COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 25.4.2007
COM(2007) 211 final

2007/0079 (CNS)

Recommendation for a

COUNCIL DECISION

concerning the accession of Bulgaria and Romania to the Convention of 26 July 1995, drawn up on the basis of Article K.3 of the Treaty on European Union, on the use of information technology for customs purposes

(presented by the Commission)

EXPLANATORY MEMORANDUM

The 2005 Act of accession of Bulgaria and Romania[1] has introduced a simplified system for the accession of Bulgaria and Romania to the conventions (and protocols) concluded by the Member States on the basis of Art. 34 TEU (previously Art. K.3 TEU) or Art. 293 EC. It is indeed not anymore necessary, as in the past, to negotiate and conclude specific accession protocols to these conventions (which would have implied ratification by 27 States): Article 3(3) of the Act provides simply that Bulgaria and Romania accede to these conventions and protocols by virtue of the Act of Accession.

Article 3(3) and 3(4) of the Act of Accession provide that, to that effect, the Council shall adopt a decision in order to determine the date on which these conventions shall enter into force for Bulgaria and Romania and to make all the necessary adjustments to these conventions required by reason of the accession of the two new Member States (which would include, in any event, the adoption of the conventions in the Bulgarian and Romanian languages, so that these versions can be "equally authentic"). The Council shall act on a recommendation of the Commission, after consulting the European Parliament.

Annex I to the Act of Accession gives the list of the seven conventions and protocols concerned in the Justice and Home Affairs area.

The list includes the Convention of 26 July 1995, drawn up on the basis of Article K.3 of the Treaty on European Union, on the use of information technology for customs purposes, the Protocol of 29 November 1996, drawn up on the basis of Article K.3 of the Treaty on European Union, on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the use of information technology for customs purposes, the Protocol of 12 March 1999, drawn up on the basis of Article K.3 of the Treaty on European Union, on the scope of the laundering of proceeds in the Convention on the use of information technology for customs purposes and the inclusion of the registration number of the means of transport in the Convention, and the Protocol of 8 May 2003, established in accordance with Article 34 of the Treaty on European Union, amending, as regards the creation of a customs files identification database, the Convention on the use of information technology for customs purposes.

This Commission Recommendation for a Council Decision is intended to make the adjustments required by reason of the accession of Bulgaria and Romania to the aforementioned Convention and Protocols, in accordance with Article 3(4) of the Act of Accession.

[1] OJ 2005, L 157, p. 203.

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concerning the accession of Bulgaria and Romania to the Convention of 26 July 1995, drawn up on the basis of Article K.3 of the Treaty on European Union, on the use of information technology for customs purposes

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union,

Having regard to the Treaty of Accession of Bulgaria and Romania,

Having regard to the Act of Accession of Bulgaria and Romania (hereinafter referred to as the "Act of Accession"), and in particular Article 3 (4) thereof,

Having regard to the recommendation from the Commission[2],

Having regard to the opinion of the European Parliament[3],

Whereas:

(1) The Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the use of information technology for customs purposes[4] (hereinafter referred to as the "Convention on the use of information technology for customs purposes") was signed at Brussels on 26 July 1995 and entered into force on 25 December 2005.

(2) The Convention on the use of information technology for customs purposes was complemented by :

- the Protocol of 29 November 1996, drawn up on the basis of Article K.3 of the Treaty on European Union, on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the use of information technology for customs purposes[5] (hereinafter referred to as the "Protocol on the interpretation by the Court of Justice"), which entered into force on 25 December 2005;

- the Protocol of 12 March 1999, drawn up on the basis of Article K.3 of the Treaty on European Union, on the scope of the laundering of proceeds in the Convention on the use of information technology for customs purposes and the inclusion of the

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2 OJ C […], […], p. […].
3 OJ C […], […], p. […].
4 OJ C 316, 27.11.1995, p. 34.
5 OJ C 151, 20.5.1997, p. 16.

registration number of the means of transport in the Convention[6] (hereinafter referred to as the "Protocol on the scope of the laundering of proceeds"), which shall enter into force 90 days after the notification by the Member State which, being a member of the European Union on the date of adoption by the Council of the Act drawing up this Protocol, is the last to fulfil that formality;

– the Protocol of 8 May 2003, established in accordance with Article 34 of the Treaty on European Union, amending, as regards the creation of a customs files identification database, the Convention on the use of information technology for customs purposes[7] (hereinafter referred to as the "Protocol on the creation of a customs files identification database"), which shall 90 days after the notification by the State, member of the European Union at the time of adoption by the Council of the Act drawing up this protocol, which is the eighth to complete this formality, enter into force for the eight Member States concerned.

(3) Following their accession to the European Union the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Poland, Slovenia and Slovakia have deposited their instruments of accession to the Convention on the use of information technology for customs purposes; the Czech Republic, Estonia, Cyprus, Lithuania, Hungary, Poland, Slovenia and Slovakia have deposited their instruments of accession to the three Protocols; Latvia has deposited their instruments of accession to the Protocol on the interpretation by the Court of Justice.

(4) Article 3 (3) of the Act of Accession provides that Bulgaria and Romania accede to the conventions and protocols concluded between the Member States, listed in Annex I to the Act of Accession, which comprises, *inter alia*, the Convention on the use of information technology for customs purposes and the Protocols to that Convention. They are to enter into force in relation to Bulgaria and Romania on the date determined by the Council.

(5) In accordance with Article 3 (4) of the Act of Accession the Council is to make all adjustments required by reason of accession to those conventions and protocols,

HAS DECIDED AS FOLLOWS:

Article 1

The Convention on the use of information technology for customs purposes, the Protocol on the creation of a customs files identification database, the Protocol on the interpretation by the Court of Justice and the Protocol on the scope of the laundering of proceeds, drawn up in the Bulgarian and Romanian languages and annexed to this Decision, shall be authentic under the same conditions as the other texts of the Convention on the use of information technology for customs purposes and its Protocols.

Article 2

The Convention on the use of information technology for customs purposes, as amended by

[6] OJ C 91, 31.3.1999, p. 2.

[7] OJ C 139, 13.6.2003, p. 2. (Corrigendum OJ C 56, 5.3.2005, p. 46. and OJ C 191, 5.8.2005, p. 18.)

the Protocol on the creation of a customs files identification database and this Decision, and its Protocols on the interpretation by the Court of Justice and on the scope of the laundering of proceeds shall enter into force on the first day of the first month following the date of adoption of this decision between Bulgaria, Romania and the other Member States for which the Convention on the use of information technology for customs purposes is in force. It shall enter into force between Bulgaria, Romania and each of the other Member States on the day the Convention on the use of information technology for customs purposes enters into force for the other Member State concerned.

Article 3

This Decision shall take effect on the day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels,

For the Council
The President

ANNEX

Text of the Convention on the use of information technology for customs purposes and of the Protocols on the interpretation by the Court of Justice, on the scope of the laundering of proceeds, and on the creation of a customs files identification database in the Bulgarian and Romanian languages

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