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**Working Party on the
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ACCESSION OF CROATIA

Additional Questions and Replies to the Memorandum on the Foreign Trade Régime (L/7466)

The following additional questions and replies to the Memorandum on the Foreign Trade Régime have been received from the Republic of Croatia.

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II. ECONOMY AND FOREIGN TRADE

1. Economy

(b) Main Directions of Ongoing Economic Policies

Question 1.

Following the response to question 2 in WT/ACC/HRV/30, we seek further clarification on the use of price controls. GATT Article III paragraph 9 recognizes that internal maximum price control measures can have effects prejudicial to the interests of countries supplying imported products. Accordingly, members applying such measures shall take account of the interests of exporting countries with a view to avoiding to the fullest practicable extent such prejudicial effects.

Please provide the Working Party with a copy of the Law on the System of Price Controls. Does Croatia intend to repeal the price control system or otherwise limit its scope prior to WTO accession?

The answer to question 2 of WT/ACC/HRV/30 states that direct price controls are allowed in order to prevent market disturbances with regard to price fluctuations or to prevent monopoly formation; direct price controls are set by the GOC, on the proposal of the Ministry of Economy, and only last for a six-month period.

Has the GOC imposed any form of direct price controls during the past three years? If yes, for each instance, please describe the price control used, the product or service covered, the purpose for the application of the control, and the period that the control was effect. Were the decisions to impose the direct price controls published and were importers of the affected products / services promptly notified.

Please list, by HS number or service sector and subcategory, the good and services whose prices are regulated by government.

The answer to question 2 of WT/ACC/HRV/30 states that the Government of Croatia undertakes price monitoring (reporting of prices) for certain goods and services established by law and that while ministries do not determine the method of price formation, they can object to an increase in price.

What are the reasons used by ministries for the analysis of price, and in cases where ministries object, are the reasons and objections published in a transparent manner and are importers of the affected products and services notified?

The answer to question 2 of WT/ACC/HRV/30 also notes that local administrative bodies are not allowed to change prices of products and services enterprises, which are owned by the Republic of Croatia.

How are prices of products and services of such enterprises determined? Which products are produced by such enterprises and are subject to price control. Is there a mechanism in this procedure to take account of concerns related to trade and investment? What are the procedures for announcing any proposed changes?

Answer:

In the Republic of Croatia, companies determine prices of goods and services freely, without any interference of government authorities into that process, i.e. in accordance with their own business policy. The only exceptions are some goods and services that have a direct impact on cost of living of Croatian population.

The Law on Exceptional Measures of Price Controls enacted by the Croatian Parliament on 27 June 1997, regulates the system of price controls as a mechanism which should be implemented only in exceptional cases in order to prevent negative effects of price changes of certain goods and services or in order to prevent monopolistic pricing, provided that those objectives could not be achieved through other economic policy measures. The Law does not introduce any additional legal restrictions, but limits the possibility of the Government to intervene on the market thus strengthening the basic principles of the market economy.

The provisions of this Law point out the exceptional character of the direct price control measures, which could only be implemented for a limited period of time and in case the negative effects could not be removed by other economic policy measures.

In accordance with the Law, the Government can prescribe the following direct price controls measures:

- maximum price control;
- fixing of prices to a certain level;
- reporting changes in prices prior to the application.

Those price control measures could be applied until the reasons for their introduction are eliminated. But after the introduction of those measures the Government is obliged to take appropriate economic policy measures in order to eliminate the reasons for direct price controls.

The only price control measure that the Republic of Croatia applies at the moment is the reporting changes in prices prior to the application. In accordance with those measures, the legal entities owned by the Republic of Croatia, namely: INA - Industrija nafte d.d. (the national oil company), Hrvatska elektroprivreda d.d. (the national electricity industry), Hrvatska radio televizija (the national broadcasting company), HŽ – Hrvatske željeznice (the national railways), Hrvatske šume (the national forestry exploitation company), Jadrolinija (the national maritime carrier), Narodne novine d.d. (Official Gazette publisher), Hrvatske ceste (the national road construction and maintenance company) and HPT (the national postal system and telecommunications company) are obliged to report changes in prices of certain goods and services 15 days prior to the application (see attached Decision on the Compulsory Reporting of the Price Lists and Tariffs of Certain Legal Persons, Official Gazette no.77/96 –WT/ACC/HRV/36). Those companies are the only or main producer or service provider of some specific goods and services in the Republic of Croatia.

The products and services concerned include engine gasoline, diesel fuels, heating oil, primary gasoline, asphalt bitumen, jet fuel, liquid oil gas, natural gas, electricity, radio and television licence fee, domestic railway transportation of passengers and goods, maritime/coastal transportation of passengers and goods, standard letters and postcards, telephone charges for domestic calls, telephone charges, road tolls, bridge tolls and tunnel tolls, official forms, the use, content and form of which are regulated by laws and other regulations, logs for veneer and barking, logs for planks, roundwood for railroad sleepers, thin roundwood, other roundwood, panel wood, services for loading, unloading and transporting timber assortments (see the attached Order on Identifying the Products and

Services Requiring Reporting of Price Lists or Tariffs; Official Gazette no. 78/96 – WT/ACC/HRV/36).

Besides the above mentioned companies and products, the producers of fresh milk, fertilizers, telephone calls, standardized letters and postcards in the domestic mail system, wheat flour and bread type 850 are also obliged to report changes in prices 15 days prior to the application (see attached Decision on Compulsory Reporting of Price Lists or Tariffs of Certain Products and Services; Official Gazette no. 45/93 –WT/ACC/HRV/36).

The obligatory price reporting prior to application does not apply to imported products and to products that will be exported according to the said Regulation. The obligatory price reporting prior to application applies only to the goods that are produced in the Republic of Croatia, or the services provided by the Croatian companies and intended for the consumption in the Republic of Croatia.

Price reporting prior to application and informing of the government authorities on the intended price changes enables certain public discussion and dialogue on the matter, includes consumers as well as the Agency for the Protection of Competition in the discussion with regard to the monopolistic character of those practices.

The Ministry of Economy can object within the period of 15 days, i.e. from the date the prices were reported until their application. After the analysis of the reasons for price increase, including analysis and comparison with the prices on the world market or in the neighbouring countries, analyzing costs of production and after the discussion with the companies interested, the Ministry can request the company to reconsider the proposed prices. If the company changes the prices in spite of the objections of the ministry within the 15 days period, the Law provides for the penalties amounting to 5000-20000 kunas (US\$800-3,000). It is possible also that the Government adopts a Decision prescribing that these prices should be lowered to the original level. If the company considers that it suffered damage due to the fact that it could not apply the prices at a moment when it considered it justifiable, it can institute a proceeding and request compensation for the damage incurred.

If the Ministry does not object within 15 days from the date of the reception of the information concerning the intended price changes, the changed prices can be applied without any written approval. Also this period for the application of new prices or rates can be shortened upon the request of the company concerned.

This Law also enables the monitoring of prices of goods and services as well as the providing of the statistic data.

All regulations regarding price control measures are published in the “Official Gazette” of the Republic of Croatia.

According to the Law on the Protection of Market Competition it is prohibited to take decisions with the aim of restricting or preventing free market competition and especially decisions resulting in the direct or indirect fixing of the prices of goods and services, or the fixing of the size and time of price reductions or increases which result in consumers being in an unequal position regarding prices. Also, according to the Law, intentional excessive direct or indirect high pricing with the aim of taking over or preserving a dominant or monopolistic market position is considered the abuse of a monopolistic and dominant position of the entrepreneur. The role of the Agency for the Protection of Market Competition is to perform the operations regarding issues to the protection of competition including starting the proceedings in order to establish the facts concerning violations of the Law and monopolistic behaviour. The proceeding carried out by the Agency requires certain procedure and time before the final decision is made. If the Decision by the Agency is to stop the

monopolistic practice, the administrative proceeding can be instituted against the measures and the decision passed by the Director of the Agency.

With regard to the complexity and time required for the whole procedure, on the one side and the current situation in the Croatian economy on the other side (certain number of companies still have a large share of production and distribution of some products and services), the Croatian Government has decided to keep price control of a certain level for those companies and products, as a transitional measure, which the Law on Exceptional Measures of Price control made possible. The goal of the Government of Croatia is, to gradually abolish the above mentioned measures, along with the process of privatization and the development of competition. The Law on Exceptional Measures of Price Control will be adjusted to that principle.

The only price control measure that the Croatian Government has applied since 1993 is the already mentioned reporting of changes in prices prior to the application and the prices' follow-up. The above-mentioned measures applied to the already mentioned products and services. We attach to this answer the translated regulations concerning goods and services, companies and procedures obliged to report prices, which are in force from 1993 to 1998, as well as the translated Law on Exceptional Measures of Price Control. (WT/ACC/HRV/36)

(i) Privatization

Question 2.

The response of question 3 of WT/ACC/HRV/30 states that the GOC has no legal power to control the investment decision of the Croatian Pension Funds, however, some members of the GOC have been appointed to the Supervisory Board of the Pension Fund.

Please clarify what role the Supervisory Board plays in the administration of Croatian Pension Funds, as well as the role of the Croatian Government Board members.

Answer:

According to the Law on Pension Insurance there is no Supervisory Board of Croatian Pension Funds. The misunderstanding is due to translation reasons. According to the above-mentioned Law, there is a Management Board in each of the Pension Funds nominated by the Croatian Government. The Management Boards are comprised of members of Parliament, and not governmental officials. The supervision of the Croatian Pension Funds is done through regular reviews by the Croatian Parliament. The Government has no influence, whatsoever on the investment decisions of the Management Boards of the Croatian Pension Funds.

Question 3.

In the response to question 5 of WT/ACC/HRV/30, it is stated that both foreign and local investors are treated equally and are permitted to tender offers for the shares in all enterprises being privatized in the second stage by the Croatian Privatization Fund. Are there any recent statistics to indicate the extent to which foreign investors have participated in the privatization of these enterprises?

Answer:

The latest available statistics are from January 1997, and are not detailed. According to this data, 60 foreign investments in the privatization process have been recorded with a value of DM460.37 million (approximately 35 per cent of the total value of FDI). Foreign investors are from

14 countries with the biggest investors in terms of value originate from Austria (about DM110 million) followed by Switzerland, Sweden, Belgium and Germany.

Question 4.

Are there established any public documented guidelines that the Croatian Privatization Fund uses to chose among the investment proposals? Is the CFP required to provide information about the winning proposals to any outside sources?

Answer:

Attached to this document is an English translation of the procedure for participation in privatization tenders in Croatia (Tender documentation for purchase of the joint stock company). (WT/ACC/HRV/36)

Question 5.

The response to question 7 of WT/ACC/HRV/30 states that although the secondary market for frozen foreign exchange deposits (FFEDs) is not administered by the GOC, the government allowed the purchase of apartments and shares with FFEDs.

This answer seems to indicate that there is some government oversight with respect to the use of FFEDs. Please clarify the role of the government in the secondary market for frozen foreign exchange deposits.

Answer:

The Government role in regulating the use of FFED's was only related to determining the legal framework for the possibilities of using FFED's. Thus, the Government enabled citizens to use FFED's for acquiring shares in privatization process and for buying housing facilities. This was done in order to reduce the public debt. Once invested the FFED's could not be used for other purposes. The Government has no role whatsoever on the secondary FFED market. The selling and buying of FFED's on the secondary market is determined by the supply and demand and is done by commercial banks or directly on the market. Commercial banks have made conversion of FFED's into new foreign exchange saving deposits.

Question 6.

Question 10 of WT/ACC/HRV/27 addresses areas under Ministry of Defense (MoD) supervision. This answer does not give the specifics of the procedure that foreign investors must follow to invest in these areas. It refers only to the internal "operational standards" of the MoD. What are these operational standards?

Answer:

The internal operational standards referred to in the previous answer are those connected to national security issues. The Ministry of Defense is evaluating possibilities of investing in this sector, observing the impacts on national security.

Question 7.

In regard to foreign investment in the tourist sector. Are there special laws or regulations pertaining to foreign investment in the tourist sector, namely, in hotels and tourist facilities on the coast? Are foreigners prohibited from investing in any part of this sector? If so, when does the government intend to liberalize investment in this sector?

Answer:

There are no special laws or regulations prohibiting foreign investment in the tourist sector in any way.

(c) Current economic situation

Question 8.

The reply to question 16 of WT/ACC/HRV/30 states that the GOC is in process of modernizing and arranging the border crossing with the Bosnian Federation. However, we noted in our Working Party presentation last year that a considerable quantity of goods has been arriving in Croatia without payment of customs duties through this border.

Please confirm that the customs territory of Croatia conforms to the territorial boundaries of Croatia, and that it is Croatia's intent to enforce WTO provisions and the terms of its accession package within these boundaries.

Please provide, prior to the next Working Party meeting, an update report on Croatian plans to implement strict customs enforcement at its borders prior to WTO accession.

WTO members are expected to be able to define their customs territory and to apply WTO provisions and the terms of their accession packages at their customs borders. Departures from MFN treatment at those borders should conform to WTO provisions, e.g., Article XXIV of the GATT 1994 and Article V of the GATT 1994 and Article V of the GATS.

Croatia's lack of border control has implications for its enforcement responsibilities under the WTO, e.g., in the area of IPR protection and MFN application of standards requirements.

It is critical to the progress of Croatia's accession that it address the issue of uniform application of its customs regime vis-a-vis other countries.

Answer:

Border control and customs regime on the border between the Republic of Croatia and Bosnia and Herzegovina had been adversely effected by the war in Bosnia and Herzegovina, which caused a lack of an efficient customs administration on the Bosnian side of the border during the whole period of military operations in Bosnia and Herzegovina from 1992 till 1995. Having in mind that the border regime and customs enforcement are always bilateral issues which could be effectively implemented and improved only by common agreement and actions of the both neighbouring countries, it becomes obvious how difficult was a task to enforce strict customs regime under the war circumstances which jeopardised functioning of a regular customs administration by diverting attention to some other priorities at that troublesome time. Only in 1997, when decisive efforts were in place to establish Bosnian customs administration, Croatia managed to start improving border control and customs regime on its border with neighbouring Bosnia and Herzegovina, thus diminishing negative effects of

the flow of goods arriving in Croatia without payment of customs duties through its border with Bosnia and Herzegovina.

Border crossing points towards Bosnia and Herzegovina have been determined in the Agreement on the Establishment of Border Crossing Points between the Republic of Croatia and the Republic of Bosnia and Herzegovina, signed in Sarajevo on 14 March 1996. Based on that Agreement and its Annex, the Croatian Government approved the establishment of 21 road border crossing points for passengers and cargo crossing. Furthermore, 45 control points were established on existing roads between the two countries for passengers crossing only. In accordance with Article 2 of the Agreement, a Joint Commission was formed with the task to propose categorisation of border crossing points and to determine the location for building of facilities on border crossing points for the purpose of controlling traffic flows across the borderline. The Commission completed its tasks only on 25 May 1998, and an agreement was reached to determine seven road border crossing points of the first category (police and customs surveillance on 24 hours basis, with compulsory veterinary, sanitary and phytosanitary inspection, and exclusivity for crossing of heavily taxed commodities) and eleven road border crossing points of the second category (police and customs surveillance on 24 hours basis, with some elements of veterinary, sanitary or phytosanitary inspection). Also, six railways border crossing points were established. Remaining control points are closed for cargo traffic and left for passenger traffic that will be regulated by a bilateral agreement on frontier traffic of persons, which is to be negotiated and signed very soon. The Joint Commission agreed on a common policy of decreasing the number of border crossing points and improving customs infrastructure on all remaining crossings. The Croatian side persists on establishing joint border crossing infrastructure wherever possible, while Bosnian side is still reluctant to accept this proposal.

Measures of customs surveillance are the same for the whole territory of the Republic of Croatia and they are prescribed by the Customs Code and accompanying regulations. However, the categorisation of individual border crossing points, as agreed with the Bosnian side, determines the number of required staff, infrastructure, border crossing points facilities and the equipment necessary for the effective enforcement of the measures of customs surveillance. Therefore, the agreement on border crossing points categorisation reached on 25 May 1998 represents a crucial element of improving the customs regime, especially because it sets obligations for adequate arrangements on both sides of Croatian-Bosnian border.

The Republic of Croatia attaches great importance to construction and equipping its border crossings with Bosnia and Herzegovina. A large amount of financial resources have been allocated from the State Budget, and sizeable human resources engaged to render operational all customs offices at this border. For the construction of facilities, we have spent US\$2,890,440 so far, and for 1998 we are planning to spend an additional US\$4,397,600. Border crossing points are mainly equipped with the technical equipment donated to the Customs Directorate of the Republic of Croatia by the US Customs Service in 1996, and it consists of narcotic test kits, contraband detection kits, including fibre optic scopes, density meters, electronic measuring tapes, camera kits, flashlights, contraband probes, inspection mirrors and tool kits. The next phase of equipping during this year will include the necessary equipment for the control of movement of nuclear and hazardous material, vehicles for the field operations and a radio communication system. Apart from this, the program of computerisation of the Croatian Customs Service is currently in progress, with an aim of establishing a computer network of all border-crossing points. Within the activities of the SECI Initiative (Project on identifying bottle-necks on main transport corridors), the Government of the Republic of Croatia has officially stated its willingness to candidate 12 border-crossings with the both entities in Bosnia and Herzegovina to be reconstructed and equipped by using the World Bank financing.

We are in the process of drafting a new Customs Law which will be harmonised with the European Customs Code and which we foresee to be enacted by the beginning of 1999. Work is also being done on the alternation of customs documentation and we believe that by the beginning of 1999,

we shall be capable of carrying out customs surveillance based on the Single Administrative Document, as is the case in the customs procedure of the European Union. The Croatian Customs Service has employed a large number of customs officers and in cases specifically to satisfy the needs of the border crossing points towards Bosnia and Herzegovina. In the training of officers we are employing the following techniques: the passing on of experience of older colleagues, learning on the job, and through specialised seminars organised by the help of foreign services, especially the United States Customs Service, DG XXI, UNDCP, and the Customs Service of the United Kingdom. We are aware of the need of further development of customs training courses, and therefore we plan to establish a Centre for Basic Training and Specialisation of Customs Officers. This priority goal calls for some additional international financial aid, due to the present unavailability of sufficient local funding. Improvement of the measures of customs surveillance through the enhancement of working conditions, attainment of better equipment and increase of the professionalism of customs officers is a lasting process which is not affiliated only with the Croatian-Bosnian border but is equally needed on all Croatian borders in order to develop Customs Service to be at the level of European and world standards. The only specific element of the Croatian-Bosnian border compared to other Croatian borders is the fact that the process of improving border and customs control on that particular border line was delayed due to war operations on the both sides of the border.

The Government of the Republic of Croatia, the Government of the Republic of Bosnia and Herzegovina and the Government of the Federation of Bosnia and Herzegovina signed the Agreement on Economic Co-operation on 24 March 1995. According to the Agreement, all goods (industrial and agricultural) originating in the Republic of Croatia and the Federation of Bosnia and Herzegovina, are excluded from customs tariffs, and only 1 per cent of customs registration is levied. The origin of goods is determined according to the Pan European rules of origin, and an adequate certificate of origin (EUR 1) is issued for each particular shipment by Customs Office in the Republic of Croatia and by Chamber of Economy in the Federation of Bosnia and Herzegovina. Learning from the experience in implementing the Agreement on Economic Co-operation, the Croatian Government has undertaken serious steps in order to improve border control measures. Those steps are fully co-ordinated with the Council of Ministers of Bosnia and Herzegovina and the Government of the Federation of Bosnia and Herzegovina. Meetings were held in April 1998, and we agreed to work together on building a proper border regime, which will encompass, among other measures, a reduction of number of border crossings available for cargo transportation, customs administration tight co-operation in computing export and import documentation, better equipment of the border crossings selected for cargo transportation, tightening control of the certificates of origin and bringing all other customs measures and procedures in line with common standards. Furthermore, the Croatian Government has proposed to start negotiations on concluding a Free Trade Agreement, which will be valid for substantially all trade of products originating from the Republic of Croatia and the whole territory of Bosnia and Herzegovina. That Agreement will be in line with similar FTA among CEFTA countries and among these countries and the European Union.

Today it is possible to confirm that the Republic of Croatia is in a position to implement strict customs enforcement on all its borders, including the border with Bosnia and Herzegovina. The customs enforcement is and shall be in place in the customs territory of the Republic of Croatia, which completely confirms to the territorial boundaries of the Republic of Croatia, as stipulated in Article 1 of the Customs Law.

It is Croatia's determination to enforce WTO provisions, rules and discipline and all the terms and commitments encompassed in the Croatia's WTO accession package within these boundaries in order to ensure a proper implementation of all responsibilities under the WTO principles prior to its accession to WTO, especially the principle of uniform application of its customs regime towards all other countries according to the MFN clause. We are confident that measures taken already and those to be improved or taken in near future, either unilaterally or in an agreement with the Council of Ministers of Bosnia and Herzegovina and the Government of the Federation of Bosnia and

Herzegovina, shall undoubtedly contribute to that end. Croatia's determination to establish a normal border regime on its borders with Bosnia and Herzegovina stems not only from the WTO rules and principles, but at the same time it is an obligation confirmed and accepted by the Republic of Croatia in Washington, Dayton and Paris Peace Agreements. Furthermore, due to a substantial difference in the level of tariffs and taxation for imported items, which are lower in Bosnia and Herzegovina than in the Republic of Croatia, it is a practical fiscal interest of the Croatian Government to prevent all flows of goods to its territory from Bosnia and Herzegovina which does not comply with the stipulations of the present and future Free Trade Agreement between the two countries.

2. Basic Features of Foreign Trade of the Republic of Croatia

(c) Foreign debt of the Republic of Croatia

Question 9.

The response to question 19 of WT/ACC/HRV/30 states that three World Bank loans are being prepared with the aim of reforming the pension system, fostering private enterprise, and reconstructing the infrastructure have not yet been signed. What is the current status of these World Bank loans?

Answer:

Attached to this document is the list of all World Bank Projects in Croatia.

III. INSTRUMENTS AND MEASURES OF THE FOREIGN TRADE SYSTEM OF THE REPUBLIC OF CROATIA

2(c) Import charges and Fees

Question 10.

Does Croatia levy border-crossing fees on passengers or freight conveyed by air, sea and land? If so, please describe the nature and amount of the border crossing fees. Please describe any differences in the application of these fees to foreign and domestic passengers and freight.

Answer:

Croatia confirms that it does not maintain any kind of border crossing fees on passengers conveyed by air, sea or land.

2(d) Taxation Regime

Question 11.

According to the reply to question 39 of WT/ACC/HRV/ 30, Croatia states that changes in the Law on Special Taxes on Products (Coffee, petroleum products, beer, non-alcoholic drinks, alcohol, new imported cars and tobacco products) are to be submitted to Parliament by 1 January 1998, and that the Law on Value Added Tax, is to enter into force on 1 January 1998. Please give a status report on the implementation of these revised taxes.

Answer:

The Croatian Parliament has adopted a new legislation concerning taxation policy, namely excise taxes (previously translated as "special taxes"). The following laws have been passed and came into force in January 1998.

The Law on Excise Taxes on Automobiles and other Motor Vehicles, Vessels and Aircraft's; the Law on Excise Tax on Coffee; the Law Amending the Law on Excise Taxes on Soft Drinks; the Law amending the Law on Excise Tax on Beer.

The main characteristic of this legislation is that it abolishes the difference between the excise taxes for imported and domestically produced goods and thus brings it into conformity with Article III of the GATT. The products concerned and the respective tax rates are enumerated in the following table:

Product description	Excise tax	
<i>Coffee:</i>		
Non-roasted coffee	3,60 HRK/kg	
Roasted coffee	9,00 HRK/kg	
Coffee husks and skins	12,00 HRK/kg	
Coffee substitutes containing coffee	15,00 HRK/kg	
<i>Non-alcoholic beverages:</i>		
Domestic	40,00 HRK/HL	
Imported	40,00 HRK/HL	
<i>Beer: alcoholic</i>		
Domestic	80,00/HRK/HL	
Imported	80,00/HRK/HL	
<i>Non-alcoholic (max 0,5per cent vol/vol)</i>		
Domestic	40,00/HRK/HL	
Imported	40,00 HRK/HL	
<i>Automobiles:*</i>		
Power 55 – 75 kW	- new	3000,00 HRK
	- used	2000,00 HRK
75 – 90 kW	- new	7000,00 HRK
	- used	5000,00 HRK
90 – 110 kW	- new	15.000,00 HRK
	- used	11.000,00 HRK
more than 110 kW	- new	30.000,00 HRK
	- used	22.000,00 HRK

* The new legislation introduces the excise taxes for new and used automobiles, motorcycles, vessels (exceeding 8 meters in length) and aircraft's for private usage, which are imported or produced and sold in the Republic of Croatia.

As mentioned in previous documentation, excise tax (special tax) on oil derivatives from its introduction on 1 July 1994 is paid per liter i.e. kilo of derivatives in equal amount for derivatives produced in Croatia and imported.

With regard to the legislation on the system of excise taxation on alcoholic beverages, tobacco and tobacco products the legislation is in preparation. Changes of the Law on special tax (excise tax) on alcohol are already in the parliamentary procedure and have passed the first reading. The draft proposal of the changes of the Law on special taxes on tobacco products is expected to be

adopted by the Government before August 1998, and will consequently be sent to the Parliament. This new legislation shall be in conformity with the Article 3 of the GATT.

The Law on Value Added Tax entered into force as from 1 January 1998. As pointed out, value added tax (VAT) reducing the total tax burden from an average tax incidence of 26.5 per cent to 22 per cent, being a single rate of value added tax which applies to all goods and services provided except those which are exempt from paying VAT.

Exempt from paying VAT in domestic trade according to Article 11 of the Law are:

- flats or parts of flats rented for living;
- banks, saving banks, credit and saving institutions as well as insurance and reinsurance companies;
- medical services, dentist and similar if those services are provided as private practice;
- medical services in health institutions;
- services and goods delivered by pre-school, elementary school, secondary and high school and similar institutions and social care institutions;
- services provided and goods delivered by religious communities and institutions, cultural institutions and similar;

The deliveries of real estate, except new built; company shares; land; money and securities transactions and deliveries are exempt from the value added tax.

Exempt from the value-added tax are also certain imported goods and goods in transit as follows:

- temporary imports of goods which are exempt from customs duty;
- imports of humanitarian aid, except petroleum and petroleum products, tobacco, tobacco products, alcohol and alcoholic beverages;
- imports of bullion done by the Croatian National Bank;
- imports of foreign legal means of payment, securities and company shares;
- transit of goods through customs territory of the Republic of Croatia.

All exports of goods are exempt from value added tax.

Question 12.

Please provide translated copies of these laws to the Working Party for review.

Answer:

The Government of the Republic of Croatia shall inform the WTO Secretariat, as well as the countries members, on the amended legislation, and shall submit the translations of the laws concerning excise taxation to WTO Secretariat as soon as possible.

Question 13.

Please confirm that these laws will provide the same coverage and applied rates of tax to domestic and imported products.

Answer:

As already stated above, this legislation (both the laws already in force and the ones under preparation) will be in conformity with Article III of the GATT 1994.

2(f) Non-Tariff Measures applied to Imports and Exports

Question 14.

Croatia notes in its response to question 48 of WT/ACC/HRV/30 that its current Law on Trade allows for the possibility of the use of quotas due to the necessity to reconstruct industries destroyed by war.

Please indicate how the GOC plans to use this law after WTO accession, particularly in regard to protection for industries whose production has been destroyed or reduced in the war.

Answer:

The Law on Trade contained provisions in Articles 40 to 43 regarding the imposition of import quotas, including for the purpose of protecting infant industries. In view of Croatia's situation in post-war period, and the level of economic development, the Croatian Government considered itself entitled to recourse to GATT Article XVIII. Following the improvement of economic situation in Croatia, the Government decided not to recourse to GATT Article XVIII. Consequently, the provisions of Law on Trade will be changed. The GOC had adopted a Decree on 12 July 1996, abolishing all import quotas with immediate effect. The abolition completed a process, begun in 1994, of reducing the number of products subject to import quotas. Quantitative restrictions had been imposed on certain agricultural products, some foodstuffs, textile fibres, cement, iron and steel products, and machinery to facilitate the establishment of a market economy and assist areas damaged by war.

2(f)(i) Quotas

Question 15.

According to the answer to question 11 of WT/ACC/HRV/7, export quotas may be set to protect non-renewable resources of the Republic of Croatia. Please provide an update on what steps, if any, Croatia is taking to remove these restrictions.

Answer:

The Law on Trade allows the imposition of export quotas in exceptional cases, and on a temporary basis, for the purpose of protecting non-renewable natural resources. The main products subject to export quotas were corn, crude oil, natural gas, wood, raw leather, glass, and newspaper waste. The Government is obliged, by 1 November each year, to pass a regulation stipulating the quantity allowed to be exported in the following year.

Continuing the policy of bringing the trade policy measures in conformity with the principles of GATT 1994, the Government of the Republic of Croatia, following the previously adopted program, has adopted at the end of 1997, a Decision according to which the export quotas regime has been abolished for crude oil and gas (CN code 27.09 and 27.11) and in June 1998, a Decision according to which the export quotas were abolished for corn and semi processed leather. The aim of the Government is to bring the export quota regime in line with Articles XX and XXI of the GATT 1994. The next revision of export quotas regime will take place by the end of 1998.

2(g) Customs Valuation

Question 16.

In the response to question 66 of WT/ACC/HRV/30, Croatia notes that it is preparing the correction of the Customs Law so that the Law and its regulations will be in conformity with Article VII of the GATT and with the Agreement on the Implementation on Article VII of the GATT 1994.

We require a full and translated copy of the Customs Law to complete our review. Please identify those interpretative notes which not included in the statute. Does Croatia intend to modify the Customs Act or applicable regulatory provisions to incorporate all the interpretative notes to the Customs valuation Agreement?

Please provide specific information as to the procedures hat will be invoked to ensure full compliance with Article XIII of the Agreement on Customs Valuation, which pertains to the ability of importers to with draw good from customs even though the final valuation determination has not been made.

We seek Croatia's confirmation that it will fully implement the WTO Agreement on the Implementation of Article VII of the GATT 1994 from the date of accession, and that all the provisions of the Agreement, including the Interpretive Notes, are, or will be, incorporated in Croatian law and regulation prior to the time.

We request that Croatia directly address this point by proposing a plan for full implementation as provided for above.

Answer:

After careful examination of the legislation on customs valuation and consultation with the experts from the Customs Directorate of Croatia, we can undertake a commitment to fully apply the WTO agreement on customs valuation, as of the date of Croatia's accession to the WTO. The new legislation which will be in conformity with the Agreement on implementation of Article VII of the GATT 1994, is currently under preparation, and will be forwarded to the Parliament for adoption in early fall 1998. The legislation is expected to enter into force in the beginning of 1999, and after that period, further few months are necessary in order to train the customs officers for implementing the new procedures.

The Government of Croatia shall inform the WTO Secretariat, as well as the countries members, on the amended legislation, and shall submit the English translation of the draft new Customs Law as soon as possible.

2(h) Rules of origin

Question 17.

The reply to question 70 of WT/ACC/HRV/30 indicates that Croatia is currently in process of developing in law rules of origin in conformity with the WTO Agreement on Rules of Origin.

Please describe the rules of origin that will be used for any non-preferential and preferential trade regimes.

Please describe the method by which Croatia will meet the obligations under the WTO Agreement on Rules of Origin for issuing binding assessments of origin, both for non-preferential and for preferential regimes, within 150 days of requests by exporters and importers, as provided under Article 2 (d) of the Agreement and annex II (Common Declaration with Regard to Preferential Rules of Origin).

Please describe the process under which determinations of origin may be appealed.

Answer:

At the moment, new regulation on rules of origin for non-preferential trade is under preparation. This regulation will also contain criteria for rules of origin for preferential trade regime. In this moment, while the regulation is in preparation we can confirm that it will be based on WTO Agreement on Rules of Origin, as well as on its annexes. The adoption of this regulation by the Croatian Government could be expected by the end of September of 1998. After the adoption of above-mentioned regulation, we will be able to explain all the details and to answer all the questions concerning this regulation. Also we will provide the English translation of mentioned regulation to all interesting parties.

(j) Technical Barriers to Trade and Sanitary and Phytosanitary Measures

Question 18.

Please report on what steps Croatia is taking to implement the transparency and other procedural requirements of the WTO Agreements on Technical Barriers to Trade and Sanitary and Phytosanitary Measures.

Answer:

After careful examination of the legislation on technical barriers to trade and sanitary and phytosanitary measures and consultation with the domestic experts, Croatia can undertake a commitment to fully apply the WTO agreements on TBT and SPS, as of the date of Croatia's accession to the WTO. A Statement by the Croatian delegation confirming such commitment is attached to this document. (WT/ACC/HRV/38).

With regard to the steps taken in order to comply with the requirements of the TBT Agreement:

- The Government of the Republic of Croatia has adopted a Decision on Setting Up of the Enquiry Point concerning the TBT Agreement on 25 June^h 1998. The responsible governmental body is the State Office for Standardization and Metrology. The State Office for Standardization and Metrology has made corresponding organizational preparations necessary for the work of the Enquiry point. The Enquiry point will be ready for operation by 1 December 1998.
- The State Office for Standardization and Metrology will also inform the International Organization for Standardization (ISO) during July this year about the acceptance of the Code of Good Practice for Standardization.

With regard to the SPS Agreement see the information provided in the reply to question 21 of this document.

Question 19.

Croatia's "quality control" certification process is covered by the requirements of, inter alia, the WTO Agreements on Import Licensing Procedures, Technical Barriers to Trade and Sanitary and Phytosanitary Measures.

We do not believe that this system, as described in the response in WT/ACC/HRV/30, is consistent with these requirements, in particular with the requirements for transparency, enquiry point information, prior publication, MFN or national treatment.

The system is burdensome to imports and not applied in a similar fashion to domestic goods. Croatia needs to review this system and revise it.

Answer:

Quality control of imported and domestic products is carried out by the State Inspectorate (ex Market Inspectorate) prior to entering of those products to the market: Quality control of domestic products is performed at the production sites and quality control of imported goods is carried out at the place of customs clearance and prior to customs clearance.

In the internal market, market inspection controls the quality of all products to which the regulations governing basic requirements refer to and, as regards imported products, the only products that are controlled are those that are imported by a large number of importers and those that are widely dispersed in the Croatian market. The quality control of imported products does not apply to products which are imported by legal and physical persons and which they subsequently use in their registered activities (reproduction materials, spare parts, raw materials).

Although the control is applied in a same way to imported and domestic products, the fact that legislation on quality control is divided in several laws and regulations (one of them being exclusively valid for the control of imported products) might cause misunderstanding as to the way of application of national treatment.

Therefore, the Government of Croatia will propose to the Parliament to regulate all quality control issues in one comprehensive law to be valid for the quality control of all products from the list of goods subject to quality control, regardless of their origin. This confirms Croatia's readiness to perform quality control measures in full conformity with the rules and disciplines of the WTO. The new Law and regulations would also ensure that quality control is based on scientific grounds and not amounting to an unjustifiable trade restriction.

Question 20.

In the response to question 85 of WT/ACC/HRV/30, Croatia states that a new law on Standardization entered into force on 10 July 1996, and that the new law will be provided to the WTO Secretariat after its translation into English. Has this law been submitted to the WTO Secretariat for review by interested Members?

Answer:

The Law on Standardization entered into force on 10 July 1996. This law has been already provided to the WTO Secretariat.

Question 21.

Would Croatia please revise the information provided in response to the questionnaire on standards based on these new provisions? Has Croatia provided similar information on SPS regulations?

Answer:

1. The situation with regard to the TBT regulations in Croatia is as follows:

According to the provisions of the Law on Standardization the new Croatian system of technical regulations, standards and conformity assessment procedures is as follows:

- Croatian standards are being prepared in technical committees with interested parties participation mostly by adoption of international standards ISO/IEC, then the European standards (EN);
- Croatian standards are voluntary since 1 January 1997;
- technical regulations on product requirements are being prepared in terms of performance characteristics; safety, health, environmental and consumer protection is being stressed;
- conformity assessment system is being prepared in compliance with the international rules (ISO/IEC Guides, European standards, recommendations and guides);
- domestic and foreign origin products are being treated equally;
- accreditation system for testing laboratories has been set up according to the ISO/IEC Guides (EN standards) and accreditation system for certification bodies is being established as well (Cooperation with foreign institutions);
- training and education center for accreditation and certification was established in January 1998 and laboratory staff from 170 testing and calibration laboratories went through the program in compliance with the ISO/IEC Guides and EN 45000 series of standards that have been adopted and published as Croatian standards;
- the Regulation on establishing and publishing of Croatian standards was published in the Official Journal of the Republic of Croatia in July 1997 (Official Gazette 74/97); translation into English of this regulation is enclosed (WT/ACC/HRV/36);
- the Regulation on procedures for establishing and functioning of technical committees was published in the Official Journal of the Republic of Croatia in June 1998 (Official Gazette 86/98); translation of this regulation into English will be provided to the WTO Secretariat soon;
- the Regulation on general criteria to be fulfilled by accredited laboratories and accredited legal entities operating certifications and on the manner in which the accreditation procedure functions was published in the Official Journal of the Republic of Croatia in June 1998 (Official Gazette 83/98). The translation of this regulation into English will be provided to the Secretariat soon;

- technical competence of conformity assessment bodies performing mandatory testing and certification has been assessed and periodically surveyed. Testing laboratories operating mandatory certification in compliance with the technical regulations in force are bound to fulfil the requirements of the above mentioned regulations on accreditation by 31 December 2000 at the latest;
- the Regulation on conditions and procedures for recognition of test reports issued abroad and issuance of certificates of conformity was published in the Official Journal of the Republic of Croatia in June 1997 (Official Gazette 69/97) and has been implemented since 1 September 1997. The translation of this regulation will be provided to the WTO Secretariat.

2. The situation with regard to the SPS regulations in Croatia, is as follows:

Phytosanitary regulations:

The Border Phytosanitary Inspection is a part of the Department of Border Phytosanitary Inspection. This Department is organised within the Agricultural and Food Industry Division of the Ministry of Agriculture and Forestry.

Currently, this Department consists of five border stations for plant protection (Zagreb, Rijeka, Goričan, Split, Osijek) which are in charge of 29 borders for phytosanitary inspection.

The main job of the phytosanitary inspection is the health control of imported and exported plants, sorts of plants as well as the control of imported plant protection chemicals in traffic across the state border.

The plants intended for exports are controlled by the authorised experts of the Institute for Protection of Plants in Agriculture and Forestry in addition to the border phytosanitary inspection.

The Institute for Plant Protection also performs the other activities in the field of plant protection (co-operation with the border phytosanitary inspection in identifying the presence of quarantine pests on imported and exported plants, sanitary supervision of plants in the course of vegetation, risk assessment of pests and application of appropriate procedures in order to prevent the spread of pests, etc.).

The jobs and tasks of the Border Phytosanitary Inspection and the obligations of the officials of the Institute for Plant Protection as well as other entities in plant protection are fulfilled in accordance with the Law of Plant Protection ("Official Gazette", No. 10/94). A great number of regulations and rules have been passed on the basis of this Law, regulating the jobs in this field.

This Law is completely in compliance with the basic principles and requirements of the International Plant Protection Convention (IPPC).

Also, the Regulation on the Sanitary Inspection of Plants and Plant Protection Chemicals in the Traffic Across the State Border (published in the "Official Gazette", No. 12/95) applies, as far as possible, the measures and recommendations which are equivalent to the measures applied by the other members trading in similar products (plants and plant products). The Croatian measures are not stricter than those internationally recommended and they do not make any discrimination between imported and domestic products.

As already stated before, the Republic of Croatia demanded technical assistance in order to organize the plant protection in the most appropriate way and to get acquainted with the procedures in adopting the EU regulations and standards.

In parallel, we take measures and other activities in order to adjust the organization and structure of plant protection with the existing international standards.

For instance, the proposal for the reorganization of some parts of the existing plant protection department including the proposal for the personnel in need within this department and the defining of their internal organization in order to accomplish the duties of plant protection (within the Ministry of Agriculture and Forestry and the Institute for the Protection of Plants in Agriculture and Forestry) is being drafted.

In addition, the proposal to the Government of the Republic of Croatia has been prepared for providing additional funds for the introduction of information system in the course of this year. The next step (in 1999) shall be the request for the funds necessary for the purchase of technical equipment (laboratory equipment and other facilities needed for the proper functioning of the phytosanitary inspection).

Immediately after the plant protection department is reorganized and the necessary financial funds acquired (in our opinion until the end of the current year), the amending of those regulations and rules which have to be in compliance with international standards and requirements will begin. Those standards have not been applied due to the lack of technical equipment. "

Attached to this document is the Regulation on Phytosanitary Inspection of Plants and Control of Plant Protection Products in the National Cross-Boundary Transportation, published in Official Gazette nos. 12/1995 and 96/1995 which clearly states the procedures in this area. (WT/ACC/HRV/36)

Sanitary regulations

The health control of foodstuffs and goods of general usage as well as providing of the sanitary, technical and hygienic conditions for their production and distribution is the measures whose aim is to prevent and fight against contagious diseases according to Article 11 of the Law of Protection of Citizens from Contagious Diseases ("Official Gazette", No. 60/92, 26/93, 29/94).

The Law on Health Safety and Controls of Foodstuffs and Goods of General Usage ("Official Gazette" No. 1/97 - final draft) stipulates the conditions related to the health safety that foodstuffs and goods of general usage, imported or produced, have to comply with in order to be distributed on the domestic market. In addition to this, the Law provides for the health control of the production and distribution of foodstuffs and goods of general usage in order to ensure their health and safety. The provisions of this Law also apply to raw materials for the production of foodstuffs and goods of general usage, spices, additives and substances used for enriching foodstuffs.

The foodstuffs include all that is used as food or drink, in processed or non-processed, including drinking water.

The goods of general usage include tableware, accessories, equipment and apparatus for the production of foodstuffs and goods of general usage and containers, toys, perfumery, cosmetic and toilet preparations for body and face, washing preparations, tobacco, tobacco products and smoking accessories as well as certain goods and instruments that come into close contact with skin or mucous membrane while they are used.

According to the provisions of Article 5, paragraph 1, point 3 of the Law on Health Safety and Controls of Foodstuffs and Goods of General Usage ("Official Gazette" No. 1/97 - final draft) the foodstuffs or goods are considered as unsafe for human health:

- if their sensory characteristics have changed;
- if they contain pathogenic micro-organism or pathogenic parasite;
- if they contain bacteria toxin; micro toxin; histamine; and similar substances in such quantities which exceed those determined by the regulations;
- if they contain natural toxin or other natural toxic substances in the quantities which are noxious for human health;
- if they contain pesticides; metals; non-metals; veterinary medicaments residue and other noxious substances in quantities which are harmful for human health;
- if they contain additives which are not allowed for the production of foodstuffs and other goods of general usage or if they contain additives in such quantities which special regulations stipulate as inadmissible;
- if they contain radio nuclides in quantities exceeding those regulated or if radiated over the limit regulated by the law;
- mechanically damaged admixtures which can be noxious for human health or cause aversion;
- originating from dead animals or animals suffering from disease which are noxious for human health;
- if they contain other micro organism; parasites or substances in quantities; which are harmful for human health;

The health control of production and distribution of foodstuffs and other goods is performed by the government authority in charge of sanitary inspection and the health control of foodstuffs of animal origin is also done by the government authority in charge of veterinary inspection according to Article 26 of the Law. In order to control the health safety, the competent authority has a right to take samples in the course of production and distribution. Authorized laboratories test those samples, which have to be properly sealed up and labelled. The samples for analyses and super analyses are taken at the same time.

The health control of imported foodstuffs and other goods is done by the border sanitary inspector and if the foodstuffs are of animal origin also by border veterinary inspector in accordance with Article 32 of the Law. The costs of controls and health safety inspection of foodstuffs and other goods of general usage are borne by the importer according to the provisions of Article 35 of the Law. The importer is not allowed to distribute or process the imported goods before he receives the official decision that the goods are health safe in accordance with Article 34 of the Law.

The regulations adopted on the basis of Article 50 of the Law on Health Safety and Health Control of Foodstuffs and Goods, were published in the "Official Gazette", No. 46/94:

- the Rule of Health Safety of the Drinking Water;
- the Rule on Micro-biological Standards of Foodstuffs;
- the Rule on Quantities of Pesticides, Toxins, Micro-toxins, Metals and Histamine and Similar Substances that Foodstuffs May Contain and Other Conditions in Relation to Health Safety of Foodstuffs and Other Goods;
- the Rule on the Conditions of Preserving Food and other Goods by Ionizing Radiation;
- the Rule on Health Safety of Dietetic Food;
- the Rule on Conditions related to the Health Safety that the Goods of General Usage have to Comply with in Order to be Distributed on the Market;
- the Rule on Preparation and Sale of Foodstuffs Outdoors;
- the Rule on Micro-biological Cleanness Norms and Methods of their Defining;
- the Rule on Special Working Cloths and Shoes for Workers who in Production and Distribution Come into Close Contact with Foodstuffs, Cosmetic and Toilet Preparations for Body and Face.

We would like to stress that the other implementation rules and regulations based on Article 50 of the Law on Health Safety of Foodstuffs and Goods of General Usage ("Official Gazette", No. 1/97 - final draft) are being adopted.

Veterinary and sanitary inspection and control of animals and animal products, animal offal substances, semen, embryo, and other goods that may transmit contagious diseases or affect human or animal life when imported, exported or in transit are done by border veterinary inspection.

The veterinary inspection means the control of animals and products of animal origin in order to protect animals as well as animal and human life, the control of vehicles, buildings and goods that may transmit contagious diseases.

The obligation of the Republic of Croatia to organise the border veterinary inspection is based on:

- Codex of the International Office for Contagious Diseases with its headquarters in Paris, whose member is the Republic of Croatia;
- International bilateral agreements on veterinary co-operation;
- Veterinary Law ("Official Gazette", No. 70/97);
- International Conventions on the Harmonisation of Border Inspection of Products;

Organisation Of The Border Veterinary Inspection

Border veterinary inspection is organised within the Department for Border Veterinary Inspection of the Ministry of Agriculture and Forestry - Veterinary Directorate. The organisational units of the Department are veterinary stations that are organised for few borders covering a certain territory.

The border veterinary stations are established, unified or closed down by the Government of the Republic of Croatia, while the minister of forestry and agriculture determines the borders where the veterinary inspection is carried out.

Five border veterinary stations, in Zagreb, Goričan, Osijek, Rijeka and Split were established by the Decision of the Government of the Republic of Croatia of 7 January 1991 ("Official Gazette", No. 58/91). The borders where the veterinary inspection is carried out are determined by the Decree of the Minister of Agriculture and Forestry on Borders of 6 January 1995.

Border veterinary inspectors are independent in carrying out their duties and as far as the veterinary control is concerned they have special permissions.

The work of veterinary inspectors, especially its volume, depends on how frequent the transit route is. The number of shipments controlled at different borders varies significantly.

The organisation, scope of activities and conditions related to the work of border veterinary inspections are regulated by the following:

- (i.) Veterinary Law ("Official Gazette", No. 70/97) - regulates the organisation, rights and obligations of the border inspectors. With regard to the inspection, the Decisions are issued in accordance with the Law on General Administrative Procedure;
- (ii.) The Regulation on the handling operations of animals, animal products, raw materials and animal origin offal shipments, on the conditions that vehicles have to comply with, hygiene and technical conditions of the shipments, and health report form of the imported, exported or shipment in transit and the way the border inspection is done;
- (iii.) The Decision on the establishment of border veterinary inspections ("Official gazette", No. 58/91);
- (iv.) Decree on borders where the border veterinary stations are established ("Official Gazette", No. 3/95);
- (v.) Regulation on Border Veterinary Inspector Identification and Sign ("Official Gazette", No. 69/91, 60/93);
- (vi.) Decision on Prices Charged for Veterinary and Sanitary Inspection at the Republic of Croatia Border ("Official Gazette", No. 63/94);
- (vii.) Regulation on Conditions that the Buildings for Animals and Warehouses for Products of Animal Origin and Offal Animal Substances on State Borders have to Comply With ("Official Gazette", No. 52/93);
- (viii.) Regulation on Conditions that Railroad Stations and Harbours for Handling Operations of Animals have to Comply With ("Official Gazette", No. 52/93);

- (ix.) Regulation on Shipments of Products of Animal Origin that are not Subject to Veterinary and Sanitary Inspection When Imported or in Transit ("Official Gazette", No. 86/93);
- (x.) There are also other regulations concerning the border veterinary inspection, notably the Law on Health Safety and Controls of Foodstuffs and Goods of General Usage ("Official Gazette", No. 69/92), the Decree on Ban of Imports and Transit, various Recommendations, Decisions, and Directives by the European Union, etc.

The border veterinary inspection has totally 60 employees. Those are: one head of department, five deputies - the chiefs of border veterinary stations, 52 border veterinary inspectors, two other employees.

The number of employees really needed for different borders is not determined as yet. It depends on the working hours of the neighbouring countries' veterinary stations as well as the frequency of shipments subject to veterinary inspection.

The borders, with regard to location, professional skills of inspectors, equipment, sorts, scope and sequence of controls, have to comply with adopted standards and are subject to international inspection.

The work and procedure of the border veterinary inspector is determined by the Veterinary Law and other regulations and it also complies with the Codex of the International Office for Contagious Diseases and International Bilateral Agreements

The border veterinary inspection means the veterinary and sanitary control of animal and products of animal origin when imported, exported or in transit, that is the control of health state and health safety, control of accompanying documentation (certificates - attested by veterinary authorities of the exporting countries).

The veterinary and sanitary inspection of the mentioned shipments is the same for the shipments by domestic producers and the producers from the other exporting countries.

The border veterinary inspection of the Republic of Croatia has harmonised its work completely with the requirements of the European Union.

Question 22.

Croatia also notes that presently about 100 standards are being prepared based on international and regional standards. What is the current status of the adoption of these standards?

Answer:

The number of new Croatian Standards – adopted international and European Standards as at 31 May 1998 is 495, as follows:

Croatian Standards adopted by translation and published:

- adopted International Standards (ISO, IEC) 47 (+10)
- adopted European Standards (EN) 35
(adopted International Standards EN ISO; EN 6XXXX - 10)

Croatian Standards adopted by endorsement:

- adopted International Standards (ISO, IEC) 223 (+60)
- adopted European Standards (EN) 142
(adopted International Standards EN ISO; EN 6XXXX - about 60)
- adopted German Standards (DIN) 43

Croatian Standards adopted by Croatian cover-page:

- adopted International Standards (IEC) 3

Croatian standards (national) published 2

Question 23.

What criteria does Croatia apply in deciding whether to base its measures on regional, rather than international standards?

Answer:

The adoption of International Standards has been the first priority.

In some cases European Standards have been adopted in connection with the technologies in place and because of the fact that the Croatian producers are at present mainly oriented towards the European market.

Question 24.

We would be interested in a list of the regional standards being considered for adoption.

Answer:

The list of Croatian Standards – adopted European Standards (as of 31 May 1998) is attached to this document. (WT/ACC/HRV/36)

The list of European Standards being considered for adoption is in preparation.

The harmonized European Standards supporting the European legislation would be included.

Question 25.

In the reply to question 1 of WT/ACC/HRV/Add.1, Croatia states that “Article 3 of the Law on the control of Quality of Specific Products on Imports and Exports stipulates that quality control determines whether imported and exported products meet the market conditions in Croatia which conform to the national standards, regulations, international agreement and certificates binding the Republic of Croatia.” Is there similar legislation, which requires domestic goods to meet these same regulations?

Answer:

Quality control of imported and domestic products is carried out by the State Inspectorate (ex Market Inspectorate) prior to entering of those products to the market: Quality control of domestic products is performed at the production sites and quality control of imported goods is carried out at the place of customs clearance and prior to customs clearance.

In the internal market, market inspection controls the quality of all products to which the regulations governing basic requirements refer to and, as regards imported products, the only products that are controlled are those that are imported by a large number of importers and those that are widely dispersed in the Croatian market. The quality control of imported products does not apply to products which are imported by legal and physical persons and which they subsequently use in their registered activities (reproduction materials, spare parts, and raw materials).

Although the control is applied in a same way to imported and domestic products, the fact that legislation on quality control is divided in several laws and regulations (one of them being exclusively valid for the control of imported products) might cause misunderstanding as to the way of application of national treatment.

Therefore, the Government of Croatia will propose to the Parliament to regulate all quality control issues in one comprehensive law to be valid for the quality control of all products from the list of goods subject to quality control, regardless of their origin. This confirms Croatia's readiness to perform quality control measures in full conformity with the rules and disciplines of the WTO. The new Law and regulations would also ensure that quality control is based on scientific grounds and not amounting to an unjustifiable trade restriction.

Question 26.

In the reply to question 74 of WT/ACC/HRV/30, Croatia notes that a number of agricultural products are subject to quality control/standards. We are a bit confused as to whether these quality standards are actual SPS regulations or just consumer preferences. Some of the products included on the list are processed products and we do not understand why these products are subject to SPS testing (i.e. mustard, biscuits, pasta, soup, baking powder, condiments, margarine, and mayonnaise).

Please explain the public policy objective of each of these measures, and specifically whether they are intended to address known risks to public health or safety. Additionally, please explain exactly what type of testing is required. It would be helpful to provide a step-by-step account of the entire testing process and an assessment of how long this process should take.

Answer:

Please refer to the previous answer and information on SPS in the reply to question 21 of this document.

Question 27.

In the reply to question 76 of WT/ACC/HRV/30, Croatia states that the names of the products on the quality control list are determined by quality regulations and not HS numbers. We understand that the products are included on the list based on quality regulations. However, in order to more accurately which products are subject to this control, it would be helpful to have the products listed by their entire HS number (for example, some product categories have a number of HS tariff line. We need to be sure we understand which ones of those are subject to quality control).

Answer:

The list of products subject to quality control on import is attached to this document. (see WT/ACC/HRV/36)

IV. OTHER POLICIES AFFECTING FOREIGN TRADE

1. Trade-related Intellectual Property Protection

Question 28.

In the reply to question 100 of WT/ACC/HRV/30, Croatia states that it plans to implement fully the TRIPS Agreement in January 2000 in compliance with the transition period set forth in Article 65 para 3 of the TRIPS Agreement.

- **It is our policy that acceding countries be in full conformity with the TRIPS Agreement on the date of accession, with no transition permitted. Article 65.2, 3 and 4 were included to provide a period of transition for those countries that were already members of the GATT and were entitled to be Members of the WTO without additional accession negotiations. The transition provisions in 65.2, 3 and 4 were part of the balance achieved between developed and developing countries regarding intellectual property, recognizing that most developing and non-market economy countries had further to go than did developed countries to bring their laws and practices into conformity with TRIPS. Newly acceding countries should have no such need since they can making the necessary changes during the course of accession negotiations, to become affective on the date of accession, if not before.**
- **Croatia should report to the Working Party on its specific plans to alter its current legislation to be in a position to fully implement the TRIPS Agreement by the date of accession.**

In earlier documents, the Government of Croatia had indicated that it expected the Patent Law, the Trademark Law, and the Law on Industrial Designs and Models to be enacted in 1996 and to come into force at the beginning of 1997. In WT/ACC/HRV/30, however, the Government of Croatia states that it plans that these laws and the Law on Copyright and Neighbouring Rights will be enacted in the middle of 1998.

- **Please provide an update on the status of each of these laws, indicating whether final drafts have been introduced to the legislature and what procedures must be followed before the measures are enacted.**

Answer:

The Patent Law, the Trademark Law, and the Law on Industrial Designs and Models have been drafted and the drafts are now in discussion procedure which is open to all interested parties in the Republic of Croatia. After the discussion is over they will be sent for review to relevant international organization (e.g. Max Planck Institute). Any suggestion made by such international organization will be taken into consideration. Such drafts that include suggestions made by domestic parties and by international subjects should be, by the end of 1998, introduced to the Croatian Parliament.

The process of drafting new Law on Copyright and Neighbouring Rights shall take place in course of 1998, after the Amending the Copyright Law fulfills the TRIPS requirements concerning the copyright and neighbouring rights.

Question 29.

The response to question 100 of WT/ACC/HRV/30 states that the new Penal Code was under consideration by the Parliament. What is the status of the legislation?

Answer:

The Penal Code was enacted on 19 September 1997 (Official Gazette No. 110/97) and came into force on 1 January 1998.

Question 30.

The same answer indicates that a Law on Topographies of Integrated Circuits needs to be passed in 1998/1999. Has that law been drafted yet? If not, what agency is responsible for drafting the document; when is it planned to be drafted; when, enacted and with what effective date?

Answer:

The Law on Topographies of Integrated Circuits has been in drafting process before the State Intellectual Property Office of the Republic of Croatia, which is responsible for draft of said law. The draft should be finished by the end of 1998. The Law is expected to be enacted in course of 1998, and to come into force by 30 June 1999.

Question 31.

In several documents, the Government of Croatia has indicated that it will introduce legislation providing for border enforcement at least directed to willfull trademark counterfeiting and copyright piracy on a commercial scale.

What agency is responsible for drafting the Law on Border Control on Imports of Counterfeited and Pirated Goods; when is it planned to be drafted; when, enacted and with what effective date?

Answer:

Trademark counterfeiting will be governed by the new Trademark Law and the Amending the Copyright Law (Article 27) contains provision that regulates copyright piracy.

Detailed procedural provisions concerning undertaking border measures will be prescribed, after entering into force of the Trademark Law and the Amending the Copyright Law, in the Custom Regulations. The Customs Directorate is responsible for drafting the Customs Regulations.

This legislative work will be finished by 30 June 1999, at the latest.

Question 32.

In response to question 109 of WT/ACC/HRV/30, the GOC notes that Croatia's Law on the Protection of Market Competition (NN RH no. 48/95) and the Law on the Protection of Data Secrecy (NN RH no 108/96) provide protection for undisclosed information in a manner consistent with TRIPS Article 39.

Please provide definitions of the nature of the undisclosed information protected by each of these provisions; describe the nature of the protection provided, and the remedies available against those which disclose, use, or trade in such information.

Answer:

The Law on the Protection of Market Competition prescribes only general principles of the honest commercial practices and does not in particular regulate matters concerning the protection of the undisclosed information.

The Law on the Protection of Data Secrecy in its Article 19 defines a trade secret (undisclosed information) as information which is as such specified by the law or by a statute of enterprise and which concerns a secret method of operation or is result of innovative work, disclosure of which would be injury for that enterprise.

A legal entity is obliged to undertake measures to keep such information secret, and a natural person employed within that legal entity is obliged to keep such information secret while employed as well as one year after the expiration of his employment.

The Penal Code provides that the disclosure of a trade secret is a criminal offense punishable with the imprisonment up to ten years.

The Penal Code in its Article 295 provides that anyone who discloses, acquires or uses somebody's trade secret will be punished by imprisonment from one to five years. If such person does so in order to use a trade secret abroad will be punished from one to ten years.

Question 33.

The GOC indicated that a Law on the Protection of New Plant Varieties was under consideration in the Parliament. Has this law been enacted and, if so, when does it become effective? When will Croatia adhere to the Convention for the Protection of New Varieties of Plants?

Answer:

The Law on the Protection of Agricultural Plants that, inter alia, regulates the protection for the new plant varieties has been enacted on November 21, 1997 (Official Gazette "Narodne novine" No. 131/97) and has become effective on 13 December 1997.

Adherence of the Republic of Croatia to the Convention for the Protection of New Varieties of Plants is expecting to take place by the end of 1998.

Question 34.

In past documents, the GOC noted that the Ministry of the Interior's Department for Preventing Economic Crime, the Market Inspectorate of the Ministry of Economic Affairs and the Financial Police of the Ministry of Finance take measures aimed at preventing infringement of intellectual property, particularly copyright. Some statistics have been provided regarding seizures of infringing audio and videotapes and CDs during 1994-1995. Please update that information for the years 1996. and 1997.

Answer:

In 1996, 12,899 videotapes, 9,646 audiotapes and 4,873 CDs that had been result of copyright piracy had been seized.

In 1997, 14,405 videotapes, 11,986 audiotapes and 2,920 CDs that had been result of copyright piracy had been seized.

In 1997, the Ministry of the Interior's Department for Preventing Economic Crime destroyed 11,014 videotapes and 615 audiotapes that had been result of copyright piracy (based on the court decisions having the force of res judicata) and that had been seized in 1995.

Question 35.

Croatia has indicated that it plans to accede to the Patent Cooperation Treaty. When is it expected that such accession will take place?

Answer:

The Republic of Croatia deposited the instrument of accession to the Patent Cooperation Treaty with the Director General of the World Intellectual Property Organization on 30 April 1997.

The date of entry into force of the Patent Cooperation Treaty in the Republic of Croatia will be, as stated in the instrument of accession, July 1, 1998.

Question 36.

The GOC has stated several times that, although its laws contain provisions permitting compulsory licensing of patents, no such license has ever been issued. Please verify that this is still the case or, if such a license has been issued, indicate the nature of the license, the conditions under which it was issued, and the royalty acquired to be paid the patentee.

Answer:

The issuance of the compulsory licenses of patents is within the competence of the State Intellectual Property Office of the Republic of Croatia. It has been established in 1991 and during its existence no compulsory license of patent has been issued. It is not likely that the Intellectual Property Office will issue such license in the near future.

Question 37.

In an earlier document, the GOC indicted that only four Commercial Courts of first instance had dealt with intellectual property matters. Please describe briefly any cases that have been handled by the Commercial Courts in 1996 and 1997, identifying the nature of the right involved and the results of the action, including any remedies imposed.

Answer:

The following are brief descriptions of some cases that are now before the High Commercial Court of the Republic of Croatia (except the fourth case made by the Commercial Court of Zagreb which had not been appealed). The High Commercial Court of the Republic of Croatia is the court of appeal for matters concerning infringement of the intellectual property rights.

(i) The first case here is an appeal against the decision of the Commercial Court of Zagreb No. XXIX P-472/94 dated on December 10, 1996. The Commercial Court of Zagreb decided that defendant had infringed plaintiff's moral right when publishing his book with changed cover sheet and thus, had violated Article 28 of the Copyright Law, which prescribed, inter alia, that "the author's moral rights consist of the right to (...) object to any distortion, mutilation or other modification of the work". The Court decided that defendant, in order to assure better marketing of plaintiff's book, had changed cover sheet of the book, and therefore should pay 3,500.00 kunas to plaintiff for the indemnification. The plaintiff appealed the decision stating that the sum is not appropriate for suffered injury and should be 21,521.52 kunas. The Commercial Court of Zagreb reasoned its decision with the fact that the book had been sold in insignificant number of copies and that the editor – plaintiff gained very small profit. Based on that fact, the High Commercial Court confirmed the decision of the Commercial Court of Zagreb stating that awarded sum had been appropriate.

(ii) The second case is an appeal against the decision of the Commercial Court of Zagreb No. III P-6058/95 dated on 18 January 1996. The Commercial Court of Zagreb decided that defendant - editor infringed plaintiff's moral rights using without author's permission a translation of the book "The Last of the Mohicans" failing to mention him as the translator, and thus, violated Article 27 of the Copyright Law, which prescribed, inter alia, that "(...) exploitation of a copyright work by another person may take place only with the authorization of the author" and Article 28 of the Copyright Law in part which said that "the author's moral rights shall consist of the right to be recognized and indicated as the author of the work (...)". The Commercial Court of Zagreb decided that defendant published plaintiff's translation of the book, without his authorization failing to mention him as the author of translation, and therefore should pay 121,000.00 kunas (the sum had been based on the number of copies sold) to the plaintiff for the indemnification. The defendant appealed stating that, when publishing said book, he had believed that he had been using translation of another author. The Commercial Court of Zagreb found that the defendant should have known the fact that plaintiff had made the translation and that awarded sum has not been appropriate. The High Commercial Court confirmed the decision of the Commercial Court of Zagreb and rejected defendant's appeal.

(iii) The third case concerns trademark infringement. Defendant appealed a decision of the Commercial Court of Rijeka No. VP-927/96 dated on June 7, 1996. In said case the Court decided that plaintiff who is the owner of the trademark "ACIDOFIL" is entitled to exclusive right to use said trademark in commerce and therefore, defendant who has used identical name (not protected as trademark) for identical products has violated the Industrial Property Law and is forbidden to use that name further. The defendant appealed stating that the plaintiff's trademark is a generic name for certain types of diary products and therefore according to Article 30 of the Industrial Property Law could not be protected as a trademark. The Commercial Court of Rijeka decided that the plaintiff had registered trademark and consequently, all rights covered by trademark protection. The High

Commercial Court had annulled the decision made by the first instance court confirming that reason claimed by the defendant that the trademark is generic. In sum, defendant's appeal has been accepted and the case is now, for the second time before the Commercial Court of Rijeka.

(iv) The fourth case concerns model infringement. A decision No. XXI P-4894/95 dated on 2 April 1997 made by Commercial Court of Zagreb, has not been appealed. In said case the Commercial Court of Zagreb found that a plaintiff is an owner of the model of bottle registered in the Register of the State Intellectual Property Office of the Republic of Croatia, under the name "Bottle". The Court also found that a defendant who was producer of similar bottles did not infringe plaintiff's model of bottle, and therefore did not violate the Industrial Property Law. The Court decided that defendant's bottle was not a copy of the plaintiff's bottle and the only common elements of them were those concerning the functionality of both bottles (i.e. material and certain shape) but that other distinctive elements (i.e. size of the bottom part of the bottle) are sufficiently different. The decision of the Commercial Court of Zagreb has not been appealed and therefore has had a force of res judicata.

Among disputes concerning the infringement of intellectual property rights, the most often are those concerning copyright infringement.

2. Agricultural Policy

(a) System of Subsidies in Agricultural Production

Question 38.

The Secretariat's factual summary of the most recent Working Party which Croatia potentially creates confusion by not distinguishing between agricultural domestic support programs and agricultural export subsidies. This confusion is particularly apparent in paragraphs 87 and 87. It is not clear if Croatia shares this confusion. If Croatia appears to be mixing the two types of programs in its discussion of agriculture, we suggest that Croatia review the provisions of the Agreement on Agriculture, which clearly distinguishes between the two types of agricultural programs.

(c) Special Fees on Imports of Agricultural and Food Produce

Question 39.

In question 136 of WT/ACC/HRV/30, the United States commended Croatia for eliminating variable levies on agricultural products. While commend this action, we remain concerned about the extremely high mixed tariffs on chocolate and other confectionery products. We will address our specific concerns during the bilateral the market access negotiations.

6. Government Procurement

Question 40.

As a part of its protocol accession commitments, we expect Croatia to become a member of the Government Procurement agreement, with a schedule of commitments to be submitted to the GPA Committee no later than three months after the date of accession to the WTO.

Answer:

In mid-December 1997, the Croatian Parliament passed the Law on Procurement of Goods and Services and Sub-contracting, which replaced the Government's Regulation on the Procedure for Procurement of Goods and Services and Sub-contracting. The Law entered in force in March 1998.

The entities under obligation to apply this Law are:

- Government authorities and other state authority bodies;
- bodies of the local government and self-government units
- legal person owned by the state or legal persons using funds from state budget for their regular activities and capital investments; legal persons using budget guarantees or other insurance concerning the procurement contract or other support related to commitments assumed under that contract and legal persons using financing from extrabudgetary funds - Pension Fund, Croatian Health Insurance Fund, Employment Fund and other extrabudgetary funds established by the Government of the Republic of Croatia, etc.

The Law applies to all public procurements with the total value of goods, services and works exceeding 200,000 kunas (US\$32.000) in a fiscal year. Bidders regardless of their residence and headquarters, except in cases when the purchaser limits the participation in tender to domestic suppliers, i.e. applies national preference, are allowed to participate in tenders. The Law stipulated conditions and liabilities of the purchaser with regard to application of the national preference, as well as other conditions concerning government procurement, beginning with procurement implementation, pre-procurement, international tendering (obligatory for works and goods whose total invoice value exceeds 12 million kunas (US\$2 million) or 6 million kunas (US\$1 million) for services, the procurement procedure, conditions for tendering, estimations and comparisons of offers, implementation and monitoring of the implementation of the Law.

Having in mind that the present membership of the Agreement on Government Procurement is rather limited and selective, and that no major obstacles for international bidders are experienced in enforcement of the national law on government procurements, the Government of the Republic of Croatia will officially apply for an observer status to the Agreement on Government Procurement. That would enable Croatia to get more acquainted with practical aspects of the Agreement's discipline and determine an adequate coverage and staging, in order to start negotiations on its accession to the Agreement at an appropriate stage.

Question 41.

In the response to question 37 of WT/ACC/HRV/27/Add.1, Croatia indicates that a New Law on Public procurement is currently in parliamentary procedure. Has the WTO Secretariat received the new English – language law on public procurement?

Answer:

The new Law on Public Procurement was submitted to the WTO Secretariat earlier this year. (WT/ACC/HRV/34)

V. INSTITUTIONAL BASE FOR TRADE AND ECONOMIC RELATIONS WITH THIRD COUNTRIES

1. Bilateral or Plurilateral Agreements Relating to Foreign Trade in Goods and Trade in Services

Question 42.

We seek a commitment from the Republic of Croatia that it will adhere to the WTO Agreement on Trade in Civil Aircraft from the date of accession.

Answer:

The Government of the Republic of Croatia hereby confirms that the Republic of Croatia shall apply to become a party to the Agreement on Trade in Civil Aircraft. An official application shall be submitted to the WTO Secretariat by 1 October 1998, together with a proposal of tariffs schedule to be a basis for accession negotiations.

VI. TRADE IN SERVICES

Question 43.

In regard to question 153 of WT/ACC/HRV/30: we are interested in further clarification of year reasons for not permitting cross-border provision of insurance services.

Answer:

The cross-border provision of insurance services is not permitted due to the reason of current Republic of Croatia's balance of payments position. To permit cross-border provision of insurance services will cause additional capital outflows. Therefore, for the time being, we can not accept this obligation.

Question 44.

In regard to the insurance sector: does Croatian legislation on Investment Income identify a particular tax for the insurance sector?

Answer:

There are not any specific taxes related to insurance sector. Croatian legislation on Investment Income specifies uniform tax rate (35 per cent) for all companies regardless of their business activity. All companies, including insurance companies, are allowed to transfer their investment income (return on investment) without any restrictions, or to reinvest it.

Question 45.

In regard to question 158 of WT/ACC/HRV/30: do you intend to expand the areas in which foreign lawyers may practice?

Answer:

As already explained during bilateral negotiations, foreign lawyers can provide legal advice (consultancy) on the matters of international law and their national law. In order to clarify the

situation, we have included the reference to international law and third countries home law in the description of legal services (see revised Croatian Offer from May 1998 – WT/ACC/SPECC/HRV/4/Rev.1).

However, foreign lawyers cannot provide legal services related to Croatian law, they are not allowed to provide legal assistance to parties or representing parties before Croatian courts.

Consequently foreign lawyers cannot be partners in law firms and can not be entered in the Register of Lawyers because of the citizenship requirement for membership in the Bar Council of Croatia.

Question 46.

In the response to question 161 of WT/ACC/HRV/30, Croatia states that it has adopted national treatment of foreign investments. Please describe process required to participate in the privatization tenders. Are there established and publicly documented guidelines for these privatization tenders? Is information provided about the winning proposal to outside sources?

Answer:

Attached to this document is an English translation of the procedure for participation in privatization tenders in Croatia. (WT/ACC/HRV/36)
