

EXPLANATORY MEMORANDUM

At its meeting in Luxembourg in December 1997, the European Council decided that the Accession Partnership would be the key feature of the enhanced pre-accession strategy, mobilising all forms of assistance to the candidate countries within a single framework. In this manner, the Community targets its assistance towards the specific needs of each candidate so as to provide support for overcoming particular problems with a view to accession.

The first Accession Partnership for Bulgaria was decided in March 1998. In line with the provisions laid down in Regulation (EC) No. 622/98¹ (article 2), the Partnership was updated a first time in December 1999, taking into account further developments in Bulgaria. Based on the analysis of the Commission's 2001 Regular Report on progress made by Bulgaria towards accession, the Commission considers that the time has come for a further revision of the priorities and intermediate objectives identified in the Accession Partnership. The present proposal for such a revision draws on the findings of the Commission's 2001 Regular Report on progress made by Bulgaria towards accession.

The attached draft decision does not have financial implications.

In view of the above, the Commission invites the Council to adopt the attached draft decision.

¹ OJ L 85, 20.3.1998, p. 1

Proposal for a

COUNCIL DECISION

**on the principles, priorities, intermediate objectives and conditions contained in the
Accession Partnership with Bulgaria**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 622/98 of 16 March 1998 on assistance to the applicant States in the framework of the pre-accession strategy, and in particular on the establishment of Accession Partnerships,² and in particular to Article 2 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Luxembourg European Council stated that the Accession Partnership is a new instrument and the key feature of the enhanced pre-accession strategy;
- (2) Regulation (EC) No 622/98 sets out that the Council is to decide, by a qualified majority and following a proposal from the Commission, on the principles, priorities, intermediate objectives and conditions contained in the individual Accession Partnerships, as they are submitted to each applicant State, as well as on subsequent significant adjustments applicable to them;
- (3) Community assistance is conditional on the fulfilment of essential elements, and in particular on the respect of the commitments contained in the Europe Agreements and on progress towards fulfilment of the Copenhagen criteria; where an essential element is lacking, the Council, acting by a qualified majority on a proposal from the Commission, may take appropriate steps with regard to any pre-accession assistance;
- (4) The Luxembourg European Council decided that the implementation of the Accession Partnership and progress in adopting the *acquis* will be examined in the Europe Agreement bodies;
- (5) The 2001 Commission's Regular Report presents an objective analysis on Bulgaria's preparations for membership and identifies a number of priority areas for further work;
- (6) In order to prepare for membership, Bulgaria should continue to update its national programme for the adoption of the *acquis*; this programme should set out a timetable for achieving the priorities and intermediate objectives established in the Accession Partnership;

² OJ L 85, 20.3.1998, p. 1

- (7) Bulgaria needs to ensure that the appropriate legal and administrative structures needed for the programming, coordination, management, control and evaluation of EC pre-accession funds are in place;

HAS DECIDED AS FOLLOWS:

Article 1

In accordance with Article 2 of Regulation (EC) No 622/98, the principles, priorities, intermediate objectives and conditions in the Accession Partnership for Bulgaria are set out in the Annex hereto, which forms an integral part of this Decision.

Article 2

The implementation of the Accession Partnership shall be examined in the Europe Agreement bodies and by the appropriate Council bodies to which the Commission shall report regularly.

Article 3

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

Done at Brussels, [...]

For the Council
The President
[...]

ANNEX

1. INTRODUCTION

At its meeting in Luxembourg in December 1997, the European Council decided that the Accession Partnership would be the key feature of the enhanced pre-accession strategy, mobilising all forms of assistance to the candidate countries within a single framework. In this manner, the Community targets its assistance towards the specific needs of each candidate so as to provide support for overcoming particular problems with a view to accession.

The first Accession Partnership for Bulgaria was decided in March 1998. As provided for in Regulation (EC) No. 622/98 (article 2), the Accession Partnership was updated a first time in December 1999, taking into account further developments in Bulgaria. The present revision is based on a proposal by the Commission following consultation with Bulgaria, and draws on the analysis of the Commission's 2001 Regular Report on progress made by Bulgaria towards accession.

2. OBJECTIVES

The purpose of the Accession Partnership is to set out in a single framework the priority areas for further work identified in the Commission's 2001 Regular Reports on the progress made by Bulgaria towards membership of the Union, the financial means available to help Bulgaria implement these priorities and the conditions which will apply to that assistance. The Accession Partnership provides the basis for a number of policy instruments which will be used to help the candidate States in their preparations for membership. These include *inter alia* the updated National Programme for the Adoption of the Acquis prepared by Bulgaria, the pre-accession fiscal surveillance procedure, the Pre-accession Economic Programme, the Pre-accession pact on organised crime as well as the National Development Plans, the Rural Developments Plans, a national employment strategy in line with the European Employment Strategy, and sectoral plans necessary for the participation in the Structural Funds after membership and for the implementation of ISPA and SAPARD before accession. Each of these instruments is different in nature and is prepared and implemented according to specific procedures and may be supported by pre-accession aid. They are not an integral part of this Partnership but the priorities they contain will be compatible with it.

3. PRINCIPLES

The main priority areas identified for each candidate State relate to their ability to take on the obligations of meeting the Copenhagen criteria which state that membership requires:

- that the candidate State has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union;
- the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

At its meeting in Madrid in 1995, the European Council stressed the need for the candidate States to adjust their administrative structures to ensure harmonious operation of Community policies after accession and at Luxembourg, in 1997, it stressed that incorporation of the *acquis* into legislation is necessary, but not in itself sufficient; it is necessary to ensure that it is actually applied. The Feira and Gothenburg European Councils in 2000 and 2001 respectively confirmed the vital importance of the applicant countries' capacity to implement and enforce the *acquis*, and added that this required important efforts by the applicants in strengthening and reforming their administrative and judicial structures.

4. PRIORITIES AND INTERMEDIATE OBJECTIVES

The Commission's Regular Reports have highlighted, besides the progress already made, the extent of the efforts which still have to be made in certain areas by candidate States to prepare for accession. This situation requires the definition of intermediate stages in terms of priorities, each to be accompanied by precise objectives to be set in collaboration with the states concerned, the achievement of which will condition the degree of assistance granted and the progress of the negotiations under way with Bulgaria. The priorities listed in the revised Accession Partnership have been selected on the basis that it is realistic to expect that Bulgaria can complete or take them substantially forward over the next two years (2002 – 2003). Within this list, issues that require particularly urgent action have been highlighted as such. The progress made in meeting the priorities of the 1999 Accession Partnership is assessed in the 2001 Regular Report. This assessment has been used in formulating the priorities for the current Partnership.

Bulgaria submitted an updated version of its National programme for the Adoption of the *Acquis* (NPAA) on 2 July 2001. The NPAA sets out a timetable for achieving priorities and intermediate objectives, based on the 1999 Accession Partnership, as well as necessary administrative structures and financial resources.

The Accession Partnership indicates the priority areas for Bulgaria's membership preparations. Bulgaria will nevertheless have to address all issues identified in the 2001 Regular Report. It is also important that Bulgaria fulfils the commitments of legislative approximation and the implementation of the *acquis* in accordance with the commitments made under the Europe Agreement, and in the context of the negotiation process. It should be recalled that incorporation of the *acquis* into legislation is not in itself sufficient; it will also be necessary to ensure that it is actually applied to the same standards as those which apply within the Union. In all of the areas listed below there is a need for credible and effective implementation and enforcement of the *acquis*.

Drawing on the analysis of the Commission's Regular Report, the following priorities and intermediate objectives have been identified for Bulgaria. These priorities are presented in accordance with the structure of the Regular Report.³

Political criteria

Democracy and the rule of law

- Continue to make progress with public administration reform. Ensure effective implementation of the provisions of Civil Service Act and related regulations. Take steps

³ The order of presentation is that used in the 2000 Regular Report.

to ensure accountability, openness and transparency of public service. Strengthen capacity for strategic planning, policy analysis and evaluation at the centre of government and in line ministries and improve quality of consultation with affected parties (e.g. social and economic partners, civil society, and private sector) on preparation of new legislation.

- **In need of particularly urgent action:** Start to implement the strategy for reform of the judicial system, paying particular attention to:
 - Strengthening the administrative capacity of key institutions; Supreme Judicial Council and Ministry of Justice, through building budgetary, supervisory, planning and human resource management capacity.
 - Clarifying the immunity of members of the judiciary to ensure this is in line with international requirements.
 - Ensuring the full implementation of fundamental rights in penal cases such as legal aid.
- **In need of particularly urgent action:** Start to implement the national strategy to combat corruption in public life, especially focussing on awareness building, prevention and the prosecution of corrupt acts.

Human rights and the protection of minorities

- Ensure that an effective system for redressing police misconduct is established.
- Continue to implement the Roma Framework Programme with particular attention to providing necessary financial support, significant strengthening of the National Council of Ethnic and Demographic Issues, and ensuring equal access to health, education and social security.
- Adopt and implement secondary legislation necessary for the effective functioning of the Child Protection Act. Ensure further measures are taken to improve community care services for children. Ensure the full implementation of the UN Convention on the Rights of the Child.

Economic criteria

- Maintain macro-economic stability and continue to promote economic growth and competitiveness through further market-based enterprise restructuring and promotion of private sector development.
- Take measures to improve the functioning of the financial sector and in particular to strengthen the banking sector.
- Continue the privatisation process in such a way that the privatised companies can be restructured and can grow.
- Make progress on restructuring of the energy sector. Develop and start to implement an energy efficiency strategy and aim to attract increased investment.
- Ensure that the steel sector is restructured on a viable basis, and receives no further state aid incompatible with EC state aid rules for the steel sector.

- Further improve and accelerate bankruptcy and liquidation procedures, reduce the time needed to complete procedures and improve enforcement of decisions.
- Establish a functioning land market and finalise the land and property register.
- Take further measures to improve the business environment and stimulate domestic and inward investments. Ensure business-friendly legal, tax, regulatory and administrative frameworks (including improved contract enforcement and licensing procedures) that provide a level playing field for all businesses.
- Develop a more favourable business environment for SMEs through addressing the remaining obstacles to SME development including lack of business expertise among SME managers, and access to finance on appropriate terms.

Ability to assume the obligations of membership

Free movement of goods

- Modify the framework law on technical requirements implementing New and Global Approach principles to ensure it is in line with the *acquis*.
- Reinforce horizontal administrative infrastructure and separation of standardisation and certification functions. Implement New Approach directives on the basis of modified framework legislation and reinforcement of related administrative capacity (conformity assessment bodies and laboratories). Speed up the adoption of EN harmonised standards.
- Pursue alignment of traditional sectoral legislation notably in the pharmaceuticals, chemicals, foodstuffs and motor vehicles sectors. Reinforce market surveillance systems and prepare administration and food operators for EC principles of food safety.
- Adopt and enforce amendments to public procurement legislation to ensure correct application and full compatibility with the *acquis*. Ensure transparent public procurement procedures at central and regional levels.
- Proceed with screening of legislation in the non-harmonised area to ensure that it is in compliance with Articles 28-30 of the EC Treaty and complete administrative arrangements for the future monitoring in this area.

Free movement of persons

- Continue to pursue alignment of mutual recognition of professional qualifications and diplomas and introduce required administrative structures, education and training programmes.

Freedom to provide services

- Reinforce supervision of financial services.
- Adopt and implement national legislation and establish an independent public supervisory authority responsible for monitoring the correct application of Data Protection provisions.

Free movement of capital

- Take further steps to prevent use of financial system for money laundering. Strengthen the capacity of the Financial Intelligence Bureau to deal with money laundering and to ensure that all relevant professions co-operate with it.
- Ensure compliance with the Recommendations of the Financial Action Task Force.

Company law

- Upgrade accounting and auditing standards and practices, and further align the regulatory framework with the *acquis*.
- **In need of particular urgent action:** Enhance the enforcement of industrial and intellectual property rights, with the emphasis on the fight against piracy and counterfeiting and strengthening border control measures. Improve co-operation among enforcement bodies; intensify training for enforcement bodies including judges and prosecutors.

Competition policy

- Complete the legislative framework in both anti-trust and state aid; strengthen administrative capacity (particularly for state aid control); ensure full enforcement of anti-trust and state aid rules; maintain a comprehensive state aid inventory and prepare a comprehensive annual state aid report; increase awareness of anti-trust and state aid rules among market participants and aid granters; intensify training of the judiciary in anti-trust and state aid matters.

Agriculture

- Prepare the administrative structures needed for the design, implementation, management, monitoring, control and evaluation of EC funded rural development programmes.
- Up-grade the capacity of the agricultural administration for the practical implementation and enforcement of the management mechanisms of the Common Agricultural Policy, in particular the Integrated Administration and Control System and the Paying Agency for the management of Common Agricultural Policy funds.
- Put in place the necessary conditions for the emergence and strengthening of efficient land, labour and capital markets in the rural and agricultural sectors.
- Continue the upgrading of food processing establishments so that they are in a position to respect EC food safety standards.
- Continue the reinforcement of the food control administration.
- Continue preparation of the vineyard register.
- Continue alignment of veterinary and phytosanitary legislation and upgrade inspection arrangements, in particular at future external borders.

Fisheries

- Complete the establishment of the adequate organisation, adequate institutional resources and equipment relating to inspection and controls at central and regional levels; complete the fishing vessel register in full compliance with EC requirements.

Transport policy

- Continue legal alignment and reinforce administrative capacity in road transport especially on adaptation of the fleet to technical and safety requirements and charging/taxation.
- Continue legal alignment and reinforce administrative capacity in railway transport with a view to the implementation of the revised railway acquis. Pursue the restructuring of Bulgarian railways.
- Continue to align and implement maritime transport legislation, in particular the strengthening of administrative capacity in order to improve the Flag State performance in the field of maritime safety.

Taxation

- Continue alignment of VAT legislation, with particular regard to exempt transactions, right of deduction and special schemes. Align gradually legislation on excise duties, with particular regard to the applied rates.
- Ensure that existing and future legislation complies with the principles of the Code of Conduct for Business Taxation.
- Continue to modernise and strengthen tax administration to ensure laws are effectively implemented and enforced, particularly for revenue collection and administrative co-operation and mutual assistance.
- Develop IT systems so as to allow for the exchange of electronic data with the Community and its Member States.

Statistics

- Further improve quality and coverage of statistics; ensure adequate resources are available to further strengthen statistical capacities, including at regional level.

Employment and social policy

- Continue alignment of the social *acquis*, in particular on equal treatment for women and men and health and safety at work and develop implementation capacity including the strengthening of the labour inspectorates. Adopt legislation against discrimination and develop a timetable for its implementation.
- Continue alignment of legislative framework and develop implementation capacity for the *acquis* on public health; accelerate the development of measures in the area of surveillance and control of communicable diseases and health monitoring and information.
- Continue to support social partners' capacity-building efforts, in particular with a view to their future role in the elaboration and implementation of EU employment and social policy, including the European Social Fund and foster structured involvement of social partners, notably through autonomous bipartite social dialogue.
- Prepare a national strategy, including data collection, with a view to future participation in the European strategy on social inclusion.

Energy

- Prepare, as a matter of urgency, a new energy strategy paying particular attention to the need to improve energy efficiency (and to implement a strong policy of demand-side management) and to revise energy demand forecasts on the basis of more realistic growth and energy intensity scenarios. This should take into account the commitments of the Understanding of 1999 on Kozloduy Nuclear Power Plant.
- Implement the commitment made in the Understanding of 1999 to close down definitively Units 1 and 2 of the Kozloduy Nuclear Power Plant before the year 2003, and decide in 2002, in agreement with the Commission, on the dates for early closure of Units 3 and 4. The Commission's understanding is that the definitive closure date for Units 3 and 4 will be 2006 at the latest.
- Implement the recommendations contained in the Council report on "Nuclear Safety in the Context of Enlargement" with due regard to the priorities assigned in the report.
- Focus on strengthening the independence, resources and capacities of the national regulatory authority for nuclear energy.
- Continue to ensure a high level of nuclear safety at Units 5 and 6 of the Kozloduy Nuclear Power Plant and maintain a high level of nuclear safety throughout the decommissioning phases of Units 1-4.
- **In need of particularly urgent action:** Adopt the framework law and timetable to meet oil stocks requirement *acquis*.
- Improve management of radioactive waste.
- Start to implement energy efficiency measures and step up the use of renewable energy. Ensure the Energy Efficiency Agency is adequately resourced.
- Put in place transparent market rules with a clear schedule for opening the market to competition. Enhance role of State Energy Regulatory Commission in enforcement of these rules. Complete the restructuring of the solid fuels sector.
- Make preparations for participation in the internal market for electricity and for natural gas including with regard to alignment; create an independent transmission system operator (electricity); eliminate remaining price distortions; strengthen the sector regulator, and adopt timetables for market opening.

Industrial policy

- Develop and implement a market-oriented competitiveness strategy including sectoral strategies as appropriate.

Telecommunications and information technologies

- Complete the transposition of the *acquis*.
- Ensure independence of the bodies concerned with regulation (State Telecommunications Commission, Postal Regulator and ministry) from operational activities and strengthen

their capacity in preparation for planned full liberalisation of these sectors by 1 January 2003.

Culture and Audio-visual policy

- Strengthen the administrative capacity of the national regulatory body in the field of broadcasting.

Regional policy and co-ordination of structural instruments

- Strengthen administrative capacity in key ministries, particularly at the central level, to design strategies and to implement and evaluate projects for regional development and economic and social cohesion, financed by EC and national funds.
- Prepare a coherent development plan as required by the Structural Funds regulations. Integrate it into the national budgetary and policy-making framework so that it serves as an integrated and operational development tool.
- Clarify the proposed institutional arrangements for managing structural funds after accession, including appropriate control, monitoring and evaluation mechanisms and start to build the necessary administrative structures consistent with these arrangements.
- Prepare to comply with basic financial management and control provisions as laid down by the respective regulations of the Structural Funds.

Environment

- Continue transposition of the acquis with particular emphasis on environmental impact assessment, air quality, waste management, water quality, nature protection, industrial pollution control and risk management, and radiation protection.
- Continue implementation of the acquis with particular emphasis on environmental impact assessment, air quality, waste management, water quality, nature protection, industrial pollution control and risk management, and radiation protection. Continue preparation and development of directive-specific implementation plans, including financing plans, with particular emphasis on waste management (including waste management plans), water quality and nature protection, and start implementation.
- Continue strengthening administrative, monitoring and enforcement capacity at national and regional levels. Particular attention should be given to the strengthening of the Ministry of Environment and Water as well as Regional Inspectorates in relation to waste management and nature protection.
- Continue integration of environmental protection requirements into the definition and implementation of all other sectoral policies with a view to promoting sustainable development.

Consumers and health protection

- Continue alignment of legislation and take steps to ensure effective implementation of the Consumer Protection Act, in particular through an independent and efficient market surveillance mechanism.

Co-operation in the fields of justice and home affairs

- Submit a Schengen Action Plan.
- Continue to upgrade and modernise infrastructure at the future EU external borders.
- Bring the current Refugees Act in line with the relevant acquis and assure its proper implementation.
- Improve the internal co-operation within the police and with other law enforcement agencies and with the judiciary in particular to strengthen capacities to fight organised crime.
- Update and implement an integrated strategy for the fight against organised crime, from prevention to prosecution, in collaboration between the Ministry of Justice, the Ministry of Interior and any other concerned agency.
- Develop a national drugs strategy and strengthen the administrative capacity of and the co-ordination among bodies involved in its implementation.
- Take the necessary steps in order to ensure the implementation of Community instruments in the area of judicial co-operation in civil matters.
- Take the necessary steps to align the legislation with the Convention on the Protection of the Communities' Financial Interests and its Protocols.

Customs union

- Fully implement the Bulgarian customs code and its implementing provisions, guarantee the stability and strengthen the administrative and operational capacity of the customs administration to enable it to enforce legislation and improve co-operation with other law enforcement bodies. Continue to upgrade infrastructure at borders.
- **In need of particularly urgent action:** continue the implementation of the IT strategy of the Bulgarian customs administration. Develop IT systems so as to allow for the exchange of computerised data between the EC and Bulgaria.
- Continue serious efforts to implement the customs ethics policy.

Financial control

- Implement the new legislative framework on public internal financial control and strengthen the administrative capacity and the functional independence of the relevant institutions.
- Implement the framework for systems based and performance audits; develop a culture of managerial accountability.
- Develop coherent and comprehensive standards for external audit supported by appropriate methodology and manuals; strengthen the capacity of the National Audit Office.
- **In need of particularly urgent action:** complete the legislative framework for external audit.
- Designate a contact point for the protection of the Communities' financial interests and start effective co-operation with OLAF through this contact point.

- Strengthen the fight against fraud.
- Step up efforts to ensure the correct use, control, monitoring and evaluation of EC pre-accession funding as a key indicator of Bulgaria's ability to implement the financial control *acquis*.

5. PROGRAMMING

For the period 2000-2006, in addition to Phare, financial assistance to Bulgaria comprises support for pre-accession measures for agriculture and rural development through the pre-accession instrument SAPARD (Council Regulation (EC) No 1268/99, OJ L 161, 26.6.1999, p.87); and support for infrastructure projects in the fields of environment and transport through the structural instrument ISPA (Council Regulation (EC) No 1267/99, OJ L 161, 26.6.1999, p. 73), which gives priority to measures similar to the cohesion fund in the pre-accession period. Under these national allocations, Bulgaria can also fund part of its participation in community programmes including the Research and Technological Development Framework Programmes and programmes in the areas of Education and Enterprise. In addition Bulgaria will have access to funding from multi-country and horizontal programmes directly related to the *acquis*. Joint financing by the applicant States is systematically required for all investment projects. Since 1998 the Commission has worked with the European Investment Bank and the International Financial Institutions, in particular the European Bank for Reconstruction and Development and the World Bank, with a view to facilitating the co-financing of projects relating to pre-accession priorities.

6. CONDITIONALITY

Community assistance for financing projects through the three pre-accession instruments Phare, ISPA and SAPARD is conditional on respect by Bulgaria of its commitments under the Europe Agreement, further steps towards satisfying the Copenhagen criteria and in particular progress in meeting the specific priorities of this revised Accession Partnership. Failure to respect these general conditions could lead to a decision by the Council on the suspension of financial assistance on the basis of Article 4 of Regulation (EC) No 622/98.

7. MONITORING

The implementation of the Accession Partnership is monitored in the framework of the Europe Agreement. As underlined by the European Council in Luxembourg, it is important that the institutions of the Europe Agreement continue to be the framework within which the adoption and implementation of the *acquis* can be examined. The relevant sections of the Accession Partnership are discussed in the appropriate sub-committee. The Association Committee discusses overall developments, progress and problems in meeting the Partnership's priorities and intermediate objectives as well as more specific issues referred to it from the sub-committees.

The PHARE Management Committee ensures that actions financed under all three pre-accession instruments, PHARE, ISPA, and SAPARD, are compatible with each other as well as with the Accession Partnerships as laid down in the Co-ordinating Regulation (Council Regulation (EC) No 1266/99, OJ L 161, 26.6.1999, p. 68).

The Accession Partnership will continue to be amended as necessary in accordance with Article 2 of Regulation (EC) No 622/98.