

Official Journal

of the European Communities

ISSN 0378-6978

L 342

Volume 44

27 December 2001

English edition

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Price: EUR 24,50

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2500/2001

of 17 December 2001

concerning pre-accession financial assistance for Turkey and amending Regulations (EEC) No 3906/89, (EC) No 1267/1999, (EC) No 1268/1999 and (EC) No 555/2000

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the Opinion of the European Parliament ⁽²⁾,

Whereas:

- (1) The conditions to be fulfilled by the candidate countries wishing to join the European Union were set out at the Copenhagen European Council of June 1993.
- (2) The Helsinki European Council of December 1999 stated that Turkey is a candidate country destined to join the Union on the basis of the same criteria applied to the other candidate countries and that, building on the existing European Strategy, Turkey, like other candidate countries, will benefit from a pre-accession strategy to stimulate and support its reforms.
- (3) The Nice European Council of December 2000 welcomed the progress made in the implementation of the pre-accession strategy for Turkey.
- (4) As Turkey does not yet fulfil the political criteria of Copenhagen, the Community has called on it to improve and promote its democratic practices and respect for fundamental human rights and more closely to involve civil society in that process.
- (5) The cornerstone of the pre-accession strategy is the Accession Partnership, drawn up on the basis of previous European Council conclusions while containing priorities on which accession preparation are to concentrate in the light of the political and economic criteria and the obligations of a Member State.
- (6) For Turkey, the legal basis for the establishment of the Accession Partnership and the single framework for coordinating all sources of pre-accession financial assistance are provided in Council Regulation (EC) No 390/2001 of 26 February 2001 on assistance to Turkey in the framework of the pre-accession strategy, and in particular on the establishment of an Accession Partnership ⁽³⁾.
- (7) The principles, priorities, intermediate objectives and conditions for the Accession Partnership with Turkey are contained in Decision 2001/235/EC ⁽⁴⁾. As is the case for the other candidate countries, assistance for Turkey from the European Union is to be focused on the priorities arising from the Accession Partnership.
- (8) It is appropriate that Community assistance be applied mainly through institution-building and investments to promote compliance with the Community acquis.
- (9) The Community should undertake specific actions to promote the development of civil society in Turkey.
- (10) Cross-border cooperation, particularly in the context of the borders between Turkey and the European Union, between Turkey and other candidate countries and between Turkey and other countries in the region, is also to be the subject of specific actions.
- (11) The Commission should ensure that the pre-accession assistance is coordinated with the Member States' bilateral assistance and with funding from the European Investment Bank (EIB), other financial instruments for cross-border cooperation (PHARE, MEDA, TACIS, CARDS, Interreg) and other institutional financial institutions.
- (12) The Community should co-finance Turkish participation in Community programmes and agencies.

⁽¹⁾ OJ C 240 E, 28.8.2001, p. 115.

⁽²⁾ Opinion delivered on 25 October 2001 (not yet published in the Official Journal).

⁽³⁾ OJ L 58, 28.2.2001, p. 1.

⁽⁴⁾ OJ L 85, 24.3.2001, p. 13.

(13) Community assistance should be subject to compliance with the undertakings contained in the EC-Turkey Agreements and the conditions laid down in Regulation (EC) No 390/2001, Decision 2001/235/EC and this Regulation.

(14) The Commission should implement the assistance in accordance with the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽¹⁾.

(15) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾.

(16) Participation in tenders should be open, as well as to natural and legal persons from the Member States and Turkey, to natural and legal persons from the other candidate countries and from countries benefiting from the financial and technical measures to accompany (MEDA) the reform of economic and social structures in the framework of the Euro-Mediterranean partnership ⁽³⁾ and from the assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia (CARDS) ⁽⁴⁾. Such participation should also be open, where specific types of expertise are required, to natural and legal persons from the countries of eastern Europe and central Asia under the provision of assistance to the partner States in eastern Europe and central Asia ⁽⁵⁾. For reasons of symmetry, similar provisions should be introduced in the assistance programmes for the other candidate countries.

(17) Management of pre-accession assistance should gradually be decentralised to Turkey, taking account of its management and financial control capacities, provided that *ex post* control of assistance is carried out and the Turkish authorities undertake to carry out the same controls and apply the same guarantees as those laid down in the relevant Community rules.

(18) Annual reports on the implementation of the assistance programme should be established and an evaluation report submitted.

(19) In the financial perspective 2000-2006, the pre-accession financial assistance was doubled for the candidate countries. In the light of the Helsinki European Council, subject to the normal budgetary procedures the aim should be that this principle be applied for Turkey and

continue to apply during the remaining period of the current financial perspective.

(20) The Treaty does not provide for powers, other than those of Article 308, for the adoption of this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The Community shall provide pre-accession financial assistance to Turkey to support the priorities defined in the Accession Partnership for Turkey.

Article 2

The assistance:

- shall be in the form of grants,
- shall be implemented by financing programmes or projects aimed at the fulfilment of the accession criteria and in accordance with the programming and implementation principles set out in guidelines to be adopted by the Commission in accordance with the procedure referred to in Article 10(2),
- may take the form of services, supplies and works,
- in the case of investment, may not cover the purchase of either land or buildings.

Article 3

The beneficiaries of this assistance may include not only the Turkish State but also provincial and local authorities, business support organisations and agencies, cooperatives and civil society, in particular organisations representing the social partners, associations, foundations, non-profit-making organisations and non-governmental organisations.

Article 4

1. A financial contribution to each programme or project may be required from the recipients of the assistance. The contribution shall depend on the nature of the programme or project. In exceptional cases, for programmes or projects aimed at the promotion of civil society development, the contribution may be in kind.

2. Assistance shall cover expenditure relating to programming support, communication and information activities and the monitoring, inspection, audit and evaluation of programmes and projects.

3. The Commission shall adopt detailed provisions on information and publicity so as to ensure that Community funding for measures financed by this Regulation enjoys a high profile.

⁽¹⁾ OJ L 356, 31.12.1977, p. 1. Regulation as last amended by Regulation (EC) No 762/2001 (OJ L 111, 20.4.2001, p. 1).

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

⁽³⁾ Regulation (EC) No 1488/96 (OJ L 189, 30.7.1996, p. 1). Regulation as last amended by Regulation (EC) No 2698/2000 (OJ L 311, 12.12.2000, p. 1).

⁽⁴⁾ Regulation (EC) No 2666/2000 (OJ L 306, 7.12.2000, p. 1).

⁽⁵⁾ Regulation (EC, Euratom) No 99/2000 (OJ L 12, 18.1.2000, p. 1).

4. The assistance may be either independent or in the form of co-financing with the Member States, the European Investment Bank, third countries or multilateral bodies.
5. Opportunities may be sought for co-financing with other donors, particularly Member States.
6. The Community may contribute to the costs related to the management structures of the assistance.
7. The Commission, in cooperation with the Member States, shall ensure sound coordination with the other providers of funds concerned, in particular the EIB.

Article 5

Financing of the programmes and projects shall be subject to compliance with the commitments contained in the EC-Turkey Association Agreement, Decision No 1/95 of the EC-Turkey Association Council of 22 December 1995 on implementing the final phase of the Customs Union ⁽¹⁾ and all other related agreements and decisions, and the conditions laid down in Article 4 of Regulation (EC) No 390/2001, in the Accession Partnership with Turkey and in this Regulation.

Article 6

1. The Commission shall implement the Community assistance in accordance with the rules of transparency and the Financial Regulation, in particular Article 114 thereof.
2. Prior appraisal of programmes and projects shall take account, *inter alia*, of the following factors:
 - (a) their effectiveness and prompt viability;
 - (b) cultural, social and gender aspects;
 - (c) conservation and protection of the environment on the basis of the principles of sustainable development;
 - (d) institutional development necessary to achieve programme and project goals;
 - (e) experience gained from programmes and projects of the same kind.

Article 7

1. Project selection, tendering and contracting by Turkey shall be subject to *ex ante* approval by the Commission.
2. The Commission may, however, decide, on the basis of a case-by-case analysis of national and sectoral programme/project management capacity, financial control procedures and structures regarding public finance, to waive the *ex ante* approval requirement referred to in paragraph 1 and confer on

implementing agencies in Turkey management of assistance on a decentralised basis. Such a waiver shall be subject to:

- (a) the minimum criteria for assessing the ability of implementing agencies in Turkey to manage assistance and the minimum conditions applicable to such agencies set out in the Annex;
- (b) specific provisions concerning, *inter alia*, invitations to tender, scrutiny and evaluation of tenders, the award of contracts and the implementation of Community public procurement directives, to be laid down in financing agreements with Turkey.

Article 8

1. Assistance of more than EUR 2 000 000 shall be made available through financing decisions taken by the Commission in accordance with the procedure referred to in Article 10(2). For that purpose, the Commission shall submit to the Committee referred to in Article 10, a financing proposal describing the programmes and/or projects to be implemented.

The Commission shall inform the Committee referred to in Article 10, at least one week beforehand, of any financing decisions it intends to take regarding programmes and projects of less than EUR 2 000 000.

2. The Commission may approve, without seeking the opinion of the Committee referred to in Article 10, additional grants needed to cover expected or actual overruns on the programmes or projects, provided that the overrun is not more than 20 % of the initial grant set in the financing decision.

3. All financing agreements or contracts concluded under this Regulation shall provide for the Commission and the Court of Auditors to conduct on-the-spot checks in accordance with the procedures laid down by the Commission under the rules in force, and in particular those of the Financial Regulation.

4. In order to ensure effective protection of the Community's financial interests, the Commission may undertake on-the-spot checks and inspections in accordance with Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission to protect the European Communities' financial interests against fraud and other irregularities ⁽²⁾.

5. Article 15(3) of Commission Regulation (EC) No 2222/2000 of 7 June 2000 laying down financial rules for the application of Council Regulation (EC) No 1268/1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in the pre-accession period ⁽³⁾ shall apply, including the communication of individual cases of irregularity and the establishment of a system for the management of information in this field.

⁽¹⁾ OJ L 35, 13.2.1996, p. 1. Decision as amended by Decision No 2/1999 of the EC-Turkey Association Council (OJ L 72, 18.3.1999, p. 36).

⁽²⁾ OJ L 292, 15.11.1996, p. 2.

⁽³⁾ OJ L 253, 7.10.2000, p. 5.

6. Where programmes and projects are the subject of financing agreements between the Community and Turkey, such agreements shall stipulate that the payment of taxes, duties or any other charges is not to be covered by the assistance.

7. Participation in invitations to tender and contracts shall be open, on equal terms to all natural and legal persons from the Member States, the candidate countries for accession to the European Union and countries which are recipients under Regulation (EC) No 1488/96 and Regulation (EC) No 2666/2000.

Participation by countries which are recipients under Regulation (EC) No 99/2000, shall also be authorised by the Commission, on a case-by-case basis, if the programmes or projects concerned require specific forms of expertise specifically available in such countries.

In the case of co-financing, the participation of undertakings from third countries in invitations to tender and contracts may be authorised by the Commission on a case-by-case basis.

8. The provisions referred to in paragraph 7 shall apply to the origin of supplies.

Article 9

The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

Article 10

1. The Commission shall be assisted by the Committee provided for in Article 9(1) of Council Regulation (EEC) No 3906/89 of 18 December 1989 on economic aid to certain countries of central and eastern Europe ⁽¹⁾.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

Article 11

Each year, the Commission shall submit to the European Parliament, the Council and the Economic and Social Committee a report on the implementation of the assistance. The report shall contain information on the programmes and projects financed during the year and the programming for the following financial year, as well as information on the results of monitoring and evaluation, accompanied if necessary by proposals for changes in the management of the assistance, to ensure maximum efficiency. This information could be

included in the report to which reference is made in Article 10 of Regulation (EEC) No 3906/89. The report shall be submitted not later than 30 September of the following year.

Article 12

1. Regulation (EC) No 3906/89 is hereby amended as follows:

— the words 'and Turkey, Cyprus and Malta' shall be added at the end of Article 7(1).

2. Council Regulation (EC) No 555/2000 of 13 March 2000 on the implementation of operations in the framework of the pre-accession strategy for the Republic of Cyprus and the Republic of Malta ⁽²⁾ is hereby amended as follows:

— the words 'and other candidate countries for accession to the European Union' shall be added at the end of Article 7(9);

— the words 'or any other candidate country for accession to the European Union' shall be added at the end of Article 7(10).

3. The following paragraph shall be added to Article 7 of Council Regulation (EC) No 1267/1999 of 21 June 1999 establishing an instrument for structural policies for pre-accession ⁽³⁾:

'8. Natural and legal persons from Cyprus, Malta and Turkey may participate in invitations to tender and contracts on the same terms that apply to all natural and legal persons from the Member States and the beneficiary countries.'

4. The following paragraph shall be added to Article 3 of Council Regulation (EC) No 1268/1999 of 21 June 1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries in central and eastern Europe in the pre-accession period ⁽⁴⁾:

'3. Natural and legal persons from Cyprus, Malta and Turkey may participate in invitations to tender and contracts on the same terms that apply to all natural and legal persons from the Member States and the beneficiary countries.'

Article 13

The Council shall review this Regulation before 1 January 2006. To that end, the Commission shall submit to the Council before 1 July 2005 an evaluation report on the Regulation and, as appropriate, a proposal to amend it.

Article 14

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Communities*.

⁽¹⁾ OJ L 375, 23.12.1989, p. 11. Regulation as last amended by Regulation (EC) No 2666/2000.

⁽²⁾ OJ L 68, 16.3.2000, p. 3.

⁽³⁾ OJ L 161, 26.6.1999, p. 73.

⁽⁴⁾ OJ L 161, 26.6.1999, p. 87.

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

Done at Brussels, 17 December 2001.

For the Council

The President

A. NEYTS-UYTTEBROECK

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 3 December 2001

on the conclusion of an Additional Protocol adjusting the trade aspects of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, to take account of the outcome of the negotiations between the parties on reciprocal preferential concessions for certain wines, the reciprocal recognition, protection and control of wine names and the reciprocal recognition, protection and control of designations for spirits and aromatised drinks

(2001/916/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133, in conjunction with the first sentence of the first subparagraph of Article 300(2), and Article 300(4) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, hereinafter referred to as the 'Stabilisation and Association Agreement', was initialled on 24 November 2000 and signed by Exchange of Letters in Luxembourg on 9 April 2001. Article 27(4) of the Stabilisation and Association Agreement provides that the trade arrangements to apply to wine and spirit products remain to be defined.

(2) In accordance with the Directives adopted by the Council on 11 March 1998, the Commission and the former Yugoslav Republic of Macedonia reached agreement on 20 June 2001 on new reciprocal trade concessions for certain wines and on the reciprocal recognition, protection and control of wine names and spirits designations. In order to ensure consistency within the overall stabilisation process, the results of these negotiations should be integrated into the framework of the Stabilisation and Association Agreement in the form of an Additional Protocol.

(3) Provisions to adopt the implementing Regulations on preferential trade concessions provided for certain wines should be made by the Commission, assisted by the Customs Code Committee set up by Article 248a of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽¹⁾, notwithstanding Article 62 of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine⁽²⁾. The Commission shall make the necessary amendments and technical adaptations to the implementing Regulations which might result from new preferential agreements, protocols, Exchanges of Letters or other acts concluded between the European Community and the former Yugoslav Republic of Macedonia, or which are necessary following the changes to the Combined Nomenclature and TARIC codes.

(4) In order to facilitate the implementation of certain provisions of the Protocol, the Commission should be authorised to approve, on behalf of the Community, decisions amending the lists and the Protocols to the Agreement on the reciprocal recognition, protection and control of wine names (Annex II to the Protocol) and the Agreement on the reciprocal recognition, protection and control of designations of spirits and aromatised drinks (Annex III to the Protocol). In adopting these acts, the Commission should be assisted by the Management Committee for Wine set up by Article 74 of Regulation (EC) No 1493/1999, on the one hand, and by the Implementation Committee for Spirit Drinks set up by Article 13 of Council Regulation (EEC) No 1576/89 of 29 May

⁽¹⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 2700/2000 (OJ L 311, 12.12.2000, p. 17).

⁽²⁾ OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 2826/2000 (OJ L 328, 23.12.2000, p. 2).

1989 laying down general rules on the definition, description and presentation of spirit drinks ⁽¹⁾ and the Implementation Committee for Aromatised Wines set up by Article 12 of Council Regulation (EEC) No 1601/1991 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails ⁽²⁾, on the other hand.

- (5) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽³⁾,

HAS DECIDED AS FOLLOWS:

Article 1

The Additional Protocol adjusting the trade aspects of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, to take account of the outcome of the negotiations between the parties on reciprocal preferential concessions for certain wines, the reciprocal recognition, protection and control of wine names and the reciprocal recognition, protection and control of designations for spirits and aromatised drinks (hereinafter referred to as 'the Protocol'), is hereby approved on behalf of the Community.

The text of the Protocol is attached to this Decision.

Article 2

1. The President of the Council is hereby authorised to designate the person empowered to sign the Protocol on behalf of the Community, in order to express the consent of the Community to be bound.
2. The President of the Council shall, on behalf of the Community, make the notification of approval provided for in Article 3 of the Protocol.

Article 3

Provisions for the application of the tariff quotas for certain wines provided in Annex I to the Protocol, as well as amendments and technical adaptations to the implementing Regulations necessary following changes to the Combined Nomenclature codes and to the TARIC subdivisions or arising from the conclusion of new agreements, protocols, Exchanges of Letters or other acts between the Community and the former Yugoslav Republic of Macedonia, shall be adopted by the Commission according to the procedure set out in Article 4(2) of this

Decision, notwithstanding Article 62 of Regulation (EC) No 1493/1999.

Article 4

1. The Commission shall be assisted by the Customs Code Committee set up by Article 248a of Regulation (EEC) No 2913/92.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 4(3) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

Article 5

1. For the purposes of the decisions of the Stabilisation and Association Committee concerning the establishment of lists of protected names provided for in Article 4(7) and Article 14(2)(a) of the Agreement on the reciprocal recognition, protection and control of wine names, the Community's position shall be established by the Council acting by qualified majority on a proposal from the Commission.
2. Without prejudice to paragraph 1, for the purposes of Articles 13 and 14 of the Agreement on the reciprocal recognition, protection and control of wine names, the Commission shall conclude the necessary acts amending the lists and the Protocol to the Agreement according to the procedure set out in Article 6(2) of this Decision. For all other cases coming under the above Articles, the Community position shall be established and presented by the Commission.

Article 6

1. The Commission shall be assisted by the Management Committee for Wine set up by Article 74 of Regulation (EC) No 1493/1999.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its rules of procedure.

Article 7

1. For the purposes of the decisions of the Stabilisation and Association Committee concerning the establishment of lists of protected designations provided for in Article 4(5) and Article 14(2)(a) of the Agreement on the reciprocal recognition, protection and control of designations for spirits and aromatised drinks, the Community's position shall be established by the Council acting by qualified majority on a proposal from the Commission.

⁽¹⁾ OJ L 160, 12.6.1989, p. 1. Regulation as last amended by Regulation (EC) No 3378/94 of the European Parliament and of the Council (OJ L 366, 31.12.1994, p. 1).

⁽²⁾ OJ L 149, 14.6.1991, p. 1. Regulation as last amended by Regulation (EC) No 2061/96 of the European Parliament and of the Council (OJ L 277, 30.10.1996, p. 1).

⁽³⁾ OJ L 184, 17.7.1999, p. 23.

2. Without prejudice to paragraph 1, for the purposes of Articles 13 and 14 of the Agreement on the reciprocal recognition, protection and control of designations for spirits and aromatised drinks, the Commission shall conclude the necessary acts amending the lists and the Protocol to the Agreement according to the procedure set out in Article 8(2) of this Decision. For all other cases coming under the above Articles, the Community position shall be established and presented by the Commission.

Article 8

1. The Commission shall be assisted by the Implementation Committee for Spirit Drinks instituted by Article 13 of Regulation (EEC) No 1576/89 and by the Implementation Committee for Aromatised Wines, Aromatised Wine-Based Drinks and Aromatised Wine-Product Cocktails set up by Article 12 of Regulation (EEC) No 1601/91.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 5(6) of Decision 1999/468/EC shall be set at one month.

3. The Committees shall adopt their rules of procedure.

Article 9

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Brussels, 3 December 2001.

For the Council

The President

F. VANDENBROUCKE

ADDITIONAL PROTOCOL

adjusting the trade aspects of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, to take account of the outcome of the negotiations between the parties on reciprocal preferential concessions for certain wines, the reciprocal recognition, protection and control of wine names and the reciprocal recognition, protection and control of designations for spirits and aromatised drinks

THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community',

of the one part,

and

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA, hereinafter referred to as 'the former Yugoslav Republic of Macedonia',

of the other part,

hereinafter referred to as 'the Contracting Parties',

WHEREAS the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, was signed by Exchange of Letters in Luxembourg on 9 April 2001,

WHEREAS Article 27(4) of the Stabilisation and Association Agreement provides that a wine and spirits agreement remains to be negotiated,

WHEREAS an Interim Agreement ensuring the development of trade links through the establishment of a contractual relation and implementing the provisions of the Stabilisation and Association Agreement on trade and trade-related matters entered into force on 1 June 2001. Article 14(4) of the Interim Agreement repeats the commitment to a separate wine and spirits agreement,

WHEREAS on this basis negotiations have been undertaken and were concluded between the Contracting Parties,

WHEREAS, in order to ensure consistency within the overall stabilisation process, the wine and spirits agreement should be integrated into the framework of the Stabilisation and Association Agreement in the form of a Protocol,

WHEREAS this Protocol on wines and spirits should enter into force on the same date as the Stabilisation and Association Agreement,

WHEREAS to this end it is necessary to implement as speedily as possible the provisions of this Protocol,

DESIROUS of improving the conditions for the marketing of wines, spirits and aromatised drinks on their respective markets, in accordance with the principles of quality, mutual benefit and reciprocity,

HAVING REGARD to the interest of both Contracting Parties in the reciprocal protection and control of wine names, designations for spirits and aromatised drinks,

HAVE AGREED AS FOLLOWS:

Article 1

This Protocol includes the following elements:

1. an Agreement on reciprocal preferential trade concessions for certain wines (Annex I to this Protocol);
2. an Agreement on the reciprocal recognition, protection and control of wine names (Annex II to this Protocol);
3. an Agreement on the reciprocal recognition, protection and control of designations of spirits and aromatised drinks (Annex III to this Protocol).

The lists referred to in Article 5 of the Agreement mentioned in point 2 and in Article 5 of the Agreement mentioned in point 3 shall be established at a later stage and approved according to the procedure laid down in the respective Articles 13 and 14 of these Agreements.

Article 2

This Protocol shall form an integral part of the Stabilisation and Association Agreement. The Annexes to this Protocol shall form an integral part thereof.

Article 3

This Protocol shall be approved by the Community and the former Yugoslav Republic of Macedonia in accordance with their own procedures. The Contracting Parties shall take the necessary measures to implement this Protocol.

The Contracting Parties shall notify each other of the accomplishment of the corresponding procedures referred to in the preceding paragraph.

Article 4

This Protocol shall enter into force on the same date as the Stabilisation and Association Agreement.

Article 5

This Protocol shall be drawn up in duplicate in each of the official languages of the Contracting Parties, each of these texts being equally authentic.

ANNEX I

AGREEMENT

between the European Community and the former Yugoslav Republic of Macedonia on reciprocal preferential trade concessions for certain wines

1. Imports into the Community of the following products originating in the former Yugoslav Republic of Macedonia shall be subject to the concessions set out below:

CN code	Description	Applicable duty	Year 2002 quantities (hl)	Yearly adjustments (hl)	Specific provisions
ex 2204 10	Quality sparkling wine	exemption	15 000	+ 6 000	(1)
ex 2204 21	Wine of fresh grapes				
ex 2204 29	Wine of fresh grapes	exemption	285 000	- 6 000	(1)

(1) Consultations at the request of one of the Contracting Parties may be held to adapt the quotas by transferring quantities above 6 000 hl from the quota applying to position ex 2204 29 to the quota applying to positions ex 2204 10 and ex 2204 21.

2. The Community shall grant a preferential zero-duty within tariff quotas as mentioned under point 1, subject to the condition that no export subsidies shall be paid for exports of these quantities by the former Yugoslav Republic of Macedonia.

3. Imports into the former Yugoslav Republic of Macedonia (FYROM) of the following products originating in the Community shall be subject to the concessions set out below:

FYROM customs tariff code	Description	Applicable duty	Year 2002 quantities (hl)	Yearly increase (hl)	Specific provisions
ex 2204 10	Quality sparkling wine	exemption	3 000	300	
ex 2204 21	Wine of fresh grapes				

4. The former Yugoslav Republic of Macedonia shall grant a preferential zero-duty within tariff quotas as mentioned under point 3, subject to the condition that no export subsidies shall be paid for exports of these quantities by the Community.

5. This Agreement shall cover wine:

- (a) which has been produced from fresh grapes wholly produced and harvested in the territory of the Contracting Party in question, and
- (b) (i) originating in the European Union, which has been produced in accordance with the rules governing the oenological practices and processes referred to in Title V of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine (1);
- (ii) originating in the former Yugoslav Republic of Macedonia, which has been produced in accordance with the rules governing the oenological practices and processes in conformity with the law of the former Yugoslav Republic of Macedonia. These oenological rules referred to shall be in conformity with Community legislation.

6. Imports of wine under the concessions provided in this Agreement will be subject to the presentation of a certificate issued by a mutually recognised official body appearing on the lists drawn up jointly, to the effect that the wine in question complies with point 5(b).

(1) OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 2826/2000 (OJ L 328, 23.12.2000, p. 2).

7. The Contracting Parties shall examine no later than in the first quarter of 2005 the opportunities for granting each other further concessions taking into account the development of wine trade between the Contracting Parties.
 8. The Contracting Parties shall ensure that the benefits granted reciprocally are not called into question by other measures.
 9. Consultations are to take place at the request of either Contracting Party on any problem relating to the way this Agreement operates.
 10. This Agreement shall apply, on the one hand, in the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, in the territory of the former Yugoslav Republic of Macedonia.
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ANNEX II

AGREEMENT

between the European Community and the former Yugoslav Republic of Macedonia on the reciprocal recognition, protection and control of wine names

Article 1

Objectives

1. The Contracting Parties hereby agree, in accordance with the principles of non-discrimination and reciprocity, to recognise, protect and control names of wines originating in their territory on the conditions laid down herein.

2. The Contracting Parties shall take all general and specific measures necessary to ensure that the obligations laid down by this Agreement are fulfilled and that the objectives set out in this Agreement are attained.

Article 2

Scope and coverage

This Agreement shall apply to wines falling under heading No 2204 of the International Convention on the Harmonised Commodity Description and Coding System ('Harmonised System'), done at Brussels on 14 June 1983.

Article 3

Definitions

For the purposes of this Agreement and except where otherwise expressly provided herein:

- (a) 'wine originating in' followed by the name of one of the Contracting Parties means a wine produced in the territory of the said Party from grapes which have been wholly harvested in its territory;
- (b) 'geographical indication' means any indication, including an 'appellation of origin', as defined in Article 22(1) of the Agreement on trade-related aspects of intellectual property rights (hereinafter referred to as 'the TRIPs Agreement'), that is recognised by the laws or regulations of a Contracting Party for the purpose of describing and presenting a wine originating in the territory of that Contracting Party;
- (c) 'traditional expression' means a traditionally used name, as specified in the Annex, referring in particular to the method of production or to the quality, colour or type of wine which is sufficiently distinctive and/or of established reputation and recognised by the laws and regulations of a Contracting Party for the purpose of describing and presenting of such a wine originating in the territory of that Contracting Party;
- (d) 'protected name' means a geographical indication or a traditional expression as defined in paragraphs (b) and (c) respectively that is protected under this Agreement;

- (e) 'homonymous' shall mean the same protected name, or a protected name so similar as to be likely to cause confusion, to denote different places of origin, or different wines originating in the respective territories of the Contracting Parties;
- (f) 'description' means the words used to describe a wine on a label, or on the documents accompanying the transport of that wine, on commercial documents, particularly invoices and delivery notes, and in advertising;
- (g) 'labelling' means all descriptions and other references, signs, designs or trade marks identifying a wine and appearing on the container, including its sealing device or the tag attached thereto and the sheathing covering the neck of bottles;
- (h) 'presentation' means the words or signs used on containers, including their closure, on the labelling and on the packaging;
- (i) 'packaging' means the protective wrappings such as paper, straw envelopes of all kinds, cartons and cases, used in the transport of one or more containers and/or for their presentation for sale to the final consumer;
- (j) 'trade mark' shall mean:
 - a trade mark registered in terms of the legislation of a Contracting Party,
 - a common law trade mark which is recognised under the law of a Contracting Party, and
 - a well-known trade mark referred to in Article 6 bis of the Paris Convention for the Protection of Industrial Property (1967).

TITLE I

RECIPROCAL PROTECTION OF WINE NAMES

Article 4

Principles

1. Without prejudice to Articles 22 and 23 of the TRIPs Agreement set out in Annex 1C to the Agreement establishing the World Trade Organisation, the Contracting Parties shall take all necessary measures, in accordance with that Annex, to ensure reciprocal protection of the names referred to in Article 5 which are used for the description and presentation of wines originating in the territory of the Contracting Parties. To that end, each Contracting Party shall provide the interested parties with the appropriate legal means to ensure effective protection and prevent geographical indications and traditional expressions from being used to identify wines not covered by the indications or the descriptions concerned.

2. In the former Yugoslav Republic of Macedonia, the protected Community names:

- (a) are reserved exclusively to the wines originating in the Community to which they apply, and
- (b) may not be used otherwise than under the conditions laid down in the laws and regulations of the Community.

3. In the Community, the protected names of the former Yugoslav Republic of Macedonia:

- (a) are reserved exclusively to the wines originating in the former Yugoslav Republic of Macedonia to which they apply, and
- (b) may not be used otherwise than under the conditions laid down in the laws and regulations of the former Yugoslav Republic of Macedonia.

4. The protection provided for in this Agreement shall prohibit in particular any use of protected names for wines which do not originate in the geographical area indicated or in the place where the expression is traditionally used, and shall apply even when:

- the true origin of the wine is indicated,
- the geographical indication in question is used in translation,
- the name is accompanied by terms such as 'kind', 'type', 'style', 'imitation', 'method' or other expressions of the sort.

5. In the case of homonymous geographical indications:

- (a) where such indications protected under this Agreement are homonymous, protection shall be granted to each indication, provided it has been used traditionally and consistently and consumers are not misled as to the true origin of the wine;
- (b) where such indications protected under this Agreement are homonymous with the name of a geographical area outside the territory of the Parties, the latter name may be used to describe and present a wine produced in the geographical area to which the name refers, provided it is traditionally and consistently used, its use for that purpose is regulated by the country of origin and consumers are not misled into believing that the wine originates in the territory of the Party concerned.

6. In the case of homonymous traditional expressions:

- (a) where such expressions protected under this Agreement are homonymous, protection shall be granted to each expression, provided it has been used traditionally and consistently and consumers are not misled as to the true origin of the wine;
- (b) where such expressions protected under this Agreement are homonymous with the name used for a wine not originating in the territory of the Parties, the latter name may be used to describe and present a wine, provided it is traditionally and consistently used, its use for that purpose is regulated by the country of origin and consumers are not misled into believing that the wine originates in the territory of the Party concerned.

7. The Stabilisation and Association Committee may determine by way of decision the practical conditions of use to enable a distinction to be drawn between the homonymous indications or expressions referred to in paragraphs 5 and 6, bearing in mind the need to treat the producers concerned fairly and to ensure that consumers are not misled.

8. The provisions of this Agreement shall in no way prejudice the right of any person to use, in the course of trade, their name or the name of their predecessor in business, except where such name is used in such a manner as to mislead consumers.

9. Nothing in this Agreement shall oblige a Contracting Party to protect a geographical indication or traditional expression of the other Contracting Party which is not or ceases to be protected in its country of origin or which has fallen into disuse in that country.

10. The Contracting Parties hereby waive their right to invoke Article 24(4) to (7) of the TRIPs Agreement in order to refuse to grant protection to a name, from the other Party, for products covered by this Agreement.

Article 5

Protected names

With regard to the wine originating in the Community and in the former Yugoslav Republic of Macedonia, the names defined in the lists established in accordance with Article 14(2)(a) shall be protected.

Article 6

Trade marks

1. The registration of a trade mark for a wine which contains or consists of a protected name under this Agreement shall be refused or, at the request of the party concerned, invalidated if:

- the wine in question does not originate in the place to which the geographical indication refers or, as the case may be,
- the wine in question is not one to which the traditional expression is reserved.

2. However, a trade mark registered in good faith no later than 31 December 1995 may be used until 31 December 2005, provided it has actually been in continuous use since being registered.

Article 7

Exports

The Contracting Parties shall take all measures necessary to ensure that in cases where wines originating in the Contracting Parties are exported and marketed outside their territories, the protected names of one Contracting Party referred to in Article 5 are not used to describe and present a wine originating in the other Contracting Party.

*Article 8***Extension of protection**

In so far as the relevant legislation of the Contracting Parties permits, the benefit of the protection afforded by this Agreement shall extend to natural and legal persons, federations, associations and organisations of producers, traders or consumers whose head offices are located in the territory of the other Contracting Party.

*Article 9***Enforcement**

1. If the appropriate competent authority, designated in accordance with Article 11, becomes aware that the description or presentation of a wine, in particular on the labelling, in official or commercial documents or in advertising, is in breach of this Agreement, the Contracting Parties shall apply the necessary administrative measures and/or shall initiate legal proceedings with a view to combating unfair competition or preventing the wrongful use of the protected name in any other way.

2. The measures and proceedings referred to in paragraph 1 shall be taken in particular in the following cases:

- (a) where the translation of descriptions provided for by Community or the former Yugoslav Republic of Macedonia legislation into the language or languages of the other Contracting Party results in the appearance of a word which is liable to be misleading as to the origin, nature or quality of the wine thus described or presented;
- (b) where descriptions, trade marks, names, inscriptions or illustrations which directly or indirectly give false or misleading information as to the provenance, origin, nature, vine variety or material qualities of the wine appear on containers or packaging, in advertising or in official or commercial documents relating to wines whose names are protected under this Agreement;
- (c) where, for packaging, containers are used which are misleading as to the origin of the wine.

3. The application of paragraphs 1 and 2 shall not prejudice the possibilities of the persons and entities referred to in Article 8 to take appropriate actions in the Contracting Parties, including recourse to the courts.

*Article 10***Other internal legislation and international agreements**

Unless otherwise agreed by the Contracting Parties, this Agreement shall not preclude any more extensive protection afforded, now or in the future, to names protected by this Agreement, by the Contracting Parties under their internal legislation or other international agreements.

TITLE II

CONTROLS AND MUTUAL ASSISTANCE BETWEEN COMPETENT AUTHORITIES*Article 11***Enforcement authorities**

1. Each Contracting Party shall designate the authorities to be responsible for the application of this Agreement. Where a Contracting Party designates more than one competent authority, it shall ensure the coordination of the work of these authorities. For this purpose, a single authority shall be designated.

2. The Contracting Parties shall inform one another of the names and addresses of these authorities not later than two months after this Agreement comes into force. There shall be close and direct cooperation between these authorities.

*Article 12***Infringement**

1. If one of the authorities referred to in Article 11 has reason to suspect that:

- (a) a wine being or having been traded between the former Yugoslav Republic of Macedonia and the Community does not comply with this Agreement or with provisions laid down in the laws and regulations of the Contracting Parties, and
- (b) this non-compliance is of particular interest to the other Contracting Party and could result in administrative measures and/or legal proceedings being taken,

it shall immediately inform the Commission and the relevant authority or authorities of the other Party.

2. The information to be provided in accordance with paragraph 1 shall be accompanied by official, commercial or other appropriate documents, with details of any administrative measures or legal proceedings that may, if necessary, be taken. The information shall include, in particular, the following details concerning the wine in question:

- (a) the producer and the person who has power of disposal over this wine;
- (b) the composition and organoleptic characteristics of this wine;
- (c) its description and presentation;
- (d) details of the non-compliance with the rules concerning production and marketing.

TITLE III

MANAGEMENT OF THE AGREEMENT*Article 13***Working group**

1. A working group functioning under the auspices of a special Committee on Agriculture to be created in accordance with Article 113 of the Stabilisation and Association Agreement shall be established.

2. The working group shall see to the proper functioning of this Agreement and shall examine all questions which may arise in implementing it. In particular, the working group may make recommendations which would contribute to the attainment of the objectives of this Agreement.

Article 14

Tasks of the Contracting Parties

1. The Contracting Parties shall, either directly or through the working group referred to in Article 13, maintain contact on all matters relating to the implementation and the functioning of this Agreement.
2. In particular, the Contracting Parties shall:
 - (a) establish and amend by decision of the Stabilisation and Association Committee the lists referred to in Article 5 and the Protocol of this Agreement, to take account of any amendments to the laws and regulations of the Contracting Parties;
 - (b) inform each other of the intention to decide new regulations or amendments of existing regulations of public policy concern, such as health or consumer protection, with implications for the wine market;
 - (c) notify each other of judicial decisions concerning the application of this Agreement and inform each other of measures adopted on the basis of such decisions.
3. Within the framework of this Agreement, either of the Contracting Parties may put forward suggestions for widening the scope of their cooperation in the wine market, taking into account the experience gained in its application.
4. Decisions taken under paragraph 2(a) shall be binding on the Parties which shall take the measures necessary to implement the decisions taken.

TITLE IV

GENERAL PROVISIONS

Article 15

Transit — small quantities

This Agreement shall not apply to wines which:

- (a) pass in transit through the territory of one of the Contracting Parties, or
- (b) originate in the territory of one of the Contracting Parties and which are consigned in small quantities between those

Contracting Parties under the conditions and according to the procedures provided for in the Protocol.

Article 16

Territorial application

This Agreement shall apply, on the one hand, to the territories to which the Treaty establishing the European Community applies and under the conditions laid down in that Treaty and, on the other hand, to the territory of the former Yugoslav Republic of Macedonia.

Article 17

Failure to comply

1. The Contracting Parties shall enter into consultations if one of them considers that the other has failed to fulfil an obligation under this Agreement.
2. The Contracting Party which requests the consultations shall provide the other Party with all the information necessary for a detailed examination of the case in question.
3. In cases where any delay could endanger human health or impair the effectiveness of measures to control fraud, appropriate interim protective measures may be taken, without prior consultation, provided that consultations are held immediately after the taking of these measures.
4. If, following the consultations provided for in paragraphs 1 and 3, the Contracting Parties have not reached agreement, the Party which requested the consultations or which took the measures referred to in paragraph 3 may take appropriate protective measures so as to permit the proper application of this Agreement.

Article 18

Marketing of pre-existing stocks

1. Wines which, at the time of the entry into force of this Agreement, have been produced, prepared, described and presented in compliance with the internal laws and regulations of the Parties but are prohibited by this Agreement may be sold until stocks run out.
2. Except where provisions to the contrary are adopted by the Contracting Parties, wines which have been produced, prepared, described and presented in compliance with this Agreement but whose production, preparation, description and presentation cease to comply therewith as a result of an amendment thereto may continue to be marketed until stocks run out.

Protocol to the Agreement between the European Community and the former Yugoslav Republic of Macedonia on the reciprocal recognition, protection and control of wine names

THE CONTRACTING PARTIES HEREBY AGREE AS FOLLOWS:

Pursuant to Article 15(b) of the Agreement, the following shall be considered to be small quantities of wine:

1. quantities in labelled containers of not more than 5 litres fitted with a non-reusable closing device where the total quantity transported, whether or not made up of separate consignments, does not exceed 50 litres;
2. (a) quantities contained in the personal luggage of travellers in quantities not exceeding 30 litres;
(b) quantities sent in consignments from one private individual to another in quantities not exceeding 30 litres;
(c) quantities forming part of the belongings of private individuals who are moving house;
(d) quantities imported for the purpose of scientific or technical experiments, subject to a maximum of 1 hectolitre;
(e) quantities imported for diplomatic, consular or similar establishments as part of their duty-free allowance;
(f) quantities held on board international means of transport as victualling supplies.

The case of exemption referred to in point 1 may not be combined with one or more of the cases of exemption referred to in point 2.

ANNEX III

AGREEMENT

between the European Community and the former Yugoslav Republic of Macedonia on the reciprocal recognition, protection and control of designations for spirits and aromatised drinks

Article 1

Objectives

1. The Contracting Parties hereby agree, in accordance with the principles of non-discrimination and reciprocity, to recognise, protect and control designations for spirits and aromatised drinks originating in their territory on the basis of the conditions laid down herein.

2. The Contracting Parties shall take all general and specific measures necessary to ensure that the obligations laid down by this Agreement are fulfilled and that the objectives set out in this Agreement are attained.

Article 2

Scope and coverage

This Agreement applies to the following products:

(a) spirit drinks as defined:

— for the Community, in Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks ⁽¹⁾,

— for the former Yugoslav Republic of Macedonia, in the Regulation on the quality of spirits (*Official Journal of the Socialist Federative Republic of Yugoslavia* No 16/88), as last amended by the Regulation on the quality of spirits (*Official Journal of the Socialist Federative Republic of Yugoslavia* No 63/88),

and falling within heading No 2208 of the International Convention on the Harmonised Commodity Description and Coding System, done at Brussels on 14 June 1983;

(b) aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails, hereinafter called 'aromatised drinks', as defined:

— for the Community, in Council Regulation (EEC) No 1601/91 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails ⁽²⁾,

— for the former Yugoslav Republic of Macedonia, in the Regulation on the quality of wines (*Official Journal of the Socialist Federative Republic of Yugoslavia* No 17/81), as last amended by the Regulation for the quality of wines (*Official Journal of the Socialist Federative Republic of Yugoslavia* No 14/89),

and covered by headings Nos 2205 and ex 2206 of the International Convention on the Harmonised Commodity Description and Coding System, done at Brussels on 14 June 1983.

Article 3

Definitions

For the purposes of this Agreement:

(a) 'spirit drink originating in', followed by the name of one of the Contracting Parties, means a spirit drink produced in the territory of that Party;

(b) 'aromatised drinks originating in', followed by the name of one of the Contracting Parties, means an aromatised drink produced in the territory of that Party;

(c) 'description' means the words used on labelling, on any documents accompanying spirits or aromatised drinks during transport, on commercial documents, particularly invoices and delivery notes, and in advertising;

(d) 'homonymous' shall mean the same protected name, or a protected name so similar as to be likely to cause confusion, to denote different places of origin, or different spirit drinks and aromatised drinks originating in the respective territories of the Contracting Parties;

(e) 'labelling' means all descriptions and other references, signs, symbols, illustrations or trade marks identifying spirits and aromatised drinks and appearing on the container, including the sealing device or the tag attached thereto, and the sheathing covering the neck of bottles;

(f) 'presentation' means the words or signs used on containers, including their closure, on the labelling and on the packaging;

(g) 'packaging' means the protective wrappings such as paper, straw wrapping of all kinds, cartons and cases, used in the transport of one or more containers and/or in their presentation for sale to the final consumer;

⁽¹⁾ OJ L 160, 12.6.1989, p. 1. Regulation as last amended by Regulation (EC) No 3378/94 of the European Parliament and of the Council (OJ L 366, 31.12.1994, p. 1).

⁽²⁾ OJ L 149, 14.6.1991, p. 1. Regulation as last amended by Regulation (EC) No 2061/96 of the European Parliament and of the Council (OJ L 277, 30.10.1996, p. 1).

(h) 'trade mark' shall mean:

- trade mark registered in terms of the legislation of a Contracting Party,
- a common law trade mark which is recognised under the law of a Contracting Party, and
- a well-known trade mark referred to in Article 6 bis of the Paris Convention for the Protection of Industrial Property (1967).

TITLE I

RECIPROCAL PROTECTION OF DESIGNATIONS OF SPIRITS AND AROMATISED DRINKS

Article 4

Principles

1. Without prejudice to Articles 22 and 23 of the Agreement on trade-related aspects of intellectual property rights (hereinafter called 'the TRIPs Agreement') set out in Annex 1C to the Agreement establishing the World Trade Organisation, the Parties shall take all the necessary measures, in accordance with that Annex, to ensure reciprocal protection of the designations referred to in Article 5 and used to describe spirits and aromatised drinks originating in the territory of the Parties. To that end, each Party shall provide the interested parties with the appropriate legal means for preventing the use of a designation to identify spirits or aromatised drinks not originating in the geographical area indicated by the designation in question or in the place where the designation in question is traditionally used.

2. In the former Yugoslav Republic of Macedonia, the protected Community designations:

- may not be used otherwise than under the conditions laid down in the laws and regulations of the Community, and
- shall be reserved exclusively for the spirits and aromatised drinks originating in the Community to which they apply.

3. In the Community, the protected designations of the former Yugoslav Republic of Macedonia:

- may not be used otherwise than under the conditions laid down in the laws and regulations of the former Yugoslav Republic of Macedonia, and
- shall be reserved exclusively for the spirits and aromatised drinks originating in the former Yugoslav Republic of Macedonia to which they apply.

4. The protection provided for in this Agreement shall prohibit in particular any use of protected designations for spirits and aromatised drinks which do not originate in the geographical area indicated by the designation in question or in the place where the designation in question is traditionally used, and shall apply even when:

- the true origin of the spirits and aromatised drinks is indicated,

— the geographical indication in question is used in translation,

— the name is accompanied by terms such as 'kind', 'type', 'style', 'imitation', 'method' or other expressions of the sort.

5. In cases of homonymous designations for spirits and aromatised drinks, protection shall be accorded to each designation. The Stabilisation and Association Committee may determine by way of decision the practical conditions under which the homonymous designations in question are to be differentiated from each other, taking into account the need to treat the producers concerned fairly and to avoid misleading the consumer.

6. The provisions of this Agreement shall in no way prejudice the right of any person to use, for trade purposes, their own name or the name of the person whose business they have taken over, provided that such names are not used in a way that misleads consumers.

7. Nothing in this Agreement shall oblige a Party to protect any designation of the other Party which is not protected or ceases to be protected in its country of origin or which has fallen into disuse in that country.

8. The Contracting Parties hereby waive their right to invoke Article 24(4) to (7) of the TRIPs Agreement in order to refuse to grant protection to designations from the other Party.

Article 5

Protected designations

The following designations shall be protected:

- (a) as regards spirit drinks originating in the Community, the designations in list 1;
- (b) as regards spirit drinks originating in the former Yugoslav Republic of Macedonia, the designations in list 2;
- (c) as regards aromatised drinks originating in the Community, the designations in list 3;
- (d) as regards aromatised drinks originating in the former Yugoslav Republic of Macedonia, the designations in list 4.

Article 6

Trade marks

1. The registration of a trade mark for a spirit or aromatised drink which contains or consists of a designation as referred to in Article 5 shall be refused or, at the request of an interested party, be invalidated, with respect to such spirits not originating in the place indicated by the designation.

2. Notwithstanding paragraph 1, a trade mark registered in good faith by 31 December 1995 at latest may be used until 31 December 2005, provided it has been used effectively without interruption since its registration.

*Article 7***Exports**

The Parties shall take all measures necessary to ensure that, in cases where spirits or aromatised drinks originating in the territory of the Parties are exported and marketed outside their territory, the designations of one Party protected under this Agreement are not used to designate and present spirits or aromatised drinks originating in the other Party.

*Article 8***Extension of protection**

To the extent that the relevant legislation of the Parties allows, the benefit of the protection afforded by this Agreement shall cover natural and legal persons and federations, associations and organisations of producers, traders and consumers whose head offices are located in the territory of the other Party.

*Article 9***Enforcement**

1. If the appropriate competent authority, designated in accordance with Article 11, becomes aware that the description or presentation of a spirit drink or aromatised drink, in particular on the labelling, in official or commercial documents or in advertising, is in breach of this Agreement, the Parties shall apply the necessary administrative measures and/or shall initiate suitable legal proceedings with a view to combating unfair competition or preventing the wrongful use of the protected designation in any other way.

2. The measures and proceedings referred to in paragraph 1 shall be taken in particular in the following cases:

- (a) where the translation of designations provided for by Community or the former Yugoslav Republic of Macedonia legislation into the language or languages of the other Contracting Party results in the appearance of a word which is liable to be misleading as to the origin, nature or quality of the spirits or aromatised drinks thus identified;
- (b) where descriptions, trade marks, words, inscriptions or illustrations which directly or indirectly give false or misleading information as to the origin, nature, material qualities of the spirit drink or aromatised drink appear on containers or packaging, in advertising or in official or commercial documents relating to designations protected under this Agreement;
- (c) where, for packaging, containers are used which are misleading as to the origin of the spirit drink or aromatised drink.

3. The application of paragraphs 1 and 2 shall not prejudice the possibilities of the persons and entities referred to in Article

8 to take appropriate actions in the Contracting Parties, including recourse to the courts.

*Article 10***Other internal legislation and international agreements**

Unless otherwise agreed by the Contracting Parties, this Agreement shall not preclude any more extensive protection afforded, now or in the future, to designations protected by this Agreement by the Contracting Parties under their internal legislation or other international agreements.

TITLE II

**CONTROLS AND MUTUAL ASSISTANCE BETWEEN
COMPETENT AUTHORITIES***Article 11***Enforcement authorities**

1. The Contracting Parties shall each designate the authorities responsible for the enforcement of this Agreement. Where a Contracting Party designates more than one competent authority, it shall ensure the coordination of the work of these authorities. For this purpose, a single authority shall be designated.

2. The Parties shall inform one another of the names and addresses of the above authorities not later than two months after this Agreement comes into force. These authorities shall cooperate closely and directly with each other.

*Article 12***Infringement**

1. If one of the authorities referred to in Article 11 has reason to suspect that:

- (a) a spirit drink or aromatised drink as defined in Article 2, being or having been traded between the former Yugoslav Republic of Macedonia and the Community, does not comply with this Agreement or with provisions laid down in the laws and regulations of the Contracting Parties, applicable to spirits and aromatised drinks, and
- (b) this non-compliance is of particular interest to the other Contracting Party and could result in administrative measures and/or legal proceedings being taken,

it shall immediately inform the Commission and the relevant authority or authorities of the other Party.

2. The information to be provided in accordance with paragraph 1 shall be accompanied by official, commercial or other appropriate documents, with details of any administrative measures or legal proceedings that may, if necessary, be taken. The information shall include, in particular, the following details concerning the spirit or aromatised drink in question:

- (a) the producer and the person who has power of disposal over the spirit or aromatised drink;
- (b) the composition and organoleptic characteristics of that drink;
- (c) its description and presentation;
- (d) details of the non-compliance with the rules concerning production and marketing.

TITLE III

MANAGEMENT OF THE AGREEMENT

Article 13

Working group

1. A working group functioning under the auspices of a special Committee on Agriculture to be created in accordance with Article 113 of the Stabilisation and Association Agreement shall be established.
2. The working group shall see to the proper functioning of this Agreement and shall examine all questions which may arise in implementing it. In particular, the working group may make recommendations which would contribute to the attainment of the objectives of this Agreement.

Article 14

Tasks of the Contracting Parties

1. The Contracting Parties shall, either directly or through the working group referred to in Article 13, maintain contact on all matters relating to the implementation and the functioning of this Agreement.
2. In particular, the Contracting Parties shall:
 - (a) establish and amend by decision of the Stabilisation and Association Committee the lists referred to in Article 5 and the Protocol to this Agreement, to take account of any amendments to the laws and regulations of the Contracting Parties;
 - (b) inform each other of the intention to decide new regulations or amendments of existing regulations of public policy concern, such as health or consumer protection, with implications for the spirits and aromatised drinks market;
 - (c) notify each other of judicial decisions concerning the application of this Agreement and inform each other of measures adopted on the basis of such decisions.
3. Within the framework of this Agreement, either of the Contracting Parties may put forward suggestions for widening the scope of their cooperation in the spirit and aromatised

drinks market, taking into account the experience gained in its application.

4. Decisions taken under paragraph 2(a) shall be binding on the Parties, which shall take the measures necessary to implement the decisions taken.

TITLE IV

GENERAL PROVISIONS

Article 15

Transit — small quantities

This Agreement shall not apply to spirits and aromatised drinks which:

- (a) pass in transit through the territory of one of the Contracting Parties, or
- (b) originate in the territory of one of the Contracting Parties and which are consigned in small quantities between those Contracting Parties under the conditions and according to the procedures provided for in the Protocol.

Article 16

Territorial application

This Agreement shall apply, on the one hand, to the territories to which the Treaty establishing the European Community applies and under the conditions laid down in that Treaty and, on the other hand, to the territory of the former Yugoslav Republic of Macedonia.

Article 17

Failure to comply

1. The Contracting Parties shall enter into consultations if either considers that the other has failed to fulfil an obligation under this Agreement.
2. The Contracting Party which requests the consultations shall provide the other with all information necessary for a detailed examination of the case in question.
3. In cases where any delay could endanger human health or impair the effectiveness of measures to control fraud, appropriate interim protective measures may be taken, without prior consultation, provided that consultations are held immediately after such measures are taken.
4. If, following the consultations provided for in paragraphs 1 and 3, the Contracting Parties have not reached agreement, the Party which has requested the consultations or taken the measures referred to in paragraph 3 may take appropriate safeguard measures so as to permit the proper application of this Agreement.

*Article 18***Marketing of pre-existing stocks**

1. Spirits and aromatised drinks which, at the time of entry into force of this agreement, have been legally produced, described and presented, in accordance with the internal laws and regulations of the Contracting Parties, but which may be prohibited by this Agreement may be marketed by wholesalers for a period of one year from the entry into force of the Agreement and by retailers until stocks are exhausted. From the entry into force of this Agreement, spirits and aromatised drinks included herein may no longer be produced outside the limits of their regions of origin.
 2. Spirits and aromatised drinks produced, described and presented in accordance with this Agreement whose description and presentation cease to comply with this Agreement following an amendment thereto may continue to be marketed until stocks are exhausted, unless otherwise agreed by the Contracting Parties.
-

Protocol to the Agreement between the European Community and the former Yugoslav Republic of Macedonia on the reciprocal recognition, protection and control of designations for spirits and aromatised drinks

THE CONTRACTING PARTIES HEREBY AGREE AS FOLLOWS:

Pursuant to Article 15(b) of the Agreement, the following shall be considered to be small quantities of spirits and aromatised drinks:

1. quantities in labelled containers of not more than 5 litres fitted with a non-reusable closing device where the total quantity transported, whether or not made up of separate consignments, does not exceed 10 litres;
2. (a) quantities contained in the personal luggage of travellers in quantities not exceeding 10 litres;
(b) quantities sent in consignments from one private individual to another in quantities not exceeding 10 litres;
(c) quantities forming part of the belongings of private individuals who are moving house;
(d) quantities imported for the purpose of scientific or technical experiments, subject to a maximum of 1 hectolitre;
(e) quantities imported for diplomatic, consular or similar establishments as part of their duty-free allowance;
(f) quantities held on board international means of transport as victualling supplies.

The case of exemption referred to in point 1 may not be combined with one or more of the cases of exemption referred to in point 2.

COUNCIL DECISION

of 3 December 2001

on the conclusion of an Additional Protocol adjusting the trade aspects of the Interim Agreement between the European Community, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, to take account of the outcome of the negotiations between the parties on reciprocal preferential concessions for certain wines, the reciprocal recognition, protection and control of wine names and the reciprocal recognition, protection and control of designations for spirits and aromatised drinks

(2001/917/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133, in conjunction with the first sentence of the first subparagraph of Article 300(2), and Article 300(4) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Stabilisation and Association Agreement, between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, hereinafter referred to as the 'Stabilisation and Association Agreement', was initialled on 24 November 2000 and signed by Exchange of Letters in Luxembourg on 9 April 2001. Article 27(4) of the Stabilisation and Association Agreement provides that the trade arrangements to apply to wine and spirits products remain to be defined.
- (2) An Interim Agreement which ensures the development of trade links through the establishment of a contractual relation and which implements the provision of the Stabilisation and Association Agreement on trade and trade-related matters entered into force 1 June 2001. Article 14(4) of the Interim Agreement repeats the commitment to a separate wine and spirits agreement.
- (3) In accordance with the directives adopted by the Council on 11 March 1998, the Commission and the former Yugoslav Republic of Macedonia reached agreement on 20 June 2001 on new reciprocal trade concessions for certain wines and on the reciprocal recognition, protection and control of wine names and spirits designations. In order to ensure consistency within the overall stabili-

sation process, the results of these negotiations should be integrated into the framework of the Stabilisation and Association Agreement in the form of an Additional Protocol.

- (4) Provisions to adopt the implementing Regulations on preferential trade concessions provided for certain wines should be made by the Commission, assisted by the Customs Code Committee set up by Article 248a of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽¹⁾, notwithstanding Article 62 of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine⁽²⁾. The Commission shall make the necessary amendments and technical adaptations to the implementing Regulations which might result from new preferential agreements, protocols, Exchanges of Letters or other acts concluded between the European Community and the former Yugoslav Republic of Macedonia, or which are necessary following the changes to the Combined Nomenclature and TARIC codes.
- (5) In order to facilitate the implementation of certain provisions of the Protocol, the Commission should be authorised to approve, on behalf of the Community, decisions amending the lists and the Protocols to the Agreement on reciprocal recognition, protection and control of wine names (Annex II to the Protocol) and the Agreement on reciprocal recognition, protection and control of designations of spirits and aromatised drinks (Annex III to the Protocol). In adopting these acts, the Commission should be assisted by the Management Committee for Wine set up by Article 74 of Regulation (EC) No 1493/1999, on the one hand, and by the Implementation Committee for Spirit Drinks set up by Article 13 of Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks⁽³⁾ and the Implementation Committee for Aromatised Wines set up by Article 12 of Council Regulation (EEC) No 1601/91 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails⁽⁴⁾, on the other hand.

⁽¹⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 2700/2000 (OJ L 311, 12.12.2000, p. 17).

⁽²⁾ OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 2826/2000 (OJ L 328, 23.12.2000, p. 2).

⁽³⁾ OJ L 160, 12.6.1989, p. 1. Regulation as last amended by Regulation (EC) No 3378/94 of the European Parliament and of the Council (OJ L 366, 31.12.1994, p. 1).

⁽⁴⁾ OJ L 149, 14.6.1991, p. 1. Regulation as last amended by Regulation (EC) No 2061/96 of the European Parliament and of the Council (OJ L 277, 30.10.1996, p. 1).

- (6) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾,

HAS DECIDED AS FOLLOWS:

Article 1

The Additional Protocol adjusting the trade aspects of the Interim Agreement between the European Community, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, to take account of the outcome of the negotiations between the parties on reciprocal preferential concessions for certain wines, the reciprocal recognition, protection and control of wine names and the reciprocal recognition, protection and control of designations for spirits and aromatised drinks (hereinafter referred to as 'the Protocol'), is hereby approved on behalf of the Community.

The text of the Protocol is attached to this Decision.

Article 2

1. The President of the Council is hereby authorised to designate the person empowered to sign the Protocol on behalf of the Community, in order to express the consent of the Community to be bound.
2. The President of the Council shall, on behalf of the Community, make the notification of approval provided for in Article 3 of the Protocol.

Article 3

Provisions for the application of the tariff quotas for certain wines provided in Annex I to the Protocol, as well as amendments and technical adaptations to the implementing Regulations necessary following changes to the Combined Nomenclature codes and to the TARIC subdivisions or arising from the conclusion of new agreements, protocols, Exchanges of Letters or other acts between the Community and the former Yugoslav Republic of Macedonia, shall be adopted by the Commission according to the procedure set out in Article 4(2) of this Decision, notwithstanding Article 62 of Council Regulation (EC) No 1493/1999.

Article 4

1. The Commission shall be assisted by the Customs Code Committee set up by Article 248a of Regulation (EEC) No 2913/92.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 4(3) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

Article 5

1. For the purposes of decisions of the Cooperation Council concerning the establishment of lists of protected names provided for in Article 4(7) and in Article 14(2)(a) of the Agreement on the reciprocal recognition, protection and control of wine names, the Community's position shall be established by the Council acting by qualified majority on a proposal from the Commission.

2. Without prejudice to paragraph 1, for the purposes of Articles 13 and 14 of the Agreement on the reciprocal recognition, protection and control of wine names, the Commission shall conclude the necessary acts amending the lists and the Protocol to the Agreement according to the procedure set out in Article 6(2) of this Decision. For all other cases coming under the said Articles, the Community position shall be established and presented by the Commission.

Article 6

1. The Commission shall be assisted by the Management Committee for Wine set up by Article 74 of Regulation (EC) No 1493/1999.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 4(3) of Decision 1999/468/EC shall be fixed at one month.

3. The Committee shall adopt its rules of procedure

Article 7

1. For the purposes of decisions of the Cooperation Council concerning the establishment of lists of protected designations provided for in Article 4(5) and Article 14(2)(a) of the Agreement on the reciprocal recognition, protection and control of designations for spirits and aromatised drinks, the Community's position shall be established by the Council acting by qualified majority on a proposal from the Commission.

2. Without prejudice to paragraph 1, for the purposes of Articles 13 and 14 of the Agreement on the reciprocal recognition, protection and control of designations for spirits and aromatised drinks, the Commission shall conclude the necessary acts amending the lists and the Protocol to the Agreement according to the procedure set out in Article 8(2) of this Decision. For all other cases coming under the above Articles, the Community position shall be established and presented by the Commission.

Article 8

1. The Commission shall be assisted by the Implementation Committee for Spirit Drinks instituted by Article 13 of Regulation (EEC) No 1576/89 and by the Implementation Committee for Aromatised Wines, Aromatised Wine-Based Drinks and Aromatised Wine-Product Cocktails set up by Article 12 of Regulation (EEC) No 1601/91.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.
The period provided for in Article 5(6) of Decision 1999/468/EC shall be one month.
3. The Committees shall adopt their rules of procedure.

Article 9

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Brussels, 3 December 2001.

For the Council

The President

F. VANDENBROUCKE

ADDITIONAL PROTOCOL

adjusting the trade aspects of the Interim Agreement between the European Community, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, to take account of the outcome of the negotiations between the parties on reciprocal preferential concessions for certain wines, the reciprocal recognition, protection and control of wine names and the reciprocal recognition, protection and control of designations for spirits and aromatised drinks

THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community',

of the one part, and

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA, hereinafter referred to as 'the former Yugoslav Republic of Macedonia',

of the other part,

hereinafter referred to as 'the Contracting Parties',

WHEREAS the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, was signed by Exchange of Letters in Luxembourg on 9 April 2001,

WHEREAS Article 27(4) of the Stabilisation and Association Agreement provides that a wine and spirits agreement remains to be negotiated,

WHEREAS an Interim Agreement ensuring the development of trade links through the establishment of a contractual relation and implementing as speedily as possible the provisions of the Stabilisation and Association Agreement on trade and trade-related matters, entered into force on 1 June 2001. Article 14(4) of the Interim Agreement repeats the commitment to a separate wine and spirits agreement,

WHEREAS on this basis negotiations have been undertaken and were concluded between the Parties,

WHEREAS in order to ensure consistency within the overall stabilisation process, the wine and spirits agreement should be integrated into the framework of the Interim Agreement in the form of a Protocol,

WHEREAS this Protocol on wines and spirits should enter into force on 1 January 2002,

WHEREAS to this end it is necessary to implement as speedily as possible the provisions of this Protocol,

DESIROUS of improving the conditions for the marketing of wines, spirits and aromatised drinks on their respective markets, in accordance with the principles of quality, mutual benefit and reciprocity,

HAVING REGARD to the interest of both Contracting Parties in the reciprocal protection and control of wine names, designations for spirits and aromatised drinks,

HAVE AGREED AS FOLLOWS:

Article 1

This Protocol includes the following elements:

1. an Agreement on reciprocal preferential trade concessions for certain wines (Annex I to this Protocol);
2. an Agreement on the reciprocal recognition, protection and control of wine names (Annex II to this Protocol);
3. an Agreement on the reciprocal recognition, protection and control of designations of spirits and aromatised drinks (Annex III to this Protocol).

The lists referred to in Article 5 of the Agreement mentioned in point 2 and in Article 5 of the Agreement mentioned in point 3 shall be established at a later stage and approved according to the procedure laid down in the respective Articles 13 and 14 of these Agreements.

Article 2

This Protocol shall form an integral part of the Interim Agreement. The Annexes to this Protocol shall form an integral part thereof.

Article 3

This Protocol shall be approved by the Community and the former Yugoslav Republic of Macedonia in accordance with their own procedures. The Contracting Parties shall take the necessary measures to implement this Protocol.

The Contracting Parties shall notify each other of the accomplishment of the corresponding procedures according to the first paragraph of Article 3.

Article 4

Subject to completion of the procedures referred to in Article 3, this Protocol shall enter into force on 1 January 2002 and become applicable on the same date.

Article 5

This Protocol shall be drawn up in duplicate in each of the official languages of the Contracting Parties, each of these texts being equally authentic.

ANNEX I

AGREEMENT

between the European Community and the former Yugoslav Republic of Macedonia on reciprocal preferential trade concessions for certain wines

1. Imports into the Community of the following products originating in the former Yugoslav Republic of Macedonia shall be subject to the concessions set out below:

CN code	Description	Applicable duty	Year 2002 quantities (hl)	Yearly adjustments (hl)	Specific provisions
ex 2204 10	Quality sparkling wine	exemption	15 000	+ 6 000	(¹)
ex 2204 21	Wine of fresh grapes				
ex 2204 29	Wine of fresh grapes	exemption	285 000	- 6 000	(¹)

(¹) Consultations at the request of one of the Contracting Parties may be held to adapt the quotas by transferring quantities above 6 000 hl from the quota applying to position ex 2204 29 to the quota applying to positions ex 2204 10 and ex 2204 21.

2. The Community shall grant a preferential zero-duty within tariff quotas as mentioned under point 1, subject to the condition that no export subsidies shall be paid for exports of these quantities by the former Yugoslav Republic of Macedonia.

3. Imports into the former Yugoslav Republic of Macedonia of the following products originating in the Community shall be subject to the concessions set out below:

FYROM customs tariff code	Description	Applicable duty	Year 2002 quantities (hl)	Yearly increase (hl)	Specific provisions
ex 2204 10	Quality sparkling wine	exemption	3 000	300	
ex 2204 21	Wine of fresh grapes				

4. The former Yugoslav Republic of Macedonia shall grant a preferential zero-duty within tariff quotas as mentioned under point 3, subject to the condition that no export subsidies shall be paid for exports of these quantities by the Community.

5. This Agreement shall cover wine:

- (a) which has been produced from fresh grapes wholly produced and harvested in the territory of the Contracting Party in question, and
- (b) (i) originating in the European Union, which has been produced in accordance with the rules governing the oenological practices and processes referred to in Title V of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine (¹);
- (ii) originating in the former Yugoslav Republic of Macedonia, which has been produced in accordance with the rules governing the oenological practices and processes in conformity with the former Yugoslav Republic of Macedonia law. These oenological rules referred to shall be in conformity with Community legislation.

(¹) OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 2826/2000 (OJ L 328, 23.12.2000, p. 2).

6. Imports of wine under the concessions provided in this Agreement will be subject to the presentation of a certificate issued by a mutually recognised official body appearing on the lists drawn up jointly, to the effect that the wine in question complies with point 5(b).
 7. The Contracting Parties shall examine no later than in the first quarter of 2005 the opportunities for granting each other further concessions taking into account the development of wine trade between the Contracting Parties.
 8. The Contracting Parties shall ensure that the benefits granted reciprocally are not called into question by other measures.
 9. Consultations are to take place at the request of either Contracting Party on any problem relating to the way this Agreement operates.
 10. This Agreement shall apply, on the one hand, in the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, in the territory of the former Yugoslav Republic of Macedonia.
-

ANNEX II

AGREEMENT

between the European Community and the former Yugoslav Republic of Macedonia on the reciprocal recognition, protection and control of wine names*Article 1***Objectives**

1. The Contracting Parties hereby agree, in accordance with the principles of non-discrimination and reciprocity, to recognise, protect and control names of wines originating in their territory on the conditions laid down herein.

2. The Contracting Parties shall take all general and specific measures necessary to ensure that the obligations laid down by this Agreement are fulfilled and that the objectives set out in this Agreement are attained.

*Article 2***Scope and coverage**

This Agreement shall apply to wines falling under heading No 2204 of the International Convention on the Harmonised Commodity Description and Coding System ('Harmonised System'), done at Brussels on 14 June 1983.

*Article 3***Definitions**

For the purposes of this Agreement and except where otherwise expressly provided herein:

- (a) 'wine originating in' followed by the name of one of the Contracting Parties means a wine produced in the territory of the said Party from grapes which have been wholly harvested in its territory;
- (b) 'geographical indication' means any indication, including an 'appellation of origin', as defined in Article 22(1) of the Agreement on trade-related aspects of intellectual property rights (hereinafter referred to as 'the TRIPs Agreement'), that is recognised by the laws or regulations of a Contracting Party for the purpose of describing and presenting a wine originating in the territory of that Contracting Party;
- (c) 'traditional expression' means a traditionally used name, as specified in the Annex, referring in particular to the method of production or to the quality, colour or type of wine which is sufficiently distinctive and/or of established reputation and recognised by the laws and regulations of a Contracting Party for the purpose of describing and presenting of such a wine originating in the territory of that Contracting Party;
- (d) 'protected name' means a geographical indication or a traditional expression as defined in paragraphs (b) and (c) respectively that is protected under this Agreement;

- (e) 'homonymous' shall mean the same protected name, or a protected name so similar as to be likely to cause confusion, to denote different places of origin, or different wines originating in the respective territories of the Contracting Parties;
- (f) 'description' means the words used to describe a wine on a label, or on the documents accompanying the transport of that wine, on commercial documents, particularly invoices and delivery notes, and in advertising;
- (g) 'labelling' means all descriptions and other references, signs, designs or trade marks identifying a wine and appearing on the container, including its sealing device or the tag attached thereto and the sheathing covering the neck of bottles;
- (h) 'presentation' means the words or signs used on containers, including their closure, on the labelling and on the packaging;
- (i) 'packaging' means the protective wrappings such as paper, straw envelopes of all kinds, cartons and cases, used in the transport of one or more containers and/or for their presentation for sale to the final consumer;
- (j) 'trade mark' shall mean:
 - a trade mark registered in terms of the legislation of a Contracting Party,
 - a common law trade mark which is recognised under the law of a Contracting Party, and
 - a well-known trade mark referred to in Article 6 bis of the Paris Convention for the Protection of Industrial Property (1967).

TITLE I

RECIPROCAL PROTECTION OF WINE NAMES*Article 4***Principles**

1. Without prejudice to Articles 22 and 23 of the TRIPs Agreement, set out in Annex 1C to the Agreement establishing the World Trade Organisation, the Contracting Parties shall take all necessary measures, in accordance with that Annex, to ensure reciprocal protection of the names referred to in Article 5 which are used for the description and presentation of wines originating in the territory of the Contracting Parties. To that end, each Contracting Party shall provide the interested parties with the appropriate legal means to ensure effective protection and prevent geographical indications and traditional expressions from being used to identify wines not covered by the indications or the descriptions concerned.

2. In the former Yugoslav Republic of Macedonia, the protected Community names:

- (a) are reserved exclusively to the wines originating in the Community to which they apply, and
- (b) may not be used otherwise than under the conditions laid down in the laws and regulations of the Community.

3. In the Community, the protected names of the former Yugoslav Republic of Macedonia:

- (a) are reserved exclusively to the wines originating in the former Yugoslav Republic of Macedonia to which they apply, and
- (b) may not be used otherwise than under the conditions laid down in the laws and regulations of the former Yugoslav Republic of Macedonia.

4. The protection provided for in this Agreement shall prohibit in particular any use of protected names for wines which do not originate in the geographical area indicated or in the place where the expression is traditionally used, and shall apply even when:

- the true origin of the wine is indicated,
- the geographical indication in question is used in translation,
- the name is accompanied by terms such as 'kind', 'type', 'style', 'imitation', 'method' or other expressions of the sort.

5. In the case of homonymous geographical indications:

- (a) where such indications protected under this Agreement are homonymous, protection shall be granted to each indication, provided it has been used traditionally and consistently and consumers are not misled as to the true origin of the wine;
- (b) where such indications protected under this Agreement are homonymous with the name of a geographical area outside the territory of the Parties, the latter name may be used to describe and present a wine produced in the geographical area to which the name refers, provided it is traditionally and consistently used, its use for that purpose is regulated by the country of origin and consumers are not misled into believing that the wine originates in the territory of the Party concerned.

6. In the case of homonymous traditional expressions:

- (a) where such expressions protected under this Agreement are homonymous, protection shall be granted to each expression, provided it has been used traditionally and consistently and consumers are not misled as to the true origin of the wine;

- (b) where such expressions protected under this Agreement are homonymous with the name used for a wine not originating in the territory of the Parties, the latter name may be used to describe and present a wine, provided it is traditionally and consistently used, its use for that purpose is regulated by the country of origin and consumers are not misled into believing that the wine originates in the territory of the Party concerned.

7. The Cooperation Council may determine by way of decision the practical conditions of use to enable a distinction to be drawn between the homonymous indications or expressions referred to in paragraphs 5 and 6, bearing in mind the need to treat the producers concerned fairly and to ensure that consumers are not misled.

8. The provisions of this Agreement shall in no way prejudice the right of any person to use, in the course of trade, their name or the name of their predecessor in business, except where such name is used in such a manner as to mislead consumers.

9. Nothing in this Agreement shall oblige a Contracting Party to protect a geographical indication or traditional expression of the other Contracting Party which is not or ceases to be protected in its country of origin or which has fallen into disuse in that country.

10. The Contracting Parties hereby waive their right to invoke Article 24(4) to (7) of the TRIPs Agreement in order to refuse to grant protection to a name, from the other Party, for products covered by this Agreement.

Article 5

Protected names

With regard to wine originating in the Community and in the former Yugoslav Republic of Macedonia, the names defined in the lists established in accordance with Article 14(2)(a) shall be protected.

Article 6

Trade marks

1. The registration of a trade mark for a wine which contains or consists of a protected name under this Agreement shall be refused or, at the request of the party concerned, invalidated if:

- the wine in question does not originate in the place to which the geographical indication refers or, as the case may be,
- the wine in question is not one to which the traditional expression is reserved.

2. However, a trade mark registered in good faith no later than 31 December 1995 may be used until 31 December 2005, provided it has actually been in continuous use since being registered.

Article 7

Exports

The Contracting Parties shall take all measures necessary to ensure that in cases where wines originating in the Contracting Parties are exported and marketed outside of their territories, the protected names of one Contracting Party referred to in Article 5 are not used to describe and present a wine originating in the other Contracting Party.

Article 8

Extension of protection

Insofar as the relevant legislation of the Contracting Parties permits, the benefit of the protection afforded by this Agreement shall extend to natural and legal persons, federations, associations and organisations of producers, traders or consumers whose head offices are located in the territory of the other Contracting Party.

Article 9

Enforcement

1. If the appropriate competent authority, designated in accordance with Article 11, becomes aware that the description or presentation of a wine, in particular on the labelling, in official or commercial documents or in advertising, is in breach of this Agreement, the Contracting Parties shall apply the necessary administrative measures and/or shall initiate legal proceedings with a view to combating unfair competition or preventing the wrongful use of the protected name in any other way.

2. The measures and proceedings referred to in paragraph 1 shall be taken in particular in the following cases:

- (a) where the translation of descriptions provided for by Community or the former Yugoslav Republic of Macedonia legislation into the language or languages of the other Contracting Party results in the appearance of a word which is liable to be misleading as to the origin, nature or quality of the wine thus described or presented;
- (b) where descriptions, trade marks, names, inscriptions or illustrations which directly or indirectly give false or misleading information as to the provenance, origin, nature, vine variety or material qualities of the wine appear on containers or packaging, in advertising or in official or commercial documents relating to wines whose names are protected under this Agreement;
- (c) where, for packaging, containers are used which are misleading as to the origin of the wine.

3. The application of paragraphs 1 and 2 shall not prejudice the possibilities of the persons and entities referred to in Article 8 to take appropriate actions in the Contracting Parties, including recourse to the courts.

Article 10

Other internal legislation and international agreements

Unless otherwise agreed by the Contracting Parties, this Agreement shall not preclude any more extensive protection afforded, now or in the future, to names protected by this Agreement, by the Contracting Parties under their internal legislation or other international agreements.

TITLE II

CONTROLS AND MUTUAL ASSISTANCE BETWEEN COMPETENT AUTHORITIES

Article 11

Enforcement authorities

1. Each Contracting Party shall designate the authorities to be responsible for the application of this Agreement. Where a Contracting Party designates more than one competent authority, it shall ensure the coordination of the work of these authorities. For this purpose, a single authority shall be designated.

2. The Contracting Parties shall inform one another of the names and addresses of these authorities not later than two months after this Agreement comes into force. There shall be close and direct cooperation between these authorities.

Article 12

Infringement

1. If one of the authorities referred to in Article 11 has reason to suspect that:

- (a) a wine being or having been traded between the former Yugoslav Republic of Macedonia and the Community does not comply with this Agreement or with provisions laid down in the laws and regulations of the Contracting Parties, and
- (b) this non-compliance is of particular interest to the other Contracting Party and could result in administrative measures and/or legal proceedings being taken,

it shall immediately inform the Commission and the relevant authority or authorities of the other Party.

2. The information to be provided in accordance with paragraph 1 shall be accompanied by official, commercial or other appropriate documents, with details of any administrative measures or legal proceedings that may, if necessary, be taken. The information shall include, in particular, the following details concerning the wine in question:

- (a) the producer and the person who has power of disposal over this wine;
- (b) the composition and organoleptic characteristics of this wine;
- (c) its description and presentation;
- (d) details of the non-compliance with the rules concerning production and marketing.

TITLE III

MANAGEMENT OF THE AGREEMENT

Article 13

Working group

1. Pending the entry into force of the Stabilisation and Association Agreement, a working group, functioning under the auspices of the existing working party, created by Decision No 1/98 of the Cooperation Council ⁽¹⁾ established by the Cooperation Agreement between the European Community and the former Yugoslav Republic of Macedonia signed by Exchange of Letters on 29 April 1997 ⁽²⁾ shall be established.

2. The working group shall see to the proper functioning of this Agreement and shall examine all questions which may arise in implementing it. In particular, the Working Group may make recommendations which would contribute to the attainment of the objectives of this Agreement.

Article 14

Tasks of the contracting parties

1. The Contracting Parties shall, either directly or through the working group, referred to in Article 13, maintain contact on all matters relating to the implementation and the functioning of this Agreement.

2. In particular, the Contracting Parties shall:

- (a) establish and amend by decision of the Interim Committee the lists referred to in Article 5 and the Protocol to this Agreement by mutual decision to take account of any amendments to the laws and regulations of the Contracting Parties;
- (b) inform each other of the intention to decide new regulations or amendments of existing regulations of public policy concern, such as health or consumer protection, with implications for the wine market;
- (c) notify each other of judicial decisions concerning the application of this Agreement and inform each other of measures adopted on the basis of such decisions;

3. Within the framework of this Agreement, either of the Contracting Parties may put forward suggestions for widening the scope of their cooperation in the wine market, taking into account the experience gained in its application.

4. Decisions taken under paragraph 2(a) shall be binding on the Contracting Parties, which shall take the measures necessary to implement the decisions taken.

TITLE IV

GENERAL PROVISIONS

Article 15

Transit — small quantities

This Agreement shall not apply to wines which:

- (a) pass in transit through the territory of one of the Contracting Parties, or

- (b) originate in the territory of one of the Contracting Parties and which are consigned in small quantities between those Contracting Parties under the conditions and according to the procedures provided for in the Protocol.

Article 16

Territorial application

This Agreement shall apply, on the one hand, to the territories to which the Treaty establishing the European Community applies and under the conditions laid down in that Treaty and, on the other hand, to the territory of the former Yugoslav Republic of Macedonia.

Article 17

Failure to comply

1. The Contracting Parties shall enter into consultations if one of them considers that the other has failed to fulfil an obligation under this Agreement.

2. The Contracting Party which requests the consultations shall provide the other Party with all the information necessary for a detailed examination of the case in question.

3. In cases where any delay could endanger human health or impair the effectiveness of measures to control fraud, appropriate interim protective measures may be taken, without prior consultation, provided that consultations are held immediately after the taking of these measures.

4. If, following the consultations provided for in paragraphs 1 and 3, the Contracting Parties have not reached agreement, the Party which requested the consultations or which took the measures referred to in paragraph 3 may take appropriate protective measures so as to permit the proper application of this Agreement.

Article 18

Marketing of pre-existing stocks

1. Wines which, at the time of the entry into force of this Agreement, have been produced, prepared, described and presented in compliance with the internal laws and regulations of the Parties but are prohibited by this Agreement may be sold until stocks run out.

2. Except where provisions to the contrary are adopted by the Contracting Parties, wines which have been produced, prepared, described and presented in compliance with this Agreement but whose production, preparation, description and presentation cease to comply therewith as a result of an amendment thereto may continue to be marketed until stocks run out.

⁽¹⁾ OJ L 190, 4.7.1998, p. 48.

⁽²⁾ OJ L 348, 18.12.1997, p. 1.

Protocol to the Agreement between the European Community and the former Yugoslav Republic of Macedonia on the reciprocal recognition, protection and control of wine names

THE CONTRACTING PARTIES HEREBY AGREE AS FOLLOWS:

Pursuant to Article 15(b) of the Agreement, the following shall be considered to be small quantities of wine:

1. quantities in labelled containers of not more than 5 litres fitted with a non-reusable closing device where the total quantity transported, whether or not made up of separate consignments, does not exceed 50 litres;
2. (a) quantities contained in the personal luggage of travellers in quantities not exceeding 30 litres;
(b) quantities sent in consignments from one private individual to another in quantities not exceeding 30 litres;
(c) quantities forming part of the belongings of private individuals who are moving house;
(d) quantities imported for the purpose of scientific or technical experiments, subject to a maximum of 1 hectolitre;
(e) quantities imported for diplomatic, consular or similar establishments as part of their duty-free allowance;
(f) quantities held on board international means of transport as victualling supplies.

The case of exemption referred to in point 1 may not be combined with one or more of the cases of exemption referred to in point 2.

ANNEX III

AGREEMENT

between the European Community and the former Yugoslav Republic of Macedonia on the reciprocal recognition, protection and control of designations for spirits and aromatised drinks

Article 1

Objectives

1. The Contracting Parties hereby agree, in accordance with the principles of non-discrimination and reciprocity, to recognise, protect and control designations for spirits and aromatised drinks originating in their territory on the basis of the conditions laid down herein.

2. The Contracting Parties shall take all general and specific measures necessary to ensure that the obligations laid down by this Agreement are fulfilled and that the objectives set out in this Agreement are attained.

Article 2

Scope and coverage

This Agreement applies to the following products:

(a) spirit drinks as defined:

— for the Community, in Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks ⁽¹⁾,

— for the former Yugoslav Republic of Macedonia, in the regulations on the quality of spirits (*Official Journal of the Socialist Federative Republic of Yugoslavia* No 16/88), as last amended by the regulations on the quality of spirits (*Official Journal of the Socialist Federative Republic of Yugoslavia* No 63/88),

and falling within heading No 2208 of the International Convention on the Harmonised Commodity Description and Coding System, done at Brussels on 14 June 1983;

(b) aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails, hereinafter called 'aromatised drinks', as defined:

— for the Community, in Council Regulation (EEC) No 1601/1991 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails ⁽²⁾,

— for the former Yugoslav Republic of Macedonia, in the regulations on the quality of wines (*Official Journal of the Socialist Federative Republic of Yugoslavia* No 17/81), as last amended by the regulations on the quality of wines (*Official Journal of the Socialist Federative Republic of Yugoslavia* No 14/89),

and covered by headings Nos 2205 and ex 2206 of the International Convention on the Harmonised Commodity Description and Coding System, done at Brussels on 14 June 1983.

Article 3

Definitions

For the purposes of this Agreement:

- (a) 'spirit drink originating in', followed by the name of one of the Contracting Parties, means a spirit drink produced in the territory of that Party;
- (b) 'aromatised drinks originating in', followed by the name of one of the Contracting Parties, means an aromatised drink produced in the territory of that Party;
- (c) 'description' means the words used on labelling, on any documents accompanying spirits or aromatised drinks during transport, on commercial documents, particularly invoices and delivery notes, and in advertising;
- (d) 'homonymous' shall mean the same protected name, or a protected name so similar as to be likely to cause confusion, to denote different places of origin, or different spirit drinks and aromatised drinks originating in the respective territories of the Contracting Parties;
- (e) 'labelling' means all descriptions and other references, signs, symbols, illustrations or trade marks identifying spirits and aromatised drinks and appearing on the container, including the sealing device or the tag attached thereto, and the sheathing covering the neck of bottles;
- (f) 'presentation' means the words or signs used on containers, including their closure, on the labelling and on the packaging;
- (g) 'packaging' means the protective wrappings such as paper, straw wrapping of all kinds, cartons and cases, used in the transport of one or more containers and/or in their presentation for sale to the final consumer;

⁽¹⁾ OJ L 160, 12.6.1989, p. 1. Regulation as last amended by Regulation (EC) No 3378/94 of the European Parliament and of the Council (OJ L 366, 31.12.1994, p. 1).

⁽²⁾ OJ L 149, 14.6.1991, p. 1. Regulation as last amended by Regulation (EC) No 2061/96 of the European Parliament and of the Council (OJ L 277, 30.10.1996, p. 1).

(h) 'trade mark' shall mean:

- a trade mark registered in terms of the legislation of a Contracting Party,
- a common law trade mark which is recognised under the law of a Contracting Party, and
- a well-known trade mark referred to in Article 6 bis of the Paris Convention for the Protection of Industrial Property (1967).

TITLE I

RECIPROCAL PROTECTION OF DESIGNATIONS OF SPIRITS AND AROMATISED DRINKS

Article 4

Principles

1. Without prejudice to Articles 22 and 23 of the Agreement on trade-related aspects of intellectual property rights (hereinafter called 'the TRIPs Agreement') set out in Annex 1C to the Agreement establishing the World Trade Organisation, the Parties shall take all the necessary measures, in accordance with that Annex, to ensure reciprocal protection of the designations referred to in Article 5 and used to describe spirits and aromatised drinks originating in the territory of the Parties. To that end, each Party shall provide the interested parties with the appropriate legal means for preventing the use of a designation to identify spirits or aromatised drinks not originating in the geographical area indicated by the designation in question or in the place where the designation in question is traditionally used.

2. In the former Yugoslav Republic of Macedonia, the protected Community designations:

- may not be used otherwise than under the conditions laid down in the laws and regulations of the Community, and
- shall be reserved exclusively for the spirits and aromatised drinks originating in the Community to which they apply.

3. In the Community, the protected former Yugoslav Republic of Macedonian designations:

- may not be used otherwise than under the conditions laid down in the laws and regulations of the former Yugoslav Republic of Macedonia, and
- shall be reserved exclusively for the spirits and aromatised drinks originating in the former Yugoslav Republic of Macedonia to which they apply.

4. The protection provided for in this Agreement shall prohibit in particular any use of protected designations for spirits and aromatised drinks which do not originate in the geographical area indicated by the designation in question or in the place where the designation in question is traditionally used, and shall apply even when:

- the true origin of the spirits and aromatised drinks is indicated,
- the geographical indication in question is used in translation,
- the name is accompanied by terms such as 'kind', 'type', 'style', 'imitation', 'method' or other expressions of the sort.

5. In cases of homonymous designations for spirits and aromatised drinks, protection shall be accorded to each designation. The Cooperation Council may determine by way of decision the practical conditions under which the homonymous designations in question are to be differentiated from each other, taking into account the need to treat the producers concerned fairly and to avoid misleading the consumer.

6. The provisions of this Agreement shall in no way prejudice the right of any person to use, for trade purposes, their own name or the name of the person whose business they have taken over, provided that such names are not used in a way that misleads consumers.

7. Nothing in this Agreement shall oblige a Party to protect any designation of the other Party which is not protected or ceases to be protected in its country of origin or which has fallen into disuse in that country.

8. The Contracting Parties hereby waive their right to invoke Article 24(4) to (7) of the TRIPs Agreement in order to refuse to grant protection to designations from the other Party.

Article 5

Protected designations

The following designations shall be protected:

- (a) as regards spirit drinks originating in the Community, the designations in list 1;
- (b) as regards spirit drinks originating in the former Yugoslav Republic of Macedonia, the designations in list 2;
- (c) as regards aromatised drinks originating in the Community, the designations in list 3;
- (d) as regards aromatised drinks originating in the former Yugoslav Republic of Macedonia, the designations in list 4.

Article 6

Trade marks

1. The registration of a trade mark for a spirit drink or aromatised drink which contains or consists of a designation as referred to in Article 5 shall be refused or, at the request of an interested party, be invalidated, with respect to such spirits not originating in the place indicated by the designation.

2. Notwithstanding paragraph 1, a trade mark registered in good faith by 31 December 1995 at latest may be used until 31 December 2005, provided it has been used effectively without interruption since its registration.

*Article 7***Exports**

The Parties shall take all measures necessary to ensure that, in cases where spirits or aromatised drinks originating in the territory of the Parties are exported and marketed outside their territory, the designations of one Party protected under this Agreement are not used to designate and present spirits or aromatised drinks originating in the other Party.

*Article 8***Extension of protection**

To the extent that the relevant legislation of the Parties allows, the benefit of the protection afforded by this Agreement shall cover natural and legal persons and federations, associations and organisations of producers, traders and consumers whose head offices are located in the territory of the other Party.

*Article 9***Enforcement**

1. If the appropriate competent authority, designated in accordance with Article 11, becomes aware that the description or presentation of a spirit drink or aromatised drink, in particular on the labelling, in official or commercial documents or in advertising, is in breach of this Agreement, the Parties shall apply the necessary administrative measures and/or shall initiate suitable legal proceedings with a view to combating unfair competition or preventing the wrongful use of the protected designation in any other way.

2. The measures and proceedings referred to in paragraph 1 shall be taken in particular in the following cases:

- (a) where the translation of designations provided for by Community or the former Yugoslav Republic of Macedonia legislation into the language or languages of the other Contracting Party results in the appearance of a word which is liable to be misleading as to the origin, nature or quality of the spirits or aromatised drinks thus identified;
- (b) where descriptions, trade marks, words, inscriptions or illustrations which directly or indirectly give false or misleading information as to the origin, nature, material qualities of the spirit drink or aromatised drink appear on containers or packaging, in advertising or in official or commercial documents relating to designations protected under this Agreement;
- (c) where, for packaging, containers are used which are misleading as to the origin of the spirit drink or aromatised drink.

3. The application of paragraphs 1 and 2 shall not prejudice the possibilities of the persons and entities referred to in Article

8 to take appropriate actions in the Contracting Parties, including recourse to the Courts.

*Article 10***Other internal legislation and international agreements**

Unless otherwise agreed by the Contracting Parties, this Agreement shall not preclude any more extensive protection afforded, now or in the future, to designations protected by this Agreement by the Contracting Parties under their internal legislation or other international agreements.

TITLE II

CONTROLS AND MUTUAL ASSISTANCE BETWEEN COMPETENT AUTHORITIES*Article 11***Enforcement authorities**

1. The Contracting Parties shall each designate the authorities responsible for the enforcement of this Agreement. Where a Contracting Party designates more than one competent authority, it shall ensure the coordination of the work of these authorities. For this purpose, a single authority shall be designated.

2. The Parties shall inform one another of the names and addresses of the above authorities not later than two months after this Agreement comes into force. These authorities shall cooperate closely and directly with each other.

*Article 12***Infringement**

1. If one of the authorities referred to in Article 11 has reason to suspect that:

- (a) a spirit drink or aromatised drink as defined in Article 2, being or having been traded between the former Yugoslav Republic of Macedonia and the Community, does not comply with this Agreement or with provisions, laid down in the laws and regulations of the Contracting parties, applicable to spirits and aromatised drinks, and
- (b) this non-compliance is of particular interest to the other Contracting Party and could result in administrative measures and/or legal proceedings being taken,

it shall immediately inform the Commission and the relevant authority or authorities of the other Party.

2. The information to be provided in accordance with paragraph 1 shall be accompanied by official, commercial or other appropriate documents, with details of any administrative measures or legal proceedings that may, if necessary, be taken. The information shall include, in particular, the following details concerning the spirits or aromatised drink in question:

- (a) the producer and the person who has power of disposal over the spirits or aromatised drink;
- (b) the composition and organoleptic characteristics of that drink;
- (c) its description and presentation;
- (d) details of the non-compliance with the rules concerning production and marketing.

TITLE III

MANAGEMENT OF THE AGREEMENT

Article 13

Working group

1. Pending the entry into force of the Stabilisation and Association Agreement, a working group, functioning under the auspices of the existing working party created by Decision No 1/98 of the Cooperation Council ⁽¹⁾ established by the Cooperation Agreement between the European Community, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, signed by Exchange of Letters on 29 April 1997 ⁽²⁾, shall be established.

2. The working group shall see to the proper functioning of this Agreement and shall examine all questions which may arise in implementing it. In particular, the working group may make recommendations which would contribute to the attainment of the objectives of this Agreement.

Article 14

Tasks of the Contracting Parties

1. The Contracting Parties shall, either directly or through the working group referred to in Article 13, maintain contact on all matters relating to the implementation and the functioning of this Agreement.

2. In particular, the Contracting Parties shall:

- (a) establish and amend by decision of the Cooperation Council the lists referred to in Article 5 and the Protocol of this Agreement to take account of any amendments to the laws and regulations of the Contracting Parties;
- (b) inform each other of the intention to decide new regulations or amendments of existing regulations of public policy concern, such as health or consumer protection, with implications for the spirits and aromatised drinks market;
- (c) notify each other of judicial decisions concerning the application of this Agreement and inform each other of measures adopted on the basis of such decisions.

3. Within the framework of this Agreement, either of the Contracting Parties may put forward suggestions for widening the scope of their cooperation in the spirits and aromatised

drinks market, taking into account the experience gained in its application.

4. Decisions taken under paragraph 2(a) shall be binding on the Parties, which shall take the measures necessary to implement the decisions taken.

TITLE IV

GENERAL PROVISIONS

Article 15

Transit — small quantities

This Agreement shall not apply to spirits and aromatised drinks which:

- (a) pass in transit through the territory of one of the Contracting Parties, or
- (b) originate in the territory of one of the Contracting Parties and which are consigned in small quantities between those Contracting Parties under the conditions and according to the procedures provided for in the Protocol.

Article 16

Territorial application

This Agreement shall apply, on the one hand, to the territories to which the Treaty establishing the European Community applies and under the conditions laid down in that Treaty and, on the other hand, to the territory of the former Yugoslav Republic of Macedonia.

Article 17

Failure to comply

1. The Contracting Parties shall enter into consultations if either considers that the other has failed to fulfil an obligation under this Agreement.

2. The Contracting Party which requests the consultations shall provide the other with all information necessary for a detailed examination of the case in question.

3. In cases where any delay could endanger human health or impair the effectiveness of measures to control fraud, appropriate interim protective measures may be taken, without prior consultation, provided that consultations are held immediately after such measures are taken.

4. If, following the consultations provided for in paragraph 1 and 3, the Contracting Parties have not reached agreement, the Party which has requested the consultations or taken the measures referred to in paragraph 3 may take appropriate safeguard measures so as to permit the proper application of this Agreement.

⁽¹⁾ OJ L 190, 4.7.1998, p. 48.

⁽²⁾ OJ L 348, 18.12.1997, p. 2.

*Article 18***Marketing of pre-existing stocks**

1. Spirits and aromatised drinks which, at the time of entry into force of this Agreement, have been legally produced, described and presented, in accordance with the internal laws and regulations of the Contracting Parties, but which may be prohibited by this Agreement may be marketed by wholesalers for a period of one year from the entry into force of the Agreement and by retailers until stocks are exhausted. From the entry into force of this Agreement, spirits and aromatised drinks included herein may no longer be produced outside the limits of their regions of origin.
 2. Spirits and aromatised drinks produced, described and presented in accordance with this Agreement whose description and presentation cease to comply with this Agreement following an amendment thereto may continue to be marketed until stocks are exhausted, unless otherwise agreed by the Contracting Parties.
-

Protocol to the Agreement between the European Community and the Former Yugoslav Republic of Macedonia on the reciprocal recognition, protection and control of destinations for spirits and aromatised drinks

THE CONTRACTING PARTIES HEREBY AGREE AS FOLLOWS:

Pursuant to Article 15(b) of the Agreement, the following shall be considered to be small quantities of spirits and aromatised drinks:

1. quantities in labelled containers of not more than 5 litres fitted with a non-reusable closing device where the total quantity transported, whether or not made up of separate consignments, does not exceed 10 litres;
2. (a) quantities contained in the personal luggage of travellers in quantities not exceeding 10 litres;
(b) quantities sent in consignments from one private individual to another in quantities not exceeding 10 litres;
(c) quantities forming part of the belongings of private individuals who are moving house;
(d) quantities imported for the purpose of scientific or technical experiments, subject to a maximum of 1 hectolitre;
(e) quantities imported for diplomatic, consular or similar establishments as part of their duty-free allowance;
(f) quantities held on board international means of transport as victualling supplies.

The case of exemption referred to in point 1 may not be combined with one or more of the cases of exemption referred to in point 2.

COUNCIL DECISION

of 3 December 2001

on the conclusion of an Additional Protocol adjusting the trade aspects of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part, to take account of the outcome of the negotiations between the parties on reciprocal preferential concessions for certain wines, the reciprocal recognition, protection and control of wine names and the reciprocal recognition, protection and control of designations for spirits and aromatised drinks

(2001/918/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133, in conjunction with the first sentence of the first subparagraph of Article 300(2), and Article 300(4) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other, hereinafter referred to as the 'Stabilisation and Association Agreement', was initialled on 14 May 2001 and signed on 29 October 2001. Article 27(4) of the Stabilisation and Association Agreement provides that the trade arrangements to apply to wine and spirits products remains to be defined.
- (2) In accordance with the Directives adopted by the Council on 13 November 2000, the Commission and the Republic of Croatia reached agreement on 20 April 2001 on new reciprocal trade concessions for certain wines and on the reciprocal recognition, protection and control of wine names and spirits designations. In order to ensure consistency within the overall stabilisation process, the results of these negotiations should be integrated into the framework of the Stabilisation and Association Agreement in the form of an Additional Protocol.
- (3) Provisions to adopt the implementing Regulations on preferential trade concessions provided for certain wines should be made by the Commission, assisted by the

Customs Code Committee set up by Article 248a of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽¹⁾, notwithstanding Article 62 of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine⁽²⁾. The Commission is to make the necessary amendments and technical adaptations to the implementing Regulations which might result from new preferential agreements, protocols, Exchanges of Letters or other acts concluded between the European Community and the Republic of Croatia, or which are necessary following the changes to the Combined Nomenclature and TARIC codes.

- (4) In order to facilitate the implementation of certain provisions of the Protocol, the Commission should be authorised to approve, on behalf of the Community, decisions amending the lists and the Protocols to the Agreement on the reciprocal recognition, protection and control of wine names (Annex II to the Protocol) and to the Agreement on the reciprocal recognition, protection and control of designations of spirits and aromatised drinks (Annex III to the Protocol). In adopting these acts, the Commission should be assisted by the Management Committee for Wine set up by Article 74 of Regulation (EC) No 1493/1999, on the one hand, and by the Implementation Committee for Spirit Drinks set up by Article 13 of Council Regulation (EC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks⁽³⁾ and the Implementation Committee for aromatised wines set up by Article 12 of Council Regulation (EEC) No 1601/1991 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails⁽⁴⁾, on the other hand.
- (5) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽⁵⁾,

⁽¹⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 2700/2000 (OJ L 311, 12.12.2000, p. 17).

⁽²⁾ OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 2826/2000 (OJ L 328, 23.12.2000, p. 2).

⁽³⁾ OJ L 160, 12.6.1989, p. 1. Regulation as last amended by Regulation (EC) No 3378/94 of the European Parliament and of the Council (OJ L 366, 31.12.1994, p. 1).

⁽⁴⁾ OJ L 149, 14.6.1991, p. 1. Regulation as last amended by Regulation (EC) No 2061/96 of the European Parliament and of the Council (OJ L 277, 30.10.1996, p. 1).

⁽⁵⁾ OJ L 184, 17.7.1999, p. 23.

HAS DECIDED AS FOLLOWS:

Article 1

The Additional Protocol adjusting the trade aspects of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part, to take account of the outcome of the negotiations between the parties on reciprocal preferential concessions for certain wines, the reciprocal recognition, protection and control of wine names and the reciprocal recognition, protection and control of designations for spirits and aromatised drinks (hereinafter referred to as 'the Protocol'), is hereby approved on behalf of the Community.

The text of the Protocol is attached to this Decision.

Article 2

1. The President of the Council is hereby authorised to designate the person empowered to sign the Protocol on behalf of the Community, in order to express the consent of the Community to be bound.

2. The President of the Council shall, on behalf of the Community, make the notification of approval provided for in Article 3 of the Protocol.

Article 3

Provisions for the application of the tariff quotas for certain wines provided in Annex I to the Protocol, as well as amendments and technical adaptations to the implementing Regulations necessary following changes to the Combined Nomenclature codes and to the TARIC subdivisions or arising from the conclusion of new agreements, protocols, Exchanges of Letters or other acts between the Community and the Republic of Croatia, shall be adopted by the Commission according to the procedure set out in Article 4(2) of this Decision, without prejudice to Article 62 of Regulation (EC) No 1493/1999.

Article 4

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

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 4(3) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

Article 5

1. For the purposes of the decisions of the Stabilisation and Association Committee concerning the establishment of lists of protected names provided for in Article 4(7) and Article

14(2)(a) of the Agreement on the reciprocal recognition, protection and control of wine names, the Community's position shall be established by the Council acting by qualified majority on a proposal from the Commission.

2. Without prejudice to paragraph 1, for the purposes of Articles 13 and 14 of the Agreement on the reciprocal recognition, protection and control of wine names, the Commission shall conclude the necessary acts amending the lists and the Protocol to the Agreement according to the procedure set out in Article 6(2) of this Decision. For all other cases coming under the above Articles, the Community position shall be established and presented by the Commission.

Article 6

1. The Commission shall be assisted by the Management Committee for Wine set up by Article 74 of Regulation (EC) No 1493/1999.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its rules of procedure.

Article 7

1. For the purposes of the decisions of the Stabilisation and Association Committee concerning the establishment of lists of protected designations provided for in Article 4(5) and Article 14(2)(a) of the Agreement on the reciprocal recognition, protection and control of designations for spirits and aromatised drinks, the Community's position shall be established by the Council acting by qualified majority on a proposal from the Commission.

2. Without prejudice to paragraph 1, for the purposes of Articles 13 and 14 of the Agreement on the reciprocal recognition, protection and control of designations for spirit and aromatised drinks, the Commission shall conclude the necessary acts amending the lists and the Protocol to the Agreement according to the procedure set out in Article 8(2) of this Decision. For all other cases coming under the above Articles, the Community position shall be established and presented by the Commission.

Article 8

1. The Commission shall be assisted by the Implementation Committee for Spirit Drinks set up by Article 13 of Regulation (EEC) No 1576/89 and by the Implementation Committee for Aromatised Wines, Aromatised Wine-Based Drinks and Aromatised Wine-product Cocktails set up by Article 12 of Regulation (EEC) No 1601/91.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply. The period provided for in Article 5(6) of Decision 1999/468/EC shall be set at one month.
3. The Committees shall adopt their rules of procedure.

Article 9

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Brussels, 3 December 2001.

For the Council

The President

F. VANDENBROUCKE

ADDITIONAL PROTOCOL

adjusting the trade aspects of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part, to take account of the outcome of the negotiations between the parties on reciprocal preferential concessions for certain wines, the reciprocal recognition, protection and control of wine names and the reciprocal recognition, protection and control of designations for spirits and aromatised drinks

THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community',

of the one part, and

THE REPUBLIC OF CROATIA, hereinafter referred to as 'Croatia',

of the other part,

hereinafter referred to as 'the Contracting Parties',

WHEREAS the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part, was initialled in Brussels on 14 May 2001 and signed in Luxembourg on 29 October 2001,

WHEREAS Article 27(4) of the Stabilisation and Association Agreement provides that a wine and spirits agreement remains to be negotiated,

WHEREAS an Interim Agreement is to ensure the development of trade links through the establishment of a contractual relation and implement as speedily as possible the provision of the Stabilisation and Association Agreement on trade and trade-related matters. This Interim Agreement was initialled on 10 July 2001 and signed on 29 October 2001 and should be applied from 1 January 2002. Article 14(4) of the Interim Agreement repeats the commitment to a separate wine and spirits protocol,

WHEREAS on this basis negotiations have been undertaken and were concluded between the Parties,

WHEREAS, in order to ensure consistency within the overall stabilisation process, the wine and spirits agreement should be integrated into the framework of the Stabilisation and Association Agreement in the form of a Protocol,

WHEREAS this Protocol on wines and spirits should enter into force on the same date as the Stabilisation and Association Agreement,

WHEREAS to this end it is necessary to implement as speedily as possible the provisions of this Protocol,

DESIROUS of improving the conditions for the marketing of wines, spirits and aromatised drinks on their respective markets, in accordance with the principles of quality, mutual benefit and reciprocity,

HAVING REGARD to the interest of both Contracting Parties in the reciprocal protection and control of wine names, designations for spirits and aromatised drinks,

HAVE AGREED AS FOLLOWS:

Article 1

This Protocol includes the following elements:

1. an Agreement on reciprocal preferential trade concessions for certain wines (Annex I to this Protocol);
2. an Agreement on the reciprocal recognition, protection and control of wine names (Annex II to this Protocol);
3. an Agreement on the reciprocal recognition, protection and control of designations of spirits and aromatised drinks (Annex III to this Protocol).

The lists referred to in Article 5 of the Agreement mentioned in point 2 and in Article 5 of the Agreement mentioned in point 3 shall be established at a later stage and approved according to the procedure laid down in the respective Articles 13 and 14 of these Agreements.

Article 2

This Protocol shall form an integral part of the Stabilisation and Association Agreement. The Annexes to this Protocol shall form an integral part thereof.

Article 3

This Protocol shall be approved by the Community and the Republic of Croatia in accordance with their own procedures. The Contracting Parties shall take the necessary measures to implement this Protocol.

The Contracting Parties shall notify each other of the accomplishment of the corresponding procedures referred to in the preceding paragraph.

Article 4

This Protocol shall enter into force on the same date as the Stabilisation and Association Agreement.

Article 5

This Protocol shall be drawn up in duplicate in each of the official languages of the Contracting Parties, each of these texts being equally authentic.

Hecho en Zagreb, el siete de diciembre del dos mil uno.

Udfærdiget i Zagreb den syvende december to tusind og en.

Geschehen zu Zagreb am siebten Dezember zweitausendundeins.

Έγινε στο Ζάγκρεμπ, στις εφτά Δεκεμβρίου δύο χιλιάδες ένα.

Done at Zagreb on the seventh day of December in the year two thousand and one.

Fait à Zagreb, le sept décembre deux mille un.

Fatto a Zagabria, addì sette dicembre duemilauno.

Gedaan te Zagreb, de zevende december tweeduizendeneen.

Feito em Zagrebe, em sete de Dezembro de dois mil e um.

Tehty Zagrebissa seitsemäntenä päivänä joulukuuta vuonna kaksituhattayksi.

Som skedde i Zagreb den sjunde december tjugohundraett.

Sastavljeno u Zagrebu dana sedmog prosinca dvijetisucé i prve godine.

Por la Comunidad Europea

For Det Europæiske Fællesskab

Für die Europäische Gemeinschaft

Για την Ευρωπαϊκή Κοινότητα

For the European Community

Pour la Communauté européenne

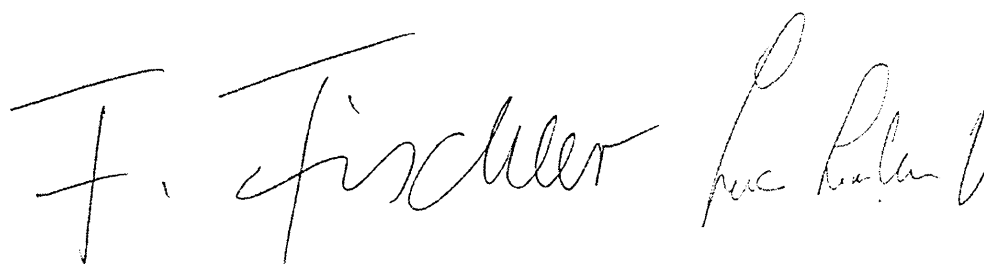
Per la Comunità europea

Voor de Europese Gemeenschap

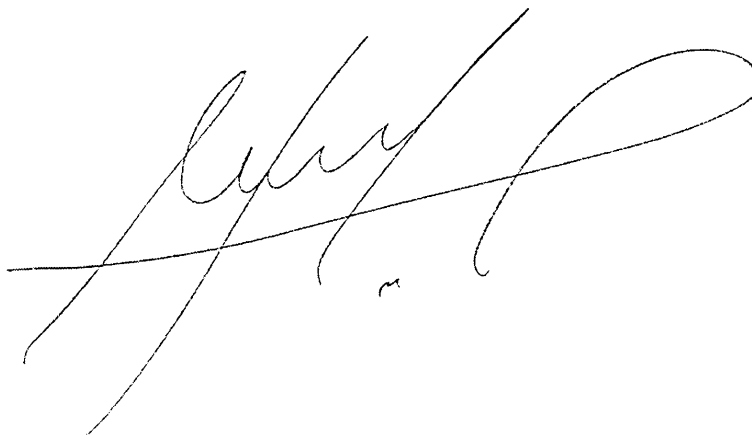
Pela Comunidade Europeia

Euroopan yhteisön puolesta

På Europeiska gemenskapens vägnar

A handwritten signature in cursive script, reading "F. Fischer". To the right of the name, there is a smaller, less legible handwritten note that appears to say "per R. L. L. L."

Za Republiku Hrvatsku

A large, stylized handwritten signature in cursive script, consisting of several loops and a long horizontal stroke at the end.

ANNEX I

AGREEMENT

between the European Community and the Republic of Croatia on reciprocal preferential trade concessions for certain wines

1. Imports into the Community of the following products originating in the Republic of Croatia shall be subject to the concessions set out below:

CN code	Description	Applicable duty	Year 2002 quantities (hl)	Yearly increase (hl)	Specific provisions
ex 2204 10	Quality sparkling wine	exemption	30 000	10 000	(¹) (²)
ex 2204 21	Wine of fresh grapes				
ex 2204 29	Wine of fresh grapes	exemption	15 000	0	(²)

(¹) Subject to at least 80 % of the eligible quantity having been utilised in the previous year, the yearly increase is applied until the sum of the quota applying to positions ex 2204 10 and ex 2204 21 and the quota applying to position ex 2204 29 reaches a maximum of 70 000 hl.

(²) Consultations at the request of one of the Contracting Parties may be held to adapt the quotas by transferring quantities from the quota applying to positions ex 2204 29 to the quota applying to positions ex 2204 10 and ex 2204 21.

2. The Community shall grant a preferential zero-duty within tariff quotas as mentioned under point 1, subject to the condition that no export subsidies shall be paid for exports of these quantities by the Republic of Croatia.

3. Imports into the Republic of Croatia of the following products originating in the Community shall be subject to the concessions set out below:

Croatian customs tariff code	Description	Applicable duty	Year 2002 quantities (hl)	Yearly increase (hl)	Specific provisions
ex 2204 10	Quality sparkling wine	exemption	8 000	800	(¹)
ex 2204 21	Wine of fresh grapes				

(¹) Subject to at least 80 % of the eligible quantity having been utilised in the previous year, the yearly increase is applied until the quota reaches a maximum of 12 000 hl.

4. The Republic of Croatia shall grant a preferential zero-duty within tariff quotas as mentioned under point 3, subject to the condition that no export subsidies shall be paid for exports of these quantities by the Community.

5. This Agreement shall cover wine:

- (a) which has been produced from fresh grapes wholly produced and harvested in the territory of the Contracting Party in question, and
- (b) (i) originating in the European Union, which has been produced in accordance with the rules governing the oenological practices and processes referred to in Title V of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine (¹);
- (ii) originating in the Republic of Croatia, which has been produced in accordance with the rules governing the oenological practices and processes in conformity with Croatian law. These oenological rules referred to shall be in conformity with the Community legislation.

(¹) OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 2826/2000 (OJ L 328, 23.12.2000, p. 2).

6. Imports of wine under the concessions provided in this Agreement will be subject to the presentation of a certificate issued by a mutually recognised official body appearing on the lists drawn up jointly, to the effect that the wine in question complies with point 5(b).
 7. The Contracting Parties shall examine no later than in the first quarter of 2005 the opportunities for granting each other further concessions taking into account the development of wine trade between the Contracting Parties.
 8. The Contracting Parties shall ensure that the benefits granted reciprocally are not called into question by other measures.
 9. Consultations are to take place at the request of either Contracting Party on any problem relating to the way this Agreement operates.
 10. This Agreement shall apply, on the one hand, in the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, in the territory of the Republic of Croatia.
-

ANNEX II

AGREEMENT

between the European Community and the Republic of Croatia on the reciprocal recognition, protection and control of wine names*Article 1***Objectives**

1. The Contracting Parties hereby agree, in accordance with the principles of non-discrimination and reciprocity, to recognise, protect and control names of wines originating in their territory on the conditions laid down herein.
2. The Contracting Parties shall take all general and specific measures necessary to ensure that the obligations laid down by this Agreement are fulfilled and that the objectives set out in this Agreement are attained.

*Article 2***Scope and coverage**

This Agreement shall apply to wines falling under heading No 2204 of the International Convention on the Harmonised Commodity, Description and Coding System ('Harmonised System'), done at Brussels on 14 June 1983.

*Article 3***Definitions**

For the purposes of this Agreement and except where otherwise expressly provided herein:

- (a) 'wine originating in' followed by the name of one of the Contracting Parties means a wine produced in the territory of the said Party from grapes which have been wholly harvested in its territory;
- (b) 'geographical indication' means any indication, including an 'appellation of origin', as defined in Article 22(1) of the Agreement on trade-related aspects of intellectual property rights (hereinafter referred to as 'the TRIPs Agreement'), that is recognised by the laws or regulations of a Contracting Party for the purpose of describing and presenting a wine originating in the territory of that Contracting Party;
- (c) 'traditional expression' means a traditionally used name, as specified in the Annex, referring in particular to the method of production or to the quality, colour or type of wine which is sufficiently distinctive and/or of established reputation and recognised by the laws and regulations of a Contracting Party for the purpose of describing and presenting of such a wine originating in the territory of that Contracting Party;
- (d) 'protected name' means a geographical indication or a traditional expression as defined in paragraphs (b) and (c) respectively that is protected under this Agreement;
- (e) 'homonymous' shall mean the same protected name, or a protected name so similar as to be likely to cause confusion, to denote different places of origin, or different wines originating in the respective territories of the Contracting Parties;
- (f) 'description' means the words used to describe a wine on a label, or on the documents accompanying the transport of that wine, on commercial documents, particularly invoices and delivery notes, and in advertising;
- (g) 'labelling' means all descriptions and other references, signs, designs or trade marks identifying a wine and appearing on the container, including its sealing device or the tag attached thereto and the sheathing covering the neck of bottles;
- (h) 'presentation' means the words or signs used on containers, including their closure, on the labelling and on the packaging;
- (i) 'packaging' means the protective wrappings such as paper, straw envelopes of all kinds, cartons and cases, used in the transport of one or more containers and/or for their presentation for sale to the final consumer;
- (j) 'trade mark' shall mean:
 - a trade mark registered in terms of the legislation of a Contracting Party,
 - a common law trade mark which is recognised under the law of a Contracting Party, and
 - a well-known trade mark referred to in Article 6 bis of the Paris Convention for the Protection of Industrial Property (1967).

TITLE I

RECIPROCAL PROTECTION OF WINE NAMES*Article 4***Principles**

1. Without prejudice to Articles 22 and 23 of the TRIPs Agreement set out in Annex 1C to the Agreement establishing the World Trade Organisation, the Contracting Parties shall take all necessary measures, in accordance with that Annex, to ensure reciprocal protection of the names referred to in Article 5 which are used for the description and presentation of wines originating in the territory of the Contracting Parties. To that end, each Contracting Party shall provide the interested parties with the appropriate legal means to ensure effective protection and prevent geographical indications and traditional expressions from being used to identify wines not covered by the indications or the descriptions concerned.

2. In Croatia, the protected Community names:
- (a) are reserved exclusively to the wines originating in the Community to which they apply, and
 - (b) may not be used otherwise than under the conditions laid down in the laws and regulations of the Community.
3. In the Community, the protected Croatian names:
- (a) are reserved exclusively to the wines originating in Croatia to which they apply,
 - (b) may not be used otherwise than under the conditions laid down in the laws and regulations of Croatia.
4. The protection provided for in this Agreement shall prohibit in particular any use of protected names for wines which do not originate in the geographical area indicated or in the place where the expression is traditionally used, and shall apply even when:
- the true origin of the wine is indicated,
 - the geographical indication in question is used in translation,
 - the name is accompanied by terms such as 'kind', 'type', 'style', 'imitation', 'method' or other expressions of the sort.
5. In the case of homonymous geographical indications:
- (a) where such indications protected under this Agreement are homonymous, protection shall be granted to each indication, provided it has been used traditionally and consistently and consumers are not misled as to the true origin of the wine;
 - (b) where such indications protected under this Agreement are homonymous with the name of a geographical area outside the territory of the Parties, the latter name may be used to describe and present a wine produced in the geographical area to which the name refers, provided it is traditionally and consistently used, its use for that purpose is regulated by the country of origin and consumers are not misled into believing that the wine originates in the territory of the Party concerned.
6. In the case of homonymous traditional expressions:
- (a) where such expressions protected under this Agreement are homonymous, protection shall be granted to each expression, provided it has been used traditionally and consistently and consumers are not misled as to the true origin of the wine;
 - (b) where such expressions protected under this Agreement are homonymous with the name used for a wine not originating in the territory of the Parties, the latter name may be used to describe and present a wine, provided it is traditionally and consistently used, its use for that purpose is regulated by the country of origin and consumers are not misled into believing that the wine originates in the territory of the Party concerned.

7. The Stabilisation and Association Committee may determine by way of decision the practical conditions of use to enable a distinction to be drawn between the homonymous indications or expressions referred to in paragraphs 5 and 6, bearing in mind the need to treat the producers concerned fairly and to ensure that consumers are not misled.

8. The provisions of this Agreement shall in no way prejudice the right of any person to use, in the course of trade, their name or the name of their predecessor in business, except where such name is used in such a manner as to mislead consumers.

9. Nothing in this Agreement shall oblige a Contracting Party to protect a geographical indication or traditional expression of the other Contracting Party which is not or ceases to be protected in its country of origin or which has fallen into disuse in that country.

10. The Contracting Parties hereby waive their right to invoke Article 24(4) to (7) of the TRIPs Agreement in order to refuse to grant protection to a name, from the other Party, for products covered by this Agreement.

Article 5

Protected names

The following names shall be protected with regard to wines:

- (a) originating in the Community:
 - references to the name of the Member State in which the wine originates,
 - the geographical indications and traditional expressions appearing in the lists drawn up for this purpose;
- (b) originating in Croatia:
 - the name 'Croatia' or any other name designating that country,
 - the geographical indications and traditional expressions appearing in the lists drawn up for this purpose.

Article 6

Trade marks

1. The registration of a trade mark for a wine which contains or consists of a protected name under this Agreement shall be refused or, at the request of the party concerned, invalidated if:

- the wine in question does not originate in the place to which the geographical indication refers or, as the case may be,
- the wine in question is not one to which the traditional expression is reserved.

2. However, a trade mark registered in good faith no later than 31 December 1995 may be used until 31 December 2005, provided it has actually been in continuous use since being registered.

Article 7

Exports

The Contracting Parties shall take all measures necessary to ensure that in cases where wines originating in the Contracting Parties are exported and marketed outside their territories, the protected names of one Contracting Party referred to in Article 5 are not used to describe and present a wine originating in the other Contracting Party.

Article 8

Extension of protection

Insofar as the relevant legislation of the Contracting Parties permits, the benefit of the protection afforded by this Agreement shall extend to natural and legal persons, federations, associations and organisations of producers, traders or consumers whose head offices are located in the territory of the other Contracting Party.

Article 9

Enforcement

1. If the appropriate competent authority, designated in accordance with Article 11, becomes aware that the description or presentation of a wine, in particular on the labelling, in official or commercial documents or in advertising, is in breach of this Agreement, the Contracting Parties shall apply the necessary administrative measures and/or shall initiate legal proceedings with a view to combating unfair competition or preventing the wrongful use of the protected name in any other way.

2. The measures and proceedings referred to in paragraph 1 shall be taken in particular in the following cases:

- (a) where the translation of descriptions provided for by Community or Croatian legislation into the language or languages of the other Contracting Party results in the appearance of a word which is liable to be misleading as to the origin, nature or quality of the wine thus described or presented;
- (b) where descriptions, trade marks, names, inscriptions or illustrations which directly or indirectly give false or misleading information as to the provenance, origin, nature, vine variety or material qualities of the wine appear on containers or packaging, in advertising or in official or commercial documents relating to wines whose names are protected under this Agreement;
- (c) where, for packaging, containers are used which are misleading as to the origin of the wine.

3. The application of paragraphs 1 and 2 shall not prejudice the possibilities of the persons and entities referred to in Article 8 to take appropriate actions in the Contracting Parties, including recourse to the courts.

Article 10

Other internal legislation and international agreements

Unless otherwise agreed by the Contracting Parties, this Agreement shall not preclude any more extensive protection afforded, now or in the future, to names protected by this Agreement, by the Contracting Parties under their internal legislation or other international agreements.

TITLE II

CONTROLS AND MUTUAL ASSISTANCE BETWEEN COMPETENT AUTHORITIES

Article 11

Enforcement authorities

1. Each Contracting Party shall designate the authorities to be responsible for the application of this Agreement. Where a Contracting Party designates more than one competent authority, it shall ensure the coordination of the work of these authorities. For this purpose, a single authority shall be designated.

2. The Contracting Parties shall inform one another of the names and addresses of these authorities not later than two months after this Agreement comes into force. There shall be close and direct cooperation between these authorities.

Article 12

Infringement

1. If one of the authorities referred to in Article 11 has reason to suspect that:

- (a) a wine being, or having been traded between Croatia and the Community does not comply with this Agreement or with provisions laid down in the laws and regulations of the Contracting Parties, and
- (b) this non-compliance is of particular interest to the other Contracting Party and could result in administrative measures and/or legal proceedings being taken,

it shall immediately inform the Commission and the relevant authority or authorities of the other Party.

2. The information to be provided in accordance with paragraph 1 shall be accompanied by official, commercial or other appropriate documents, with details of any administrative measures or legal proceedings that may, if necessary, be taken. The information shall include, in particular, the following details concerning the wine in question:

- (a) the producer and the person who has power of disposal over this wine;
- (b) the composition and organoleptic characteristics of this wine;
- (c) its description and presentation;
- (d) details of the non-compliance with the rules concerning production and marketing.

TITLE III

MANAGEMENT OF THE AGREEMENT

Article 13

Working group

1. A working group functioning under the auspices of a special Committee on Agriculture to be created in accordance with Article 115 of the Stabilisation and Association Agreement shall be established.
2. The working group shall see to the proper functioning of this Agreement and shall examine all questions which may arise in implementing it. In particular, the working group may make recommendations which would contribute to the attainment of the objectives of this Agreement.

Article 14

Tasks of the Contracting Parties

1. The Contracting Parties shall, either directly or through the working group, referred to in Article 13, maintain contact on all matters relating to the implementation and the functioning of this Agreement.
2. In particular, the Contracting Parties shall:
 - (a) establish and amend by decision of the Stabilisation and Association Committee the lists referred to in Article 5 and the Protocol to this Agreement, to take account of any amendments to the laws and regulations of the Contracting Parties;
 - (b) inform each other of the intention to decide new regulations or amendments of existing regulations of public policy concern, such as health or consumer protection, with implications for the wine market;
 - (c) notify each other of judicial decisions concerning the application of this Agreement and inform each other of measures adopted on the basis of such decisions.
3. Within the framework of this Agreement, either of the Contracting Parties may put forward suggestions for widening the scope of their cooperation in the wine market, taking into account the experience gained in its application.
4. Decisions taken under paragraph 2(a) shall be binding on the Contracting Parties which shall take the measures necessary to implement the decisions taken.

TITLE IV

GENERAL PROVISIONS

Article 15

Transit — small quantities

This Agreement shall not apply to wines which:

- (a) pass in transit through the territory of one of the Contracting Parties, or

- (b) originate in the territory of one of the Contracting Parties and which are consigned in small quantities between those Contracting Parties under the conditions and according to the procedures provided for in the Protocol.

Article 16

Territorial application

This Agreement shall apply, on the one hand, to the territories to which the Treaty establishing the European Community applies and under the conditions laid down in that Treaty and, on the other hand, to the territory of the Republic of Croatia.

Article 17

Failure to comply

1. The Contracting Parties shall enter into consultations if one of them considers that the other has failed to fulfil an obligation under this Agreement.
2. The Contracting Party which requests the consultations shall provide the other Party with all the information necessary for a detailed examination of the case in question.
3. In cases where any delay could endanger human health or impair the effectiveness of measures to control fraud, appropriate interim protective measures may be taken, without prior consultation, provided that consultations are held immediately after the taking of these measures.
4. If, following the consultations provided for in paragraphs 1 and 3, the Contracting Parties have not reached agreement, the Party which requested the consultations or which took the measures referred to in paragraph 3 may take appropriate protective measures so as to permit the proper application of this Agreement.

Article 18

Marketing of pre-existing stocks

1. Wines which, at the time of the entry into force of this Agreement, have been produced, prepared, described and presented in compliance with the internal laws and regulations of the Parties but are prohibited by this Agreement may be sold until stocks run out.
2. Except where provisions to the contrary are adopted by the Contracting Parties, wines which have been produced, prepared, described and presented in compliance with this Agreement but whose production, preparation, description and presentation cease to comply therewith as a result of an amendment thereto may continue to be marketed until stocks run out.

Protocol to the Agreement between the European Community and the Republic of Croatia on the reciprocal recognition, protection and control of wine names

THE CONTRACTING PARTIES HEREBY AGREE AS FOLLOWS:

Pursuant to Article 15(b) of the Agreement, the following shall be considered to be small quantities of wine:

1. quantities in labelled containers of not more than 5 litres fitted with a non-reusable closing device where the total quantity transported, whether or not made up of separate consignments, does not exceed 50 litres;
2. (a) quantities contained in the personal luggage of travellers in quantities not exceeding 30 litres;
(b) quantities sent in consignments from one private individual to another in quantities not exceeding 30 litres;
(c) quantities forming part of the belongings of private individuals who are moving house;
(d) quantities imported for the purpose of scientific or technical experiments, subject to a maximum of 1 hectolitre;
(e) quantities imported for diplomatic, consular or similar establishments as part of their duty-free allowance;
(f) quantities held on board international means of transport as victualling supplies.

The case of exemption referred to in point 1 may not be combined with one or more of the cases of exemption referred to in point 2.

ANNEX III

AGREEMENT

**between the European Community and the Republic of Croatia on the reciprocal recognition,
protection and control of designations for spirits and aromatised drinks**

Article 1

Objectives

1. The Contracting Parties hereby agree, in accordance with the principles of non-discrimination and reciprocity, to recognise, protect and control designations for spirits and aromatised drinks originating in their territory on the basis of the conditions laid down herein.

2. The Contracting Parties shall take all general and specific measures necessary to ensure that the obligations laid down by this Agreement are fulfilled and that the objectives set out in this Agreement are attained.

Article 2

Scope and coverage

This Agreement applies to the following products:

(a) spirit drinks as defined:

— for the Community, in Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks ⁽¹⁾,

— for Croatia, in regulations on the quality of spirits (OJY No 16/8 and 63/88) and also in the Law on wine (*Narodne novine* No 96/96) and in regulations based on the Law on wine (*Narodne novine* No 96/96, 7/97, 117/97, 57/00),

and falling within heading No 2208 of the International Convention on the Harmonised Commodity Description and Coding System, done at Brussels on 14 June 1983;

(b) aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails, hereinafter called 'aromatised drinks', as defined:

— for the Community, in Council Regulation (EEC) No 1601/91 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails ⁽²⁾,

— for Croatia, in regulations on the quality of spirits (OJY No 16/8 and 63/88) and also in the Law on wine (*Narodne novine* No 96/96) and in regulations based on the Law on wine (*Narodne novine* No 96/96, 7/97, 117/97, 57/00),

and covered by heading Nos 2205 and ex 2206 of the International Convention on the Harmonised Commodity Description and Coding System, done at Brussels on 14 June 1983.

Article 3

Definitions

For the purposes of this Agreement:

(a) 'spirit drink originating in', followed by the name of one of the Contracting Parties, means a spirit drink produced in the territory of that Party;

(b) 'aromatised drink originating in', followed by the name of one of the Contracting Parties, means an aromatised drink produced in the territory of that Party,

(c) 'description' means the words used on labelling, on any documents accompanying spirits or aromatised drinks during transport, on commercial documents, particularly invoices and delivery notes, and in advertising;

(d) 'homonymous' shall mean the same protected name, or a protected name so similar as to be likely to cause confusion, to denote different places of origin, or different spirit or aromatised drinks originating in the respective territories of the Contracting Parties;

(e) 'labelling' means all descriptions and other references, signs, symbols, illustrations or trade marks identifying spirits and aromatised drinks and appearing on the container, including the sealing device or the tag attached thereto, and the sheathing covering the neck of bottles;

(f) 'presentation' means the words or signs used on containers, including their closure, on the labelling and on the packaging;

(g) 'packaging' means the protective wrappings such as paper, straw wrapping of all kinds, cartons and cases, used in the transport of one or more containers and/or in their presentation for sale to the final consumer;

⁽¹⁾ OJ L 160, 12.6.1989, p. 1. Regulation as last amended by Regulation (EC) No 3378/94 of the European Parliament and of the Council (OJ L 366, 31.12.1994, p. 1).

⁽²⁾ OJ L 149, 14.6.1991, p. 1. Regulation as last amended by Regulation (EC) No 2061/96 of the European Parliament and of the Council (OJ L 277, 30.10.1996, p. 1).

(h) 'trade mark' shall mean:

- a trade mark registered in terms of the legislation of a Contracting Party,
- a common law trade mark which is recognised under the law of a Contracting Party, and
- a well-known trade mark referred to in Article 6 bis of the Paris Convention for the Protection of Industrial Property (1967).

TITLE I

RECIPROCAL PROTECTION OF DESIGNATIONS OF SPIRITS AND AROMATISED DRINKS

Article 4

Principles

1. Without prejudice to Articles 22 and 23 of the Agreement on trade-related aspects of intellectual property rights (hereinafter called 'the TRIPs Agreement') set out in Annex 1C to the Agreement establishing the World Trade Organisation, the Parties shall take all the necessary measures, in accordance with that Annex, to ensure reciprocal protection of the designations referred to in Article 5 and used to describe spirits and aromatised drinks originating in the territory of the Parties. To that end, each Party shall provide the interested parties with the appropriate legal means for preventing the use of a designation to identify spirits or aromatised drinks not originating in the geographical area indicated by the designation in question or in the place where the designation in question is traditionally used.

2. In Croatia, the protected Community designations:

- may not be used otherwise than under the conditions laid down in the laws and regulations of the Community, and
- shall be reserved exclusively for the spirits and aromatised drinks originating in the Community to which they apply.

3. In the Community, the protected Croatian designations:

- may not be used otherwise than under the conditions laid down in the laws and regulations of Croatia, and
- shall be reserved exclusively for the spirits and aromatised drinks originating in Croatia to which they apply.

4. The protection provided for in this Agreement shall prohibit in particular any use of protected designations for spirits and aromatised drinks which do not originate in the geographical area indicated by the designation in question or in the place where the designation in question is traditionally used, and shall apply even when:

- the true origin of the spirits and aromatised drinks is indicated,

— the geographical indication in question is used in translation,

— the name is accompanied by terms such as 'kind', 'type', 'style', 'imitation', 'method' or other expressions of the sort.

5. In cases of homonymous designations for spirits and aromatised drinks, protection shall be accorded to each designation. The Stabilisation and Association Committee may determine by way of decision the practical conditions under which the homonymous designations in question are to be differentiated from each other, taking into account the need to treat the producers concerned fairly and to avoid misleading the consumer.

6. The provisions of this Agreement shall in no way prejudice the right of any person to use, for trade purposes, their own name or the name of the person whose business they have taken over, provided that such names are not used in a way that misleads consumers.

7. Nothing in this Agreement shall oblige a Party to protect any designation of the other Party which is not protected or ceases to be protected in its country of origin or which has fallen into disuse in that country.

8. The Contracting Parties hereby waive their right to invoke Article 24(4) to (7) of the TRIPs Agreement in order to refuse to grant protection to designations from the other Party.

Article 5

Protected designations

The following designations shall be protected:

- (a) as regards spirit drinks originating in the Community, the designations listed in list 1;
- (b) as regards spirit drinks originating in Croatia, the designations listed in list 2;
- (c) as regards aromatised drinks originating in the Community, the designations listed in list 3;
- (d) as regards aromatised drinks originating in Croatia, the designations listed in list 4.

Article 6

Trade marks

1. The registration of a trade mark for a spirit or aromatised drink which contains or consists of a designation as referred to in Article 5 shall be refused or, at the request of an interested party, be invalidated, with respect to such spirits not originating in the place indicated by the designation.

2. Notwithstanding paragraph 1, a trade mark registered in good faith by 31 December 1995 at latest may be used until 31 December 2005, provided it has been used effectively without interruption since its registration.

*Article 7***Exports**

The Parties shall take all measures necessary to ensure that, in cases where spirits or aromatised drinks originating in the territory of the Parties are exported and marketed outside their territory, the designations of one Party protected under this Agreement are not used to designate and present spirits or aromatised drinks originating in the other Party.

*Article 8***Extension of protection**

To the extent that the relevant legislation of the Parties allows, the benefit of the protection afforded by this Agreement shall cover natural and legal persons and federations, associations and organisations of producers, traders and consumers whose head offices are located in the territory of the other Party.

*Article 9***Enforcement**

1. If the appropriate competent authority, designated in accordance with Article 11, becomes aware that the description or presentation of a spirit drink or aromatised drink, in particular on the labelling, in official or commercial documents or in advertising, is in breach of this Agreement, the Parties shall apply the necessary administrative measures and/or shall initiate suitable legal proceedings with a view to combating unfair competition or preventing the wrongful use of the protected designation in any other way.

2. The measures and proceedings referred to in paragraph 1 shall be taken in particular in the following cases:

- (a) where the translation of designations provided for by Community or Croatian legislation into the language or languages of the other Contracting Party results in the appearance of a word which is liable to be misleading as to the origin, nature or quality of the spirits or aromatised drinks thus identified;
- (b) where descriptions, trade marks, words, inscriptions or illustrations which directly or indirectly give false or misleading information as to the origin, nature, material qualities of the spirit drink or aromatised drink appear on containers or packaging, in advertising or in official or commercial documents relating to designations protected under this Agreement;
- (c) where, for packaging, containers are used which are misleading as to the origin of the spirit drink or aromatised drink.

3. The application of paragraphs 1 and 2 shall not prejudice the possibilities of the persons and entities referred to in Article 8 to take appropriate actions in the Contracting Parties, including recourse to the courts.

*Article 10***Other internal legislation and international agreements**

Unless otherwise agreed by the Contracting Parties, this Agreement shall not preclude any more extensive protection afforded, now or in the future, to designations protected by this Agreement by the Contracting Parties under their internal legislation or other international agreements.

TITLE II

CONTROLS AND MUTUAL ASSISTANCE BETWEEN COMPETENT AUTHORITIES*Article 11***Enforcement authorities**

1. The Contracting Parties shall each designate the authorities responsible for the enforcement of this Agreement. Where a Contracting Party designates more than one competent authority, it shall ensure the coordination of the work of these authorities. For this purpose, a single authority shall be designated.

2. The Parties shall inform one another of the names and addresses of the above authorities not later than two months after this Agreement comes into force. These authorities shall cooperate closely and directly with each other.

*Article 12***Infringement**

1. If one of the authorities referred to in Article 11 has reason to suspect that:

- (a) a spirit drink or aromatised drink as defined in Article 2, being or having been traded between Croatia and the Community, does not comply with this Agreement or with provisions, laid down in the laws and regulations of the Contracting Parties, applicable to spirits and aromatised drinks, and
- (b) this non-compliance is of particular interest to the other Contracting Party and could result in administrative measures and/or legal proceedings being taken,

it shall immediately inform the Commission and the relevant authority or authorities of the other Party.

2. The information to be provided in accordance with paragraph 1 shall be accompanied by official, commercial or other appropriate documents, with details of any administrative measures or legal proceedings that may, if necessary, be taken. The information shall include, in particular, the following details concerning the spirits or aromatised drink in question:

- (a) the producer and the person who has power of disposal over the spirits or aromatised drink;
- (b) the composition and organoleptic characteristics of that drink;
- (c) its description and presentation;
- (d) details of the non-compliance with the rules concerning production and marketing.

TITLE III

MANAGEMENT OF THE AGREEMENT

Article 13

Working group

1. A working group functioning under the auspices of a special Committee on Agriculture to be created in accordance with Article 115 of the Stabilisation and Association Agreement shall be established.

2. The working group shall see to the proper functioning of this Agreement and shall examine all questions which may arise in implementing it. In particular, the working group may make recommendations which would contribute to the attainment of the objectives of this Agreement.

Article 14

Tasks of the Contracting Parties

1. The Contracting Parties shall, either directly or through the working group referred to in Article 13, maintain contact on all matters relating to the implementation and the functioning of this Agreement.

2. In particular, the Contracting Parties shall:

- (a) establish and amend by decision of the Stabilisation and Association Committee the lists referred to in Article 5 and the Protocol to this Agreement, to take account of any amendments to the laws and regulations of the Contracting Parties;
- (b) inform each other of the intention to decide new regulations or amendments of existing regulations of public policy concern, such as health or consumer protection, with implications for the spirits and aromatised drinks market;
- (c) notify each other of judicial decisions concerning the application of this Agreement and inform each other of measures adopted on the basis of such decisions.

3. Within the framework of this Agreement, either of the Contracting Parties may put forward suggestions for widening the scope of their cooperation in the spirits and aromatised drinks market, taking into account the experience gained in its application.

4. Decisions taken under paragraph 2(a) shall be binding on the Parties which shall take the measures necessary to implement the decisions taken.

TITLE IV

GENERAL PROVISIONS

Article 15

Transit — small quantities

This Agreement shall not apply to spirits and aromatised drinks which:

- (a) pass in transit through the territory of one of the Contracting Parties, or
- (b) originate in the territory of one of the Contracting Parties and which are consigned in small quantities between those Contracting Parties under the conditions and according to the procedures provided for in the Protocol.

Article 16

Territorial application

This Agreement shall apply, on the one hand, to the territories to which the Treaty establishing the European Community applies and under the conditions laid down in that Treaty and, on the other hand, to the territory of the Republic of Croatia.

Article 17

Failure to comply

1. The Contracting Parties shall enter into consultations if either considers that the other has failed to fulfil an obligation under this Agreement.

2. The Contracting Party which requests the consultations shall provide the other with all information necessary for a detailed examination of the case in question.

3. In cases where any delay could endanger human health or impair the effectiveness of measures to control fraud, appropriate interim protective measures may be taken, without prior consultation, provided that consultations are held immediately after such measures are taken.

4. If, following the consultations provided for in paragraph 1 and 3, the Contracting Parties have not reached agreement, the Party which has requested the consultations or taken the measures referred to in paragraph 3 may take appropriate safeguard measures so as to permit the proper application of this Agreement.

Article 18

Marketing of pre-existing stocks

1. Spirits and aromatised drinks which, at the time of entry into force of this Agreement, have been legally produced, described and presented, in accordance with the internal laws and regulations of the Contracting Parties, but which may be prohibited by this Agreement, may be marketed by wholesalers for a period of one year from the entry into force of the Agreement and by retailers until stocks are exhausted. From the entry into force of this Agreement, spirits and aromatised drinks included herein may no longer be produced outside the limits of their regions of origin.

2. Spirits and aromatised drinks produced, described and presented in accordance with this agreement whose description and presentation cease to comply with this Agreement following an amendment thereto may continue to be marketed until stocks are exhausted, unless otherwise agreed by the Contracting Parties.

Protocol to the Agreement between the European Community and the Republic of Croatia on the reciprocal recognition, protection and control of designations for spirits and aromatised drinks

THE CONTRACTING PARTIES HEREBY AGREE AS FOLLOWS:

Pursuant to Article 15(b) of the Agreement, the following shall be considered to be small quantities of spirits and aromatised drinks:

1. quantities in labelled containers of not more than 5 litres fitted with a non-reusable closing device where the total quantity transported, whether or not made up of separate consignments, does not exceed 10 litres;
2. (a) quantities contained in the personal luggage of travellers in quantities not exceeding 10 litres;
(b) quantities sent in consignments from one private individual to another in quantities not exceeding 10 litres;
(c) quantities forming part of the belongings of private individuals who are moving house;
(d) quantities imported for the purpose of scientific or technical experiments, subject to a maximum of 1 hectolitre;
(e) quantities imported for diplomatic, consular or similar establishments as part of their duty-free allowance;
(f) quantities held on board international means of transport as victualling supplies.

The case of exemption referred to in paragraph 1 may not be combined with one or more of the cases of exemption referred to in paragraph 2.

COUNCIL DECISION

of 3 December 2001

on the conclusion of an Additional Protocol adjusting the trade aspects of the Interim Agreement between the European Community, of the one part, and the Republic of Croatia, of the other part, to take account of the outcome of the negotiations between the parties on reciprocal preferential concessions for certain wines, the reciprocal recognition, protection and control of wine names and the reciprocal recognition, protection and control of designations for spirits and aromatised drinks

(2001/919/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133, in conjunction with the first sentence of the first subparagraph of Article 300(2), and Article 300(4) thereof,

Having regard to the proposal from the Commission,

Whereas:

to ensure consistency within the overall stabilisation process, the results of these negotiations should be integrated into the framework of the Interim Agreement in the form of an Additional Protocol.

(1) The Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other, hereinafter referred to as the Stabilisation and Association Agreement, was initialled on 14 May 2001 and signed on 29 October 2001 at Luxembourg. Article 27(4) of the Stabilisation and Association Agreement provides that the trade arrangements to apply to wine and spirits products remain to be defined.

(2) An Interim Agreement will ensure the development of trade links through the establishment of a contractual relation and shall implement as speedily as possible the provisions of the Stabilisation and Association Agreement on trade and trade-related matters. This Interim Agreement was initialled on 10 July 2001 and signed on 29 October 2001 at Luxembourg. Article 14(4) of the Interim Agreement repeats the commitment to a separate wine and spirits protocol.

(3) In accordance with the Directives adopted by the Council on 13 November 2000, the Commission and the Republic of Croatia reached agreement on 20 April 2001 on new reciprocal trade concessions for certain wines and on the reciprocal recognition, protection and control of wine names and spirits designations. In order

(4) Provisions to adopt the implementing Regulations on preferential trade concessions provided for certain wines should be made by the Commission, assisted by the Customs Code Committee set up by Article 248a of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽¹⁾, notwithstanding Article 62 of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine⁽²⁾. The Commission shall make the necessary amendments and technical adaptations to the implementing Regulations which might result from new preferential agreements, protocols, Exchanges of Letters or other acts concluded between the European Community and the Republic of Croatia, or which are necessary following the changes to the Combined Nomenclature and TARIC codes.

(5) In order to facilitate the implementation of certain provisions of the Protocol, the Commission should be authorised to approve, on behalf of the Community, decisions amending the lists and the Protocols to the Agreement on the reciprocal recognition, protection and control of wine names (Annex II to the Protocol) and to the Agreement on the reciprocal recognition, protection and control of designations of spirits and aromatised drinks (Annex III to the Protocol). In adopting these acts, the Commission should be assisted by the Management Committee for Wine set up by Article 74 of Regulation (EC) No 1493/1999, on the one hand, and by the Implementation Committee for Spirit Drinks set up by Article 13 of Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks⁽³⁾ and the Implementation Committee for Aromatised wines set up by Article 12 of Council Regulation (EEC) No 1601/1991 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails⁽⁴⁾, on the other hand.

⁽¹⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 2700/2000 (OJ L 311, 12.12.2000, p. 17).

⁽²⁾ OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 2826/2000 (OJ L 328, 23.12.2000, p. 2).

⁽³⁾ OJ L 160, 12.6.1989, p. 1. Regulation as last amended by Regulation (EC) No 3378/94 of the European Parliament and of the Council (OJ L 366, 31.12.1994, p. 1).

⁽⁴⁾ OJ L 149, 14.6.1991, p. 1. Regulation as last amended by Regulation (EC) No 2061/96 of the European Parliament and of the Council (OJ L 277, 31.10.1996, p. 2).

- (6) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾,

HAS DECIDED AS FOLLOWS:

Article 1

The Additional Protocol adjusting the trade aspects of the Interim Agreement between the European Community, of the one part, and the Republic of Croatia, of the other part, to take account of the outcome of the negotiations between the parties on reciprocal preferential concessions for certain wines, the reciprocal recognition, protection and control of wine names and the reciprocal recognition, protection and control of designations for spirits and aromatised drinks (hereinafter referred to as 'the Protocol'), is hereby approved on behalf of the Community.

The text of the Protocol is attached to this Decision.

Article 2

1. The President of the Council is hereby authorised to designate the person empowered to sign the Protocol on behalf of the Community, in order to express the consent of the Community to be bound.
2. The President of the Council shall, on behalf of the Community, make the notification of approval provided for in Article 3 of the Protocol.

Article 3

Provisions for the application of the tariff quotas for certain wines provided in Annex I to the Protocol, as well as amendments and technical adaptations to the implementing Regulations necessary following changes to the Combined Nomenclature codes and to the TARIC subdivisions or arising from the conclusion of new agreements, protocols, Exchanges of Letters or other acts between the Community and the Republic of Croatia, shall be adopted by the Commission according to the procedure set out in Article 4(2) of this Decision, notwithstanding Article 62 of Regulation (EC) No 1493/1999.

Article 4

1. The Commission shall be assisted by the Customs Code Committee set up by Article 248a of Regulation (EEC) No 2913/92.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 4(3) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

Article 5

1. For the purposes of the decisions of the Interim Committee concerning the establishment of lists of protected names provided for in Article 4(7) and Article 14(2)(a) of the Agreement on the reciprocal recognition, protection and control of wine names, the Community's position shall be established by the Council acting by qualified majority on a proposal from the Commission.

2. Without prejudice to paragraph 1, for the purposes of Articles 13 and 14 of the Agreement on the reciprocal recognition, protection and control of wine names, the Commission shall conclude the necessary acts amending the lists and the Protocol to the Agreement according to the procedure set out in Article 6(2) of this Decision. For all other cases coming under the above Articles, the Community position shall be established and presented by the Commission.

Article 6

1. The Commission shall be assisted by the Management Committee for Wine set up by Article 74 of Regulation (EC) No 1493/1999.

2. Where reference is made to this paragraph, the management procedure laid down in Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its rules of procedure.

Article 7

1. For the purposes of the decisions of the Interim Committee concerning the establishment of lists of protected designations provided for in Article 4(5) and Article 14(2)(a) of the Agreement on the reciprocal recognition, protection and control of designations for spirits and aromatised drinks, the Community's position shall be established by the Council acting by qualified majority on a proposal from the Commission.

2. Without prejudice to paragraph 1, for the purposes of Articles 13 and 14 of the Agreement on the reciprocal recognition, protection and control of designations for spirits and aromatised drinks, the Commission shall conclude the necessary acts amending the lists and the Protocol to the Agreement according to the procedure set out in Article 8(2) of this Decision. For all other cases coming under the above Articles, the Community position shall be established and presented by the Commission.

Article 8

1. The Commission shall be assisted by the Implementation Committee for Spirit Drinks instituted by Article 13 of Regulation (EEC) No 1576/89 and by the Implementation Committee for Aromatised Wines, Aromatised Wine-Based Drinks and Aromatised Wine-Product Cocktails set up by Article 12 of Regulation (EEC) No 1601/91.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.
The period provided for in Article 5(6) of Decision 1999/468/EC shall be one month.
3. The Committees shall adopt their rules of procedure.

Article 9

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Brussels, 3 December 2001.

For the Council

The President

F. VANDENBROUCKE

ADDITIONAL PROTOCOL

adjusting the trade aspects of the Interim Agreement between the European Community, of the one part, and the Republic of Croatia, of the other part, to take account of the outcome of the negotiations between the parties on reciprocal preferential concessions for certain wines, the reciprocal recognition, protection and control of wine names and the reciprocal recognition, protection and control of designations for spirits and aromatised drinks

THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community',

of the one part, and

THE REPUBLIC OF CROATIA, hereinafter referred to as 'Croatia',

of the other part,

hereinafter referred to as 'the Contracting Parties',

WHEREAS the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part, was initialled in Brussels on 14 May 2001 and signed in Luxembourg on 29 October 2001,

WHEREAS Article 27(4) of the Stabilisation and Association Agreement provides that a wine and spirits agreement remains to be negotiated,

WHEREAS an Interim Agreement is to ensure the development of trade links through the establishment of a contractual relation and is to implement as speedily as possible the provision of the Stabilisation and Association Agreement on trade and trade-related matters. This Interim Agreement was initialled on 10 July 2001 and signed on 29 October 2001 and should be applied from 1 January 2002. Article 14(4) of the draft Interim Agreement repeats the commitment to a separate wine and spirits protocol,

WHEREAS on this basis negotiations have been undertaken and were concluded between the Parties,

WHEREAS in order to ensure consistency within the overall stabilisation process, the wine and spirits agreement should be integrated into the framework of the Interim Agreement in the form of a Protocol,

WHEREAS this Protocol on wines and spirits should enter into force on the same date as the Interim Agreement,

WHEREAS to this end it is necessary to implement as speedily as possible the provisions of this Protocol,

DESIROUS of improving the conditions for the marketing of wines, spirits and aromatised drinks on their respective markets, in accordance with the principles of quality, mutual benefit and reciprocity,

HAVING REGARD to the interest of both Contracting Parties in the reciprocal protection and control of wine names, designations for spirits and aromatised drinks,

HAVE AGREED AS FOLLOWS:

Article 1

This Protocol includes the following elements:

1. an Agreement on reciprocal preferential trade concessions for certain wines (Annex I to this Protocol);
2. an Agreement on the reciprocal recognition, protection and control of wine names (Annex II to this Protocol);
3. an Agreement on the reciprocal recognition, protection and control of designations of spirits and aromatized drinks (Annex III to this Protocol).

The lists referred to in Article 5 of the Agreement mentioned in point 2 and in Article 5 of the Agreement mentioned in point 3 shall be established at a later stage and approved according to the procedure laid down in the respective Articles 13 and 14 of these Agreements.

Article 2

This Protocol shall form an integral part of the Interim Agreement. The Annexes to this Protocol shall form an integral part thereof.

Article 3

This Protocol shall be approved by the Community and the Republic of Croatia in accordance with their own procedures. The Contracting Parties shall take the necessary measures to implement this Protocol.

The Contracting Parties shall notify each other of the accomplishment of the corresponding procedures referred to in the preceding paragraph.

Article 4

This Protocol shall enter into force and become applicable on the same date as the Interim Agreement.

Article 5

This Protocol shall be drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Croatian languages, each of these texts being equally authentic.

Hecho en Zagreb, el siete de diciembre del dos mil uno.

Udfærdiget i Zagreb den syvende december to tusind og en.

Geschehen zu Zagreb am siebten Dezember zweitausendundeins.

Έγινε στο Ζάγκρεμπ, στις επτά Δεκεμβρίου δύο χιλιάδες ένα.

Done at Zagreb on the seventh day of December in the year two thousand and one.

Fait à Zagreb, le sept décembre deux mille un.

Fatto a Zagabria, addì sette dicembre duemilauno.

Gedaan te Zagreb, de zevende december tweeduizendeneen.

Feito em Zagrebe, em sete de Dezembro de dois mil e um.

Tehty Zagrebissa seitsemäntenä päivänä joulukuuta vuonna kaksituhattayksi.

Som skedde i Zagreb den sjunde december tjugohundraett.

Sastavljeno u Zagrebu dana sedmog prosinca dvijetisuće i prve godine.

Por la Comunidad Europea

For Det Europæiske Fællesskab

Für die Europäische Gemeinschaft

Για την Ευρωπαϊκή Κοινότητα

For the European Community

Pour la Communauté européenne

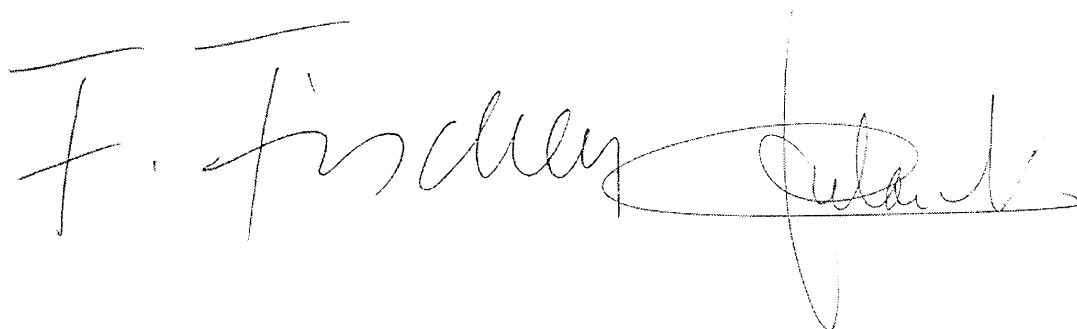
Per la Comunità europea

Voor de Europese Gemeenschap

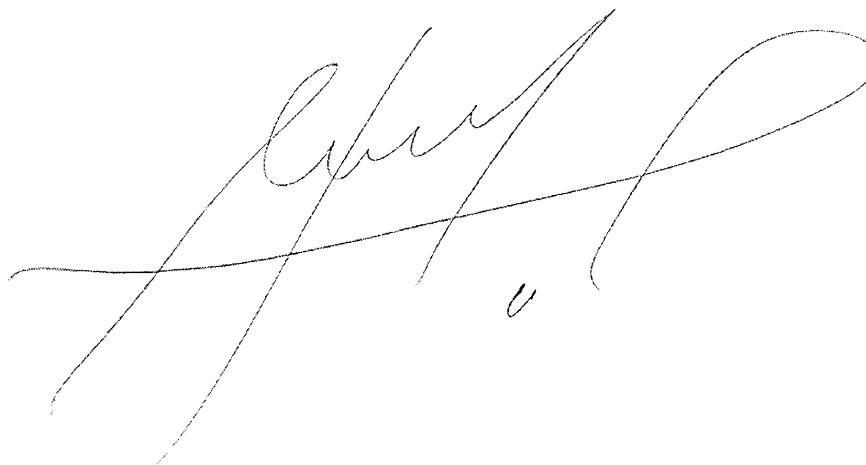
Pela Comunidade Europeia

Euroopan yhteisön puolesta

På Europeiska gemenskapens vägnar

A large, stylized handwritten signature in black ink, appearing to read 'F. Fischer', with a long horizontal flourish extending to the right.

Za Republiku Hrvatsku

A large, stylized handwritten signature in black ink, consisting of several sweeping, interconnected strokes.

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ANNEX I

AGREEMENT

between the European Community and the Republic of Croatia on reciprocal preferential trade concessions for certain wines

1. Imports into the Community of the following products originating in the Republic of Croatia shall be subject to the concessions set out below:

CN code	Description	Applicable duty	Year 2002 quantities (hl)	Yearly increase (hl)	Specific provisions
ex 2204 10	Quality sparkling wine	exemption	30 000	10 000	(¹) (²)
ex 2204 21	Wine of fresh grapes				
ex 2204 29	Wine of fresh grapes	exemption	15 000	0	(²)

(¹) Subject to at least 80 % of the eligible quantity having been utilised in the previous year, the yearly increase is applied until the sum of the quota applying to positions ex 2204 10 and ex 2204 21 and the quota applying to position ex 2204 29 reaches a maximum of 70 000 hl.

(²) Consultations at the request of one of the Contracting Parties may be held to adapt the quotas by transferring quantities from the quota applying to position ex 2204 29 to the quota applying to positions ex 2204 10 and ex 2204 21.

2. The Community shall grant a preferential zero-duty within tariff quotas as mentioned under point 1, subject to the condition that no export subsidies shall be paid for exports of these quantities by the Republic of Croatia.

3. Imports into the Republic of Croatia of the following products originating in the Community shall be subject to the concessions set out below:

Croatian customs tariff code	Description	Applicable duty	Year 2002 quantities (hl)	Yearly increase (hl)	Specific provisions
ex 2204 10	Quality sparkling wine	exemption	8 000	800	(¹)
ex 2204 21	Wine of fresh grapes				

(¹) Subject to at least 80 % of the eligible quantity having been utilised in the previous year, the yearly increase is applied until the quota reaches a maximum of 12 000 hl.

4. The Republic of Croatia shall grant a preferential zero-duty within tariff quotas as mentioned under point 3, subject to the condition that no export subsidies shall be paid for exports of these quantities by the Community.

5. This Agreement shall cover wine:

- (a) which has been produced from fresh grapes wholly produced and harvested in the territory of the Contracting Party in question, and
- (b) (i) originating in the European Union, which has been produced in accordance with the rules governing the oenological practices and processes referred to in Title V of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine (¹);
- (ii) originating in the Republic of Croatia, which has been produced in accordance with the rules governing the oenological practices and processes in conformity with Croatian law. These oenological rules referred to shall be in conformity with Community legislation.

(¹) OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 2826/2000 (OJ L 328, 23.12.2000, p. 2).

6. Imports of wine under the concessions provided in this Agreement will be subject to the presentation of a certificate issued by a mutually recognised official body appearing on the lists drawn up jointly, to the effect that the wine in question complies with point 5(b).
 7. The Contracting Parties shall examine no later than in the first quarter of 2005 the opportunities for granting each other further concessions taking into account the development of wine trade between the Contracting Parties.
 8. The Contracting Parties shall ensure that the benefits granted reciprocally are not called into question by other measures.
 9. Consultations are to take place at the request of either Contracting Party on any problem relating to the way this Agreement operates.
 10. This Agreement shall apply, on the one hand, in the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, in the territory of the Republic of Croatia.
-

ANNEX II

AGREEMENT

between the European Community and the Republic of Croatia on the reciprocal recognition, protection and control of wine names

Article 1

Objectives

1. The Contracting Parties hereby agree, in accordance with the principles of non-discrimination and reciprocity, to recognise, protect and control names of wines originating in their territory on the conditions laid down herein.

2. The Contracting Parties shall take all general and specific measures necessary to ensure that the obligations laid down by this Agreement are fulfilled and that the objectives set out in this Agreement are attained.

Article 2

Scope and coverage

This Agreement shall apply to wines falling under heading No 2204 of the International Convention on the Harmonised Commodity Description and Coding System ('Harmonised System'), done at Brussels on 14 June 1983.

Article 3

Definitions

For the purposes of this Agreement and except where otherwise expressly provided herein:

- (a) 'wine originating in' followed by the name of one of the Contracting Parties means a wine produced in the territory of the said Party from grapes which have been wholly harvested in its territory;
- (b) 'geographical indication' means any indication, including an 'appellation of origin', as defined in Article 22(1) of the Agreement on trade-related aspects of intellectual property rights (hereinafter referred to as 'the TRIPs Agreement'), that is recognised by the laws or regulations of a Contracting Party for the purpose of describing and presenting a wine originating in the territory of that Contracting Party;
- (c) 'traditional expression' means a traditionally used name, as specified in the Annex, referring in particular to the method of production or to the quality, colour or type of wine which is sufficiently distinctive and/or of established reputation and recognised by the laws and regulations of a Contracting Party for the purpose of describing and presenting of such a wine originating in the territory of that Contracting Party;
- (d) 'protected name' means a geographical indication or a traditional expression as defined in paragraphs (b) and (c) respectively that is protected under this Agreement;

- (e) 'homonymous' shall mean the same protected name, or a protected name so similar as to be likely to cause confusion, to denote different places of origin, or different wines originating in the respective territories of the Contracting Parties;
- (f) 'description' means the words used to describe a wine on a label, or on the documents accompanying the transport of that wine, on commercial documents, particularly invoices and delivery notes, and in advertising;
- (g) 'labelling' means all descriptions and other references, signs, designs or trade marks identifying a wine and appearing on the container, including its sealing device or the tag attached thereto and the sheathing covering the neck of bottles;
- (h) 'presentation' means the words or signs used on containers, including their closure, on the labelling and on the packaging;
- (i) 'packaging' means the protective wrappings such as paper, straw envelopes of all kinds, cartons and cases, used in the transport of one or more containers and/or for their presentation for sale to the final consumer;
- (j) 'trade mark' shall mean:
 - a trade mark registered in terms of the legislation of a Contracting Party,
 - a common law trade mark which is recognised under the law of a Contracting Party, and
 - a well-known trademark referred to in Article 6 bis of the Paris Convention for the Protection of Industrial Property (1967).

TITLE I

RECIPROCAL PROTECTION OF WINE NAMES

Article 4

Principles

1. Without prejudice to Articles 22 and 23 of the TRIPs Agreement, set out in Annex 1C to the Agreement establishing the World Trade Organisation, the Contracting Parties shall take all necessary measures, in accordance with that Annex, to ensure reciprocal protection of the names referred to in Article 5 which are used for the description and presentation of wines originating in the territory of the Contracting Parties. To that end, each Contracting Party shall provide the interested parties with the appropriate legal means to ensure effective protection and prevent geographical indications and traditional expressions from being used to identify wines not covered by the indications or the descriptions concerned.

2. In Croatia, the protected Community names:
- (a) are reserved exclusively to the wines originating in the Community to which they apply, and
 - (b) may not be used otherwise than under the conditions laid down in the laws and regulations of the Community.
3. In the Community, the protected Croatian names:
- (a) are reserved exclusively to the wines originating in Croatia to which they apply, and
 - (b) may not be used otherwise than under the conditions laid down in the laws and regulations of Croatia.
4. The protection provided for in this Agreement shall prohibit in particular any use of protected names for wines which do not originate in the geographical area indicated or in the place where the expression is traditionally used, and shall apply even when:
- the true origin of the wine is indicated,
 - the geographical indication in question is used in translation,
 - the name is accompanied by terms such as 'kind', 'type', 'style', 'imitation', 'method' or other expressions of the sort.
5. In the case of homonymous geographical indications:
- (a) where such indications protected under this Agreement are homonymous, protection shall be granted to each indication, provided it has been used traditionally and consistently and consumers are not misled as to the true origin of the wine;
 - (b) where such indications protected under this Agreement are homonymous with the name of a geographical area outside the territory of the Parties, the latter name may be used to describe and present a wine produced in the geographical area to which the name refers, provided it is traditionally and consistently used, its use for that purpose is regulated by the country of origin and consumers are not misled into believing that the wine originates in the territory of the Party concerned.
6. In the case of homonymous traditional expressions:
- (a) where such expressions protected under this Agreement are homonymous, protection shall be granted to each expression, provided it has been used traditionally and consistently and consumers are not misled as to the true origin of the wine;
 - (b) where such expressions protected under this Agreement are homonymous with the name used for a wine not originating in the territory of the Parties, the latter name may be used to describe and present a wine, provided it is traditionally and consistently used, its use for that purpose is regulated by the country of origin and consumers are not misled into believing that the wine originates in the territory of the Party concerned.

7. The Interim Committee may determine by way of decision the practical conditions of use to enable a distinction to be drawn between the homonymous indications or expressions referred to in paragraphs 5 and 6, bearing in mind the need to treat the producers concerned fairly and to ensure that consumers are not misled.

8. The provisions of this Agreement shall in no way prejudice the right of any person to use, in the course of trade, their name or the name of their predecessor in business, except where such name is used in such a manner as to mislead consumers.

9. Nothing in this Agreement shall oblige a Contracting Party to protect a geographical indication or traditional expression of the other Contracting Party which is not or ceases to be protected in its country of origin or which has fallen into disuse in that country.

10. The Contracting Parties hereby waive their right to invoke Article 24(4) to (7) of the TRIPs Agreement in order to refuse to grant protection to a name, from the other Party, for products covered by this Agreement.

Article 5

Protected names

The following names shall be protected with regard to wines:

- (a) originating in the Community:
 - references to the name of the Member State in which the wine originates,
 - the geographical indications and traditional expressions appearing in the lists drawn up for this purpose;
- (b) originating in Croatia:
 - the name 'Croatia' or any other name designating that country,
 - the geographical indications and traditional expressions appearing in the lists drawn up for this purpose.

Article 6

Trade marks

1. The registration of a trade mark for a wine which contains or consists of a protected name under this Agreement shall be refused or, at the request of the party concerned, invalidated if:

- the wine in question does not originate in the place to which the geographical indication refers,
- or, as the case may be,
- the wine in question is not one to which the traditional expression is reserved.

2. However, a trade mark registered in good faith no later than 31 December 1995 may be used until 31 December 2005, provided it has actually been in continuous use since being registered.

Article 7

Exports

The Contracting Parties shall take all measures necessary to ensure that in cases where wines originating in the Contracting Parties are exported and marketed outside their territories, the protected names of one Contracting Party referred to in Article 5 are not used to describe and present a wine originating in the other Contracting Party.

Article 8

Extension of protection

Insofar as the relevant legislation of the Contracting Parties permits, the benefit of the protection afforded by this Agreement shall extend to natural and legal persons, federations, associations and organisations of producers, traders or consumers whose head offices are located in the territory of the other Contracting Party.

Article 9

Enforcement

1. If the appropriate competent authority, designated in accordance with Article 11, becomes aware that the description or presentation of a wine, in particular on the labelling, in official or commercial documents or in advertising, is in breach of this Agreement, the Contracting Parties shall apply the necessary administrative measures and/or shall initiate legal proceedings with a view to combating unfair competition or preventing the wrongful use of the protected name in any other way.

2. The measures and proceedings referred to in paragraph 1 shall be taken in particular in the following cases:

- (a) where the translation of descriptions provided for by Community or Croatian legislation into the language or languages of the other Contracting Party results in the appearance of a word which is liable to be misleading as to the origin, nature or quality of the wine thus described or presented;
- (b) where descriptions, trade marks, names, inscriptions or illustrations which directly or indirectly give false or misleading information as to the provenance, origin, nature, vine variety or material qualities of the wine appear on containers or packaging, in advertising or in official or commercial documents relating to wines whose names are protected under this Agreement;
- (c) where, for packaging, containers are used which are misleading as to the origin of the wine.

3. The application of paragraphs 1 and 2 shall not prejudice the possibilities of the persons and entities referred to in Article 8 to take appropriate actions in the Contracting Parties, including recourse to the courts.

Article 10

Other internal legislation and international agreements

Unless otherwise agreed by the Contracting Parties, this Agreement shall not preclude any more extensive protection afforded, now or in the future, to names protected by this Agreement, by the Contracting Parties under their internal legislation or other international agreements.

TITLE II

CONTROLS AND MUTUAL ASSISTANCE BETWEEN COMPETENT AUTHORITIES

Article 11

Enforcement authorities

1. Each Contracting Party shall designate the authorities to be responsible for the application of this Agreement. Where a Contracting Party designates more than one competent authority, it shall ensure the coordination of the work of these authorities. For this purpose, a single authority shall be designated.

2. The Contracting Parties shall inform one another of the names and addresses of these authorities not later than two months after this Agreement comes into force. There shall be close and direct cooperation between these authorities.

Article 12

Infringement

1. If one of the authorities referred to in Article 11 has reason to suspect that:

- (a) a wine being or having been traded between Croatia and the Community, does not comply with this Agreement or with provisions laid down in the laws and regulations of the Contracting Parties, and
- (b) this non-compliance is of particular interest to the other Contracting Party and could result in administrative measures and/or legal proceedings being taken,

it shall immediately inform the Commission and the relevant authority or authorities of the other Party.

2. The information to be provided in accordance with paragraph 1 shall be accompanied by official, commercial or other appropriate documents, with details of any administrative measures or legal proceedings that may, if necessary, be taken. The information shall include, in particular, the following details concerning the wine in question:

- (a) the producer and the person who has power of disposal over this wine;
- (b) the composition and organoleptic characteristics of this wine;
- (c) its description and presentation;
- (d) details of the non-compliance with the rules concerning production and marketing.

TITLE III

MANAGEMENT OF THE AGREEMENT

Article 13

Working group

1. Pending the entry into force of the Stabilisation and Association Agreement, a working group, functioning under the auspices of a special Committee on Agriculture to be created in accordance with Article 41 of the Interim Agreement, shall be established.
2. The working group shall see to the proper functioning of this Agreement and shall examine all questions which may arise in implementing it. In particular, the working group may make recommendations which would contribute to the attainment of the objectives of this Agreement.

Article 14

Tasks of the Contracting Parties

1. The Contracting Parties shall, either directly or through the working group, referred to in Article 13, maintain contact on all matters relating to the implementation and the functioning of this Agreement.
2. In particular, the Contracting Parties shall:
 - (a) establish and amend by decision of the Interim Committee the lists referred to in Article 5 and the Protocol to this Agreement by mutual decision to take account of any amendments to the laws and regulations of the Contracting Parties;
 - (b) inform each other of the intention to decide new regulations or amendments of existing regulations of public policy concern, such as health or consumer protection, with implications for the wine market;
 - (c) notify each other of judicial decisions concerning the application of this Agreement and inform each other of measures adopted on the basis of such decisions.
3. Within the framework of this Agreement, either of the Contracting Parties may put forward suggestions for widening the scope of their cooperation in the wine market, taking into account the experience gained in its application.
4. Decisions taken under paragraph 2(a) shall be binding on the Parties which shall take the measures necessary to implement the decisions taken.

TITLE IV

GENERAL PROVISIONS

Article 15

Transit — small quantities

This Agreement shall not apply to wines which:

- (a) pass in transit through the territory of one of the Contracting Parties, or

- (b) originate in the territory of one of the Contracting Parties and which are consigned in small quantities between those Contracting Parties under the conditions and according to the procedures provided for in the Protocol.

Article 16

Territorial application

This Agreement shall apply, on the one hand, to the territories to which the Treaty establishing the European Community applies and under the conditions laid down in that Treaty and, on the other hand, to the territory of the Republic of Croatia.

Article 17

Failure to comply

1. The Contracting Parties shall enter into consultations if one of them considers that the other has failed to fulfil an obligation under this Agreement.
2. The Contracting Party which requests the consultations shall provide the other Party with all the information necessary for a detailed examination of the case in question.
3. In cases where any delay could endanger human health or impair the effectiveness of measures to control fraud, appropriate interim protective measures may be taken, without prior consultation, provided that consultations are held immediately after the taking of these measures.
4. If, following the consultations provided for in paragraphs 1 and 3, the Contracting Parties have not reached agreement, the Party which requested the consultations or which took the measures referred to in paragraph 3 may take appropriate protective measures so as to permit the proper application of this Agreement.

Article 18

Marketing of pre-existing stocks

1. Wines which, at the time of the entry into force of this Agreement, have been produced, prepared, described and presented in compliance with the internal laws and regulations of the Parties but are prohibited by this Agreement may be sold until stocks run out.
2. Except where provisions to the contrary are adopted by the Contracting Parties, wines which have been produced, prepared, described and presented in compliance with this Agreement but whose production, preparation, description and presentation cease to comply therewith as a result of an amendment thereto may continue to be marketed until stocks run out.

Protocol to the Agreement between the European Community and the Republic of Croatia on the reciprocal recognition, protection and control of wine names

THE CONTRACTING PARTIES HEREBY AGREE AS FOLLOWS:

Pursuant to Article 15(b) of the Agreement, the following shall be considered to be small quantities of wine:

1. quantities in labelled containers of not more than 5 litres fitted with a non-reusable closing device where the total quantity transported, whether or not made up of separate consignments, does not exceed 50 litres;
2. (a) quantities contained in the personal luggage of travellers in quantities not exceeding 30 litres;
(b) quantities sent in consignments from one private individual to another in quantities not exceeding 30 litres;
(c) quantities forming part of the belongings of private individuals who are moving house;
(d) quantities imported for the purpose of scientific or technical experiments, subject to a maximum of 1 hectolitre;
(e) quantities imported for diplomatic, consular or similar establishments as part of their duty-free allowance;
(f) quantities held on board international means of transport as victualling supplies.

The case of exemption referred to in point 1 may not be combined with one or more of the cases of exemption referred to in point 2.

ANNEX III

AGREEMENT

**between the European Community and the Republic of Croatia on the reciprocal recognition,
protection and control of designations for spirits and aromatised drinks**

Article 1

Objectives

1. The Contracting Parties hereby agree, in accordance with the principles of non-discrimination and reciprocity, to recognise, protect and control designations for spirits and aromatised drinks originating in their territory on the basis of the conditions laid down herein.

2. The Contracting Parties shall take all general and specific measures necessary to ensure that the obligations laid down by this Agreement are fulfilled and that the objectives set out in this Agreement are attained.

Article 2

Scope and coverage

This Agreement applies to the following products:

(a) spirits drinks as defined:

- for the Community, in Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks ⁽¹⁾,
- for Croatia, in regulations on the quality of spirits (OJY No 16/88 and 63/88) and also in the law on wine (*Narodne novine* No 96/96) and in regulations based on the law on wine (*Narodne novine* No 96/96, 7/97, 117/97, 57/00),

and falling within heading No 2208 of the International Convention on the Harmonised Commodity Description and Coding System, done at Brussels on 14 June 1983;

(b) aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails, hereinafter called 'aromatised drinks', as defined:

- for the Community, in Council Regulation (EEC) No 1601/91 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails ⁽²⁾,

— for Croatia, in regulations on the quality of spirits (OJY No 16/88 and 63/88) and also in the law on wine (*Narodne novine* No 96/96) and in regulations based on the law on wine (*Narodne novine* No 96/96, 7/97, 117/97, 57/00),

and covered by heading Nos 2205 and ex 2206 of the International Convention on the Harmonised Commodity Description and Coding System, done at Brussels on 14 June 1983.

Article 3

Definitions

For the purposes of this Agreement:

- (a) 'spirit drink originating in', followed by the name of one of the Contracting Parties, means a spirit drink produced in the territory of that Party;
- (b) 'aromatised drink originating in', followed by the name of one of the Contracting Parties, means an aromatised drink produced in the territory of that Party;
- (c) 'description' means the words used on labelling, on any documents accompanying spirits or aromatised drinks during transport, on commercial documents, particularly invoices and delivery notes, and in advertising;
- (d) 'homonymous' shall mean the same protected name, or a protected name so similar as to be likely to cause confusion, to denote different places of origin, or different spirit drinks and aromatised drinks originating in the respective territories of the Contracting Parties;
- (e) 'labelling' means all descriptions and other references, signs, symbols, illustrations or trade marks identifying spirits and aromatised drinks and appearing on the container, including the sealing device or the tag attached thereto, and the sheathing covering the neck of bottles;
- (f) 'presentation' means the words or signs used on containers, including their closure, on the labelling and on the packaging;
- (g) 'packaging' means the protective wrappings such as paper, straw wrapping of all kinds, cartons and cases, used in the transport of one or more containers and/or in their presentation for sale to the final consumer;

⁽¹⁾ OJ L 160, 12.6.1989, p. 1. Regulation as last amended by Regulation (EC) No 3378/94 of the European Parliament and of the Council (OJ L 366, 31.12.1994, p. 1).

⁽²⁾ OJ L 149, 14.6.1991, p. 1. Regulation as last amended by Council Regulation (EC) No 2061/96 (OJ L 277, 30.10.1996, p. 1).

(h) 'trade mark' shall mean:

- a trade mark registered in terms of the legislation of a Contracting Party,
- a common law trade mark which is recognised under the law of a Contracting Party, and
- a well-known trade mark referred to in Article 6 bis of the Paris Convention for the Protection of Industrial Property (1967).

TITLE I

RECIPROCAL PROTECTION OF DESIGNATIONS OF SPIRITS AND AROMATISED DRINKS

Article 4

Principles

1. Without prejudice to Articles 22 and 23 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as 'the TRIPs Agreement') set out in Annex 1C to the Agreement establishing the World Trade Organisation, the Parties shall take all the necessary measures, in accordance with that Annex, to ensure reciprocal protection of the designations referred to in Article 5 and used to describe spirits and aromatised drinks originating in the territory of the Parties. To that end, each Party shall provide the interested parties with the appropriate legal means for preventing the use of a designation to identify spirits or aromatised drinks not originating in the geographical area indicated by the designation in question or in the place where the designation in question is traditionally used.

2. In Croatia, the protected Community designations:

- may not be used otherwise than under the conditions laid down in the laws and regulations of the Community, and
- shall be reserved exclusively for the spirits and aromatised drinks originating in the Community to which they apply.

3. In the Community, the protected Croatian designations:

- may not be used otherwise than under the conditions laid down in the laws and regulations of Croatia, and
- shall be reserved exclusively for the spirits and aromatised drinks originating in Croatia to which they apply.

4. The protection provided for in this Agreement shall prohibit in particular any use of protected designations for spirits and aromatised drinks which do not originate in the geographical area indicated by the designation in question or in the place where the designation in question is traditionally used, and shall apply even when:

- the true origin of the spirits and aromatised drinks is indicated,

— the geographical indication in question is used in translation,

— the name is accompanied by terms such as 'kind', 'type', 'style', 'imitation', 'method' or other expressions of the sort.

5. In cases of homonymous designations for spirits and aromatised drinks, protection shall be accorded to each designation. The Interim Committee may determine by way of decision the practical conditions under which the homonymous designations in question are to be differentiated from each other, taking into account the need to treat the producers concerned fairly and to avoid misleading the consumer.

6. The provisions of this Agreement shall in no way prejudice the right of any person to use, for trade purposes, their own name or the name of the person whose business they have taken over, provided that such names are not used in a way that misleads consumers.

7. Nothing in this Agreement shall oblige a Party to protect any designation of the other Party which is not protected or ceases to be protected in its country of origin or which has fallen into disuse in that country.

8. The Contracting Parties hereby waive their right to invoke Article 24(4) to (7) of the TRIPs Agreement in order to refuse to grant protection to designations from the other Party.

Article 5

Protected designations

The following designations shall be protected:

- (a) as regards spirits drinks originating in the Community, the designations in list 1;
- (b) as regards spirits drinks originating in Croatia, the designations in list 2;
- (c) as regards aromatised drinks originating in the Community, the designations in list 3;
- (d) as regards aromatised drinks originating in Croatia, the designations in list 4.

Article 6

Trade marks

1. The registration of a trade mark for a spirits or aromatised drink which contains or consists of a designation as referred to in Article 5 shall be refused or, at the request of an interested party, be invalidated, with respect to such spirits not originating in the place indicated by the designation.

2. Notwithstanding paragraph 1, a trade mark registered in good faith by 31 December 1995 at the latest may be used until 31 December 2005, provided it has been used effectively without interruption since its registration.

*Article 7***Exports**

The Parties shall take all measures necessary to ensure that, in cases where spirits or aromatised drinks originating in the territory of the Parties are exported and marketed outside their territory, the designations of one Party protected under this Agreement are not used to designate and present spirits or aromatised drinks originating in the other Party.

*Article 8***Extension of protection**

To the extent that the relevant legislation of the Parties allows, the benefit of the protection afforded by this Agreement shall cover natural and legal persons and federations, associations and organisations of producers, traders and consumers whose head offices are located in the territory of the other Party.

*Article 9***Enforcement**

1. If the appropriate competent authority, designated in accordance with Article 11, becomes aware that the description or presentation of a spirit drink or aromatised drink, in particular on the labelling, in official or commercial documents or in advertising, is in breach of this Agreement, the Parties shall apply the necessary administrative measures and/or shall initiate suitable legal proceedings with a view to combating unfair competition or preventing the wrongful use of the protected designation in any other way.

2. The measures and proceedings referred to in paragraph 1 shall be taken in particular in the following cases:

- (a) where the translation of designations provided for by Community or Croatian legislation into the language or languages of the other Contracting Party results in the appearance of a word which is liable to be misleading as to the origin, nature or quality of the spirits or aromatised drinks thus identified;
- (b) where descriptions, trade marks, words, inscriptions or illustrations which directly or indirectly give false or misleading information as to the origin, nature, material qualities of the spirit drink or aromatised drink appear on containers or packaging, in advertising or in official or commercial documents relating to designations protected under this Agreement;
- (c) where, for packaging, containers are used which are misleading as to the origin of the spirit drink or aromatised drink.

3. The application of paragraphs 1 and 2 shall not prejudice the possibilities of the persons and entities referred to in Article

8 to take appropriate actions in the Contracting Parties, including recourse to the courts.

*Article 10***Other internal legislation and international agreements**

Unless otherwise agreed by the Contracting Parties, this Agreement shall not preclude any more extensive protection afforded, now or in the future, to designations protected by this Agreement by the Contracting Parties under their internal legislation or other international agreements.

TITLE II

CONTROLS AND MUTUAL ASSISTANCE BETWEEN COMPETENT AUTHORITIES*Article 11***Enforcement authorities**

1. The Contracting Parties shall each designate the authorities responsible for the enforcement of this Agreement. Where a Contracting Party designates more than one competent authority, it shall ensure the coordination of the work of these authorities. For this purpose, a single authority shall be designated.

2. The Parties shall inform one another of the names and addresses of the above authorities not later than two months after this Agreement comes into force. These authorities shall cooperate closely and directly with each other.

*Article 12***Infringement**

1. If one of the authorities referred to in Article 11 has reason to suspect that:

- (a) a spirit drink or aromatised drink as defined in Article 2, being or having been traded between Croatia and the Community, does not comply with this Agreement or with provisions, laid down in the laws and regulations of the Contracting parties, applicable to spirits and aromatised drinks, and
- (b) this non-compliance is of particular interest to the other Contracting Party and could result in administrative measures and/or legal proceedings being taken,

it shall immediately inform the Commission and the relevant authority or authorities of the other Party.

2. The information to be provided in accordance with paragraph 1 shall be accompanied by official, commercial or other appropriate documents, with details of any administrative measures or legal proceedings that may, if necessary, be taken. The information shall include, in particular, the following details concerning the spirits or aromatised drink in question:

- (a) the producer and the person who has power of disposal over the spirits or aromatised drink;
- (b) the composition and organoleptic characteristics of that drink;
- (c) its description and presentation;
- (d) details of the non-compliance with the rules concerning production and marketing.

TITLE III

MANAGEMENT OF THE AGREEMENT

Article 13

Working group

1. Pending the entry into force of the Stabilisation and Association Agreement, a working group, functioning under the auspices of a special Committee on Agriculture to be created in accordance with Article 41 of the Interim Agreement, shall be established.

2. The working group shall see to the proper functioning of this Agreement and shall examine all questions which may arise in implementing it. In particular, the working group may make recommendations which would contribute to the attainment of the objectives of this Agreement.

Article 14

Tasks of the contracting parties

1. The Contracting Parties shall, either directly or through the working group, referred to in Article 13, maintain contact on all matters relating to the implementation and the functioning of this Agreement.

2. In particular, the Contracting Parties shall:

- (a) establish and amend by decision of the Interim Committee the lists referred to in Article 5 and the Protocol of this Agreement to take account of any amendments to the laws and regulations of the Contracting Parties;
- (b) inform each other of the intention to decide new regulations or amendments of existing regulations of public policy concern, such as health or consumer protection, with implications for the spirits and aromatised drinks market;
- (c) notify each other of judicial decisions concerning the application of this Agreement and inform each other of measures adopted on the basis of such decisions.

3. Within the framework of this Agreement, either of the Contracting Parties may put forward suggestions for widening the scope of their cooperation in the spirits and aromatised

drinks market, taking into account the experience gained in its application.

4. Decisions taken under paragraph 2(a) shall be binding on the Parties which shall take the measures necessary to implement the decisions taken.

TITLE IV

GENERAL PROVISIONS

Article 15

Transit — small quantities

This Agreement shall not apply to spirits and aromatised drinks which:

- (a) pass in transit through the territory of one of the Contracting Parties, or
- (b) originate in the territory of one of the Contracting Parties and which are consigned in small quantities between those Contracting Parties under the conditions and according to the procedures provided for in the Protocol.

Article 16

Territorial application

This Agreement shall apply, on the one hand, to the territories to which the Treaty establishing the European Community applies and under the conditions laid down in that Treaty and, on the other hand, to the territory of the Republic of Croatia.

Article 17

Failure to comply

1. The Contracting Parties shall enter into consultations if either considers that the other has failed to fulfil an obligation under this Agreement.

2. The Contracting Party which requests the consultations shall provide the other with all information necessary for a detailed examination of the case in question.

3. In cases where any delay could endanger human health or impair the effectiveness of measures to control fraud, appropriate interim protective measures may be taken, without prior consultation, provided that consultations are held immediately after such measures are taken.

4. If, following the consultations provided for in paragraphs 1 and 3, the Contracting Parties have not reached agreement, the Party which has requested the consultations or taken the measures referred to in paragraph 3 may take appropriate safeguard measures so as to permit the proper application of this Agreement.

*Article 18***Marketing of pre-existing stocks**

1. Spirits and aromatised drinks which, at the time of entry into force of this agreement, have been legally produced, described and presented, in accordance with the internal laws and regulations of the Contracting Parties, but which may be prohibited by this Agreement may be marketed by wholesalers for a period of one year from the entry into force of the Agreement and by retailers until stocks are exhausted. From the entry into force of this Agreement, spirits and aromatised drinks included herein may no longer be produced outside the limits of their regions of origin.
 2. Spirits and aromatised drinks produced, described and presented in accordance with this Agreement whose description and presentation cease to comply with this Agreement following an amendment thereto may continue to be marketed until stocks are exhausted, unless otherwise agreed by the Contracting Parties.
-

Protocol to the Agreement between the European Community and the Republic of Croatia on the reciprocal recognition, protection and control of destinations for spirits and aromatised drinks

THE CONTRACTING PARTIES HEREBY AGREE AS FOLLOWS:

Pursuant to Article 15(b) of the Agreement, the following shall be considered to be small quantities of spirits and aromatised drinks:

1. quantities in labelled containers of not more than 5 litres fitted with a non-reusable closing device where the total quantity transported, whether or not made up of separate consignments, does not exceed 10 litres;
2. (a) quantities contained in the personal luggage of travellers in quantities not exceeding 10 litres;
(b) quantities sent in consignments from one private individual to another in quantities not exceeding 10 litres;
(c) quantities forming part of the belongings of private individuals who are moving house;
(d) quantities imported for the purpose of scientific or technical experiments, subject to a maximum of 1 hectolitre;
(e) quantities imported for diplomatic, consular or similar establishments as part of their duty-free allowance;
(f) quantities held on board international means of transport as victualling supplies.

The case of exemption referred to in point 1 may not be combined with one or more of the cases of exemption referred to in point 2.

COUNCIL DECISION

of 4 December 2001

on the conclusion of an Additional Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, acting within the framework of the European Union, of the one part, and the Republic of Slovenia, of the other part, to take account of the outcome of the negotiations between the parties on reciprocal preferential concessions for certain wines, the reciprocal recognition, protection and control of wine names and the reciprocal recognition, protection and control of designations for spirits and aromatised drinks

(2001/920/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133, in conjunction with the first sentence of the first subparagraph of Article 300(2) and with Article 300(4), thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Europe Agreement establishing an association between the European Communities and their Member States, acting within the framework of the European Union, of the one part, and the Republic of Slovenia, of the other part⁽¹⁾, hereinafter referred to as the 'Europe Agreement', entered into force on 1 February 1999.
- (2) In accordance with the Directives adopted by the Council on 17 April 1996, the Commission and the Republic of Slovenia have completed negotiations on new reciprocal trade concessions for certain wines and on the reciprocal recognition, protection and control of wine names and spirit designations. In order to ensure consistency with other applicant countries, the results of these negotiations should be integrated into the framework of the Europe Agreement in the form of an Additional Protocol.
- (3) Provision to adopt the implementing Regulations on preferential trade concessions provided for certain wines, should be made by the Commission, assisted by the Customs Code Committee set up by Article 248a of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾, notwithstanding Article 62 of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine⁽³⁾. The Commission should make the necessary amendments and technical adaptations to the implementing Regulations which might result from new preferential agreements, protocols, Exchanges of Letters or other acts concluded

between the European Community and the Republic of Slovenia, or which are necessary following the changes to the Combined Nomenclature and TARIC codes.

- (4) In order to facilitate the implementation of certain provisions of the Protocol, the Commission should be authorised to approve, on behalf of the Community, decisions amending the lists and the Protocols to the Agreement on the reciprocal recognition, protection and control of wine names (Annex II to the Protocol) and to the Agreement on the reciprocal recognition, protection and control of designations of spirits and aromatised drinks (Annex III to the Protocol). In adopting these acts, the Commission should be assisted by the Management Committee for Wine set up by Article 74 of Regulation (EC) No 1493/1999, on the one hand, and by the Implementation Committee for Spirit Drinks set up by Article 13 of Council Regulation (EC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks⁽⁴⁾ and by the Implementation Committee set up by Article 12 of Council Regulation (EEC) No 1601/1991 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatised wines, wine-based drinks and aromatised wine-product cocktails⁽⁵⁾, on the other hand.
- (5) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽⁶⁾,

HAS DECIDED AS FOLLOWS:

Article 1

The Additional Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, acting within the framework of the European Union, of the one part, and the Republic of Slovenia, of the other part, to take account of the outcome of the negotiations between the parties on reciprocal preferential trade concessions for certain wines, the reciprocal recognition, protection and control of wine names and the reciprocal recognition, protection and control of designations for spirits and aromatised drinks (hereinafter referred to as 'the Protocol'), is hereby approved on behalf of the Community.

⁽¹⁾ OJ L 51, 26.2.1999, p. 3.

⁽²⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 2700/2000 (OJ L 311, 12.12.2000, p. 17).

⁽³⁾ OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 2826/2000 (OJ L 328, 23.12.2000, p. 2).

⁽⁴⁾ OJ L 160, 12.6.1989, p. 1. Regulation as last amended by Regulation (EC) No 3378/94 of the European Parliament and of the Council (OJ L 366, 31.12.1994, p. 1).

⁽⁵⁾ OJ L 149, 14.6.1991, p. 1. Regulation as last amended by Regulation (EC) No 2061/96 of the European Parliament and of the Council (OJ L 277, 30.10.1996, p. 1).

⁽⁶⁾ OJ L 184, 17.7.1999, p. 23.

The text of the Protocol is attached to this Decision.

Article 2

1. The President of the Council is hereby authorised to designate the person empowered to sign the Protocol on behalf of the Community in order to express the consent of the Community to be bound.
2. The President of the Council shall, on behalf of the Community, make the notification of approval provided for in Article 3 of the Protocol.

Article 3

Provisions for the application of the tariff quotas for certain wines provided in Annex I to the Protocol, as well as amendments and technical adaptations to the implementing Regulations necessary following changes to the Combined Nomenclature codes and to the TARIC subdivisions or arising from the conclusion of new agreements, protocols, exchanges of letters or other acts between the Community and the Republic of Slovenia, shall be adopted by the Commission according to the procedure set out in Article 4(2) of this Decision, without prejudice to Article 62 of Regulation (EC) No 1493/1999.

Article 4

1. The Commission shall be assisted by the Customs Code Committee set up by Article 248a of Regulation (EEC) No 2913/92.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 4(3) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

Article 5

1. For the purposes of the decisions of the Association Committee concerning the establishment of lists of protected names provided for in Article 4(7) and in Article 14(2)(a) of the Agreement on the reciprocal recognition, protection and control of wine names, the Community's position shall be established by the Council acting by qualified majority on a proposal from the Commission.
2. Without prejudice to paragraph 1, for the purposes of Articles 13 and 14 of the Agreement on the reciprocal recognition, protection and control of wine names, the Commission shall conclude the necessary acts amending the lists and the Protocol to the Agreement according to the procedure set out

in Article 6(2) of this Decision. For all other cases coming under the above Articles, the Community position shall be established and presented by the Commission.

Article 6

1. The Commission shall be assisted by the Management Committee for Wine instituted by Article 74 of Regulation (EC) No 1493/1999.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its rules of procedure.

Article 7

1. For the purposes of the decisions of the Association Committee concerning the establishment of lists of protected designations provided for in Article 4(7) and in Article 14(2)(a) of the Agreement on the reciprocal recognition, protection and control of designations for spirits and aromatised drinks, the Community's position shall be established by the Council acting by qualified majority on a proposal from the Commission.
2. Without prejudice to paragraph 1, for the purposes of Articles 13 and 14 of the Agreement on the reciprocal recognition, protection and control of designations for spirits and aromatised drinks, the Commission shall conclude the necessary acts amending the lists and the Protocol to the Agreement according to the procedure set out in Article 8(2) of this Decision. For all other cases coming under the above Articles, the Community position shall be established and presented by the Commission.

Article 8

1. The Commission shall be assisted by the Implementation Committee for Spirit Drinks set up by Article 13 of Regulation (EEC) No 1576/89 and by the Implementation Committee for Aromatised Wines, Aromatised Wine-Based Drinks and Aromatised Wine-Product Cocktails set up by Article 12 of Council Regulation (EEC) No 1601/91.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 5(6) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt their rules of procedure.

Article 9

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Brussels, 4 December 2001.

For the Council
The President
D. REYNERS

ADDITIONAL PROTOCOL

adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, acting within the framework of the European Union, of the one part, and the Republic of Slovenia, of the other part, to take account of the outcome of the negotiations between the parties on reciprocal preferential concessions for certain wines, the reciprocal recognition, protection and control of wine names and the reciprocal recognition, protection and control of designations for spirits and aromatised drinks

THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community',

of the one part, and

THE REPUBLIC OF SLOVENIA, hereinafter referred to as 'Slovenia',

of the other part,

hereinafter referred to as 'the Contracting Parties',

WHEREAS the Europe Agreement establishing an association between the European Communities and their Member States, acting within the framework of the European Union, of the one part, and the Republic of Slovenia, of the other part (hereinafter referred to as 'the Europe Agreement') was signed in Luxembourg on 10 June 1996 and entered into force on 1 February 1999,

WHEREAS in a Joint Declaration of Intent between the two Parties, attached to the Europe Agreement, signed on 10 June 1996, both Contracting Parties had agreed that 'a separate reciprocal Wine Agreement will be negotiated and concluded in time so as to enter into force at the same time as the Agreement (Interim Agreement)',

WHEREAS on this basis negotiations have been undertaken and were concluded between the Parties,

WHEREAS in order to ensure consistency with other applicant countries, the results of these negotiations should be integrated into the framework of the Europe Agreement in the form of an Additional Protocol,

WHEREAS this Protocol on wines and spirits is to enter into force on 1 January 2002,

WHEREAS to this end it is necessary to implement as speedily as possible the provisions of this Protocol,

DESIROUS of improving the conditions for the marketing of wines, spirit and aromatised drinks on their respective markets, in accordance with the principles of quality, mutual benefit and reciprocity,

HAVING REGARD to the interest of both Contracting Parties in the reciprocal protection and control of wine names, designations for spirit and aromatised drinks,

HAVING DECIDED to determine, by mutual agreement, the adjustments to be made to the trade aspects of the Europe Agreement in the agriculture field,

HAVE AGREED AS FOLLOWS:

Article 1

This Protocol includes the following elements:

1. an Agreement on reciprocal preferential trade concessions for certain wines (Annex I to this Protocol);
2. an Agreement on the reciprocal recognition, protection and control of wine names (Annex II to this Protocol);
3. an Agreement on the reciprocal recognition, protection and control of designations of spirit and aromatised drinks (Annex III to this Protocol).

The lists referred to in Article 5 of the Agreement mentioned in point 2 and in Article 5 of the Agreement mentioned in point 3 shall be established at a later stage and approved according to the procedure laid down respectively in Articles 13 and 14 of these Agreements.

Article 2

This Protocol and its Annexes shall form an integral part of the Europe Agreement.

Article 3

This Protocol shall be approved by the Community and the Republic of Slovenia in accordance with their own procedures. The Contracting Parties shall take the necessary measures to implement this Protocol.

The Contracting Parties shall notify each other of the accomplishment of the corresponding procedures according to the first paragraph hereof.

Article 4

Subject to completion of the procedures provided for in Article 3, this Protocol shall enter into force on 1 January 2002.

Article 5

This Protocol shall be drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Slovenian languages, each of these texts being equally authentic.

Hecho en Ljubljana, el siete de diciembre del dos mil uno.

Udfærdiget i Ljubljana, den syvende december to tusind og en.

Geschehen zu Ljubljana am siebten Dezember zweitausendundeins.

Έγινε στη Λιουμπλιάνα, στις εφτά Δεκεμβρίου δύο χιλιάδες ένα.

Done in Ljubljana on the seventh day of December in the year two thousand and one.

Fait à Ljubljana, le sept décembre deux mille un.

Fatto a Lubiana, addì sette dicembre duemilauno.

Gedaan te Ljubljana, de zevende december tweeduizendeneen.

Feito em Liubliana, em sete de Dezembro de dois mil e um.

Tehty Ljubljanassa, seitsemäntenä päivänä joulukuuta vuonna kaksituhattayksi.

Som skedde i Ljubljana den sjunde december tjugohundraett.

V Ljubljana, sedmega decembra dva tisoč ena.

Por la Comunidad Europea

For Det Europæiske Fællesskab

Für die Europäische Gemeinschaft

Για την Ευρωπαϊκή Κοινότητα

For the European Community

Pour la Communauté européenne

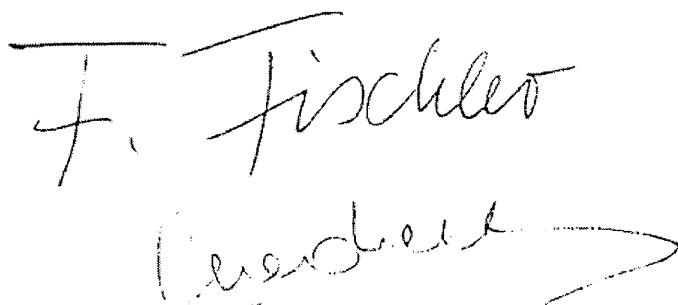
Per la Comunità europea

Voor de Europese Gemeenschap

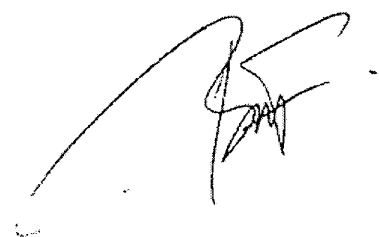
Pela Comunidade Europeia

Euroopan yhteisön puolesta

På Europeiska gemenskapens vägnar

A handwritten signature in black ink, appearing to read 'J. Fischer', with a long horizontal stroke extending to the right.

Za Republiko Slovenijo

A handwritten signature in black ink, consisting of a large, stylized initial 'R' followed by a smaller, less legible signature.

—

ANNEX I

AGREEMENT

between the European Community and the Republic of Slovenia on reciprocal preferential trade concessions for certain wines

1. Imports into the Community of the following products originating in the Republic of Slovenia shall be subject to the concessions set out below:

CN code	Description	Applicable duty	Year 2002 quantities (hl)	Yearly increase (hl)	Specific provisions
ex 2204 10	Quality sparkling wine	exemption	16 000	4 800	⁽¹⁾ ⁽²⁾
ex 2204 21	Wine of fresh grapes				
ex 2204 29	Wine of fresh grapes	exemption	32 000	0	⁽²⁾

⁽¹⁾ Subject to at least 80 % of the eligible quantity having been utilised in the previous year, the yearly increase is applied until the sum of the quota applying to positions ex 2204 10 and ex 2204 21 and the quota applying to position ex 2204 29 reaches a maximum of 72 000 hl.

⁽²⁾ Consultations at the request of one of the Contracting Parties may be held to adapt the quotas by transferring quantities from the quota applying to positions ex 2204 29 to the quota applying to positions ex 2204 10 and ex 2204 21.

2. The Community shall grant a preferential zero-duty within tariff quotas as mentioned under point 1, subject to the condition that no export subsidies shall be paid for exports of these quantities by the Republic of Slovenia.

3. Imports into the Republic of Slovenia of the following products originating in the Community shall be subject to the concessions set out below:

Slovenian customs tariff code	Description	Applicable duty	Year 2002 quantities (hl)	Yearly increase (hl)	Specific provisions
ex 2204 10	Quality sparkling wine	exemption	12 000	1 200	⁽¹⁾
ex 2204 21	Wine of fresh grapes				

⁽¹⁾ Subject to at least 80 % of the eligible quantity having been utilised in the previous year, the yearly increase is applied until the quota reaches a maximum of 15 000 hl.

4. The Republic of Slovenia shall grant a preferential zero-duty within tariff quotas as mentioned under point 3, subject to the condition that no export subsidies shall be paid for exports of these quantities by the Community.

5. This Agreement shall cover wine

(a) which has been produced from fresh grapes wholly produced and harvested in the territory of the Contracting Party in question, and

(b) (i) originating in the European Union, which has been produced in accordance with the rules governing the oenological practices and processes referred to in Title V of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine ⁽¹⁾;

(ii) originating in the Republic of Slovenia, which has been produced in accordance with the rules governing the oenological practices and processes in conformity with the Slovenian law. These oenological rules referred to shall be in conformity with the Community legislation.

⁽¹⁾ OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 2826/2000 (OJ L 328, 23.12.2000, p. 2).

6. Imports of wine under the concessions provided in this Agreement will be subject to the presentation of a certificate issued by a mutually recognised official body appearing on the lists drawn up jointly, to the effect that the wine in question complies with point 5(b).
 7. The Contracting Parties shall examine the opportunities for granting each other further concessions taking into account the development of wine trade between the Contracting Parties.
 8. The Contracting Parties shall ensure that the benefits granted reciprocally are not called into question by other measures.
 9. Consultations are to take place at the request of either Contracting Party on any problem relating to the way this Agreement operates.
 10. This Agreement shall apply, on the one hand, in the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, in the territory of the Republic of Slovenia.
-

ANNEX II

AGREEMENT

between the European Community and the Republic of Slovenia on the reciprocal recognition, protection and control of wine names*Article 1***Objectives**

1. The Contracting Parties hereby agree, in accordance with the principles of non-discrimination and reciprocity, to recognise, protect and control names of wines originating in their territory on the conditions laid down herein.
2. The Contracting Parties shall take all general and specific measures necessary to ensure that the obligations laid down by this Agreement are fulfilled and that the objectives set out in this Agreement are attained.

*Article 2***Scope and coverage**

This Agreement shall apply to wines falling under heading No 2204 of the International Convention on the Harmonised Commodity Description and Coding System ('Harmonised System'), done at Brussels on 14 June 1983.

*Article 3***Definitions**

For the purposes of this Agreement and except where otherwise expressly provided herein:

- (a) 'wine originating in' followed by the name of one of the Contracting Parties means a wine produced in the territory of the said Party from grapes which have been wholly harvested in its territory;
- (b) 'geographical indication' means any indication, including an 'appellation of origin', as defined in Article 22(1) of the Agreement on trade-related aspects of intellectual property rights (hereinafter referred to as 'the TRIPs agreement'), that is recognised by the laws or regulations of a Contracting Party for the purpose of describing and presenting a wine originating in the territory of that Contracting Party;
- (c) 'traditional expression' means a traditionally used name, as specified in the Annex, referring in particular to the method of production or to the quality, colour or type of wine which is sufficiently distinctive and/or of established reputation and recognised by the laws and regulations of a Contracting Party for the purpose of describing and presenting of such a wine originating in the territory of that Contracting Party;
- (d) 'protected name' means a geographical indication or a traditional expression as defined in paragraphs (b) and (c) respectively that is protected under this Agreement;
- (e) 'homonymous' shall mean the same protected name, or a protected name so similar as to be likely to cause confusion, to denote different places of origin, or different wines originating in the respective territories of the Contracting Parties;
- (f) 'description' means the words used to describe a wine on a label, or on the documents accompanying the transport of that wine, on commercial documents, particularly invoices and delivery notes, and in advertising;
- (g) 'labelling' means all descriptions and other references, signs, designs or trade marks identifying a wine and appearing on the container, including its sealing device or the tag attached thereto and the sheathing covering the neck of bottles;
- (h) 'presentation' means the words or signs used on containers, including their closure, on the labelling and on the packaging;
- (i) 'packaging' means the protective wrappings such as paper, straw envelopes of all kinds, cartons and cases, used in the transport of one or more containers and/or for their presentation for sale to the final consumer;
- (j) 'trade mark' shall mean:
 - a trade mark registered in terms of the legislation of a Contracting Party,
 - a common law trade mark which is recognised under the law of a Contracting Party, and
 - a well-known trademark referred to in Article 6 bis of the Paris Convention for the Protection of Industrial Property (1967).

TITLE I

RECIPROCAL PROTECTION OF WINE NAMES*Article 4***Principles**

1. Without prejudice to Articles 22 and 23 of the TRIPs Agreement set out in Annex 1C of the Agreement establishing the World Trade Organisation, the Contracting Parties shall take all necessary measures, in accordance with that Annex, to ensure reciprocal protection of the names referred to in Article 5 which are used for the description and presentation of wines originating in the territory of the Contracting Parties. To that end, each Contracting Party shall provide the interested parties with the appropriate legal means to ensure effective protection and prevent geographical indications and traditional expressions from being used to identify wines not covered by the indications or the descriptions concerned.

2. In Slovenia, the protected Community names:
 - (a) are reserved exclusively to the wines originating in the Community to which they apply, and
 - (b) may not be used otherwise than under the conditions laid down in the laws and regulations of the Community.
3. In the Community, the protected Slovenian names:
 - (a) are reserved exclusively to the wines originating in Slovenia to which they apply, and
 - (b) may not be used otherwise than under the conditions laid down in the laws and regulations of Slovenia.
4. The protection provided for in this Agreement shall prohibit in particular any use of protected names for wines which do not originate in the geographical area indicated or in the place where the expression is traditionally used, and shall apply even when:
 - the true origin of the wine is indicated,
 - the geographical indication in question is used in translation,
 - the name is accompanied by terms such as 'kind', 'type', 'style', 'imitation', 'method' or other expressions of the sort.
5. In the case of homonymous geographical indications:
 - (a) where such indications protected under this Agreement are homonymous, protection shall be granted to each indication, provided it has been used traditionally and consistently and consumers are not misled as to the true origin of the wine;
 - (b) where such indications protected under this Agreement are homonymous with the name of a geographical area outside the territory of the Parties, the latter name may be used to describe and present a wine produced in the geographical area to which the name refers, provided it is traditionally and consistently used, its use for that purpose is regulated by the country of origin and consumers are not misled into believing that the wine originates in the territory of the Party concerned.
6. In the case of homonymous traditional expressions:
 - (a) where such expressions protected under this Agreement are homonymous, protection shall be granted to each expression, provided it has been used traditionally and consistently and consumers are not misled as to the true origin of the wine;
 - (b) where such expressions protected under this Agreement are homonymous with the name used for a wine not originating in the territory of the Parties, the latter name may be used to describe and present a wine, provided it is traditionally and consistently used, its use for that purpose is regulated by the country of origin and consumers are not misled into believing that the wine originates in the territory of the Party concerned.

7. The Association Committee shall by decision lay down the practical conditions of use to enable a distinction to be drawn between the homonymous indications or expressions referred to in paragraphs 5 and 6, bearing in mind the need to treat the producers concerned fairly and to ensure that consumers are not misled.

8. The provisions of this Agreement shall in no way prejudice the right of any person to use, in the course of trade, their name or the name of their predecessor in business, except where such name is used in such a manner as to mislead consumers.

9. Nothing in this Agreement shall oblige a Contracting Party to protect a geographical indication or traditional expression of the other Contracting Party which is not or ceases to be protected in its country of origin or which has fallen into disuse in that country.

10. The Contracting Parties hereby waive their right to invoke Article 24(4) to (7) of the TRIPs Agreement in order to refuse to grant protection to a name, from the other Party, for products covered by this Agreement.

Article 5

Protected names

The following names shall be protected with regard to wines:

- (a) originating in the Community:
 - references to the name of the Member State in which the wine originates,
 - the geographical indications and traditional expressions appearing in the lists drawn up for this purpose;
- (b) originating in Slovenia:
 - the name 'Slovenia' or any other name designating that country,
 - the geographical indications and traditional expressions appearing in the lists drawn up for this purpose.

Article 6

Trade marks

1. The registration of a trade mark for a wine which contains or consists of a protected name under this Agreement shall be refused or, at the request of the party concerned, invalidated if:

- the wine in question does not originate in the place to which the geographical indication refers,
 - or, as the case may be,
- the wine in question is not one to which the traditional expression is reserved.

2. However, a trade mark registered in good faith no later than 31 December 1995 may be used until 31 December 2005, provided it has actually been in continuous use since being registered.

Article 7

Exports

The Contracting Parties shall take all measures necessary to ensure that in cases where wines originating in the Contracting Parties are exported and marketed outside of their territories, the protected names of one Contracting Party referred to in Article 5 are not used to describe and present a wine originating in the other Contracting Party.

Article 8

Extension of protection

In so far as the relevant legislation of the Contracting Parties permits, the benefit of the protection afforded by this Agreement shall extend to natural and legal persons, federations, associations and organisations of producers, traders or consumers whose head offices are located in the territory of the other Contracting Party.

Article 9

Enforcement

1. If the appropriate competent authority, designated in accordance with Article 11, becomes aware that the description or presentation of a wine, in particular on the labelling, in official or commercial documents or in advertising, is in breach of this Agreement, the Contracting Parties shall apply the necessary administrative measures and/or shall initiate legal proceedings with a view to combating unfair competition or preventing the wrongful use of the protected name in any other way.

2. The measures and proceedings referred to in paragraph 1 shall be taken in particular in the following cases:

- (a) where the translation of descriptions provided for by Community or Slovenian legislation into the language or languages of the other Contracting Party results in the appearance of a word which is liable to be misleading as to the origin, nature or quality of the wine thus described or presented;
- (b) where descriptions, trade marks, names, inscriptions or illustrations which directly or indirectly give false or misleading information as to the provenance, origin, nature, vine variety or material qualities of the wine appear on containers or packaging, in advertising or in official or commercial documents relating to wines whose names are protected under this Agreement;
- (c) where, for packaging, containers are used which are misleading as to the origin of the wine.

3. The application of paragraphs 1 and 2 shall not prejudice the possibilities of the persons and entities referred to in Article 8 to take appropriate actions in the Contracting Parties, including recourse to the courts.

Article 10

Other internal legislation and international agreements

Unless otherwise agreed by the Contracting Parties, this Agreement shall not preclude any more extensive protection afforded, now or in the future, to names protected by this Agreement, by the Contracting Parties under their internal legislation or other international agreements.

TITLE II

CONTROLS AND MUTUAL ASSISTANCE BETWEEN COMPETENT AUTHORITIES

Article 11

Enforcement authorities

1. Each Contracting Party shall designate the authorities to be responsible for the application of this Agreement. Where a Contracting Party designates more than one competent authority, it shall ensure the coordination of the work of these authorities. For this purpose, a single authority shall be designated.

2. The Contracting Parties shall inform one another of the names and addresses of these authorities not later than two months after this Agreement comes into force. There shall be close and direct cooperation between these authorities.

Article 12

Infringement

1. If one of the authorities referred to in Article 11 has reason to suspect that:

- (a) a wine being or having been traded between Slovenia and the Community does not comply with this Agreement or with provisions laid down in the laws and regulations of the Contracting Parties, and
- (b) this non-compliance is of particular interest to the other Contracting Party and could result in administrative measures and/or legal proceedings being taken,

it shall immediately inform the Commission and the relevant authority or authorities of the other Party.

2. The information to be provided in accordance with paragraph 1 shall be accompanied by official, commercial or other appropriate documents, with details of any administrative measures or legal proceedings that may, if necessary, be taken. The information shall include, in particular, the following details concerning the wine in question:

- (a) the producer and the person who has power of disposal over this wine;
- (b) the composition and organoleptic characteristics of this wine;
- (c) its description and presentation;
- (d) details of the non-compliance with the rules concerning production and marketing.

TITLE III

MANAGEMENT OF THE AGREEMENT*Article 13***Working group**

1. A working group functioning under the auspices of the Subcommittee on Agriculture and Fisheries shall be established.
2. The working group shall see to the proper functioning of this Agreement and shall examine all questions which may arise in implementing it. In particular, the working group may make recommendations which would contribute to the attainment of the objectives of this Agreement.

*Article 14***Tasks of the Contracting Parties**

1. The Contracting Parties shall, either directly or through the working group, referred to in Article 13, maintain contact on all matters relating to the implementation and the functioning of this Agreement.
2. In particular, the Contracting Parties shall:
 - (a) establish and amend by decision of the Association Committee the lists referred to in Article 5 and the Protocol to this Agreement to take account of any amendments to the laws and regulations of the Contracting Parties;
 - (b) inform each other of the intention to decide new regulations or amendments of existing regulations of public policy concern, such as health or consumer protection, with implications for the wine market;
 - (c) notify each other of judicial decisions concerning the application of this Agreement and inform each other of measures adopted on the basis of such decisions.
3. Within the framework of this Agreement, either of the Contracting Parties may put forward suggestions for widening the scope of their cooperation in the wine market, taking into account the experience gained in its application.
4. Decisions taken under paragraph 2(a) shall be binding on the Parties, which shall take the measures necessary to implement the decisions taken.

TITLE IV

GENERAL PROVISIONS*Article 15***Transit — small quantities**

This Agreement shall not apply to wines which:

- (a) pass in transit through the territory of one of the Contracting Parties, or

- (b) originate in the territory of one of the Contracting Parties and which are consigned in small quantities between those Contracting Parties under the conditions and according to the procedures provided for in the Protocol.

*Article 16***Territorial application**

This Agreement shall apply, on the one hand, to the territories to which the Treaty establishing the European Community applies and under the conditions laid down in that treaty and, on the other hand, to the territory of the Republic of Slovenia.

*Article 17***Failure to comply**

1. The Contracting Parties shall enter into consultations if one of them considers that the other has failed to fulfil an obligation under this Agreement.
2. The Contracting Party which requests the consultations shall provide the other Party with all the information necessary for a detailed examination of the case in question.
3. In cases where any delay could endanger human health or impair the effectiveness of measures to control fraud, appropriate interim protective measures may be taken, without prior consultation, provided that consultations are held immediately after the taking of these measures.
4. If, following the consultations provided for in paragraphs 1 and 3, the Contracting Parties have not reached agreement, the Party which requested the consultations or which took the measures referred to in paragraph 3 may take appropriate protective measures so as to permit the proper application of this Agreement.

*Article 18***Marketing of pre-existing stocks**

1. Wines which, at the time of the entry into force of this Agreement, have been produced, prepared, described and presented in compliance with the internal laws and regulations of the Parties but are prohibited by this Agreement may be sold until stocks run out.
2. Except where provisions to the contrary are adopted by the Contracting Parties, wines which have been produced, prepared, described and presented in compliance with this Agreement but whose production, preparation, description and presentation cease to comply therewith as a result of an amendment thereto may continue to be marketed until stocks run out.

Protocol to the Agreement between the European Community and the Republic of Slovenia on the reciprocal recognition, protection and control of wine names

THE CONTRACTING PARTIES HEREBY AGREE AS FOLLOWS:

Pursuant to Article 15(b) of the Agreement, the following products referred to wines shall be considered to be small quantities:

1. quantities in labelled containers of not more than 5 litres fitted with a non-reusable closing device where the total quantity transported, whether or not made up of separate consignments, does not exceed 50 litres;
2. (a) quantities which are contained in the personal luggage of travellers in quantities not exceeding 30 litres;
(b) quantities which are sent in consignments from one private individual to another in quantities not exceeding 30 litres;
(c) quantities which are forming part of the belongings of private individuals who are moving house;
(d) quantities which are imported for the purpose of scientific or technical experiments, subject to a maximum of 1 hectolitre;
(e) quantities which are imported for diplomatic, consular or similar establishments as part of their duty-free allowance;
(f) quantities which are held on board international means of transport as victualling supplies.

The case of exemption referred to in point 1 may not be combined with one or more of the cases of exemption referred to in point 2.

ANNEX III

AGREEMENT

between the European Community and the Republic of Slovenia on the reciprocal recognition, protection and control of designations for spirit and aromatised drinks

Article 1

Objectives

1. The Contracting Parties hereby agree, in accordance with the principles of non-discrimination and reciprocity, to recognise, protect and control designations for spirit and aromatised drinks originating in their territory on the basis of the conditions laid down herein.

2. The Contracting Parties shall take all general and specific measures necessary to ensure that the obligations laid down by this Agreement are fulfilled and that the objectives set out in this Agreement are attained.

Article 2

Scope and coverage

This Agreement applies to the following products:

(a) spirit drinks as defined:

— for the Community, in Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks ⁽¹⁾,

— for Slovenia, in rules on the quality of alcoholic drinks and spirits (*Official Journal of the Socialist Federative Republic of Yugoslavia* No 16/88 and No 63/88),

and falling within heading No 2208 of the International Convention on the Harmonised Commodity Description and Coding System, done at Brussels on 14 June 1983,

(b) aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails, hereinafter called 'aromatised drinks', as defined:

— for the Community, in Council Regulation (EEC) No 1601/91 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails ⁽²⁾,

— for Slovenia, in rules on the quality of wine (*Official Journal of the Socialist Federative Republic of Yugoslavia* No 17/81 and No 14/89),

and covered by heading Nos 2205 and ex 2206 of the International Convention on the Harmonised Commodity Description and Coding System, done at Brussels on 14 June 1983.

Article 3

Definitions

For the purposes of this Agreement:

(a) spirit drink originating in, followed by the name of one of the Contracting Parties, means a spirit drink produced in the territory of that Party;

(b) aromatised drink originating in, followed by the name of one of the Contracting Parties, means an aromatised drink produced in the territory of that Party,

(c) description means the words used on labelling, on any documents accompanying spirits or aromatised drinks during transport, on commercial documents, particularly invoices and delivery notes, and in advertising;

(d) homonymous shall mean the same protected name, or a protected name so similar as to be likely to cause confusion, to denote different places of origin, or different spirit drinks and aromatised drinks originating in the respective territories of the Contracting Parties;

(e) labelling means all descriptions and other references, signs, symbols, illustrations or trade marks identifying spirit and aromatised drinks and appearing on the container, including the sealing device or the tag attached thereto, and the sheathing covering the neck of bottles;

(f) presentation means the words or signs used on containers, including their closure, on the labelling and on the packaging;

(g) packaging means the protective wrappings such as paper, straw wrapping of all kinds, cartons and cases, used in the transport of one or more containers and/or in their presentation for sale to the final consumer;

⁽¹⁾ OJ L 160, 12.6.1989, p. 1. Regulation as last amended by Regulation (EC) No 3378/94 of the European Parliament and of the Council (OJ L 366, 31.12.1994, p. 1).

⁽²⁾ OJ L 149, 14.6.1991, p. 1. Regulation as last amended by Regulation (EC) No 2061/96 of the European Parliament and of the Council (OJ L 277, 30.10.1996, p. 1).

(h) trade mark shall mean:

- a trade mark registered in terms of the legislation of a Contracting Party,
- a common law trade mark which is recognised under the law of a Contracting Party, and
- a well-known trademark referred to in Article 6 bis of the Paris Convention for the Protection of Industrial Property (1967).

TITLE I

RECIPROCAL PROTECTION OF DESIGNATIONS OF SPIRIT AND AROMATISED DRINKS

Article 4

Principles

1. Without prejudice to Articles 22 and 23 of the Agreement on trade-related aspects of intellectual property rights (hereinafter called the TRIPs Agreement) set out in Annex 1C of the Agreement establishing the World Trade Organisation, the Parties shall take all the necessary measures, in accordance with that Annex, to ensure reciprocal protection of the designations referred to in Article 5 and used to describe spirit and aromatised drinks originating in the territory of the Parties. To that end, each Party shall provide the interested parties with the appropriate legal means for preventing the use of a designation to identify spirits or aromatised drinks not originating in the geographical area indicated by the designation in question or in the place where the designation in question is traditionally used.

2. In Slovenia, the protected Community designations:

- may not be used otherwise than under the conditions laid down in the laws and regulations of the Community, and
- shall be reserved exclusively for the spirit and aromatised drinks originating in the Community to which they apply.

3. In the Community, the protected Slovenian designations:

- may not be used otherwise than under the conditions laid down in the laws and regulations of Slovenia, and
- shall be reserved exclusively for the spirit and aromatised drinks originating in Slovenia to which they apply.

4. The protection provided for in this Agreement shall prohibit in particular any use of protected designations for spirit and aromatised drinks which do not originate in the geographical area indicated by the designation in question or in the place where the designation in question is traditionally used, and shall apply even when:

- the true origin of the spirit and aromatised drinks is indicated;

— the geographical indication in question is used in translation;

— the name is accompanied by terms such as kind, type, style, imitation, method or other expressions of the sort.

5. In cases of homonymous designations for spirit and aromatised drinks, protection shall be accorded to each designation. The Association Committee shall by decision lay down the practical conditions under which the homonymous designations in question are to be differentiated from each other, taking into account the need to treat the producers concerned fairly and to avoid misleading the consumer.

6. The provisions of this Agreement shall in no way prejudice the right of any person to use, for trade purposes, their own name or the name of the person whose business they have taken over, provided that such names are not used in a way that misleads consumers.

7. Nothing in this Agreement shall oblige a Party to protect any designation of the other Party which is not protected or ceases to be protected in its country of origin or which has fallen into disuse in that country.

8. The Contracting Parties hereby waive their right to invoke Article 24(4) to (7) of the TRIPs Agreement in order to refuse to grant protection to designations from the other Party.

Article 5

Protected designations

The following designations shall be protected:

- (a) as regards spirit drinks originating in the Community, the designations in list 1;
- (b) as regards spirit drinks originating in Slovenia, the designations in list 2;
- (c) as regards aromatised drinks originating in the Community, the designations in list 3;
- (d) as regards aromatised drinks originating in Slovenia, the designations in list 4.

Article 6

Trade marks

1. The registration of a trade mark for a spirit or aromatised drink which contains or consists of a designation as referred to in Article 5 shall be refused or, at the request of an interested party, be invalidated, with respect to such spirits not originating in the place indicated by the designation.

2. Notwithstanding paragraph 1, a trade mark registered in good faith by 31 December 1995 at latest, may be used until 31 December 2005, provided it has been used effectively without interruption since its registration.

*Article 7***Exports**

The Parties shall take all measures necessary to ensure that, in cases where spirits or aromatised drinks originating in the territory of the Parties are exported and marketed outside their territory, the designations of one Party protected under this Agreement are not used to designate and present spirits or aromatised drinks originating in the other Party.

*Article 8***Extension of protection**

To the extent that the relevant legislation of the Parties allows, the benefit of the protection afforded by this Agreement shall cover natural and legal persons and federations, associations and organisations of producers, traders and consumers whose head offices are located in the territory of the other Party.

*Article 9***Enforcement**

1. If the appropriate competent authority, designated in accordance with Article 11, becomes aware that the description or presentation of a spirit or aromatised drink, in particular on the labelling, in official or commercial documents or in advertising, is in breach of this Agreement, the Parties shall apply the necessary administrative measures and/or shall initiate suitable legal proceedings with a view to combating unfair competition or preventing the wrongful use of the protected designation in any other way.

2. The measures and proceedings referred to in paragraph 1 shall be taken in particular in the following cases:

- (a) where the translation of designations provided for by Community or Slovenian legislation into the language or languages of the other Contracting Party results in the appearance of a word which is liable to be misleading as to the origin, nature or quality of the spirits or aromatised drinks thus identified;
- (b) where descriptions, trade marks, words, inscriptions or illustrations which directly or indirectly give false or misleading information as to the origin, nature, material qualities of the spirit or aromatised drink appear on containers or packaging, in advertising or in official or commercial documents relating to designations protected under this Agreement;
- (c) where, for packaging, containers are used which are misleading as to the origin of the spirit or aromatised drink.

3. The application of paragraphs 1 and 2 shall not prejudice the possibilities of the persons and entities referred to in Article

8 to take appropriate actions in the Contracting Parties, including recourse to the courts.

*Article 10***Other internal legislation and international agreements**

Unless otherwise agreed by the Contracting Parties, this Agreement shall not preclude any more extensive protection afforded, now or in the future, to designations protected by this Agreement by the Contracting Parties under their internal legislation or other international agreements.

TITLE II

CONTROLS AND MUTUAL ASSISTANCE BETWEEN COMPETENT AUTHORITIES*Article 11***Enforcement authorities**

1. The Contracting Parties shall each designate the authorities responsible for the enforcement of this Agreement. Where a Contracting Party designates more than one competent authority, it shall ensure the coordination of the work of these authorities. For this purpose, a single authority shall be designated.

2. The Parties shall inform one another of the names and addresses of the above authorities not later than two months after this Agreement comes into force. These authorities shall cooperate closely and directly with each other.

*Article 12***Infringement**

1. If one of the authorities referred to in Article 11 has reason to suspect that:

- (a) a spirit or aromatised drink as defined in Article 2, being or having been traded between Slovenia and the Community, does not comply with this Agreement or with provisions, laid down in the laws and regulations of the Contracting Parties, applicable to spirits and aromatised drinks, and
- (b) this non-compliance is of particular interest to the other Contracting Party and could result in administrative measures and/or legal proceedings being taken,

it shall immediately inform the Commission and the relevant authority or authorities of the other Party.

2. The information to be provided in accordance with paragraph 1 shall be accompanied by official, commercial or other appropriate documents, with details of any administrative measures or legal proceedings that may, if necessary, be taken. The information shall include, in particular, the following details concerning the spirits or aromatised drink in question:

- (a) the producer and the person who has power of disposal over the spirit or aromatised drink;
- (b) the composition and organoleptic characteristics of that drink;
- (c) its description and presentation;
- (d) details of the non-compliance with the rules concerning production and marketing.

TITLE III

MANAGEMENT OF THE AGREEMENT*Article 13***Working group**

1. A working group functioning under the auspices of the Subcommittee on Agriculture and Fisheries shall be established.
2. The working group shall see to the proper functioning of this Agreement and shall examine all questions which may arise in implementing it. In particular, the working group may make recommendations which would contribute to the attainment of the objectives of this Agreement.

*Article 14***Tasks of the Contracting Parties**

1. The Contracting Parties shall, either directly or through the working group referred to in Article 13, maintain contact on all matters relating to the implementation and the functioning of this Agreement.
2. In particular, the Contracting Parties shall:
 - (a) establish and amend by decision of the Association Committee the lists referred to in Article 5 and the Protocol to this Agreement, to take account of any amendments to the laws and regulations of the Contracting Parties;
 - (b) inform each other of the intention to decide new regulations or amendments of existing regulations of public policy concern, such as health or consumer protection, with implications for the spirits and aromatised drinks market;
 - (c) notify each other of judicial decisions concerning the application of this Agreement and inform each other of measures adopted on the basis of such decisions.
3. Within the framework of this Agreement, either of the Contracting Parties may put forward suggestions for widening the scope of their co-operation in the spirit and aromatised drinks market, taking into account the experience gained in its application.

4. Decisions taken under paragraph 2(a) shall be binding on the Parties, which shall take the measures necessary to implement the decisions taken.

TITLE IV

GENERAL PROVISIONS*Article 15***Transit — small quantities**

This Agreement shall not apply to spirit and aromatised drinks which:

- (a) pass in transit through the territory of one of the Contracting Parties, or
- (b) originate in the territory of one of the Contracting Parties and which are consigned in small quantities between those Contracting Parties under the conditions and according to the procedures provided for in the Protocol.

*Article 16***Territorial application**

This Agreement shall apply, on the one hand, to the territories to which the Treaty establishing the European Community applies and under the conditions laid down in that treaty and, on the other hand, to the territory of the Republic of Slovenia.

*Article 17***Failure to comply**

1. The Contracting Parties shall enter into consultations if either considers that the other has failed to fulfil an obligation under this Agreement.
2. The Contracting Party which requests the consultations shall provide the other with all information necessary for a detailed examination of the case in question.
3. In cases where any delay could endanger human health or impair the effectiveness of measures to control fraud, appropriate interim protective measures may be taken, without prior consultation, provided that consultations are held immediately after such measures are taken.
4. If, following the consultations provided for in paragraphs 1 and 3, the Contracting Parties have not reached agreement, the Party which has requested the consultations or taken the measures referred to in paragraph 3 may take appropriate safeguard measures so as to permit the proper application of this Agreement.

*Article 18***Marketing of pre-existing stocks**

1. Spirit and aromatised drinks which, at the time of entry into force of this agreement, have been legally produced, described and presented, in accordance with the internal laws and regulations of the Contracting Parties, but which may be prohibited by this Agreement may be marketed by wholesalers for a period of one year from the entry into force of the Agreement and by retailers until stocks are exhausted. From the entry into force of this Agreement, spirit and aromatised drinks included herein may no longer be produced outside the limits of their regions of origin.
 2. Spirit and aromatised drinks produced, described and presented in accordance with this agreement whose description and presentation cease to comply with this Agreement following an amendment thereto may continue to be marketed until stocks are exhausted, unless otherwise agreed by the Contracting Parties.
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Protocol to the Agreement between the European Community and the Republic of Slovenia on the reciprocal recognition, protection and control of wine names

THE CONTRACTING PARTIES HEREBY AGREE AS FOLLOWS:

Pursuant to Article 15(b) of the Agreement, the following products referred to wines shall be considered to be small quantities:

1. quantities in labelled containers of not more than 5 litres fitted with a non-reusable closing device where the total quantity transported, whether or not made up of separate consignments, does not exceed 50 litres;
2. (a) quantities which are contained in the personal luggage of travellers in quantities not exceeding 30 litres;
(b) quantities which are sent in consignments from one private individual to another in quantities not exceeding 30 litres;
(c) quantities which are forming part of the belongings of private individuals who are moving house;
(d) quantities which are imported for the purpose of scientific or technical experiments, subject to a maximum of 1 hectolitre;
(e) quantities which are imported for diplomatic, consular or similar establishments as part of their duty-free allowance;
(f) quantities which are held on board international means of transport as victualling supplies.

The case of exemption referred to in point 1 may not be combined with one or more of the cases of exemption referred to in point 2.
