

TRADE AGREEMENT FREE TRADE BETWEEN EUROPEAN COMMUNITIES AND THEIR MEMBER STATES AND THE CZECH REPUBLIC

EUROPE AGREEMENT

establishing an association between the European Communities and their Member States,

of the one part, and the Czech Republic, 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 COAL AND STEEL COMMUNITY, THE EUROPEAN ATOMIC ENERGY COMMUNITY, hereinafter referred to as 'the Community',

of the one part, and

THE CZECH REPUBLIC

of the other part,

Considering the importance of the links existing between the Community, its Member States and the Czech Republic and the common values that they share;

Recognizing that the Community and the Czech Republic wish to strengthen these links and to establish close and lasting relations, based on reciprocity, which would allow the Czech Republic 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 between the Community and the Czech and Slovak Federal Republic on 7 May 1990, and by the Interim Agreement between the Community and the Czech and Slovak Federal Republic which entered into force on 1 March 1992;

Recognizing that the dissolution of the Czech and Slovak Federal Republic as of 1 January 1993 prior to the entry into force of the Europe Agreement signed between the Community and the Czech and Slovak Federal Republic on 16 December 1991 has made it necessary to conclude separate Europe Agreements with each of the Slovak Republic and the Czech Republic;

Considering the opportunities for a relationship of a new quality offered by the emergence of a new democracy in the Czech Republic;

Considering the commitment of the Community and its Member States and of the Czech Republic to strengthening the political and economic freedoms which constitute the very basis of the association;

Recognizing the establishment in the Czech Republic of a new political order which represents the rule of law and human rights, including the rights of persons belonging to minorities, and operates a multi-party system with free and democratic elections;

Acknowledging the readiness of the Community to contribute to the strengthening of this new democratic order as well as to support the creation in the Czech Republic of a new economic order founded upon the principles of a free market economy;

Considering the firm commitment of the Community and its Member States and of the Czech Republic to the full implementation of all principles and provisions contained in particular in the Final Act of the Conference on Security and Cooperation in Europe (CSCE), the concluding documents of Vienna and Madrid and the Charter of Paris for a new Europe;

Conscious of the importance of this Europe Agreement, hereinafter referred to as the 'Agreement', to establishing 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 the actual accomplishment of the Czech Republic's political, economic, and legal reforms on the other hand, as well as the introduction of the factors necessary for cooperation and the rapprochement between the parties' systems, notably in the light of the conclusions on the CSCE Bonn Conference;

Desirous of establishing 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 the Czech Republic 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 the Czech Republic to free trade, and in particular to compliance with the rights and obligations arising out of the General Agreement on Tariffs and Trade;

Bearing in mind the economic and social disparities between the Community and the Czech Republic 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 the Czech Republic's ultimate objective is to accede to the Community, and that this association, in the view of the Parties, will help the Czech Republic to achieve this objective,

Have decided to conclude this Agreement and to this end have designated as their plenipotentiaries,

THE KINGDOM OF BELGIUM:

Robert URBAIN

Secretary of State for Foreign Trade and European Affairs

THE KINGDOM OF DENMARK:

Niels HELVEG PETERSEN

Minister for Foreign Affairs

THE FEDERAL REPUBLIC OF GERMANY:

Klaus KINKEL

Minister for Foreign Affairs

THE HELLENIC REPUBLIC:

Michel PAPAKONSTANTINOU

Minister for Foreign Affairs

THE KINGDOM OF SPAIN:

Javier SOLANA

Minister for Foreign Affairs

THE FRENCH REPUBLIC:

Alain JUPPÉ

Minister for Foreign Affairs

IRELAND:

Dick SPRING

Minister for Foreign Affairs

THE ITALIAN REPUBLIC:
Paolo BARATTA

Secretary of State for Foreign Trade
THE GRAND DUCHY OF LUXEMBOURG:
Jacques POOS

Minister for Foreign Affairs
THE KINGDOM OF THE NETHERLANDS:
Peter KOOIJMANS

Minister for Foreign Affairs
THE PORTUGUESE REPUBLIC:
José Manuel DURÃO BARROSO

Minister for Foreign Affairs
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHER IRELAND:
David HEATHCOAT-AMORY

Minister of State for Foreign Affairs
THE EUROPEAN ECONOMIC COMMUNITY, THE EUROPEAN ATOMIC ENERGY COMMUNITY AND THE
EUROPEAN COAL AND STEEL COMMUNITY:

Willy CLAES

Minister for Foreign Affairs of the Kingdom of Belgium,

President-in-Office of the Council of the European Communities
Sir Leon BRITTAN

Vice-President of the Commission of the European Communities
Hans van den BROEK

Member of the Commission of the European Communities

THE CZECH REPUBLIC:
Josef ZIELENIEC

Minister for Foreign Affairs
Who having exchanged their full powers, found in good and due form,

HAVE AGREED AS FOLLOWS:

Article 1

1. An Association is hereby established between the Community and its Member States, on the one part, and the Czech Republic, on the other part.
2. The aim of this Agreement is:

- to provide an appropriate framework for the political dialogue, allowing the development of close political relations between the Parties,
- to promote the expansion of trade and the harmonious economic relations between the Parties and so to foster the dynamic economic development and prosperity in the Czech Republic,
- to provide a basis for the Community's financial and technical assistance to the Czech Republic,
- to provide an appropriate framework for the Czech Republic's gradual integration into the Community. To this end, the Czech Republic shall work towards fulfilling the necessary conditions,
- to promote cooperation in cultural matters.

TITLE I

POLITICAL DIALOGUE

Article 2

A regular political dialogue is established between the Parties which they intend to develop and intensify as an effective means to accompany and consolidate the rapprochement between the Community and the Czech Republic, support the political and economic changes under way in that country and contribute to the establishment of lasting links of solidarity and new forms of cooperation. The political dialogue and cooperation, based on shared values and aspirations:

- will facilitate the Czech Republic'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 lead to an increasing convergence of positions on international issues, and in particular on those issues likely to have substantial effects on one or the other Party,
- will contribute to the rapprochement of the Parties' positions on security issues.

Article 3

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 as appropriate of the President of the Czech Republic on the one hand, and the President of the European Council and the President of the Commission of the European Communities, on the other,
- meetings at senior official level (political directors) between officials of the Slovak Republic, on the one hand, and the Presidency of the Council of the European Communities and the Commission, on the other,
- taking full advantage of diplomatic channels,
- including the Czech Republic in the group of countries receiving regular information on the issues dealt with by the European Political Cooperation as well as exchanging information with the view to achieving the objectives defined in Article 2,
- any other means which would make a useful contribution 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 transition period of a maximum duration of ten years divided into two successive stages, each in principle lasting five years. The first stage shall begin when this Agreement enters into force.

2. The Association Council shall proceed regularly to examine the application of this Agreement and the accomplishment of the Czech Republic'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 any possible changes to be brought about as regards measures concerning the content of the provisions 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 in paragraphs 1, 2 and 3 do not apply to Title III.

TITLE III FREE MOVEMENT OF GOODS

Article 8

1. The Community and the Czech Republic shall gradually establish a free trade area in a transitional period lasting a maximum of ten years starting from the entry into force of this Agreement in accordance with the provisions of this Agreement and in conformity with those of the 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 the duty actually applied by the Czech and Slovak Federal Republic *erga omnes* on 29 February 1992.

4. If, after entry into force of this Agreement, any tariff reduction is applied on an *erga omnes* basis, in particular reductions resulting from the tariff agreement concluded as a result of the GATT Uruguay Round, 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 the Czech Republic 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 the Czech Republic 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 the Czech Republic other than those listed in Annexes II and III shall be abolished on the entry into force of this Agreement.
2. Customs duties on imports applicable in the Community to products originating in the Czech Republic listed in Annex II shall be reduced, on the date of entry into force of this Agreement, by 20% of the basic duty and one year thereafter by a further 20% of the basic duty. Duties shall be totally abolished by the end of the second year after the entry into force of the Agreement.
3. The products of Czech Republic 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 third year after the entry into force of the Agreement.
At the same time, customs duties on imports applicable to import quantities in excess of the quotas or ceilings provided for above shall be progressively dismantled from the entry into force of this Agreement by annual reductions of 15%. By the end of the third 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 this Agreement with regard to the products originating in the Slovak Republic.

Article 11

1. Customs duties on imports applicable in the Czech Republic to products originating in the Community which are listed in Annex IV shall be abolished on the date of entry into force of this Agreement.
2. Customs duties on imports applicable in the Czech Republic 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 this Agreement each duty shall be reduced to 40% of the basic duty,
 - three years after the date of entry into force of this Agreement each duty shall be reduced to 40% of the basic duty,
 - five years after the date of entry into force of this Agreement the remaining duties shall be eliminated.
3. Customs duties on imports applicable in the Czech Republic to products originating in the Community which are listed in Annex VI shall be progressively reduced according to the following timetable:

- three years after the date of entry into force of this Agreement each duty shall be reduced to 80% of the basic duty,
- five years after the date of entry into force of this Agreement each duty shall be reduced to 60% of the basic duty,
- seven years after the date of entry into force of this Agreement each duty shall be reduced to 40% of the basic duty,
- nine years after the date of entry into force of this Agreement the remaining duties shall be eliminated.

4. Customs duties on imports applicable in the Czech Republic to products originating in the Community which are listed in Annex VII shall be progressively reduced in accordance with the following timetable:

- on the date of entry into force of this Agreement each duty shall be reduced to 80% of the basic duty,
- three years after the date of entry into force of this Agreement each duty shall be reduced to 60% of the basic duty,
- five years after the date of entry into force of this Agreement each duty shall be reduced to 40% of the basic duty,
- seven years after the date of entry into force of this Agreement each duty shall be reduced to 20% of the basic duty,
- nine years after the date of entry into force of this Agreement the remaining duties shall be eliminated.

5. Quantitative restrictions on imports into the Czech Republic of products originating in the Community shall be abolished upon entry into force of this Agreement, except for those listed in Annex VIII, which shall be progressively abolished by the end of the transitional period.

6. Measures having an effect equivalent to quantitative restrictions on imports into the Czech Republic of products originating in the Community shall be abolished upon entry into force of this Agreement.

Article 12

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

Article 13

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

Article 14

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

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

3. Quantitative restrictions on exports to the Community and any measures having equivalent effect shall be abolished by the Czech Republic upon entry into force of this

Agreement, except for those restrictions listed in Annex IX which shall be abolished at the latest by the end of the fifth year after the entry into force of this 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 the Czech Republic.

2. The provisions of this Chapter do not preclude the introduction of an agricultural component by the Czech Republic 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 the Czech Republic.

2. '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 this Agreement the quantitative restrictions on imports of agricultural products originating in the Czech Republic maintained by virtue of Council Regulation (EEC) No. 288/82 in the form existing on the date of signature hereof.

2. The agricultural products originating in the Czech Republic listed in Annex XIa or 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 Annex.

3. Imports into the Czech Republic of agricultural products originating in the Community shall be free of quantitative restrictions.
4. The Community and the Czech Republic shall grant each other the concessions referred to in Annexes XII, XIII and XIV, 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 rules of the agricultural policy of the Czech Republic, and of the consequences of the multilateral trade negotiations under the General Agreement on Tariffs and Trade, the Community and the Czech Republic shall examine in the Association Council, product by product and on an orderly and reciprocal basis, the possibilities of granting each other further concessions.

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 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 the Czech Republic, which are covered by Regulation (EEC) No. 3687/91 on the common organization of the market in the sector of fishery products.

Article 24

The fishery products originating in the Czech Republic listed in Annex XV shall benefit upon the date of entry into force of this Agreement from the reduction of customs duties provided in that Annex. The provisions of Article 21 (5) shall apply mutatis mutandis to fishery products.

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

3. 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 the Czech Republic 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 policy 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 the Czech Republic 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 the Czech Republic 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 the Czech Republic 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.

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

Article 34

1. In the event of the Community or the Czech Republic 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 case 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 the

Czech Republic, 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 within the meaning of Article VI of the GATT or no other satisfactory solution has been reached within 30 days of the matter being referred to the 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 the Czech Republic 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 provided for in this Agreement.

Article 36

The 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 exhaustible 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 the Czech Republic, 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:
 - treatment accorded to workers of Czech Republic 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 within the meaning 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 workers' authorized stay of employment.
2. The Czech Republic 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 Czech Republic 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 of the debtor Member State or States,
 - the workers in question shall receive family allowances for the members of their family as defined above.
2. The Czech Republic 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 2.

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 the Czech Republic and the Member States where those agreements provide for more favourable treatment of nationals of the Czech Republic 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 Czech Republic 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 in 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 in the Czech Republic 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 the Czech Republic the Community shall provide technical assistance for the establishment of a suitable social security system in the Czech Republic as set out in Article 88.

CHAPTER II

Establishment

Article 45

1. The Czech Republic shall, during the transitional periods referred to in Article 7, facilitate the setting up of operations on its territory by Community companies and nationals. To that end, it shall:

- (i) grant, from entry into force of this Agreement for the establishment of Community companies and nationals a treatment no less favourable than that accorded to its own nationals and companies, save for the sectors and matters referred to in Annexes XVIa and XVIb, where such treatment shall be granted at the latest by the end of the transitional period referred to in Article 7; and

- (ii) grant, from entry into force of this Agreement, in the operation of Community companies and nationals established in the Czech Republic a treatment no less favourable than that accorded to its own companies and nationals;

- (iii) notwithstanding the provisions of indents (i) and (ii), the national treatment as described in indents (i) and (ii) shall be applicable for Community nationals establishing in the Czech Republic

as self-employed persons only from the start of the sixth year following entry into force of this Agreement.

2. The Czech Republic shall, during the transitional periods referred to in paragraph 1, not adopt any new regulations or measures which introduce discrimination as regards the establishment and operations of Community companies and nationals in its territory in comparison to its own companies and nationals.

3. Each Member State shall grant, from entry into force of this Agreement, a treatment no less favourable than that accorded to its own companies and nationals for the establishment of Czech Republic companies and nationals and shall grant in the operation of Czech Republic companies and nationals established in its territory a treatment no less favourable than that accorded to its own companies and nationals.

4. 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 exceed to seeking or taking employment in 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.

5. The Association Council shall during the transitional periods referred to in paragraph 1 (i) and (iii) examine regularly the possibility of accelerating the granting of national treatment in the sectors referred to in Annexes XVIa and XVIb and the inclusion of areas or matters listed in Annex XVIc within the scope of application of the provisions of paragraphs 1, 2 and 3 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 paragraph 1 (i) and (iii), the Association Council may exceptionally, upon request of the Czech Republic, and if the necessity arises, decide to prolong the duration of exclusion of certain areas or matters listed in Annexes XVIa and XVIb for a limited period of time.

6. The provisions concerning establishment and operation of Community and Czech Republic companies and nationals contained in paragraphs 1, 2 and 3 of this Article shall not apply to the areas or matters listed in Annex XVIc.

7. Notwithstanding the provisions of this Article, Community companies established in the territory of the Czech Republic shall have, upon entry into force of this Agreement, where necessary for the conduct of the economic activities for which they are established, the right to acquire, use, rent and sell real property, and as regards natural resources, agricultural land and forestry, the right to lease.

The Czech Republic shall grant these rights, where necessary for the conduct of the economic activities for which they are established, to branches and agencies established in the Czech Republic of Community companies at the latest by the end of the sixth year following the entry into force of this Agreement.

The Czech Republic shall grant these rights, where necessary for the conduct of the economic activities for which they are established, to Community nationals established in the Czech

Republic as self-employed persons 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 XVIa, 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 XVIa, 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 Czech Republic nationals to take up and pursue regulated professional activities in the Czech Republic 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 Contracting 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 XVIa, for prudential reasons.

Article 49

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

nationals respectively, if their vessels are registered in that Member State or in the Czech Republic respectively in accordance with their respective legislations.

3. A Community and a Czech Republic 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 the Czech Republic 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 XVla. The Association Council may extend or modify the scope of Annex XVla.

Article 51

During the first six years following the date of entry into force of this Agreement, or for the sectors referred to in Annexes XVla and XVlb, during the transitional period referred to in Article 7, the Czech Republic 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 the Czech Republic, or
- face the elimination or a drastic reduction of the total market share held by Czech Republic companies or nationals in a given sector or industry in the Czech Republic, or
- are newly emerging industries in the Czech Republic.

Such measures:

(i) shall cease to apply at the latest two years after the expiration of the sixth year following the date of entry into force of this Agreement or for the sectors included in Annex XVla and in Annex XVlb upon the expiration of the transitional period referred to in Article 7; and

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

(iii) shall only relate to establishment in the Czech Republic 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 the Czech Republic at the time of introduction of a given measure compared to Czech Republic companies or nationals.

The Association Council may exceptionally, upon request of the Czech Republic, and if the necessity arises, decide to prolong the periods referred to in point (i) above for a given sector for a limited period of time.

While devising and applying such measures, the Czech Republic 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, the Czech Republic 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 the Czech Republic, except where the threat of irreparable damage requires the taking of urgent measures in which case the Czech Republic shall consult the Association Council immediately after their introduction.

Upon the expiration of the sixth year following the entry into force of this Agreement, or for the sectors included in Annexes XVla and XVlb upon expiration of the transitional period referred to

in Article 7, the Czech Republic 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 the Czech Republic 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 the Czech Republic and the Community respectively, employees who are nationals of Community Member States and the Czech Republic 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 Czech Republic companies or nationals and Community companies or nationals shall also be beneficiaries of the provisions of this Chapter and Chapter III of this Title.

CHAPTER III

Supply of services between the Community and the Czech Republic

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 Czech Republic 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 sector 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 Czech Republic 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 in making direct sales to the general public or in supplying services themselves.
3. The Association Council shall take the measures necessary to implement progressively the provisions of paragraph 1.

Article 57

With regard to supply of transport services between the Community and the Czech Republic, 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 paragraph 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 this 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 this 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 most restrictive or discriminatory as compared to the situation existing on the day preceding the day of entry into force of this Agreement.

5. During the transitional period, the Czech Republic 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 in so far 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 this Agreement. This provision does not prejudice the application of Article 54.

2. The provisions of Chapters 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 part 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 the Czech Republic in accordance with the provisions of Chapter II of Title IV from public aid granted by the Czech Republic 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 Contracting Parties undertake to authorize, in freely convertible currency, any payments on the current account of balance of payments to the extent that the transaction 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 the entry into force of this Agreement, the Member States and the Czech Republic 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 with the provisions of Chapter II of Title IV, and the liquidation or repatriation of these investments and of any profit stemming therefrom. Notwithstanding the above provision, such free movement, liquidation and repatriation shall be ensured by the end of the fifth year following the entry into force of this Agreement for all investments linked to establishment of nationals establishing in the Czech Republic as self-employed persons pursuant to Chapter II of Title IV.
2. Without prejudice to paragraph 1, the Member States, as from the entry into force of this Agreement, and the Czech Republic as from the end of the fifth year following the entry into force of this 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 the Czech Republic and shall not make existing arrangements more restrictive.
3. The Parties shall consult each other with a view to facilitating the movement of capital between the Community and the Czech Republic in order to promote the objectives of this Agreement.

Article 62

1. During the five years following the date of entry into force of this Agreement, the Contracting 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 this 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 the Czech Republic currency within the meaning of Article VIII of the International Monetary Fund is introduced, the Czech Republic 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 the Czech Republic for the granting of such credits and are permitted according to the Czech Republic's status under the IMF.

The Czech Republic 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. The Czech Republic 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 the Agreement, in so far as they may affect trade between the Community and the Czech Republic:
 - (i) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;

(ii) abuse by one or more undertakings of a dominant position in the territories of the Community or of the Czech Republic 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 this Agreement, adopt the necessary rules for the implementation of paragraphs 1 and 2. Until the implementing rules are adopted, practices incompatible with paragraph 1 shall be dealt with by the Contracting Parties on their respective territories according to their respective legislations. This is without prejudice to paragraph 6.

4.(a) For the purposes of applying the provisions of paragraph 1 (iii), the Parties recognize that during the first five years after the entry into force of this Agreement, any public aid granted by the Czech Republic shall be assessed taking into account the fact that the Czech Republic shall be regarded as an area identical 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 the Czech Republic, decide whether that period should be extended by further periods of five years.

4.(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. 26/62.

6. If the Community or the Czech Republic considers that a particular practice 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 causes 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), such appropriate measures may, where the General Agreement on Tariffs and Trade applies therefrom, only be adopted in accordance 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 accordance 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. Where one or more Member States of the Community or the Czech Republic is in serious balance of payments difficulties, or under imminent threat thereof, the Community or the Czech Republic, 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 measures shall be progressively relaxed as balance of payments conditions improve and they shall be eliminated when conditions no longer justify their maintenance. The Community or the Czech Republic, as the case may be, shall inform the other Party forthwith of their introduction and, whenever practicable, of a time schedule for their removal.
2. The Parties shall nevertheless endeavour to avoid the imposition of restrictive measures for balance of payments purposes.
3. Any restrictive measures shall not apply to transfers related to investment 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 following the date of entry into force of this Agreement, the principles of the Treaty establishing the European Economic Community, in particular Article 90, and the principles of the concluding document of the April 1990 Bonn meeting of the Conference on Security and Cooperation in Europe, in particular entrepreneurs' freedom of decision, are upheld.

Article 67

1. The Czech Republic 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 this Agreement, a level of protection similar to that existing in the Community, including comparable means of enforcing such rights.
2. Within the same time, the Czech Republic shall apply to accede to the Munich Convention on the granting of European patents of 5 October 1973. The Czech Republic shall also accede to the other multilateral conventions on intellectual, industrial and commercial property rights referred to in Annex XVII, paragraph 1 to which Member States are Parties, or which are de facto applied by Member States.

Article 68

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

Czech Republic companies at the latest at the end of the transitional period referred to in Article 7.

Community companies established in the Czech Republic under the provisions of Chapter II of Title IV shall have upon entry into force of this Agreement access to contract award procedures under a treatment no less favourable than that accorded to Czech Republic companies.

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

3. As regards establishment, operations, supply of services between the Community and the Czech Republic, 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 Contracting Parties recognize that the major precondition for the Czech Republic's economic integration into the Community is the approximation of the Czech Republic's existing and future legislation to that of the Community. The Czech Republic 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, 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 the Czech Republic 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 the Czech Republic shall establish economic cooperation aimed at contributing to the Czech Republic'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 the Czech Republic 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 must 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 modernization and restructuring of Czech Republic industry in both public and private sectors as well as industrial cooperation between economic operators of both sides, with the particular objective of strengthening the private sector.

2. Particular attention shall be paid to:

- the restructuring of individual sectors; in this context, the Association Council will examine in particular the problems affecting the sectors of coal and steel and the conversion of the defence industry,
- the establishment of new undertakings in areas offering potential for growth.

3. Industrial cooperation initiatives take into account priorities determined by the Czech Republic. 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 the Czech Republic.

2. The particular aims of cooperation shall be:

- to improve the institutional framework for investments in the Czech Republic,
- the extension by the Member States and the Czech Republic of agreements for the promotion and protection of investment,
- to implement suitable arrangements for the transfer of capital,
- 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

Industrial standards and conformity assessment

1. The Parties shall cooperate with the aim to achieve the Czech Republic's full conformity with Community technical regulations and European standardization and conformity assessment procedures.

2. To this end, the cooperation shall seek:

- 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 the Czech Republic's participation in the work of specialized organizations (CEN, Cenelec, ETSI, EOTC).
3. The Community will provide the Czech Republic with technical assistance where appropriate.

Article 76

Cooperation in science and technology

1. The Parties shall promote cooperation in research and technological development. They shall devote special attention to the following:
- the exchange of information on each other's science and technology policies,
 - 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 the intellectual property of the results of research,
 - participation of the Czech Republic 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 the Czech Republic, taking into consideration the priorities of the Czech Republic. Institutional frameworks and plans of cooperation will be established building on the European Training Foundation and the Tempus programme. Participation of the Czech Republic in other Community programmes could also be considered in this context.
2. The cooperation shall focus in particular on the following areas and according to modalities to be determined jointly by the Parties:
- reform of the education and training system in the Czech Republic,
 - 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.
3. In the field of translation, cooperation will focus on training of translators and interpreters and promotion of Community linguistic norms and terminology.

Article 78

Agriculture and the agro-industrial sector

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

- develop private farms and distribution channels, methods of storage, marketing, etc.,
- modernize the rural infrastructure (transport, water supply, telecommunications),
- land-use planning, including construction and urban planning,
- improve productivity and quality by using appropriate methods and products; provide training and monitoring in the use of anti-pollution methods connected with inputs,
- develop and modernize processing firms and their marketing techniques,
- promote complementarity in agriculture,
- promote industrial cooperation in agriculture and the exchange of know-how, particularly between the private sectors in the Community and the Czech Republic,
- develop cooperation on animal health and plant health with the aim of bringing about gradual harmonization with Community standards through assistance for training and the organization of checks.

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

Article 79

Energy

1. Within the principles of the market economy, the Parties shall cooperate to develop the progressive integration of the energy markets of the Czech Republic and the Community. They shall pay particular attention to the Community's proposals for a European energy charter and the parallel integration of such markets with the other countries of central and eastern Europe.

2. The cooperation shall include among others technical assistance when appropriate in the following areas:

- formulation and planning of energy policy both at national and regional level,
- opening up the energy market to a greater degree, including facilitating transit of gas and electricity,
- study of the modernization of energy infrastructures,
- improvement of distribution as well as improvements and diversification of supply,
- management and training for the energy sector,
- the development of energy resources

TITLE VII

CULTURAL COOPERATION

Article 97

1. The Parties undertake to promote cultural cooperation. Where appropriate, Community's cultural cooperation programmes, or those of one or more Member States may be extended to the Czech Republic and further activities of interest to both sides developed.

This cooperation may notably cover:

- literary translation,
- 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.

2. The Parties shall cooperate in the promotion of the audiovisual industry in Europe. The audiovisual sector in the Czech Republic could in particular participate in activities set out by the Community in the MEDIA programme for 1991 to 1995 in accordance with the 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 Parties shall coordinate, and where appropriate, harmonize, their policies regarding the regulation of cross-border broadcasts, technical standards and the promotion of European audiovisual technology.

TITLE VIII

FINANCIAL COOPERATION

Article 98

In order to achieve the objectives of this Agreement and in accordance with Articles 99, 100, 102 and 103, without prejudice to Article 101, the Czech Republic 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.

Article 99

This financial assistance shall be covered by:

- the operation Phare measures provided for in Council Regulation (EEC) No. 3906/89, as amended, for as long as they are applicable; thereafter grants will be made available by the Community, either within the framework of the operation Phare on a multiannual basis, or within a new financial multiannual framework established by the Community following consultations with the Czech Republic and taking into account the consideration set out in Articles 102 and 103,
- the loan(s) provided by the European Investment Bank until the expiry date of the availability thereof; following consultations with the Czech Republic the Community shall fix the maximum amount and the period of availability of loans from the European Investment Bank for the Czech Republic for subsequent years.

Article 100

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 101

1. The Community shall, in case of special need, taking into account the availability of all financial resources, on request of the Czech Republic 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 Czech Republic currency,
- to support medium-term stabilization and structural adjustment efforts, including balance of payments assistance.

2. This financial assistance is subject to the Czech Republic's presentation of IMF support programmes in the context of G-24, as appropriate, for convertibility and/or for restructuring its economy, to the Community's acceptance thereof, to the Czech Republic'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 the Czech Republic concerning such assistance.

Article 102

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

Article 103

In order to permit optimum use of the resources available the Contracting 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 104

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 this Agreement and any other bilateral or international issues of mutual interest.

Article 105

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 the Czech Republic, 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 the Czech Republic, 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 106

The Association Council shall, for the purpose of attaining the objectives of this 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 107

1. Each of the two Parties may refer to the Association Council any dispute relating to the application or interpretation of the 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 arbitrator's 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 108

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 the Czech Republic 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 106.

Article 109

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 committees or bodies and how they shall function.

Article 110

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

Article 111

1. The Association Parliamentary Committee shall consist of members of the European Parliament, on the one hand, and of members of the Czech Republic Parliament, on the other.
2. The Association Parliamentary Committee shall establish its rules of procedure.

3. The Association Parliamentary Committee shall be presided each in turn by the European Parliament and the Czech Republic Parliament, in accordance with the provisions to be laid down in its rules of procedure.

Article 112

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 113

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 114

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

Article 115

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

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

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

Article 116

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

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

Article 117

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

2. If either Party considers that the other Party has failed to fulfil an obligation under this Agreement, it may take appropriate measures. Before so doing, except in cases of special urgency, it shall supply the 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 this 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 118

This Agreement shall not, until equivalent rights for individuals and economic operators have been achieved under this Agreement, affect rights assured to them through existing agreements binding one or more Member States, on the one hand, and the Czech Republic, on the other.

Article 119

Protocols 1, 2, 3, 4, 5, 6, 7 and 8 and Annexes I to XVII shall form an integral part of this Agreement.

Article 120

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 121

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 the Czech Republic.

Article 122

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

Article 123

This Agreement will be approved by the Contracting 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 Contracting Parties notify each other that the procedures referred to in the first paragraph have been completed.

Upon its entry into force, this Agreement shall replace the Agreement between the European Economic Community, the European Atomic Energy Community and the Czech and Slovak Federal Republic on trade, economic and commercial cooperation signed in Brussels on 7 May 1990, and the Protocol between the European Coal and Steel Community and the Czech and Slovak Federal Republic initialled in Brussels on 28 June 1991, before the entry into force hereof.

Article 124

1. In view of the fact that provisions equivalent to those of certain parts of the Agreement and thus of the European Agreement signed between the Community and its Member States on 16 December 1991 and the Czech and Slovak Federal Republic, in particular those relating to the movements of goods, were put into effect since 1 March 1992 by means of an Interim Agreement on trade and trade related measures between the Community and the Czech and Slovak Federal Republic signed on 16 December 1991, as amended by the Supplementary Protocols between the Community and each of the Czech Republic and the Slovak Republic, the Parties agree that in such circumstances for the purposes of Title III, Articles 64, 66 and 67 of the Agreement and Protocols 1 (with the exception of its Article 3), 2, 3, 4 and 5 and 6, 'date of entry into force of the Agreement' shall mean:

-1 March 1992 in relation to obligations taking effect on the date of entry into force of the Agreement, and

-1 January 1992 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 of the Agreement after 1 January in any year, the provisions of Protocol 7 shall apply.