



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 27 October 2008

14637/08

**DOCUMENT PARTIALLY
ACCESSIBLE TO THE PUBLIC**

LIMITE

ELARG 103

COVER NOTE

from : General Secretariat
to : Working Party on Enlargement and Countries Negotiating Accession to the EU
Subject : Accession Negotiations with Croatia
- Chapter 12: Food safety, veterinary and phytosanitary policy

Delegations will find attached a draft Common Position on the above-mentioned chapter, submitted by the Commission¹.

¹ This document has been transmitted to the Council in English only.



EUROPEAN COMMISSION

Directorate-General Enlargement

Director-General

Brussels, 27 October 2008

ACCESSION NEGOTIATIONS

CROATIA

DRAFT COMMON POSITION

(following Croatia's negotiating position CONF-HR 21/08)

Negotiation chapter 12

Food safety, veterinary and phytosanitary policy

I. INTRODUCTION

Position of Croatia

Croatia accepts the acquis under chapter 12 as in force on 1 January 2008 **DELETED**. Croatia states that, at this state, it considers September 2009 as a target period for concluding its accession negotiations with the EU.

Croatia states that Croatian legislation is to a large extent aligned with the acquis under this chapter. Croatia further states that while an appropriate institutional framework for the implementation of the acquis in this chapter is already in place certain adjustments and administrative capacity strengthening of the existing bodies and institutions are still required.

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Overall evaluation

Croatia has made good overall progress with regard to the transposition of the acquis in this chapter into national legislation. Croatia has adopted the Strategy for Transposition, Implementation and Enforcement of the acquis for Food Safety, Veterinary and Phytosanitary Policy, which provides a framework with detailed time schedules and action plans. It will be an instrument for the comprehensive work that is still required to ensure full compliance in this field before the day of accession.

As regards general food safety and veterinary policy, Croatia has made good progress in adopting implementing legislation based on the Food Act and Veterinary Act already in compliance with EU requirements. Substantial efforts are still required to prepare secondary legislation as well as to ensure the necessary administrative and control capacity. In the field of animal welfare, implementation of the rules in regard to laying hens has not been achieved yet.

With regard to the placing on the market of food and feed, Croatia's legislation is partially aligned with the acquis. Croatia has carried out a first assessment of all food establishments with regard to their compliance or non-compliance with EU standards. This will enable the setting up of a national programme for the upgrading of establishments for products of animal origin (establishments that need to be approved). The large majority of these establishments (including those for animal by-products) do not fulfil at present EU requirements and comprehensive efforts are required to bring them into compliance with EU requirements. Substantial effort is still required in regard to the strengthening of the control capacity and the establishment of a funding system fully compliant with EU requirements.

Progress has been made with regard to food safety rules and specific rules for feed where Croatia's legislation has been further aligned with the acquis. Effort is still required concerning the adoption of secondary legislation and the strengthening of administrative capacity.

In the area of phytosanitary issues Croatia has made good progress with the adoption of secondary legislation and with the start of implementing activities notably for a plant passport system and authorisation of plant protection products. Efforts are still required in the phytosanitary field, in particular as regards adoption of implementing legislation and the strengthening of administrative capacity.

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In view of the present state of Croatia's preparations, the Commission considers that the following benchmarks would need to be met for the provisional closure of the chapter Food safety, veterinary and phytosanitary policy:

- Croatia submits to the Commission an approved national programme for the upgrading of establishments for products of animal origin, including establishments for animal by-products. As regards the milk sector, the national programme should also include a strategy for the use of non-compliant raw milk.
- Croatia provides to the Commission guarantees for the setting up of an EU compliant system for official controls of live animals and animal products, including its funding.

II. DRAFT COMMON POSITION

This position of the European Union is based on its general position for the Accession Conference with Croatia (CONF-HR 2/05), and is subject to the negotiating principles endorsed by the Accession Conference (CONF-HR 5/05), in particular:

- any view expressed by either party on a chapter of the negotiations will in no way prejudice the position which may be taken on other chapters;
- agreements - even partial agreements - reached during the course of the negotiations on chapters to be examined successively may not be considered as final until an overall agreement has been established;

as well as to the requirements set out in points 13, 16, and 26 of the Negotiating Framework.

The EU underlines the importance for Croatia of compliance with the Stabilisation and Association Agreement as well as the Accession Partnership, which constitute basic elements of the pre-accession strategy.

The EU encourages Croatia to continue the process of alignment with the *acquis* and its effective implementation and enforcement, and in general develop already before accession, policies and instruments as close as possible to those of the EU, in particular as regards the national programme for the upgrading of non-compliant establishments for products of animal origin including establishments for handling animal by-products and Croatia's strategy for the use of non-compliant raw milk, the setting up of an EU compliant system for official controls of live animals and animal products including its funding, animal welfare of laying hens, and the catalogue of plant varieties.

The EU notes that Croatia, in its negotiating position CONF-HR 21/08 accepts the *acquis* under chapter 12 as in force on 1 January 2008 **DELETED**.

As an overall response to Croatia's requests for transitional periods, the EU recalls its general negotiating position that transitional measures are exceptional, limited in time and scope, and accompanied by a plan with clearly defined stages for the application of the *acquis*. They must not involve amendments to the rules or policies of the EU, disrupt their proper functioning, or lead to significant distortion of competition.

General

The EU takes note of the information provided by Croatia and the progress achieved in the transposition of the main elements of the *acquis* in the food safety, veterinary and phytosanitary policy as well as the setting up of the necessary institutional framework.

The EU also takes note of the "Croatian Strategy for the Transposition and Implementation of the Acquis Communautaire in chapter 12 – Food Safety, Veterinary and Phytosanitary Policy into national legislation", adopted by the Croatian Government in March 2008 providing a detailed timetable for the gradual transposition and implementation of the *acquis* in this chapter in Croatia. The EU invites Croatia to provide tables of correspondence between EU and Croatian legislation for the monitoring of the transposition as soon as the transposition is completed for a sector or a directive. As regards the monitoring of the implementation of the *acquis*, specific missions will be organized.

The EU takes note of the Food Act (OG 46/07) transposing the principles of Regulation (EC) No 178/2002 into national legislation and the designation of the Ministry of Agriculture, Fisheries and Rural Development (MAFRD) as the Competent Authority bearing the overall responsibility for official controls. The EU also takes note of the Food Act defining the responsibilities between MAFRD and Ministry of Health and Social Welfare (MHSW) with regard to controls.

As regards administrative capacity, the EU takes note of Croatia's plans for the strengthening of the institutional capacity in the food safety, veterinary and phytosanitary fields. The EU underlines the importance of Croatia to achieve full compliance with the *acquis* and to establish the necessary administrative and control capacity for its implementation.

Veterinary Policy

The EU takes note of the information provided by Croatia with regard to the internal control system in the internal market and the plan for further alignment with the *acquis* in this field, in particular concerning Directives 90/425/EEC and 89/662/EEC, the Trade Control and Expert System (TRACES) as well as EU safeguard measures. The EU underlines that further efforts are required to transpose and implement the *acquis* within precise timetables and the importance that this system must be fully operational by the date of Croatia's accession to the EU.

The EU takes note of the information provided by Croatia regarding the control system for imports and the objective to achieve full alignment with the respective *acquis* at the day of accession. This will imply the deletion of notions in the national legal texts not compatible with EU Member States status. The EU also takes note of Croatia's intention to apply the same rules as the rules applied by EU Member States with regard to Commission Regulation (EC) No 745/2004 laying down measures with regard to imports of products of animal origin for personal consumption. The EU underlines the importance of Croatia to ensure correct transposition and implementation of the *acquis*.

The EU takes note of Croatia's decision to select seven permanent border inspection posts (BIPs) to remain operational after accession to the EU which are Bajakovo, Stara Gradiška, Karasovići, Metković, the sea ports of Rijeka and Ploče and Zagreb airport. The EU underlines the importance of Croatia maintaining this selection given the needs of traders and third countries to have in advance clear information on future import possibilities for live animals and animal products into the EU and given the time it will take to establish the necessary infrastructures at the BIPs. The EU invites Croatia to make any effort necessary to have these seven BIPs operational in compliance by the date of Croatia's accession to the EU. The EU invites Croatia to provide information on its plans for the period after its accession to the EU regarding:

- Community trade to/from the Dubrovnik area (Croatia) crossing the territory of Bosnia and Herzegovina (Neum corridor) and
- trade from/to Bosnia and Herzegovina (via Metković/Ploče to/from the Neum corridor) crossing Croatia's territory.

The EU also takes note of the information provided by Croatia to apply minimum fee rates pursuant Regulation (EC) No 882/2004 at the date of its EU accession. The EU encourages Croatia to continue the process of alignment with the *acquis* and its effective implementation.

The EU takes note of the information provided by Croatia with regard to the identification and registration of animals and the progress achieved concerning further alignment with the *acquis* in this field. The EU underlines the importance of achieving full compliance upon accession with regard to identification and registration of animals.

The EU takes note of the information provided by Croatia regarding the control measures for animal disease and the progress so far achieved. The EU encourages Croatia to continue the process of alignment with the *acquis* and its effective implementation. The EU invites Croatia to provide, on a regular basis, information to the Commission on epizootic diseases and on the results of the eradication programmes. The EU notes that Croatia has joined the Animal Diseases Notification System (ADNS) on a voluntary basis.

The EU takes note of the information provided by Croatia regarding intra-community trade in live animals, semen, ova and embryos. The EU underlines the importance of achieving full compliance by the time of accession with regard to the requirements for animal health and trade in live animals and animal products.

The EU takes note of the information provided with regard to non-commercial movement of pet animals. The EU also takes note that Croatia is on the way to be listed in section 2 of part B of Annex II to Regulation (EC) No 998/2003 (to use the passport in accordance with EU model). The EU underlines the importance of achieving full compliance with the *acquis* upon Croatia's accession to the EU.

The EU takes note of the information provided by Croatia on the transposition of the *acquis* with regard to prohibited substances and residue control as well as the setting up of the necessary institutional framework. The EU encourages Croatia to continue the process of alignment with the *acquis* and its effective implementation in order to achieve full alignment upon accession in particular with regard to laboratories.

The EU takes note of the information provided by Croatia regarding import requirements for live animals and animal products. In this context the EU emphasises that all long term border inspection posts with third countries must be operating from the date of accession in accordance with the *acquis* both in terms of facilities and of procedures. The EU invites Croatia to ensure that the necessary requirements are implemented gradually during the pre-accession period.

The EU takes note of the information provided by Croatia regarding its international veterinary agreements and the commitment of Croatia to terminate or adapt these agreements prior to its EU accession in order to comply with EU obligations. The EU underlines that it is the responsibility of Croatia to ensure that from the date of accession all its bilateral international agreements are in compliance with EU requirements.

The EU underlines the importance of achieving full compliance with the *acquis* upon accession as regards animal welfare. This is important for safeguarding public confidence in food production. In addition, the EU underlines that disparities between Member States with regard to animal protection may give rise to unequal conditions of competition and may consequently have an indirect effect on the proper functioning of the internal market. **DELETED** The EU takes note of the information provided by Croatia concerning unenriched cages for laying hens currently in use in Croatia and their level of compliance with respective provisions of Directive 1999/74/EC. The EU also notes Croatia's intention to prohibit the use of unenriched cages by newly registered establishments and existing establishments which will renew their equipment as of 1 January 2009. The EU recalls that the keeping of laying hens in unenriched cages will be prohibited in the EU from 1 January 2012. The EU invites Croatia to accelerate the preparations in this regard. The EU invites Croatia to reconsider its requests on this basis.

The EU takes note of the information provided by Croatia regarding zootechnical legislation and the progress made in this regard. The EU underlines that further efforts are required to transpose and implement the *acquis* within precise timetables. The EU takes note of Croatia's *request for a derogation* concerning limitation of the introduction of bees other than *Ssp. Apis mellifera carnica* (Carniolan honey bee) on the territory of Croatia with reference to Directive 91/174/EEC. The EU underlines that fully justified national measures can be taken on the basis of Article 30 of the Treaty establishing the European Community. The inclusion of the issue in the negotiations does not appear to be necessary. The EU invites Croatia to reconsider its request on this basis.

The EU takes note of the information provided by Croatia regarding veterinary expenditure. The EU encourages Croatia to continue the process of alignment with the *acquis* and its effective implementation.

Placing on the market of food and feed

The EU takes note of the information provided by Croatia with regard to food hygiene rules and the progress made with regard to assessment of the establishment producing food and feed of non-animal and animal origin. The EU takes account of Croatia's confirmation that all establishments dealing with food of non-animal origin operating on 1 January 2011 (or on the date of Croatia's accession to the EU if this date is different) will be in compliance with the EU *acquis* or will be obliged to cease activities.

The EU takes note of the information provided by Croatia concerning the specific rules for products of animal origin and the progress made with regard to the *acquis* in this field. **DELETED**

The EU takes note of the information provided with regard to control rules and specific control rules for animal products. The EU underlines the importance to strengthen the administrative capacity of the Veterinary Inspection Sector in order to carry out controls in compliance with the *acquis* in this field.

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The EU takes note that Croatia will fully comply with the *acquis* in the field of funding of checks upon its accession to the EU. The EU underlines the importance of setting up of an EU compliant system for official controls of live animals and animal products including its funding and invites Croatia to provide the respective guarantees.

Food safety rules

The EU takes note of the information provided by Croatia on food safety rules covering labelling, presentation and advertising, authorized additives and purity criteria, extraction solvents, flavourings, food contact material, food supplements, food for particular nutritional uses, quick frozen foodstuffs, contaminants, and novel foods and genetically modified foodstuffs and feedstuffs, ionising radiation, and mineral waters. The EU encourages Croatia to continue the process of alignment with the *acquis* and its effective implementation and to ensure the necessary administrative and control capacity.

Specific rules for feed

The EU takes note of the information provided by Croatia on specific rules for feed covering feed additives, compound feedstuffs, feed materials, undesirable substances, feedstuffs intended for particular nutrition, certain products used in animal nutrition (bio proteins) and medicated feed. The EU encourages Croatia to continue the process of alignment with the *acquis* and its effective implementation and to ensure the necessary administrative and control capacity.

Phytosanitary policy

The EU notes the information provided by Croatia with regard to plant health and harmful organisms in particular as regards protection zones, the financing rules in relation to the granting of Community financial assistance, the establishment of temporary and emergency phytosanitary measures for certain organisms and the plan for further alignment with the *acquis* as laid down in the "Croatian Strategy for the Transposition and Implementation of the Acquis Communautaire in chapter 12 – Food Safety, Veterinary and Phytosanitary Policy into national legislation" to achieve full alignment with the *acquis* at the date of accession.

The EU also notes that Croatia designates eight border inspection posts (BIPs) to operate as long-term BIPs after Croatia's accession to the EU which are the road border crossings of Bajakovo, Stara Gradiška, Karasovići, Metković, the sea ports of Rijeka and Ploče, Zagreb airport and the Zagreb Post office. The EU underlines the importance of Croatia maintaining this selection given the needs of traders and third countries to have in advance clear information on future import possibilities for plants and plant products into the EU and given the time it will take to establish the necessary infrastructures at the BIPs. The EU encourages Croatia to have these eight BIPs operational and in compliance with the *acquis* by the date of Croatia's accession to the EU. The EU invites Croatia to provide information on its plans for the period after its accession to the EU regarding:

- Community trade to/from the Dubrovnik area (Croatia) crossing the territory of Bosnia and Herzegovina (Neum corridor) and
- trade from/to Bosnia and Herzegovina (via Metković/Ploče to/from the Neum corridor) crossing Croatia's territory.

The EU takes note of the information provided by Croatia regarding the authorisation of plant protection products and residues of pesticides and progress achieved with regard to the alignment with the *acquis* in this field. The EU also takes note of Croatia's guarantee to run the Croatian National Institute of Public Health (CNIPH) laboratory with full capacities in order to fulfil the tasks foreseen by the *acquis* before Croatia's accession to the EU. The EU encourages Croatia to continue the process of alignment with the *acquis* and its effective implementation and to ensure the necessary administrative and control capacity.

The EU takes note of the information provided by Croatia concerning the quality of seeds and propagating material. **DELETED**

The EU takes note of the information provided by Croatia regarding plant variety rights. It stresses that Regulation (EC) No 2100/94 concerning the Community system of plant variety protection will apply automatically in Croatia as of the date of its accession and does not require special implementing measures by Croatia. This does not preclude Croatia from maintaining or revising its national system of plant variety protection alongside the Community system.

The EU takes note of the information provided by Croatia regarding its international phytosanitary agreements and the commitment of Croatia to terminate or adapt these agreements with the countries prior to its EU accession in order to comply with EU obligations. The EU underlines that it is the responsibility of Croatia to ensure that from the date of accession all its bilateral international agreements are in compliance with EU requirements.

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In view of the present state of preparations, the EU notes that, on the understanding that Croatia has to continue to make progress in the alignment with and implementation of the *acquis* covered by the chapter Food safety, veterinary and phytosanitary policy, this chapter may only be provisionally closed once it is agreed by the EU that the following benchmark is met:

- Croatia submits to the Commission an approved national programme for the upgrading of establishments for products of animal origin, including establishments for animal by-products. As regards the milk sector, the national programme should also include a strategy for the use of non-compliant raw milk.
- Croatia provides to the Commission guarantees for the setting up of an EU compliant system for official controls of live animals and animal products, including its funding.

Monitoring of progress in the alignment with and implementation of the *acquis* will continue throughout the negotiations. The EU underlines that it will devote particular attention to monitoring all specific issues mentioned above with a view to ensuring Croatia's administrative capacity, in particular with regard to its control capacity. Particular consideration needs to be given to the links between the present chapter and other negotiation chapters. A final assessment of the conformity of Croatia's legislation with the *acquis* and of its implementation capacity can only be made at a later stage of the negotiations. In addition to all the information the EU may require for the negotiations in this chapter and which is to be provided to the Conference, the EU invites Croatia to provide

regularly detailed written information to the Stabilisation and Association Council on progress in the implementation of the *acquis*.

In view of all the above considerations, the Conference will have to return to this chapter at an appropriate moment.

Furthermore, the EU recalls that there may be new *acquis* between 1 January 2008 and the conclusion of the negotiations.
