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COMMISSION STAFF WORKING DOCUMENT

Monitoring report on the state of preparedness for EU membership for Bulgaria and Romania

IMPACT ASSESSMENT

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1. The enlargement process and impact assessment

The Treaty on the European Union and the accession criteria, the so-called Copenhagen criteria, set the framework for the entire enlargement process and narrow down the criteria that are used to assess present or future impacts of this policy.

The impact on the EU of any enlargement is determined by the ability of the new member(s) to integrate smoothly by meeting the accession criteria. These criteria, established in 1993 by the Copenhagen European Council, define the requirements for accession in the political and economic spheres and in relation to the adoption and implementation of the EU *acquis*, i.e. the body of EU law. They encompass:

- The political criteria: Stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- The economic criteria: The existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union;
- The criteria related to the *acquis* communautaire: The ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union.

In 1993, the Copenhagen European Council also stated that "the Union's capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and the candidate countries."

Important impact assessment elements have been built into the enlargement process since its inception. In particular, the Commission Opinion on a country's application explores, within the framework of the applicable criteria, the likely and foreseeable impacts for the country and the Union. The Opinion is then followed up by progress reports which are normally published by the Commission on an annual basis in which the Commission assesses the progress made by the country concerned towards meeting the accession criteria.

Therefore, the accession process is underpinned by a permanent impact assessment loop, whereby the Commission identifies gaps, and evaluates commitments and measures taken by the country to fill them. In the period preceding the signing of an Accession Treaty this process culminates in the final Commission opinion, European Parliament assent, and Council decision, on the country's readiness for accession, including a date for accession and any transitional measures and safeguard clauses.

2. The case of Bulgaria and Romania

The Accession Treaty with Bulgaria and Romania was signed on 25 April 2005 and is currently under ratification by all signatories (current Member States and the two prospective Member States). The Union's and the Commission's action at this stage is based on the expected entry into force of the Accession Treaty.

The Accession Treaty envisages the accession of Bulgaria and Romania in January 2007. However, the Treaty also provides that if there is clear evidence that the state of preparations for adoption and implementation of the *acquis* in Bulgaria or Romania is such that there is a serious risk of any of those states being manifestly unprepared to meet the requirements of membership, then accession of that state may be postponed by one year (Article 39 of the Act of Accession). In addition, the Accession Treaty includes a number of provisions under which the Union may take action to prevent (the imminent risk of) a serious breach of the functioning of the internal market or to deal with (the imminent risk of) shortcomings in the field of cooperation in civil and criminal matters caused by shortcomings in Bulgaria or Romania (Articles 37-38 of the Act of Accession). Other safeguard mechanisms exist in the *acquis* communautaire, such as in the transport and veterinary areas, as well as other corrective measures notably as regards the management of EU funds. All such measures may contribute to a smooth integration into the Union of the countries concerned.

Points 7-8 (in respect of Bulgaria) and 11-12 (in respect of Romania) of the European Council conclusions of 16/17 December 2004 refer to those provisions and state that the Union will monitor closely these countries' preparations and achievements. To this end, the European Council adds that the Commission will continue to submit annual reports on their progress towards accession, together with recommendations if appropriate. The Commission presented a first monitoring report in October 2005.

The General Affairs and External Relations Council of 12 December 2005 "welcomed the findings and recommendations presented by the Commission on 25 October 2005 to the Council and the European Parliament in its Comprehensive Monitoring Reports on Bulgaria and Romania. (...) It welcomed the intention of the Commission to submit a monitoring report to the Council and Parliament in April/ May 2006 in order to review the situation in line with the provisions of the Accession Treaty".

3. Policy objectives

The Commission's policy objectives are twofold, in line with the Union's objectives as laid down by the European Council.

On the one hand, as expressed through the Accession Treaty's envisaged date of entry into force of 1 January 2007, the Commission looks forward to welcoming Bulgaria and Romania as new Member States.

On the other hand, the Commission must ensure the continued good functioning of the Union, in the interest of both the existing and new Member States. It is essential for the good functioning of the Union that Bulgaria and Romania are able to assume all the obligations and requirements of membership at the time of accession. If and where this cannot be achieved,

appropriate measures need to be taken to prevent or remedy damage.

4. Policy options

The Commission's policy options are circumscribed by the detailed guidance on EU policy towards the candidate countries which is regularly laid down by the Council, notably the European Council. One aspect of established EU policy is that the Commission needs to continue to monitor progress by Bulgaria and Romania in order to provide the Commission and the Union as a whole with the necessary knowledge of the current situation and outlook in Bulgaria and Romania. The Commission publishes its findings and recommendations, based on intensive monitoring by all relevant services, in a Communication to the Council and European Parliament.

In the case of Bulgaria and Romania, the Union's and the Commission's action at this stage is based on the expected entry into force of the Accession Treaty. The main decisions relating to Bulgaria and Romania have thus already been taken. Within the established EU policy, the Commission can and should make proposals and recommendations based on its expert analysis. These may cover the following two types of actions:

Firstly, based on its findings, the Commission advises and assists Bulgaria and Romania to achieve their aim of being ready for membership. In order to achieve its policy objectives, the Commission targets its advice and assistance on addressing its findings. These include the dispatch of substantiated early warning letters to the authorities, an intensive dialogue at all levels, the organisation of peer reviews, the implementation of support measures, and other instruments and initiatives.

Secondly, based on the findings of its continuous monitoring, the Commission will if necessary and at the appropriate time decide whether specific safeguard measures should be envisaged. Depending on the precise procedure prescribed by law, the Commission can take or recommend such measures. In most cases, a specific legislative act would need to be adopted. Such potential measures are examined in the Commission communication. The Commission could, for an accession in 2007, take or announce certain decisions already in the context of its communication to be adopted in the autumn of 2006. The approach to be followed will depend on the precise monitoring findings.

5. Assessment of the impact

In this report, the Commission draws conclusions as regards the state of preparedness for EU membership of Bulgaria and Romania, and on their accession date.

Such conclusions determine the content and focus of the Commission's and the EU's dialogue with Bulgaria and Romania over the coming months and can be expected to have a considerable mobilising effect on political, legislative and administrative activity in both countries in areas in which further improvement is needed before accession. The Report also determines the focus of the Commission's further monitoring of progress in the two countries.

By stimulating preparations in both countries and ensuring a fair and rigorous conditionality on remaining issues, the Commission Communication helps in communicating the enlargement policy to the public.

During the past years, both countries as well as the current Member States have already profited from economic and trade integration. Bulgaria and Romania have successfully transformed their economies into functioning market economies. Macroeconomic stability has increased substantially. There is a potential for continued economic growth in both countries after accession. The increased economic activity and the increased welfare will continue to have a positive impact on the social situation.

Both Bulgaria and Romania have made considerable progress in their preparations in order to be able to apply the environmental *acquis* as from accession. This has lead to major improvements with regard to noise legislation and industrial pollution prevention . After accession, both countries will, apart from several transitional measures, fully apply the *acquis*. The environmental impact of accession will therefore be positive.

Overall, two years after the accession of ten new member states, it can be said that in general, the impact of the first part of the fifth enlargement has been positive. It can be expected that, with rigorous conditionality, the completion of the fifth enlargement process with the accession of Bulgaria and Romania will have a positive impact as well.

More information on the impact of the accession of ten new Member States in 2004 can be found at http://europa.eu.int/comm/enlargement/index_en.htm

6. Consultation

The Monitoring Reports draw on expertise and experience available within the Commission services as a whole but also on information and opinions gathered from a range of external official and non-official sources.

The Commission has used information based on a regular dialogue with the governments of the countries concerned, from major international organisations and a number of NGOs which are active in the countries concerned and in the fields covered by the monitoring (such as rule of law and public administration; fundamental rights; economic policy). The sources used also include Council deliberations and European Parliament reports and resolutions. All this information has all been duly assessed by the Commission services.

7. Monitoring and evaluation

The Commission is committed to continuing close monitoring of the situation and outlook in Bulgaria and Romania and of its possible impact on the Union up to their accession, including through further reports. The next reports will be published later in 2006. This further monitoring will also evaluate the impact of the Communication of May 2006 as part of the permanent impact assessment loop referred to under point I above.