



COMMISSION OF THE EUROPEAN COMMUNITIES

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Recommendation for a

**COUNCIL DECISION**

**concerning the accession of Bulgaria and Romania to the Convention of 18 December 1997, drawn up on the basis of Article K.3 of the treaty on European Union on mutual assistance and cooperation between customs administrations**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

The 2005 Act of accession of Bulgaria and Romania<sup>1</sup> has introduced a simplified system for the accession of Bulgaria and Romania to the conventions (and protocols) concluded by the Member States on the basis of Art. 34 TEU (previously Art. K.3 TEU) or Art. 293 EC. It is indeed not anymore necessary, as in the past, to negotiate and conclude specific accession protocols to these conventions (which would have implied ratification by 27 States): Article 3(3) of the Act provides simply that Bulgaria and Romania accede to these conventions and protocols by virtue of the Act of Accession.

Article 3(3) and 3(4) of the Act of Accession provide that, to that effect, the Council shall adopt a decision in order to determine the date on which these conventions shall enter into force for Bulgaria and Romania and to make all the necessary adjustments to these conventions required by reason of the accession of the two new Member States (which would include, in any event, the adoption of the conventions in the Bulgarian and Romanian languages, so that these versions can be "equally authentic"). The Council shall act on a recommendation of the Commission, after consulting the European Parliament.

Annex I to the Act of Accession gives the list of the seven conventions and protocols concerned in the Justice and Home Affairs area.

The list includes the Convention of 18 December 1997, drawn up on the basis of Article K.3 of the Treaty on European Union, on mutual assistance and cooperation between customs administrations.

This Commission Recommendation for a Council Decision is intended to make the adjustments required by reason of the accession of Bulgaria and Romania to the aforementioned Convention, in accordance with Article 3(4) of the Act of Accession.

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<sup>1</sup> OJ 21.6. 2005, L 157, p. 203.

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**concerning the accession of Bulgaria and Romania to the Convention of 18 December 1997, drawn up on the basis of Article K.3 of the treaty on European Union on mutual assistance and cooperation between customs administrations**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union,

Having regard to the Treaty of Accession of Bulgaria and Romania,

Having regard to the Act of Accession of Bulgaria and Romania (hereinafter referred to as the "Act of Accession"), and in particular Article 3 (4) thereof,

Having regard to the recommendation from the Commission<sup>2</sup>,

Having regard to the opinion of the European Parliament<sup>3</sup>,

Whereas:

- (1) The Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on mutual assistance and cooperation between customs administrations (hereinafter referred to as the "Convention on mutual assistance and cooperation between customs administrations") was signed at Brussels on 18 December 1997 and shall enter into force 90 days after the notification by the State, Member of the European Union at the time of adoption by the Council of the Act drawing up this Convention, which is last to complete that formality.
- (2) According to Article 32.4 of the Convention on mutual assistance and cooperation between customs administrations, until this Convention enters into force, any Member State may, when giving the notification referred to in Article 32.2 of the Convention, or at any other later time, declare that as far as it is concerned this Convention, shall apply to its relations with Member States that have made the same declaration.
- (3) Following their accession to the European Union the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Poland, Slovenia and Slovakia have deposited their instruments of accession to the Convention on mutual assistance and cooperation between customs administrations.

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<sup>2</sup> OJ C [...], [...], p. [...].

<sup>3</sup> OJ C [...], [...], p. [...].

- (4) Article 3 (3) of the Act of Accession provides that Bulgaria and Romania accede to the conventions concluded between the Member States, listed in Annex I to the Act of Accession, which comprises, *inter alia*, the Convention on mutual assistance and cooperation between customs administrations. They are to enter into force in relation to Bulgaria and Romania on the date determined by the Council.
- (5) In accordance with Article 3 (4) of the Act of Accession the Council is to make all adjustments required by reason of accession to those conventions and protocols,

HAS DECIDED AS FOLLOWS:

*Article 1*

1. The Convention on mutual assistance and cooperation between customs administrations is amended as follows:

Article 31.1 on "Territorial application" is replaced by the following:

" 1. This Convention shall apply to the territories of the Member States comprised in the customs territory of the Community *as well as*, for the Federal Republic of Germany, the Island of Heligoland and the territory of Büsingen (within the framework of and pursuant to the Treaty of 23 November 1964 between the Federal Republic of Germany and the Swiss Confederation on the inclusion of the commune of Büsingen am Hochrhein in the customs territory of the Swiss Confederation, or the current version thereof) and, for the Italian Republic, the municipalities of Livigno and Campione d'Italia, and to the territorial waters, the inland maritime waters and the airspace of the territories of the Member States.

*Article 2*

The Convention on mutual assistance and cooperation between customs administrations, as amended by this Decision shall enter into force for Bulgaria and Romania on the date of entry into force of the Convention, without prejudice to Article 32(4) of the Convention on mutual assistance and cooperation between customs administrations.

*Article 3*

The Convention on mutual assistance and cooperation between customs administrations, drawn up in the Bulgarian and Romanian languages and annexed to this Decision, shall be authentic under the same conditions as the other texts of the Convention on mutual assistance and cooperation between customs administrations.

*Article 4*

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

Done at Brussels, [...]

*For the Council  
The President*

**ANNEX**

**Text of the Convention on mutual assistance and cooperation between customs administrations in the Bulgarian and Romanian languages**