



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 8.4.2008
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2008/0073(AVC)

Proposal for a

COUNCIL DECISION

on the signing of the Stabilisation and Association Agreement between the European Communities and its Member States and Bosnia and Herzegovina on behalf of the European Community

Proposal for a

COUNCIL AND COMMISSION DECISION

on the conclusion of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. The attached two proposals constitute the legal instruments for the signature and the conclusion of the Stabilisation and Association Agreement (SAA) between the European Communities and their Member States, on the one part, and Bosnia and Herzegovina on the other part: (i) Proposal for a Council Decision for the signature of the Agreement; (ii) Proposal for a Council and Commission Decision for the conclusion of the Agreement.
2. The Council decided on 21 November 2005 to authorise the Commission to negotiate the SAA with Bosnia and Herzegovina and SAA negotiations were officially launched on 25 November 2005. The negotiations were undertaken in close consultation with COWEB and with the EU Member States. Technical discussions were finalised in December 2006. Additional adjustments took place following discussions with the Member States and the final SAA text was available in May 2007.
3. Bosnia and Herzegovina's improved co-operation with the ICTY and progress in the last quarter of 2007 towards the implementation of the police reform enabled the Commission to initial the Stabilisation and Association Agreement in Sarajevo on 04 December 2007.
4. The final decision to sign the Stabilisation and Association Agreement remains subject to the joint review foreseen in the Council conclusions of 21 November 2005 and the Joint Council/Commission Declaration¹ attached therein on police reform, ICTY cooperation, legislative framework and administrative capacity development and public broadcasting legislation. The present proposal does not prejudge the assessment of Bosnia and Herzegovina's compliance with its obligations in this regard.

At the adoption of the negotiating Directives in November 2005, the Commission and the Council jointly declared that before negotiations on the SAA are concluded:

- the Commission will report on the political conditionalities to the Council and that
- the Council and the Commission will jointly review progress made by Bosnia and Herzegovina.

Consequently, the Commission will, in due time and in line with the Joint Declaration, report to the Council and will jointly review progress with the Council before the final decision can be taken to sign the SAA with Bosnia and Herzegovina.

5. The Stabilisation and Association Agreement focuses on the following main elements:
 - provision for political dialogue with Bosnia and Herzegovina;
 - provisions on enhanced regional co-operation, including provisions on free trade areas between the countries of the region;
 - the perspective of the establishment of a free-trade area between the Community and Bosnia and Herzegovina within five years of the entry into force of the Agreement;

¹ 14364/05 Limite

- provisions on the movement of workers, freedom of establishment, supply of services, current payments and movement of capital;
 - the commitment by Bosnia and Herzegovina to approximate its legislation to that of the EC, notably in key areas of the internal market;
 - provisions on co-operation with Bosnia and Herzegovina in a wide range of fields, including justice, freedom and security.
 - provision for the establishment of a Stabilisation and Association Council which supervises the implementation of the Agreement, of a Stabilisation and Association Committee and a Stabilisation and Association Parliamentary Committee.
6. The trade concessions granted by Council Regulation (EC) No 2007/2000 of 18 September 2000 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process, amending Regulation (EC) No 2820/98, and repealing Regulations (EC) No 1763/1999 and (EC) No 6/2000² will continue to apply, in parallel to the Stabilisation and Association Agreement.
7. The Commission asks the Council to give its final approval to the text of the SAA and to engage the procedures for the signature and conclusion of this Agreement on the basis of the attached two proposals.
8. The procedures for the signature and the conclusion of the Agreement are different for the two European Communities: (the European Community and the European Atomic Energy Community):
- a) as regards signature, the first indent, first sentence of Article 300 (2) of the EC Treaty provides for a separate Council Decision concerning the signing of the Agreement on behalf of the European Community; similar acts are not required under the EAEC Treaty
 - b) as regards conclusion of the Agreement:
 - The Council concludes the Agreement on behalf of the European Community, after having received the assent of the European Parliament, by virtue of Article 310 of the Treaty;
 - The Council approves the Agreement on behalf of the European Atomic Energy Community by virtue of the second paragraph of Article 101 of the EAEC Treaty and the Agreement is then concluded by the Commission;
9. In line with the above the Commission requests the Council to decide when the Council and Commission will have reached a positive joint review of the political conditionalities as referred to in paragraph 4,
- (i) to sign the Agreement on behalf of the European Community
 - (ii) to conclude the Agreement on behalf of the European Community and to give its approval for conclusion by EURATOM.
- Ratification by all Member States is a prerequisite for the entry into force of the Agreement.

² OJ L240, 23/9/2000, p. 1. Regulation as last amended by Regulation (EC) No 1946/2005 (OJ, L312, 29.11.2005, p. 1).

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 310 in conjunction with the first sentence of the first sub paragraph of Article 300 (2) thereof,

Having regard to the proposal from the Commission³,

Whereas:

- (1) Negotiations with Bosnia and Herzegovina on the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, have been completed.
- (2) The commercial provisions contained in this Agreement are of an exceptional nature, connected with the policy implemented within the framework of the Stabilisation and Association Process and will not constitute, for the European Union, any precedent in the commercial policy of the Community with regard to third countries other than those of the Western Balkans.
- (3) Subject to a possible conclusion at a later date, the Agreement initialled in Sarajevo on 04 December 2007 should therefore be signed on behalf of the European Community,

HAS DECIDED AS FOLLOWS:

Sole Article

Subject to its possible conclusion at a later date, the President of the Council is hereby authorised to designate the persons empowered to sign, on behalf of the European Community, the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part.

Done at

*For the Council
The President*

³ OJ C [...], [...], p. [...].

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THE COUNCIL OF THE EUROPEAN UNION,
THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 310 in conjunction with Article 300 (2), first subparagraph, last sentence and Article 300 (3), second subparagraph thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the proposal from the Commission,

Having regard to the assent of the European Parliament⁴,

Having regard to the approval of the Council granted pursuant to Article 101 of the Treaty establishing the European Atomic Energy Community,

Whereas

- (1) The Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina of the other part, has been signed on behalf of the European Community, in [...] on [...], subject to its possible conclusion at a later date, in accordance with Council Decision no. [...]/[...]/CE of [...]⁵.
- (2) The commercial provisions contained in this Agreement are of an exceptional nature, connected with the policy implemented within the framework of the stabilisation and association process and will not constitute, for the European Union, any precedent in the commercial policy of the Community with regard to third countries other than those of the Western Balkans.
- (3) This Agreement should be approved,

HAVE DECIDED AS FOLLOWS:

Article 1

The Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, the Annexes and Protocols annexed thereto, as well as the joint declarations and the declaration by the

⁴ OJ C [...], [...], p. [...].

⁵ OJ C [...], [...], p. [...].

Community attached to the Final Act, are hereby approved on behalf of the European Community and the European Atomic Energy Community.

The texts referred to in the first paragraph are attached to this Decision.

Article 2

1. The position to be taken by the Community within the Stabilisation and Association Council and within the Stabilisation and Association Committee when the latter is empowered to act by the Stabilisation and Association Council shall be determined by the Council, on a proposal by the Commission, or, where appropriate, by the Commission, each in accordance with the corresponding provisions of the Treaties.
2. The President of the Council shall, in accordance with Article 117 of the Stabilisation and Association Agreement, preside over the Stabilisation and Association Council. A representative of the Commission shall preside over the Stabilisation and Association Committee, in accordance with the Rules of Procedure thereof.
3. The decision to publish the decisions of the Stabilisation and Association Council and the Stabilisation and Association Committee in the *Official Journal of the European Union* shall be taken on a case-by-case basis by the Council and the Commission respectively.

Article 3

The President of the Council is hereby authorised to designate the persons empowered, on behalf of the European Community, to deposit the act of approval provided for in Article 135 of the Agreement. The President of the Commission shall deposit the said act of approval on behalf of the European Atomic Energy Community.

Done at

For the Council
The President

For the Commission
The President