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Support to promotion of reciprocal understanding
between the European
Union and the Western Balkans

National report

INTERNAL MARKET

under

The Specific Grant Agreement RELEX I-2 190202 REG 4-14

VIŠNJA SAMARDŽIJA (Ph.D., Institute for International Relations, Zagreb)
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I. Summary

The research paper on Croatia's progress in developing institutional and legislative capacity in line with EU requirements in the area of internal market focuses on the following areas: progress in implementing instruments of the Stabilisation and Association Process, four freedoms, trade, intellectual property rights, customs, taxation and public procurement.

With the purpose to assess the development of legal and administrative capacity in Croatia, already existing documents were taken into consideration, such as the Answers of Croatian Government to the European Union Questionnaire; the National Programme for the Integration of the Republic Croatia into the European Union - 2004; Opinion on Croatia's application for membership of the European Union; European Partnership with Croatia and regular monthly reports of the Government of the Republic of Croatia on the Execution of the Implementation Plan for the SAA. It is, however, necessary to stress that this report was prepared before the National Programme for Integration 2005 was finalised, so it could not include the overview of the last developments and key steps envisaged by the Government for next year.

The general findings are that, in the period after signing the SAA, Croatia made significant progress in the development and alignment of legislative framework in accordance with the *acquis*, while the alignment of secondary legislation and implementation as well as enforcement of institutions remains a priority.

The assessment of Croatia's readiness to integrate into the EU will to great

est extent depend on the efficiency of internal reforms, ability and quality of implementation, but the external framework might significantly help the country to pass this test more easily and more successfully. Finally, the factor of political willingness of the EU to integrate additional new members should not be neglected.

Introducing mechanisms similar to those that were available to the current candidate countries would significantly help and speed up the preparations for integration into the EU. It could enhance Croatia's chances to catch up with Bulgaria and Romania in their efforts to become EU members. On the other hand, as economically the most advanced country of the SAP region, Croatia has to continue rapidly with the reform agenda and implementation of the SAA. Although significant progress in implementing the SAA was made, there is still a lot of work to be done which needs good, timely and transparent preparations. It can be expected that the country will achieve its internal goal to reach readiness for accession by 2007 if it continues with reforms at the same speed and efficiency.

Coordinated work on the continuation of accelerated implementation of the SAA obligations and structural reforms leading to a functioning market economy is needed. Speeding up internal reforms (particularly in the judiciary, privatisation, public administration, fiscal consolidation, and in some other areas), continuing SAA implementation and law enforcement are key preconditions for success in joining Bulgaria and Romania in the next wave of enlargement.

II. Stabilisation and association process

1. Stabilisation and Association Agreement

1.1. The SAA with Croatia and steps towards EU membership

Croatia's path towards the European Union is grounded within the Stabilisation and Association Process (SAP), developed as a framework to contribute to long-term security and stability of South-East Europe, bringing the region closer to European integration. The Stabilisation and Association Agreement (SAA), as an SAP instrument, combines provisions similar to those covered by Europe agreements with the stabilisation part, particularly stressing the component of regional co-operation. On the other hand, it opens the possibility of individual progress towards a later stage of membership negotiations.

Preparations for integration started with the implementation of the Stabilisation and Association Agreement, signed in October 2001. Croatia applied for full membership in February 2003 and, after getting candidate status (June 2004), Croatia is making preparations for the next stage of relations - negotiations on full EU membership.

Integration into the EU is a top priority in the Government programme¹. Consensus to integrate into the EU exists in

Croatia. Potentials to meet this goal and finalise preparations for EU accession by 2007 are supported by political will and Croatian citizens. There is a consensus among political parliamentary parties, achieved with the Parliament's adoption of the Resolution on the Accession to the EU (December, 2002), which confirmed the readiness of all parliamentary political parties to support the EU integration process. On the other hand, there is strong public support in Croatia for the process: public opinion surveys, carried out since 2000 on a six-month basis showed that between 70% and 75% of the population² have positive attitude towards integration. However, the last survey (June, 2004) indicated a significant decrease in public opinion support to some 50%, meaning that a strengthened and targeted communication strategy should be implemented in Croatia.

The Stabilisation and Association Agreement between Croatia and the EU and its member states was signed in October 2001. It was ratified by Croatian Parliament on December 5th 2001, and by the European Parliament on December 12th the same year. The process of ratifica-

1. Working Programme of the Government of Republic of Croatia 2004-2007, December 23, 2003.

2. Since 2000, the Ministry for European Integration carries out regular public opinion surveys to examine the level of support, expectations and knowledge on EU integration issues. Until now, nine public opinion surveys have been carried out. The last one was in June 2004.

tion in member states was concluded in September 2004, with the finalisation of procedure in the UK. Before the SAA came into power, trade and transport provisions of the SAA have been applied as of 1st January 2002, through the Interim Agreement on trade and related issues between the European Community on one hand and the Republic of Croatia on the other, which came into force on 1st March 2002.

As a legally binding international agreement between Croatia, the EU and its member states, the SAA takes precedence over domestic law. After the SAA coming into power, joint institutions have to be established - the Stabilisation and Association Council, Committee, and the Parliamentary Committee. Decisions taken by the Council will be legally binding, and Croatian Government takes the obligation of implementing all the commitments covered by the SAA. This implies the need for efficient coordination and monitoring of the SAA implementation, together with the assessment of the impact on Croatian economy.

In the meantime, before the SAA entered into force, meetings of the Interim Committee and its five sub-committees as joint bodies³ of the Republic of Croatia and the European Commission responsible for the supervision of the implementation of the Interim Agreement ensured communication with EU bodies, as well as an exchange of information on how Croatia is progressing in the implementation of standards and legal regulations of the EU in specific areas. This helped to determine the steps that will be needed in further implementation process.

After submitting its application for membership in the EU (February 2003) and becoming a candidate, Croatia is facing the challenge of the next stage of relations with the EU. Namely, on 14 April 2003, the General Affairs and External Relations Council called upon the European Commission to submit an opinion (avis) on Croatia's application. The European Commission prepared a questionnaire required for the avis and presented it to Croatia in July 2003. It was a comprehensive material that was a joint exercise of all public administration bodies and a sort of "self-screening" of the situation in all areas of society. The answers were submitted to the European Commission on 9 October 2003, while the avis was presented to Croatia on 20 April 2004. At its session in June 2004, the European Council confirmed the status of the Republic of Croatia as a candidate country for membership and brought a decision on opening negotiations on full membership.

This means that the criteria of accession that guarantee *the ability of the country to take on the obligations of membership, including the adherence to the aims of political, economic and monetary union* will be applied on Croatia, as was the case with the other candidate countries.

The main findings of the European Commission Opinion on the application of Croatia for membership of the European Union⁴ are the following:

- Croatia is a functioning democracy, with stable institutions guaranteeing the rule of law;
- Croatia can be regarded as a

3. Before the SAA enters into force and starts operating its own bodies, the Interim Committee is in function together with five subcommittees: Economic and financial matters, Agriculture and fisheries, Internal market, Customs and taxation, Transport).

4. Communication from the Commission. Opinion on Croatia's application for membership of the European Union. COM (2004) 257 final. Brussels, 20 April 2004.

functioning market economy, which 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 the remaining weaknesses;

- Croatia will be in position to take the other obligations of the membership in the medium term, provided that considerable efforts are made to align its legislation with the *acquis* and ensure the implementation and enforcement.

In the *avis*, the Commission recommended that negotiations for accession to the European Union be opened with Croatia in early 2005. Screening will start together with the negotiations. Furthermore, the Commission recommended the development of Pre-accession Strategy for Croatia together with the necessary financial instruments (which was finalised in

October 2004). The Opinion was accompanied by a draft of European Partnership for Croatia⁵ which identified short and medium term priorities during the preparation for accession. In June 2004, the European Council confirmed candidate status for Croatia. Thus Croatia became the first candidate and the forerunner of SAP countries' integration into the EU.

In the meantime, Croatia has to make preparations for the start of negotiations, including setting up negotiation structures and preparing the negotiation positions. The work on the Pre-accession Economic Programme (PEP) is under way, and it is planned that it will be finalised by the beginning of December 2004. However, the fulfilment of the remaining political preconditions is still a priority, and should be understood as a continuous process, important for the internal functioning of the country, and not only conditioned by the integration requirements.

1.2. Progress in SAA implementation - what has been achieved so far?

Since the signing, Croatia started the implementation of the obligations undertaken within the SAA. The Implementation Plan for the SAA was adopted even before signing the Agreement, as the initial document for implementation, consisting of almost 400 measures with defined deadlines and bodies responsible for their implementation. It was updated regularly with new obligations. The implementation of the SAA has been made transparent

through monthly and yearly reports submitted to the Government and made available to the public on the Internet. Reports prepared during 2002 and 2003 showed significant progress in adopting European standards, although there were certain delays regarding implementation, but it did not bring into question the deadlines envisaged by the SAA, due to the fact that the Plan followed an accelerated implementation agenda.

5. Council Decision on the principles and conditions in the European Partnership with Croatia. COM(2004) 275 final.
6. The National Programme of Integration into the EU for 2003 was adopted by the Government on December 12, and by Croatian Parliament on December 18, 2002. For 2003, 50 legal acts and 33 by-laws were envisaged to be aligned with the *acquis*. The plan for 2004 was prepared and was adopted at the beginning of 2004.

Similar to the experience of the candidate countries, the National Programme for Integration of the Republic of Croatia into the European Union (NPPIEU) has been adopted⁶ as a roadmap for legal harmonisation. The Programme became the main co-ordinating instrument, focusing on all steps in legal harmonisation, starting with the year 2003. The Implementation Plan was merged with the National Plan of Integration in 2004, which created a single implementation and monitoring instrument for all areas of adjustment, including legal harmonisation. However, in 2004, the process of legal harmonisation showed signs of slowing down as compared to the envisaged deadlines and implementation results in previous years, and it should be speeded up with the screening process.

Regional cooperation is an important component of the SAA, covered by the stabilisation part of the agreement. A stable neighbourhood is a precondition not only for sustainable development and growth of the region, but for the development of each of the countries of the area. Regional co-operation with the SAP countries has been significantly enhanced. Through different bilateral and multilateral mechanisms, Croatia contributes to stability and co-operation in South-Eastern Europe by assuming the role of a political and economic model in the region, since the stability of the region is a precondition for Croatia's own stability and prosperity as well.

On the other hand, the association is based on reforms designed to achieve the adoption of EU⁷ standards, including enhanced cooperation, particularly in the

field of justice and home affairs, with the aim of gradual rapprochement to the EU⁷. Together with economic reforms launched earlier, the implementation of the SAA has contributed to progress in meeting the economic Copenhagen criteria. They include both a functioning market economy and the ability to cope with the competitive pressure of the EU.

Trade liberalisation, which started by entering the WTO, has continued by the implementation of the Interim Agreement, as well as other bilateral and multilateral free trade agreements. The SAA confirmed the previously existing free trade regime for Croatian goods on European market, and set up a timetable for trade liberalisation of goods and services. A free trade area is being established with the EU for industrial and agricultural products, including fisheries, originating in the Community or in Croatia, over a transition period lasting a maximum of six years.

Currently, Croatia has free trade agreements with more than thirty countries. This means that, apart from the SAA now covering 25 countries, Croatia has signed agreements with the SAP countries, resulting from the Memorandum on Trade Liberalisation and Facilitation concluded within the Stability Pact, EFTA countries, and joined CEFTA in March 2003.

Apart from the issues mentioned, the provisions on free movement of workers, establishment, supply of services and capital are in implementation.

Croatia has taken the obligation to start the alignment of existing legislation to that of the Community from the coming

7. European Union Newsletter. No 3, Zagreb, August 2001. Delegation of the European Commission to the Republic of Croatia.

into power of the Interim Agreement (January 2002). The alignment is focused on fundamental elements of the internal market *acquis* as well as on other trade-related areas. It will gradually extend to other parts of the *acquis communautaire*, encompassed by the SAA.

The alignment of the legal system with that of the EU is coordinated by the Ministry for European Integration. As the initial step, a Decision on measures in the process of alignment of legislation of the Republic of Croatia with the *acquis communautaire* was adopted⁸ and is being applied as of December 1st, 2001. In accordance with it, and under Article 69 of the Stabilisation and Association Agreement, state administration bodies are obliged to submit a *Statement of Compatibility and Table of Concordance of Legislative Provisions of the RC together with the relevant EU Provisions*, attached to the draft of legal act to be aligned with the *acquis*. Croatian Parliament Conclusion of October 9th, 2002, confirmed this obligation, so that the Government of Croatia is required to ensure that draft acts forwarded to the Parliament are accompanied by the mentioned instruments. This type of government procedure is common in some candidate countries, such as Slovenia and Latvia⁹.

Working groups for the alignment of Croatian legislation have been set up. So far, 14 groups have been established, in accordance with 13 Chapters of the *acquis*, while it is envisaged to establish the remaining groups by the end of 2004. Initially, the main tasks of the WGs were focused on draft proposals, monitoring

compliance with the *acquis* and submitting proposals for additional measures regarding legal harmonisation. However, bearing in mind the negotiations that will start soon and all other steps that have to be undertaken, it is necessary to widen the area of WGs, focusing their tasks on negotiation positions and other activities that will soon need effective coordination and involvement of experts, not only from state administration, but also from other areas (trade unions, think tanks, academic circles, etc).

With the aim to create better regulation, Croatia is introducing *impact assessment* in the legal procedure. Impact assessment is part of the legal practice in EU member states and was introduced in some candidate countries. It means that, in the stage of drafting a legal act, it is necessary to prepare an impact assessment, in order to evaluate potential economic and other effects of the future act, including budgetary implications. It is envisaged to introduce impact assessment on a compulsory basis in 2005. The pilot project of impact assessment is under way, encompassing six legal acts¹⁰ for which the analyses are under preparation based on the checklist prepared by the Ministry for European Integration.

In the 2002-03 period, Croatia has aligned 116 legal acts, while 44 legal acts and 190 by-laws are envisaged to be adopted in 2004. Bearing in mind the fact that the former candidates had to adopt some 400 legal acts aligned with the *acquis*, this means that Croatia will preliminary align around 1/3 of the total before the screening starts. In 2003, most of the framework laws regulating the economic system were

8. The Decision has been adopted at the Government session of July 19, 2001.

9. www.mei.hr

10. Six legal acts which are under preparation have been selected, covering the following areas: public procurement, thermal energy, sea fisheries, environmental protection, foreign investment promotion and saving deposit insurance.

brought and aligned with the EU, while in 2004 implementation started in most areas, so the work is concentrated on aligning by-laws with the *acquis*. However, the screening process will give a precise answer to the question to which extent the process of legal harmonization has been performed in accordance with EU requirements, and it will define in which areas there is need for additional alignment.

Efficiency in implementation and continuation of reforms is the key issue relevant for the success of Croatia, bearing in mind the very tight schedule to which the country has to adhere in order to be able to catch up with Bulgaria and Romania. The speed of integration will depend on how Croatia will prove its efficiency in implementing reforms and accepting European standards in practice. The stage of achieved implementation of the SAA, progress in adopting the principles of all Chapters of the *acquis*, together with the overall macro-economic picture of the country and the stage of reforms (economic, judicial and administrative one) make a good starting point for fulfilling the remaining Copenhagen criteria¹¹, but only in case that the country continues implementing its reform programme at the same speed, in order to resolve the remaining weaknesses.

The European Commission stated in its Opinion that Croatian economy has achieved a considerable degree of macro-economic stability with low inflation. Major macroeconomic indicators place Croatia far at the helm of the SAP countries, but also in mid-range of the new member states. Croatia is a small economy with the population of 4.4 million, and with the GDP per

capita of 6,337 US\$ (for 2003), which amounts to around 24% of the EU average. The areas in which Croatia is facing difficulties are high budget deficit and increasing public debt. At the same time, it is extremely important to translate the existing macroeconomic stability into sustainable development of the real economy sector, by particularly accentuating faster progress in structural reforms, privatisation and restructuring. Croatia's economy is already relatively well (although not enough!) integrated with the EU, but market mechanisms still need significant improvements.

Croatia already made progress in aligning its legislation with the *acquis*, particularly in the areas of internal market and trade. However, a lot of work still remains in legal harmonization, together with strengthening administrative capacities and judicial structures for implementation and enforcement.

According to the conclusions of the EC *avis*¹², Croatia should not have major difficulties in applying the *acquis* in medium term in the following fields: Economic and Monetary Union, Statistics, Industrial policy, Small and medium-sized enterprises, Science and research, Education and training, Culture and Audio-visual policy, External relations, CFSP, Finance and budgetary provisions.

Stronger efforts are needed in medium term in aligning legislation and its enforcement in the following fields: Free movement of capital, Company law, Fisheries, Transport, Energy, Consumer and health protection, Customs union and financial control.

11. The Copenhagen criteria, adopted at the Summit in Copenhagen 1993, set up the political, economic and legal preconditions for membership.

12. COM (2004) 257 final

However, the most difficult areas are foreseen in the following areas: Free movement of goods, Free movement of persons, Freedom to provide services, Competition, Agriculture, Taxation, Social policy and employment, Telecommunications and information technologies, Regional policy and JHA. Apart from this, the area of environment protection will be particularly difficult, in terms of the need for substantial investment and strengthening the administrative capacity for enforcement.

There are, however, threats that might hamper and slow down the process if adequate response are not given by the Government in the shortest possible time, in the following areas:

- Negotiation structures, their obligations and responsibilities should be defined in the shortest possible time, together with a wider negotiation team that will prepare negotiation positions;
- The process should be kept transparent; experts should be introduced and take part in the process;
- Legal harmonisation should be speeded up, implementation and enforcement strengthened; pre-conditions for preparing better regulation are concluded (introducing obligatory impact assessment of legal acts in advance);
- Public administration reform should be strengthened and adjusted to the needs of the EU integration process; special attention should be given to human resources management-well-trained staff kept in the process of negotiations from the beginning until its end;
- Institutional capacity building should be continued.

2. EU assistance for internal market integration

2.1. Croatia and the CARDS programme

Croatia is benefiting from the CARDS programme developed for the SAP countries, while the Pre-accession strategy opened the door for the access to the PHARE, ISPA¹³ and SAPARD¹⁴ programme in 2005, which will be available for Croatia until 2007. Namely, the new Financial Perspectives 2007-2013 envisage the new Pre-Accession Instrument (IPA) for the candidates (Turkey, Croatia) and potential candidates (the remaining Western Balkans). The IPA should supersede the existing instruments (PHARE, ISPA, SAPARD), simplifying the management programmes for accession countries.

During the past years, mechanisms for co-ordinating, programming and management of CARDS have been established and the implementation of CARDS is under way in Croatia. The annual contribution from the CARDS programme is around 60 million euro, allocated to economic and social development, democratic stabilisation, justice and home affairs, and administrative capacity building.

Since its introduction in 2000¹⁵, within the national component of the CARDS programme in Croatia, 113 projects have been identified with total budget of

155 m euro (29 of them being in preparation)¹⁶. Croatia is also a beneficiary of the CARDS Regional Programme, through which joint projects are implemented together with other countries of the region.

However, the CARDS programme is mostly focused on stabilisation and development, and there was a need to introduce and strengthen the elements of economic and social cohesion in the programme. Furthermore, the experience in its implementation showed that there was an urgent need for additional incentive and expert support in the process of aligning Croatian legislation with the *acquis*, particularly within the priority area of internal market. Bearing in mind the fact that countries of the region made different progress in legal harmonisation and preparation of annual programmes, Croatia supported the

idea of strengthening developing assistance that should be adapted to dynamics of legal harmonisation in each recipient country of the CARDS programme on a case-by-case basis. Investment-type projects were particularly needed to be introduced in the CARDS programme, with the view of implementing the *acquis* in fields such as environment protection, transport, technical legislation, market surveillance, and the creation of infrastructure for the functioning of the internal market in recipient country¹⁷.

On the other hand, Croatia needs to further develop institutions and strengthen its capacities to absorb the expected additional support from the EU funds. The Government is therefore making preparations for effective use of EU technical assistance as well as for effective implementation of projects.

2.2. Overview of CARDS assistance in the area of internal market

Free movement of goods; technical legislation, standardisation, accreditation and measurement

Projects¹⁸ are aimed to increase the competitiveness of Croatian industry and trade on the international market; to set up the legal and regulatory framework related to standardisation, metrology, accreditation and conformity assessment; to continue the alignment process of Croatia's technical legislation, standardization, accreditation, conformity assessment and metrology system to that of the EU, and to create institutional preconditions for the implementation

of technical legislation by supporting national standards and accreditation bodies, as well as the national metrology service; to prepare the ground for Croatia's membership and participation in the work of relevant specialised European organisations; to improve the safety of Croatian products and protection of consumers and environment; to further develop quality infrastructure; to upgrade the conformity assessment system of industrial products, and to increase the awareness of Croatian producers related to the requirements of the EU Single Market; to upgrade technical infrastructure in Croatia and in the region.

13. ISPA - Instrument for Structural Policies for Pre-Accession

14. SAPARD - Special Accession Programme for Agriculture and Rural Development

15. In 2000, the Council of EU adopted the regulation 2666/2000 on assistance to South-East Europe introducing CARDS programme.

16. Ministry for European Integration.

17. CARDS programme - preliminary assessment and perspectives of introducing elements of pre-accession strategy for Croatia. Institute for International Relations. Zagreb, May 2003.

18. Source: Ministry for European Integration

Public Procurement

Projects are aimed to contribute to the development of a sound and transparent public procurement system in Croatia in accordance with EU standards and reducing the potential for fraud and corruption.

Intellectual and Industrial Property Rights

Projects are aimed to improve the legal and institutional framework for effective implementation and enforcement of intellectual and industrial property rights; to improve the existing institutional capacity for granting of industrial property rights and process of industrial property right applications; capacity building and support to further institutional capacity building (SIPO) for IT infrastructure, training of staff.

Competition Policy and State Aid

Projects are aimed to align Croatia's competition policy with EU standards and best practices; to strengthen the institutional and administrative capacity of the Agency for Protection of Market Competition (APMC); to further develop legislation in the area of competition law and improve the capacity to deal with such cases; to improve the capacity of APMC in the area of state aid.

Taxation

Projects are aimed to increase the capacity within the tax administration services to meet EU requirements; strengthening of institutional and administrative capacity of the Customs Directorate.

Customs

Project is focused on the integrated border management.

3. Conclusions

The assessment of Croatia's readiness to integrate into the EU will depend to greatest extent on the efficiency of internal reforms, the ability and quality of implementation, but the external framework might significantly help the country to pass this test more easily, and more successfully. Finally, the factor of political willingness of the EU to integrate additional new members should not be neglected.

Introducing mechanisms similar to those that were available to the current candidate countries would significantly help and speed up the preparations for integrating into the EU. It could enhance Croatia's chances to catch up with Bulgaria and Romania in their efforts to become EU members. On the other hand, as economically the most advanced country of SAP region, Croatia has to continue rapidly with

the reform agenda and implementation of the SAA. Although significant progress in implementing the SAA was made, there is still a lot of work to be done which needs good, timely and transparent preparations. It could be expected that the country will achieve its *internal goal* to reach readiness for accession by 2007 if it continues with reforms at the same speed and efficiency.

Coordinated work on the continuation of accelerated implementation of the SAA obligations and structural reforms leading to a functioning market economy is needed. Speeding up internal reforms (particularly in the judiciary, privatisation, public administration, fiscal consolidation, and in some other areas), continuing SAA implementation and law enforcement are key preconditions for success in joining Bulgaria and Romania in the next wave of enlargement.

III. Trade-related issues

1. EU as trade partner of Croatia

- The European Union has traditionally been the main trading partner of Croatia. Since the beginning of the nineties, EU share in total Croatian exports has constantly ranged between 50-57% (54.61% in 2003), while its share in total Croatian imports amounts to 55-57% (56.53% in 2003). This means that the level of trade integration with the EU (understood as a part of Copenhagen economic criteria) is still low in comparison to former candidate countries (new member states). For example, Hungary was well integrated with the EU even before the accession, reaching the level of 80% of exports directed into the EU¹⁹.
- The most important trading partners among EU member states traditionally are Italy, Germany, Austria and France.

Table 1. Croatia's external trade by economic grouping

Economic grouping trading partner	Exports			Imports			Total Commodity Exchange		
	EUR millions			EUR millions			EUR millions		
	2002	2003	% (2003)	2002	2003	% (2003)	2002	2003	% (2003)
EU	2 745.8	2 973.8	54.61	6 322.7	7 083.3	56.53	9 068.5	10 057.1	55.95
EFTA	40.3	43.7	0.80	224.4	227.7	1.82	264.8	271.4	1.51
CEFTA	638.8	649.0	11.92	1 811.9	2 078.1	16.59	2 450.7	2 727.1	15.17
Other	1 763.2	1 779.1	32.67	2 968.0	3 140.6	25.07	4 731.2	4 919.7	27.36
Total	5 188.2	5 445.6	100.00	11 327.0	12 529.8	100.00	16 515.2	17 975.4	100.00

Source: Croatian Bureau of Statistics

- Croatia has established a free trade area with 37 countries, abolishing tariff barriers for Croatian products on the market of over 600 million consumers. Apart from the SAA/Interim (now covering 25 countries), Croatia has concluded free trade agreements with 12 countries, fulfilling its goal of carrying out more than 80% of its trade under free trade conditions. All free trade agreements, include liberalization of trade in industrial and agricultural products, horizontal provisions, rules of origin and customs issues.

19. Information sources for this chapter: National Bureau of Statistics; Ministry of Economy, Labour and Entrepreneurship; Croatian National Bank; Answers to the EU Questionnaire. Trade.

- The SAA provides for a free trade area between the EU and Croatia after 1st January 2007. It is asymmetric and favourable for Croatia, due to the fact that the EU has completely liberalised its market for all industrial and almost all agricultural and food products, while Croatia has a transition period to complete trade liberalisation of industrial products until 2007. The liberalisation of agricultural and food products is partial, since Croatia did not abolish tariff quotas for the most sensitive agricultural and food products and fish.
- With regard to EU enlargement on the 1st May 2004, Protocol 7 to the SAA/Interim Agreement was signed to take into account the EU enlargement with 10 New Members, and to keep traditional trade flows. This was necessary due to the fact that Croatia had signed free trade agreements with six out of ten new EU members and the extension of the SAA provisions to all new member states was needed. Consequently, from the 1st of May, the whole trade with the EU 25 is carried out in line with the provisions of the Interim Agreement on Trade and Trade-related Matters.
- Among the new members, Slovenia is the most important trading partner, in third place, after Italy and Germany.
- Croatia still has a low level of exports p/c, amounting approximately to 1,400 US\$ in 2003. For comparison, the export p/c in Slovenia is over US\$ 6,000, in the Czech Republic it is 4,000 US\$, in Hungary 3,000 US\$. Among others, the reason for this is the low competitiveness of the country. According to Global Competitiveness Report for 2002²⁰, Croatia's business competitiveness was positioned at the 58th place out of 95 countries, while the growth competitiveness was 53/102, placing Croatia after advanced transition countries, but still before Bulgaria and Romania. Increasing competitiveness is therefore a key issue in the country. The National Competitiveness Council, established in 2001, is focused on finding solutions to increase export competitiveness.
- Croatia is still not participating in the pan-European diagonal cumulation of rules of origin, and is therefore not in the position to fully benefit from the advantages of free trade. Enabling the SAP countries to participate in pan-European diagonal cumulation of rules of origin was one of Thessaloniki conclusions, and achieving this goal would be extremely beneficial for stimulating regional trade.

20. Global Competitiveness Report for 2002, published by International Economic Forum, Davos and Harvard, USA. 2003.

Table 2. Croatia's external trade with EU (15 + 10)

Country	Exports (000 EUR)				Imports (000 EUR)			
	2002	2003	Indices	% of total	2002	2003	Indices	% of total
TOTAL	5 188 154	5 445 622	105.0		11 327 014	12 529 753	110.6	
TOTAL EU25	3 406 830	3 675 994	108.0		8 081 852	9 017 497	111.6	
EU 15	2 745 811	2 973 807	108.3	54.61	6 322 660	7 083 333	112.0	56.53
Austria	387 839	423 764	109.3	7.78	751 346	826 492	110.0	6.60
Belgium	54 621	38 337	70.2	0.70	163 517	158 334	96.8	1.26
Denmark	11 540	14 546	126.1	0.27	97 023	103 435	106.6	0.83
Finland	5 276	11 060	209.6	0.20	52 162	46 447	89.0	0.37
France	167 364	154 845	92.5	2.84	587 936	663 469	112.8	5.30
Germany	647 347	648 396	100.2	11.91	1 838 219	1 957 548	106.5	15.62
Greece	71 784	33 032	46.0	0.61	25 690	66 263	257.9	0.53
Ireland	39 101	27 067	69.2	0.50	60 777	57 968	95.4	0.46
Italy	1 186 293	1 439 772	121.4	26.44	1 958 157	2 273 647	116.1	18.15
Luxembourg	310	179	57.6	0.00	5 260	7 698	146.3	0.06
Netherlands	44 512	42 919	96.4	0.79	212 810	241 300	113.4	1.93
Portugal	1 344	1 451	107.9	0.03	11 334	16 794	148.2	0.13
Spain	37 612	34 420	91.5	0.63	191 539	238 726	124.6	1.91
Sweden	24 453	40 173	164.3	0.74	137 599	169 726	123.3	1.35
United Kingdom	66 414	63 846	96.1	1.17	229 291	255 486	111.4	2.04
New Member States	661 019	702 187	106.2	12.89	1 759 192	1 934 164	109.9	15.44
Czech Republic	42 001	40 367	96.1	0.74	280 349	311 272	111.0	2.48
Cyprus	32 180	2 959	9.2	0.05	3 213	1 456	45.3	0.01
Estonia	1 284	455	35.4	0.01	1 759	1 693	96.2	0.01
Hungary	87 182	71 283	81.8	1.31	334 616	374 796	112.0	2.99
Latvia	3 022	2 318	76.7	0.04	1 254	1 255	100.0	0.01
Lithuania	4 523	6 228	137.7	0.11	2 457	3 412	138.9	0.03
Malta	1 472	80 441	5 463.6	1.48	1 260	414	32.9	0.00
Poland	21 404	26 676	124.6	0.49	157 859	187 744	118.9	1.50
Slovakia	16 431	20 258	123.3	0.37	101 950	124 525	122.1	0.99
Slovenia	451 520	451 202	99.9	8.29	874 475	927 597	106.1	7.40

Source: Croatian Bureau of Statistics; Ministry of Economy, Labour and Entrepreneurship

- Trade data shows significant negative trade balance. In 2002, import/export coverage was 43%, while in 2003 it was slightly lower (42%). The EU enlargement will not change the trends, since Croatia had a negative trade balance with most of the acceding countries in the past years.
- In the structure of trade, the most significant import products are vehicles (14-17% of total imports); industrial machines (6%); electrical

machines and appliances, tools, custom made machines (4-5%), textile fibres (4%)²¹.

- The most important export products to the EU are final textile products (18-19% share of export), vehicles and ships (12-15%), electrical machines and appliances (6-8%); footwear (5-6%); roughly processed wood, furniture, medical and pharmaceutical products (with the exception of medicaments), electrical appliances and devices, aluminium products, sugar etc.
- The structure of exports to the EU has not changed significantly in the last 10 years. A significant part of exports are products of labour-intensive industries (finalised textile products, footwear, wood, furniture) and products with a relatively low value added share (ships, chemical and petrochemical industry products,

metal products, natural gas).

- Croatia is recording a slow export growth, as the result of slow changes and traditional structure of the processing industry. There is a need for efficient economic policy measures focused on restructuring of economy. Trade liberalisation measures should be accompanied by efficient structural reforms, and fiscal policy measures.
- Croatia has in the past years had a low inflow of foreign direct investments. Out of a total of 7,5 mil US\$ of FDI in Croatia in the 1999-2002 period, more than 50% relates to investments in the service sector (telecommunications, financial sector and tourism); 14% in pharmaceutical industry, and 25% in other branches of the processing industry. In 2003, the FDI inflow was 1,712.95 mil US\$²².

2. Trade with other economic groupings

- Apart from the SAA, Croatia has signed agreements with the SAP countries, resulting from the Memorandum on Trade Liberalisation and Facilitation with the SEE countries, resulting from the Stability Pact; the acceding countries and EFTA, and joined CEFTA in March 2003.
- Due to the network of free trade agreements that have been signed after joining the WTO in November 2000, trade conditions have been significantly improved. Apart from the SAA/Interim Agreement (applied from 1st January 2002), which is most important one for the country, Croatia signed a number of bilateral agreements

21. Figures for the period 2000-2003..
22. National Bank of Croatia.

Table 3. Free trade agreements between Croatia, economic groupings and SAP countries

Country/ group		Date of signature	Date entry into force
E U	SAA	29/10/2001	01/02/2005
	Interim	29/10/2001	01/03/2002
	Iceland		01/08/2002
EFTA	Liechtenstein	22/06/2001	01/09/2002
	Norway		01/04/2002
	Switzerland		01/09/2002
CEFTA		05/12/2002	01/03/2003
SAP COUNTRIES			
Albania		27/09/2002	01/06/2003
Bosnia and Herzegovina		19/12/2000	
Republic of Macedonia		09/05/1997	30/10/1997
Serbia and Montenegro		23/12/2002	

CEFTA

- Croatia became a full member of CEFTA on 1 March 2003. After the EU enlargement on 1 May 2004, only three member states remained in CEFTA: Croatia, Romania and Bulgaria. transition period was agreed with Romania for sensitive industrial products. The transition period ends on 1 January 2005. Liberalization of trade in agricultural products is carried out by exchange of concessions. The level of liberalization is different for each country.
- Trade in industrial products is fully liberalized with Bulgaria, and a

Table 4. Trade between Croatia and Bulgaria

Year	Trade in goods (EUR thousands)			% of total Croatian foreign trade		
	Exports	Imports	Total	Exports	Imports	Total
2000	4 594.9	7 408.0	12 003.0	0.10	0.09	0.09
2001	9 658.5	13 388.9	23 047.4	0.19	0.13	0.15
2002	12 218.5	16 217.6	28 436.1	0.24	0.14	0.17
2003	20 836.4	37 445.4	58 281.8	0.38	0.30	0.32

Table 5. Trade between Croatia and Romania

Year	Trade in goods (EUR thousands)			% of total Croatian foreign trade		
	Exports	Imports	Total	Exports	Imports	Total
2000	3 594.3	20 968.1	24 562.4	0.07	0.24	0.18
2001	5 529.8	24 360.5	29 890.3	0.11	0.24	0.19
2002	8 012.7	46 478.4	54 491.1	0.15	0.41	0.33
2003	18 424.5	114 684.0	133 108.4	0.34	0.92	0.74

EFTA

- Free trade agreement with EFTA countries is applied since 2002. The Agreement is asymmetric in favour of Croatia, following the liberalization agreed in SAA/Interim for industrial products, while liberalization of trade in agricultural products is carried out by exchange of concessions. Trade between Croatia and EFTA countries is stagnating, which is largely due to non-participation of Croatia in the pan-European diagonal cumulation of origin because only diagonal Croatia - EFTA cumulation is not enough to benefit from Free Trade Agreement.

Table 6. Trade with EFTA countries

Year	Trade in goods (EUR thousands)			% of total Croatian foreign trade		
	Exports	Imports	Total	Exports	Imports	Total
2000	47 759.2	204 224.9	251 984.1	1.00	2.39	1.88
2001	55 128.1	216 064.2	271 192.3	1.06	2.10	1.75
2002	41 756.7	224 440.1	266 196.8	0.77	1.98	1.60
2003	42 025.9	227 723.6	269 748.9	0.80	1.82	1.51

3. Croatia and regional trade

- Resulting from the mentioned Memorandum on Trade Liberalisation and Facilitation with the SEE countries, free trade agreements were signed with Macedonia (1997), Bosnia and Herzegovina (2000), Albania (2002) and Serbia and Montenegro (2003).
- Regarding further trade liberalisation within the SAP countries, it was agreed at a ministerial conference in Rome (2003) to harmonise the existing bilateral free trade agreements between the countries of the region and to adjust them to WTO standards, thus preparing the ground for the

next steps. The expected access to the pan-European cumulation of rules of origin would facilitate the process of economic integration

into the EU. This is important not only for Croatia, but also for the other SAP countries

Table 7. External trade with SAP countries (2000-2003, thousand EUR)

	BOSNIA&HERZEGOVINA		MACEDONIA		ALBANIA		SERBIA&MONTENEGRO	
	EXPORT	IMPORT	EXPORT	IMPORT	EXPORT	IMPORT	EXPORT	IMPORT
2000	540.445,90	89.441,90	64.026,50	60.280,30	11.208,10	474,10	117.915,30	33.822,70
2001	627.263,50	142.103,20	58.783,00	70.504,10	12.324,70	982,80	166.938,30	43.794,70
2002	741.994,40	175.410,70	62.121,00	70.578,40	18.204,70	276,10	181.851,30	56.355,10
2003	788.038,60	202.785,50	62.181,70	65.575,10	24.334,00	583,30	168.016,00	67.546,10

- The Free Trade Agreement (FTA) between Croatia and Bosnia and Herzegovina was signed on 19 December 2000, and is applied from 1 January 2001. Croatia abolished all tariffs and quantitative restrictions for all products, industrial and agricultural, while B&H was gradually reducing tariffs over a transition period ending on 1 January 2004. In December 2003, B&H suspended the provisions of the Agreement, but from 1 April 2004, the Agreement is implemented fully. It is important to stress that commodity exchange between Croatia and B&H has been continuously increasing, and B&H is one of the few Croatian trade partners with which Croatia has a trade surplus.
- The FTA with Macedonia is applied since June 1997. Duties for industrial products were abolished, and only few agricultural products were exempted from full liberalization. Overall trade with Macedonia in 2002 was stagnating, and in 2003 was even lower than in 2002.
- The Free Trade Agreement with Albania is applied from 1 June 2003. Customs duties for industrial products were abolished, except for a few sensitive products for which a transition period ending on 1 January 2008 was agreed. Liberalization of trade in agricultural products is carried out by exchange of tariff quotas. Albania is one of the very few Croatian trade partners with which Croatia has a trade surplus.
- The Free Trade Agreement with Serbia and Montenegro was signed in 2002. Since the Agreement was not ratified in Serbia and Montenegro, it has not been applied. After institutional changes in the new state union, in January 2004 amendments to the Agreement were signed. Customs duties on industrial products will be abolished after the transition period ending on 1 January 2007. There are some quantitative restrictions on both sides regarding steel products, the Agreement is symmetrical. Serbia and Montenegro are traditional markets for Croatian products, which are well known and well regarded in these markets.

IV. Internal market integration

Internal market legislation represents a significant part of the *acquis communautaire*. Transposition of the internal market legislation is the main priority in the alignment of Croatian laws, and it started with the signing of the SAA in 2001, since the SAA contains significant obligations in the area of free movement of goods. Priority areas stressed by the SAA were competition and state aid; intellectual, industrial and commercial property rights; public procurement; normisation, metrology and accreditation and consumer protection²³. These areas are gradually being extended to all chapters of the *acquis*. Achievements in legal alignment and areas where additional efforts are needed are analysed in the continuation of this paper.

With the purpose to assess the development of legal and administrative capacity in Croatia, already existing documents were taken into consideration, such as the Answers of Croatian Government to the European Union Questionnaire; the National Programme for the Integration of the Republic Croatia into the European Union - 2004; Opinion on Croatia's application for membership of the European Union; European Partnership with Croatia and regular monthly reports of the Government of the Republic of Croatia on the Execution of the Implementation Plan for the SAA. It is, however, necessary to stress that this report was prepared before the National Programme for Integration

2005 was finalised, so it could not include the overview of the last developments and key steps envisaged by the Government for next year.

The alignment of legislation goes parallel with the adjustment of institutional infrastructure to the EU structures. Institutional infrastructure needed to support the *acquis* is very diverse and the development of institution framework in the area of internal market is particularly important part of the preparations for membership. As a guideline for preparation for membership, DG Enlargement prepared an informal document focusing on main administrative structures required for implementing the *acquis*²⁴, which has also been consulted in the preparation of this study. Regarding this, Croatia has the obligation to create the necessary implementing structures in order to prepare its administrative and judicial capacities to ensure effective enforcement.

Most institutions regulating free movement of goods have already been established and are in function in Croatia, although in some areas their reorganisation and strengthening is needed. It is planned that an Internal Market Department will be established within the Ministry of Economy, Labour and Entrepreneurship in 2004, while individual ministries are responsible for technical regulations in their respective areas.

23. Stabilisation and Association Agreement, Article 69-74.

24. Main Administrative Structures Required for the Implementation of the *acquis*. Overview. Informal working document for information purposes only (last update: 1 June, 2003).

1. Free movement of goods

1.1. Legal and institutional framework

The Stabilisation and Association Agreement, together with the Interim Agreement, include obligations in the area of free movement of goods, particularly regarding the establishment of free trade area. It created the basis for gradual alignment with EU technical legislation and standards, metrology, accreditation, and conformity assessment procedures.

The National Strategy for Harmonisation of Croatian Technical Legislation with the EU Legislation was adopted on 16 January 2003 and is in implementation. Framework laws in the area of technical legislation were adopted in the first stage, in order to establish an institutional infrastructure for the area of standardisation, accreditation, conformity assessment, metrology and market surveillance.

The National Strategy defined the responsibilities for the transposition and application of some New Approach directives, by adopting the following new horizontal laws in September/October 2003:

- Act on Technical Requirements for Products and Conformity Assessment
- Standardisation Act
- General Product Safety Act
- Accreditation Act
- Metrology Act

Until mid-2004, legislation regulating free movement of goods in Croatia has to a great extent been aligned with EU reg-

ulations covering the area of technical legislation, exchange of data, public procurement and free movement of cultural goods. This particularly relates to framework laws, while alignment of regulations and other secondary legislation acts with the *acquis* is under way.

Standardisation, accreditation and metrology

The separation of regulatory, standardisation, accreditation and conformity assessment functions is necessary for proper implementation of the *acquis* directives. Ideally, public administration should retain only the legislative and enforcement (market surveillance) functions, while the assessment of conformity to regulatory requirements should be carried out by third parties, with sufficient technical competence and independence²⁵. It is an important precondition for a successful functioning of market economy. The establishment of the Standards Institute in the future was suggested by the Commission to all candidates. It should work independently on implementation of EC and international standards, with voluntary participation of interested parties. Accreditation should also be entrusted to an independent authoritative body with high technical competence, with a clear distinction from conformity assessment. Conformity assessment, testing and inspection activities should be carried out by a diverse range of bodies²⁶.

25. This is explicitly stated in the document *Main Administrative Structures Required for the Implementation of the acquis*, p. 7.

26. *Ibidem*, p. 10.

In line with the previously mentioned, the need to restructure the existing framework in order to complete the necessary separation between the regulatory, accreditation, standardisation and product certification functions was stressed as a short-term priority in *European Partnership with Croatia*²⁷.

The Standardisation Act regulates the principles and goals of standardisation in Croatia, the establishment, organisation and functioning of the national standards authority, as well as definition, publication and application of Croatian standards.

The process of adopting European and international standards started in 1966 and so far there are 7,519 new Croatian standards, including 4,877 adopted European Standards²⁸. More than 98% of new Croatian standards are identical to European/international standards (adopted in their original versions or with an attached Croatian language translation)²⁹.

The new Accreditation Act regulates the establishment, organising and functioning of the body responsible for national accreditation service. The Act envisages the establishment of an independent accreditation body by the end of 2004, which must start operating by January 2005.

The Metrology Act regulates the use of legal measurements units and the establishment, organising and functioning of the body responsible for legal metrology. The system of legal metrology in Croatia corresponds to the system currently in force

in the EU, and is based on the *Old Approach Directives*³⁰.

This means that the new legal framework in Croatia provided for the establishment of independent standardisation and accreditation bodies by the end of 2004, and they must become operational by the beginning of 2005. In practice, this means that it is necessary to restructure the previously existing institutional framework in order to separate the relevant regulatory, accreditation, standardisation and product certification functions. These functions were positioned within the State Office for Intellectual Property, Standardisation and Metrology, which operated in the capacity of the national standards institute (after merging the State Office for Standardisation and Metrology with the State Institute for Intellectual Property in January 2004).

After the mentioned new laws were adopted, the Office started preparations for its reorganisation and for the separation of regulatory, standardisation, accreditation and certification functions. The restructuring process is under way and the responsibilities are being organisationally separated, providing for independent functioning of two institutions: the State Bureau of Standards and Metrology of RC, and the State Intellectual Property Office of RC.

The assistance for upgrading the institutional capacity is provided by the CARDS 2001 (EU Industrial Standards). Training for the staff of conformity assessment bodies is provided through the CARDS 2001.

27. European Partnership with Croatia, p. 8.

28. European Commission Opinion on Croatia, p. 55.

29. Answers of Croatian Government to the European Union Questionnaire. Chapter 1. October, 2003.

30. Answers to the European Union Questionnaire. Chapter 1.

Market surveillance

The purpose of market surveillance is to verify whether products are put on the market according to corresponding legislation, and to ensure protection for citizens in this respect. Market surveillance in the area of technical legislation is regulated by the State Inspectorate Act (Official Gazette No. 76/99).

The State Inspectorate (as a central state body) together with several ministries, i.e. the Ministry of Health and Social Welfare (sanitary inspection) and the Ministry of Agriculture, Forestry and Water Management (safety of animal organic products) have the responsibility to perform market-related inspection duties. Inspection activities are carried out for trade of goods, quality of products, work and work safety, electric power supply, mining, pressure vessels, tourism, catering etc. The institutions mentioned are responsible for the supervision of the application of the Law on Technical Requirements for products and for conformity assessment and the Law on General Product Safety.

The process of preparation of technical regulations (old and new approach) is still under way, and market surveillance structure required under the new approach is still to be upgraded.

Consumer protection

The Consumer Protection Act was adopted Croatia in 2003 (Official Gazette No 96/2003). It regulates for the first time the basic rights of consumers in purchasing goods and services. The Act was harmonised with EU directives in a number of areas (such as indication of prices of products, distance selling, consumer loans, advertising, unfair terms in consumer contracts, etc). However, it is only partly aligned with the Directive regulating electronic communication networks and services.

According to the Act, a Consumer Protection Council should be appointed, while the National Consumer Protection Programme is being developed. The institutional capacity in the area of consumer protection is strengthened through the CARDS 2002 project "Capacity Building in the area of consumer's protection".

Similarly to other transition countries, consumer protection is a completely new area of building legal and institutional infrastructure. This process needs to be continued and, as stressed in European Partnership, continuation of alignment with the *acquis* on safety-related matters and strengthening the administrative capacity is needed for effective market surveillance in medium-term.

1.2. Harmonisation with the *new approach* and *old approach* directives

The principle of the free movement of goods implies that products must be traded freely from one part of the Union to another. This general principle is complemented by a harmonised regulatory framework, following the *old approach* (impos-

ing product specifications) and the *new approach* (imposing product requirements).

The *new approach* directives (such as the toys directive, machinery directive, low voltage or electromagnetic compatibil-

ity directive) imply the conversion of a system based on obligatory, over-prescriptive technical requirements and obligatory state-run certification into a system where the regulatory sphere is limited to essential safety requirements; technical specifications are implemented by voluntary standards, while conformity assessment is implemented in decentralised way. At the same time, the weakening of pre-market authorisation requires the setting up of adequate market surveillance. On the other hand, in the areas covered by the *old approach* directives (foodstuffs, textiles, chemicals, pharmaceuticals, motor vehicles) a deregulatory and legislative modernisation is needed with the aim to ensure minimum safety standards through horizontal and vertical measures³¹.

Croatia already started the process of transposing the *new approach* directives into national legislation. However, a lot of work still remains to be done. The Act on Technical Requirements for Products and Conformity Assessment provides the basis for the implementation of the New Approach Directives related to certain categories of products and safety risks, as well as for introducing them into national legislation. The Act regulates the methods of defining technical requirements for products with the view of protecting life, health and safety of people, domestic animals, property and environment.

The responsible ministries have been entrusted with the implementation of the New Approach Directives. The adoption of new technical regulations aligned with the 21 New Approach Directives is envisaged by the end of 2004³².

The programme for implementation of the New Approach Directives has been drafted by the Ministry of Economy, Labour and Entrepreneurship together with the responsibilities of line ministries for introducing the New Approach Directives into the national legislation. It is important to establish efficient coordination among the ministries responsible for the transposition and implementation of the New Approach Directives and therefore the process of intra-governmental consultation was initialised. By-laws for the implementation of the New Approach Directives are planned to be adopted by the end of 2004. For some areas, different studies are under preparation in order to evaluate the existing status of legislation and infrastructure and to define discrepancies with the *acquis*.

The example of the area where it is necessary to align Croatian legislation with the new approach directives are construction products. A new Construction Act has entered into force in January 2004 and, according to it, alignment with the *acquis* is envisaged by the end of 2004.

Apart from this, the National Strategy for Harmonisation of Croatian Technical Legislation envisaged the alignment with the Old Approach Directives in areas where they remain in force³³. State administration bodies have the obligation to draft laws or define measures in order to introduce Old Approach directives into national legislation in the following areas: foodstuffs, motor vehicles, glass, textiles, footwear, wood, chemicals, detergents, fertilisers, veterinary and medical products.

31. Ibidem, p.7.

32. Government of the Republic of Croatia, (2004). National Programme for the Integration of the Republic of Croatia into the European Union - 2004 (NPPEU). Zagreb, January 2004. p.122.

33. NPPEU 2004, p.136.

Some of the sectors mentioned (such as chemicals and food) are already regulated by a number of new laws, meaning that the alignment has started, but there is need to adopt some additional by-laws to align with the remaining directives, or to set up the necessary institutions.

Chemicals is the example of a sector regulated by a number of laws in Croatia, while the EU directives will provide the basis for alignment of by-laws which will be adopted pursuant to the Chemicals Act (Official Gazette No. 173/03).

Another example is food safety and foodstuffs legislation, where Croatia has started legal harmonisation. The new Food Act (Official Gazette No. 117/03, 130/03) ensures that the basic quality requirements will make no barriers to trade, nor will they restrict the domestic industry in developing new products, while at the same time the fundamental right of consumers to safe food and full information will be wholly safeguarded. The Food Act sets a period of two years in which new ordinances on food safety have to be adopted. This process will result in a reduced number of existing regulations, putting together all product groups into so-called horizontal ordinances (e.g. Food declaration for all products).

General principles and requirements of corresponding EU legislation regarding food safety were incorporated. However, directives on labelling, presentation and advertising and on the official control of foodstuffs have been transposed only partially. The adopted legislation on

additives, contaminants, hygiene and contacts need additional alignment with the *acquis*.

Croatia has not yet introduced the Rapid Alert System for Food and Feed (RASFF), meaning that the regular procedure of information exchange with the EU member states does not function. The project on strengthening border sanitary inspection and food control envisages including the Border Sanitary Inspection into the RASSF, and the establishment of a Central Information Desk (CID)³⁴.

Within the framework of new legislation Croatian Food Agency has been established with the competence of assessment, notification and coordination of activities of risk management regarding the medical validity of food and animal food. However, there is still the need to establish necessary administrative structures to ensure and enhance food safety throughout the entire food chain³⁵. Namely, for the implementation of food safety regulation, it is necessary to establish appropriate administrative structures to carry out inspection and control of the food legislation implementation (control on hygiene of foodstuffs, food safety, irradiated food, etc).

The need to continue work on transposition of the *new and old approach* directives in the field of free movement of goods is a short term priority from European Partnership for Croatia. However, it is not only the question of legal harmonisation, since implementation and enforcement are particularly important.

34. Answers to the European Union Questionnaire. Chapter 1.

35. European Partnership with Croatia, p. 8.

1.3. Measures having an equivalent effect to quantitative restrictions

Regarding the compatibility with the principles of internal market, measures that have the equivalent effect to quantitative restrictions should be gradually abolished. This is under way in Croatia. However, there are still some such measures existing and they should be eliminated in due course, according to the provisions of the SAA³⁶.

In the case of price of food or industrial products, there are no discriminatory legal measures, regulations or administrative provisions, such as fixing the prices above or below the level on which the import or marketing the products is prohibited or restricted.

Import licences are required for imported goods from the countries that are not members of the WTO, and only for some goods (mineral or chemical fertilisers; iron tubes, pipes, etc).

Importers are not requested to have storage facilities in the territory of Croatia, which might be understood as restrictive measure. Storage facilities are only obligatory for companies trading in oil derivatives.

Marketing or imported product conditions (relating to shape, size, weight, presentation, packing) are no different from those for domestic products.

However, measures that encourage the purchase of domestic products are considered discriminatory by the EU. Croatian Chamber of Economy organises marketing activities aiming to stimulate the purchase of Croatian products, under the slogans "*Buy Croatian*" and "*Croatian Creation*". It is, however, important to stress that buyers of such products do not get any advantage by doing so.

There are no measures creating monopolies for the sale of some goods; there are also no measures which reserve certain trade names for domestic products alone.

According to the Consumer Protection Act, which defines rules on the labelling of non-food products, information on the label must be written in Croatian language and Latin script, which does not exclude the possibility of usage of other languages and signs easily understandable by the buyer. In addition to the label and instructions for use, the same information must be given in Croatian as well.

1.4. Conclusion

In the area of free movement of goods, a significant part of the work has already been done. This particularly relates to the framework laws, due to the fact that

the crucial legal acts regulating this area have recently been adopted. After the framework horizontal laws have been adopted, the transposition of the new and

36. Answers to the European Union Questionnaire. Chapter 1.

old approach directives into Croatian by-laws is needed. Therefore, the continuation of the work has to be focused on implementation and enforcement through adopting the secondary legislation, aligned with the EU directives. Further alignment is needed in the areas of technical legislation

and food safety. Furthermore, sufficient administrative capacity to apply horizontal and procedural measures is essential, so Croatia has to continue work on establishment and strengthening its institutional capacities in the area of standardisation and accreditation.

2. Free movement of persons

Under the chapter on free movement of persons, the *acquis* creates the basis for non-discriminatory treatment of workers that are legally employed in a country other than their country of origin,

including the possibility of cumulating or transferring social security rights. It also includes the rules regarding mutual recognition of qualifications and diplomas, as well as basic citizens' rights.

2. 1. Mutual recognition of professional qualifications

Community activities in this area are limited to creating the preconditions for mutual recognition of professional qualifications. Regarding professions for which sectoral Directives have been adopted, it is necessary to coordinate and align national legislation on training, giving access to the profession, and respecting the minimal training requirements set by those directives. EU member states must therefore have adequate structures to enforce the compliance with the afore-mentioned requirements, in order to certify the professional qualifications of its nationals and to administrate professional recognition requested by non-nationals. The body responsible for ensuring compliance could be either a ministry or a professional organisation, or both. While ministries are usually responsible for the training allowing access to profession, authorisation to practice may be left to a professional organisation.

Croatia has adopted the basic legislation regarding mutual recognition of qualifications. The Act on the Ratification of the Convention on the Recognition of Qualifications Concerning Higher Education in the European Region³⁷ was adopted in 2002, and Croatia ratified the Lisbon Convention in October 2002. A new act that would include the basic principles of the Lisbon Convention needs to be drafted.

The Act on the Recognition of Foreign Qualifications (Official Gazette, No. 158/03) was adopted in 2003, and its implementation started in July 2004. The Act regulates the recognition of foreign qualifications in Croatia defining a shorter recognition procedure and recognition of foreign qualifications, periods of study or examinations passed for the purpose of the adoption of the Lisbon Convention principles. However, the Act is limited to higher

37. Main Administrative Structures, p.17.

38. The Lisbon Convention was adopted in Lisbon, 11 April 1997.

education, and does not meet all the requirements of the *acquis* regarding the deadlines, motivation, right to appeal. In some of the sectors (health care) Croatian requirements do not correspond to the minimum requirements foreseen by the *acquis*³⁹. For the enforcement of the Act it is necessary to adopt by-laws that would regulate the practical implementation of diploma recognition (bearing in mind the cost of the recognition procedure, exemption from payment, and other issues).

At the moment, the National ENIC/NARIC office holds the key role in the procedures for the recognition of foreign qualifications concerning higher education.

It was established as a result of the Lisbon Convention. In the future, the Office will transfer the documentation for the recognition to the Agency for Science and Higher Education, which will be responsible for the official recognition of foreign qualifications, on the basis of assessments made by relevant bodies of universities, colleges and higher education institutions, and the recommendation of the National ENIC/NARIC office.

The establishment of the Agency is foreseen by the Act on Scientific Activity and Higher Education (Official Gazette, No. 123/03), which regulates the new system of higher education.

2.2. Citizens' rights and social security

Regarding access to education, EU citizens have the same treatment as Croatian citizens regarding primary and secondary education. The right to enrol into the university is exercised under the same conditions, but foreign citizens having the status of a regular student have to pay the tuition fee set for foreign students⁴⁰. In this respect, it will be necessary to adjust Croatian legislation with the principle of non-discrimination on grounds of nationality⁴¹.

Croatian regulations do not make it possible for persons who are not Croatian citizens to participate in elections. In a future, Croatia will have to allow EU citizens residing in Croatia to vote and to stand as a candidate in municipal elections and elections for the European parliament. In order to make it possible, the

Constitution has to be changed.

In Croatian legislation covering social security there are no examples of unfavourable treatment of foreigners as compared to Croatian nationals⁴².

Foreigners who are beneficiaries of pension and health insurance schemes in the country have the same rights and obligations as Croatian nationals. The payment of pensions to foreign citizens who do not have residence in Croatia is in line with international agreements or on the basis of reciprocity, if social security agreements have not been concluded. Foreign citizens can also consume their right to social security in the event of unemployment under the same conditions as Croatian citizens, if they have permanent residence.

39. European Commission Opinion on Croatia, p.58.

40. Answers to the Questionnaire. Chapter 2. p.15.

41. Article 12 of the Treaty.

42. Answers to the Questionnaire. Chapter 2. p.41.

2.3. Free movement of workers

The SAA states the obligation to align Croatian legislation with the *acquis* and creates the basis for compatibility of domestic legislation covering the migration policy with that of the EU.

Free movement of workers is regulated by the Act on the Movement and Residence of Foreigners and the Act on Foreigners.

According to the Act on the Movement and Residence of Foreigners and the Act on Employment of Foreigners, *work permits* are necessary for foreigners. However, the Act on Foreigners (which entered into force in July 2003 and has been implemented since January 2004), which regulates visas, residence of foreigners and their employment in Croatia, significantly simplified the procedure of obtaining *work permits*.

The Act envisages an *annual quota of work permits*, determined by the Government in accordance with the migration policy. Migration policy is determined by Croatian Parliament, following a proposal by the Government, every two years. The proposal for the annual quota of work permits is based on the opinion delivered by Croatian Employment Bureau on the necessity of employment of foreigners. The quota, however, does not refer to work permits issued to certain categories of foreign workers, among others to foreign workers and members of their families

whose status is regulated by the SAA.

An innovation regarding this is the introduction of a *business permit*, which allows easier and more flexible movement of workers, especially of foreigners who have a registered business or a related industry, managers, etc.

The enforcement of the Act on Foreigners and its implementing regulations, which stipulate in detail the status of foreigners, the issuance of identity cards to foreigners and the work of foreigners, falls within the competence of the Ministry of the Interior.

According to the Labour Act (Official Gazette, 38/95; 54/95; 17/01, 82/01, 114/03) discrimination on grounds of nationality (direct or indirect) against migrant workers in employment, pay and working conditions is prohibited. This particularly relates to direct or indirect discrimination against persons seeking employment against already employed persons. However, pursuant to the Act on Civil Servants and Civil Service Employees, admission of foreign citizens to civil service requires a preliminary approval of the responsible ministry⁴³. According to the *acquis*, only posts directly related to specific activities of the public service (those involving the exercise of public authority and the responsibility of safeguarding the general interest of the State) may be reserved for Croatian citizens.

43. Ibidem, p.22.

Regarding tax and social advantages and the right to vocational training, EU workers are in the same position as Croatian citizens. Tax benefits, social benefits and social insurance benefits are calculated on the same principle as for Croatian citizens.

Regarding language requirements, the knowledge of Croatian language is needed in the health sector, as well as in pharmaceutical and biochemistry activity. The same requirement relates to public notary service and registration in the Register of Attorneys. Although it is not specifically stated in relevant acts, teaching in primary school can be exercised only by teachers who are able to teach in Croatian⁴⁴. However, mandatory requirements for language proficiency can under the *acquis* only be applied in very exceptional circumstances, on a case by case basis⁴⁵, and it will therefore be necessary to make adjustments in legislation.

Conclusion

In the area of free movement of persons, adjustments will be needed in medium term in order to align the legislation with the *acquis*, particularly in the area of mutual recognition of professional qualifications. It also relates to the area of citizens' rights (residence and voting rights, access to higher education) and free movement of workers (non-discrimination of EU migrant workers)⁴⁶.

Continuation of alignment with the *acquis* is needed, particularly regarding mutual recognition of professional qualifications and diplomas and development of institutional structures (which are already envisaged by newly adopted legal acts). In medium term, it is necessary to continue with the elimination of discriminatory measures towards EU migrant workers and citizens and to strengthen the structures for co-ordination of social security schemes⁴⁷.

3. Freedom to provide services and right of establishment

3.1. Introduction

Member States must ensure that the right of establishment and the freedom to provide services anywhere in the EU is not hampered by national legislation. The *acquis* prescribes harmonised rules which must be respected if the internal market is to function. This mainly concerns the financial sector, which includes banking, insurance, investment services and securities markets. A single market in financial services has long been an EU objective. In a Single Market, financial institutions author-

ized to provide financial services in one Member State would be able to provide the same services throughout the EU, competing on a level playing field within a consistent regulatory environment. Apart from financial services, harmonised rules concerning personal data protection and certain information society services must also be respected. In general, all barriers to the establishment or provision of cross-border services by private or legal entities from the EU need to be abolished.

44. Ibidem, p.29.

45. Commission Opinion on Croatia. P.59.

46. Ibidem, p.60.

47. European Partnership with Croatia. p.12

Regarding the necessary institutions for implementing this, the Commission suggested to candidate countries to establish supervisory authorities to oversee the credit institutions, including the granting of authorisations and monitoring of prudential requirements. Competent authorities should be designed to supervise the security market, including the admission of securities to official listings. The establishment of supervisory authorities is suggested in order to supervise insurance companies, including the granting of authorisations and monitoring of prudential requirements⁴⁸.

By signing the *Stabilisation and Association Agreement*, Croatia undertook the obligation of gradual liberalisation of the supply of services between the EU and Croatia. The legal framework for the free movement of services in the SAA is regulat-

ed in Title V, "Movement of Workers, Establishment, Movement of Services, Capital", and in particular, Chapter II "Establishment", Articles 43 - 48, and Chapter III "Movement of Services", Articles 49-55.

The legal framework for the free movement of services for present Member Countries is defined in Part Three of the Treaty Establishing the European Community on Community Policies relating to Title III "Free Movement of Persons, Services and Capital", Chapter 2 "Right of Establishment", Articles 44 and 47 (former Articles 54 and 57), Chapter 3 "Services", Articles 52 and 55 (former Articles 63 and 66), Title VI "Common Rules on Competition, Taxation, and Approximation of Laws", and Chapter 3 "Approximation of Laws", Articles 94 and 95 (former Articles 100 and 100a)⁴⁹.

3.2. Financial Services

One of the principal elements of successful transition from centralized to market economy is the creation of a well-developed financial sector. Through the financial sector, private savings and available capital are distributed as investments crucial for the development of national economy. Besides banks, which dominate the financial market, Croatian financial sector consists of insurance companies, savings and loans cooperatives, pension funds, investment funds, leasing companies, brokerage houses and two capital markets.

The banking sector in Croatia has developed into a strong and stable system

distinguished by the highest level of foreign ownership in the transition countries (more than 90% of total assets). In order to ensure further stable development of the entire financial system, Croatian Government has made considerable efforts towards the alignment of its legal and supervisory framework with EU standards in the field of financial services. The banking sector has the best position, i.e. it has made the biggest steps towards compliance with EU legislation, while in the fields of insurance market, investment services and securities markets Croatia has to take additional steps in order to ensure further development and alignment with the *acquis*.

48. Main Administrative Structures Required for Implementing the *acquis*. P.19.

49. Government of the Republic of Croatia, (2004). National Programme for the Integration of the Republic of Croatia into the European Union - 2004 (NPPEU). Zagreb, January 2004.

3.2.1. Legislative and institutional framework

Banking sector

The main legislation governing the banking sector is the Banking Act (Official Gazette No. 84/02), which provides a good basis for the alignment. Despite the fact that it does not cover all aspects of the relevant EU *acquis*, it brings the banking sector in line with current global and European standards in banking (partial compliance has been achieved for example in the part relating to the refusal to issue authorisation for the supply of services). The Banking Act distinguishes between conditions for the establishment and operations of branches of EU Member States banks and branches of foreign banks in the territory of Croatia. It should be noted, however, that the provisions of the Banking Act which regulate the operations of branches and the provision of banking and other financial services by EU Member States banks, will be applied as of the date of Croatia's full membership in the European Union. Until such time, they are subject to the provisions that govern the establishment and operations of branches of foreign banks. Such banks may establish a branch in the territory of Croatia if they obtain authorisation from CNB. Apart from this, as European Commission stressed in its opinion, divergences between Croatian law and the *acquis* for the banking sector appear to be mainly of a technical nature, covering issues such as co-operation between supervisory authorities, exchange of information between Croatian competent authorities, minimum capital requirements, and the adaptation or the introduction of some legal definitions in Croatia's national law.

Apart from the Banking Act, another important act in the area of banking is the Croatian National Bank Act (Official Gazette, No 36/01) which governs the status, operations, ownership status, powers and organisation of Croatian National Bank and its relationship with the Republic of Croatia, commercial banks and international institutions and organisations. Croatian National Bank is the central bank of Croatia. It enjoys operational autonomy and independence and is responsible to Croatian Parliament. In drafting the Croatian National Bank Act, experts drew on the experience of the European System of Central Banks and, in March 2001, just before the Act's adoption, experts of the European Commission central banking system gave their opinion on the Banking Act Draft⁵⁰. In light of the degree of development of the country's financial system and the country's position with regard to its rapprochement to the European Union, a number of comments provided in that opinion were incorporated in the provisions of the Croatian National Bank Act. CNB is continuing to strengthen banking supervision by moving toward a more risk-based approach.

The establishment of the deposit (savings deposits) insurance scheme in Croatia is regulated by the Act on the State Agency for Savings Deposit Insurance and Bank Rehabilitation (Official Gazette, Nos. 44/1994, 79/1998, 19/1999) and by the Ordinance on Deposit Insurance (Official Gazette, Nos. 65/1997, 105/1998, 86/2000). The deposit guarantee scheme is explicit, i.e. institutionalised and regulated

50. International Monetary Fund: Republic of Croatia: Financial System Stability Assessment, August 12, 2002, Washington.

by law. The State Agency for Deposit Insurance and Bank Rehabilitation is established, in accordance with the Act on the State Agency for Deposit Insurance and Bank Rehabilitation, as a specialised financial institution for deposit insurance in banks and savings banks and for the implementation of bank rehabilitation procedures. The founder of the State Agency for Savings Deposit Insurance and Bank Rehabilitation is the Republic of Croatia, which guarantees for its commitments. The provisions of this Act are partly in line with Directive 94/19/EC on deposit-guarantee schemes. A new Savings Deposits Guarantee Scheme Act is planned for adoption by the end of the third quarter of 2004, by which further steps will be taken towards alignment with the Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes and with national legislations of EU countries in that field. The full harmonization will be achieved once Croatia enters into the EU.

In the first half of 2004, a Draft Interest Rates Act was adopted in response to the multitude of interest rate calculations on the market. The main goal was to provide protection against usurious interest. The text of the Act incorporates the alignment and implementation provisions of the Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts.

Savings and loans co-operatives are licensed and supervised by the Ministry of Finance pursuant to the Savings and Loans Cooperatives Act. If these institutions are to be regarded as credit institutions, legislation regarding them should be changed in order to meet EU standards, especially those regarding the minimal amount of capital, risk exposure and questions (problems) regarding the supervisory authority.

Insurance market

The insurance market in Croatia is highly concentrated. It is dominated by non-life insurance with about 80% of gross written premium; the largest class by far is Motor Third Party Liability (around 1/3 of premium income). The share of foreign-controlled companies in the domestic insurance market does not exceed 25%, although their share of life insurance is above 50%. The main legislation governing the insurance system is the Insurance Act and the Act on Mediation and Representation in Insurance. The Insurance Act is partially aligned with EU directives regulating life insurance, non-life insurance and vehicle insurance. However, until the end of the year, a Draft Insurance Act will be drawn up in accordance with the provisions of the Stabilisation and Association Agreement, EU regulations governing the insurance sector, and solutions found in national legislations of EU Member States. The main institutions, insurance companies and Croatian Insurance Bureau, have been established on the basis of the Insurance Act. The organization and resources available to the supervisory authority (The Directorate for Supervision) need to be strengthened in order to allow it to effectively perform its functions. Croatian Insurance Bureau represents insurance companies in international institutions, protects traffic casualties and deals with damage in foreign states. The Bureau also manages the guarantee fund for payment of certain damages in the field of mandatory insurance.

Securities market

Securities market in Croatia is still underdeveloped. Two stock exchanges exist in Croatia; the Zagreb Stock Exchange and the Varaždin Stock Exchange. Croatia's leg-

islative framework regulating securities markets and collective investment enterprises provides a basis for the necessary alignment with the *acquis*. The main legal acts are the Securities Market Act and the Investment Funds Act. An investment compensation scheme has not yet been created. For the year 2005, it is planned to draft a New Investment Funds Act, which will take into account EU directives and the experience of European countries in the field of collective investment enterprises.

The main supervisory authority regulating the securities market is Croatian Securities Commission (CROSEC), which was established in 1996 and became oper-

ational towards the end of 2002, with the nomination of all its members and the adoption of its Statute by Croatian Government. It is necessary to strengthen the powers of the CROSEC and to clarify its procedures in order for it to become more effective. Additional efforts should be made to strengthen its supervisory capacity.

There is no specific legislation on conglomerates, e-money institutions (only banks are entitled to issue e-money) and winding-up of credit institutions. Last year, Croatian Parliament adopted a Programme for Supervision of Financial Institutions and the Financial Market on a Consolidated Basis, but it is still in the opening stage.

3.2.3. Right to establishment

Pursuant to the Companies Act, under the terms specified by law, foreign companies and sole traders are treated the same way as domestic persons in carrying out their business activities on the territory of the Republic of Croatia (Article 612). In order to carry out a business activity on the territory of the Republic of Croatia, foreign companies and sole traders must establish a branch or a subsidiary. After that, they are treated in the same way as domestic companies.

However, Croatian regulatory framework still contains some barriers for private and legal entities from the EU, which need to be abolished. For example, Croatian securities legislation requires any company established in Croatia that has more than 100 shareholders and a share capital greater than 30 million HRK to be listed on a stock exchange. This requirement constitutes a barrier to establishment by EU operators. As regards the directly applicable provisions of the EC Treaty concerning the freedom to provide services, Croatia will need to remove the barriers to

the provision of cross-border services by EU companies. Croatian law does not distinguish between operators established in EU Member States providing services on the territory of Croatia on a temporary basis and those providing services through a permanent establishment, but EU service providers currently cannot pursue a business activity in Croatia without establishing a branch or a subsidiary. However, this will be abolished once Croatia enters the EU. They may provide cross-border services only temporarily, on the basis of a contract or agreement with a Croatian company, by providing a service in their own country and sending it by post, telephone or fax, or in the electronic form to a customer in the Republic of Croatia.

Moreover, Croatia's legislation contains a number of requirements which may constitute barriers to the provision of services on an occasional or temporary basis. As a general requirement, there should be a possibility for Croatian companies or sole traders to establish subsidiaries

in foreign countries on a reciprocity basis,⁵¹ where this provision does not apply to an establisher with a seat in a WTO Member State. From 1 January 2004, the minimum equity capital requirement for a limited liability company shall be 20,000 HRK and for a joint-stock company 200,000.00 HRK. On the occasion of establishing a branch or a subsidiary, the requirements fulfilled by a business in its state of establishment are the basis and a prerequisite for the operation on Croatian market in the form of limited liability company and joint-stock. Without the evidence on satisfying the requirements in its own country (registration and suc-

cessful operations), the business cannot operate in Croatia.

As regards financial intermediaries, pursuant to the specific laws they must establish a branch in order to conduct their transactions. For example, foreign brokerage companies licensed to conduct transactions in securities may establish their branch offices in Croatia pursuant to the Securities Market Act and a license issued by the Commission. Furthermore, there is no possibility for an investment company from the EU to manage a pension fund in Croatia directly⁵².

3.2.4. Personal Data Protection and information society services

The legal framework for the exchange of data is provided by the Personal Data Protection Act (Official Gazette No. 103/03), aligned with the Directive 95/46/EC. The Act is the first of its kind in Croatia. The legislation includes "adequate level of protection" requirements for transfers of personal data to third countries, but does not provide for the derogations foreseen in the directive on personal data protection. The Act constitutes the basis for the establishment of the Personal Data Protection Agency as a new body. It has been officially established recently (April 2004), and will be responsible for supervising personal data protection.

Bearing in mind the fact the new Directive 2004/27/EC, adopted by the EU

Parliament and the Council this year, there is need for further alignment of regulations in respect of data exclusivity and other requirements.

Regarding information society services, Croatia has adopted the Electronic Commerce Act. The Act is partly in line with the *acquis*. Additional steps need to be taken in order to achieve full alignment, such as prohibition of the production, manufacturing, sale and distribution of pirate smart cards and other devices circumventing the encryption of conditional access services, as well as to ensure adequate sanctions. It is also important to ensure adequate means of supervision in this area and cooperation with authorities in other EU Member States.

51. For example, the need to provide certified translations of documents, the need to obtain a licence to exercise a craft, and the need for both a "manager" and an "authorised representative".

52. Every pension fund management company must be registered in Croatia in accordance with the national legislation

4. Free movement of capital

4.1. Introduction

European Union insists on free movement of capital, which means the elimination of capital controls and all kinds of administrative regulations that discriminate based on the principle of the origin or destination of capital, as well as all regulations that directly or indirectly influence the free movement of capital. With certain exceptions regarding national and public safety, all residents of the candidate countries are entitled to free transactions. But before the complete liberalisation of capital flows, it is necessary to meet certain pre-conditions in order to ensure that economic stability is not endangered (clear, transparent and efficient legal system, developed and efficient financial markets, and stable macroeconomic environment). Movement of capital has been liberalised gradually by the EU, and this kind of approach is also expected from the candidate countries.

However, there will be a need for new legal and administrative structures in the areas where previously practices or sectoral policies have relied on capital movement restrictions or control mechanisms used to implement them. For example, the responsible body for balance-of-payments statistics should be the Central Bank. Examples of sectoral policies that have to be adapted to free movement of capital include the area of inward direct invest-

ment, acquisition of real estate, and financial services. Furthermore, a legal and institutional framework has to be established to allow the application of safeguard clauses and sanction rules⁵³.

This approach is also expected from Croatia. The first step, which Croatia has already taken, is the liberalisation of all current transaction and movements of long-term and medium-term investments of capital (with expiration period longer than one year). In the second stage, which Croatia plans to start in 2006, the country is expected to eliminate all barriers for short-term capital, for transfer of resources with maturity less than a year, for the trading of securities and bonds, for opening deposit accounts abroad, and export and import of money. The remaining restraints relating to investment into real estate should also be abolished. Parallel with the first and second stage of liberalisation, it is also expected to align the legislation in all other areas related to the liberalisation of capital. Within the frame of enlargement of the EU, Croatia and other candidate countries will not have the possibility of partial adoption of EU regulations and integration at their own pace, but the EU leaves the possibility to limit movements of short-term capital in extraordinary situations, over a limited period of time, and under certain specific conditions.

4.2. Legal Framework

Before signing the Stabilization and Association Agreement (SAA), with respect to Article VIII of the Articles of Agreement of the International Monetary Fund, Croatia liberalized all current transactions with foreign countries in 1995. According to the SSA⁵³, Croatia has the obligation to liberalize capital movement within certain specific periods.

Apart from the SAA, Croatia has made significant steps towards further liberalisation of the market and has concluded a number of Free Trade Agreements. These Agreements contain provisions concerning the freedom of current payments, in accordance with Article VIII of the Articles of Agreement of the IMF. In addition, Croatia has signed mutual Investment Promotion and Protection Agreements with 28 countries. These Agreements contain provisions concerning the transfer of funds in direct investments.

By the adoption of the Foreign Exchange Act (FEA), which came into force on 18 June 2003, Croatia finished the first stage of liberalization of capital movements. The FEA has provided the legal framework for a full liberalisation of direct investments, payments for the acquisition of ownership of real estate of residents abroad and non-residents on the territory of the Republic of Croatia, as well as mid-term and long-term credit transactions. The

FEA also provides for a certain number of restrictions on short-term credit transactions, securities transactions, deposit transactions and personal and physical transfers of assets.

Unrestricted capital transactions, under the FEA, include:

1. Direct investments of residents abroad and of non-residents in Croatia; (transfer abroad of profits made by any non-resident through direct investment is unrestricted, provided that all profit tax relating to the amount to be transferred abroad has been paid in Croatia. Foreign direct investments have to be reported to Croatian National Bank for the purpose of monitoring the outturn of the country's balance of payments projections. Residents have to report any investment or any subsequent change in investment to Croatian National Bank within 30 days after a direct or other equity investment by non-residents.)
2. Under Article 21 of the FEA, a resident may transfer funds abroad for the purpose of acquiring ownership of real estate abroad, provided they have met all the legally prescribed obligations. A non-resident is allowed to make payments for real estate on the territory of Croatia without restrictions;

53. Main Administrative Structures Required for Implementing the acquis. p.23.

54. Title V. Movement of Workers, Establishment, Supply of Services, Capital, Chapter IV. Current Payments and Movement of Capital, Articles 59 - 61; Title VI. Article 69; Title VIII. Article 84 Banking, Insurance and Other Financial Services; and Article 85. Investment Promotion and Protection.

3. Residents are allowed to take credits abroad. Residents may grant financial credits with a maturity of over one year to non-residents. Non-residents may be granted financial credits by banks, residents in connection with direct equity investment, and by blood-related residents (spouses, parents, children, siblings);
4. Personal transfers of assets are unrestricted for non-residents. Personal transfers of assets in connection with gifts and grants up to the amount of EUR 3,000.00 are unrestricted for residents. For any amounts exceeding the said amount, an approval has to be obtained from CNB
5. Deposit transactions of non-residents are unrestricted.

Under Article 78 of the FEA, after four years from the date of coming into effect of the SAA, the restrictions on the following capital transactions will cease to be valid:

1. Granting financial credits to non-residents with a maturity of less than one year;
2. Residents' investments in securities on the capital and money markets abroad;
3. Issuance, listing, and sale of foreign securities on the capital and money markets in the Republic of Croatia;
4. Non-resident investments into securities and stakes in investment funds in the Republic of Croatia;
5. Personal transfers of assets in connection with gifts and grants in the amount exceeding EUR 3,000.00 as regulated by the Decision Governing the Conditions for Granting Approvals for the

Personal Transfers of Assets Abroad on the Basis of Gifts and Grants that has been in force since 23 July 2003.

Restrictions on deposit transactions of residents are covered by Article 29 of the FEA and the Decision Governing the Conditions for Granting Approvals for Opening Foreign Exchange Accounts Abroad (Official Gazette, No.111/2003). Approvals for opening foreign exchange accounts abroad are granted by Croatian National Bank in accordance with the conditions set out in the said Decision. Under Article 31 of the FEA, payments based on insurance contracts are unrestricted, provided the contract is concluded in accordance with the regulations governing insurance. Restrictions on payments in connection with insurance contracts are governed by the provisions of the Insurance Act (Official Gazette, Nos. 46/1997, 116/1999, 11/2002), whose adjustment to the *acquis* is planned for the last quarter of the 2004, in line with the gradual liberalisation of these payments planned under the SAA.

Under Article 6 of the Insurance Act, assets and persons can be insured with insurance companies domiciled in the Republic of Croatia and branches of foreign insurance companies registered in the Republic of Croatia. The Government of the Republic of Croatia has issued a Regulation on the Assets and Persons and the Conditions under Which They May Take out Insurance with a Foreign Insurer (Official Gazette, No. 137/1999).

The basic law regulating the area of securities is the Securities Market Act (Official Gazette, no. 84/02). Institutional investors (investment funds, pension funds, insurance companies etc.) each have their legally prescribed restrictions on investments.

Investment funds may invest in securities of foreign issuers pursuant to the Investment Funds Act (Official Gazette, Nos. 107/1995 and 12/1996). Under this Act, investment funds securities must consist of securities listed in the official quotation for sale in the stock exchange in the Republic of Croatia or stock exchanges or other regulated markets in EU Member States and other OECD countries (exceptions to this rule are listed in Article 9, Paragraph 1, items 2 and 3, and Paragraphs 2 and 3). Investment funds cannot invest more than 5% of their value in securities of a single issuer; however, exceptionally, they can invest up to 10% of their value into securities of a single issuer, provided that the total value of such securities by other issuers does not exceed 40% of the value of a particular investment fund. Bonds issued by EU Member States and other OECD Member States, with regard to the said investment restrictions, are calculated at one half their value. Open investment funds may acquire bonds by a single issuer only under the condition that their nominal amount does not exceed 10% of the total nominal amount of all bonds by the same issuer if in circulation. Shares by a single issuer may be acquired for an open investment fund only provided that the voting rights attached to the shares of the single issuer do not exceed 10% of the total voting rights shares of that issuer. In 2005, Croatia intends to draft a new Investment Funds Act to conform to the new UCITS Directive.

The Compulsory and Voluntary Pension Funds Act (Articles 69-70, Official Gazette, Nos. 49/1999, 63/2000, 103/2003) defines the types of foreign securities that funds may invest into, as well as quantitative investment restrictions. The most important quantitative restriction on foreign investment of Croatian compulsory pension funds is that they cannot invest

more than 15% of their assets outside the Republic of Croatia, provided the relevant country has a long-term credit rating for debt issued in foreign currency of a minimum of A according to Standard and Poor's or A2, according to Moody's (Pension Funds Additional Investment Criteria and Investment Restrictions Regulation, Official Gazette, No. 35 of 5 April 2002 and No. 128 of 5 November 2002, Article 2, paragraph 3).

Foreign financial assets that Croatian compulsory pension funds may invest into comprise:

1. long-term bonds or long-term debt securities issued by other countries, traded in regulated capital markets of OECD countries (maximum 15% of assets);
2. long-term bonds or other debt securities issued by foreign non-government entities; shares issued by foreign joint stock companies and shares of foreign closed funds traded in regulated capital markets of OECD countries (maximum 10% of assets);
3. shares of foreign open investment funds, taking into account that these funds should invest primarily in securities of issuers registered in the Republic of Croatia or any of the OECD countries (maximum 5% of assets).

Pension funds (both compulsory and voluntary) may not invest more than 5% of their assets in securities of a single issuer or of two or more issuers combined if these are related persons (in the Republic of Croatia this implies the Republic of Croatia and Croatian units of local and regional self-administration). Hagea (the Agency for the Supervision of Pension Funds and Pension Insurance), on the basis of its legal authorisations, issued Additional Pension

Funds Investment Criteria and Investment Restrictions Regulation, prescribing additional restrictions on foreign investment as follows:

1. short-term bills issued by OECD countries (maximum 10% of assets)
2. bank deposits in foreign banks (maximum 5% of assets);
3. foreign corporate commercial papers (maximum 5% of assets).

As a result of amendments to the Act (adopted in July 2003) that helped liberalise somewhat the restrictions on foreign

investments of voluntary pension funds, these funds can now invest a maximum of 20% of their assets outside the Republic of Croatia. In addition, the Act on Pension Insurance Companies and Payment of Pension Annuities on the Basis of Individual Capitalised Savings (Official Gazette, Nos. 109/1999, 63/2000) imposes restrictions on investment of technical reserves of pension insurance companies. Article 69, Paragraph 6 of that Act states that the Agency for the Supervision of Pension Funds and Pension Insurance (Hagena) is authorised to adopt regulations governing the investment of technical reserves abroad as well as detailed conditions for such investments.

4.3. Restrictions on short-term capital flows⁵⁵

At present, according to CNB information, there is no intention to liberalise its short-term capital flows. The main reason lies in the view that short-term capital flows are the most volatile and thus pose the greatest danger for the country's monetary, exchange rate and overall economic stability. Currently, the country also has to deal with the problem of relatively shallow and underdeveloped financial markets, in particular the money market, which, it is believed, has to be kept away from premature exposure to international competition. A proper functioning of the money market is the necessary precondition for the monetary policy that uses predominantly indirect monetary instruments connected with the money market. International experience from emerging markets and transition countries shows that, in the forthcoming

period, larger inflows into the country are more likely than outflows from the country. This is compatible with theoretical considerations, because Croatia, just like other transition countries, is more characterised by scarcity of capital than developed EU countries, making investment of capital in Croatia more productive compared with any developed EU country. Yield rates on securities in Croatia are by far larger than those earned on securities in developed European countries, so it is very probable that even in the case of a full liberalisation of capital flows for both residents and non-residents, capital inflows would outstrip the outflows.

As for the instruments affecting capital inflows, CNB may influence the exchange rate movements and to a lesser

55. The reasons and explanations in part of the text are mainly taken from CNB's answers to EU Questionnaire (Chapter: Free movement of Capital) due to the fact that it is the institution which under the Foreign Exchange Act, may, in the case of larger payments and foreign exchange market disturbances, impose temporary restrictions on capital movements (of six months maximum).

degree short-term interest rates movements. Similarly, CNB may impose administrative control on non-resident investment in short-term securities. For example, CNB may prescribe that non-residents have to open a custody account with a bank and sign a statement guaranteeing not to alienate or pledge the acquired securities, except to/with another non-resident. In addition, non-residents may not invest in Croatian National Bank Notes and Treasury Notes of the Ministry of Finance. Liberalisation of investments abroad, also controlled by CNB, may be used in reply to excessive capital inflows from abroad. CNB also has at its disposal certain measures directed to banks only (currency risk exposure, reserve requirements, minimum liquidity, etc.).

Under the Foreign Exchange Act, in line with the country's obligations under the SAA and practice in developed countries, CNB may, in the case of larger payments and foreign exchange market disturbances, impose temporary restrictions on capital movements (of six months maximum) that might include:

- measures restricting the rights of residents to use funds held in their accounts abroad or in their foreign exchange accounts in the Republic of Croatia;
- measures obliging the banks to sell to Croatian National Bank any foreign exchange derived from exchange transactions of banks and authorised exchange offices;
- measures restricting credit transactions between residents and non-residents; measures restricting payments and collections in connection with foreign liabilities and claims;
- measures restricting the transfer of securities, foreign cash and gold into and from the Republic of Croatia;
- measures restricting securities and gold transactions between residents and non-residents, and measures restricting the issuing of guarantees or sureties, offering of pledges or other instruments of collateral for the account of non-resident.

In the event of a more significant annual capital inflow, a more balanced opening of the capital account might be considered. As mentioned previously, the return on capital in Croatia by far outstrips comparable returns in developed European countries. Similarly, the return on securities (either equity or debt) in Croatia is higher. Capital outflows can thus occur only because of the need to balance residents' portfolios and/or portfolio risk diversification. As such portfolios in Croatia are small and to a great extent consist of foreign exchange (because of high euroisation), a large increase in foreign exchange supplies is not probable; rather, the restructuring of portfolios will involve turning cash and short-term foreign exchange accounts into long-term securities (either equity or debt).

4.4. Property Rights as a part of Free Movement of Capital

The establishment of free movement of capital requires that all restrictions on capital flows be removed, including restrictions on investments in real estate. This, however, does not mean that the parties would be denied the right to keep certain restrictions on real estate acquisition under their national legislation, but such restrictions should be aligned with the principles normally laid out by Community rules regarding market freedom restrictions. This follows from the Joint Declaration concerning Article 60 of the SAA, whereby the parties agreed that the provisions of Article 60 of the SAA would not be construed to prevent proportionate, non-discriminatory restrictions to the acquisition of real estate based on general interest. Restrictions to the acquisition of ownership would be allowed if they serve some general interests. They must be in line with the principle of proportionality, i.e. those should be restrictions the impact of which cannot be achieved through a less restrictive measure, and their intensity must be proportionate to the objective that it is trying to achieve.

Owing to a special Constitutional provision in Article 48 Paragraph 3 of Croatian Constitution ("Official Gazette", 124/00), according to which "a foreign person may acquire property under conditions specified by law", the legal regime of acquiring property by foreign persons may be arranged differently in comparison with domestic legal entities. There are immovables that may by no means be objects of ownership rights (general goods) or objects

of legal transactions aimed at acquiring property (public goods in general use) such as water in rivers, lakes and the sea, and the coast. In line with the Maritime Code (Official Gazette, 17/94, 74/94, 43/96) a maritime demesne is a general good of interest for the Republic of Croatia which enjoys particular protection and is applied and/or used under the conditions and in the manner stipulated by law. Ownership rights or other proprietary rights may by no means be acquired on a maritime demesne (Article 51). A maritime demesne may be given to use only via concessions or lease. According to the Waters Act (Official Gazette, 107/95) waters are general goods that enjoy particular protection of the Republic (Article 3). There is another category of immovables the use of which is very similar to general goods; however, they may be objects of ownership rights. Those are public goods (such as water goods, public roads). Public goods are owned by the Republic of Croatia or other legal subjects of public law. In relation with the above mentioned immovables, domestic and foreign private or legal entities have the same legal status insofar as both categories are excluded from the opportunity to acquire property rights on them (i.e. to conduct legal transactions involving those immovables).

The Act on Ownership and other Proprietary Rights includes general rules on proprietary rights of foreign persons. As opposed to domestic legal entities, which in every case have the ability to become

owners of all types of real estate on Croatian territory (if they are in legal transactions), foreigners may become owners of real estate on Croatian territory only if additional prerequisites stipulated by the Act have been fulfilled. The Act stipulates the preconditions under which foreign private or legal entities may become owners of real estate in the Republic of Croatia, dependent on the legal foundation of property acquisition. In line with the provision of Article 356 Paragraph 1 of the quoted Act, foreign private and legal entities may become owners of real estate on the basis of inheritance provided that the condition of reciprocity is met.

In all other cases, i.e. on all other legal foundations (legal transaction, court or administrative decision) foreign private or legal entities may, under Article 356 Paragraph 2 of the quoted Act, unless otherwise stipulated by law, become owners of real estate in Croatia if two preconditions have been met: the first is reciprocity, and the second is the approval by the Minister of Foreign Affairs of the Republic of Croatia (accompanied by a previous opinion of the Minister of Justice, Administration and Local Self- Government). It is important to emphasise that under Article 358 Paragraph 1 of the Act, foreigners may not be owners of real estate in an excluded area, i.e. an area that has been declared excluded by law for the sake of protection and security of the Republic of Croatia. In addition to the above mentioned restrictions spelled out by the Act on Ownership and Other Proprietary Rights, in some other specific laws of the Republic of Croatia restrictions have been listed for foreigners as owners of certain types of real estate. Article 1 of the Agricultural Land Act (Official Gazette, 66/01 and 87/02) explicitly states that foreigners may not be owners of agricultural land.

Article 1 Paragraph 3 of the Forests Act (Official Gazette, 52/90 - final draft, 5/91, 9/91, 91/91, 14/93, 76/93, 8/00 and 13/02) determines that foreign private and legal entities may not become owners of forests and forest land, unless otherwise stipulated by an international agreement.

Also, the provision of Article 40 Paragraph 3 of the Act on the Protection of Nature (Official Gazette, 30/94 and 72/94) regulates that only domestic private and legal entities may acquire ownership rights over real estate located in the protected parts of nature (national parks, parks of nature, strict nature reserves, special nature reserves, park forests, protected landscape, monuments of nature and monuments of park architecture).

The provisions of Articles 37, 38 and 39 of the Act on the Protection and Preservation of Cultural Goods (Official Gazette, 69/99) prescribes a restriction in the trade of movable and immovable cultural goods in terms of the legal right of pre-emption to the benefit of the Republic of Croatia, the City of Zagreb, the town or municipality in whose area the cultural good that is being sold is situated. This restriction to acquisition of property rights refers to both domestic and foreign private or legal entities.

The Mining Act (Official Gazette, 35/95) Pursuant to Article 9 of this Act a concession (permission) for the exploration and exploitation of mineral raw materials may be granted to a legal person headquartered in the Republic of Croatia and registered for these activities (a company) and to a physical person registered as a craftsman for exploration and exploitation of mineral raw materials (a craftsman). This provision implies that a concession may not be granted to a foreign legal person, whereas a foreigner registered as a crafts-

man in the Republic of Croatia may be granted a concession.

The Islands Act (Official Gazette, 34/99) Pursuant to Article 1 Paragraph 1 of this Act "the islands as Croatia's natural asset and the real estate on them of special national, historical, economic and ecological importance are of interest to the Republic of Croatia and deserving of its special care". However, the Islands Act does not provide for restrictions to acquiring property rights for foreigners, so that foreigners may become owners of real estate on islands as well, except for those parts of the island which are included in the restrictions defined by other laws, i.e. when

it comes to a maritime demesne. The right of ownership is ensured in regular court proceedings before courts having jurisdiction.

With respect to movement of capital for acquiring property rights, it needs to be emphasised that the Companies Act (OG, no. 111/93, 34/99 and 52/00) does not make a distinction between legal entities/corporations based on their founders. Therefore, already at present, there is a possibility for daughter companies of Community corporations founded in Croatia, since they are Croatian companies, to acquire property rights without limitations.

4.5. Further steps and conclusion

In 2004, Croatia plans to continue with the approximation of legislation and practice with EU criteria towards capital account liberalisation and with the aim of aligning conditions of conducting business with international conditions. Macroeconomic stability must be maintained during the process. Among all other legislation planned for 2004 and 2005 (mentioned in the chapter Free Movement of Services), regarding the Movement of Capital and Current Payments, CNB will draft a Proposal of instruction on implementation of the Decision governing the conditions for and the manner of performing external payment operations (to be applied as of 1 January 2005). Until the end of 2004, CNB will also determine the dynamics of further liberalisation of capital transactions. The analysis of the influence of lifting individual

capital restrictions on the macroeconomic stability of the Republic of Croatia will continue on the basis of macroeconomic indicators. Based on the analysis results, decisions will be made on further liberalisation of the capital account.

At the end, it must be emphasised that this is just a part of legislation relating to free movement of capital. Further liberalisation of capital transaction is an important step towards the EU and the whole progress of Croatian economy. Despite possible instabilities and dangers for national economy, experiences from countries that liberalised the movement of capital outflow show that this measure actually increased capital inflow. This is also one of the ways towards a market-based and efficient economy.

5. Customs

According to the Stabilisation and Association Agreement, Croatia has the obligation to align the customs legislation with the *acquis* (trade-related areas, Article 69). Furthermore, co-operation in policies and activities aimed to ensure a balanced and integrated approach towards drug control is envisaged; reducing the supply of, trafficking in, and the demand for illicit drugs as well as ensuring a more effective control of precursors (Article 79). The SAA envisages co-operation in the control and prevention of trade in counterfeit products and smuggling (Article 80); co-operation in the area of customs aimed at paving the way for deregulation measures (Article 89) and alignment of co-operation and mutual assistance among customs bodies.

Legal framework

Croatian customs legislation is for the most part in line with the EU Customs Code. Namely, during 2000, the basic Croatian customs system regulations were aligned with key EU regulations and amended later in accordance with the changes of the *acquis*. Croatia has adopted most of material law and procedural provisions encompassed by EU customs regulations. The progress in legal harmonisation has been achieved through the adoption of the following legal acts/regulations:

- Croatian Customs Act (Official Gazette, nos. 78/99, 94/99, 117/99, 73/00, 47/03), aligned with the Council Regulation 2913/92 on establishing the Community Customs Code,
- Customs Act Implementation

- (Official Gazette, no. 1161/03), Regulation on Conditions and Procedures for Realisation of Exemption from Duty (Official Gazette, no 154/03).
- Customs Service Act (Official Gazette, no. 67/01) Official Gazette

Croatian customs tariff has been aligned with the *acquis* through:

- Customs Tariff Act (Official Gazette, no. 61/00 and 117/00)
- Regulation on Customs Tariff (annually adopted, continuous alignment of the customs tariff nomenclature with current changes in the Combined Nomenclature, as well as annual abolishment of duties according to the SAA schedule).

Continued alignment with the EU Customs Code is still a priority (supported by the CARDS projects, focused on institution capacity building, legal gaps analyses and training).

There are legal areas that are not aligned, such as regulations on transit procedures (particularly mutual recognition of transit documents). Another area where alignment is not completed includes mutual recognition of documents on deposits of insurance instruments against customs debt settlement. Furthermore, Croatian customs service needs to show and confirm to the EU customs authorities the ability to ensure efficient execution of transit procedures⁵⁶.

56. NPPEU, 2004.

Institutional capacity

In order to prepare candidate countries for the accession, the Customs Blueprint process was launched in 1998, resulting in thirteen Customs Blueprints, each of them representing a pillar of best practice for the functioning of a modern customs system within the internal market⁵⁷. The main requirements for candidate countries were defined regarding the improvement of operational capacity, organisation and management, training, trade facilitation, infrastructure and equipment.

In short, apart from other requirements, national customs system of Croatia should become fully compliant with the Community Integrated Tariff (TARIC) and the country should be in the position to participate in the EU-wide "new computerised transit system" (NCTS) one year before the accession to the EU.

The administrative body authorised to implement customs regulations is Customs Directorate, organised within the Ministry of Finance. Some of the activities that were previously within the Customs Directorate (second-instance customs administrative procedure and offence procedure) have been entrusted to an independent service. The Customs Directorate needs to be strengthened through contin-

ued institution-building for the successful alignment of its procedures with EU requirements. There are difficulties in introducing internationally recognised coding system, in adopting secondary legislation, and in developing standardised rules and procedures. The Customs Directorate has elaborated the Customs Reform and Modernisation Program, focused on strengthening of administrative and operational capacity and efficiency as a priority.

Strengthening and consolidating the administrative and operational capacity of customs service is a priority in this area, stressed also in European Partnership. There is a need to expand the training of all staff and increase the use of information technologies; to develop a Code of Ethics for the customs service as well as strengthen the auditing and the use of risk assessment and selectivity.⁵⁸

The CARDS programme continuously supports the adjustment of customs to the *acquis*. The CARDS 2002 will continue the support for institutional capacity building (training on EU laws and customs policy, development of national tariff system compatible with TARIC, development of procedures, preparation of manuals, etc), while CARDS 2004 will focus on the requirements of joining the NCTS and will carry out the gaps analyses for TARIC.

57. Main Administrative Structures required for implementing the *acquis*, p. 77.

58. European Partnership, p.13.

59. D. Kulis: "Tax system and its Adjustment to the EU Standards", *Privredni vjesnik*, Zagreb July 2004, pp. 42-44.

6. Taxation

Legal framework

The following new legal acts have been adopted in Croatia the area of taxation:

- General Tax Act (Official Gazette, nos. 127/00, 86/01, 150/02),
- Income Tax Act (Official Gazette, nos. 127/00, 150/02, 163/03),
- Profit Tax Act (Official Gazette, nos. 127/00, 163/03),
- Value Added Tax Act (Official Gazette, nos. 47/95, 106/96, 164/98, 105/99, 54/00, 73/00)
- Act on Real Estate Transaction Tax (Official Gazette, nos. 69/97, 153/02),
- Act on Financing Local and Regional Self-Government Units (Official Gazette, nos. 117/93, 69/97, 33/00, 59/01, 107/01, 117/01, 150/02, 147/03).

The Income Tax Act and the Profit Tax Act do not contain provisions that are contrary to the *acquis communautaire*. The system of income taxation in Croatia is in line with EU recommendations. However, it will be necessary to remove the significant difference in the share of collected income tax in total tax revenue: it has ranged around 10% in the past several years, as compared to the EU average (around 25%)⁵⁹. Furthermore, the profit tax rate in Croatia is considerably lower than in most EU Member Countries (20%).

Croatian system of taxation of goods and services transactions is based on the Value Added Tax Act adopted by Croatian Parliament in 1995, which became effective on 1 January 1998. The uniform tax rate is 22%. The Act has been

amended several times, allowing the expansion of tax reliefs and introduction of the zero taxation rate on certain goods and services (bread, milk, medicines, books, scientific journals, orthopaedic devices, services of organised stays of foreign tourists in Croatia, and public showing of films). Croatian value added tax system is not completely in compliance with the Sixth EU Directive concerning institutional approach to taxation of financial and insurance services. The zero tax rate for particular deliveries of goods and services is contrary to the Sixth Directive, which prescribes the zero rate only for export deliveries.

Excise duties are regulated by special laws covering different groups of goods and services. Excise duty on coffee, was introduced in July 1993 as the first one, other excise duties were introduced later.

The Excise Duty on Personal Cars, Other Motor Vehicles, Vessels and Aircrafts Act provides for two types of taxes: excise duty (levied on new and used cars, other motor vehicles, vessels and aircrafts imported or manufactured and sold in the Republic of Croatia) and special sales tax (imposed on the sales of used personal cars, other motor vehicles, vessels and aircrafts purchased or acquired by private and legal entities in the country).

On 1 January 2002, excise duties were transferred from the jurisdiction of the Tax Administration to the Customs Administration, with some exceptions. A reorganisation of the administration will be needed in order to establish an excise duty service (drafting of legislation, supervision, statistics, record keeping and accounting, administrative decisions). Furthermore, it is necessary to:

- improve the quality of the laws and excise duty ordinances,
- establish and enforce the appropriate organisational structure of the Excise Duty Service, together with adequate human resources development,
- supervise the movement of goods subject to excise duties, warehousing system and application of regulations concerning the assessment and control of settling tax liabilities.

The Act on Real Estate Transactions Tax (Official Gazette, nos. 69/97, 153/02) imposes taxes on the acquisition of real estate (purchase and sale, exchange, inheritance, donation, inclusion or exclusion from the company, or any other transfer of real estate ownership), lands and buildings, apart from the acquisition of buildings or their parts that have been built, delivered or paid for following the onset of application of the Value Added Tax Act, which are therefore taxed by the value added tax. The Act on the Amendments to the Real Estate Transactions Tax Act (Official Gazette, no. 153/02) prescribes the exemption of individuals who have purchased their first real estate (apartment, house, land) for their own residential needs from the real estate transactions taxation.

Institutional Capacity

In order to evaluate the administrative capacity of candidates in the implementation and control of the *acquis*, the Fiscal Blueprint has been elaborated by the Commission (DG Taxud) in cooperation with member states in 1999⁶⁰. It included eleven Fiscal Blueprints, as pillars for best practice of modern administration in a

Single Market. These guidelines should be followed in Croatia's adjustment in the period of pre-accession.

In Croatia, the Ministry of Finance is responsible for the implementation of customs and tax regulations, including its independent administrative organizations, i.e. Tax Administration, responsible for direct and indirect taxes, and Customs Administration, responsible for customs and excise duties.

The Tax Administration is responsible for the application of tax regulations and regulations concerning compulsory contributions (Official Gazette, nos. 67/01, 70A/01, 94/01). The Tax Administration consists of the Headquarters, regional offices and branch offices as constituent parts of regional offices.

Customs Administration performs customs control, customs duty calculation and collection, performs the calculation, control and collection of excise duties. The Customs Administration consists of the Headquarters, regional customs offices, encompassing branch offices and customs sections.

There is a need to establish the Excise Duty Service within the Customs Administration, which would perform activities related to the preparation of regulations concerning excise duties in compliance with EU guidelines, supervision, statistics, record-keeping and accounting, etc.

Conclusions

The tax system reform is under way in Croatia. However, the legislative frame-

60. Main Administrative Structures required for implementing the *acquis*, p. 43.

work is still not in compliance with EU regulations. This relates to Croatian system of indirect and direct taxation, which have not been fully harmonised with the EU directives. It is therefore necessary to continue work on the alignment of legislation with EU regulations, to prepare the tax service strategy, and to restructure and modernise the Tax Administration information system (IT) and strengthen human resources development. Particular areas that need completing alignment with the *acquis* are VAT and excise duties (including free zones in the territorial application of VAT and abolishing the existing VAT zero rates and the sales tax). Croatia needs to commit to the principles of Code of Conduct for business taxation⁶¹.

In the initial stage, alignment of Croatian tax legislation should be focused on the Value Added Tax Act and Excise Duties Act. It is necessary to draft the uniform excise duty act and by-laws for its implementation, which would allow better monitoring of transactions of goods subject to excise duty and ensure more efficient supervision. Apart from it, it is necessary to ensure the prescription of tax warehouses.

In the area of direct taxation, the existing Corporate Income Tax Law and Income Tax Law should be aligned with the EU directives⁶². Cross-border exchange of information with Member States needs to be enhanced in accordance with the provisions of Savings Directive, while Merger Directive should be fully implemented.

The existing problems are a low level of taxpayers' knowledge and lack of information concerning their tax rights and obligations, resulting from inadequate

communication between the tax authorities and taxpayers; voluntary payment of taxes by taxpayers is not at the satisfactory level, indirect taxation costs are high, and there is a lack of access to modern technologies in the tax administration branch offices.

The tax administration modernisation strategy needs to be prepared and steps should be taken towards introducing the electronic tax administration (in order to allow submitting tax returns and forms through electronic means). Furthermore, it is necessary to introduce modern technologies ensuring higher quality service to taxpayers, reorganise the Tax Administration, aligning it with the international standards and positive EU practice, and to provide training for its employees regarding service to taxpayers. Human resources development is needed for a modern, autonomous and efficient inspection supervision service. There is a lack of trained inspectors for the supervision of big taxpayers, related companies and financial institutions, especially for the supervision of multinational companies and supervision of non-merchandise service transfer prices.

Furthermore, it is necessary to improve data exchange with other supervisory and related authorities, including further development of databases that need to be complementary with other supervisory services and in compliance with the international data exchange standards. The establishment of VAT Information Exchange System (VIES) is already planned by Croatian Tax Administration for 2005 as well as the development of computerised system for the intra-Community movement and monitoring of excisable goods (EMCS) and services.

61. European Partnership, p. 12.

62. Interest and Royalties Directive and with Parent/Subsidiary Directive regarding Withholding tax

At the beginning of November 2004, the Ministry of Finance presented a draft of the new tax reform. According to the plan, the non-taxable part of the monthly income would rise from 1,500 Kuna to 1,600 Kuna while the total tax relief in a year could reach 12,000 Kuna. One of the novelties is the introduction of the category '*other kind of income*', which is earned by athletes, singers, and

artists whose income would be taxed under the relevant rules. The Government is also planning to revoke tax on dividends in order to attract more investors and to make Croatian legislative framework more similar to the European standards. The social partners (The Government, Croatian Employers' Association and Social Council) will still discuss the new reform in the following period before its implementation.

7. Public procurement

Legal framework

Public procurement is one of the areas in which Croatia first started work on legal harmonisation. The public procurement system is regulated by the Public Procurement Act (Official Gazette No. 11/01), the Act on the State Commission for Control of Public Procurements Procedures (Official Gazette No. 117/03), the Regulation on the Procurement Procedures for Goods, Works and Services of Lesser Value (Official Gazette No. 14/02) and the Regulation on Announcements and Records of Public Procurement (Official Gazette No. 14/02)⁶³.

The Public Procurement Act was adopted as the first act of its kind in Croatia. It followed EU directives, although not all the aspects of the alignment were incorporated, so it was only partly harmonised with EU principles. The first stage of legal approximation was undertaken through the Act, while the second one remains to be done. It was also necessary because of an additional reason: two new

EU directives were brought in the meantime, in 2004, due to which public procurement *acquis* passed through significant recent changes. In order to achieve full alignment with the *acquis communautaire*, the following two new Directives should be taken into account:

- Directive 2004/17/EC, coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors.
- Directive 2004/18/EC, on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.

However, it is also necessary to complete the alignment with some previously existing directives⁶⁴. Alignment is expected to be finalised by the end of 2004, in co-operation with SIGMA consultants and with the help of the European Commission Delegation to the Republic of Croatia.

The new Public Procurement Act is part of the *impact assessment* pilot project, aiming to introduce better regulation. This means that the new act has to be accompanied by analyses of impacts on economic sector, budget and other relevant areas. The necessary by-laws and implementing legislation will have to be prepared soon, based on the new act.

There are several areas that should be improved by adopting the new act. The exceptions to the existing Public Procurement Act are quite broad and should be diminished. For example, present exceptions⁶⁵ include bodies which were established to engage in activities of public interest, which are not subject to the Act provisions. Also, the scope of use of negotiated procedures should be reconsidered. Direct dealing in negotiation procedure should be restricted. The improved procurement legislation should introduce the option of electronic auction as well as e-procurement. The review and monitoring procedure should be improved, following the lately adopted Directives, including the competence of the State Commission. Implementation measures should be adopted.

Apart from this, the question which should be raised is the implementation. The recent Bechtel example showed that the obligations of implementing rules on public procurement are not always respected, and that in such cases there might be need for Government (not even the EU) reaction in order to respect the rules.

Presently, the second stage of the public procurement system reform, including complete alignment with EU directives, is under way, with the goal of adjusting to the required conditions and procedures with requirements, principles and rules of international institutions and models applied in the EU⁶⁶. The principle of transparency and non-discrimination in public procurement procedure should be incorporated into the system.

This is in line with the recommendations of the European Partnership, which stressed that Croatia should ensure an effective and transparent public procurement regime to become fully operational, together with adopting the necessary implementing regulation. The medium term priority is to make substantial progress towards complete alignment with the *acquis*.

Institutional capacity

As a precondition for the successful integration into the internal market, a body responsible for managing the different aspects of public procurement policy has to be established. Its tasks include ensuring that the rules are properly applied, giving expert advice on public purchasing and providing information and training on public procurement. It is important that tender notices are published nation-wide. Awarding contracts must be precisely defined. Monitoring and review bodies should be established⁶⁷.

63. NPPEU 2004. p.143.

64. 92/50/EEC; 93/36/EEC; 93/37/EEC (directives concerning the co-ordination of procedures for the award of public works contracts); 93/38/EEC (co-ordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors). Source: NPPEU, 2004.

65. Article 6.

66. NPPEU 2004, 146.

67. Main Administrative Structures Required for the Implementation of the *acquis*. P. 16.

The area of public procurement in Croatia is within the responsibility of Ministry of Finance. The State Commission for Public Procurement Control and the Public Procurement Office have been set up recently (end of 2003). Those were obligations stated by the SAA.

The Public Procurement Office is in charge of implementation, supervision and application of the Public Procurement Act and its relating by-laws. The Office gives prior consent, instructions and opinions to users regarding the implementation of the Act, and gathers, registers, processes and analyses data on procurement, it files criminal charges to the State Attorney's Office, participates in the drawing up of draft pro-

posals of acts and by-laws concerning public procurement and performs other activities within its scope.

The State Commission for Control of Public Procurement Procedures deals with complaints and reviews the public procurement procedures. It has the task of ensuring fair legal protection based on legality, material truth, impartiality, efficiency and sound market economy. The setting up of Commission and Public Procurement Office will contribute to functioning of new transparent public procurement system. Both new bodies are independent. However, it is important to ensure their full operational functioning and build human capacities.

8. Intellectual, industrial and commercial property rights

8.1. Intellectual, industrial and commercial property rights

Legal harmonisation

Alignment of legislation on intellectual, industrial and commercial property rights is regulated by Article 36 of Interim Agreement. The alignment of legislation in this area is relatively well advanced in Croatia and broadly in line with the *acquis*. Even before the accession to the full membership in the WTO, Croatia adopted several acts relating to the area of property rights (copyright, patents, trademark, industrial design, etc). In 2001, a review of the acts was conducted by WTO experts. In 2003, the following new acts were adopted and are in implementation since January, 1st 2004⁶⁸:

- The Act on Copyright and Related Rights. The Act has been aligned with relevant EC Directives⁶⁹ and covers supplementary protection certificate for medicinal products,
- The Patent Act has been aligned with the *acquis*⁷⁰. Chapters on European patent application and the European patent were introduced in the Act, thus meeting the precondition for direct application of the Cooperation and the Extension Agreement in the field of Patents between Croatia and the European Patent Organisation (EPO).
- The Trademark Act has been harmonized with the Council Directive

- 89/104/EEC relating to trade marks).
- The Industrial Design Act has been aligned with Directive 98/71/EC on the legal protection of designs.
 - The Act on Protection of Geographical Indications and Designations of Origin of Products and Services has been aligned with Council Regulation (EEC) No. 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs;
 - The Act on Legal Protection of Topographies of Semiconductor Products has been aligned with Council Directive 87/54/EEC on the legal protection of topographies of semiconductor products.

The mentioned laws are aligned with some directives, but are not completely aligned with the provisions of the *acquis*; the full alignment will have to be undertaken before membership in the European Union. However, some of the new acts will have to soon to be amended, such as the new Patent Act, which will need amendments due to the necessary alignment with recent changes in Patent Cooperation Treaty (PCT).

At the same time by-laws and regulations covering different areas have been drafted but are not yet in implementation (patent regulations; trademark regulations;

industrial designs regulations; regulations on geographical indications and designations of origin of products and services; regulations on the protection of topographies of semiconductor products).

Croatia is a party to the following multilateral treaties⁷¹:

1. WTO/TRIPs Agreement
2. WIPO Convention
3. WIPO Copyright Treaty
4. WIPO Performances and Phonograms Treaty
5. Berne Convention for the Protection of Literary and Artistic Works
6. Universal Copyright Convention (1952 and 1971)
7. Convention for the Protection of Producers of Phonograms Against Unauthorised Duplication of their Phonograms
8. Convention Relating to Distribution of Programme-carrying Signals Transmitted by Satellite
9. Rome Convention
10. Paris Convention for the Protection of Industrial Property
11. Patent Cooperation Treaty (PCT)
12. Strasbourg Agreement Concerning the International Patent Classification
13. Budapest Treaty on the International Recognition of the Deposit Micro-Organisms for the Purposes of Patent Procedure

68. The laws were to great extent aligned with international conventions and agreements of which the Republic of Croatia is a party, covering all kinds of IP rights: Paris Convention for the Protection of Industrial Property, Convention Establishing the World Intellectual Property Organization (WIPO Convention) Agreement on Trade Related Aspects of Intellectual Property Rights (WTO TRIPs Agreement).

69. 91/250/EEC on Computer Programs; 92/100/EEC on Rental Rights; 93/98/EEC on the Term; 96/9/EEC on Database; 2001/29 on Copyright in the Information Society; 2001/84/EEC on the Artists' Resale Right

70. The Act has also been made in accordance with European Patent Convention, Patent Cooperation Treaty, Strasbourg Agreement Concerning the International Patent Classification and Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

71. Answers to the Questionnaire. Chapter 5. p.23.

14. Madrid Agreement Concerning the International Registration of Marks
15. Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks
16. Locarno Agreement Establishing and International Classification for Industrial Designs.

Croatia introduced a special border regime with the objective to prevent import, export and transit of pirated goods. Customs Measures for IPR Protection have been introduced and, since October 1st 2003, Customs Directorate in Croatia has started to apply the Regulation on Implementing Customs Measures with Goods Infringing Intellectual Property Rights (Official Gazette, No 106/2003). The regulation is aligned with EU⁷² directives .

Procedures for filing in the security are prescribed under the Act of rules for submitting the security instrument regarding the costs for keeping and maintaining the goods during the implementation of the customs measures (OG, No 167/2003).

Customs measures apply at the following cases: release of goods for free circulation, export, re-export, placing goods under suspensive procedures and placing goods into free zones or free warehouses. Customs measures for IPR protection shall be taken on the base of written application or *ex officio*.

Institutional/Administrative Capacity

In order to effectively implement the *acquis*, it is necessary to have at least one national authority to which nationals and others can present applications for one or different kinds of intellectual and industrial property protection. Such authority should have enough capacity and enough competent staff to make decisions and to carry out relevant administrative acts⁷³.

The State Intellectual Property Office (SIPO), which was established as a state administration body responsible for the area of intellectual property, merged with the State Institute for Standardization and Metrology in December 2003. Since April 2004, it is again functioning as an independent institution, in accordance with the new framework legislation.

There is a need for strengthening the administrative capacity and reorganise SIPO, and these activities are supported by the CARDS 2001 project. Furthermore, complete alignment in the field of intellectual and industrial property rights, including the fight against piracy and counterfeiting, is stressed as a medium term priority in European Partnership with Croatia.

72. The Regulation is based on Article 70 Paragraph 3 of the Customs Code, Article 51 - 59 of the Agreement on Trade-Related aspects of Intellectual Property Rights, Council Regulation (EC) No 3295/94 of 22 December 1994, laying down measures concerning the entry into the Community and the export and re-export from the Community of goods infringing certain intellectual property rights, Council Regulation (EC) No 241/99 of 25 January 1999, Commission Regulation (EC) No 1367/95 of 16 June 1995, laying down provisions for the implementation of Council Regulation (EC) No 3295/94 and draft WCO implementing border measures.

73. Main Administrative Structures... p.27.

V. Summary of recommendations⁷⁴

General recommendations

- Negotiation structures, their obligations and responsibilities should be defined in the shortest possible time, together with a wider negotiation team that will prepare negotiation positions;
- The process should be kept transparent, particularly regarding the preparations for negotiations. Experts should be invited to take part in the process.
- The process of legal harmonisation should be speeded up, bearing in mind that the key issue is not only the quantity of new, aligned acts, but their implementation and enforcement. It is particularly important in the area of Internal Market, where Croatia has adopted the framework legislation, while at this stage it is necessary to
- prepare secondary legislation. Preconditions for preparing better regulation should be made through introducing obligatory impact assessment into the legal procedure.
- Public administration reform should be speeded up and adjusted to needs of the EU integration process, with giving special attention to human resources management-keeping well-trained staff in the process of negotiations from the beginning until the end, avoiding brain drain;
- The process of institutional capacity building should be continued and strengthened, particularly in newly established institutions and agencies that have not yet properly started operating.

Trade

- Full implementation of measures aimed at increasing competitiveness of Croatian industry and trade on the international market is needed.
- Participation in Pan European Diagonal Cumulation of Rules of
- Origin should be stressed by all means, as a priority. Trade liberalisation measures should be accompanied by efficient structural reforms, and fiscal policy measures.

74. Among others, this summary includes the most important measures underlined in European Partnership.

Free movement of goods

- Transposition of the *new* and *old* approach directives into Croatian by-laws is needed. Continuation of the work has to be focused on implementation and enforcement through adopting the secondary legislation, aligned with EU directives.
- Sufficient administrative capacity to apply horizontal and procedural measures is essential, so Croatia has to continue work on establishment and strengthening its institutional capacities in the area of standardisation and accreditation.
- It is necessary to continue the alignment process of Croatia's technical legislation, standardization, accreditation, conformity assessment and metrology system to that of the EU, and to create institutional preconditions for the implementation of technical legislation by supporting national standards and accreditation bodies, as well as the national metrology service;
- Measures should be taken in order to prepare ground for Croatia's membership and participation in the work of relevant specialised European organisations.
- Further alignment is needed in areas of food safety, together with improving the safety of Croatian products and protection of consumers and environment.
- The conformity assessment system of industrial products should be upgraded and the awareness of Croatian producers related to the requirements of the EU Single Market raised.

Free movement of persons

- Continuation of alignment is needed in medium term in the area of mutual recognition of professional qualifications; the area of citizens rights (residence and voting rights, access to higher education) and free movement of workers (non-discrimination of EU migrant workers, strengthening structures for co-ordination of social security schemes).

Free movement of services and capital

- In the field of the insurance market, investment services and securities markets, Croatia has to continue the harmonisation in order to ensure further development and alignment with the *acquis*.
- The existing institutions and resources responsible for the supervision of insurance and securities market need to be strengthened in order to be more effective.
- The Programme for Supervision of Financial Institutions and the Financial Market on a Consolidated basis should be further developed and implemented.
- The remaining barriers regarding the right of establishment for private and legal entities should be abolished.
- Alignment of legislation and practice with EU criteria towards

capital account liberalisation should be continued, with the goal of further harmonising national conditions of conducting business with international conditions.

- Further liberalisation of capital

Customs

- Administrative and operational capacity of customs service should be strengthened. There is a need to widen the training of staff and increase the use of information

Taxation

- The tax administration modernisation strategy needs to be drafted, together with preparations for introducing electronic tax administration. Modern technologies should be introduced; Tax Administration should be reor

transactions will be an important step towards the EU. The dynamics of liberalisation should be defined based on a detailed analysis. Macroeconomic stability must be maintained during the process.

technologies; to develop a Code of Ethics for the customs service as well as strengthen auditing and the use of risk assessment and selectivity.

ganised in line with international standards and positive EU practice, and training provided for Tax Administration employees, ensuring higher quality service to taxpayers.

Public procurement

- The second stage of the public procurement system reform should be finalised leading to complete alignment with the EU directives and to adjustment to the conditions and procedure, principles and rules of international institutions and models in the EU. The principle of transparency and non-discrimination in public procurement procedure should be incorporated into the system.
- Within an effective and transparent public procurement regime in accordance with EU standards, the potential for fraud and corruption should be reduced. The system should be enforced and become fully operational through the adoption of necessary implementing regulation. Substantial progress towards complete alignment with the *acquis* is needed.

Intellectual property rights

- Administrative capacity should be strengthened and State Intellectual Property Office reorganised. Complete alignment in the field intellectual and industrial property rights, including the fight against piracy and counterfeiting, is needed.
- Improving the legal and institutional framework for effective implementation and enforcement of property rights is required, as well as improving the existing capacity for granting of industrial property rights and process of industrial property right applications.

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APPENDIX

CROATIAN MEMBERSHIP IN INTERNATIONAL ORGANISATIONS

1. CEFTA - full member, March 5, 2003
2. WTO - full member since 2000
3. ETSI - full member since 1994.
4. 80 CEN/TC, 30 CENELEC/TC, 1 ETSI/TC - observer status
5. CEN, CENELEC - associated member since 1995
6. EAL (European Co-operation on Accreditation of Laboratories) - affiliate member, 1997
7. EA (European Co-operation on Accreditation) - associate member, 1999
8. ILAC (International Laboratory Accreditation Co-operation) - full member, 2002
9. EPO (European Patent Organisation) - member ?
10. Paris Convention for the Protection of Industrial Property - Croatia is a party
11. Convention Establishing the World Intellectual Property Organization (WIPO Convention)
12. Agreement on Trade Related Aspects of Intellectual Property Rights (WTO TRIPs Agreement)
13. Memorandum on Trade Liberalisation and Facilitation (concluded within the Stability Pact) - signatory party since June 2001.
14. WTO/TRIPs Agreement
15. WIPO Convention
16. WIPO Copyright Treaty
17. WIPO Performances and Phonograms Treaty
18. Berne Convention for the Protection of Literary and Artistic Works
19. Universal Copyright Convention (1952 and 1971)
20. Convention for the Protection of Producers of Phonograms Against Un-authorised Duplication of their Phonograms
21. Convention Relating to Distribution of Programme-carrying Signals Transmitted by Satellite
22. Rome Convention
23. Paris Convention for the Protection of Industrial Property
24. Patent Cooperation Treaty (PCT)
25. Strasbourg Agreement Concerning the International Patent Classification
26. Budapest Treaty on the International Recognition of the Deposit Micro-Organisms for the Purposes of Patent Procedure
27. Madrid Agreement Concerning the International Registration of Marks
28. Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks
29. Locarno Agreement Establishing and International Classification for Industrial Designs.

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REPUBLIC OF MACEDONIA

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