EU/Bosnia and Herzegovina Stabilisation and Association Agreement

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PURPOSE: to conclude a Stabilisation and Association Agreement (SAA) with Bosnia and Herzegovina.

PROPOSED ACT: Council Decision.

POLITICAL BACKGROUND: the Council decided on 21 November 2005 to authorise the Commission to negotiate the SAA with Bosnia and Herzegovina. Negotiations were officially launched on 25 November 2005. After several years of negotiations, the final SAA text became available in May 2007. Lastly, 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 4 December 2007.

The final decision to sign the SAA remains subject to the joint review foreseen in the Council conclusions of 21 November 2005 and the Joint Council/Commission Declaration:

- § on police reform,
- § ICTY cooperation,
- § legislative framework and administrative capacity development,
- § 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:

1) the Commission will report on the political conditionalities to the Council and that
2) 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.

CONTENT: the draft Stabilisation and Association Agreement is presented along the same lines as the Agreements already concluded or proposed with Croatia (see AVC/2001/0149), the former Yugoslav Republic of Macedonia (see AVC/2001/0049), Albania (see AVC/2006/0044), Montenegro (see AVC/2007/0123) and more recently Serbia (see AVC/2007/0255).

The draft Agreement aims to open the way for increased cooperation and stimulate the integration process of this country in the European structures.

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;

- § 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.

The trade concessions granted by Council Regulation (EC) No 2007/2000 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 6/2000 will continue to apply, in parallel to the Stabilisation and Association Agreement.

The proposed decision which aims to conclude the Agreement on behalf of the Community stipulates that "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".

Ratification by all Member States is a prerequisite for the entry into force of the Agreement as is the assent of the European Parliament.

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.