B. BRINGING BULGARIA AND ROMANIA INTO THE UNION

1. Progress made by Bulgaria in meeting the membership criteria

Bulgaria continues to fulfil the Copenhagen **political criteria**. Progress was made with the adoption of a programme and an action plan for the implementation of the strategy for modernisation of the state administration, but sustained efforts will be necessary to fulfil Bulgaria's aim to have a qualified and efficient civil service in place in the medium term. The overall reform process of the judiciary continued. In particular, the amendments to the Constitution regarding the status of magistrates represent an important step forward. Corruption remains a problem, and Bulgaria should maintain concerted efforts to implement measures in this respect.

Bulgaria continues to respect human rights and fundamental freedoms. The legal framework for asylum, child protection, equal opportunities and anti-discrimination policy improved considerably. However, the living conditions of children and mentally disabled placed in institutions have not improved. Further efforts are also necessary to combat degrading treatment by the police and trafficking in human beings. The new action plan for implementing the framework programme for the integration of Roma into society represents a positive step, but determined and sustained efforts are needed to fight discriminatory attitudes and behaviour. An overview of the human rights conventions ratified by Bulgaria can be found in *Annex 3: Human rights conventions ratified by the candidate countries*.

As regards the **economic criteria**, Bulgaria is a functioning market economy. It should be able to cope with competitive pressure and market forces within the Union in the near term, provided that it continues implementing its reform programme to remove remaining difficulties.

The Bulgarian economy has achieved a high degree of stability and has made good progress in structural reforms. This ensures working market mechanisms and an increasingly efficient allocation of resources. However, the flexibility of product and labour markets should be further enhanced. In particular, the efficiency of the administrative and the judicial system should be improved to provide a more stable and predictable framework for economic agents. The privatisation programme needs to be completed and regulations and administrative procedures affecting enterprises further streamlined. A selection of statistical indicators can be found in *Annex 6: Main statistical indicators (2002)*.

Over the past year, Bulgaria has in most areas continued to make good progress in **adopting the *acquis*** and is on track to complete the required legislative transposition before the planned date of accession if the current pace of progress is maintained. Details on progress in the different chapters of the *acquis* can be found in the conclusions of the Regular Report on Bulgaria.

Bulgaria needs to continue to make sustained efforts to develop sufficient administrative and judicial capacity to implement and enforce the *acquis*. As well as continuing horizontal reform of the public administration, it needs to focus in particular on developing the capacity to be part of the internal market and to apply the *acquis* in areas such as agriculture, environment and regional policy. Continued efforts are required to establish the necessary administrative capacity to ensure the sound and efficient management of EU funds.

The full conclusions of the Regular Report on Bulgaria can be found in *Annex 2: Conclusions of the Regular Reports on Bulgaria, Romania and Turkey*.

2. Progress made by Romania in meeting the membership criteria

Romania continues to fulfil the **political criteria**. A number of positive initiatives have been launched over the last year to reform the public administration and the judiciary. Romania needs to focus attention on the effective implementation of these measures and should build further on these efforts to address cumbersome administrative procedures, limited transparency and a limited capacity for policy execution. It needs to develop and implement a strategy to address the reform of the policy and legislative process. Corruption in Romania continues to be widespread. A number of high-profile measures were taken, but substantially increased efforts are needed.

Romania continues to respect human rights and fundamental freedoms, and has made good progress especially as regards anti-discrimination, child protection and national minorities. The implementation of the Roma Strategy needs to continue. Reforms in a number of other areas are being prepared, but the challenge for the future will be the effective implementation of these initiatives. An overview of the human rights conventions ratified by Romania can be found in *Annex 3: Human rights conventions ratified by the candidate countries*.

As regards the **economic criteria**, Romania can be considered as a functioning market economy once the good progress made has continued decisively. In addition, a vigorous and sustained implementation of its structural reform programme is required in order for Romania to be able to cope with competitive pressure and market forces within the Union in the near term.

Further progress towards macroeconomic stability was achieved, privatisation and restructuring of public enterprises were accelerated and market entry and exit mechanisms were improved. However, fiscal and wage policies have to remain prudent, expenditure reform has to be advanced and tax compliance improved. As a priority, enterprise financial discipline must be strengthened, in particular by addressing the continued accumulation of arrears. The restructuring and privatisation in key sectors, such as energy, mining and transport, needs to be advanced. A selection of statistical indicators can be found in *Annex 6: Main statistical indicators (2002)*.

Romania has made steady progress with the **adoption of the *acquis*** and is on track to transpose the required legislation before the planned date of accession provided the current pace of progress is maintained. Weaknesses in the legislative process mean that the quality of legislation transposed is uneven and in some cases revisions will be needed before laws can be implemented. Details on progress in the different chapters of the *acquis* can be found in the conclusions of the Regular Report on Romania.

In a number of important sectors, there has been a continued gap between progress in legal transposition and the limited overall capacity of the public administration to implement and enforce the newly adopted legislation. This represents a major constraint on Romania's accession preparations and to address this issue will require a comprehensive, structural reform of both the public administration and the judicial system. These concerns extend beyond adoption of the *acquis* and also apply to the management of EU financial assistance. Progress in establishing the new institutional structures required by the *acquis* has continued although results to date have been uneven.

The full conclusions of the Regular Report on Romania can be found in *Annex 2: Conclusions of the Regular Reports on Bulgaria, Romania and Turkey*.

3. Pre-accession strategy for Bulgaria and Romania

As recommended in last year's Strategy Paper, the Council endorsed detailed roadmaps and adopted revised Accession Partnerships for Bulgaria and Romania. These Accession Partnerships are based on the findings of the 2002 Regular Reports and draw up a list of concrete tasks which must be undertaken in order to continue and complete preparations for EU membership. The purpose of the Accession Partnerships is to set out in a single framework the priority areas for further work identified in the Commission's Regular Report, the financial means available to help candidate countries implement these priorities, and the conditions which will apply to this assistance.

Institution building, together with investment in *acquis*-related development, should continue to be the principal focus of Community assistance, in particular under the Phare programme. In this context, peer review and twinning are the instruments of choice and considerable use is being made of them (see the tables in *Annex 4: Twinning projects and peer reviews*). This should be further sustained.

The second major aim of Community assistance remains the promotion of economic and social cohesion, with a clear focus on preparing Bulgarian and Romanian administrations and beneficiaries for future Structural Funds and Cohesion Fund actions.

The accession roadmaps for Bulgaria and Romania, proposed by the Commission and endorsed by the Copenhagen European Council, provide for considerably increased financial assistance in the period 2004-2006 to both countries (€1 360 million in 2004, €1 502 million in 2005 and €1 650 million in 2006). This increase, which was subsequently incorporated into the modification of the Financial Perspective 2000-2006, decided by the budgetary authorities, is intended to support Bulgaria and Romania in taking the remaining steps necessary to meet the criteria for membership and to continue to prepare for participation in the Structural Funds.

The increased assistance will be conditional on making satisfactory progress in implementing the roadmap and Accession Partnership priorities and on significant improvements in the countries' capacity to manage and use funds effectively. Preparations should continue to implement extended decentralisation (EDIS) for Phare and ISPA by the end of 2004. Furthermore, Bulgaria and Romania should ensure that effective structures exist to prevent, detect and punish possible instances of fraud and corruption.

4. A framework for finalising the negotiations

4.1 Towards the conclusion of negotiations

Bulgaria and Romania have set 2007 as their target date for accession. This date has now become a common objective of the Union since the Copenhagen European Council in December 2002, depending on further progress in complying with the membership criteria. The Union's stated objective to welcome Bulgaria and Romania as members in 2007 must remain the firm focus of these two countries' preparations and the Commission will support them in achieving this goal.

The accession negotiations have made steady progress to date. All *acquis* chapters have been opened with Bulgaria and Romania. Out of the 31 negotiating chapters, 26 have been provisionally closed with Bulgaria and 20 with Romania. An overview of the state of play in the negotiations is given in the table in *Annex 5: State of play of negotiations*.

The negotiations must advance to their overall conclusion on the basis of the existing principles set at the beginning of the negotiations. As declared by the Thessaloniki European Council, negotiations "will continue on the same basis and principles that applied to the ten acceding states".

The basic principle of the negotiations is that each country progresses on the basis of its own merits. On this basis, the pace of the negotiations will, as in the past, be determined principally by progress on the ground: progress by the negotiating countries in incorporating the *acquis* into their legislation and in building the capacity to implement and enforce it effectively. Measuring this progress is precisely the purpose of the Commission's Regular Reports which serve as a basis to decide on the conduct of negotiations. The Commission will continue to monitor the fulfilment of the negotiating countries' commitments. Progress in the negotiations will continue to go hand in hand with progress on the ground.

In addition, the actual progress in the negotiations and the provisional closure of negotiating chapters depends on all parties making the necessary contributions. This implies, for the candidate countries, the submission of substantive position papers reflecting progress in the transposition and implementation capacity over the period since the previous round of negotiations in each chapter, and credible commitments for what remains to be done. For its part, the Commission will continue to make the necessary proposals for chapters remaining open to permit the Union to formulate common positions to be presented to the candidates.

In order for accession to take place in 2007, a common Accession Treaty for Bulgaria and Romania should be signed at the latest towards the end of 2005, which would require that the negotiations be finalised in due time before that. This is to be preceded by the Commission's final recommendation on the readiness of Bulgaria and Romania for accession. The Thessaloniki European Council supported Bulgaria and Romania in their efforts to achieve the objective of concluding negotiations in 2004, inviting them to step up their preparations on the ground. Meeting this objective will depend on the real progress made on the ground and in the negotiating process on the basis of each country's own merits.

4.2 *Outline for a financial framework*

As was the case for the negotiations with the ten acceding countries in 2002, one of the first and principal tasks in preparing the ground for the completion of negotiations is to establish a coherent financial framework. This will open the way to finalising negotiations in the chapters on agriculture and regional policy which have important budgetary implications and which are related to the chapter on financial and budgetary provisions.

In the case of the acceding countries, the financial package for accession was largely determined by the financial framework for the period 2000-2006 agreed at the Berlin European Council in March 1999. In the case of Bulgaria and Romania, there is not yet such an overall financial framework in which to place the budgetary implications of their accession. However, the European Council meeting in Thessaloniki in June declared that "discussions or agreement on future policy reforms, or the new financial perspective, shall neither impede the pursuit and conclusion of accession negotiations nor be prejudged by the outcome of these negotiations".

The Commission's proposals will therefore be based on the existing *acquis* as well as on the principles and methodology underlying the financial framework developed for the negotiations with the ten acceding countries. In particular:

– In the field of agriculture, the objective of gradually introducing direct payments for farmers in the new Member States over a period of 10 years starting at 25% of the level then applicable to the EU-15, should be maintained. The negotiating position of the EU should reflect the reform of the common agricultural policy which has taken place in the meantime. The rural development envelope for Bulgaria and Romania will be calculated on the basis of the same criteria as those used for dividing the rural development envelope among the ten acceding countries. The additional market-related expenditure resulting from the accession of Bulgaria and Romania will need to be added to the total EU-25 ceiling for Heading 1.A.[5]

– The structural actions should be based on a share of one third of the funds for the cohesion fund and on an overall envelope fixed following a similar approach as for the ten acceding countries, *inter alia* taking into account the progressive phasing-in of the structural funds in order to reflect the progressive increase of absorption capacity in these countries. This includes the capping of transfers to 4% of expected gross national income in any given year. Once this overall envelope is agreed, the individual amounts per country and per policy will be determined largely on the basis of the methodology applied for current Member States for the period 2000-2006. These would be indicative allocations, liable to change depending on the outcome of policy reform, without changing the reserved total financial envelope.

[5] As laid down in the Decision of the Representatives of the Governments of the Member States, meeting within the Council, of 18 November 2002.

- In addition to providing for full participation by Bulgaria and Romania in the Community's internal policies, additional funds should be allocated for institution building similar to those agreed for the acceding countries (in particular, the "transition facility").

- Bulgaria and Romania should not find themselves in a net budgetary position on accession which is worse in comparison with their situation in the year before accession as beneficiaries of pre-accession funds.

- Funds should be allocated to deal with specific problems, notably the decommissioning of installations at the Kozloduy nuclear power plant.

The continuity implied in this approach is fair to both the present and future acceding countries and is justified taking into account the need to avoid prejudging future policy reforms and the future overall financial perspective. Given that this proposal will be based on the same principles and methodology as applied for the ten acceding countries, the negotiations could be considerably simplified.

Although it would be desirable from the point of view of enlargement that the new overall financial perspective for the Union starting in 2007 preserves this continuity, at least as a starting point, it cannot be excluded that the financial framework for Bulgaria and Romania will need to be adapted in important respects to reflect future policy reforms or fundamental changes to the overall financial perspective as compared to the current perspective. It is therefore prudent and appropriate to limit the financial framework for Bulgaria and Romania in time to a period of three years from their accession. This is in fact the same period as was covered by the negotiations with the ten acceding countries, which was limited to the current financial perspective expiring in 2006.

If the financial framework for the accession of Bulgaria and Romania were to require adaptation after the conclusion of the negotiations, a procedure would need to be available to involve these countries as appropriate in this decision-making. If necessary, this procedure should be included in the Accession Treaty.

The Commission will ensure that the Council can debate these issues, at the beginning of 2004, in a common financial framework for the accession of Bulgaria and Romania. On this basis, the Commission will then propose to the Council common negotiation positions in the fields of agriculture, regional policy and budgetary issues in accordance with the approach set out above.