them on a reciprocal basis.

D. — Protection of Intellectual Property

Article 37
Scope and Definitions

For the purpose of this Agreement, intellectual property rights embody industrial property rights (patents, trademarks, industrial designs and geographical indications), copyright and related rights, topographies of integrated circuits, as well as protection against such unfair competition as referred to in Article 10 *bis* of the Paris Convention for the Protection of Industrial Property and the protection of undisclosed information as referred to in Article 39 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as "TRIPS").

Article 38
Objectives

1. The Parties shall grant and ensure adequate and effective protection of intellectual property rights in accordance with international standards, in particular with TRIPS, including effective means of enforcing such rights provided for in international conventions and treaties.

2. The Parties shall continue to ensure an adequate and effective implementation of the obligations arising from the conventions listed in Annex 7.

3. Eligible Parties not yet members of the conventions listed in Annex 7 shall accede to them and undertake all necessary measures with a view to implement the obligations arising from them adequately and effectively no later than 1 May 2014.

Article 39
Evolutionary Clause

1. If any Party, after entry into force of this Agreement, should offer a third party additional advantages or preferences with regard to intellectual property rights beyond what has been agreed under Part D of this Chapter, it shall agree to enter into consultations with the other Parties to this Agreement with a view to extending these advantages or preferences to all of them on a reciprocal basis.

2. While the Parties express their attachment to observing the obligations deriving from the multilateral conventions listed in Annex 7, the Parties may decide to include in this Annex other multilateral conventions in this field, and affirm their commitments to review Part D of this Chapter, no later than 1 May 2011.

CHAPTER VII
FUNCTIONING RULES

Article 40
The Joint Committee

1. The Parties agree to set up a Joint Committee composed of representatives of the Parties.

2. The Joint Committee shall supervise and administer the implementation of this Agreement. The Joint Committee will be

supported by a permanent secretariat, located in Brussels. The Joint Committee, will decide on the functions and administrative rules of the secretariat.

3. For the purpose of the proper implementation of this Agreement, the Parties shall exchange information and, at the request of any Party, shall hold consultations within the Joint Committee. The Joint Committee shall keep under review the possibility of further removal of the obstacles to trade between the Parties.

4. The Joint Committee may take decisions in the cases provided for in this Agreement. On other matters the Joint Committee may make recommendations.

Article 41
Procedure of the Joint Committee

1. The Joint Committee shall meet whenever necessary but at least once a year. Each Party may request that a meeting be held.

2. The Joint Committee shall act by consensus.

3. Except for the decision mentioned in Article 14, paragraph 1, a representative of a Party in the Joint Committee may accept a decision with a reservation related to the fulfilment of domestic legal requirements. The decision shall enter into force if no later date is contained therein, on the day the lifting of the reservation is notified to the Depositary.

4. On its first session after entry into force of the Agreement, the Joint Committee shall adopt its rules of procedure that shall, *inter alia*, contain provisions for convening meetings, for the designation of the Chairman and for his/her term of office.

5. The Joint Committee may decide to set up appropriate organs, such as working groups, task forces, sub-committees, and other bodies it considers necessary to assist it in accomplishing its tasks.

6. The Joint Committee shall adopt a commonly agreed List of Mediators from persons qualified to mediate the dispute in line with UNCITRAL Conciliation Rules.

Article 42
Fulfilment of Obligations and Consultations

1. The Parties shall take all necessary measures required to fulfil their obligations under this Agreement. They shall see to it that the objectives set out in the Agreement are attained. Should any divergence with respect to the interpretation and application of this Agreement arise, the Parties concerned shall make every attempt through co-operation and consultations, if necessary in the Joint Committee, to arrive at a mutually satisfactory resolution.

2. Any Party may request in writing to the Joint Committee that consultations with any other Party regarding any actual or proposed measure or any other matter that it considers might affect the operation of this Agreement take place within the Joint Committee. The Party requesting consultations shall at the same time notify the other Parties in writing thereof and supply all relevant information. The Joint Committee may recommend appropriate measures.

3. These consultations may take place, should the Parties concerned so agree, in the presence of a mediator. If the Parties concerned do not agree on a mediator, the Chairman of the Joint Committee or, if he is a national or resident of one of the Parties concerned, then the first of his predecessors who is not, shall appoint the mediator within 20 calendar days of receipt of the initial written request for mediation in accordance with the rules set out in Annex 8. The mediator shall

present a final report to the Joint Committee at the latest 60 calendar days after his/her appointment. If no solution can be found on the basis of the mediator's report, the Joint Committee will deal with the issue with a view to finding a commonly acceptable solution. Should this fail, the Joint Committee shall recommend appropriate measures.

4. If a Party considers that an other Party has failed to fulfil an obligation under this Agreement, and bilateral consultations, mediation or the Joint Committee have failed to arrive at a commonly acceptable solution within 90 calendar days from the receipt of the notification referred to in paragraph 2, the Party concerned may take provisional rebalancing measures under the conditions and in accordance with the procedures laid down in Article 24. The measures taken shall be notified immediately to the Parties and to the Joint Committee, which shall hold regular consultations with a view to their abolition. The measures shall be abolished when conditions no longer justify their maintenance in the view of the Joint Committee, or, if the dispute is submitted to arbitration, when an arbitral award has been rendered and complied with as decided by the Joint Committee.

Article 43
Arbitration

1. Disputes between the Parties, arising after this Agreement enters into force between the Parties concerned and relating to the interpretation or application of rights and obligations under it, which have not been settled through direct consultations in the Joint Committee within 90 calendar days from the date of the receipt of the request for consultations, may be referred to arbitration by any Party to the dispute by means of a written notification addressed to the other Party to the dispute. A copy of this notification shall be communicated to all Parties of this Agreement. Where more than one Party requests the submission to an arbitral tribunal of a dispute with the same Party

relating to the same question a single arbitral tribunal should be established to consider such disputes whenever feasible.

2. The Arbitral Tribunal shall settle the dispute in accordance with the provisions of this Agreement and any other applicable rules of international law. The Tribunal will consider *amicus curiae* briefs from a Party not involved in the dispute.

3. The constitution and functioning of the Arbitral Tribunal shall be governed by Annex 9. The award of the Arbitral Tribunal shall be final and binding upon the Parties to the dispute.

4. Disputes under consultation or arbitration under this Agreement shall not be submitted to the WTO for dispute settlement. Nor shall an issue or a dispute before the WTO Dispute settlement procedure be submitted for arbitration under this Article.

Article 44
Transparency

1. Each Party shall promptly publish any law, regulation, judicial decision and administrative ruling of general application and procedure, including standard contract clauses or any modifications to these, regarding issues covered in this Agreement.

2. Each Party shall respond promptly to all requests by another Party for specific information on any of its measures of general application or international agreements that pertain to or affect this Agreement. Parties shall establish a contact point to which such requests shall be made. Contact points shall forthwith convey the request to the relevant domestic agencies.

Article 45
General Evolutionary clause

1. Where a Party considers that it would be useful in the interest of the economies of the Parties to develop and deepen the relations established by this Agreement by extending them to fields not covered thereby, it shall submit a reasoned request to the other Parties. The Parties may instruct the Joint Committee to examine such a request and, where appropriate, to make recommendations, particularly with a view to opening negotiations.

2. Agreements resulting from the procedure referred to in paragraph 1 will be subject to ratification or approval by the Parties in accordance with their internal legal procedures.

Article 46
Trade Relations Governed by this and other Agreements

This Agreement shall not prevent the maintenance or establishment of customs unions, free trade areas or arrangements for frontier trade to the extent that these do not negatively affect the trade regime and in particular the provisions concerning rules of origin provided for by this Agreement.

Article 47
Annexes

1. Annexes and Joint Declarations to this Agreement are an integral part of it.

2. The Joint Committee may decide to amend Annexes in accordance with the provisions of Article 40, paragraph 4 and in accordance with the domestic legal requirements of the Parties.

3. If the Parties do not otherwise agree, the amendments referred to in paragraph 2 of this Article shall enter into force according to Article 41, paragraph 3 of this Agreement.

Article 48
Amendments

Amendments to this Agreement, other than those referred to in Article 47, shall enter into force on the date of the receipt of the last written notification, through diplomatic channels, by which all the Parties notify the Depositary that their domestic legal requirements for the entry into force of the Amendments have been fulfilled.

Article 49
Accession to the Agreement

1. Accession to this Agreement may take place with the consent of all Parties.

2. Terms and conditions of the accession shall be determined in an accession agreement concluded between all the Parties to this Agreement on one side and the acceding Party on the other side.

Article 50
Entry into Force

This Consolidated Version of the Central European Free Trade Agreement (CEFTA 2006) shall enter into force on the date of entry into force of the Agreement on Amendment of and Accession to the Central European Free Trade Agreement.

Article 51
Duration and Denunciation

1. This Agreement is concluded for an indefinite period of time.

2. Each Party may denounce this Agreement by a written notification through diplomatic channels to the Depositary. This denunciation will enter into force on the first day of the seventh month after the date of receipt of the notification of denunciation.

3. The Parties agree that in the event of any eligible Party becoming a member of the European Union, that Party will withdraw from this Agreement. Withdrawal shall take place at the latest the day before membership takes effect and without any compensation to the other Parties subject to the altered conditions of trade.

Article 52
Depositary

The Government of the Republic of Croatia, acting as Depositary, shall notify all Parties that have signed this Agreement of any notification received in accordance with Article 4 of the Agreement on Amendment of and Accession to the Central European Free Trade Agreement and any other act or notification relating to this Agreement.

This Consolidated Version of the Central European Free Trade Agreement (CEFTA 2006) is done in a single authentic copy in the English language.

JOINT DECLARATIONS

Joint Declaration concerning the Application of WTO Rules and Procedures

To the extent that references are made in the context of this Agreement, to the rules and procedures set out in Annex 1A, Annex 1B and Annex 1C of the Marrakesh Agreement Establishing the World Trade Organization, the Parties agree to apply them irrespective of whether or not they are members of WTO.

Joint Declaration on Co-operation and Assistance

The Parties shall endeavour, where appropriate, to develop economic and technical cooperation and assistance in order to provide each other with, in particular, though not exclusively:

a. advice on the ways of organising the appropriate incentive infrastructure for investments, including investment promotion agencies;

b. frameworks and procedures to stimulate joint investments, joint ventures and production for the markets of third countries;

c. training programs with a view to achieving a better understanding of their respective government procurement systems and statistics and better access to their respective markets;

d. one or more of the activities listed below concerning intellectual property rights:

    (i) legislative advice (comments on draft laws, judicial and administrative decisions, enforcement and other matters relating to the protection of intellectual property rights);

    (ii) advice on the ways of organising administrative infrastructure, such as patent offices, collecting societies and inspection authorities;

(iii) training in the field of intellectual property rights administration and management techniques;

(iv) specific training of judges, prosecutors, lawyers, customs and police officers and inspectors, in order to make the enforcement of laws more effective; and

(v) awareness-building activities for the private sector and civil society on protection and significance of intellectual property rights.

Joint Declaration on Articles 20 and 21

1. Parties to this Agreement shall no later than 1 May 2010 ensure the applicability of appropriate competition provisions in their domestic legislation.

2. The competition provisions in the domestic legislation of the parties concerned shall be brought into compliance with the principles of Articles 81, 82, 86 and 87 of the Treaty Establishing the European Community.

3. The Parties shall within the period referred to in paragraph 1 establish an operationally independent authority in charge of the application of competition and state aid rules.

Joint Declaration on Articles 21, 22 and 23

The Parties declare that they shall not apply anti-dumping, countervailing or safeguard measures until they have issued detailed internal regulations laying down rules and procedures and determining technical issues relating to the application of such measures. The Parties shall ensure full conformity of their internal regulations with the relevant WTO provisions including Article VI and XIX of the GATT and the Agreement on the Implementation of Article VI, the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards. After such

legislation has been implemented, the Parties shall apply any anti-dumping duties, countervailing duties and safeguard measures in full conformity with the relevant WTO provisions.