

STABILIZATION AND ASSOCIATION PROCESS IN ALBANIA AND INSTITUTIONAL FRAMEWORK

By: MBA Valbona KUKO¹

A. ALBANIA-EUROPEAN UNION RELATIONS

Albania's diplomatic relations with the European Union (EU) has been established in 1991. May 11, 1992 marked the most important event in these relations with the signing of the Trade and Cooperation Agreement, including the joint declaration on Political Dialogue, which entered into force in December 1992.

This agreement constitutes one of the most important contractual documents that Albania has signed in the past decade, which finally linked our country to the EU. Also in this period, Albania is included in the General System of Preferences, which represented a general regime of trade preferences that EU offered to a large number of countries with which it had contractual relations.

The Trade and Cooperation Agreement of May 11, 1992, allowed Albania to benefit from PHARE program funds. This constitutes an important step towards restructuring EU assistance to Albania in a number of areas that corresponded to the reforms in which the country was involved. In the framework of this program, in 1992-2000 period, a considerable assistance by approximately € 700.000.000 has been delivered to Albania.

Albania was close to signing a new contractual agreement with the EU in 1996, which would paved the way for a classic association agreement. However, the contested parliamentary elections of May 1996, followed by the deep financial and social crisis at the beginning of 1997 after the fall of pyramid schemes, resulted in the failure of every initiative to this end.

Political developments of this period in different regional countries, the dissolution of former Yugoslavia, the establishment of a number of new states, whose parameters were different from those of Central European countries, urged the European Union to adapt the called "*Regional Approach*" policy for Balkans countries.

The General Affairs Council at this time determined a number of political and economic conditions that Balkans countries should fulfill to develop and strengthen their EU relations. These criteria were linked to the respect of democratic services, human rights and liberties, the construction, respect and strengthening the rule of law, protection of minorities, development of market economy, and regional cooperation.

¹ MBA Valbona KUKO, Director, European Integration Directory, Ministry of European Integration

B. STABILIZATION AND ASSOCIATION PROCESS IN ALBANIA / CARDS PROGRAMME

In May 1999, the European Union adopted a new initiative, the Stabilization and Association Process, for five Balkans countries: Albania, the former Yugoslav Republic of Macedonia, Croatia, Bosnia-Herzegovina, and the Federal Yugoslav Republic. This process aims at establishing closer relations between the EU and the aforementioned countries through the Stabilization and Association Agreements.

The European Commission, in November 1999, presented a report on the feasibility study on opening the negotiation with Albania for concluding a Stabilization and Association Agreement, reaching the conclusion that Albania had not met the conditions for such an agreement.

The perspective of the western region for integration into the European Union is strengthened after the Feira European Council, convened in June 2000, which determined that all countries involved in the Stabilization and Association process *are potential candidates* for membership into the European Union.

In November 2000, a meeting of countries involved in the Stabilization and Association process was organized in Zagreb. *EU Zagreb Summit, on November 2000, reaffirmed that the SAp countries are "potential candidates for EU membership"* In this meeting, the EU decided to intensify cooperation with Albania through the establishment of the High Level Steering Group Albania – EU. The purpose of this group was to assess Albania's capacity to undertake the obligations deriving from a Stabilization and Association Agreement with the EU. The High Level Steering Group Albania-EU organized its three meetings, at the conclusion of which, the European Commission drafted an evaluation report that evidenced the progress achieved and the areas where improvements were needed. In conclusion, the Commission estimated that *"although much remains to be done in the direction of fulfilling the obligations arising from a Stabilization and Association Agreement, the perspective of opening the negotiations is the best way to maintain the tempo of political changes and economic reforms in the country"*. To this end, the Commission came to the conclusion that it is time to proceed with a Stabilization and Association Agreement with Albania.

The EU Council of Ministers endorsed in June 2001 the report of the Commission and requested that it submitted a draft mandate to open negotiations with Albania prior to the end of 2001. In accordance with the request of the Council, in December 2001, the European Commission submitted to the Council the draft mandate of negotiating a Stabilization and Association Agreement with Albania. Additionally, the *establishment of the EU Albania Joint Consultative Task Force* was decided in this meeting.

The draft mandate of the negotiations prepared and submitted by the European Commission was discussed at a technical level by EU member states during January – July 2002. The EU General Affairs Council in its meeting on October 21, 2002, determined the opening of the negotiations with Albania. *The negotiations were open officially by the President of the European Commission, Mr. Romano Prodi, on January 31, 2003.*

To enable the countries to meet objectives of the Stabilization and Association Process and the Stabilization and Association Agreement, the EU offers a financial support through the CARDS Programme (Community Assistance for Reconstruction Development and Stabilization), which replaced the PHARE and OBNOVA programs by regulation no. 2666/2000, dated December 5, 2000 of the Council of the European Union. In 2001-2004, EU assistance for Albania in the framework of the CARDS Programme reaches approximately € 180.000.000, and € 20 million under the Regional CARDS Programme.

The Multi-Annual Indicative Programme 2002-2004 describes the sectors and the planned interventions to which Community assistance for Albania in the period 2002-2004 will be directed. The assistance have been delivered through a number of sectoral interventions in support of the five priority areas identified:

- Justice and Home Affairs;
- Administrative Capacity Building;
- Economic and Social Development;
- Environment & Natural Resources;
- Democratic Stabilisation.

The **overall objective** of the National Indicative Programme is to support the participation of Albania in the Stabilisation and Association Process (SAP), including by contributing to the overall socio-economic development.

The **immediate objectives** of the assistance are:

- Ensuring public order and the rule of law, notably through strengthening the judiciary and fighting organised crime, fraud and corruption;
- Enhancing the functioning of the state and ensuring adequate implementation of the legal framework, in view of increasing legal security for individuals, and public and private bodies in Albania;
- Supporting the establishment of a functioning market economy and promoting private sector growth and job creation in order to facilitate sustainable economic growth, trade and employment, and to ensure the integration of the Albanian economy into EU structures and those of the wider international community;
- Ensuring adequate implementation by Albania of a future Stabilisation and Association Agreement with the EU, as well as the gradual approximation of Albanian legislation and structures to those operating in the EU.
- Supporting the protection of the environment;
- Strengthening civil society and further improving the Albanian electoral system/process.

C. ALBANIAN INSTITUTIONAL STRUCTURE FOR EUROPEAN INTEGRATION AND COMPETENCES (TABLE 1)

a. Inter-ministerial Committee for European Integration:

- Inter-ministerial Committee for European Integration is the highest institutional structure, responsible to guide and monitor the entire integration process in Albania.
- This Committee is chaired by the Prime Minister and is composed of Ministers and high officials of other central institutions.
- The Inter-ministerial Committee for European integration meets periodically and deals with the most important issues regarding the process of European integration.

b. Ministry of European Integration/ Directorate of European Integration

- Coordinates and monitors all the Stabilization and Association Process/ the negotiations for Stabilisation and Association Agreement.
- Leads Consultative Task Force EU-Albania meetings and monitors the activities of working groups in the framework of the Stabilization and Association process.
- Responsible to negotiate, program, coordinate, and monitor the implementation of the CARDS programme.

c. Directorate of Legislation Approximation

- The Directorate of Legislation Approximation is responsible for the coordination, monitoring, and implementation of the process of adaptation/harmonization of Albanian legislation to the EU acquis.
- An inter-ministerial working group has been established and functions to support the process of legislation approximation.

d. Negotiation Team for the SAA

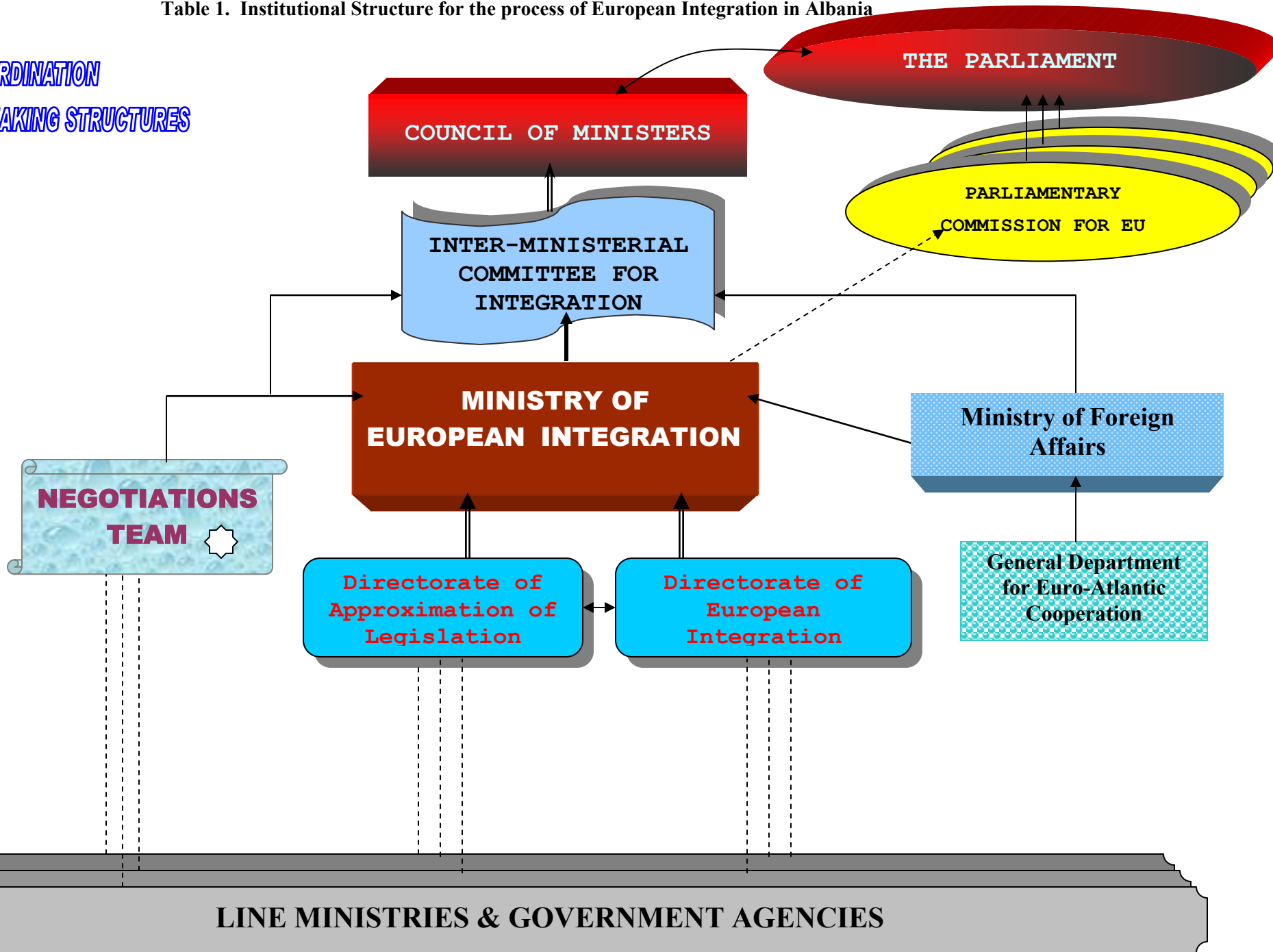
- The Minister of European Integration is the Chief Negotiator of the Albanian Government.
- The negotiation team is composed of representatives of all line ministries and other central institutions.
- The negotiation team is responsible to coordinate, monitor, and implement of all sector activities linked to the Stabilization and Association process in their institutions.

e. Ministry of Foreign Affairs – The General Directorate for Euro-Atlantic Cooperation

- Responsible to promote, acknowledge, and support the Stabilization and Association process in the highest EU political levels.
- In the framework of foreign affairs, the Ministry of Foreign Affairs is responsible to increase and strengthen the political dialogue with member states and other member states to support the Stabilization and Association process.

Table 1. Institutional Structure for the process of European Integration in Albania

*EU AFFAIRS COORDINATION
AND DECISION MAKING STRUCTURES*



D. JOINT EU-ALBANIA STRUCTURES AND MONITORING INSTRUMENTS

The most important structure with the EU in this process remains the **Consultative Task Force EU-Albania** established in October 2001. This structure meets 3 times per year and is responsible to monitor the implementation of the sectorial reforms in Albania. During the period October 2001-December 2003, seventh meeting of the Task Force have been held. (the first on 18-19 October 2001, second on 6-7 March 2002, third on 18-19 June 2002, fourth on 13-14 November 2002, fifth on 24-25 March 2003, sixth on 24 June 2003, and seventh on 7 November 2003).

The meetings of the Joint Consultative Task force discuss the process done in the progress of sector reforms in all directions, such as:

- Stability of institutions that guarantee democracy, rule of law, human rights, respect and protection of minority rights, good relations with the neighbors, and consultative policy in the region.
- Full functioning of the market economy, privatization of strategic sectors, improvement of the taxation system and the ability to face the pressure of the EU market competition forces.
- Ability to undertake the implementation of obligations of full membership, including the aim to achieve political, economic, and monetary union.

e. Task Force meetings are followed by *Joint Recommendations*, which reflect the discussions, problem areas dealt and possible solutions, accompanied in the majority of cases with clearly defined deadlines for their fulfillment. The pursuit and the timely implementation of these recommendations is the focus of the work of the Institution of the Minister of State for Integration, in cooperation with line ministries through the Negotiating Team established to this end.

f. **Joint Committee Albania-EU** is another monitoring structure established in the framework of the Trade and Cooperation Agreement in the area of trade and economy in 1992, which assesses the progress made by the Albanian institutions during one year in areas covered by the agreement such as trade and economy. In the framework of this Committee work several working groups function that examine issues related to infrastructure, economy and finance, legislation approximation and agriculture.

g. Another monitoring instrument of the process of reforms undertaken by Albania is the **yearly Report of the European Commission for Albania** on the Stabilization and Association process. These reports treat in detail the political and economic situation in the country, and offer suggestions on where the attention should focus in the following 12 months. This report represents a very good base for Albania to prepare sector evaluation studies on the problems raised by the report, to clearly identify the measures that should be taken to address the existing problems, and for identification the priorities for the future.

To lead and assist and follow up the Stabilization and Association process, the Albanian Government undertook the preparation of **the Strategic Plan for the European Integration, (May 2002)**. By determining the strategic goals, the main aim of this plan was to determine strategic priorities, long, medium and short-term objectives, accompanied by a detail matrix of respective measures to implement the objectives.

A tradition of the work of the Institution of the Minister of State for Integration is the compilation and elaboration of the **Monthly Progress Report**, which informs the European Commission and Member States on Albania's progress in the reforms—general and specific achievements—and other commitments in this process. In respond to the EC report on the Stabilization and Association Process, also as a contribution for the next EC report, an yearly progress report, is prepared by the Albanian Government at the end of each respective year.

H. THE PROCESS OF NEGOTIATIONS BETWEEN ALBANIA AND THE EUROPEAN UNION FOR A STABILIZATION AND ASSOCIATION AGREEMENT

The intensive relations Albania-EU in the framework of the Stabilization and Association Process, which begun in 1999, were finalized with the official opening of the negotiations, for the Stabilization and Association Agreement between the European Union and Albania, by the President of the European Commission Mr. Romano Prodi on January 31, 2003.

The Stabilization and Association Agreement aims at the economic and political stability of the candidate country. Precisely for these reasons, this agreement contains asymmetrical obligations on its behalf.

The general framework of the Stabilization and Association Agreement is based on four pillars: *political dialogue and regional cooperation*, *trade provisions* related to the progressive liberalization of exchanges until the establishment of a free trade area between the parties, *community freedoms*, and finally, *cooperation in priority areas*, especially in the area of justice and home affairs.

Albania, as every potential candidate country, must meet the criteria established by the Copenhagen European Council meeting in June 1993 to become party to the agreement. These criteria have a political and economic character. On the one hand they require that the candidate state for integration guarantees democracy, rule of law, respect of human rights and minorities, and on the other hand the candidate country must establish a market economy, which can stand the competitive pressure of the common European market. Finally, the candidate country should be able to meet the obligations arising from the “acquis communautaire” – the legislation of the European Union.

The **Stabilisation and Association Agreements (SAA)**, when signed, would be the principal means to begin to prepare countries for the demands that the perspective of accession to the EU naturally entails. The SAAs focus on respect for democratic principles and integration of the countries of the region into the EU single market. They foresee the establishment of a free trade area with the EU and set out rights and obligations in areas such as competition and state aid rules, intellectual property and establishment, which will allow the economies of the region to begin to integrate with the EU's. The conclusion of such Agreements represents the signatories' commitment to complete over a transition period, a formal association with the EU, tailored to the circumstances of each country but based on the implementation of the same core obligations.

Article 6 of the SAA draft text for Albania foreseen that “*the Association shall be implemented progressively and shall be fully realised over a transitional period of a maximum of ten years, divided into two successive stages....*” The purpose of this division into successive stages is to make a thorough mid-term review of the implementation of the Agreement mainly in the field of legal approximation and law enforcement, with the aim for Albania to concentrate during the first phase on the fundamental elements, with specific benchmarks of the *acquis*.

EU-Albania negotiations on the Stabilization and Association Agreement are organized every six weeks, one political round followed by two technical rounds, a calendar which was determined at the opening of the negotiations.

Seventh negotiation rounds have been held so far, of which three political rounds and four technical rounds. In a more detailed manner, the chapters and articles discussed during these rounds are as follows:

❖ **First political round was held on February 13, 2003, in Tirana. The following were discussed:**

- Preamble of the draft Stabilization and Association Agreement, and its first article
- Title I “General Principles” – Article 2-7
- Title II “Political Dialogue”- Articles 8-11
- Title III “Regional Cooperation”- Articles 12-15.

The chapter on the “General Principles” sets out the main conditions such as the respect for democratic principles and human rights, respect for international legal principles and the rule of law, principles of the internal market, which not only constitute the basis of internal and foreign policies of the Parties but, by being essential elements of this agreement, are mandatory to be fulfilled.

These principles also include the commitments that the Albanian party must undertake to continue improving the cooperation and neighborly relations with other regional countries in all areas: free movement of persons, goods, capitals, and services as well as in the area of the fight against organized crime, corruption, money laundering, illegal migration, etc.

These commitments constitute a key factor in the development of relations and influence the regional stability.

The political dialogue between the parties will help establish close solidarity ties and new methods of cooperation among the parties, will aim to promote Albania’s full integration into the Community, and its gradual alignment with the EU.

Regional cooperation aims to develop good neighborly relations through regional cooperation. This cooperation, which will include countries in the Stabilization and Association Process as well as candidate states for EU membership, will focus on all areas of cooperation covered by this Agreement.

❖ **The first technical round of negotiations was held on March 25, 2003, and included the following chapters of the Agreement:**

- Title V “Free movement of workers, the rights of establishment, offering of services, Capital”(articles 46-56).
- Chapter I “Free movement of workers” - Articles 46-48
- Chapter II “Rights of establishment” - Articles 49-56
- Annex V “On Financial Services”

These articles aims at the undifferentiated treatment of legally employed Albanian and Community workers, to avoid every type of nationality based discrimination regarding working conditions, remuneration, or firing. The right of establishment deals with determining a legal framework for the establishment of Albanian or Community companies with reciprocal rights, and facilities created for these companies to operate in the respective markets aiming to avoid of every type of discrimination. Additionally, this chapter includes issues related to the possibility of recognizing reciprocal professional training and the exercise of reciprocal activities in specific areas.

❖ **The second technical round was held on May 14-16, 2003. The following issues were discussed in this round:**

- Chapter III “Offering of services” – articles 57-59
- Chapter IV “Current payments and the movement of capital” – articles 60-62
- Chapter V “General Principles” – Articles 63-69
- Annex VI “EU citizens’ benefits from real estate”

➤ Protocol on Land Transportation

In these articles, the parties undertake to offer services in cross border areas (different from establishment). To this end, the movement of persons and the necessary personnel to offer these services or to carry out talks on signing agreements to this end (stipulated in paragraph 2) is necessary.

Articles 60-62 (*current payments and movement of capital*) aim at the liberalization of direct investments. This is important to the development of the country and it is obligatory for both parties, as it increases profits and stabilizes the financial system

Articles 63-69 are standard provisions that regulate employment, entry into a country, etc. These rules could introduce several limitations, but not to the point or of the manner that can endanger the benefits deriving from the Agreement.

Article 59 deals with offering transport services, and additionally, introduces another specific protocol for land transport. This article deals with the conditions of road transport in general, since other conditions related to transit traffic are dealt with in the Protocol. Maritime transport services were also discussed. Basic elements of these services are linked to the total liberalization of the sector, as it occurs in the international right. Additionally, security and the respect of environmental standards were also discussed. The latter is very important, as it is becoming a priority aspect of EU policies, which are being improved progressively with new rules. This article also deals with the liberalization of every limitation for maritime traffic, as well as the conditions for the liberalization of air transport services, which is not completely liberalized.

❖ **The second political round was held on June 25, 2003, in Brussels, during which Title VII “Justice and Home Affairs” (articles 78 + 81 – 84 of the draft Agreement) was negotiated.**

These articles are dealing with the strengthening of the rule of law and institutions, and the cooperation in the fight against terrorism, money laundering, and criminal activities.

Cooperation in the area of Justice and Home Affairs is stipulated in two pillars of the European Union. The first pillar, or the community pillar, (Title IV of the Treaty on the European Community) stipulates provisions linked to visas, asylum, migration, and other policies, which deal with the free movement of persons. The third pillar (intergovernmental) (Title VI of the European Union Treaty) stipulates provisions on police and judicial cooperation on criminal cases.

To establish a European area of freedom, security and justice, the parties in this Agreement will cooperate in the area of visas, border control, asylum and migration, and will establish a cooperation framework at the regional level also, by taking into consideration other initiatives in this area.

Regarding the visa regime and border control, these articles stipulate a close cooperation and coordination, by allocating technical and administrative assistance to this end.

Cooperation will focus mainly in the area of asylum, to respect the Standards of the Geneva Convention (28 July 1951 On the Refugee Status) and of the New York Protocol (1967), as well as in the area of legal migration by regulating the admission of persons, their status compared to the citizens of the welcoming country based on the non discrimination principle, and the promotion of an integrating policy.

❖ **The third technical round was organized in Tirana on July 16, 2003, during which Title IV “Free Movement of goods” and Chapter I “Industrial Products”(articles 16-23 of the Draft Agreement) were negotiated.**

The chapter negotiated in this round and the one, negotiated in the fifth round in November 2003 “Agriculture and Fishery” deal with provisions related to industrial and agricultural products and fishing of Albanian or community origin, and constitutes the basis of the establishment of a free trade area with the EU. This agreement aims to establish a free trade area among partner countries during the transition period, and stipulates the stages of the opening of our market to EU exports during the transition period, aiming to consolidate the Albanian economy in these areas, consumer protection, business promotion, and other sector policies.

Trade provisions dealt with in this chapter constitute the essence of the Stabilization and Association Agreement. Therefore, the European Community and the Albanian party will sign the Interim Agreement (referring to Article 135 of the SAA), which will enter into force immediately after being signed by the European Commission and the Albanian party. This Agreement will facilitate the immediate entry into force of articles related to the free movement of goods, Title IV, transport provisions, etc.

❖ **The fourth technical round was held on September 18, 2003, in Brussels, where the negotiations continued on Title IV “The free movement of goods” Chapter “General Provisions” Articles 32-42&45.**

Chapter III “General Provisions” deals with dumping and subvention practices, state monopolies on trade goods and general safeguard clauses. These articles that act on the trade of industrial, agricultural products or fishing between the parties aim to eliminate custom tariffs or measures with the same effect, and the elimination of quantity measures on imports and exports after the entry into force of the Agreement. These Articles do not restrict taking measures against dumping practices in accordance to the WTO Agreement.

❖ **Third Political Round of the negotiations, organized on November 5-6, 2003 in Tirana (seventh overall round)** continued the negotiations on Title IV “Free movement of goods), Chapter “Agriculture and Fishery” articles 24-31.

NEGOTIATIONS ON THE READMISSION AGREEMENT EU-ALBANIA

The negotiations for the Readmission Agreement EU-Albania are part of the negotiations for the Stabilization and Association Agreement. The negotiations for this agreement derive as *an obligation from article 80 of the Stabilization and Association Agreement*, but the *Readmission Agreement is negotiated and implemented as a separate Agreement*. Three negotiation rounds have been organized which have discussed the entire draft text agreement. This Agreement will be initialed on 18th of December 2003.

The negotiation and signing of the Readmission Agreement EU-Albania is an obligation deriving from Albania’s identification by the General Affairs Council of the EU as a country of origin of illegal migration. The obligation to sign such an Agreement is also expressed in Task Force recommendations, which have articulated the necessity “*to sign the Readmission Agreement with the Community as soon as possible, and until achieving this Agreement, Albania must continue signing readmission agreements with all EU countries, if such a thing is requested....*” The recommendations require that special attention be paid to signing agreements with neighbouring countries and with countries that are the main source of illegal migrants who transit through Albania on their way to EU countries.