

AGREEMENT
ON THE PARTICIPATION OF THE REPUBLIC OF BULGARIA AND ROMANIA
IN THE EUROPEAN ECONOMIC AREA

THE EUROPEAN COMMUNITY,

THE KINGDOM OF BELGIUM,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

IRELAND,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

THE ITALIAN REPUBLIC,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBOURG,

THE REPUBLIC OF HUNGARY,

MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

hereinafter referred to as "EC Member States",

ICELAND,

THE PRINCIPALITY OF LIECHTENSTEIN,

THE KINGDOM OF NORWAY,

hereinafter referred to as "EFTA States",

together hereinafter referred to as "Present Contracting Parties",

and

THE REPUBLIC OF BULGARIA,

ROMANIA,

WHEREAS the Treaty concerning the accession of the Republic of Bulgaria and Romania to the European Union (hereinafter referred to as the "Treaty of Accession") was signed in Luxembourg on 25 April 2005;

WHEREAS, pursuant to Article 128 of the Agreement on the European Economic Area, signed at Oporto on 2 May 1992, any European State becoming a member of the Community shall apply to become a Party to the Agreement on the European Economic Area (hereinafter referred to as "EEA Agreement");

WHEREAS the Republic of Bulgaria and Romania have applied to become Contracting Parties to the EEA Agreement;

WHEREAS the terms and conditions for such participation are to be the subject of an Agreement between the Present Contracting Parties and the applicant States,

HAVE DECIDED to conclude the following Agreement:

ARTICLE 1

1. The Republic of Bulgaria and Romania hereby become Contracting Parties to the EEA Agreement and shall hereinafter be referred to as the "New Contracting Parties".
2. From the entry into force of this Agreement, the provisions of the EEA Agreement, as amended by the Decisions of the EEA Joint Committee adopted before 1 October 2004, shall be binding on the New Contracting Parties under the same conditions as on the Present Contracting Parties and under the terms and conditions laid down in this Agreement.
3. The Annexes to this Agreement form an integral part of this Agreement.

ARTICLE 2

1. ADJUSTMENTS TO THE MAIN TEXT OF THE EEA AGREEMENT

(a) Preamble:

The list of Contracting Parties shall be replaced with the following:

"THE EUROPEAN COMMUNITY,

THE KINGDOM OF BELGIUM,

THE REPUBLIC OF BULGARIA,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

IRELAND,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

THE ITALIAN REPUBLIC,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBOURG,

THE REPUBLIC OF HUNGARY,

MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC,

ROMANIA,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

and

ICELAND,

THE PRINCIPALITY OF LIECHTENSTEIN,

THE KINGDOM OF NORWAY,";

(b) Article 2:

(i) In paragraph (b), the words "Republic of" shall be deleted;

(ii) The following shall be added after paragraph (d):

"(e) the term "Act of Accession of 25 April 2005" shall mean the Act concerning the conditions of accession of the Republic of Bulgaria and Romania and the adjustments to the Treaties on which the European Union is founded, adopted in Luxembourg on 25 April 2005;

- (f) the term "Protocol of Accession of 25 April 2005" shall mean the Protocol concerning the conditions and arrangements for admission of the Republic of Bulgaria and Romania to the European Union, adopted in Luxembourg on 25 April 2005.";

- (c) Article 117:

The text of Article 117 shall be replaced by the following:

"Provisions governing the Financial Mechanisms are set out in Protocol 38, Protocol 38a and Addendum to Protocol 38a.";

- (d) Article 126:

In paragraph 1, the words "Republic of" shall be deleted;

- (e) Article 129:

- (i) The second subparagraph of paragraph 1 shall be replaced by the following:

"Pursuant to the enlargements of the European Economic Area the versions of this Agreement in the Bulgarian, Czech, Estonian, Hungarian, Latvian, Lithuanian, Maltese, Polish, Romanian, Slovak and Slovenian languages shall be equally authentic.";

- (ii) the third subparagraph of paragraph 1 shall be replaced by the following:

"The texts of the acts referred to in the Annexes are equally authentic in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages as published in the Official Journal of the European Union and shall for the authentication thereof be drawn up in the Icelandic and Norwegian languages and published in the EEA Supplement to the Official Journal of the European Union."

2. ADJUSTMENTS TO PROTOCOLS TO THE EEA AGREEMENT

- (a) Protocol 4 on rules of origin shall be amended as follows:

- (i) In Article 3(1), the reference to the New Contracting Parties shall be deleted.

- (ii) Annex IVa (Text of the invoice declaration) shall be amended as follows:

- (aa) The following shall be inserted before the Spanish version of the text of the invoice declaration:

"Bulgarian version

Износителят на продуктите, обхванати от този документ (митническо разрешение № ... (1)) декларира, че освен където е отбелязано друго, тези продукти са с преференциален произход ... (2).";

- (bb) The following shall be inserted before the Slovenian version of the text of the invoice declaration:

"Romanian version

Exportatorul produselor ce fac obiectul acestui document (autorizația vamală nr. ... (1)) declară că, exceptând cazul în care în mod expres este indicat altfel, aceste produse sunt de origine preferențială ... (2).";

- (iii) Annex IVb (Text of the invoice declaration EUR-MED) shall be amended as follows:

- (aa) The following shall be inserted before the Spanish version of the text of the invoice declaration EUR-MED:

"Bulgarian version

Износителят на продуктите, обхванати от този документ (митническото разрешение № ... (1)) декларира, че освен където е отбелязано друго, тези продукти са с преференциален произход ... (2).

- cumulation applied with(name of the country/countries)
- no cumulation applied (3)";

(bb) The following shall be inserted before the Slovenian version of the text of the invoice declaration EUR-MED:

"Romanian version

Exportatorul produselor ce fac obiectul acestui document (autorizația vamală nr. ...(1)) declară că, exceptând cazul în care în mod expres este indicat altfel, aceste produse sunt de origine preferențială ... (2).

- cumulation applied with(name of the country/countries)
- no cumulation applied (3)"

(b) Protocol 38a shall be amended as follows:

In Article 4(3), the word "shall" shall be replaced by the word "may".

- (c) The following shall be added to Protocol 38a:

"Addendum to Protocol 38A
ON THE EEA FINANCIAL MECHANISM FOR
THE REPUBLIC OF BULGARIA AND ROMANIA

ARTICLE 1

1. Protocol 38a shall apply mutatis mutandis to the Republic of Bulgaria and Romania.
2. Notwithstanding paragraph 1, Article 6 of Protocol 38a shall not apply. No reallocation to any other Beneficiary State shall be applicable in case of available non-committed funds of Bulgaria and Romania.
3. Notwithstanding paragraph 1, Article 7 of Protocol 38a shall not apply.
4. Notwithstanding paragraph 1, contributions to non-governmental organisations and social partners may be up to 90 percent of project costs.

ARTICLE 2

The additional amounts of the financial contribution for the Republic of Bulgaria and Romania shall be EUR 21,5 million for the Republic of Bulgaria and EUR 50,5 million for Romania over the period running from 1 January 2007 to 30 April 2009, inclusive; they shall be made available as from the date of entry into force of the Agreement on the Participation of the Republic of Bulgaria and Romania in the European Economic Area or of an agreement to apply the Agreement provisionally and be provided for commitment in a single tranche in 2007."

- (a) The text of Protocol 44 shall be replaced by the following:

"ON SAFEGUARD MECHANISMS PURSUANT TO ENLARGEMENTS OF THE EUROPEAN ECONOMIC AREA

1. Application of Article 112 of the Agreement to the General Economic Safeguard Clause and the safeguard mechanisms contained in certain transitional arrangements in the Field of Free Movement of Persons and Road Transport

Article 112 of the Agreement shall be applicable also to the situations specified or referred to

- (a) in the provisions of Article 37 of the Act of Accession of 16 April 2003, and of Article 36 of the Act of Accession of 25 April 2005 or, as the case may be, of the Protocol of Accession of 25 April 2005, and
- (b) in the safeguard mechanisms contained in the transitional arrangements under the headings "Transition period" in Annex V (Free movement of workers) and Annex VIII (Right of establishment), in point 30 (Directive 96/71/EC of the European Parliament and of the Council) of Annex XVIII (Health and safety at work, labour law, and equal treatment for men and women) and in point 26c (Council Regulation (EEC) No 3118/93) of Annex XIII (Transport) with the same time limits, scope and effects as set out in those provisions.

2. Internal Market Safeguard Clause

The general decision making procedure provided for by the Agreement shall be applicable also to decisions taken by the Commission of the European Communities in application of Article 38 of the Act of Accession of 16 April 2003, and of Article 37 of the Act of Accession of 25 April 2005 or, as the case may be, of the Protocol of Accession of 25 April 2005."

ARTICLE 3

1. All amendments to acts adopted by the Community institutions incorporated into the EEA Agreement, made by the Act concerning the conditions of accession of the Republic of Bulgaria and Romania and the adjustments to the Treaties on which the European Union is founded or, as the case may be, the Protocol concerning the conditions and arrangements for admission of the Republic of Bulgaria and Romania to the European Union, are hereby incorporated into and made part of the EEA Agreement.

2. To this end, the following indent is introduced in the points of the Annexes and Protocols to the EEA Agreement containing the references to the acts adopted by the Community institutions concerned:

"– 1 2005 SA: Act concerning the conditions of accession of the Republic of Bulgaria and Romania and the adjustments to the Treaties on which the European Union is founded, adopted on 25 April 2005 (OJ L 157, 21.6.2005, p. 203).".

3. If and as soon as the Treaty establishing a Constitution for Europe has entered into force, the following indent shall replace the indent referred to in paragraph 2:

"– 1 2005 SP: Protocol concerning the conditions and arrangements for admission of the Republic of Bulgaria and Romania to the European Union, adopted on 25 April 2005 (OJ L 157, 21.6.2005, p. 29).".

4. If the indent referred to in paragraph 2 or 3 is the first indent in the point in question, it shall be preceded by the words ", as amended by:".
5. Annex A to this Agreement lists the points in the Annexes and Protocols to the EEA Agreement in which the text referred to in paragraphs 2, 3 and 4 shall be introduced.
6. Where acts incorporated into the EEA Agreement prior to the date of entry into force of this Agreement require adaptations by reason of the New Contracting Parties' participation, and the necessary adaptations have not been provided for in this Agreement, those adaptations will be addressed in accordance with the procedures laid down in the EEA Agreement.

ARTICLE 4

1. The arrangements contained in the Act concerning the conditions of accession of the Republic of Bulgaria and Romania and the adjustments to the Treaties on which the European Union is founded referred to in Annex B to this Agreement are hereby incorporated into and made part of the EEA Agreement.
2. If and as soon as the Treaty establishing a Constitution for Europe has entered into force, the arrangements referred to in Annex B shall be understood to have been made by the Protocol concerning the conditions and arrangements for admission of the Republic of Bulgaria and Romania to the European Union.

3. Any of the arrangements of relevance for the EEA Agreement referred to in or adopted on the basis of the Act concerning the conditions of accession of the Republic of Bulgaria and Romania and the adjustments to the Treaties on which the European Union is founded or, as the case may be, the Protocol concerning the conditions and arrangements for admission of the Republic of Bulgaria and Romania to the European Union, which is not reflected in Annex B to this Agreement, will be addressed in accordance with the procedures laid down in the EEA Agreement.

ARTICLE 5

Any Party to this Agreement may bring any matter concerning its interpretation or application before the EEA Joint Committee. The EEA Joint Committee shall examine the matter with a view to finding an acceptable solution in order to maintain the good functioning of the EEA Agreement.

ARTICLE 6

1. This Agreement shall be ratified or approved by the Present Contracting Parties and the New Contracting Parties in accordance with their own procedures. The instruments of ratification or approval shall be deposited with the General Secretariat of the Council of the European Union.

2. It shall enter into force on the day following the deposit of the last instrument of ratification or approval of a Present Contracting Party or a New Contracting Party, provided that the following related agreements and protocols enter into force on the same day:
- (a) Agreement in the form of an Exchange of Letters between the European Community and Kingdom of Norway concerning a Cooperation Programme for Economic Growth and Sustainable Development in Bulgaria;
 - (b) Agreement in the form of an Exchange of Letters between the European Community and Kingdom of Norway concerning a Cooperation Programme for Economic Growth and Sustainable Development in Romania;
 - (c) Additional Protocol to the Agreement between the European Economic Community and Iceland consequent on the accession of the Republic of Bulgaria and Romania to the European Union; and
 - (d) Additional Protocol to the Agreement between the European Economic Community and the Kingdom of Norway consequent on the accession of the Republic of Bulgaria and Romania to the European Union.

ARTICLE 7

This Agreement, drawn up in a single original in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish, Icelandic and Norwegian languages, the text in each of these languages being equally authentic, shall be deposited with the General Secretariat of the Council of the European Union, which will remit a certified copy to each of the Governments of the Parties to this Agreement.