COUNCIL REGULATION (EC) No 2/2003

of 19 December 2002

amending Regulation (EC) No 2248/2001 on certain procedures for applying 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, and for applying the Interim Agreement between the European Community and the Republic of Croatia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The Council is in the process of concluding a 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, which was signed at Luxembourg on 29 October 2001 (hereinafter referred to as 'the Stabilisation and Association Agreement').

(2) Meanwhile on 29 October 2001 the Council concluded an Interim Agreement on trade and trade-related matters between the European Community, of the one part, and the Republic of Croatia, of the other part [1] (hereinafter referred to as 'Interim Agreement'). The Interim Agreement entered into force on 1 March 2002 but applied provisionally from 1 January 2002.

(3) Regulation (EC) No 2248/2001 [2] lays down certain procedures for applying some provisions of these Agreements. It is, however, necessary to lay down procedures for applying certain additional provisions of these Agreements.

(4) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 December 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [3].

(5) With regard to trade defence measures, it is appropriate to lay down specific provisions concerning the general rules provided for in Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [4].

(6) This Regulation should continue to apply after entry into force of the Stabilisation and Association Agreement,

HAS ADOPTED THIS REGULATION:

Article 1

In Regulation (EC) No 2248/2001 the following Articles shall be inserted:

'*Article 7a*

General safeguard clause and shortage clause

1. Where a Member State requests the Commission to take measures as provided for in Articles 25 and 26 of the Interim Agreement, and thereafter Articles 38 and 39 of the Stabilisation and Association Agreement, it shall provide the Commission, in support of its request, with the information needed to justify it.

2. The Commission shall be assisted by the Advisory Committee established by Article 4 of Council Regulation (EC) No 3285/94 (*) (hereinafter referred to as "the Committee").

3. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.

4. The Committee shall adopt its rules of procedure.

5. Where the Commission, at the request of a Member State or on its own initiative, finds that the conditions laid down in Articles 25 and 26 of the Interim Agreement, and thereafter Articles 38 and 39 of the Stabilisation and Association Agreement are fulfilled, it shall:

— inform the Member States forthwith if acting on its own initiative or, if it is responding to a Member State's request, within five working days of the date of receipt of that request,

— consult the Committee on the proposed measures,

— at the same time inform Croatia and shall notify it of the opening of the consultations within the Interim Committee, and thereafter the Stabilisation and Association Council as provided for in Article 25(4) and Article 26(3) of the Interim Agreement, and thereafter Article 38(4) and Article 39(3) of the Stabilisation and Association Agreement,

— at the same time provide the Interim Committee, and thereafter the Stabilisation and Association Council, with all the information necessary for these consultations as provided for in Article 25(3) and Article 26(3) of the Interim Agreement, and thereafter Article 38(3) and Article 39(3) of the Stabilisation and Association Agreement.

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[1] OJ L 330, 14.12.2001, p. 3.
[2] OJ L 304, 21.11.2001, p. 1.
[3] OJ L 184, 17.7.1999, p. 23.
[4] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p. 1).

6. On the completion of the consultations, and if no other arrangement proves possible, the Commission, after consulting the Committee, may decide on appropriate measures provided for in Articles 25 and 26 of the Interim Agreement, and thereafter Articles 38 and 39 of the Stabilisation and Association Agreement.

That Decision shall be notified forthwith to the Council; it shall also be notified to the Interim Committee, and thereafter the Stabilisation and Association Council.

That Decision shall be applicable immediately.

7. Any Member State may refer the Commission's Decision referred to in paragraph 6 to the Council within 10 working days of its notification.

The Council, acting by a qualified majority, may take a different decision within two months.

8. If the Commission decides not to take measures as provided for in Articles 25 and 26 of the Interim Agreement, and thereafter Articles 38 and 39 of the Stabilisation and Association Agreement, it shall inform the Council accordingly within five working days of receipt of the request from the Member State.

Any Member State may refer that Decision of the Commission to the Council within 10 working days of its notification.

If the Council, acting by qualified majority, indicates its intention to adopt a different decision, the Commission shall inform Croatia thereof forthwith and shall notify it of the opening of the consultations within the Interim Committee, and thereafter the Stabilisation and Association Council, as provided for in Article 25(3) and (4) and Article 26(3) of the Interim Agreement, and thereafter Article 38(3) and (4) and Article 39(3) of the Stabilisation and Association Agreement.

9. The Council, acting by qualified majority, may take a different Decision within two months of the conclusion of the consultations with Croatia within the Interim Committee, and thereafter the Stabilisation and Association Council.

10. The consultations within the Interim Committee, and thereafter the Stabilisation and Association Council, shall be deemed to be completed 30 days after the notification referred to in paragraphs 5 and 8.

Article 7b

Exceptional and critical circumstances

1. Where exceptional and critical circumstances arise within the meaning of Article 25(4)(b) and Article 26(4) of the Interim Agreement, and thereafter Article 38(4)(b) and Article 39(4) of the Stabilisation and Association Agreement, the Commission may take immediate measures as provided for in Articles 25 and 26 of the Interim Agreement, and thereafter Articles 38 and 39 of the Stabilisation and Association Agreement.

If the Commission receives a request from a Member State, it shall take a Decision thereon within five working days of receipt of the request.

2. The Commission shall notify the Council of its Decision.

3. Any Member State may refer the Commission's Decision to the Council within 10 working days of receiving notification of that Decision.

The Council, acting by a qualified majority, may take a different Decision within two months.

Article 7c

Safeguard clause for agricultural and fisheries products

Notwithstanding the procedures set out in Articles 7a and 7b, necessary measures concerning agricultural and fisheries products on the basis of Articles 18 or 25 of the Interim Agreement, and thereafter Articles 31 or 38 of the Stabilisation and Association Agreement or on the basis of provisions in the Annexes covering these products as well as of Protocol 3, can be taken according to procedures provided for by the relevant rules establishing the common organisation of the agricultural markets or markets in fishery and aquaculture products, or in specific provisions adopted pursuant to Article 308 of the Treaty and applicable to products resulting from the processing of agricultural and fisheries products, provided that the conditions established pursuant to Article 18 of the Interim Agreement, and thereafter Article 31 of the Stabilisation and Association Agreement or Article 25(3), (4) and (5) of the Interim Agreement, and thereafter Article 38(3), (4) and (5) of the Stabilisation and Association Agreement are met.

Article 7d

Dumping

In the case of a practice which is liable to warrant application by the Community of the measures provided for in Article 24(1) of the Interim Agreement, and thereafter Article 37(1) of the Stabilisation and Association Agreement, the introduction of anti-dumping measures shall be decided upon in accordance with the provisions laid down in Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community (**) and the procedure provided for in Article 24(2) of the Interim Agreement, and thereafter Article 37(2) of the Stabilisation and Association Agreement.

Article 7e

Competition

1. In the case of a practice that may justify application by the Community of the measures provided for in Article 35 of the Interim Agreement, and thereafter Article 70 of the Stabilisation and Association Agreement, the Commission after examining the case, on its own initiative or at the request of a Member State, shall decide whether such practice is compatible with the Agreement. Where necessary it shall propose the adoption of safeguard measures to the Council, which shall act in accordance with the procedures laid down in Article 133 of the Treaty, except in the cases of aid to which Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community (***) applies, when measures shall be taken