

EUROPEAN UNION (ACCESSIONS) BILL

REGULATORY IMPACT ASSESSMENT

1. TITLE OF PROPOSAL

European Union (Accessions) Bill

2. PURPOSE AND INTENDED EFFECT OF MEASURE

(i) The objective

The EU (Accessions) Bill has two main aims:

- to implement the new EU Accession Treaty in UK law and approve the provisions of the Accession Treaty insofar as they relate to the powers of the European Parliament; and
- to provide an enabling power that will allow the Government to set out the terms on which Bulgarian and Romanian workers have access to the UK labour market.

(ii) The background

The Accession Treaty

Following the conclusion of negotiations with Bulgaria and Romania, Heads of State and Government from the twenty-five current Member States of the EU and the two Accession States signed an Accession Treaty in Luxembourg on 25 April 2005. The Treaty provides for the enlargement of the EU to Bulgaria and Romania on 1 January 2007, and sets out the terms and conditions on which their accession will take place.

EU enlargement will extend the range of existing EU regulation ("*acquis communautaire*") to the two Accession States. Subject to transitional measures of limited duration and scope, Bulgaria and Romania will be required to enact and enforce existing EU regulation in the following fields:

Free movement of goods; free movement of persons; freedom to provide services; free movement of capital; company law; competition and state aids; agriculture; fisheries; transport; tax; EMU; statistics; social policy and employment; energy; industrial policy; SMEs; science and research; education; telecommunications; culture and audio-visual; regional policy; environment; consumer protection; justice and home affairs; customs union; external relations; common foreign and security policy; and financial control.

In return for implementing the EU *acquis*, the Accession States will be accorded, under the terms of the Accession Treaty, the rights of a member of the European Union, again subject in some cases to limited transition periods. Rights include the free movement of goods, persons, services and capital within the European Union. They also include the right to representation in the institutions of the European Union.

The European Union (Accessions) Bill

Implementing the Accession Treaty in UK law

The UK Government plans to ratify the Accession Treaty in the first half of 2006.

Because treaties are not self-executing in UK law, the Government is introducing, during the current parliamentary session, a Bill to give effect to the Treaty.

In broad terms, the Bill will give automatic effect to directly applicable provisions of the Accession Treaty, and otherwise will allow Ministers, under section 2(2) of the European Communities Act 1972 (c.68), to make regulations amending existing UK legislation, to the extent necessary to implement the Treaty. Since the Accession Treaty concerns the terms of membership of Bulgaria and Romania in the European Union, it has very limited direct impact on the legislative or regulatory framework in the UK. The Government may be required to introduce, under the European Communities Act (once amended by the Bill), minor and technical amending regulations to some transposed UK legislation, in order to account for an enlarged EU. Regulatory impact assessments, where necessary, will be produced when and if any such amendments are proposed. But it is not anticipated that they would significantly affect the substantive nature of the regulation, or the existing compliance costs for UK businesses.

Free movement of workers

In addition to implementing in law the UK's obligations under the new Treaty, the Bill will include a clause that enables Ministers to make regulations setting out the terms on which Bulgarian and Romanian workers can work and reside in the UK following accession; the ability to dictate the terms of access is set out in the derogation on the right of movement as a worker in the Accession Treaty.

The Bill will allow for a range of options with regards to the free movement of Bulgarian and Romanian workers. At the liberal end of the range such workers would be given full free movement rights by applying the EEA Regulations to them, in the same way as the regulations apply to workers from other Member States. At the other end of the range the existing work permit arrangements could be maintained. The Worker Registration Scheme arrangements set out in the Accession (Immigration and Worker Registration) Regulations 2004, set out the terms on which we provided access for the new Member States in the 2004 Accession. These fell somewhere in between the two extremes listed above. They allowed those new Member State nationals to work legally in the UK, provided that they registered. Although at this stage no decision has been made on the level of access we will

provide to Bulgarian and Romanian nationals, the Bill provides us with the ability to provide similar legislation.

Business

On accession, Romania and Bulgaria will have to comply with EU standards and regulations, subject to certain limited transition periods. This may result in some additional compliance costs to the British companies already operating in Romania and Bulgaria in the short term. On the other hand, it will make both countries a less risky and more familiar operating environment for UK investors. UK investment in the new Member States is therefore likely to increase after accession.

(iii) Risk assessment

The UK, alongside the 24 other Member States of the EU, agreed and signed the Accession Treaty with Bulgaria and Romania in April 2005, and must therefore ratify it. British non-ratification would have extremely serious economic and political consequences for the EU, which has been preparing for this enlargement since the Helsinki Council of 1999. It would also seriously damage the UK's standing in Europe, as the UK would be seen to be unilaterally halting a longstanding and unanimously agreed EU policy. And indeed not just any policy, but one that successive UK Governments have so consistently championed. Failure to ratify would consequently also catastrophically damage the UK's bilateral relations with Bulgaria and Romania

Non-ratification would also lead to a failure to realise the full benefits of accession, listed elsewhere in the RIA. These include the removal of further barriers to trade with Bulgaria and Romania; an increase in the export opportunities available to British businesses (accession will mean a potential 30 million more consumers within the EU); full implementation of the '*acquis communautaire*' in both accession states (which will aid British firms already operating in Bulgaria and Romania); the dynamic effect of extra competition in goods and services in the single market; and more generally, increased stability and security within Europe – for a more comprehensive overview see 'Benefits' below.

3. OPTIONS

a. 'To do nothing'

This is not a viable option. In order to give effect in UK law to the Accession Treaty, signed by all 25 Member States of the EU with Bulgaria and Romania, the Government must amend the European Communities Act (c.68).

All other 24 EU Member States are expected to ratify the Accession Treaty without substantial problems.

b. 'To enact the Accession Bill (and therefore ratify the Accession Treaty)'

The politically imperative option. The UK has signed the Treaty and must therefore ratify it. Enlargement has been a central plank of the Government's European policy

since 1997. It's also an issue where there is a cross-party consensus in the UK – with the Government, the official Opposition and the Liberal Democrats all supportive of the accession of Bulgaria and Romania. It should be added that the UK was thoroughly involved in accession negotiations and approved their outcome.

As stated above, failure to ratify the Treaty will have serious consequences for the EU, the UK and also the Accession states. Ratification will allow Bulgaria and Romania's integration process to continue.

c. **Possible Options after approval of the Bill/ Ratification**

Safeguard clauses.

The Accession Treaty acknowledges implicitly that the immediate aftermath of enlargement brings with it certain risks. For this reason, Articles 36-39 of the Accession Protocol and the alternative Act of Accession, which are integral parts of the Treaty, provide for the application of 'protective measures' until 31 December 2009¹, in the following circumstances:

- a. if difficulties arise in either Bulgaria or Romania which are serious and liable to persist in any sector of the economy or which could bring about a serious deterioration in the economic situation of a given area (in the same circumstances any present Member State may apply for the authorisation to take protective measures with regard to Bulgaria, Romania or both);
- b. if either Bulgaria or Romania has failed to implement commitments undertaken during the negotiations, causing a serious breach of the internal market; and
- c. if there are in either state serious shortcomings or any imminent risks of shortcomings in the transposition, implementation or application of measures relating to Justice and Home Affairs.

In the event that any of the safeguards were necessary, the Government would be able, under the terms of the Treaty, to make a request to the Commission to take appropriate measures. Within this context, the Government welcomes the Commission's assurances that monitoring of the commitments of Bulgaria and Romania will continue to take place both before and after accession.²

A fourth safeguard clause has also been included in the Treaty, which will allow the Council to decide, based on a Commission assessment, 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

¹ Safeguard measures may be imposed under the first three clauses (listed at a, b and c) until the end of a period of three years after accession, but under certain circumstance 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.

² The next Comprehensive Monitoring Report on Bulgaria and Romania is to be published by the European Commission on 25 October 2005.

Bulgaria and/ or Romania being “manifestly unprepared” to meet the requirements of membership by 1 January 2007.

4. BENEFITS

Business, Charities and the Voluntary Sector

- Full implementation of the *acquis communautaire* will remove barriers to trade, which remain despite the tariff-cutting Europe Agreements (1995). This, combined with continuing economic growth in Romania and Bulgaria, is likely to have a positive (if modest) impact on the trade in goods and services with the UK.
- Implementation of the *acquis*, will also mean that the British businesses already operating in Bulgaria and Romania will benefit from a less risky and more familiar operating environment. And UK firms will benefit from the improved protection of intellectual property rights.
- The creation of a wider single market will provide businesses (particularly the service and trade sectors) with more export opportunities – with accession adding 30 million consumers to the EU’s internal market.
- Lastly business already dealing with Bulgaria and Romania will have a reduced number of regulatory regimes to deal with, and therefore reduced compliance costs (with regard to import/export regulations, for example) as Bulgarian and Romanian laws become aligned with EU regulations.

UK

- We expect that that Romanian and Bulgarian accession will lead to a very small increase in UK GDP. This will be driven, in the most part, by increased trade, but also investment in Romania and Bulgaria. The UK economy will also be affected positively by the dynamic effect of extra competition in the EU single market.
- Consumers of Bulgarian and Romanian products in the UK will benefit from lower prices and more choice.

EU

- Bulgaria and Romania’s accession to the EU will have a positive economic impact on the EU, although this will be relatively small, given that their economies are just a fraction of the EU25.
- Enlargement will entrench democracy and respect for human rights in Bulgaria and Romania. It will also result in closer co-operation on a wide range of issues including justice and home affairs, foreign policy and the environment. This will, for example, bolster EU work on terrorism, serious and organised crime and drug trafficking. Implementation of EU environmental standards will lead to less pollution, more recycling and greater control of emissions. It is very difficult to quantify these benefits.

Accession States

- The prospect of accession has been an important driver of political and economic reform, and market opening in Romania and Bulgaria.
- As accession approaches, Romania and Bulgaria have been experiencing rapid economic growth. Expectations of economic growth for this year are of the order of 5-6%, as compared to growth of 1-2% in the EU. Their economies are expected to continue to grow rapidly in the medium term if accession proceeds as planned. With a population of 22m, Romania, in particular, has the potential to be a significant sized economy.
- The new Member States will have to comply with EU standards and regulations. But the boost to confidence given by EU membership, the benefits of implementing EU environmental standards, as well as continued rapid economic growth in Romania and Bulgaria, will greatly outweigh the short-term compliance costs associated with full implementation of the '*acquis communautaire*'.

5. COSTS

Business, Charities and the Voluntary Sector

- The Bill itself will not impose any additional regulation on UK business, charities or the voluntary sector. Once the Bill is enacted, minor amendments of a technical nature may be required to some transposed UK legislation in order to take account of an enlarged EU. But this will not change the substance of the regulation or add appreciably to the compliance costs of UK business, charities or the voluntary sector. Regulatory Impact Assessments will, where appropriate, be produced when and if amending regulations are introduced in Parliament.
- As outlined above, implementation of the *acquis communautaire* may bring additional compliance costs for UK firms that have operations in Romania and Bulgaria. These costs are impossible to quantify, partly because they depend substantially on how Romania and Bulgaria implement their commitments under Community law. However, the short term costs to UK companies operating in Romania and Bulgaria are likely to be significantly outweighed by the long-term benefits of enlargement to their operations.
- Production costs in the Romanian and Bulgarian economies may be lower than those in the UK in certain sectors, particularly manufacturing. There are fears that their accession to the EU may encourage UK firms to relocate production there or that Romanian and Bulgarian exports may lead to UK firms losing existing markets. This is a possibility in some sectors and accession may indirectly contribute to some job losses. However, these fears should not be overstated because:
 - Bulgaria and Romania already enjoy (95%) tariff-free access to EU markets in most sectors under the Europe Agreements 1995;

- subsidies will be limited as the new Member States will be bound by the same state-aid rules as the existing Member States;
 - UK firms compete on a world market and already encounter tough competition from countries where production and labour costs may be even lower than in Bulgaria and Romania;
 - UK firms have more experience; and
 - UK firms do not compete on labour costs alone, but seek to maximise productivity and higher value-added activities.
- It is also important to remember that shifts in production in certain sectors enable us to focus on areas where the UK has a comparative advantage, increasing economic efficiency. UK consumers benefit from cheaper imports, enabling them to spend more on other goods and services.

UK

- In terms of the direct costs to the UK as a contributor to the EU budget, see below.

EU

- The budgetary cost of Romanian and Bulgarian accession is currently under discussion as part of the broader negotiation to set the Financial Perspective from 2007 to 2013. Under the current Commission proposal, the Commission estimate that commitment appropriations to Romania and Bulgaria would amount to €42 billion over the period, of which €25 billion would constitute Structural and Cohesion Fund receipts, and €16 billion agricultural receipts. Around €12.5 billion of the payments covering the 2007-2009 period have already been earmarked in the Accession Treaty.

Accession States

- Romania and Bulgaria will have to comply with EU standards and regulations, subject to certain limited transition periods. This may bring some additional compliance costs. EU accession will create problems in the short term for non-viable domestic industries facing competition from EU-based companies. But the overall impact in the medium term will be beneficial for Bulgaria, Romania and the EU25 through more efficient allocation of resources, less state subsidies, better environmental controls, and sustained growth.

6. SMALL FIRMS IMPACT TEST

According to the Small Business Service any potential (administrative/ compliance) costs of accession, for SME's already operating in Bulgaria and Romania are likely to be negligible, and will be greatly outweighed by the increased trading opportunities of enlargement.

7. COMPETITION ASSESSMENT

By reducing trade barriers, enlargement will have a positive effect on competition in the single market. There are few, additional compliance costs for UK business as a result of enlargement (as stated above). However, the extension of EU regulation to the new Member States will establish a wider and more level playing field for competition in the single market.

8. ENFORCEMENT AND SANCTIONS

To the extent that the Bill amends the European Communities Act 1972 (c.68), enforcement and sanctions follow the terms of that Act. There will be little or no additional enforcement costs in the UK.

9. MONITORING AND REVIEW

The Government will monitor the application of any subordinate regulations allowing for free movement of workers from Bulgaria and Romania. The Government welcomes monitoring by the Commission under the safeguards provided by the Accession Treaty in relation to the economy, the functioning of the internal market and justice and home affairs, as well as in relation to the general *acquis communautaire*.

10. CONSULTATION

- Consultations have taken place across government departments and agencies in the process of negotiating the Accession Treaty.
- A wide range of business, labour and social organisations have contributed to the process of negotiating the Accession Treaty. Given the high profile of the issue, it has not been necessary to initiate a specific consultation process on the Bill.
- Further consultations will take place before a final decision is taken on whether to allow Bulgarian and Romanians workers access to the labour market.

11. SUMMARY AND RECOMMENDATION

- To enact the EU (Accessions) Bill and therefore ratify the Accession Treaty.

Enacting the Bill will not itself impose any additional regulatory burden on UK businesses. Any consequential amendments, after ratification of the Treaty to existing UK regulations are likely to be of a technical nature, and will, where appropriate, be accompanied by Regulatory Impact Assessments. Ratification and entry into force of the Accession Treaty will extend the existing body of EU regulation (*acquis communautaire*) to Bulgaria and Romania. The regulatory impact of the Treaty will therefore be felt principally in those two new Member States. UK businesses will not be required to comply with additional EU regulations, except where they have operations within the new Member States. Enlargement will bring benefits to the UK in terms of additional growth, enhanced opportunities for trade

and investment, and added stability and security. It will also have a positive effect on competition in the EU single market.

12. DECLARATION

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Douglas Alexander
Minister of State for Europe
5 October 2005