

Report on the Results of the Negotiations
on the Accession of Bulgaria and Romania
to the European Union

Prepared by the Commission's Departments
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This report has been prepared by the Commission's departments. Its purpose is to provide a comprehensive guide to the draft Accession Treaty.

This report covers all negotiating chapters, and provides a summary of the issues covered in the draft Accession Treaty for each of them. It is for information purposes only. The authentic text of the agreement reached in the accession negotiations on the conditions of admission and the adjustments of the treaties on which the Union is founded are laid down in the draft Accession Treaty itself.

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This document is based on the assumption that Bulgaria and Romania will join the EU together on 1 January 2007. It reflects the state of play of 14 December 2004 when all 31 chapters with Bulgaria and Romania have been closed.

Chapter 1: Free movement of goods

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession.

Chapter 2: Free movement of persons

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession, subject to the specific arrangements set out below. Transitional arrangements agreed are limited in time and scope.

The following measures related to the free movement of workers from Bulgaria and Romania into current Member States have been agreed:

- a two year period during which national measures will be applied by current Member States to Bulgaria and Romania. Depending on how liberal these national measures are, they may result in full labour market access;
- after this period, reviews will be held: one automatic review before the end of the second year after accession and a further review at the request of the candidate country affected. The procedure includes a report by the Commission, but leaves the decision on whether to apply the *acquis* up to the current Member States;
- the transitional arrangement should in principle come to an end after five years, but may be prolonged for a further two years in those current Member States where there would be serious disturbances of the labour market or a threat of such disruption;
- safeguards may be applied by Member States up to the end of the seventh year.

Furthermore a standstill clause will apply, whereby current Member State labour markets cannot be more restricted than that prevailing at the time of the signature of the Accession Treaty. Current Member States must give preference to candidate country nationals over non-EU labour.

Austria and Germany have the right to apply flanking national measures to address serious disturbances or the threat thereof, in specific sensitive service sectors on their labour markets, which could arise in certain regions from transnational provision of services.

Under the transitional arrangements the rights of nationals from Bulgaria and Romania who are already legally resident and employed in a current Member State are protected. The rights of family members are also taken into account consistent with the practice in the case of previous accessions.

A declaration to the Accession Treaty states that current Member States shall endeavour to grant increased labour market access under national law, with a view to speeding up the approximation to the *acquis* and even an encouragement to improve access before accession.

Chapter 3: Freedom to Provide Services

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession, subject to the specific arrangements set out below. Transitional arrangements agreed are limited in time and scope.

Investor Compensation Scheme

Bulgaria has been granted a transitional arrangement until the end of 2009 to reach the minimum level of compensation.

Romania has been granted a transitional arrangement until the end of 2011 to reach the minimum level of compensation.

Chapter 4: Free movement of capital

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession, subject to the specific arrangements set out below. Transitional arrangements agreed are limited in time and scope.

Secondary residences

Bulgaria and Romania are granted a five-year transitional arrangement during which they can maintain their national legislation regarding the acquisition of land for secondary residences. Nationals of the Member States who are resident in the above countries are excluded from the scope of the transitional arrangement.

Agricultural land and forests

Bulgaria and Romania are granted a seven-year transitional arrangement during which they can maintain their national legislation regarding the purchase of agricultural land and forests. Nationals of the Member States, who are self-employed farmers in the above countries, are excluded from the scope of the transitional period. A general review of these transitional arrangements shall be held before the end of the third year following the date of accession.

Chapter 5: Company law

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession, subject to the specific arrangements set out below.

Industrial property rights: pharmaceutical products

A special mechanism was agreed with **Bulgaria and Romania**, as with all new Member States (except Cyprus and Malta), on industrial property rights concerning pharmaceutical products. This takes into account the fact that pharmaceutical products, which are subject to patents in the EU and which were marketed in the applicant countries before revised patent legislation entered into force, will remain unprotected in acceding countries due to the lack of a general retroactive clause in the revised legislation.

In order to minimise potential problems resulting from this situation, a mechanism was agreed whereby the patent holder may prevent the import into the EU of a product patented in a Member State at the time when a product patent could not be obtained in acceding countries for that product. This mechanism is applicable until the expiry date of the patents concerned.

As far as the Supplementary Protection Certificate Regulation is concerned (SPC – a prolongation of the patent term up to 5 years), it will be applicable for products for which the first market authorisation was obtained prior to the date of accession.

Industrial property rights: Community Trademark and Community design

In order to protect the unitary character of the Community trademark and Community design, it has been agreed to automatically extend the existing Community trademarks and Community designs to the territory of the acceding countries while taking into account prior rights existing in the acceding countries.

Chapter 6: Competition policy

Bulgaria will take over and implement the *acquis* under this chapter as from the date of accession.

Romania will take over and implement the *acquis* under this chapter as from the date of accession subject to two specific transitional arrangements regarding **fiscal aid measures**. The conditions of the Romanian requests are set out below. Transitional arrangements are limited in time and scope. They are accompanied by a clear plan for the implementation of the *acquis*.

Romania has requested a first transitional period **until 31 December 2011** for maintaining a royalty exemption on the basis of the Law on Free Trade Areas for undertakings, which signed commercial contracts before 1 July 2002. The State aid measure is granted for regional investments and the aid net intensity must not exceed the rate of 50% Net grant equivalent (up to 65% for SMEs provided that the total net aid intensity does not exceed 75%). For undertakings active in the motor vehicle sector, the total aid shall not exceed a maximum of 30% of the eligible investments costs.

Romania has requested a second transitional period **until 31 December 2010** for maintaining a corporate tax exemption for new investments on the basis of the Government Emergency Ordinance on Deprived Areas for the undertakings which were given the permanent investor certificate before 1 July 2003. The State aid measure is granted for regional investments. The aid net intensity must not exceed the rate of 50% Net grant equivalent (up to 65% for SMEs provided that the total net aid intensity does not exceed 75%). For undertakings active in the motor vehicle sector, the total aid shall not exceed a maximum of 30% of the eligible investments costs.

The Accession Treaty contains a safeguard clause in the area of Internal Market as well as a specific safeguard that will allow postponing the envisaged date of accession by one year to January 2008 (see below under chapter 31). For Romania, any serious shortcomings observed in the 2005 Commission's report in the area of Competition Policy, especially as regards the State aid enforcement record, can activate either of the safeguard clauses. Furthermore, the use of the postponement safeguard clause shall require a decision by the Council acting by qualified majority (normally unanimity is required) on the basis of a Commission recommendation if it is based on shortcomings in Romania's fulfilment of specific conditions in the Competition area.

The Accession Treaty also contains a mechanism for determining which aid measures will, procedurally, be categorised as "existing aid" and which will be considered as "new aid", upon accession. However, Romania will only be able to fully benefit from this mechanism as from when its State aid enforcement record has reached a satisfactory level. Moreover, for Romania, the mechanism provides that, in as far as Romania's State aid enforcement record has not reached a satisfactory level, State aid granted between 1 September 2004 and accession will be reviewed and, if found to be illegal, reimbursement will be imposed after accession.

Chapter 7: Agriculture

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession, subject to specific arrangements set out below. Transitional arrangements agreed are limited in time and scope. They are accompanied by a clear plan for the implementation of the *acquis*. In the veterinary and phytosanitary sector, transitional periods were negotiated on the basis that there should be no increased risk to public, animal or plant health in the EU.

Horizontal aspects

Direct payments (2007 – 2016)

Direct payments will be phased in at 25% in 2007, 30% in 2008, 35% in 2009 and 40% in 2010 of the direct payments level of EU-15 and thereafter increase by 10% increments to reach 100% of the then applicable EU-15 level in 2016.

Top-ups of direct payments (2007 – 2016)

Bulgaria and Romania will have following possibilities to top-up direct payments:

- up to 55% of EU-15 level in 2007, 60% in 2008 and 65% in 2009 (for the dairy sector, the following maximum rates will apply : 85% in 2007, 90% in 2008, 95% in 2009 and 100% as from 2010); the maximum top-up rate as from 2007 is 30 percentage points above the applicable level for direct payments in the relevant year;
- up to the direct support level applicable in 2006 under a CAP-like national scheme, on a product-by-product basis, and increased by 10 percentage points.

However, in no case shall the total direct support the farmer may receive exceed 100% of the EU-15 level of corresponding direct payments.

Co-financing of top-ups (2007 – 2009)

In 2007-2009 only, topping-up may be financed partly from rural development allocations. A maximum 20% of the commitment appropriations available in the rural development envelope for each year 2007, 2008 and 2009 may be used for topping-up or, alternatively, 25% in 2007, 20% in 2008 and 15% in 2009. Any further topping-up may only be financed from national budgets.

Single Area Payment Scheme

Bulgaria and Romania have the option, instead of applying the single payment scheme established following the CAP reform, to grant their farmers the CAP direct payments during a limited period in the form of a simplified single area payment, expressed in €/ hectare. The scheme will be available for three years with the possibility of renewal twice by one year at the request of the new Member State in question.

The Single Area Payment Scheme will be limited by an annual financial envelope which is:

- determined as the sum of the EU funds which would be available for granting direct payments in Bulgaria/Romania calculated according to the relevant EU rules and on the basis of the quantitative parameters agreed during the accession negotiations (e.g. base area, premium ceilings, MGQ);
- adjusted using the relevant percentage specified for the gradual introduction of direct payments.

Livestock and animal products

Milk

Bulgaria will have a transitional arrangement until 30 April 2009 for marketing milk in Bulgaria with a fat content of 2% as semi-skimmed and 3% as whole milk.

Wine Sector

Romania will benefit from a transitional period of eight years to remove prohibited hybrid wine varieties under the EU wine *acquis*.

Romania and Bulgaria will receive as of the day of accession newly created planting rights to the extent of 1.5% of their current national vineyard surface.

Rural development

Bulgaria and Romania will benefit from certain special measures for rural development that address their situation as new Member States, among which are:

- Special support to semi-subsistence farmers undergoing restructuring
- Support for meeting EU standards for food safety, animal welfare and the environment
- The possibility of using Rural Development funds to co-finance topping-up of direct payments (see above under direct payments)

In addition, Bulgaria will have the possibility of using rural development funds to support the retirement of dairy farmers between the ages of 55-70.

State aids

National aid schemes and individual aid for activities linked to production, processing or marketing of agricultural products communicated to the Commission within four months of accession will be regarded as 'existing aid' until the end of the third year from the date of accession.

Veterinary aspects

Transitional arrangements in the public health sector have been agreed until 31 December 2009:

- For **Bulgaria**: 80 milk establishments being allowed to receive deliveries of EU non-compliant raw milk and 20 milk establishments allowed to receive EU compliant and EU non-compliant milk on the condition of using separate production lines.
- For **Romania**: 28 meat establishments and 28 milk processing establishments not complying with EU structural requirements. Furthermore, the 28 milk establishments are allowed until 31 December 2009 to receive deliveries of EU non-compliant milk.

All establishments are described in detail individually along with their shortcomings. During the transitional period, products from the establishments in transition must be specially marked and may not be marketed in any form in any other EU country.

Phytosanitary aspects

Plant protection products

Romania has a transitional period up to 31 December 2009 for the use of four active substances (copper compounds, sulphur, acetochlor and dimethoate) contained in plant protection products and for the use of one active substance, 2,4-D, in plant protection products up to 31 December 2008, in case the active substance has been included in Annex I to Directive 91/414/EEC.

Chapter 8: Fisheries

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession.

Chapter 9: Transport policy

All acceding countries will take over and implement the *acquis* under this chapter as from the date of accession, subject to the specific arrangements set out below. Transitional arrangements agreed are limited in time and scope. They are accompanied by a clear plan for the implementation of the *acquis*.

Road

Cabotage

Following requests by the EU, transitional arrangements have been agreed as regards Regulation (EEC) No 3118/93, which entail that access of non-resident hauliers to the national road transport market (cabotage) of other Member States should be phased in gradually.

The transitional arrangements foresee to reciprocally restrict the access to the national transport markets for an initial period of three years for **Bulgaria** and **Romania**.

Any Member State (current and new) can prolong the initial period for a period of up to 5 years. Member States that have not prolonged the transitional arrangement after the first initial period, may apply a safeguard measure and close again their cabotage market in case of a crisis, as long as any other Member State still applies the transitional arrangement. Hauliers from Member States whose cabotage market is still closed are not allowed to perform cabotage in those other Member States that have after the first 3 years opened their market. As long as the transitional arrangement is applied, current and new Member States may progressively exchange cabotage authorisations on the basis of a quota agreed bilaterally.

Admission to the occupation

Bulgaria has been granted a transitional arrangement until the end of 2010 in order to reach the full level of the financial standing criterion required for the admission to the occupation of transport undertakings engaged exclusively in domestic road haulage and passenger transport operations. The available capital and the reserves of those undertakings shall gradually reach the minimum rates laid down in Directive 96/26/EC on admission to the occupation of road haulage operator and road passenger transport operator during the transitional period.

Weights and dimensions

Bulgaria and **Romania** have been granted transitional arrangements during which national axle-load limits may be maintained with regard to certain vehicles in international traffic complying with Directive 96/53/EC laying down for certain road vehicles circulating within the Community the maximum authorized weights in international traffic. **Bulgaria** may maintain Bulgarian axle-weight limits on non-upgraded parts of the Bulgarian secondary road network until the end of 2013. **Romania** may maintain Romanian axle-weight limits on non-upgraded parts of the Romanian secondary road network until the end of 2013.

The transitional arrangements have been made subject to a number of conditions, inter alia that **Bulgaria** and **Romania** shall adhere to their respective timetables for the upgrading of their road network, that no restrictions may be imposed on the use, by vehicles complying with the requirements of the said Directive, of the main transit routes and that for the purpose of loading and unloading, where technically possible, the use of non-upgraded parts of the secondary road network shall be allowed during the entire transitional period.

Vehicle taxes

Romania was granted a transitional arrangement until the end of 2010 during which the minimum tax rates laid down in Directive 99/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures shall not apply in Romania to vehicles engaged exclusively in domestic transport operations. During this period, the rates to be applied by Romania to these vehicles shall gradually reach the minimum rates laid down in Directive 99/62/EC.

Chapter 10: Taxation

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession, subject to the specific arrangements set out below. Bulgaria and Romania have also committed themselves to accept and comply with the principles of the Code of Conduct for Business Taxation

Transitional arrangements and a limited number of derogations are granted to Bulgaria and Romania in the field of indirect taxation (VAT and excise duties) as well as direct taxation. Most transitional arrangements are aimed at allowing Bulgaria and Romania to postpone the adjustment in particular of their excise duty rate level to the requirements of the *acquis*, especially on socially sensitive goods.

VAT

Bulgaria and Romania are allowed to maintain a higher turnover threshold than the level provided for in the *acquis* to exempt SMEs from VAT, and may exempt from VAT with right of deduction of the input tax international passenger transport.

Excise duties

Bulgaria and Romania are granted a transitional period to postpone compliance with the EU legislation on the level of cigarette excise duty rates until 31 December 2009. During the duration of such transitional arrangements, Member States may maintain restrictions on the quantity of cigarettes that private individuals are allowed to bring into their territories (*travellers allowances*) from Bulgaria and Romania.

Bulgaria and Romania are granted transitional periods as concerns the application of the minimum excise duty rates on the following energy products: unleaded petrol (until 1 January 2011); gas oil used as motor fuels (until 1 January 2013) and electricity (until 1 January 2010). Bulgaria is also allowed a delayed application of the minimum excise duty rates on coal and coke (until 1 January 2010 when used for district heating purposes and until 1 January 2009 when used for other purposes) and on kerosene (until 1 January 2013), whereas Romania is granted a transitional period for the delayed implementation of the minimum excise duty rate on natural gas used for non-commercial purposes (until 1 January 2010) on heavy fuel oils used for district heating purposes (until 1 January 2010), and on heavy fuel oils used for other purposes (until 1 January 2009). During these transitional periods, certain levels of duties have to be reached at intermediate deadlines.

Finally, both countries are granted a derogation to apply a reduced excise duty rate not lower than 50% of the standard one to the production of certain quantities of fruit spirit from own grapes for personal consumption of fruit grower's households and not for sale.

Direct taxation

Bulgaria and Romania are granted transitional arrangements until 1 January 2015 and 1 January 2011 respectively, to delay full compliance with Directive 2003/49/EC (interests and royalties directive). During this period, the withholding taxes applied shall not exceed 10% until 1 January 2011 and 5% until 1 January 2015 (only for Bulgaria).

Chapter 11: Economic and Monetary Union

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession. They will participate in EMU upon accession with the status of a country with a derogation under Article 122 of the EC Treaty.

Chapter 12: Statistics

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession.

Chapter 13: Social policy and employment

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession, subject to the specific arrangements set out below. Transitional arrangements agreed are limited in time and scope.

Public health

Bulgaria is granted a transitional arrangement until 31 December 2010 for the Directive on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products with respect to the maximum tar yield of cigarettes manufactured and marketed within the territory of Bulgaria.

Bulgaria shall provide the Commission with regularly updated information on the timetable and measures taken to ensure compliance with the above mentioned Directive.

Chapter 14: Energy

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession, save as regards **minimum stocks of crude oil and/or petroleum products**. The transitional arrangements agreed are limited in time and scope and are accompanied by a clear plan for the implementation of the *acquis*. **Bulgaria** was granted a transitional arrangement until 31 December 2012; and **Romania** until 31 December 2011.

Regarding **nuclear energy**, the **Protocol on units 1-4 of the Kozloduy Nuclear Power Plant in Bulgaria** is covered below under *Chapter 31*.

Chapter 15: Industrial policy

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession.

Chapter 16: Small and medium-sized enterprises

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession.

Chapter 17: Science and research

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession.

Chapter 18: Education and training

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession.

Chapter 19: Telecommunications and information technologies

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession, subject to the specific arrangement set out below.

Number portability

A transitional arrangement has been agreed with Bulgaria whereby it may postpone the introduction of number portability to no later than 1 January 2009.

Chapter 20: Culture and audio-visual policy

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession.

Chapter 21: Regional policy and co-ordination of structural instruments

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession, subject to the specific arrangements set out below.

Bulgaria and Romania were notified that the current *acquis* in the area of the Structural and Cohesion Funds ends on 31 December 2006 and that there may be new *acquis* applicable by 1 January 2007.

No transitional periods were requested under this chapter. Negotiations focused on administrative capacity, eligibility and financial allocations.

Administrative Capacity

In the context of the accession negotiations under this chapter, the Commission identified the detailed organisational and institutional requirements, which the acceding countries will have to comply with upon accession. Bulgaria's and Romania's attention was drawn to possible new *acquis* in this area before 2007 and the two countries were encouraged to take rapid and decisive steps with regard to capacity building in this context.

The Commission is closely monitoring the implementation of the commitments taken by the acceding countries in this respect, including the timetable for preparations. In the event that commitments undertaken are not met, the Commission will not be able to approve Community funding until the conditions set out in the Structural and Cohesion Funds Regulations are fulfilled.

Eligibility

Objective 1

Eligibility for Objective 1 assistance for all EU members on 1 January 2007 will be determined through procedures established under the *acquis* applicable at that time.

On the basis of the current *acquis*, all of Bulgaria's 6 and all of Romania's 8 NUTS II regions would currently be eligible for Objective 1 assistance.

Community initiatives - Interreg

Eligibility for cross-border and transnational cooperation programmes on 1 January 2007 for all EU members will be determined through procedures established under the *acquis* applicable at that time.

On the basis of the current *acquis*, all NUTS III level areas along Bulgaria's and Romania's land borders would be eligible areas and possibly some NUTS III level maritime border areas could be eligible areas under the cross-border cooperation strand of INTERREG. Furthermore, all of Bulgaria's and Romania's NUTS II level areas would be included in a joint or in separate groupings of regions for the purpose of transnational cooperation.

Cohesion Fund

Eligibility for Cohesion Fund assistance for all EU members on 1 January 2007 will be determined through procedures established under the *acquis* applicable at that time.

On the basis of the current *acquis*, Bulgaria and Romania would currently be eligible for Cohesion Fund assistance.

Financial allocation

The overall allocations for structural actions to be made available for Bulgaria and Romania over the three-year period 2007-2009 in terms of commitment appropriations shall be as follows:

(EUR million, 2004 prices)

	2007	2008	2009
Bulgaria	539	759	1 002
Romania	1 399	1 972	2 603

The breakdown of commitment appropriations notably between the Structural Funds and the Cohesion Fund will be determined through procedures established under the *acquis* applicable at the date of accession of Bulgaria and Romania.

Chapter 22: Environment

Both countries will take over and implement the *acquis* under this chapter as from the date of accession, subject to the specific arrangements set out below. Transitional arrangements agreed are limited in time and scope. They are accompanied by a clear plan for the implementation of the *acquis*.

Preparations for membership in this chapter presented three particular challenges:

- legal: most of the environment *acquis* is in the form of directives requiring transposition into the national legal order;
- administrative: planning, permitting and monitoring requires sufficiently staffed and well equipped environment administration at various levels;
- financial: substantial investment in infrastructure and technology in order to make up for lacking or insufficient investments.

The transitional arrangements agreed in the negotiations are mainly due to the third aspect of these challenges.

Given the volume of the environment *acquis*, the agreed transitional arrangements are exceptional. Their potential transboundary impact is limited. They do not lead to significant distortions of competition. The transitional arrangements include detailed legally binding intermediate targets. This ensures a controlled implementation during the entire transition period. The targets will be recorded in the Accession Treaty. The scope of transitional arrangements is, wherever possible, specified through lists of individual installations. The transitional arrangements are backed up by detailed financing strategies.

Air quality

The requirements for the storage of petrol and its distribution from terminals to service stations (Directive 94/63/EC) will be gradually achieved in **both countries** by the end of 2009. Priority has been given to implementation in terminals and stations with the larger throughput in order to reduce the environmental impact in the most efficient manner.

As regards heavy fuel oils and gas oils (Directive 1999/32/EC), **Bulgaria** is allowed to use fuels with a sulphur content higher than required under the *acquis* until end 2011 for heavy fuel oils and until end 2009 for gas oils. These fuels are to be used for local use only.

Waste management

Both countries dispose of additional time to achieve the recovery, incineration with energy recovery and recycling targets for packaging waste (Directive 94/62/EC as amended by Directive 2004/12/EC). The transition periods range from end 2009 to end 2013 for **Romania** and to end 2014 for **Bulgaria**. They are justified by the time needed to establish the necessary infrastructure for collection, recovery, incineration and recycling of waste. Moreover, generation of waste by private households is relatively low compared to the EU average. Intermediate targets have been set.

As regards landfill of waste (Directive 1999/31/EC), transitional arrangements reflect the following specific situations:

- In order to build sufficient capacity for landfill and disposal of hazardous waste, **Romania** is exempted from the requirements related to temporary storage of hazardous waste until end 2009. Nevertheless, Romania needs to establish a licensing system for temporary storage of hazardous waste during the transitional arrangement. The general requirements under the waste framework directives will apply as from accession;
- As regards municipal waste full implementation will be gradually achieved in Romania by July 2017 in accordance with intermediate targets (July 2009 for current Member States);
- Romania has additional time until the end of 2013 and **Bulgaria** until end 2014 for land filling of certain non-hazardous liquid wastes, as the waste quantities in question are large and time is required to adjust technologies to treat such wastes. Nevertheless, intermediate targets have been set to ensure gradual reduction of such land filling. The general requirements under the waste framework directives will apply as from accession.

Specific measures have been negotiated with both countries as regards the shipments of waste (Regulation (EEC) 259/93) in order to avoid “dumping” of waste where EU standards are not met: competent authorities can object to waste shipments under the procedures for shipments for disposal of waste. This applies to transitional arrangements related to waste treatment as long as the EU standards are not met. In addition, specific wastes for recovery shall not be imported to **Bulgaria** until 2009 and to **Romania** until 2011 in order to allow time for the countries to build up the necessary recovery and recycling capacities.

Both countries have until end 2008 to meet the 4 kg collection rate as well as recovery and recycling and reuse targets of waste electrical and electronic equipment (2002/96/EC), in line with the possibility set for 13 current Member States.

Water quality

Both countries dispose of additional time to build collection systems and treatment facilities for urban waste waters (Directive 91/271/EEC). The intermediate targets agreed ensure that priority is given to bigger agglomerations. The time spans agreed (until end 2014 for **Bulgaria** and until end 2018 for **Romania**) reflect the implementation schedule for current Member States, counted from the adoption of the Directive.

As regards the quality of water intended for human consumption (Directive 98/83/EC), transitional arrangements have been agreed for a limited number of parameters within **Romania** until end 2010 and end 2015. In cases of potential dangers to human health, the procedures under the Directive apply (e.g. information to population, interruption of supply).

Certain discharges of dangerous substances into the aquatic environment (Directive 76/464/EEC and others) are allowed in **Romania** from certain industrial installations until end 2009. Permits will be issued for these discharges prior to accession to reduce the environmental impact.

Nature protection

There are no transitional measures agreed with Bulgaria or Romania under this sub-sector of Chapter 22.

By way of technical adaptations, the lists of habitats and wild fauna and flora are being amended to take into account the biodiversity of the two countries. These modifications depend upon the conservation status in the European context and relate to the different levels of protection. The same principles will guide the adaptation of the annexes to the Directive on wild birds.

Industrial pollution and risk management

As regards large combustion plants (Directive 2001/80/EC), emissions from a limited number of pre-1987 plants will dispose of additional time until end 2008 to end 2013 in **Romania** and until end 2009 to end 2014 in **Bulgaria**. For these installations, the requirements under the Directive will apply to Member States as from beginning 2008. In addition, Romania has additional time until end 2017 to comply with the year 2016 NO_x requirement within six installations. Intermediate targets have been set, which will ensure gradual reduction of emissions during the transitional periods. Technical adaptations of the overall emission reduction targets set in the Directive are being established on the basis of latest emission data.

As regards integrated pollution prevention and control (Directive 96/61/EC), specifically listed installations will have to comply with “Best Available Techniques” in **Bulgaria** (by end 2008 - end 2011) and in **Romania** (by end 2008 – end 2015), while the Directive requires compliance by October 2007. Fully integrated permits will however need to be issued for these installations by October 2007. These transitional arrangements apply only to pre-1997 installations (“existing” installations). All newer installations have to comply by accession.

Specifically listed waste incinerators for medical waste in **Romania** will comply with Directive 2000/76/EC by end 2007 – end 2008. This extended deadline allows Romania to have additional time in order to construct the necessary complying facilities to manage such waste.

National emission ceilings (Directive 2001/81/EC) are being technically adapted for the two countries. These ceilings will be without prejudice to the 2008 review foreseen under the Directive.

Chemicals and genetically modified organisms

As regards substances that deplete the ozone layer (Regulation (EC) 2037/2000), the total quantitative limits on producers and importers placing controlled substances on the market are being adjusted through technical adaptation.

Nuclear safety and radiation protection

There are no transitional measures agreed with Bulgaria or Romania under this sub-sector of Chapter 22.

Chapter 23: Consumers and health protection

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession.

Chapter 24: Co-operation in the field of justice and home affairs

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession, subject to the specific arrangements set out below.

No transitional periods were requested under this chapter. The *acquis* in the field of Justice and Home Affairs will be implemented as of accession, with the exception of some parts of the Schengen *acquis*. This is due to the fact that the lifting of internal border controls will not happen upon accession, but afterwards, following a separate, unanimous decision by the Council. This procedure has been followed also for past accessions to Schengen.

For this purpose, the Schengen *acquis* has been divided into two parts. The majority of provisions must be applied upon accession (Category I), leaving only those provisions closely linked to the lifting of the internal border controls (Category II) to be implemented simultaneously with the lifting of internal border controls. Before this final stage is reached, a detailed evaluation process will be conducted for Bulgaria and Romania to establish whether all legal, organisational, operational, practical and technical pre-conditions are fulfilled, in particular the requirements concerning access to the Schengen Information System and an effective external border control.

Bulgaria and Romania have drawn up Schengen Action Plans demonstrating full awareness of the ramifications of the Schengen *acquis*, and presenting a credible schedule for the introduction of its provisions. The Commission regularly monitors the implementation of these plans.

The Accession Treaty contains a safeguard clause as regards parts of the *acquis* in judicial co-operation in civil and criminal matters. For Romania the safeguard that postpones accession by one year can be decided with qualified majority among the member states (normally unanimity is required) on the basis of a Commission recommendation if it is based on shortcomings in Romania's fulfilment of specific commitments in the JHA field (see below under Chapter 31).

Chapter 25: Customs union

Bulgaria and Romania will take over and implement the Common Customs Tariff (CCT) and the entire *acquis* under this chapter as from the date of accession, subject to the specific arrangements set out below.

Bulgaria and Romania will be able to benefit from horizontal measures providing technical solutions for situations that result from the transition between 3 separate customs territories (EC25 + 2) and one enlarged customs territory (EC27). Such measures are necessary to provide technical solutions for the treatment applicable to goods which enter a procedure in one customs territory and leave it in another, as a result of the enlargement of the EC customs territory at the moment of accession. These arrangements apply in particular with regard to:

- the circumstances in which goods are treated as having a status, in the enlarged Community, equivalent to free circulation (non-application of customs duties);
- the application of preferential tariff treatment under provisions resulting from previously existing arrangements (acceptance of proofs of origin, simplified procedures, post-clearance verification);
- the provisions applicable upon discharge of certain economic regimes (customs warehousing, inward processing, processing under customs control, temporary importation and outward processing);
- the continued validity for a maximum period of 12 months after accession of authorisations issued for inward processing, processing under customs control, and outward processing, where it is technically impossible for the new Member States to apply, prior to accession, identical conditions to those applicable in the enlarged Community ;
- entry in the accounts and post-clearance recovery;
- repayment and remission of duty.

Chapter 26: External relations

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession.

It should be recalled that Bulgaria and Romania are obliged to withdraw from any free trade agreements with third countries, including the Central European Free Trade Agreement, with effect from the date of accession. To the extent that agreements between one or more of the new Member States on the one hand, and one or more third countries on the other, are not compatible with the obligations arising from EU membership, the new Member States are required to take all appropriate steps to eliminate the incompatibilities established, either through adaptation or termination.

Chapter 27: Common foreign and security policy

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession.

Chapter 28: Financial control

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession.

Chapter 29: Financial and budgetary provisions

Bulgaria and Romania will take over and implement the *acquis* under this chapter as from the date of accession. This means both countries will participate fully in the financing of the EC budget from accession.

Financial Package 2007-2009

Agreement was also reached under this chapter regarding a financial package in favour of both countries covering the first three years of accession. The ring-fenced expenditure amounts agreed for both countries which are to appear in the Accession Treaty are outlined in the following table:

€ millions, 2004 prices	2007			2008			2009		
	BG	RO	Total	BG	RO	Total	BG	RO	Total
Structural operations	539	1399	1938	759	1972	2731	1002	2603	3605
Rural development	183	577	760	244	770	1014	306	961	1267
Nuclear safety	70	-	70	70	-	70	70	-	70
Transition facility for institution building			82						

In addition to the above mentioned amounts for nuclear safety, a further €40 million for the period 2004-2006 was agreed for the same purposes during the negotiations with Bulgaria. It should also be noted that for the Transition Facility, while no country specific amounts were agreed, the general modalities for the operation of this facility were included under Chapter 31.

Estimates of the financial implications of agreements reached under Chapter 7 with Bulgaria and Romania in the first three years of accession with regard to agricultural market measures and direct payments are as follows: for market measures €1.120 million (Bulgaria €388 million, Romania €732 million); for direct payments €1.312 million (Bulgaria €431 million, Romania €881 million) – figures in 2004 prices.

A number of other specific arrangements with important financial implications were agreed under chapter 31 of the negotiations. As regards expenditure in favour of Bulgaria and Romania, this concerns a temporary Cash-flow and Schengen Facility under which Bulgaria and Romania will benefit from some €39.5 million and €59.8 million respectively in the period 2007-2009.

Chapter 30: Institutions

Chapter 30 on institutions covers the composition and functioning of institutions and bodies established under the Treaty establishing a Constitution for Europe or under secondary legislation. In some areas, transitional arrangements will ensure a smooth transition until the beginning of the next parliamentary term in 2009.

Should the Constitution enter into force after accession, the current institutional provisions as amended by the Nice Treaty will transitionally continue to apply with minor adjustments, in order to ensure that the Union can continue to operate effectively and maintain its decision-making capacity.

Parliament

The allocation of 18 seats to Bulgaria and 35 seats to Romania for the remainder of the 2004-2009 parliamentary term follows the Declaration concerning the Protocol N°40 annexed to the Final Act of the Intergovernmental Conference on the Constitution. These figures correspond to those mapped out and increased pro rata in accordance with the Nice Treaty protocol and declaration on enlargement. As from 2009, the composition of the 750 seats of Members of Parliament will be determined on the initiative of the European Parliament and with its consent by a European decision of the European Council (Article I-20 Constitution).

Council

For the period until and 31 October 2009, the qualified majority is calculated in accordance with the current regime under Article 205 EC Treaty as modified by the Treaty of Nice and the 2003 Accession Treaty. The weighting of votes for Bulgaria and Romania will be set at 10 and 14 respectively. Following the declarations annexed to the Nice Treaty the qualified majority threshold is fixed at 255 votes out of 345, whereas the blocking minority requires 91 votes. Furthermore, a Member State may request the verification whether these 255 votes represent at least 62% of the total population of the Union.

Commission

Following the European Parliament elections in June 2004, the new Parliament approved the nomination of the new President of the Commission as well as of the other Members of the new Commission which took up its duties with effect from 22 November 2004. As from the day of accession, Bulgaria and Romania will each send one Commissioner into the college.

Other issues

The number of judges of the European Court of Justice and the Court of First Instance will be increased by 2 to 27. The number of advocates-generals is subject to an increase only upon request by the Court. As far as other institutions, organs, bodies, committees and agencies established by the Constitution or secondary law are concerned, Bulgaria and Romania will be adequately represented in accordance with the existing rules. The 20 official languages of the EU will be supplemented by two additional official languages: Bulgarian and Romanian. In this context, due attention should be paid to the training of suitably qualified conference interpreters and translators.

Chapter 31: Other

European Development Fund

Bulgaria and Romania will accede to the EDF as of the entry into force of the first Financial Protocol following their accession and will contribute to it from the outset.

Research Fund for Coal and Steel (RFCS)

Both Bulgaria and Romania will participate fully in the RFCS from the day of accession. They will pay contributions to the RFCS calculated according to the same methodology followed for the ten new Member States. Payments will be made in four annual instalments starting in 2009.

Implementation and management of pre-accession funds in the new Member States

Provisions in the Accession Treaty will establish the rules for the implementation, after accession, of the three pre-accession funds PHARE, ISPA and SAPARD.

Transition Facility

An article in the Accession Treaty will establish the legal base for a transition facility for institution building to support Bulgaria and Romania in the process of building up their administrative and judicial capacity and to foster exchange of best practice among peers. This assistance, amounting to €2 million, shall fund Institution Building projects and limited, linked, small scale investments.

Arrangements for the interim period

Arrangements are specified for the period between a “cut-off date” (1 October 2004) and the date of accession during which the new *acquis communautaire* is not covered either in the accession negotiations or in the Treaty, but at the same time the acceding countries are not yet Member States. The main elements of these arrangements in the form of an exchange of letters between the European Union and the future new Member States are an ‘information and consultation procedure’ and an ‘active observer status’.

Safeguard clauses

The Accession Treaty will feature four safeguard clauses: a general economic safeguard clause, a specific internal market safeguard clause, a specific JHA safeguard clause, and a postponement clause. The general economic safeguard clause covers any sector of the economy or economic situation of a given area, both in current and new Member States. The internal market safeguard clause covers all sectoral policies involving economic activities with cross border effects. The JHA safeguard clause covers mutual recognition in the area of criminal law and civil matters. Both the internal market and the JHA safeguard clause may be applied vis-à-vis new member states only. Safeguard measures may be taken under these three clauses until the end of a period of three years after accession, but they may remain in force beyond this period. However, any safeguard measure shall be maintained no longer than is strictly necessary and must be proportional in scope and duration.

A fourth safeguard clause will also be included in the Treaty which will allow the Council to decide, based on a Commission recommendation, that accession be postponed by one year where there is clear evidence that the state of preparations for adoption and implementation of the *acquis* is such that there is a serious risk of Bulgaria/Romania being manifestly unprepared to meet the requirements of membership by the envisaged date of accession in January 2007 in a number of important areas.

Special temporary cash-flow and Schengen facility

The Union will provide funds from a special temporary cash-flow and Schengen facility for Bulgaria [and Romania] in order to improve their budgetary positions in the first three years of accession and support them in their obligation to finance actions at the new external border of the Union for the implementation of the Schengen *acquis* and external border control. The amount agreed under this facility for Bulgaria for 2007-2009 is €239.5 million (2004 prices) [and for Romania €59.8 million].

European Investment Bank

A protocol on amendments to the Statute of the European Investment Bank will be included in the Accession Treaty covering the addition of Bulgaria and Romania to the list of members of the Bank, arrangements for an increase to the capital and reserves (including an agreed transitional measure with contributions from Bulgaria and Romania to be paid in 8 instalments) and provisions with regard to representation on the Board of Directors.

Kozloduy nuclear power plant (Bulgaria)

The Kozloduy Protocol consolidates Bulgaria's closure, in line with its commitments, of Units 1 and 2 of the Kozloduy Nuclear Power Plant before the year 2003 and the commitment to close Units 3 and 4 of this plant in 2006.

The Union shall provide Bulgaria, for the period 2007-2009, with financial assistance of €10 million in support of its effort to decommission the four Kozloduy Units and to address the consequences of the closure and decommissioning.