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**Working Party on the
Accession of Croatia**

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Additional Questions and Replies

The following additional questions and replies have been received from the Ministry of Economic Affairs of the Republic of Croatia.¹

¹ Unless otherwise stated, the questions and *replies* refer to the “Elements of a Draft Report”, circulated in Document WT/ACC/SPEC/HRV/6/Rev.1

Table of Contents

	Page	Question
I. ECONOMIC POLICIES AND FOREIGN TRADE		
1. Economic Policies		
(a) Main directions of the ongoing economic policies		
State ownership and privatization	3	1
Pricing policies	4	2
II. FRAMEWORK FOR MAKING AND ENFORCING POLICIES		
2. Implementation of WTO Provisions	5	3
6. Right of Appeal	6	4
Central/subcentral authority for WTO	6	5
III. POLICIES AFFECTING TRADE IN GOODS		
1. Import Regulation	7	6
(c) Tariff rate quotas, tariff exemptions	8	7
(d) Other duties and charges levied on imports but not on domestic production	8	8 - 12
(e) Quantitative import restrictions, including prohibitions, quotas and licensing systems	11	13 - 18
(h) Customs valuation	12	19
(i) Other customs procedures (rules of origin)	15	20
(k) Application of internal taxes to imports	16	21
(m) Antidumping, countervailing duties and safeguard regimes	16	22
2. Export Regulation		
(b) Customs tariffs, fees and charges for services rendered, application of internal taxes to exports	17	23
(c) Export restrictions	17	24
3. Internal Policies Affecting Foreign Trade in Goods		
(a) Industrial policy, including subsidies	18	25
(b) Technical barriers to trade, sanitary and phytosanitary measures	18	26
Standards and certification		
(e) State trading entities	22	27
(f) Free zones, special economic areas	23	28
(l) Government procurement	23	29
(m) Transit	23	30
V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME	24	31
VI. TRADE-RELATED SERVICES REGIME		
2. Policies Affecting Trade in Services	24	32
Transparency	24	33
(c) Trade agreements		

I. ECONOMIC POLICIES AND FOREIGN TRADE

1. Economic Policies:

(a) Main directions of the ongoing economic policies

State Ownership and Privatization

Question 1.

We thank Croatia for its updated material on privatization in the revised draft Working Party report. We look forward to the table laying out through recent years the past history and current status of Government privatization activities, which would include the following information:

- a) the total number of socially owned firms that existed in each period (including those slated for privatization and those not) as a base number;**
- b) what kind of firms they were, e.g., retail, manufacturing, agricultural processing, etc., and how many were privatized;**
- c) a sense in the most recent period of the size as well as the number of the remaining unprivatized firms (the descriptive method used by Croatia is not important – some countries measure by size of employment, others by value of output or some other monetary indicator to indicate “size” of firms.);**
- d) as necessary, information on State firms liquidated rather than privatized.**

We would appreciate more information on the methods contemplated to approach privatization of the large State-owned enterprises.

Reply:

The Croatian delegation has submitted the table laying out status of Government privatization activities to the WTO Secretariat. It will be included in the Draft Report.

The process of privatization of the large state-owned enterprises should begin in 1999. Each company shall be privatized in accordance with a special law that will be adopted by the Croatian Parliament. The law will determine for every enterprise the share of the company, which will be privatized, i.e. offered to foreign and domestic investors. The investors will be chosen on the basis of a public tender in transparent and legal based manner. Prior to the adoption of each law and beginning of the process of privatization, the GOC will find a consultant on privatization process, following an international tendering procedure.

Consultants for Croatian telecom, and banks (Privredna banka, Splitska banka and Rijecka banka) have already been selected.

Pricing Policies

Question 2.

We thank Croatia for the additional information on its price controls in Table 2 and in the Working Party report text, and for the draft commitment paragraph. We would like to clarify a few points:

- (a) **At what point of sale are the requirements of the Law on Exceptional Measures of Price Controls applied, e.g., ex factory, wholesale, or retail? Please include this information in the Working Party report text.**
- (b) **Croatia has stated in para 28 that regulations specify that price controls are not applied to imports or exports. Does this mean that imports would be exempted from such controls, or is likely that imports entering the retail trade stream might become subject to the provisions of the Law on Exceptional Measures of Price Controls when they are applied to similar domestic products offered for sale in the same establishment?**
- (c) **Is Croatia prepared to state that “ the price of goods and services in every sector Croatia were determined freely by market forces with the exception of those noted in Table 2?” If so, we would like this statement be incorporated in the draft report.**

Reply:

(a) According to regulations on the implementation of the Law on Exceptional Measures of Price Control (provided to the Working Party members and the WTO Secretariat), the producers of certain goods and suppliers of certain services (Table 2 in WT/ACC/SPEC/HRV/6/Rev.1) are obliged to report changes of prices to the Ministry of Economy. They can choose to report either the ex factory, wholesale or retail sale price, but they are obliged to notify which price is reported. Most of producers notify ex factory price.

(b) The regulations on the implementation of the Law on Exceptional Measures of Price Control (provided to the Working Party members and the WTO Secretariat) determine the obligation of domestic producers of certain products or services to report price changes. This means that exceptional measures of price control can be implemented for a certain range of domestic products only.

All other domestic producers of goods and services that are not stated for price control regime, as well as all importers of foreign products and services, determine prices freely according to market conditions and their own business policy, without any interference of the Government bodies. Therefore, it is not possible that imported items entering the retail trade may become subject to the provisions of the Law on Exceptional Measures of Price Controls even if these measures are applied to the similar domestic products offered for the sale in the same establishment.

(c) Croatia accepts that the above mentioned statement be incorporated in the draft report.

II. FRAMEWORK FOR MAKING AND ENFORCING POLICIES

2. Implementation of WTO Provisions

Question 3.

We appreciate the draft laws and other information provided by Croatia in WT/ACC/HRV/46. We would appreciate Croatia's help in tracking the progress of its implementation agenda with the provision of a chart listing each piece of legislation, the aspects of WTO the legislation address, and the status of enactment and enforcement. Where regulations will be necessary to activate the law, please include a status report on their development as well.

Reply:

Implementation of the WTO provisions and agreements in Croatia's legislation – Laws and regulations in the process of revision:

WTO provisions/agreements	Croatia's legislation	Enactment	Enforcement
Articles XI, XII, XIX, XX, XXI of GATT 1994 including Agreement on Implementation on Article VI of the GATT 1994; Agreement on Safeguards; Agreement on Subsidies and Countervailing Measures Agreement on Agriculture (Article 5)	Law amending Law on Trade	April/May 1999 (Law passed the first reading in the Parliament)	April/May 1999
Agreement on Implementation of Article VII of the General Agreement on Tariffs and trade 1994	Customs Law	June 1999 (The Law was sent to the Parliamentary Procedure)	June 1999
Articles II, III	Law amending Law on excise taxes on tobacco and tobacco products	April/May 1999 (Law passed the first reading in the Parliament)	The day of accession to WTO
Agreement on Technical Barriers to Trade	Law on State Inspectorate	May/June 1999 (Law passed the first reading in the Parliament)	May/June 1999
Agreement on Rules of Origin	Decision on rules of origin (Governmental Decree)	April/May 1999	April/May 1999

WTO provisions/agreements	Croatia's legislation	Enactment	Enforcement
<p>Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS)</p> <p>(Detailed information concerning implementation of TRIPS Agreement in Croatian legislation was already submitted).</p>	<p>Patent Law</p> <p>Trademark Law</p> <p>Industrial Design Law</p> <p>Law on Layout of Integrated Circuits</p> <p>Law on Geographical Indications</p> <p>Law on Amendments of Copyright Law</p>	<p>June/July (The Laws are sent to the Parliamentary Procedure)</p>	<p>June 1999</p>

Drafts of all the above mentioned laws and regulations have been submitted to the Working Party for comments and remarks. The Decision on Rules of Origin which will be submitted by the end of March 1999.

6. Right of Appeal

Question 4.

We would appreciate information from Croatia on how the right of appeal is handled administratively for issues addressed in WTO Agreements, and in relation to the “independent tribunal “ provision of Article X.

Reply:

The Law on Trade, Customs Law, Company Law, and other laws related to the issues addressed in WTO Agreements stipulate the right of appeal.

The basic principle is that in customs and trade matters, the trader does not appeal to the administrative body, which has adopted the decision, the subject matter of the appeal. The appeal is lodged with a second-degree administrative body. That procedure is governed by the Law on General Administrative Procedure. The second-degree decisions are final but the trader is entitled to institute administrative lawsuit with High Administrative Court of the Republic of Croatia.

Central/Subcentral Authority for WTO

Question 5.

We note the discussion of central/subcentral relations, which outlines the role of Croatia's subcentral authorities in taxation. We would like to see a commitment in the Working Party text and protocol confirming the responsibility of the central authorities in the enforcement of WTO provisions in Croatia:

Reply:

Croatia accepts to take a commitment in the Working Party Report and protocol confirming the responsibility of the central authorities in the enforcement of WTO provisions in Croatia.

III. POLICIES AFFECTING TRADE IN GOODS**1. Import Regulation****Question 6.**

We seek Croatia's assistance in incorporating useful information on its customs tariff in this section, e.g., a description of how the current tariff was formed by incorporating miscellaneous border charges and import taxes in the original customs tariff; a chart on the current structure of the tariff in terms of tariff lines and duty levels; and a description of how many lines are subject to *ad valorem*, specific or mixed tariffs. Croatia should also provide information on the weighted and simple tariff average of the current applied tariff.

Reply:

The present Customs Tariff Law was adopted by the Croatian Parliament in June 1996 and entered into force as of 1 July, 1996. According to the Law, the nomenclature of customs tariff was formed on the basis of the International Convention on Harmonized Commodity Description and Coding System. The customs tariff consists of 7059 tariff items, out of which 4157 tariff items account for HS classification, and 2902 tariff items account for commodities of national classification.

All tariff items are subject to *ad valorem* tariffs, 590 tariff items are subject to compound duties (*ad valorem* + specific duties). *Ad valorem* rates range from 0 to 25 per cent. Simple tariff average is 12.1 per cent, while weighted tariff average is 9 per cent according to the import structure value in 1998.

Structure of the tariffs

Tariff rate (per cent)	Number of tariff items
0	505
0 – 5	3,038
5 – 10	828
10 – 15	883
15 – 20	1,260
20 and more	545

The Customs Tariff Law abolished the application of non tariff measures, i.e. terminated the Law on Special Levies on Import of Agriculture and Food Products and Article 35 of the Customs Law (which prescribed 1 per cent customs registration fee on imported goods), and special import levy which amounted 10 per cent.

The new tariff rates determined by the Law were governed by the following basic criteria:

- tariffs are the only trade policy measure applied in order to protect domestic industrial and agriculture production;
- the tariffs are considered to be trade policy measure and not fiscal measure;
- the tariffs are in function of development, in particular, the technological reconstruction of the economy;
- the tariff average should be at the level of tariffs applied in other countries in transition;
- rates exceeding 15 per cent are applied only in order to protect those industries and activities, which were seriously damaged in war;
- minimum tariff rates are applied to imported raw materials;
- when Customs Tariff Law enters into force, all non tariff measures applied to imports will cease to be implemented.

(c) Tariff Rate Quotas, Tariff Exemptions

Question 7.

Does Croatia have any tariff rate quotas, either as part of its MFN tariff regime or as part of a preferential regime?

Reply:

Croatia's Customs Law prescribes the possibility to use tariff quotas in exceptional cases on MFN basis.

The Government of the Republic of Croatia is entitled to adopt a special regulation in the cases in which tariff quotas are used.

The copy of the mentioned Decree will be provided to the WTO Secretariat.

Croatia has also tariff rate quotas as part of a preferential regime in trade with the Former Yugoslav Republic of Macedonia and the Republic of Slovenia. These tariff quotas are based on free trade agreements with those countries, and they are applied for agricultural and food products.

(d) Other Duties and Charges Levied on Imports but not on Domestic Production

Question 8.

Does Croatia require consular authentication or registration of customs documents in the country of origin? If so, are fees charged for these operations? If so, how much?

Reply:

Croatia does not require consular authentication or registration of customs documents in the country of origin.

Question 9.

In response to question 8 of WT/ACC/HRV/45, Croatia explains that it levies an administrative tax on imports of hazardous waste, an annual licensing fee of 20.000 kunas. Are

firms dealing in domestically generated hazardous waste subject to a similar licensing requirement or fee? If not, why not? Does this waste product have an economic value, or are the imports solely for the purpose of disposal?

Reply:

In accordance with the provisions of the Law on Waste, Croatian companies dealing with waste and hazardous waste in domestic market are subject to a licensing procedure. Also, the companies dealing with waste have to comply with special requirements concerning personnel, technical and technological equipment, etc. The stamp tax for the issuance of the license on compliance with the technical and technological requirements of the premises, equipment and buildings, for the companies dealing with hazardous waste in domestic market is charged in an amount of 1000 kunas.

At the same time, companies producing waste or handling it are under obligation to keep records containing data on category, quantity, place of origin and place of storage, treatment and waste disposal. This data should be sent quarterly to a competent state authority in charge of environment protection. Special procedure is required for companies dealing with hazardous waste.

The system of transboundary movement (import/export) of hazardous waste is carried out according to the Law on Waste which is in full compliance with the requirements of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (the Croatian State Parliament ratified the Convention in March 1994). The Convention puts special emphasis on the control of transboundary movements (export-import) by competent State authorities (Articles 4,5 and 6). It implies the issuance of appropriate licenses for export, import and transit of hazardous waste (as prescribed by the Convention), reporting and co-operation with other countries signatories of the Convention, joint consultations, as well as reporting of all the activities of the parties on transboundary movements of hazardous waste, including licenses issued by competent authorities (Article 15).

The above mentioned obligations under the Convention on Transboundary Movements require a special care of the administrative bodies and additional administrative costs for the issuance of licenses for import and export of waste. This was the reason why stamp tax for the import of hazardous waste was more expensive than the stamp tax for licensing domestic waste handling.

Accepting the objections of Working Party members, the Government of the Republic of Croatia is ready to issue a new decision by 30 June 1999, that will stipulate the lower level of the stamp tax for import and export of waste (set to 2000 kunas for the both export and import of waste), thus significantly reducing the existing stamp tax on import of waste of 20.000 kunas.

Question 10.

Can Croatia confirm that imported industrial goods, which are not necessarily classified as waste, are not subject, under any circumstances, to additional taxes (other than duties) for environmental purposes?

Reply:

Croatia confirms that all imported industrial goods that are not classified as waste in a regular procedure of customs clearance are not and shall not be subject to administrative fees and other additional taxes for environmental purposes other than tariff rates.

Question 11.

While the text in this paragraph 43 reflects our comments, it is not accurate in that it does not include reference to the 1 percent customs evidence fee applied to imports from the former Yugoslavia Republic of Macedonia and the Bosnian Federation. This fee violates WTO provisions on free trade areas and also on non-tariff charges applied to imports, and should be eliminated prior to accession.

Reply:

As indicated in WT/ACC/SPEC/HRV/6/Rev.1 – para 186, according to the FTA with the Former Yugoslav Republic of Macedonia, Croatia applies 1 per cent regular customs tariff *ad valorem* rate on imports from Macedonia, and not a 1 per cent customs evidence fee, as suggested in the questions. In its FTA with the Federation of Bosnia and Herzegovina, Croatia applies a 1 per cent customs evidence fee on imports from the Federation of Bosnia and Herzegovina. Croatia recognizes that the application of 1 per cent customs tariff rate in its FTA with the Former Yugoslav Republic of Macedonia is not in compliance with Article XXIV of the GATT, and the application of a 1 per cent customs evidence fee in its FTA with the Federation of Bosnia and Herzegovina is not in compliance with Article VIII of the GATT. Therefore, Croatia shall make necessary amendments in its FTA with the Former Yugoslav Republic of Macedonia and Bosnia and Herzegovina, as indicated in para 186 and 187 of the revised Elements of a Draft Report, in order to eliminate all inconsistencies with Articles VIII and XXIV of the GATT 1994 prior to its accession to the WTO.

Fees and charges for Services Rendered

Question 12.

Croatia states that it charges a stamp tax on customs declarations at a flat rate of HRK 60 per declaration and that a previous 1 percent *ad valorem* charge has been eliminated in the context of establishing a new tariff in July 1996. Please list all other goods and services subject to stamp taxes in Croatia and the level of the tax applied. We would like to have confirmation from Croatia in the Working Party report and protocol that Croatia has eliminated its import charges not related to the cost of the services.

Reply:

According to the Law on Administrative taxes (Official Gazette 8/96 and 131/97) Croatia charges stamp tax per customs declaration at a flat rate of 50 kunas and 10 kunas for the document on the basis on which imported or exported goods are registered to the Customs office, which makes total of 60 kunas.

Croatia is ready to accept a commitment in the Working Party report and protocol confirming that from the date of accession it would impose any fees or charges for services rendered related to importation or exportation only in conformity with Article VIII of the GATT 1994. Information regarding the application and level of any such fees, revenues collected and their use will be provided to WTO Members upon request.

(e) Quantitative Import Restrictions, including Prohibitions, Quotas and Licensing Systems

Question 13.

Does Croatia charge licensing fees for certain business activities? If so, please list these activities, cite the law requiring the license and indicate the level of the fee charged.

Reply:

Croatia does not charge licensing fee for any business activity.

Question 14.

If Croatia has an activity licensing regime, please describe the criteria applied to receive such a license and the procedures used to grant it, with special reference to (a) activities that involve importing, and (b) the WTO Agreement on Import Licensing Procedures.

Reply:

Please refer to the Reply 9 in document WT/ACC/HRV/39/Add.2, and document WT/ACC/HRV/25 – Information on import licensing procedures. Those replies indicate that Croatian procedure on import licensing is in full compliance with WTO Agreement on Import Licensing Procedures.

Question 15.

Croatia states in document WT/ACC/HRV/45 that it abolished all import quotas and other quantitative import restrictions in 1996 and that the provisions authorizing the application of such measures will be eliminated. It is also reported, however, that in recent months Croatia has applied import bans on pork, wheat, flour, sugar, etc., and additional restrictions on steel. Croatia's statement in WT/ACC/HRV/45 that these practices will change under WTO is worrisome given that these are recent activities. Acceding countries are expected to be observing WTO provisions from the time of application. Croatia will need to demonstrate tangibly that the previous measures for trade regulation have been permanently discarded and that any further resort to these sorts of measures will be only in accord with WTO provisions. Have all these restrictions been abolished? Please confirm that there are no imports at the present time subject to quantitative restrictions, bans, restrictive licensing requirements, etc.

Reply:

As indicated in previous replies, Croatia has abolished all quantitative restrictions on imports. Import bans on pork, wheat, flour and sugar were temporary measures, and the application of such bans was abolished. Croatia confirms that all previous restrictive measures for import regulation have been permanently discarded and at the present time there are no quantitative restrictions on imports, bans or restrictive licensing requirements. As indicated in the statement in para 60 of the Elements of a Draft Report – Revision, Croatia shall take recourse to quantitative import restrictions only in situations envisaged in Article XII of the GATT 1994 and according to the WTO Agreement on Safeguards.

Question 16.

Please provide a copy of the legislation repealing Article 40, which allows the application of quantitative restrictions, to the Working Party for review.

Reply:

The Law on Trade, will be submitted and the Draft Law Amending the Law on Trade has been already submitted to the WTO Secretariat. [WT/ACC/HRV/46]

Article 14 of the Draft Law Amending the Law on Trade stipulates the following:

“Article 40 changes and reads as follows:

The Government may impose import quotas for balance of payments purposes as well as for the implementation of measures under Article 38 of the present law (safeguard measures).

The Government may impose export quotas for the purpose of conservation of exhaustible natural resources of the Republic of Croatia.

Import and export quotas under paragraphs 1 and 2 above are imposed in compliance with international agreements that the Republic of Croatia entered into.”

Question 17.

Please indicate the reason for Croatia’s licensing requirements on steel products and on agricultural machinery, e.g., tractors. Are these measures automatic? If not, what criteria are applied?

Reply:

Please refer to the Reply 57 of the document WT/ACC/HRV/30 and Reply 9 of the document WT/ACC/HRV/39/Add2.

Question 18.

As necessary, please list the remaining quantitative export restrictions by HS item number and outline Croatia’s plans for revising these restrictions.

Reply:

Croatia hereby confirms that there are no quantitative restrictions on exports.

(h) Customs valuation

Question 19.

We reviewed the valuation portion of the Customs Law Draft supplied by your delegation in Geneva, and wish to raise the following issues:

Article 11 of the WTO Valuation Agreement provides for the right of appeal without penalty to a judicial authority. Although Article 44.5 states that “ the importer or any other persons liable for the payment of the duty has the right of appeal, without penalty”, it is not clear whether this right of appeal is to a judicial authority. Additionally, there is no provisions stating that the notice of the decision on appeal and the reasons for the decision to be given to the appellant in writing as set forth in Article 11(3) of the WTO Valuation Agreement.

Article 12 of the WTO Valuation Agreement is missing. There is no mention in the draft Customs Law text as to how the Republic of Croatia intends to implement its transparency obligations.

Article 14 of the WTO Valuation Agreement. The Republic of Croatia has failed to fully implement the Interpretative Notes set forth in Annex I of the WTO Valuation Agreement. We note that in WT/ACC/HRV/30 dated 11 August 1997, the Republic of Croatia stated that the new customs Law” will contain the operative Interpretative Notes...” Article 14 of the WTO Valuation Agreement stipulates that the Interpretative Notes to the Agreement form an integral

part of the Agreement and Articles are to be read in conjunction with the Interpretative Notes. Thus, the text of the Notes, not just the operative Interpretative Notes, must form part of the implementing legislation. The following Interpretative Notes are not fully implemented:

Interpretative Note, Use of Generally Accepted Accounting Principles;

Note to Article 1, price Actually Paid or payable, last Paragraph;

Note to Article 1, Paragraph 1(a) (iii);

Note to Article 1, Paragraph 1(b);

Note to Article 1, Paragraph 2

Note to Article 1, Paragraph 2(b)

Note to Article 2;

Note to Article 3,

Note to Article 5; Points 2 through 11;

Note to Article 6;

Note to Article 7;

Note to Article 8, Paragraph 1(b)(ii);

Note to Article 8, Paragraph 1(b)(iv);

Note to Article 8, Paragraph 1(c);

Note to Article 8, Paragraph 3

Note to Article 9;

Note to Article 11;

Note to Article 14, Paragraph 4;

Note to Article 1, Paragraph 4(c);and

Note to Article 15, concerning dividends.

We will need to see the regulations that address the Interpretative Notes.

Article 46 in the Republic of Croatia Customs Law is unacceptable. This article allows the Republic of Croatia to establish “special rules for determining the customs value of goods”. As an example, Article 46.2 states that perishable goods delivered on consignment may be valued based on simplified rules drawn up by the Government of the Republic of Croatia. This language implies the use of minimum pricing in valuing imported goods. minimum prices or arbitrary and fictitious pricing is specifically prohibited by Article 7 of the WTO Valuation Agreement. We note that the Republic of Croatia has implemented Article 7 of the WTO Valuation Agreement in its article 37.

Article 41.1 of the Republic of Croatia's Customs Law needs further clarification. What is meant by the term "counter-value"? How are goods imported into the Republic of Croatia with "counter -value " valued?

Article 44.1 of the Republic of Croatia's Customs Law provides that "the customs value shall be the value of goods indicated in the seller's invoice, provided that this value complies with the provisions of the present law concerning to agreed price". Although this statement is what commonly occurs under transaction value, it is not technically accurate. Thus, it should not be stated in the Customs Law. We recommend that this statement be removed.

According to WT/ACC/HRV/45, the draft legislation referred to above is slated to enter into force this year. Please report on the status of the draft legislation. How close is it to enactment?

Reply:

Article 44.4 of the new Customs Law in accordance with Article 11 of the WTO Customs Valuation Agreement. Based on the proposals given during the informal Working Party, Croatia will revise this Article in order to provide as much clearness as possible in the new Law's formulations.

Now this Article states as follows:

"The importer or any other person liable for the payment of the duty has the right of appeal with regard to the determination of customs value, without penalty. The appeal can be submitted to the Headquarters of the Customs Directorate, while the prosecution has to be referred to the Administrative Court.

Notice of the decision on appeal and prosecution shall be given to the appellant and the reasons of such decision shall be provided in writing. As well, the appellant should be instructed about his right to commence to the Administrative Court.

The appellant must not be subjected to any sort of a fine for the appeal to the Customs Directorate or prosecuting to the Administrative Court".

Furthermore, we would like to mention that the appellant has the right to appeal to the Customs Directorate or prosecution to the Administrative Court, without penalty, and that the decision on his appeal shall be given to him in writing.

Bearing in mind the above mentioned, we would like to emphasize that this Article is completely in accordance with Article 11 of the WTO Customs Valuation Agreement.

Article 12 of the WTO Customs Valuation Agreement is included in Article 44.5 of the new Customs Law. This Article has been adapted as well, now reading as follows:

"Law, regulations, judicial decisions and administrative rulings of general applications that allow the implementation of regulations in regard to customs value shall be published in the Official Gazette in conformity with Article X of the GATT 1994."

By accepting comment regarding Article 46 of the Customs Law, we deleted it accordingly.

Article 41.1 of the Customs Law was also adapted, now reading as follows

"The customs value of goods imported without being on sale shall be determined pursuant to Articles 32-37 of this Customs Law."

Here simply occurred an error while translating; the term “without counter-value payment” referred to the goods imported, but without the actual act of sale – such as gifts, samples, promotional items being sent free of charge, goods which are imported under hire, lease or loan etc.

In such cases – since imported goods are not subject to sale, Article 31 (Transaction Value) must not be used; customs value shall be determined under the provisions of Articles 32-37 of Customs Law.

As proposed Article 44.1 is deleted.

Furthermore, we would like to inform that “Interpretative Notes”, set forth in Annex 1 of the WTO Valuation Agreement, as well as the Notes specifically mentioned, shall be included into our implementing regulations. These regulations shall be sent to Working Party as soon as they are completed and translated in English.

The Draft Customs Law in connection with provisions on customs valuation will be submitted.

(i) Other customs Procedures (Rules of origin)

Question 20.

The response in WT/ACC/HRV/45 were not helpful. Please address the following questions:

- **As provided in the response to question 17 of WT/ACC/HRV 39, please explain the details and answer previous questions concerning Croatia’s regulations on preferential and non preferential rules of origin contained in new regulations slated for enactment in September 1998.**
- **Please provide an English translation of the regulations to the Working Party for review.**

Reply:

The Croatian Government will adopt new legislation concerning rules of origin prior to Croatia’s accession to the WTO.

The English translation of the regulation concerning rules of origin will be submitted to the Working Party for review as soon as it will be finalized and prepared for the adoption by the Government, but not later than end of March 1999.

(k) Application of Internal Taxes to Imports

Question 21.

- (a) Paragraph 49 states that Croatia will bring its taxes into line with Articles II and III of the WTO. What measures will be taken to bring the taxes into line with Article II? To what aspect of the application of the excise taxes does this request refer?**
- (b) Table 3 indicates that in addition to the discriminatory application of domestic excise taxes to imported tobacco and tobacco products, i.e. at a higher rate than is charged on similar imported goods, a lower tax is applied to cigarettes that use a certain percentage**

of domestic tobacco. Table three also indicates that these are the last excise taxes to be applied in a discriminatory fashion, and para 48 indicates that legislation removing these remaining violations of Article III is currently before the Parliament. Please give us an update on the progress of the legislation bringing the last of the excise taxes into conformity with WTO provisions. Please report on the structure and level of taxation proposed for these products in the new legislation, and an estimate of when the new legislation will be enacted.

- (c) Please confirm that Croatia levies only customs tariff (or the 1 percent statistical fee), VAT, and excise taxes on imports. If this is not so, please list all other taxes, tariffs, charges, and fees applied.**

Reply:

(a) Croatia has already brought its excise taxes into line with Articles II and III of the GATT 1994, for all products, which are subject of excise taxation, except for tobacco products. The Law amending the Law on Excise Taxes on Tobacco and Tobacco products has passed the first reading in the Croatian State Parliament and will be ready for second reading at the end of March 1999. The process of adoption has been delayed due to the necessity to pass the new Law on Tobacco stipulating the growing, production and conditions for industrial production of tobacco products. The Tobacco Law has also passed the first reading in the Croatian State Parliament and is ready for the second reading. The Tobacco Law stipulates tobacco and cigarettes categories on the basis of which the amount of excise tax will be determined. Those two Laws are expected to enter into force by 1 June 1999.

(b) The final draft Law Amending the Law on Excise Taxes on Tobacco Products is attached to this document. The text of the Tobacco Law will be submitted to the Working Party for comments very soon. [WT/ACC/HRV/49/Add.1]

(c) Croatia will take a commitment in Working Party report and protocol, stating that from the date of accession, Croatia will apply its domestic taxes, including those on products listed in Table 3, in strict compliance with Article III of the GATT 1994, in a non-discriminatory manner to imports regardless of country of origin and to domestically-produced goods.

(m) Antidumping, Countervailing Duties and Safeguard Regimes

Question 22.

We are reviewing the amendments to the Law on Trade addressing antidumping, countervailing duties and safeguard measures. We will forward comments as soon as possible. Are there any other provisions of Croatia law or draft laws or regulations that deal with trade remedies like these? We will expect an appropriate commitment in this section, depending on the results of our review.

Reply:

There are no other provisions of Croatian law or draft laws or regulations that deal with trade remedies measures.

2. Export Regulation

(b) Customs tariffs, fees and charges for services rendered, application of internal taxes to exports

Question 23.

The discussion in this section of the revised “Elements of a Draft Report” is contradictory, in that Croatia reports that it has eliminated the authority to apply export duties but now indicates that it intends to apply such duties to hides and skins. Please provide information on the legislative authority Croatia intends to use to do this.

Please provide a list of the export duties in place or planned, by HS number, and information on the level of duty applied, any destinations exempted from this duty, and any timetable for elimination of the duties.

Reply:

Croatia has eliminated export duties, which were levied temporarily on certain items (metal scrap and wood timber). The Governmental Regulation concerning export duties for those items was abolished in 1996. Abolishing that particular Regulation, Croatia has not eliminated the authority to apply export tariffs as stipulated in Article 34 (2) of the Customs Law, and which enables GOC to impose export tariffs in extraordinary circumstances provided for in Article XI of the GATT 1994. (Please refer to the commitment in para 85. of the Elements of a Draft Report – Revision). At the moment there are no export tariffs in place for any product.

Croatia proposes the following commitment to be included in the Working Party Draft report and protocol:

"The representative of Croatia confirmed that after accession to the WTO, Croatia would minimize the use of export duties and any such taxes applied would be in accordance with the provisions of the WTO Agreement and published in the Official Gazette "Narodne Novine". Changes in the application of such measures, their level and scope would also be published in the Official Gazette "Narodne Novine". The Working Party took note of this commitment."

(c) Export Restrictions

Question 24.

We would appreciate confirmation in the Working Party report that all export quotas, bans, and other forms of quantitative restrictions and restrictive export licensing has been eliminated on 1 January 1999 as described in document WT/ACC/HRV/45, or replaced with WTO-consistent forms of regulation. As necessary, please list the remaining quantitative export restrictions by HS item number and outline Croatia’s plans for revising these restrictions.

Reply:

Croatia confirms that all export quotas, bans, and other forms of export restrictions and restrictive export licensing were eliminated as of 1 January 1999, and proposes this confirmation to be included in the Working Party Draft Report.

3. Internal policies affecting foreign trade in goods

(a) Industrial policy, including subsidies

Question 25.

In a fully transparent manner Croatia is requested to provide information on subsidy programmes and State aid in 1998 and 1999. The information provided should include the following elements: - name of the subsidy or State aid programme; -legal basis; -policy objectives and justification; -amounts disbursed; -beneficiaries; and -possible trade effects.

The information should include companies and entities undergoing restructuring or those that are the subject of privatization.

Reply:

The requested information on subsidy programmes and State aid will be submitted as soon as possible, but in any case prior to May 1999.

(b) Technical Barriers to Trade, Sanitary and Phytosanitary Measures

Standards and certification

Question 26.

Our experts are reviewing the information you provided on these issues and the draft legislation provided in early February. We appreciate “future tense” commitments to guarantee national treatment, transparency, and MFN treatment in the application of TBT and SPS measures. We are not, however, in a position to take these assurances without review of the actual legislation necessary to give them concrete effect. Broadly speaking, we do not believe that Croatia’s quality certification system is WTO consistent (e.g., with Article III of the GATT and the Agreement on TBT and SPS). We do not believe that a “reformed” quality control system will be sufficient to remedy the problem if it still incorporates the same flawed concept of mandatory quality requirements. We will also need to see the fee structure of any inspections carried out on imports to meet these Requirements.

In addition, we have severe concerns about the enforcement of current rules on trade entering Croatia from the Bosnian Federation and the Serb Republic. Discriminatory standards and certification treatment, whether *vis-à-vis* domestic or imported goods, is a serious issue, and we intend to pursue it vigorously. We reserve on these sections, pending review of the material provided by Croatia in WT/ACC/HRV/45 and 46.

Reply:

After reviewing all comments, remarks and requests of the Working Party members on the implementation of the Agreements on TBT and SPS in Croatia, we came to a conclusion that the main problem that remained is mandatory quality control system as applied to the imported products. Other issues related to the application of TBT and SPS measures in Croatian actual legislation and practice, especially sanitary, phytosanitary, veterinary and pharmaceutical inspection, are seen to be consistent with the WTO provisions.

Having those facts in mind, the Government of Croatia decided to make major changes in legislation and practice of the quality control application. Therefore, the new legislation will be

prepared, passed by the Parliament and enforced by June 1999. The new Law on State Inspectorate will incorporate the following changes in relation to the present practice:

- quality control is performed in order to ensure consumers protection. The State Inspectorate performs quality control of designated imported and domestic products on the wholesale and retail sale points in the market. Quality control of the imported items before customs clearance is abolished. The State Inspectorate controls whether products on sale are covered by proper quality conformity documentation issued by authorised institutions in Croatia or abroad, and whether labeling and packaging requirements are met. The State Inspectorate is also entitled to control and compare the ingredient content of the product on sale with its declared values by taking samples for analyses.
- that control for the domestic products is performed either on production sites or on the wholesale and retail sale points in the market.
- the Government is entitled to issue a regulation defining the list of items subject to the control of documentation relevant to quality requirements conformity. The list will be shorter compared to the list applied today.
- the Government is entitled to issue a regulation defining the fee structure of an inspection, providing for the same level of fees for the inspection of imported and domestically produced items, and abolishing the present practice of charging fees that vary in proportion with the quantity inspected.

A draft of the new Law on State Inspectorate will be submitted for consideration of the Working Party members not later than 30 April, 1999. Furthermore, by the same date we shall submit a draft Government regulation on methods and procedures of issuing technical regulations prescribing quality and health requirements as a referral point for SPS control of those items. By passing those two pieces of legislation, the Croatian legal framework on TBT and SPS issues will be completed and brought into conformity with TBT and SPS regulation before Croatia's accession to the WTO, thus ensuring its consistency with national treatment, MFN treatment, transparency requirements and other provisions of the GATT 1994 and the Agreements on TBT and SPS.

Concerning remarks about the enforcement of rules on trade on the Croatian border with Bosnia and Herzegovina we deem it appropriate to give a comprehensive explanation of the Croatian views and deeds on that issue:

(i) Croatia admits that remarks and complaints on the border control and customs regime at the border between the Republic of Croatia and Bosnia and Herzegovina might be attributed only to the period of military operations in Croatia and Bosnia and Herzegovina from 1992 till 1995.

(ii) During the period after 1995, the Croatian Government has been taking many concrete steps directed towards improving and enforcing strict border and customs regime on its border with Bosnia and Herzegovina. These measures include:

- improving border crossing infrastructure and customs personnel training. By the end of the year 1998, the Government has spent USD 7,3 million for the construction of customs facilities on the border with Bosnia and Herzegovina and is planning to spend additional budget resources for improving the remaining part of border crossings.
- border crossing points have been determined in an agreement with Bosnia and Herzegovina only in March 1996. The number of cargo border crossings has been decreased to 20, and other border crossings are closed for cargo traffic and left for

passenger traffic only. A Joint Commission determined the categorization of border crossing points. On the both sides of the border 5 border crossings are equipped with veterinary inspection on 24 hours basis, 3 border crossings are with sanitary inspection, 6 border crossings with phytosanitary inspection and 6 border crossings are exclusively designated for crossing of heavily taxed commodities. Any unbiased inspection of the border crossing and customs procedure on the Croatian side of the border with Bosnia and Herzegovina can confirm that at present there are no crossing of cargo that would be intentionally unnoticed and unregistered by Croatian customs authority, as well as no discriminatory customs, sanitary, phytosanitary and veterinary treatment of goods originating in any third country compared to the goods originating either in Croatia or in Bosnia and Herzegovina.

- the only difference is related to the customs tariffs applied for the goods originating in the Federation of Bosnia and Herzegovina. According to the Agreement on Economic Co-operation between the Government of the Republic of Croatia, and the Governments of the Republic and Federation of Bosnia and Herzegovina, signed in 1995, the products originating in the Republic of Croatia or the Federation of Bosnia and Herzegovina are entitled to preferential customs tariff treatment (only 1 per cent customs registration fee is charged for all industrial and agriculture products). The Certificate of Origin (EUR1) proves the origin of a product. For the goods originating in the Republic of Srpska (Serb entity of Bosnia and Herzegovina) MFN tariff regular and non-discriminatory customs, sanitary, phytosanitary, veterinary and transit procedures are enforced.
- According to Article 12 of the Agreement, the Certificates of Origin are issued by customs authorities of the Republic of Croatia, while in Bosnia and Herzegovina those certificates are issued by the Chamber of Economy. The international practice is that the competent state authorities issue the Certificate on Preferential Origin (EUR1) thus enabling effective control and appropriate and prompt verification of the document. The state authorities have mechanisms and are equipped for such a control while chambers of economy are not.
- The above mentioned caused the whole series of problems. To illustrate that, in the course of 1996, 1997 and 1998 the Croatian Customs Authority has requested the verification of the Certificate of Origin from Bosnia and Herzegovina 150 times and the Bosnian side requested it 80 times. The Croatian side received the Reply to only a few requests, while the Croatian customs authority has promptly replied to almost all requests.
- Citizens of both countries are entitled by the Agreement to exchange products in parcels without proving origin or paying customs duty under condition that the value of the parcel does not exceed 200 DEM. Also, the items belonging to personal luggage are neither subject to origin certification nor payment of customs duty under condition that their value does not exceed 500 DEM. This provision applies only to the import of the products that are not intended for commercial purposes.
- After noticing possible frauds in issuing certificates of origin as well as from the possibility that the citizens import goods in value of 200 and 500 DEM without paying duties, which enabled wider scope of preferential customs duty treatment under the Agreement on Economic Co-operation, the Croatian customs authorities started to implement a strict control of the Agreement and border regime with Bosnia and Herzegovina as from August 1998.

- In December 1998, Croatian Government has proposed to the Council of Ministers of Bosnia and Herzegovina 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. The new FTA would also envisage that the certificates of origin be issued by the customs authorities of the Federation and Republic Srpska and not by Chambers of Economy in Bosnia and Herzegovina. The Government of Croatia expects the new FTA to be signed and implemented before the Croatia's accession to the WTO. In case that the new FTA is not signed by the end of May 1999, Croatia shall terminate the application of the Agreement on Economic Co-operation signed in 1995, that gives tariff preferences to the products originating in the Federation of Bosnia and Herzegovina only. This means that in that case Croatia shall accede to the WTO without any FTA with any of the two entities in Bosnia and Herzegovina.
- Several meetings were held with the Government representatives at the level of Federation and the Council of Ministers of Bosnia and Herzegovina, as well as between customs authorities, in order to improve co-operation and the exchange of electronic information between the customs offices of Croatia and Bosnia and Herzegovina.
- Meetings were held with the CAFAO representatives (EU customs aid program for Bosnia and Herzegovina) in order to accelerate an official co-operation agreement between customs administrations of Croatia and Bosnia and Herzegovina to be signed.
- A program of computerization 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 (Project on Identifying Bottle-necks on Main Transport Corridors), the Government 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.

(iii) All the above-mentioned activities enable us to declare that Croatian authorities have regained full customs and security control of the border with Bosnia and Herzegovina, which is today at the same level as the border and customs regime prevailing at other Croatian borders. Therefore, we can not justify any claim that, at present, there might be intentional misconduct of the Croatian customs authorities at the border with Bosnia and Herzegovina that would enable massive and uncontrolled crossing of cargo. We do not see "soft border regime" to be a general issue today, but some concerns might be directed to the implementation practice of the FTA granting preferential customs treatment to goods originating in the Federation of Bosnia and Herzegovina. In that context, the only problem might arise from the fact that flawed system of issuing certificate of origin in the Federation of Bosnia and Herzegovina might widen customs preferential to unauthorized third country's products. But customs administrations of two countries are being developing an adequate system of checking certificates of origin, which will be further developed under forthcoming agreement on customs co-operation and a new FTA to be signed soon.

(iv) At present, Croatia is in a position to implement strict customs enforcement on all its borders, including the border with Bosnia and Herzegovina. The customs territory of the Republic of Croatia, within which the customs regulations and controls are enforced, corresponds exactly to the territorial boundaries of the Republic of Croatia. Today, the Croatian Government enforces and is determined to enforce WTO provisions, rules and disciplines and terms of Croatia's WTO accession package within these boundaries, thus ensuring proper implementation of all WTO principles, in particular, the

principle of uniform application of Croatia's customs regime towards all countries according to the MFN clause.

(v) Croatia's determination to enforce proper customs regime on its border with Bosnia and Herzegovina also stems from the necessity to introduce all possible measures in order to improve its tax collection and diminish tax and customs duties evasion, which is an important element of the fiscal policy under the balanced budget conditions. At the same time, by so doing, Croatia is honouring its international commitments related to the Washington and Dayton Agreements, as well as other international commitments taken in the process of solving the crisis in Bosnia and Herzegovina.

(vi) It is our feeling that on the Bosnian side of the border there was no similar activities that might bring customs enforcement to the level already reached on the Croatian side of the border. 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 coordinated actions of the both neighbouring countries, we urge international community, which is deeply involved in regulating all aspects of administration in Bosnia and Herzegovina, to pay more attention to necessary improvement of two existing customs administrations in Bosnia and Herzegovina. That would be the most efficient way to finally introduce a strict border and customs regime on both sides of the border between Croatia and Bosnia and Herzegovina.

(e) State Trading Entities

Question 27.

We require time to reflect upon the information provided by Croatia in the Working Party report on its State owned firms and their trading activities. We are particularly struck by the role played by State firms in the stockpiling and disposal of agricultural commodities. We reserve on this section, pending further reflection.

(f) Free zones, Special Economic Areas

Question 28.

What are the provisions of the Law on Free Zones vis-a-vis exports? Do firms locating in the zones have to export any minimum portion of their output?

Reply:

Croatia will provide the English translation of the Law on Free Zones to the WTO Secretariat as soon as possible.

According to the Law on Free Zones, companies located in the zones are not obliged to export any minimum portion of their output.

(l) Government Procurement

Question 29

We applaud Croatia's agreement to initiate negotiations to join the Government Procurement Agreement. We prefer the designation of a date certain for the negotiations to terminate.

Reply:

Croatia proposes a revision of this section in the Draft Report, to read as follows:

“The representative of Croatia confirmed that Croatia will initiate negotiations for membership in the Agreement on Government Procurement immediately upon accession by tabling an entity offer at that time. He also confirmed that, if the results of the negotiations are satisfactory to Croatia and the other members of the Agreement, Croatia will complete negotiations for membership in the Agreement within 12 months of the date of WTO accession. The Working Party took note of this commitment.”

(m) Transit

Question 30.

Croatia states in paragraph 127 that it is prepared to accept WTO requirements for transit trade. Our information is that transit trade from the Bosnian Serb Republic is blocked by Croatia. We would appreciate the views and assurances of Croatia on this point. We reserve on this section pending review of this information.

Reply:

The Republic of Croatia has not blocked the transit trade from Bosnian Serb Republic. The Republic of Croatia and Bosnia and Herzegovina are reconstructing bridges over river Sava (border crossing Slavonski Brod – Bosanski Brod, Stara, Gradiška – Bosanska Gradiška, Hrvatska Dubica - Bosanska Dubica). This causes the difficulties and closing of some border crossings. At the same time other temporary border crossings have been organized, what enables transit. Freedom of transit is assured by the Customs Law and International Agreements and the Republic of Croatia provides assurances that it practices and shall practice free transit rights of Bosnian Serb Republic as well as of all other countries, according to Article V of the GATT 1994.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

Question 31.

We support the commitment, but reserve on this section pending (a) review of legislation provided by Croatia to implement TRIPS, and (b) demonstrated progress on Croatia’s legislative strategy.

Reply: Pending

VI. TRADE-RELATED SERVICES REGIME

2. Policies Affecting Trade in Services

Question 32.

We ask Croatia to improve its commitments concerning professional services and allow temporary admission of natural persons engaged in the supply of a service as an employee of a juridical person (whether it has or not a commercial presence), particularly in connection with recreational activities and facilities.

Reply:

The negotiations on commitments concerning professional services are part of bilateral market access negotiations for trade in services. Therefore, Croatia declines the Member Country's notions to address this issue in a multilateral framework of its WTO accession process and proposes to the Member Country to pursue the issue of temporary admission of natural persons engaged in the supply of services in bilateral market access negotiations rather than in a Working Party's Report of Croatia's accession process to the WTO.

Transparency

Question 33.

Please indicate how Croatia addresses in law transparency provisions in Article X of the GATT, in the WTO Agreement on Import Licensing Procedures, Technical Barriers to Trade, Application of Sanitary and Phytosanitary Measures, and in the GATS are covered in Croatian law.

Reply:

The transparency of Croatian laws and other regulations is ensured through obligatory publication of all laws and regulations in the Croatian Official Gazette. A Law grants that no measure can be applied before it is published. A law enters into force 8 days after it is published in the Official Gazette. All the amendments and changes in laws and regulations, including regulations concerning import and export licensing procedure, technical barriers to trade, sanitary and phytosanitary measures, are also published in Official Gazette to enable to all interested persons (companies) to get acquainted with them. Furthermore, TBT measures, draft standards are published in the Office Journal of the State Office for Standardization and Metrology allowing 30 days for comments and remarks of the public. Croatian competent authorities are drafting the regulation on methods and procedures of issuing technical regulations prescribing quality and health requirements as a referral point for SPS control of these item.

We can, further confirm that, at the latest from the date of accession, all laws and regulations related to trade would be published in the Official Gazette "Narodne novine" promptly and no law or regulation related to international trade would become effective prior to such publication. Croatia would fully implement Article X of the GATT 1994 and the other transparency requirements in WTO Agreements requiring notification and publication.

Croatia proposes the following commitment to be included in the Working Party Draft Report:

"The Representative of Croatia said that, at the latest upon entry into force of the Protocol of Accession, Croatia would submit all initial notifications required by any Agreement constituting part of the WTO Agreement. Any regulations subsequently enacted by Croatia which gave effect to the laws enacted to implement any Agreement constituting part of the WTO Agreement would also conform to the requirements of that Agreement. The Working Party took note of this commitment.

(c) Trade Agreements

We support the commitment, but reserve on this section pending clarification on the nature of Croatia's trade arrangements and border control with Bosnia and Herzegovina.
