



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.11.2005
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DECLASSIFIED PART

RECOMMENDATION FROM THE COMMISSION TO THE COUNCIL

authorising the Commission to open negotiations for the adaptation of the following mixed agreements in view of the enlargement of the EU: the Agreement on the European Economic Area with Norway, Iceland and Liechtenstein, the Agreement on Free Movement of Persons and the Financial Instrument with Switzerland, and the Agreement on Cooperation and Customs Union with San Marino

1. EXPLANATORY MEMORANDUM

The Community and its Member States have concluded agreements on the European Economic Area with Norway, Iceland and Liechtenstein¹, on free movement of persons with Switzerland², and on cooperation and customs union with San Marino³.

These agreements are of mixed competence and will therefore need to be adapted to include Bulgaria and Romania as contracting parties upon the accession of these countries to the European Union. The terms of the adaptation are to be negotiated between the current contracting parties and the two acceding countries. The negotiations should be initiated in a timely fashion, in order to ensure that the instruments for the adaptation of these agreements will enter into force on the date of accession of Bulgaria and Romania to the EU.

In accordance with Article 6 of the Protocol to the Treaty of Accession of Bulgaria and Romania, such negotiations should be carried out by the Commission on the basis of negotiation directives approved by the Council and in consultation with a committee comprised of the representatives of the Member States.

Negotiations on behalf of the Community and its Member States should be launched on the basis of the following considerations:

1. Agreement on the European Economic Area (EEAA)

Article 128 EEAA expressly states that new member states of the Community must apply to become parties to the EEAA, which the two acceding countries have already done. The terms and conditions of such participation will be the subject of an agreement between the contracting parties of the EEAA and the applicant states. This is also reflected in Article 6(6) of the Protocol to the Treaty of Accession of Bulgaria and Romania.

On the basis of the experience from the 2003-2004 EEA enlargement negotiations, and through informal consultation with the EEA EFTA States and with the candidate countries, the following issues have been identified as possible subjects for negotiation:

- **Derogations and transition periods:** The derogations and transition periods agreed in the Treaty of Accession should be taken over in the EEA Agreement. It is unlikely that Norway, Iceland and Liechtenstein will oppose this fundamental principle. Liechtenstein may, however, require a special arrangement with respect to the free movement of persons, similar to the one negotiated for the previous enlargement.

- **Marine products, agricultural products and processed agricultural products:**

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¹ OJ L 1 of 3 January 1994, p. 1.

² OJ L 114 of 30 April 2002, p. 1.

³ OJ L 84 of 28 March 2002, p. 41.

current Community quotas could possibly be reviewed to take account of the EEA EFTA States' current trade with candidate countries and the enlarged internal market. It must be demonstrated, however, that this trade is of such a significant volume that it would warrant adaptations of Community quotas

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- **Financial Mechanisms:** In the 2004 EEA Enlargement Agreement, two new mechanisms for financial contributions from the EEA EFTA States and Norway in particular were established for the period 2004-2009. During this period, all three EEA EFTA States will contribute €600m to social and economic cohesion in the enlarged EEA, and Norway alone will contribute an additional €567m.

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As the two financial mechanisms will be revisited in the next few years with the objective of achieving a prolongation of these mechanisms beyond 2009, it does not seem opportune at this point to negotiate parallel five-year instruments for Bulgaria and Romania, but rather to seek to obtain a proportional increase in the existing mechanisms until 2009. The allocation of the additional funds to Bulgaria and Romania should be based on the same criteria as those applied for the two existing financial mechanisms. The argument

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would remain the same: Norway, Iceland and Liechtenstein should, in exchange for their free access to the enlarged Internal Market, contribute financially to social and economic cohesion in the enlarged EU/EEA to the same extent as presently, i.e. without depriving the current beneficiary countries of any of the previously agreed funds. In the revision of the financial mechanisms, it should also be recalled that any existing bilateral assistance agreements between EEA-EFTA countries and the new EU member states will be terminated upon the accession of the latter countries to the EU.

As a general rule, negotiations should be limited to the main subjects indispensable for EEA enlargement, in order to avoid lengthy procedures that would endanger simultaneous entry into force of the EU and EEA enlargements. Other issues not directly relevant for EEA enlargement should be excluded from the negotiations and referred to more appropriate contexts.

2. Agreement on Free Movement of Persons and the Financial Instrument with Switzerland

With reference to Article 6(2) of the Protocol to the Treaty of Accession of Bulgaria and Romania, the candidate countries also need to accede to the mixed Agreement on Free Movement of Persons with Switzerland. Article 25 links the existence of six other agreements

concluded between the European Community and Switzerland⁴ to the continuing application of this Agreement. The following issues are possible subjects of negotiation:

Transition periods: The Agreement on Free Movement of Persons contains transition periods enabling Switzerland under certain conditions to enforce quantitative limits in respect of access to an economic activity for up to 12 years after the entry into force of the Agreement, i.e. until 31 May 2014⁵. As with the previous enlargement, Switzerland should be granted similar derogations and transition periods to those agreed in the Treaty of Accession. A revision of the Swiss quantitative limits should be obtained to take account of existing migration from candidate countries, and of the increase in the EU population. Autonomous quotas should be established for the period prior to the entry into force of the Protocol.

Financial Instrument: Switzerland does not participate in the Financial Instrument of the EEA as it rejected accession to the EEA by public referendum in 1992. However, a financial contribution to social and economic cohesion in the enlarged EU of CHF 1 billion over five years was negotiated for the previous enlargement. As Switzerland will continue to enjoy privileged access to the further enlarged internal market through the existing bilateral agreements in a large number of sectors, a proportional increase in the financial contribution should be negotiated to take account of the accession of Bulgaria and Romania to the EU.

3. Agreement on Cooperation and Customs Union with San Marino

With reference to Article 6(2) of the Protocol to the Treaty of Accession of Bulgaria and Romania, this agreement also needs to be adapted to include the new EU Member States, as it was concluded by the current Member States and is intended to apply to all territories of the European Community⁶. No particular items of negotiation have been identified through informal contacts with the authorities of San Marino.

⁴ Agreements on air transport, on the carriage of goods and passengers by rail and road, on trade in agricultural products, on mutual recognition in relation to conformity assessment, on certain aspects of government procurement and on scientific and technological cooperation, all in OJ L 114 of 30 April 2002.

⁵ Article 10 of the Agreement.

⁶ Article 29 of the Agreement.

2. RECOMMENDATION

In the light of the above considerations, the Commission recommends that the Council decide that:

- The Commission be authorised to open negotiations with Bulgaria, Romania, Norway, Iceland, Liechtenstein, Switzerland and San Marino to adapt the Agreement on the European Economic Area, the Agreement on Free Movement of Persons and the Financial Instrument with Switzerland, and the Agreement on Cooperation and Customs Union with San Marino in line with the enlargement of the European Union;
- The Commission will conduct these negotiations in accordance with the directives attached hereto and in consultation with a special committee appointed by the Council.

ANNEX

NEGOTIATING DIRECTIVES

1. GENERAL OBJECTIVE

Adaptation of these mixed agreements to allow for the accession of Bulgaria and Romania to these agreements upon their accession to the EU and revision of the relevant financial contributions for the alleviation of economic and social disparities in the enlarged EU.

2. START OF THE NEGOTIATIONS

The negotiations on the adaptation of the above agreements with the acceding countries, on the one hand, and Iceland, Liechtenstein, Norway / Switzerland / San Marino, respectively, on the other hand, should start as soon as possible.

3. CONTENT OF THE INSTRUMENTS ADAPTING THE EXISTING AGREEMENTS

The incoming new Member States of the EU are to accede to the agreements.

Agreement on the European Economic Area, EEAA

The derogations and transition periods agreed in the Act of Accession should be taken over in the EEA Agreement.

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A proportional increase in the existing EEA and Norwegian financial mechanisms until 2009 should be obtained for Bulgaria and Romania, based on the same criteria as those applied for the existing mechanisms. Negotiations should as much as possible be limited to the main subjects indispensable for EEA enlargement.

Agreement on Free Movement of Persons and the Financial Instrument with Switzerland

The derogations and transition periods agreed in the Act of Accession should be taken over where relevant. A revision of the Swiss quantitative limits should be obtained to take account of existing migration from candidate countries and of the increase in the EU population. A proportional increase under the Swiss Financial Instrument should be obtained for Bulgaria and Romania, based on the same criteria as those applied for the existing instrument.

Agreement on Cooperation and Customs Union with San Marino

This agreement has to be adapted to include Bulgaria and Romania upon their accession to the EU. No particular subjects have been identified that require substantial negotiation.

4. RATIFICATION AND ENTRY INTO FORCE

The negotiations should be conducted and concluded rapidly in order to ensure that the instruments for adapting the above agreements will enter into force on the date of accession of Bulgaria and Romania to the EU.

DECLASSIFIED PART on 22.06.2012

FINANCIAL STATEMENT					
				DATE:	
1. BUDGET HEADING: n.a.				APPROPRIATIONS:	
2. TITLE: Adaptation of the following mixed agreements in view of the enlargement of the EU to include Bulgaria and Romania: Agreement on the European Economic Area with Norway, Iceland and Liechtenstein, Agreement on Free Movement of Persons and the Financial Instrument with Switzerland, Agreement on Cooperation and Customs Union with San Marino					
3. LEGAL BASIS: Articles 133, 300 and 310 of the EC Treaty					
4. AIMS:					
5. FINANCIAL IMPLICATIONS None		12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR [n] (EUR million)	FOLLOWING FINANCIAL YEAR [n+1] (EUR million)	
5.0 EXPENDITURE - CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS) - NATIONAL AUTHORITIES - OTHER		None	None	None	
5.1 REVENUE - OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES) - NATIONAL		None	None	None	
		[n+2]	[n+3]	[n+4]	[n+5]
5.0.1 ESTIMATED EXPENDITURE					
5.1.1 ESTIMATED REVENUE					
5.2 METHOD OF CALCULATION:					
6.0 CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET? YES					
6.1 CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET? NO					
6.2 WILL A SUPPLEMENTARY BUDGET BE NECESSARY? NO					
6.3 WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS? NO					
OBSERVATIONS:					