

Accession of Bulgaria and Romania to the Convention of 23 July 1990 on the elimination of double taxation in connection with the adjustment of profits of associated enterprises "Arbitration Convention" and amendment to the Annex I to the Act of Accession

2007/0283(CNS) - 20/12/2007 - Legislative proposal

PURPOSE: to enable the accession of Bulgaria and Romania to the Convention of 23 July 1990 on the elimination of double taxation in connection with the adjustment of profits of associated enterprises.

PROPOSED ACT: Council Decision.

CONTENT: the 2005 Act of accession of Bulgaria and Romania 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 Article 34 of the Treaty on European Union (previously Article K.3 of the Treaty on EU) or of Article 293 of the Treaty on EU.

In fact, it is no longer necessary 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 due to 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 conventions and protocols concerned. The list includes the Convention 90/436/EEC of 23 July 1990 on the elimination of double taxation in connection with the adjustment of profits of associated enterprises (the so-called Arbitration Convention), the Convention of 21st December 1995 on the accession of Austria, Finland and Sweden to the Arbitration Convention and the Protocol of 25 May 1999 amending the Arbitration Convention.

In the period preceding the accession of Bulgaria and Romania to the European Union, the Member States signed on 8 December 2004 a Convention on the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia , to the Arbitration Convention.

Therefore it is appropriate to provide for the accession of Bulgaria and Romania to the Arbitration Convention as amended by the Convention of 8 December 2004 and that Convention should be added to Annex I of the Act of Accession.

To that effect, and in line with Article 3(6) of the Act of Accession the Commission has prepared a proposal for a Council Decision to add to the list the Convention of 8 December 2004 on the accession of

the ten new Member states to Convention 90/436/EEC. The Commission Recommendation for a Council Decision is intended to make the adjustments required due to the accession of Bulgaria and Romania to the aforementioned Convention, in accordance with Article 3(4) of the Act of Accession.