

## II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES

### (1) INSTITUTIONAL FRAMEWORK

1. Bulgaria is a parliamentary democracy. The post-communist Constitution of the Republic of Bulgaria, adopted on 12 July 1991<sup>1</sup>, provides for a multi-party system of government and free elections on the basis of universal, equal and direct suffrage by secret ballot. The minimal age for participation in an election is 18 years. The President is the Head of State and is directly elected once every five years.<sup>2</sup> The President is responsible for scheduling the parliamentary elections.<sup>3</sup> Parliament consists of a single house, the National Assembly; its 240 members are directly elected by Bulgarian citizens for a fixed term of 4 years.<sup>4</sup> Parties and pre-election coalitions must receive over 4% of the votes in an election to enter the National Assembly. The basic functions of the National Assembly are to legislate and exercise parliamentary control.<sup>5</sup> The National Assembly is the sole body vested with legislative authority, based on the Constitution and its own internal rules.

2. Due to the importance Bulgaria attaches to its accession to the European Union, a separate Parliamentary Committee on European Integration has existed since July 2001.<sup>6</sup> There is also a joint Parliamentary Committee of the Bulgarian and European Parliaments, established under Bulgaria's Europe Agreement with the EU. These Committees ensure that legislation passed by Bulgaria is consistent with the EU's *acquis communautaire*.

3. The Council of Ministers, headed by the Prime Minister, is the executive body of state power.<sup>7</sup> The Prime Minister is nominated from among the members of the largest parliamentary group emerging from elections, after which the President hands to the Prime Minister the mandate to form the government. When the nominated Prime Minister has successfully formed a government, the President proposes the nominated Prime Minister to be elected by the National Assembly. The National Assembly elects the Prime Minister and the Council of Ministers *en bloc*. Each member of the Council of Ministers heads a ministry except when the National Assembly resolves otherwise.<sup>8</sup> Nominated Ministers need not be members of the National Assembly. The Council of Ministers conducts the internal and foreign policy of the State, including introducing draft Bills in the National Assembly. The National Assembly is responsible for overseeing the executive branch of government, including election and dismissal of the Prime Minister and, on the Prime Minister's motion, effecting changes to the Council of Ministers.

4. The Government's local policy is conducted in a decentralized manner through regional governors appointed by the Council of Ministers.<sup>9</sup> Governors have responsibility for the implementation of national policy, exercising administrative control at the regional level, and ensuring harmony of national and local interests. At local level, municipalities, headed by Mayors,

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<sup>1</sup> *State Gazette* No. 56/1991.

<sup>2</sup> Constitution of Bulgaria, Article 93(1).

<sup>3</sup> Other responsibilities of the President include: concluding international treaties in accordance with law; promulgating laws; appointing and dismissing heads of Bulgaria's diplomatic missions and permanent missions at international organizations (on the advice of the Prime Minister), and receiving credentials and letters of recall of the foreign diplomatic representatives; and appointing and dismissing from office other state officials, as established by law.

<sup>4</sup> Constitution, Article 63; Article 64(1).

<sup>5</sup> Constitution, Article 62.

<sup>6</sup> This Committee superseded the Committee on Foreign Policy and European Integration, established in February 1996.

<sup>7</sup> Constitution, Article 108(2).

<sup>8</sup> Constitution, Article 108(3).

<sup>9</sup> Constitution, Article 143(1).

are the main administrative territorial units for local government, and have substantial autonomy. Mayors are elected directly by the local population for a term of four years, under the Law on Local Self-government and Local Administration. The Municipal Council determines the policy of the municipality, including its economic development.

5. The Constitution guarantees the independence of the judiciary.<sup>10</sup> The judicial system is a three-tiered system of first instance, appellate, and cassation courts and is administered by regional, district, military, appeals, and supreme courts.<sup>11</sup> Regional courts are general jurisdiction courts of first instance. District courts decide appeals from regional court judgements and hear certain cases in the first instance. The court of appeal hears appeals from district court cases of first instance. The Supreme Administrative Court (SAC), and the Supreme Court of Cassation (SCC) exercise control over the implementation of the law by courts of lower instances, and take decisions on the legality of the Executive's power. The Supreme Court of Cassation is the highest court for civil and criminal appeals. It decides issues of interpretation of statutes and assures the uniform enforcement of laws by all courts in civil and criminal cases. The Supreme Administrative Court has similar responsibilities for administrative cases and administrative law.<sup>12</sup> The Supreme Judicial Council is a constitutionally independent committee representing judges, prosecutors, and investigators as well as members elected by Parliament. It was established in 1994 under the Judicial System Act<sup>13</sup>, and has responsibility for determining the organization and composition of the judiciary, including the appointment, promotion, and removal of judges.

6. The Constitutional Court is an independent authority with specific functions. It provides binding interpretations of the Constitution and rules on challenges to the constitutionality of Acts of Parliament and the President. In the case of a discrepancy between a law and the Constitution, the Supreme Court of Cassation or the Supreme Administrative Court suspends the proceedings on a case and refers the matter to the Constitutional Court.

7. A five-year judiciary reform programme is currently being implemented with the aim of developing "European standards" in justice. Its objectives include improvement of human resources management, administration, and physical infrastructure, in order to tackle problems in the current judicial system, including weak court administration, corruption, and the slow pace of judicial proceedings.<sup>14</sup> The European Commission notes that there have been positive developments in Bulgaria's fight against corruption, since its adoption of an action plan to implement the national anti-corruption strategy and recent changes to the legal framework for tackling corruption.<sup>15</sup>

## (2) POLICY FORMULATION AND IMPLEMENTATION

8. A bill may be introduced by any Member of the National Assembly or by the Council of Ministers.<sup>16</sup> Once a draft bill has been introduced, it is referred by the President of the National Assembly to one or more committees having jurisdiction on the subject matter. The President of the National Assembly is assisted by a Presidential Council. The National Assembly votes twice on the bill, at two separate sittings, by simple majority of members present. The bill is thus adopted in two

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<sup>10</sup> Constitution, Article 117(2).

<sup>11</sup> Specialized courts may be set up by virtue of the law.

<sup>12</sup> *International Judicial Observer*, Number 3, September 1996.

<sup>13</sup> *State Gazette* No.59/1994.

<sup>14</sup> The European Commission notes that the length of judicial proceedings give cause for concern. For example, labour disputes may suffer 3-4 year delays, mainly due to the time it takes to move between different instances and the high proportion of cases returned because of poor quality of investigations. Source: EC (2002).

<sup>15</sup> EC (2002).

<sup>16</sup> Constitution, Article 87(1).

readings.<sup>17</sup> The bill is sent to the President of the Republic for promulgation in the *State Gazette*. If the President disapproves of the bill it can be returned to the National Assembly with reasons, after which the passage of the bill requires the approval of a simple majority of the total membership of the National Assembly.<sup>18</sup> Subsequently, the President must promulgate it within seven days of its receipt. International treaties that have been ratified by constitutionally established procedures, promulgated, and entered into force in Bulgaria, are considered part of domestic legislation and take precedence over any contrary domestic legislation.<sup>19</sup>

9. Legislation (bills or draft regulations) may be drafted and proposed to the Council of Ministers by any ministry. The Ministry of Economy has the main responsibility for initiating and formulating trade policy legislation and administration. The Ministry also engages in trade negotiations and the monitoring and implementation of treaties and arrangements at both the multilateral and bilateral level. It carries out this work in close collaboration with the Ministries of Finance, Agriculture and Forestry, Foreign Affairs, and the Customs Agency, through a system of temporary interministerial working groups chaired by a Deputy Minister of Economy. The Ministry of Economy also monitors the trade-related activities, including the initiation of laws, of other national specialized agencies, such as the Patent Office, the Standardization Institute, and governmental agencies responsible for: trade promotion, small and medium enterprises, post-privatization control, metrology and technical surveillance, certification and testing, foreign investments. All draft legislation must be circulated to all relevant ministries for comments and, to be passed into law, must be adopted, or approved in the case of bills for submission to Parliament, by the Council of Ministers. Charts II.1 and II.2 show the links between ministries and state agencies responsible for trade in goods and services respectively, and the relevant WTO Councils, Committees, and services sectors.

10. Due to the advanced stage of Bulgaria's EU accession process, all Bills introduced are screened by specialized working groups at the ministerial level to ensure compatibility with the EU *acquis*.

11. The Government also engages in consultations with the private sector through the Council for Economic Growth (CEG). The CEG, which meets every two weeks, is an advisory body attached to the Council of Ministers as an official platform for communication between business and government. It is composed of the Ministers of Economy, Labour and Social Policy<sup>20</sup>, Regional Development and Public Work, Finance, Transport and Communications, Energy and Energy Resources, and the Chairpersons of the Bulgarian Chamber of Commerce and Industry, Bulgarian Industrial Association, Employers' Association in Bulgaria, Bulgarian International Business Association (representing major foreign investors), and Bulgarian Business Club "Vuzrajane".

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<sup>17</sup> Exceptionally, and if no further proposals for amendments and supplements have been received during the discussions, the National Assembly may decide to take both votes at the same sitting.

<sup>18</sup> Constitution, Article 101(2).

<sup>19</sup> Constitution, Article 5(4).

<sup>20</sup> Both of these Ministers in the current Government also act as Deputy Prime Minister.

Chart II.1

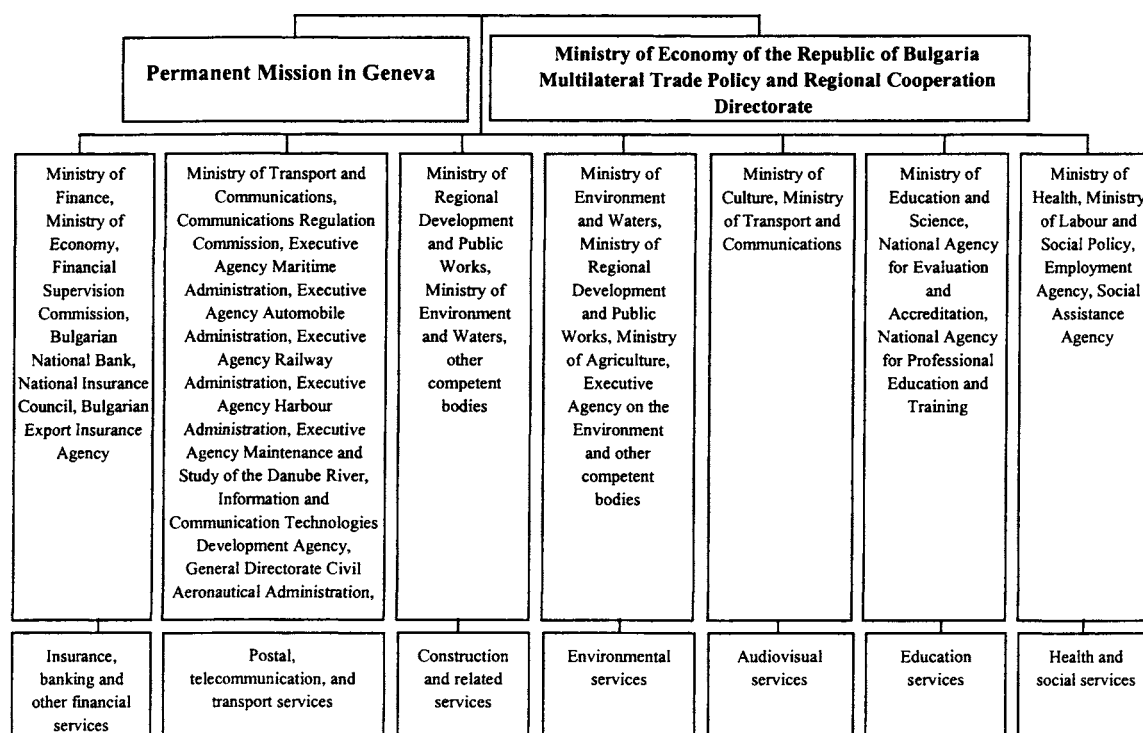
## Ministries and State Agencies responsible for trade in goods



Source: Information provided by the Bulgarian authorities.

Chart II.2

## Ministries and State Agencies responsible for trade in services



Source: Information provided by Bulgarian authorities.

### (3) TRADE POLICY OBJECTIVES

12. Bulgaria's overall economic policy goal as stated in its 2002 Pre-Accession Economic Programme (PEP) is aimed at "improving the country's welfare and reducing the average income gap between Bulgaria and the EU".<sup>21</sup> To achieve this goal, the PEP lays emphasis on the need to achieve high, sustainable, and balanced growth at annual levels of 5-7%. The pursuit of this domestic economic policy priority is reinforced by Bulgaria's main foreign policy priority: to accede to the EU as a full member on 1 January 2007.<sup>22</sup>

13. To achieve this overall goal, Bulgaria has engaged a wide range of economic policy instruments. As noted in Chapter I, the adoption of the Currency Board Arrangement and the implementation of a conservative fiscal policy have contributed significantly to the stability of the macro-economy and the sustained growth since 1997.

14. Trade and trade-related policies are also vital components of Bulgaria's economic policy. During the transition period, Bulgaria has sought to liberalize its trade and to provide a clearly defined and predictable trading regime. Trade policy has been conducted on three main fronts: multilateral (including autonomous MFN liberalization); regional; and bilateral. At the multilateral level, Bulgaria's trade policy has focussed on WTO membership, which has led to binding commitments on trade in goods and services and to Bulgaria's active participation in the Multilateral Trade Agreements and subsequent negotiations (section (5)(i)). Bulgaria has also undertaken autonomous reductions in its MFN tariff rates, which go beyond its multilateral commitments. The second, and increasingly important, strand of Bulgaria's trade policies over the transition period has been its relationship with regional trading partners, particularly the European Union, with a view to EU membership by 2007. In this regard, harmonization of trade measures and trade legislation with EU provisions has been the major force behind the revision of Bulgaria's trade and trade-related legislation in recent years (section (5)(ii)). Many of the bilateral agreements concluded by Bulgaria complement its regional trading agreements (section (5)(iii)).

15. According to the Bulgarian authorities, other trade-related policies to be implemented over the pre-accession period include the reinforcement and completion of the sale of all state-owned assets earmarked for privatization by 2005; deregulation of state monopolies; and undertaking business-friendly improvements of the legal, regulatory, and institutional framework, in accordance with the EU's *acquis communautaire*.

### (4) LAWS AND REGULATIONS RELATING TO TRADE AND INVESTMENT

16. Most of Bulgaria's laws covering trade, trade-related policies, and investment have been revised, updated or newly created to enable Bulgaria to meet its obligations under the multilateral trading system and as part of its accession process to the EU (Table AII.1).

17. The broad framework for trade policy is contained in Council of Ministers Regulation No. 233 of 8 November 2000, as amended up to November 2002. Although the Regulation sets out provisions for import registrations and licensing, the liberalization of Bulgaria's import licensing system means that these provisions currently cover a restricted range of products (Chapter III(2)(viii)). Order No. 717/2000 of the Ministry of Finance deals with the administration of tariff quotas. Other legislation or regulations passed since 1993 include anti-dumping, countervailing, and safeguard legislation, competition law, consumer protection law, copyright and patent laws,

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<sup>21</sup> The EC's 2002 regular report on Bulgaria noted that average per capita income was at 28% of the EU average (in purchasing power standards) in 2002.

<sup>22</sup> Bulgaria intends to conclude its pre-accession negotiations before 1 November 2004.

foreign investment law, the privatization act, regulations on export controls regarding "dual use" products, public procurement law, regulations regarding awarding of public procurement contracts below the thresholds, plant protection law, laws on standardization, the state aid act, law governing small and medium enterprises, and laws relating to banking, commerce, insurance, securities, tourism, telecommunications, and transport (road, railway, air, water and maritime) (see Chapters III and IV for details).

18. The main law governing foreign investment in Bulgaria is the Law on Foreign Investments, adopted in October 1997. Under this law, foreign investors<sup>23</sup> are subject to only minor procedures of approval or registration<sup>24</sup>; there are no limitations on the amount of foreign participation in a newly formed or existing company<sup>25</sup>; and unrestricted acquisition and transfer of funds abroad are permitted upon verification of taxes paid on income.<sup>26</sup> The law also guarantees the protection of existing investments in the event of any future adverse legislative restriction on foreign investments.<sup>27</sup> Legal safeguards limit the circumstances under which expropriation of foreign-owned property may occur, by requiring the investors' consent to compensation due.<sup>28</sup>

19. The Bulgaria Foreign Investment Agency (BFIA) was established in April 1995 as a one-stop-shop for foreign investors. Under the Law on Foreign Investments, investors can request the BFIA to propose to the Council of Ministers the formation of an inter-ministerial group, comprising representatives of relevant ministries and agencies, to provide institutional support for investment projects acknowledged by the Council of Ministers as priority. To promote sectors considered as having high potential for development, BFIA has engaged in extensive marketing of tourism, textiles and apparel, food processing, mechanical engineering, electrical engineering and electronics, information and communications technology (ICT) and transport and logistics.<sup>29</sup>

20. In addition to the promotion efforts of BFIA, other governmental agencies have been established for the purpose of attracting foreign investment to particular sectors. In this respect the Information and Communication Technologies Development Agency was founded in February 2002, and in November 2002, the Agency for National Advertising of the Tourism Sector was also established. Foreign investments in the energy, transport, and agriculture industries are also promoted by their respective ministries.

21. Bulgaria offers various tax incentives, including 100% exemption from corporate income tax for investments in manufacturing in municipalities with high unemployment<sup>30</sup>, subject to meeting specific requirements.<sup>31</sup> Tax credits may also be granted on the basis of double taxation treaties in force. Exports of goods, and goods imported goods for processing and re-export are subject to VAT at zero rate. Investment projects over 10 million leva and providing more than 50 new jobs, implemented

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<sup>23</sup> The law adopts a liberal definition for both foreign investment and foreign persons.

<sup>24</sup> Special permit regimes exist for commercial activities in the areas of banking and finance; insurance and activities and participation in insurance companies; manufacturing and trading weapons, explosives and military equipment; securities transactions - issuing, underwriting and trading of securities; and ownership of buildings and limited property rights in border areas.

<sup>25</sup> Foreign Investment Law, Article 8(2).

<sup>26</sup> Foreign Investment Law, Article 27.

<sup>27</sup> Foreign Investment Law, Article 4.

<sup>28</sup> Foreign Investment Law, Article 26.

<sup>29</sup> Sector profiles published by the BFIA are available online at: <http://www.bfia.org>.

<sup>30</sup> That is, unemployment exceeding 50% of the national average in the **previous year**.

<sup>31</sup> Corporate and Income Tax Act (CITA), amendments in force as of 1 January 2003.

within a two-year period, may receive a waiver from the Ministry of Finance for the VAT on needed imports.<sup>32</sup>

22. Bulgaria has concluded a wide range of bilateral treaties for mutual protection and promotion of foreign investment and the avoidance of double taxation (Table II.1).

**Table II.1**

**Governments that have concluded agreements with Bulgaria on mutual protection and promotion of foreign investment and/or on avoidance of double taxation**

Government	Mutual protection and promotion of foreign investment agreement	Avoidance of double taxation agreement
Albania	X	X
Algeria	X	
Argentina	X	
Armenia	X	X
Austria	X	X
Belarus	X	X
Belgium	X	X
Canada		X
China	X	X
Croatia	X	X
Cuba	X	
Cyprus	X	X
Czech Republic	X	X
Denmark	X	X
Egypt	X	
Finland	X	X
France	X	X
Georgia	X	X
Germany	X	X
Greece	X	X
Hungary	X	X
India	X	X
Indonesia		X
Ireland		X
Israel	X	X
Italy	X	X
Japan		X
Kazakhstan	X	X
Peoples Democratic Republic of Korea		X
Republic of Korea		X
Kuwait	X	
Lebanon	X	X
Luxembourg	X	X
Former Yugoslav Republic of Macedonia	X	X
Malta	X	X
Moldova	X	X
Morocco	X	X
Netherlands	X	X
Norway		X
Poland	X	X
Portugal	X	X
Romania	X	X
Russia		X
Singapore		X
Slovakia	X	X
Slovenia	X	
Spain	X	X
Sweden	X	X

Table II.1 (cont'd)

<sup>32</sup> VAT Act, amendments in force as of 1 January 2003.

Government	Mutual protection and promotion of foreign investment agreement	Avoidance of double taxation agreement
Switzerland	X	X
Syria	X	X
Thailand		X
Tunisia	X	
Turkey	X	X
Ukraine	X	X
United Kingdom	X	X
United States	X	
Uzbekistan	X	
Vietnam	X	X
Serbia and Montenegro	X	X
Zimbabwe		X

*Source:* Information provided by Bulgarian authorities.

23. The Law on Foreign Investments also stipulates that foreign investors can take advantage of more favourable terms offered under international agreements to which Bulgaria is a signatory.<sup>33</sup> The authorities confirm that currently no such treaties providing more favourable terms are in force.

24. The current investment regime restricts foreign investors from acquiring ownership title over land, including such acquisition through a branch or as a sole trader.<sup>34</sup> However, foreign-owned companies registered in Bulgaria are considered to be Bulgarian persons and therefore may acquire land. Foreign persons may, however, acquire ownership of buildings and limited property rights, and may lease land.

25. Local companies, including those in which foreign partners have controlling interests must obtain prior approval (licences) before engaging in certain activities: production and export of arms and ammunition; banking and insurance; exploration, development, and exploitation of natural resources; and acquisition of property in certain geographic areas.<sup>35</sup>

26. Repatriation of certain types of income originating in Bulgaria and payable to foreign entities or individuals is subject to a 15% withholding tax.<sup>36</sup> This covers dividends and liquidation proceeds; interest, including under lease finance agreements; royalties; technical services remuneration; rents; payments under operating leasing, franchising and factoring agreements; and capital gains arising from the sale of immovable property, stakes in limited liability companies' capital, securities, and financial assets.

<sup>33</sup> Foreign Investment Law, Article 3(1).

<sup>34</sup> Foreign Investment Law, Article 23(2). Under its negotiations with the EU Bulgaria has undertaken to abolish this remaining restriction progressively over a seven year period from EU accession.

<sup>35</sup> USTR (2001).

<sup>36</sup> BFIA (2002).



**(5) INTERNATIONAL TRADING AGREEMENTS**

27. Bulgaria manages trade relations on three fronts: multilaterally in the WTO; regionally with the EU as part of its accession process and with other regional free-trade arrangements; and bilaterally with a wide range of countries.

**(i) Multilateral agreements**

28. Bulgaria acceded to the WTO on 1 December 1996.<sup>37</sup> The WTO Agreements have been incorporated into Bulgaria's domestic law, hence private individuals can invoke the WTO Agreement before national courts. Bulgaria is signatory to all the multilateral and plurilateral agreements except the Agreement on Government Procurement, where it is an observer. However, Bulgaria applied to accede to the Agreement on 27 September 2000. Plurilateral consultations on its accession are being carried out with Members. Table AII.2 summarizes Bulgaria's recent WTO notifications.

29. Bulgaria bound all its tariffs under GATT 1994 on its accession to the WTO. The majority of its tariffs are bound at ceiling rates, higher than applied duties. Since accession, Bulgaria has reduced its bound rates in accordance with its Schedule of Concession and Commitments (see also Chapter III(1)(ii)).<sup>38</sup>

30. In the General Agreement on Trade in Services (GATS), Bulgaria made a broad range of commitments during its accession. Its schedule covers 65 activities in 33 subsectors of 11 sectors. These sectors are: business; communication; construction and related engineering; distribution; education; environmental; financial; health and related social services; tourism and travel-related services; recreational, cultural and sporting; and transport. Since acceding it has continued to take up obligations within the multilateral framework, including participation in the WTO negotiations on basic telecommunications and financial services.<sup>39</sup> In the telecommunications sector, these additional commitments have included voice and telephone, packet and circuit-switched data transmission, facsimile, leased circuit, mobile, satellite, and VSAT services. In financial services, these additional commitments include insurance intermediation and services auxiliary to insurance such as consultancy, actuarial, risk assessment and claim settlement services.<sup>40</sup> Recent changes have been made to the legislative framework affecting the services sector, specifically, banking, insurance, securities, tourism, and telecommunication and transportation sectors in a bid to improve the regulatory environment and thus to attract investment into the services sector (Table AII.1).

31. Bulgaria has not been a party to any disputes under the WTO dispute settlement mechanism. In 2001, its first anti-dumping and safeguard actions were initiated, on imports of active baker's yeast from Turkey and imports of crown corks, respectively.<sup>41</sup> In 2002, three more safeguard actions were initiated concerning the imports of ammonium nitrate<sup>42</sup>, urea<sup>43</sup>, and flat rolled iron.<sup>44</sup> In January 2003,

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<sup>37</sup> At its meetings on 5-6 November 1986 and 20 February 1990, the Council established a working party to examine the application of the Government of Bulgaria to accede to the General Agreement under Article XXXIII. On 11 April 1995, the Government of Bulgaria advised that it had decided to negotiate the terms of accession of the Republic of Bulgaria to the Agreement Establishing the World Trade Organization.

<sup>38</sup> Schedule CXXXIX, 2 October 1996.

<sup>39</sup> WTO document GATS/SC/122; GATS/SC/122/Suppl.2; Bulgaria is a signatory to the Fourth (basic telecommunication) and the Fifth Protocols to the GATS (financial services).

<sup>40</sup> WTO document S/DCS/W/BGR.

<sup>41</sup> WTO document G/SG/N/6/BGR/3.

<sup>42</sup> WTO document G/SG/N/6/BGR/3.

<sup>43</sup> WTO document G/SG/N/6/BGR/4.

<sup>44</sup> WTO document G/SG/N/6/BGR/5.

WTO was notified that safeguard actions were applied both to crown corks and to ammonium nitrate.<sup>45</sup> The findings of the other initiations are yet to be issued.

32. Under the Doha Development Agenda, Bulgaria's main interests are in market access for its agricultural and non-agricultural products, trade in services and extension of the protection of geographical indications under the TRIPS Agreement. On agricultural market access, Bulgaria is interested in strengthening the rules on measures affecting export competition (including export financing, state trading enterprises, and export subsidies) and support provided to farmers. On market access for non-agricultural products, Bulgaria is in favour of tariff reductions and the elimination of non-tariff barriers for all industrial products. For both agricultural and non-agricultural goods it is of the view that due consideration needs to be taken of the needs of countries in transition by providing for flexibility in market access and domestic support for these countries.

33. Under the services negotiations Bulgaria's aim is to have its autonomous liberalization recognized by other trading partners. Under the TRIPS Agreement, Bulgaria attaches special importance to the extension of the additional protection for geographical indications under Article 23 of the Agreement, to products other than wines and spirits. Bulgaria supports the establishment of a multilateral system of notification and registration of geographical indications for all products.

34. Other areas of importance to Bulgaria include implementation issues, WTO rules, the dispute settlement understanding, trade and competition, and trade and investment. On implementation issues, Bulgaria supports a review of the special and differential treatment provisions with a view to making them more precise, effective, and operational. Bulgaria believes that special rights and privileges should be given only on the basis of objective criteria and/or economic indicators.<sup>46</sup> To this end significant attention should be paid to the concerns of economies in transition, which face similar problems as other developing countries. On rules, Bulgaria supports the efforts to improve the disciplines under the Agreement on Implementation of Article VI of the GATT 1994, and the Agreement on Subsidies and Countervailing Measures. Bulgaria expects the negotiations on the improvement and clarification of the dispute settlement understanding to take into account the constraints of small countries with insufficient expertise and limited financial and human resources. Bulgaria supports further work on the interaction between trade and competition policy, and the multilateral negotiations on the framework regarding trade and investment rules.

## **(ii) Regional agreements**

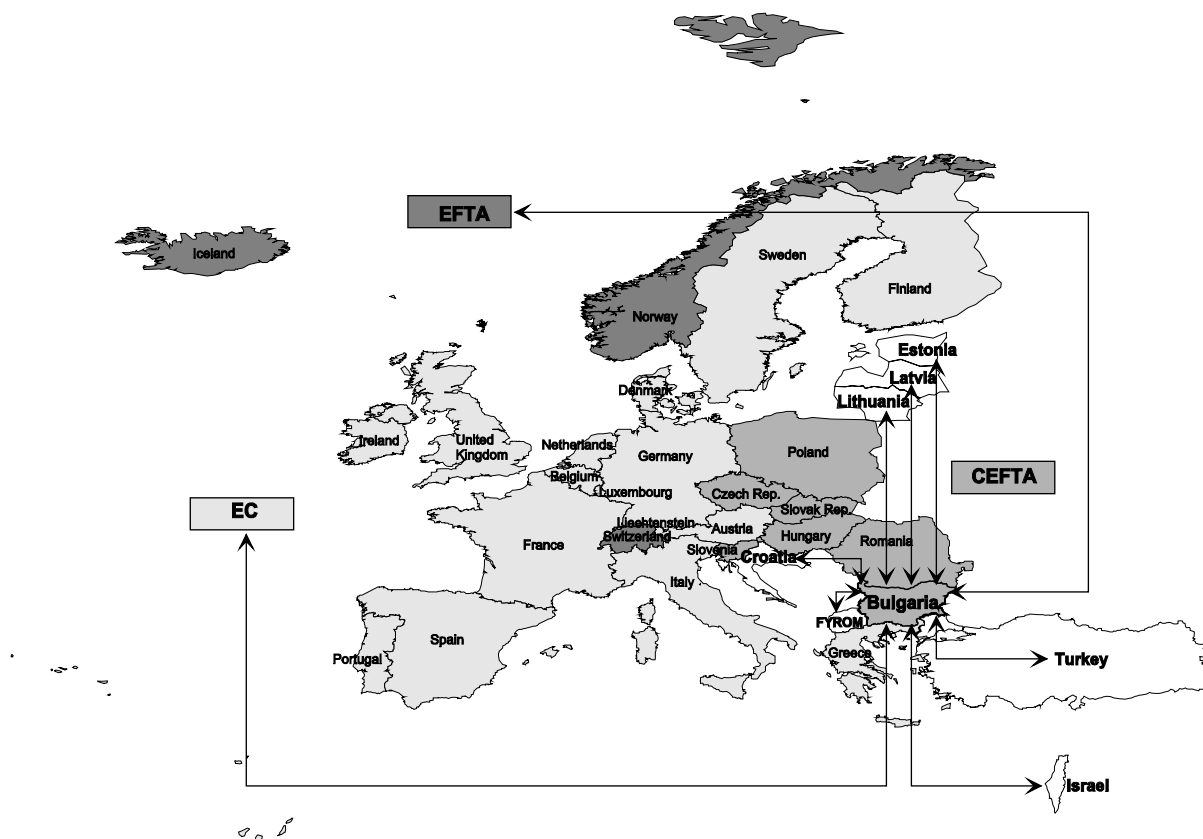
35. Much of Bulgaria's trade is conducted on the basis of free-trade agreements with countries in the European region. It is estimated that 75.8% of Bulgaria's exports and 64.5% of its imports go to and originate in FTA partners (Chart II.3).

<sup>45</sup> WTO document G/SG/N/10/BGR/1; WTO document G/SG/N/8/BGR/2.

<sup>46</sup> WTO document WT/MIN(0)/ST/122.

## Chart II.3

### Bulgaria's regional and bilateral trade agreements, July 2003



#### (a) Relations with the European Union

##### *Trade and related aspects of the Europe Agreement (EA)*

36. The Europe Agreement between Bulgaria and the EU covers a large number of issues including political, legal, and economic cooperation.<sup>47</sup> It was the first and most important free-trade area agreement signed upon commencement of the transition reforms in 1991. An Interim Agreement covering the trade and trade-related aspects of the EA entered into force on 31 December 1993. The completed EA for Bulgaria was signed in March 1993 and entered into force in February 1995.

##### *Industrial products*

37. The agreement provides a framework for the creation of a free-trade area via the elimination of barriers to trade in industrial and agricultural products. Under the agreement, the progress of liberalization has been carried out asymmetrically, with the EU liberalizing at a faster rate than Bulgaria. Accordingly, by 1 January 1998, all import duties and non-tariff measures facing Bulgarian exports of industrial products to the EU were eliminated, while Bulgaria completed the elimination of its tariffs applicable to EU exports of industrial goods on 1 January 2002. Quantitative restrictions were eliminated by both parties from the outset. Over the period 1995-2002, exports to the EU rose

<sup>47</sup> Europe agreements have been signed by all the transition countries acceding to the EU and cover a number of areas including trade policy and trade-related issues as well as political dialogue, legal approximations, and issues relating to industry, the environment, and transportation.

from US\$1,951 million (39.3% of total exports) to US\$3,165 million (55.6% of total exports). Similarly, imports from the EU increased from 37.3% in 1995 to 50.2% in 2002. Bulgaria's exports to the EU are dominated by commodities with a lower degree of processing: raw materials, processed foods, and consumer goods, notably woven and knitted clothing. Imports from the EU are dominated by raw materials and investment goods: in 2002 raw materials accounted for 39% of total imports, and investment goods contributed 34.4%.

*Agricultural and processed products*

38. Liberalization of trade in agricultural products under the agreement has been progressive; it is less extensive and more selective than for manufactures.<sup>48</sup> For a few agricultural products covered by quotas<sup>49</sup>, the EU reduced its variable levies by 50%; these quotas increased by some 10% annually for the first five years of the agreement, and preferential tariffs were applied to a range of agricultural products without any quantitative restrictions.<sup>50</sup> These measures represented a consolidation of previous GSP concessions. For a second group of products<sup>51</sup>, variable levies were reduced progressively: by 20% in the first year of the agreement, 40% in the second year, and 60% during the third to fifth years. Tariffs were reduced by 20% for each of the first three years, subject to tariff quotas growing by 10% annually from the base period, on other agricultural products including various fruits and vegetables.<sup>52</sup> A special Annex to the Agreement established a minimum price regime for strawberries, blackcurrants, redcurrants, and raspberries for processing. For processed agricultural products, the "non-agricultural component" of the EU's tariff was eliminated over five years and the "agricultural component" reduced either by 60% or 30% over three years within tariff quotas for specific products.

39. In June 1993, two separate agreements were reached with the EU on wine exports: one established reciprocal protection and control of the names of wine; and the other established reciprocal trade concessions that allowed Bulgaria to benefit from tariff cuts of up to 60% from the third year onwards, with tariff quotas increasing by 10% a year from the entry into force of the agreement with priority given to quality wine.

40. Bulgaria's concessions with respect to imports of agricultural products from the EU involved the abolition of all quantitative restrictions on imports of agricultural and food products and the liberalization of the tariff regime under two schemes. Under the first scheme, duties were reduced by 10% and 20% in the first and second years (1993 and 1994) respectively and by 30% in the third and successive years. The second scheme offered a lesser degree of liberalization, with reductions of 5%, 10%, and 15%. In both schemes, duties were reduced within increasing tariff quotas for the most part. Products covered under the first scheme included bananas, cheese, coffee, tea, lemons, mandarins, oils, pepper and other spices, potatoes, residues for feed, and unprocessed tobacco. Products covered under the second scheme included dried grapes, fruit juices, live poultry, milk and cream, oils,

<sup>48</sup> Information in this paragraph is largely obtained from OECD (2000).

<sup>49</sup> Ducks and duck meat, geese and goose meat.

<sup>50</sup> Natural honey, flowers and shrubs, some out-of season fruit and vegetables, preserved fruit and vegetables and apple juice. Duty-free access was granted on live horses, goose and duck liver, and game meat.

<sup>51</sup> All red and white meats, white brined cheese and yellow cheese of cows milk, dried whole eggs, common wheat and millet, and animal fodder.

<sup>52</sup> Including tomatoes, onions, sweet peppers, cucumbers, dried and frozen vegetables, apples, apricots, plums, cherries, various fruit and vegetable preparations.

oranges, peaches, pure-bred cattle, rice, sugar, tomatoes, and watermelons. Bulgaria agreed to gradually eliminate the tariff component on processed agricultural products by 1 January 1999.<sup>53</sup>

41. Further liberalization of the agricultural trading regime between the two parties has continued since 2000 within the framework of new agreements for agricultural and processed products, wine and spirits. These new arrangements provide for full mutual ("double zero") liberalization of trade in certain agricultural products that are not sensitive, including the exchange of trade concessions in the form of tariff quotas. Under these agreements it is estimated that almost two thirds of Bulgarian agricultural exports to the EU enter duty free and over half of EU agricultural exports to Bulgaria take place free of import duty. Nonetheless, non-tariff restrictions on Bulgarian exports remain on some important agricultural products such as dairy products, foodstuffs, live animals, and fish products. Successful negotiations covering liberalization of trade in more sensitive agricultural sectors (including sheep, goat and bovine meat, cereals, honey, dairy products, fruit and vegetables) were concluded in October 2002 and are expected to further boost agricultural trade between Bulgaria and the EU. Despite improved access to the EU's agriculture market, Bulgarian exporters have utilized fully or exceeded the preferential quotas for only a few products (natural honey, frozen peas, sunflower seed oil, sheep and goat meat, wheat, wine, preserved cherries, and apple juice concentrate). Bulgaria currently maintains a trade surplus with the EU on unprocessed agricultural products, but a deficit in processed foods. Overall, Bulgaria's trade balance with the is positive EU in products falling in HS Chapters 1-24.

42. The Europe Agreement includes provisions on the liberalization of the supply of services, movements of workers, the rights of establishment, customs, public procurement, standards and technical regulations, competition, intellectual and industrial property, financial services, and other trade-related matters that complement the liberalization of trade in goods. These provisions are reinforced by further provisions on economic cooperation in the areas of investment promotion and protection; energy; environment; transport; telecommunications and postal services; banking, insurance and financial services; and tourism.

43. The agreement provides for universal sectoral coverage of all services activities<sup>54</sup>: coverage of some activities will be gradual<sup>55</sup>, and others, such as air transport, inland-waterways transport services and maritime cabotage transport services are subject to temporary exemption.<sup>56</sup> It also provides for the liberalization of trade through all modes of supply: cross border trade, consumption abroad, commercial presence (with or without movement of natural persons) as well as presence of natural persons.<sup>57</sup> According to the authorities, the degree of liberalization of trade in services between the EU and its Member States, on the one part, and Bulgaria, on the other part, goes beyond the requirements and disciplines of the GATS in many respects.

44. Bulgaria's trade with the EU has developed under the Europe Agreement more rapidly than that with any other trading partner: the EU's share of exports grew from 39.3% in 1995 to 55.6% in 2002 and its share of imports increased from 37.3% to 50.2% over the same period (Chart I.2).

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<sup>53</sup> According to OECD (2000), the products covered by this element of the Agreement included sugar confectionery, cocoa products, chocolate, malt extracts, baby foods, pasta, cereal, and bread products, coffee and tea extracts, yeast, wafers, beer etc.

<sup>54</sup> WTO document WT/REG1/7.

<sup>55</sup> Article 45.

<sup>56</sup> Article 52.

<sup>57</sup> Articles 38, 42, 43, 53, 56, and 59.

*Steps towards EU accession*

45. Accession to the EU is a political priority for Bulgaria.<sup>58</sup> In accordance with the decision taken in 1993 at the Copenhagen European Council that "the associated countries in the Central and Eastern Europe that so desire shall become members of the EU", Bulgaria presented its application for membership to the European Union on 14 December 1995.<sup>59</sup> In March 1998, the Bulgarian Government adopted a national strategy on Bulgaria's accession to the EU and by May of the same year the first national programme for the adoption of the *acquis* had been prepared.<sup>60</sup> At the Helsinki European Council in December 1999 the decision was taken to commence accession negotiations with Bulgaria: the first negotiating session between the EU and Bulgaria was held on 28 March 2000, at which Bulgaria presented its negotiating positions on 8 chapters of the *acquis*. By June 2003, all the 29 chapters subject to negotiations had been opened, and 25 of them had been provisionally closed.<sup>61</sup> The Thessaloniki European Council in June 2003 noted that: "the objective is to welcome Bulgaria and Romania as members in 2007. To this end, the pace of negotiations will be maintained (...) with each candidate judged on its own merits (...) the Union supports Bulgaria and Romania in their efforts to achieve the objective of concluding negotiations in 2004, and invites them to step up their preparations on the ground".<sup>62</sup>

46. In accordance with the criteria set out at the Copenhagen European Council in 1993, Bulgaria's accession to the EU is being evaluated against its ability to satisfy defined economic and political criteria as well as to assume the obligations of membership. In this respect, regular reports have been produced since 1998 evaluating Bulgaria's progress. With regard to the political criteria, the European Commission's Opinion report on Bulgaria's application for membership to the EU in 1997 judged that Bulgaria already fulfilled the political criteria.<sup>63</sup> In its annual regular report for 2002, the Commission acknowledged that since 1997, "Bulgaria has made considerable progress in further consolidating and deepening the stability of its institutions guaranteeing democracy, the rule of law, human rights and the respect and protection of minorities".<sup>64</sup>

47. With respect to the economic criteria, Bulgaria was for the first time considered to be a functioning market economy in the 2002 regular report. The European Commission was of the view that Bulgaria "should be able to cope with competitive pressure and market forces within the Union in the medium term, provided that it continues implementing its reform programme to remove remaining difficulties".

48. Bulgaria's progress in aligning its legislation with the EU was also acknowledged in the 2002 annual regular report. It noted that Bulgaria had achieved a reasonable degree of alignment with the *acquis* in many areas and that its administrative capacity had also developed, although significant reforms remained to be made. Hence Bulgaria appears to be making good progress towards the goals of completing negotiations with the EU by May 2004 and acceding on 1 January 2007. The alignment process has already meant considerable changes in Bulgaria's legislation, including many areas related

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<sup>58</sup> AEAF (2002b).

<sup>59</sup> EC (1997).

<sup>60</sup> For further details on the history of relations between Bulgaria and the EU see online information available at: <http://www.evropa.bg>.

<sup>61</sup> The chapters remaining under discussion as at 30 June 2003 were: agriculture; competition and state aid; justice and home affairs; and financial and budgetary provisions.

<sup>62</sup> European Council, Presidency Conclusions, Thessaloniki, 19 and 20 June 2003, paragraph 37 [Online]. Available at: [http://www.europarl.eu.int/summits/pdf/the\\_en.pdf](http://www.europarl.eu.int/summits/pdf/the_en.pdf).

<sup>63</sup> EC (1997).

<sup>64</sup> EC (2002).

to trade (see Chapter III). Accession to the EU will entail adoption of the whole body of EU trade regulations, including the Common External Tariff.

(b) European Free Trade Association (EFTA)

49. The Free Trade Agreement between Bulgaria and the EFTA States was signed on 29 March 1993 and came into effect for Bulgaria on 1 July 1993.<sup>65</sup> Among the objectives of the agreement was "to gradually establish a free-trade area by eliminating progressively the obstacles to substantially all their trade, in accordance with the General Agreement on Tariffs and Trade".<sup>66</sup> Under the agreement, EFTA members abolished all customs duties and charges having equivalent effect on industrial products originating in Bulgaria with effect from the entry into force of the agreement, except for a number of iron, steel, textile and clothing products, for which Norway<sup>67</sup> undertook progressive reductions of duty up to 1 January 1999, and Switzerland and Liechtenstein reserved the right to reintroduce MFN duties in case of "serious disturbances on the domestic market" stemming from the FTA provisions. Bulgaria undertook to abolish duties on imports of industrial goods from EFTA on a progressive schedule comprising immediate elimination for some products, elimination by 1 January 1998 for others, and elimination by 1 January 2002 for a third list.<sup>68</sup>

50. In relation to agricultural goods, separate bilateral agreements were concluded between EFTA members and Bulgaria. Under these, Bulgaria applies reduced duties on unlimited quantities of certain vegetable or animal fats and oils, sugar confectionery, cocoa products and chocolate, pasta, pastries and biscuits, coffee extracts, sauces, mineral waters, beer, and vermouth. Duty reductions on imports into EFTA States are agreed on a bilateral basis. Iceland grants duty-free access for Bulgarian honey, flowers, potatoes, tomatoes and other vegetables (fresh or preserved), fruit (fresh or preserved), nuts, and mushrooms. These agricultural goods, as well as duck liver, wine, and tobacco products are granted duty-free treatment in Norway. Switzerland and Liechtenstein abolished their duties on imports of live swine and sheep, ducks, bovine, swine and sheep meat, flowers, vegetables, nuts, seeds, and tobacco; granted 50% reduction of duties on frozen poultry meat, duck liver, certain fresh fruit and vegetables (watermelons, strawberries, cucumbers, peppers), and wine; and applied 20% tariff reductions on fresh or chilled poultry meat, cheese, honey, certain vegetables, and sparkling wine. Duties on most fishery and marine products were also eliminated upon entry into force of the agreement.

51. The agreement also includes provisions concerning public procurement, intellectual property, competition, state aid, and standards and technical regulations.

52. On the whole, trade volumes between Bulgaria and the EFTA countries have increased gradually since the implementation of the agreement. Bulgaria's exports are estimated to have more than tripled, from US\$20 million in 1994 to US\$65.2 million in 2001; however, its imports from EFTA member states have declined to US\$90.5 million from US\$104 million in 1995. Amongst the EFTA states, Switzerland accounts for the bulk of trade with Bulgaria, with 94% of Bulgaria's EFTA imports and 90% of Bulgaria's EFTA exports.

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<sup>65</sup> EFTA online information. Available at: <http://secretariat.efta.int/Web/ExternalRelations/PartnerCountries/Bulgaria>. The Agreement was notified to GATT by Sweden on 30 June 1993 (GATT documents L/7257 and Add.1).

<sup>66</sup> L/7257/Add.1, *Preamble*.

<sup>67</sup> Also Austria and Finland, which were at the time EFTA members.

<sup>68</sup> Annex IV to the Agreement.

(c) Central European Free Trade Agreement (CEFTA)

53. On 17 July 1998 Bulgaria signed an agreement acceding to CEFTA: the agreement was applied from 1 January 1999.<sup>69</sup> The CEFTA introduces a free-trade area amongst its members (Bulgaria, Czech Republic, Hungary, Poland, Romania, Slovak Republic, Slovenia, and Croatia)<sup>70</sup>, during the period prior to EU accession. Membership of CEFTA is thus considered as a temporary arrangement in preparation for full integration into the EU. The CEFTA agreement covers both agricultural and industrial goods. It has the specific feature of combining common elements of agreements amongst all CEFTA members and negotiations at the bilateral level among the members regarding duties on agricultural goods.

54. With the exception of certain sensitive industrial products to Romania (certain automobiles, fertilizers, tyres, steel products) and Poland (certain petroleum oils, fertilizers, tyres, steel products, refrigerators, tractors, automobiles), exports of all industrial products amongst CEFTA members were exempt from duty by January 2001. All remaining duties from Romania and Poland were eliminated in January 2002, thus creating a free-trade area in all industrial products amongst CEFTA members.

55. The CEFTA agreement is expected to bring about substantial but not complete liberalization of trade in agricultural and food products. There are three schemes of liberalization of trade in agricultural and food products. The first provides for duty-free treatment without any quantitative restrictions. Products under this scheme include plant seeds, breeding stock, fish, spices, and certain confectionery and bakery products. The second scheme, under which an identical customs tariff is imposed amongst member countries, covers products such as beef and pork, certain vegetables and fruit, cereals, and dried pasta. These two schemes are binding on all CEFTA members. The third scheme, which covers more sensitive products, involves bilateral negotiations on liberalization: this typically involves in-quota tariff reductions. Products for which Bulgaria is expected to be most competitive, such as wine and tobacco products, belong to the third scheme; hence concessions for the export of these products have been limited.

56. The CEFTA agreement contains general provisions encompassing other issues such as rules of origin, cooperation in customs matters, internal taxation, state monopolies, and competition policy. The current rules of origin are harmonized with those of the EU, allowing for multilateral accumulation of origin among CEFTA countries and pan-European diagonal cumulation.

57. Bulgaria's trade with CEFTA countries accounted for about 7.3% of its imports and 5.4% of its exports in 2002. On 1 May 2004, five CEFTA members (the Czech Republic, Poland, Hungary, the Slovak Republic, and Slovenia) are scheduled to accede to the EU. Bulgaria's trade with these countries, as well as with Estonia, Latvia, and Lithuania, will thereafter be governed by the Europe Agreement between the EU and Bulgaria until Bulgaria becomes an EU Member State. CEFTA provisions will then apply among the remaining CEFTA Parties (Bulgaria, Romania and Croatia).

**(iii) Bilateral trade agreements and other agreements**

58. Bulgaria has concluded several bilateral trade arrangements all of which provide for the gradual reduction of import duties on industrial products, and in most of them import duties were eliminated on 1 January 2002 (Table II.2). The agreements typically provide for improvements in market access via the elimination or reduction of in-quota and out-of-quota tariffs on specific

<sup>69</sup> The agreement was notified to the WTO in February 1999 (document WT/REG/11/10 of 25 March 1999).

<sup>70</sup> As of July 2003. This represents a market size of about 95 million people. All CEFTA members, including Bulgaria, belonged to the (now defunct) CMEA.



products. In general overall liberalization in agricultural products was weaker than in industrial products. As noted, the bilateral agreements with Estonia, Latvia, and Lithuania will be superseded by the Europe Agreement upon their accession in 2004.

**Table II.2**  
**Republic of Bulgaria's Preferential Trade Agreements, June 2003**

Country	Date of signing agreement/ entry into force	Product coverage	Other areas of cooperation
EA	March 1993 / 1 February 1995	Complete liberalization of industrial products from 1 January 2002, with the EU completely liberalizing its trade in industrial goods from 1 January 1998; gradual liberalization of trade in some agricultural and processed agricultural products	Political dialogue, legal approximation, industry, environment, transport and customs administration. The EA also contains provisions on services, competition, public procurement, standards and intellectual property.
EFTA	29 March 1993/ 1 July 1993	Complete liberalization of trade in industrial goods by January 2002;  Mutual concessions in agricultural products in the form of tariff quotas or unlimited with reduced duties	Public procurement, standards and technical regulations, competition, intellectual and industrial property, and other trade-related matters that complement the liberalization of trade in goods.
CEFTA	17 July 1998/1 January 1999	Complete liberalization of trade in industrial products by 1 January 2002;  Partial liberalization in agriculture in accordance with three schemes; multilaterally agreed and implemented lists of agricultural goods, which are traded without duties or limitations; second list of goods to which maximum duties for unlimited quantities apply; and list of goods on which countries grant concessions on a bilateral basis.	Public procurement, standards and technical regulations, competition, intellectual and industrial property, and other trade-related matters that complement the liberalization of trade in goods.
Turkey	11 July 1998/ 1 January 1999	Complete liberalization in industrial products from 1 January 2002;  Mutual concessions in agricultural products in the form of tariff quotas and reduced duties	Internal taxation, payments, sanitary and phytosanitary measures, anti-dumping and safeguards, rules of origin and cooperation in customs matters, state aid, intellectual property rights, and government procurement.
Macedonia	13 October 1999/ 1 January 2000	90% of trade in industrial goods liberalized from entry into force of agreement and remained covered by two schemes of phased liberalization, to gradually eliminate all duties from 1 January 2005;  Mutual concessions in agricultural products in the form of tariff quotas and reduced duties	As above
Lithuania	8 May 2001 / 1 March 2002	Complete liberalization of trade in industrial products from 1 January 2002;  Mutual concessions in agricultural products in the form of tariff quotas or unlimited quantities or with preferential rates	Public procurement, standards and technical regulations, competition, intellectual and industrial property, and other trade-related matters that complement the liberalization of trade in goods.
Estonia	11 December 2001 / pending Applied as from 1 January 2002	Complete liberalization of trade in industrial products from 1 January 2002  Mutual concessions in trade in agricultural and processed agricultural goods in the form of reduced duties or 0% rates with tariff quotas	As above

**Table II.2 (cont'd)**

Country	Date of signing agreement/ entry into force	Product coverage	Other areas of cooperation
Israel	8 June 2001/ 1 January 2002 In force as from 1 January 2002	Gradual establishment of a free-trade area for industrial goods by 1 January 2004;  Mutual concessions in agriculture in the form of tariff quotas with reduced duties or at 0% rates	As above
Croatia	4 December 2001 / pending <i>Applied as from 1 January 2002</i>  <i>Replaced by the Agreement on accession of the Republic of Croatia to CEFTA, in force as from 1 March 2003</i>	Gradual establishment of free-trade area for industrial goods by 1 January 2003;  Bilaterally agreed concessions and agreed concessions taking into account CEFTA multilaterally agreed concessions.	As above
Latvia	16 October 2002/ after completion of internal procedures In force as from 1 April 2003	Trade in industrial goods to be completely liberalized as from date of entry into force of agreement (currently awaiting completion of internal procedures for both countries).	As above

Source: WTO Secretariat, based on information provided by Bulgarian authorities.

59. The bilateral trade agreements with Lithuania, Estonia, Israel, and Latvia have not yet been notified to the WTO.

60. On 27 June 2001, Bulgaria signed a Memorandum of Understanding on Trade Liberalization and Facilitation between countries in South-Eastern Europe within the framework of the Stability Pact. Under this Memorandum, Bulgaria has finalized negotiations on Free Trade Agreements with Serbia and Montenegro, Albania, and Bosnia and Herzegovina. The FTA with Albania was signed on 26 March 2003 and its entry into force is subject to ratification procedures.

61. Bulgaria is also a member of the Black Sea Economic Cooperation (BSEC), which provides a framework for economic and trade cooperation among its 11 members.<sup>71</sup> One of the BSEC's long-term aims is the creation of a free-trade area.

#### (iv) Unilateral preferences

62. Bulgaria was considered as a GSP beneficiary country by all developed countries except the United States and the EU until 1989. Thereafter, Bulgaria became a beneficiary of GSP treatment in both the United States and the EU. GSP treatment by EU and EFTA states has been superseded by their respective free-trade agreements with Bulgaria.

63. Bulgaria has been granting preferences to developing and least developed countries since 1982. Its preferences cover 118 countries and 917 tariff lines (at the 8-digit level). At present it operates two schemes of preferences. In the first scheme 69 developing countries are accorded preferences at 70% of the MFN level and in the second scheme 49 least developed countries enjoy zero duty treatment for products covered. The volume of trade with beneficiary countries is low. In 2002, imports under the scheme originating from developing countries and least developed countries were 3.4% and 0.1% of Bulgaria's total imports respectively. In the light of Bulgaria's future accession to the EU it would have to review its preferential system and make it compatible with the obligations of EU membership.

<sup>71</sup> Albania, Armenia, Azerbaijan, Bulgaria, Georgia, Greece, Moldova, Romania, Russia, Turkey, and Ukraine.