

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

RESTRICTED
L/7618/Add.1
20 January 1995
Limited Distribution

(95-0074)

Original: English/French/Spanish

EUROPE AGREEMENT BETWEEN ROMANIA
AND THE EUROPEAN COMMUNITIES

Communication from the Parties to the Agreement

Addendum

The following text reproduces the Interim Agreement¹ between the European Communities and Romania.

INTERIM AGREEMENT ON TRADE AND TRADE-RELATED MATTERS
BETWEEN THE EUROPEAN ECONOMIC COMMUNITY AND
THE EUROPEAN COAL AND STEEL COMMUNITY, OF THE ONE PART,
AND ROMANIA, OF THE OTHER PART

The European Economic Community and the European Coal and Steel Community, hereinafter referred to as "the Community",

of the one part,

and Romania,

of the other part,

Whereas the Europe Agreement establishing an association between the European Communities and their Member States and Romania was signed in Brussels on 1 February 1993;

Whereas, the aim of the Europe Agreement is to provide an appropriate framework for political dialogue; whereas it is to govern commercial and economic relations between the Parties and includes provisions relating to financial cooperation and assistance and the promotion of cooperation in cultural matters;

Whereas the Europe Agreement is intended to establish close and lasting relations, based on reciprocity, which would allow Romania to take part in the process of European integration;

¹The Annexes and Protocols thereto have been submitted to the Secretariat for consultation by interested contracting parties (office 3006).

Whereas it is necessary to ensure the development of trade links by strengthening and widening the relations established in the past, notably by the Agreement on trade and commercial and economic cooperation, signed on 22 October 1990;

Whereas to this end it is necessary to implement as speedily as possible, by means of an Interim Agreement, provisions of the Europe Agreement on trade and trade-related matters;

Whereas it is necessary to ensure that pending the entry into force of the Europe Agreement and the establishment of the Association Council, the Joint Committee set up by the Agreement on trade and commercial and economic cooperation can exercise the powers assigned by the Europe Agreement to the Association Council which are necessary in order to implement the Interim Agreement;

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

The European Economic Community:

The European Coal and Steel Community:

Romania:

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

Have agreed as follows:

TITLE I

General Principles

Article 1 (EA 6)

Respect for the democratic principles and human rights established by the Helsinki Final Act and the Charter of Paris for a 'new Europe', as well as the principles of market economy and the support by the Community through this Agreement, inspire the domestic and external policies of the Parties and constitute essential elements of this Agreement.

TITLE II

Free Movement of Goods

Article 2 (EA 8)

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

CHAPTER I

Industrial Products

Article 3 (EA 9)

1. The provisions of this Chapter shall apply to products originating in the Community and in Romania listed in Chapters 25 to 97 of the combined nomenclature with the exception of the products listed in Annex I.
2. The provisions of Articles 4 to 8 included do not apply to products mentioned in Articles 10 and 11.

Article 4 (EA 10)

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

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

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

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

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

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

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

Article 5 (EA 11)

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

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

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

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

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

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

5. The products originating in the Community listed in Annex VII shall benefit from a suspension of customs duties on imports in Romania within the limits of annual quotas which will be increased progressively as foreseen in that Annex. Customs duties on imports applicable to quantities in excess of the above-mentioned quotas shall be progressively dismantled according to the timetable mentioned in paragraph 4.

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

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

Article 6 (EA 12)

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

Article 7 (EA 13)

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

2. Romania shall abolish in its imports from the Community any charges having an equivalent effect to customs duties on imports upon entry into force of the Agreement, except for the charges of 0.5 per cent *ad valorem* for the customs formalities which will be abolished according to the following timetable:

- reduction to 0.25 per cent *ad valorem* at the end of the third year,
- elimination at the latest by the end of the fifth year upon entry into force of the Agreement.

Article 8 (EA 14)

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

Article 9 (EA 15)

Each Party declares its readiness to reduce its customs duties in trade with the other Party more rapidly than is provided for in Articles 4 and 5 if its general economic situation and the situation of the economic sector concerned so permit.

The Joint Committee, referred to in Article 39 (hereinafter referred to as "the Joint Committee") may make recommendations to this effect.

Article 10 (EA 16)

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

Article 11 (EA 17)

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

Article 12 (EA 18)

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

CHAPTER II

Agriculture

Article 13 (EA 19)

1. The provisions of this Chapter shall apply to agricultural products originating in the Community and in Romania.

2. The term "agricultural products" means the products listed in Chapters 1 to 24 of the combined nomenclature and the products listed in Annex I, but excluding fishery products as defined by Regulation (EEC) No. 3687/91.

Article 14 (EA 20)

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

Article 15 (EA 21)

1. The Community shall abolish at the date of entry into force of the Agreement the quantitative restrictions on imports of agricultural products originating in Romania maintained by virtue of Council Regulation (EEC) No. 3420/83 in the form existing on the date of signature hereof.

2. The agricultural products originating in Romania listed in Annexes XI(a) and XI(b) shall benefit, upon the date of entry into force of this Agreement, from the reduction of levies within the limit of Community quotas or from the reduction of customs duties and upon the conditions provided in the same Annexes.

3. Romania shall abolish quantitative restrictions on imports of agricultural products originating in the Community upon entry into force of the Agreement.

4. The Community and Romania shall grant each other the concessions referred to in Annexes XII(a), XII(b) and XIII, on a harmonious and reciprocal basis, in accordance with the conditions laid down therein.

5. Taking account of the volume of trade in agricultural products between them, of their particular sensitivity, of the rules of the common agricultural policy of the Community, of the role of agriculture in Romania's economy, and of the consequences of the multilateral trade negotiations under the General Agreement on Tariffs and Trade, the Community and Romania shall examine in the Joint Committee, product by product and on an orderly and reciprocal basis, the possibilities of granting each other further concessions.

6. Taking account of the need for an increased harmony between the agricultural policies in the Community and Romania, as well as Romania's objective of becoming a member of the Community, both Parties will have regular consultations in the Joint Committee on the strategy and practical modalities of their respective policies.

Article 16 (EA 22)

Notwithstanding other provisions of this Agreement, and in particular Article 25, if, given the particular sensitivity of the agricultural markets, imports of products originating in one Party, which are the subject of concessions granted in Article 15, cause serious disturbance to the markets in the other Party, both Parties shall enter into consultations immediately to find an appropriate solution. Pending such a solution, the Party concerned may take the measures it deems necessary.

CHAPTER III

Fisheries

Article 17 (EA 23)

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

Article 18 (EA 24)

1. The Community and Romania shall grant each other the concessions referred to in Annexes XIV and XV on a harmonious and reciprocal basis, in accordance with the conditions laid down therein. The provisions of Article 15(5) shall apply *mutatis mutandis* to fishery products.

2. The Joint Committee will examine the possibility of concluding an agreement on fishery products between the Parties when the necessary conditions so permit.

CHAPTER IV

Common Provisions

Article 19 (EA 25)

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

Article 20 (EA 26)

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

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

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

4. Without prejudice to the concessions granted pursuant to Article 15, the provisions of paragraphs 1 and 2 of this Article shall not restrict in any way the pursuance of the respective agricultural policies of Romania and the Community or the taking of any measures under such policies.

Article 21 (EA 27)

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

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

Article 22 (EA 28)

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

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

Article 23 (EA 29)

Exceptional measures of limited duration which derogate from the provisions of Articles 5 and 20 (1) may be taken by Romania in the form of increased customs duties.

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

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

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

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

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

Article 24 (EA 30)

If one of the Parties finds that dumping is taking place in trade with the other Party within the meaning of Article VI of the General Agreement on Tariffs and Trade, it may take appropriate measures against this practice in accordance with the Agreement relating to the application of Article VI of the General Agreement on Tariffs and Trade, with related internal legislation and with the conditions and procedures laid down in Article 28.

Article 25 (EA 31)

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

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

the Community or Romania, whichever is concerned, may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 28.

Article 26 (EA 32)

Where compliance with the provisions of Articles 8 and 20 leads to:

- (i) re-export towards a third country against which the exporting Party maintains, for the product concerned, quantitative export restrictions, export duties or measures having equivalent effect; or
- (ii) a serious shortage, or threat thereof, of a product essential to the exporting Party,

and where the situations above referred to give rise, or are likely to give rise to major difficulties for the exporting Party, that Party may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 28. The measures shall be non-discriminatory and be eliminated when conditions no longer justify their maintenance.

Article 27 (EA 33)

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

Article 28 (EA 34)

1. In the event of the Community or Romania subjecting imports of products liable to give rise to the difficulties referred to in Article 25 to an administrative procedure having as its purpose the rapid provision of information on the trend of trade flows, it shall inform the other Party.

2. In the cases specified in Articles 24, 25 and 26, before taking the measures provided for therein or, in cases to which paragraph 3(d) applies, as soon as possible, the Community or Romania, as the case may be, shall supply the Joint Committee with all relevant information, with a view to seeking a solution acceptable to the two Parties.

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

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

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

- (a) as regards Article 25, the difficulties arising from the situation referred to in that Article shall be referred for examination to the Joint Committee, which may take any decision needed to put an end to such difficulties.

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

- (b) as regards Article 24, the Joint Committee shall be informed of the dumping case as soon as the authorities of the importing Party have initiated an investigation. When no end has been put to the dumping or no other satisfactory solution has been reached within 30 days of the matter being referred to the Joint Committee, the importing Party may adopt the appropriate measures;

- (c) as regards Article 26, the difficulties arising from the situations referred to in that Article shall be referred for examination to the Joint Committee.

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

- (d) where exceptional circumstances requiring immediate action make prior information or examination, as the case may be, impossible, the Community or Romania, whichever is concerned, may, in the situations specified in Articles 24, 25 and 26, apply forthwith the precautionary and provisional measures strictly necessary to deal with the situation, and the Joint Committee will be informed immediately.

Article 29 (EA 30)

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

Article 30 (EA 36)

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

Article 31 (EA 37)

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

TITLE III

Payments, Competition and other Economic Provisions

Article 32 (EA 60)

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

Article 33 (EA 63)

With reference to the provisions of this Chapter, and notwithstanding the provisions of Article 35, until a full convertibility of Romanian currency in the meaning of Article VIII of the International Monetary Fund (IMF) is introduced, Romania may in exceptional circumstances apply exchange restrictions connected with the granting or taking up of short- and medium-term credits to the extent that such restrictions are imposed on Romania for the granting of such credits and are permitted according to Romania's status under the IMF.

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

Article 34 (EA 64)

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

- (i) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;
- (ii) abuse by one or more undertakings of a dominant position in the territories of the Community or of Romania as a whole or in a substantial part thereof;
- (iii) any public aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods.

2. Any practices contrary to this Article shall be assessed on the basis of criteria arising from the application of the rules of Articles 85, 86 and 92 of the Treaty establishing the European Economic Community.

3. The Joint Committee shall, within three years of the entry into force of the Agreement, adopt the necessary rules for the implementation of paragraphs 1 and 2.

4. (a) For the purposes of applying the provisions of paragraph 1, point (iii), the Parties recognize that during the first five years after the entry into force of the Agreement, any public aid granted by Romania shall be assessed taking into account the fact that Romania shall be regarded as an area identical to those areas of the Community described in Article 92(3)(a) of the Treaty establishing the European Economic Community. The Joint Committee shall, taking into account the economic situation of Romania, decide whether that period should be extended by further periods of five years.
- (b) Each Party shall ensure transparency in the area of public aid, *inter alia*, by reporting annually to the other Party on the total amount and the distribution of the aid given and by providing, upon request, information on aid schemes. Upon request by one Party, the other Party shall provide information on particular individual cases of public aid.
5. With regard to products referred to in Chapters II and III of Title II:
 - the provision of paragraph 1(iii) does not apply,
 - any practices contrary to paragraph 1(i) should be assessed according to the criteria established by the Community on the basis of Articles 42 and 43 of the Treaty establishing the European Economic Community and in particular of those established in Council Regulation No. 26/1962.
6. If the Community or Romania considers that a particular practice is incompatible with the terms of paragraph 1, and:
 - is not adequately dealt with under the implementing rules referred to in paragraph 3, or
 - in the absence of such rules, and if such practice causes or threatens to cause serious prejudice to the interest of the other Party or material injury to its domestic industry, including its services industry,it may take appropriate measures after consultation within the Joint Committee or after 30 working days following referral for such consultation.

In the case of practices incompatible with paragraph 1(iii) of this Article, such appropriate measures may, where the General Agreement on Tariffs and Trade applies thereto, only be adopted in conformity with the procedures and under the conditions laid down by the General Agreement on Tariffs and Trade and any other relevant instrument negotiated under its auspices which are applicable between the Parties.
7. Notwithstanding any provisions to the contrary adopted in conformity with paragraph 3, the Parties shall exchange information taking into account the limitations imposed by the requirements of professional and business secrecy.
8. This Article shall not apply to the products covered by the Treaty establishing the European Coal and Steel Community which are the subject of Protocol 2.

Article 35 (EA 65)

1. The Parties shall endeavour to avoid the imposition of restrictive measures including measures relating to imports for balance of payments purposes. In the event of their introduction, the Party having introduced the same shall present to the other Party a time schedule for their removal.
2. Where one or more Member States or Romania is in serious balance of payments difficulties, or under imminent threat thereof, the Community or Romania, as the case may be, may, in accordance with the conditions established under the General Agreement on Tariffs and Trade, adopt restrictive measures, including measures relating to imports, which shall be of limited duration and may not go beyond what is necessary to remedy the balance of payments situation. The Community or Romania, as the case may be, shall inform the other Party forthwith.

Article 36 (EA 66)

With regard to public undertakings and undertakings to which special or exclusive rights have been granted, the Joint Committee shall ensure that, as from the third year from the date of entry into force of the Agreement, the principles of the Treaty establishing the European Economic Community, notably Article 90, and the principles of the concluding document of the April 1990 Bonn meeting of the Conference on Security and Cooperation in Europe (notably entrepreneurs' freedom of decision) are applied in the operation of this Agreement.

Article 37 (EA 67)

Romania shall continue to improve the protection of intellectual, industrial and commercial property rights in order to provide, by the end of the fifth year after the entry into force of the Agreement, for a level of protection similar to that provided in the Community by Community acts, in particular the ones referred to in Annex XVI, including comparable means of enforcing such rights.

Article 38 (EA 94(3))

Mutual assistance between administrative authorities in customs matters of the Parties shall take place in accordance with the provisions of Protocol 6.

TITLE IV

Institutional, General and Final Provisions

Article 39 (EA 106)

The Joint Committee set up by the Agreement on Trade and Commercial and Economic Cooperation signed between the European Economic Community and Romania on 20 October 1990 shall perform the duties assigned to it by this Agreement until the Association Council provided for in Article 106 of the Europe Agreement is established.

Article 40 (EA 108)

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

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

Article 41 (EA 109)

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

The Joint Committee shall appoint a third arbitrator.

The arbitrators' decisions shall be taken by majority vote.

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

Article 42 (EA 115)

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

Article 43 (EA 116)

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

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

Article 44 (EA 117)

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

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

Article 45 (EA 118)

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

Article 46 (EA 119)

1. The Parties shall take any general or specific measures required to fulfil their obligations under the Agreement. They shall see to it that the objectives set out in the Agreement are attained.
2. If either Party considers that the other Party has failed to fulfil an obligation under the Agreement, it may take appropriate measures. Before so doing, except in cases of special urgency, it shall supply the Joint Committee with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.

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

Article 47 (EA 121)

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

Article 48 (EA 122)

1. This Agreement shall be applicable until the entry into force of the Europe Agreement signed on 1 February 1993.
2. Either Party may denounce this Agreement by notifying the other Party. This Agreement shall cease to apply six months after the date of such notification.

Article 49 (EA 123)

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

Article 50 (EA 124)

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

Article 51 (EA 125)

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

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

Upon its entry into force, Articles 2, 3(1) and 4 to 16 of the Agreement between the European Atomic Energy Community and Romania on trade and economic and commercial cooperation signed in Luxembourg on 22 October 1990, shall be suspended.

Article 52 (EA 126)

1. In the event that this Agreement enters into force after 1 January but before 30 June 1993 for the purpose of Titles II and III of this Agreement and Protocols 1, 2, 3, 4, 5, 6 and 7 hereto, "date of entry into force of the Agreement" shall mean:

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

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