WORLD TRADE ORGANIZATION

RESTRICTED

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Working Party on the Accession of Croatia

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ACCESSION OF CROATIA

Additional Questions and Replies

The following additional questions and replies have been received from the Ministry of Economic Affairs of the Republic of Croatia. Questions refer to document WT/ACC/SPEC/HRV/7/Rev.1 unless otherwise specified.

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II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

2. Economic Policies

(a) Main direction of the ongoing economic policies

State ownership and privatization

Question 1.

We are pleased with the evolution of the information in this section. We remain interested, however, in incorporation of information on the following in the report:

Please describe the nature of the firms (what do they make, what services do they provide, do they import/export?) remaining in state or other non-private forms of ownership (i.e., less than 50 per cent private ownership) and on the portion of Croatia's trade and economic activity that is represented by these non-privatized holdings.

Reply:

The table describing the nature of the companies in the Croatian Privatization Fund (CPF) portfolio is enclosed.

These companies account for 0.94 per cent of total Croatian imports and 2.32 per cent of total Croatian exports.

However, most of non-privatized companies that make part of CPF portfolio today are in very poor state, and there were no interested buyers, except employees who today have up to 50 per cent of shares. Consequently, their share in Croatian overall economic activity is almost negligible. Regarding companies that are 100 per cent owned by CPF (44 companies), 33 (75 per cent) are located in the previously occupied parts of Croatia (Danube region of Croatia and other parts of Croatia- Slavonia, Dalmatia, Lika, etc.) - areas that were affected by the war, what was the main reason that those companies are still in CPF portfolio.

Beside the companies remaining predominantly in the CPF Portfolio, there are ten large state-owned infrastructure and public utilities and four state-owned banks and companies in which those banks are major shareholders. All those companies, which are still not privatized (less than 50 per cent of private ownership), generate about 40 per cent of the GDP.

The profitability of the total enterprise sector is very low in aggregate: accounting profits stand at about 0.3 per cent of the GDP, the net result of profits equivalent to 4.3 per cent of GDP and losses to 4.0 per cent of GDP. 25 per cent of all enterprises are lossmakers, and almost 40 per cent of employees are employed by a lossmaker. The subset of non-privatized enterprises account only for one-third of total profits, but for two-thirds of total losses. About 25 former socially-owned enterprises remaining in State ownership are serious lossmakers and their losses amount for about 1.3 per cent of GDP. These are generally large employers at the regional level.

50-99 PER CENT IN CROATIAN PRIVATIZATION FUND PORTFOLIO

No.	Company	Headquarter	Sector	Subsector	Equity (Hkn)	Residual CPF Portfolio	Per cent of Equity
1	Zagreb Studio	Zagreb	Finance & Others	Other Business Services	35.378,00	17.689,00	50,00
2	Autotrans	Varaždin	Transport & Communications	Freight Road Transportation	13.376.000,00	6.687.418,60	50,00
3	Trgokom-Podravina	Đurđevac	Trade	Retail Trade – Consumer Goods	560.880,00	280.440,00	50,00
4	Ribarstvo	Srb	Agriculture	Fishery	1.578.000,00	789.900,00	50,06
5	Mrežnica	Duga Resa	Trade	Retail Trade In Non-Specialized Stores- Consumer Goods	41.298.400,00	21.090.000,00	51,07
6	Maj Stil	Raša	Industry	Clothes Production	2.667.600,00	1.375.980,00	51,58
7	Mogal	Varaždin	Health & Social Care	Social Care	3.503.600,00	1.818.300,00	51,90
8	Merkur	Karlovac	Trade	Wholesale Trade In Various Products, Retail Trade In Non-Specialized Stores - Consumer Goods	13.214.880,00	6.919.420,00	52,36
9	Sardina	Postira	Industry	Processing And Canning Of Fish And Fish Products	34.101.960,00	17.863.420,00	52,38
10	Monting-Ventilator	Ogulin	Industry	Production Of Cooling And Ventilating Equipment-	5.163.820,00	2.783.500,00	53,90
11	Sisački Tjednik	Sisak	Publishing, Education & Culture	Newspaper Publishing	669.328,20	367.080,00	54,84
12	Intal	Zagreb	Construction	Finishing Works In Building Industry	61.560,00	34.200,00	55,56
13	Auto Škola Centar	Split	Publishing, Education & Culture	Driving School	136.936,80	77.520,00	56,61
14	Tang Tvornica Alata	Nova Gradiška	Industry	Tool Production	79.711.800,00	46.000.500,00	57,71
15	Primošten	Šibenik	Tourism & Catering	Hotels, Motels	186.494.120,00	109.433.160,00	58,68
16	Brodogradilište Trogir	Trogir	Industry	Ship Building And Repairs	196.576.903,20	117.951.240,00	60,00
17	Unimal	Zagreb	Trade	Wholesale Trade – Various Products	30.400,00	18.354,00	60,38
18	Strojotehna	Zagreb	Craft	Machine Repair	592.800,00	365.058,40	61,58

No.	Company	Headquarter	Sector	Subsector	Equity (Hkn)	Residual CPF Portfolio	Per cent of Equity
19	Čelik	Orahovica	Industry	Production Of Metal Structures And Their Parts, Doors, Windows, Frames And Thresholds From Iron, Steel And Aluminum	6.771.000,00	4.192.500,00	61,92
20	Podravina-Posl. Usluge	Đurđevac	Finance & Others	Accounting Services	403.560,00	250.040,00	61,96
21	Gp Dinara	Knin	Construction	Building Stone Extraction	14.300.000,00	8.865.000,00	61,99
22	S.I.G.I.T.	Samobor	Industry	Stone Extraction	4.529.220,00	2.811.620,00	62,08
23	Agrokoka, Zagreb	Zagreb	Agriculture	Poultry – Breeding, Eggs Production, Production Of Meat Products And Poultry Meat	131.939.800,00	82.030.220,00	62,17
24	Poluotok	Zadar	Construction	Finishing Works In Building Industry	111.925,20	69.661,60	62,24
25	Viržinija	Virovitica	Industry	Production Of Processed Tobacco And Tobacco Substitutes , Homogenized Or Reconstructed Tobacco, Tobacco Extracts And Essences	8.186.100,00	5.144.100,00	62,84
26	Tvornica Olovnih Proizvoda (Top)	Zagreb	Industry	Metal Packaging Production	78.511.800,00	49.406.460,00	62,93
27	Adria Diesel	Karlovac	Industry	Production Of Electric Generator Aggregates And Rotational Converters, Production Of Diesel And Semi Diesel Engines	19.776.200,00	12.468.600,00	63,05
28	Adriachem	Kaštel Sućurac	Industry	Production Of Plastic Articles, Production Of Plastic Packaging	229.953.960,00	145.408.520,00	63,23
29	Stanousluga	Rijeka	Construction	Structural Engineering (Construction And Repair Of Buildings)	626.620,00	397.480,00	63,43
30	Hut Grubišno Polje	Grubišno Polje	Tourism & Catering	Catering	12.369.000,00	7.908.560,00	63,94

No.	Company	Headquarter	Sector	Subsector	Equity (Hkn)	Residual CPF Portfolio	Per cent of Equity
31	Nip Revije Vjesnik	Zagreb	Publishing, Education & Culture	Newspaper Publishing	9.701.400,00	6.467.600,00	66,67
32	Aerodrom Rijeka-Rivijera Kvarner	Rijeka	Transport & Communications	Airport Services	132.665.600,00	88.445.000,00	66,67
33	Frigoprom	Split	Trade	Wholesale Trade -- Foods	116.211,60	77.520,00	66,71
34	Agrolabin	Labin	Agriculture	Cereals And Grains Production	35.398.098,20	23.733.660,00	67,05
35	Poljoprivreda Gradina	Gradina	Agriculture	Cereals And Grains – Production	29.564.000,00	19.955.320,00	67,50
36	Obzor	Zagreb	Finance & Others	Consultancy Services	76.000,00	51.300,00	67,50
37	Mirna-Trgovina	Rovinj	Trade	Retail Sale- Fish And Meat	2.287.600,00	1.616.900,00	70,68
38	Tapetar, Split	Split	Craft	Wall Covering Services	104.192,20	74.480,00	71,48
39	Mardešić	Sali	Industry	Processed And Canned Fish-Production , Retail Trade In Non-Specialized Stores- Consumer Goods	39.829.301,00	29.147.520,00	73,18
40	Sc Forum	Solin	Tourism & Catering	Catering	3.488.400,00	2.620.100,00	75,11
41	Zagrepčanka	Zagreb	Trade	Production, Processing And Canning Of Meat And Meat Products	81.429.600,00	61.626.600,00	75,68
42	Bagat-Elektrokomerc	Zadar	Construction	Installation Of Electrical Wiring And Fittings	557.080,00	438.140,00	78,65
43	Ivanićplast	Ivanić-Grad	Industry	Production Of Other Plastic Articles	16.605.848,00	13.106.200,00	78,93
44	Mediplast	Čazma	Industry	Production- Plastic Products	5.213.600,00	4.165.940,00	79,91
45	V. Gortan	Zagreb	Construction	Structural Engineering	254.775.940,00	204.246.200,00	80,17
46	Istra-Genetski Centar	Buzet	Agriculture	Sheep And Goats- Breeding, Milk Processing And Dairy Production	9.681.096,60	8.035.115,20	83,00
47	Kla-Ma	Klanjec	Trade	Retail Sales- Consumer Goods	2.346.120,00	1.956.620,00	83,40
48	Texpartner	Buzet	Industry	Clothes Production	9.891.400,00	8.394.200,00	84,86
49	Salonstil	Split	Trade	Retail Sale- Furniture	158.840,00	137.427,00	86,52
50	Građa	Beli Manastir	Trade	Building Material – Retail Sale	4.223.700,00	3.781.800,00	89,54
51	Pgm Ragusa	Dubrovnik	Industry	Production - Building Material	26.234.000,00	24.288.000,00	92,58

No.	Company	Headquarter	Sector	Subsector	Equity (Hkn)	Residual CPF Portfolio	Per cent of Equity
52	Tvik	Knin	Industry	Production Of Rivets, Screws, Chains And Springs, Tool Production, Iron Goods	93.870.000,00	89.730.000,00	95,59
53	Plan Biro	Rijeka	Finance & Others	Accounting Services	21.660,00	21.169,80	97,74
	T O T A L				1.845.493.239,00	1.244.942.753,60	67,46 per cent

100 PER CENT IN CROATIAN PRIVATIZATION FUND PORTFOLIO

No.	Company	Headquarter	Sector	Subsector	Equit (Hkn)	Residual Cpf Portfolio	per cent Of Equity
1	Ergela Đakovo	Đakovo	Agriculture	Horse Breeding	13.576.800,00	13.576.800,00	100.00
2	Razvitak	Ilok	Trade	Production And Wholesale- Building Material	11.020.000,00	11.020.000,00	100.00
3	Agrokomerc	Ilok	Agriculture	Farming Of Cattle, Poultry And Other Animals	24.700.000,00	24.700.000,00	100.00
4	Vučedol	Vukovar	Industry	Retail And Wholesale - Food Products	13.300.000,00	13.300.000,00	100.00
5	Bojorad	Vukovar	Industry	Painting And Glazing Works	5.700.000,00	5.700.000,00	100.00
6	Elip	Vukovar	Industry	Installation Of Electrical Wiring And Fittings	18.240.000,00	18.240.000,00	100.00
7	Otokar Keršovani	Rijeka	Industry	Publishing	5.132.200,00	5.132.200,00	100.00
8	Pounje	Dvor Na Uni	Industry	Food Production	1.118.000,00	1.118.000,00	100.00
9	Šamarica	Dvor	Industry	Wood Processing	27.204.000,00	27.204.000,00	100.00
10	Prehrana	Glina	Industry	Food Production, Retail Sale	12.179.000,00	12.179.000,00	100.00
11	Dip Glina	Glina	Industry	Processing Of Wood And Wood Products	4.621.000,00	4.621.000,00	100.00
12	Trgopromet	Glina	Trade	Retail Sale – Various Products	14.928.000,00	14.928.000,00	100.00
13	Up Central	Hrvatska Kostajnica	Tourism & Catering	Catering	10.064.300,00	10.064.300,00	100.00
14	Ilokturist	Ilok	Tourism & Catering	Tourist Agency And Catering	4.560.000,00	4.560.000,00	100.00
15	Dalmacija	Šibenik	Industry	Building Site Preparation	360.000,00	360.000,00	100.00
16	Tvornica Sulfatne Celuloze I Papira	Plaški	Industry	Production- Paper And Paperboard Articles	50.778.600,00	50.778.600,00	100.00

No.	Company	Headquarter	Sector	Subsector	Equit (Hkn)	Residual Cpf Portfolio	per cent Of Equity
17	Centar Za Industrijsko Oblikovanje	Zagreb	Finance & Others	Research In Economy	47.200,00	47.200,00	100,00
18	Ipz-Termoprojekt	Zagreb	Finance & Others	Architectural And Engineering Services And Technical Consultancy	66.120,00	66.120,00	100.00
19	Inel	Zagreb	Industry	Production Of Electric Equipment	39.520,00	39.520,00	100.00
20	Tvornica Automobilskih Djelova I Opreme	Beli Manastir	Industry	Production- Parts And Accessories For Motor Vehicles	25.614.713,20	25.614.713,20	100.00
21	Baranjska Tekstilna Industrija	Beli Manastir	Industry	Clothes Production	18.507.630,20	18.507.630,20	100.00
22	Slovo Grafičko Poduzeće	Beli Manastir	Industry	Printing And Related Services	3.301.117,00	3.301.117,00	100.00
23	Neimar	Beli Manastir	Construction	Construction Of Buildings	4.690.830,20	4.690.830,20	100.00
24	Projektni Biro	Beli Manastir	Finance & Others	Engineering In Building Industry	1.110.683,00	1.110.683,00	100.00
25	Veterinarska Stanica	Beli Manastir	Agriculture	Veterinary Services	2.475.426,40	2.475.426,40	100.00
26	Likaplast	Udbina	Industry	Production – Spectacle Frames, Sunglasses , Protective Glasses	2.682.600,00	2.682.600,00	100.00
27	Veterinarska Stanica Gračac	Gračac	Agriculture	Veterinary Services	526.600,00	526.600,00	100.00
28	Progres	Beli Manastir	Industry	Structural Engineering	12.398.856,60	12.398.856,60	100.00
29	Dunav	Beli Manastir	Trade	Retail Sale- Consumer Goods	26.982.169,80	26.982.169,80	100.00
30	Adica	Beli Manastir	Tourism & Catering	Catering	2.689.856,60	2.689.856,60	100.00
31	Aerodrom Osijek	Osijek	Transport & Comunications	Airport Services	28.281.880,00	28.281.880,00	100.00

No.	Company	Headquarter	Sector	Subsector	Equit (Hkn)	Residual Cpf Portfolio	per cent Of Equity
32	Mljekara	Knin	Industry	Milk Processing And Dairy Production	1.817.000,00	1.817.000,00	100.00
33	Agroprodukt	Benkovac	Agriculture	Fruit Production	23.206.000,00	23.206.000,00	100.00
34	Batina	Batina	Tourism & Catering	Catering	336.026,40	336.026,40	100.00
35	Sloboda	Dvor	Industry	Textile Production	1.130.000,00	1.130.000,00	100.00
36	Mikrosiverit	Siverić	Industry	Retail Sale- Textile And Clothes	5.050.000,00	5.050.000,00	100.00
37	Me-Ko	Čakovec	Industry	Production- Articles Made From Wicker	2.660.000,00	2.660.000,00	100.00
38	Prerada Drveta	Darda	Industry	Production Of Sawn Timber	1.325.400,00	1.325.400,00	100.00
39	Ljevaonica	Batina	Industry	Metal Casting	4.923.895,60	4.923.895,60	100.00
40	Ina-Petrokemija	Kutina	Industry	Mineral Fertilizer Production	2.471.721.000,00	2.471.721.000,00	100.00
41	Koksar	Bakar	Industry	Construction Industry	288.317.938,00	288.317.938,00	100.00
42	Hidroprojekt-Vik	Zagreb	Industry	Engineering In Water Facilities	19.682,00	19.682,00	100.00
43	Motor	Zagreb	Trade	Retail Trade- Metal Products	71.949,20	71.949,20	100.00
44	Mex Tours	Zagreb	Tourism & Catering	Travel Agencies And Tour Operators, Transport Services By Tourist Buses	270.560,00	270.560,00	100.00
	T O T A L				3.147.746.554,20	3.147.746.554,20	100 per cent

Question 2.

Please indicate the specific time frame under which the ten large infrastructure and utility companies previously mentioned will be "commercialized"

Reply:

It is rather difficult to indicate a specific time frame for the commercialization and privatization of these companies, but initial analysis indicate a mid-term period of around five years.

Question 3.

**Please provide information on the timing of Croatia's privatization program, e.g., when did it start, how many of the 2,950 firms were privatized, e.g., in 1995,
1996, 1997, and 1998, when did the second stage commence?**

Reply:

From April 1991 until October 1995, about 2,200 socially-owned enterprises have been fully or almost fully privatized. They account for 75 per cent of the initial number accounting for about 50 per cent of the book value of privatizable companies, and for more than 30 per cent of employment, and 26 per cent of revenues of the entire enterprise sector.

As of September 1996, 54 per cent of the overall equity was privatized, which together with reservations of 5 per cent for restitution makes almost 60 per cent of the private economy. Only in 228 companies are the majority of common stock held by the CPF and two pension funds. Moreover, employees in wholly privatized companies represented 42 per cent of total jobs in 1995 against only 1.7 per cent in 1990.

The remaining 750 companies were privatized from October 1995 to May 1999.

The second stage in privatization had been implemented through mass voucher privatization. Voucher privatization began by distributing the first round of vouchers in June 1998, and the process had been concluded by September 1998. Voucher privatization ensured the privatization of 50 per cent to 60 per cent of residual portfolio of the CPF, including shares in 30 to 50 top-quality companies reserved for strategic investors or public offerings, which constitutes the last item in complete privatization of the residual portfolio.

By completing the voucher privatization, the process is almost completed, apart from the small residual CPF portfolio and the large state-owned enterprises. The process of privatization of large state-owned enterprises has started in 1999, and each company will be privatized in accordance with a special law.

Question 4.

We would also appreciate knowing about how long Steps 1 and 2 of the commercialization process have taken place. Over what periods of time firms have been converted from State or "socially-owned" to private ownership.

Reply:

The overall process started when the Law on Transformation of Socially-Owned Enterprises was passed on 21 April 1991 and has proceed as follows:

The first step; an autonomous transformation of enterprises was possible from April 1991 up to 30 June 1992. Of the total about 3,000 companies, which had the opportunity to start the process of privatization, 2,444 enterprises had submitted proposals to the Agency by that date, having the possibility to conduct an autonomous transformation.

The second step; selling of shares which had been transferred to the CPF, started on 1 July 1992 and the process hasn't been completed yet. From those 556 which hadn't gone through autonomous privatization, 97 (17 per cent) have less than 50 per cent private ownership (50 – 100 per cent shares in CPF portfolio), and remaining 409 were either privatized through various privatization campaigns, including voucher privatization, went bankrupt or ceased to exist.

Question 5.

We would also appreciate information in the Working Party report addressing about how much longer Croatia believes its privatization program will take place, e.g., for the nearly 40 per cent of firms that have only 25 per cent or less private holding. We seek this information in order to better understand the role of the State in ownership and output and to better understand the market for which we are seeking commitments on access.
If Croatia can provide this information, we believe work on this part of the report can be concluded.

Reply:

Croatia believes that CPF ownership over companies will evaporate in next two years, but the privatization of large State-owned companies would be achieved within a mid-term period of around five years.

Para 26: The commitment in this paragraph is consistent with our requests.

Pricing Policies

Question 6.

Please confirm that the list in table 2 covers all current goods and services subject to state price controls. Please update it as necessary.
Para 33: The commitment in this paragraph is consistent with our requests.

Reply:

Croatia confirms that the list in table 2 covers all current goods and services subject to state price controls.

III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES

3. Division of authority between central and sub-central governments.

Central/Subcentral Authority for WTO

Question 7.

We appreciate Croatia's acceptance of the commitment on subcentral application of the WTO. We would like to see it redrafted to make clear the Croatian Government's intent to uniformly administer WTO provisions throughout the territories under its control, as follows:

Para 41: The representative of Croatia confirmed that sub-central administrative authorities and entities within territory controlled by the Croatian Government, e.g., local administrative bodies, have no autonomous jurisdiction or authority to establish regulations over issues of subsidies, taxation, trade policy or any other measures covered by WTO provisions in Croatia independent of the central authorities and that application of these measures are exclusively the responsibilities of the executive and legislative branches of the central government. He confirmed that the provisions of the WTO Agreement, including Croatia's Protocol, shall be applied uniformly throughout its customs territory and other territories under its control, including in regions engaging in border trade or frontier traffic, special economic zones, and other areas where special regimes for tariffs, taxes and regulations are established. He added that when apprized of a situation where WTO provisions were not being applied or were applied in a non – uniform manner, central authorities would act to enforce WTO provisions without requiring affected parties to petition through the courts and will eliminate or nullify measures taken by sub-central authorities in Croatia that are inconsistent with WTO provisions from the date of accession. The Working Party took note of these commitments.
Reply:

Croatia accepts the proposed redrafted text of the commitment in the para 41.

Status of International Agreements

Question 8.

We would like to know if, as with other countries currently in the accession process, international treaties and agreements ratified by Croatia's Parliament, as Croatia's accession to the WTO and acceptance of its Agreements will require, have precedence over domestic laws or other acts in Croatia, and whether the provisions of international agreements have direct applicability in the national legal system

If so, we would like to see this recorded in this section of the report.

Reply:

According to the Croatian Constitution (article 134) international treaties and agreements that are ratified and consequently published become an integral part of the internal legislation and have precedence over domestic laws and other legal acts. Although there is a possibility of direct application of international agreements in the Croatian legal system, the WTO Agreements and obligations stemming from those Agreements are incorporated in specific laws covering particular areas which contain provisions that are stipulated in and are in full compliance with these Agreements.

6. Description of judicial, arbitral or administrative tribunals or procedures

Right of Appeal

Question 9.

We appreciate the information provided for WT/ACC/SPEC/HRV/7/Rev.1, concerning administrative and further appeal of rulings on matters covered by WTO provisions.

We seek further elaboration. This response doesn't really indicate whether or not Croatia provides the right of appeal contemplated in Article X. We are trying to establish, and incorporate in the Working Party report text, whether or not traders have a direct method of appealing administrative rulings to authorities not bureaucratically affiliated with the agency

that issued the original ruling, and if there is automatic right of appeal in WTO matters to an independent tribunal.

In the elaboration for the Working Party report, we would also like information that addresses what, in practice, a trader can do to appeal an agency's administrative ruling to an independent tribunal and beyond, the role of Croatia's courts, how the High Administrative Court works.

We consider it very important that if Croatia's current system doesn't facilitate the right of appeal to the judiciary or some other independent authority, it will be important that one be established in the context of accession to the WTO.

Para 37: We reserve on this commitment pending further clarification.

Reply:

We confirm that in accordance with the Croatian legislation there is an automatic right to appeal by traders and other natural and legal persons in all WTO related matters.

The use of the term "entitled to institute administrative lawsuit" means the right of appeal of a trader to the independent tribunal in accordance with the Article X of the GATT 94, which is the High Administrative Court (HAC).

The High Administrative Court is part of the normal Croatian judicial System. Being part of the judicial branch the HAC is independent from state administrative bodies and the executive branch in general.

The role of the HAC is to ensure legal protection of traders and other legal and natural person in matters related to the rulings made by administrative bodies and agencies. In doing so, the HAC, following an appeal by the plaintiff party rules on whether a decision or act issued by the administrative body has been made in accordance with the law and procedures set therein. Rulings of the HAC are final.

For all WTO issues the right of appeal against a decision or act of an administrative body can be automatically lodged with the HAC, except in customs and tax issues. In such cases the first complaint (or appeal) against an act or decision issued by the lower administrative body (customs office or local tax authority), should be lodged to central customs or tax authorities (The Customs Directorate and the Tax Directorate of the Ministry of Finance).

If the trader is not satisfied with the ruling made by the central authorities, he can automatically file an appeal to the HAC.

From this information, we believe that it is clear that Croatia has a system that enables traders to have a direct method of appealing administrative rulings to authorities not bureaucratically affiliated with the agency that issued the ruling.

IV. POLICIES AFFECTING TRADE IN GOODS

1. Import Regulation

(a) Registration requirements for engaging in importing

Question 10.

Croatia has stated that with the enactment of the new law on Foreign Trade and the Company Law, companies engaging in foreign trade are no longer required to register separately with the Commercial Court. However, Croatia has also stated that first-time applicants for import license have to register with the Commercial Court.

Does this requirement still exist? If so, why are first-time applicants required to register for a license? Is this registration the only additional requirement for first-time applicants? If so, please indicate how an importer can obtain this registration. If not, please expend on this question.

Paras 46 and 47: The commitment in these paragraphs is consistent with our requests.

Reply:

Croatia reconfirms that companies engaging in trade in Croatia are required to register only once with the Commercial Court (when they start their business operations) and after that are allowed to perform all trade activities including foreign trade with all kind of goods, irrespective whether those goods are subject to import or export license or not. Therefore, there are no additional registration requirement for first-time license applicants.

Croatia stated in previous answers that first-time applicants for import license have to submit a copy of their registration with the Commercial Court for the simple reason that the Ministry of Economy can be certain, before issuing a licence, that this company really exists. In the event of any subsequent application by that company the copy of the registration would not be required.

(b) Characteristics of national tariff

Question 11.

We would like to see Table 3, which has been removed in this revision of this revision of the Working Party report, updated and returned to the report. It outlines the distribution of Croatia's applied tariff rates, information that we believe is very relevant to Croatia's accession to the WTO.

Reply:

Croatia agrees to reinsert the Table 3 in the Working Party Report. As the Table contains the applied tariff rates there is no data that needs to be updated.

(d) Other duties and charges levied on imports but not on domestic production

Question 12.

We appreciate the additional information provided on the stamp tax fees in HRV/51 and its inclusion in the section of the report on charges and fees applied for services rendered.
We seek reference in this section to the disposition of the 1 per cent charge on imports from Macedonia and parts of Bosnia-Herzegovina, as outlined in WT/ACC/HRV/51.

Para 53: This paragraph is consistent with our requests.

Reply:

Croatia accept that a reference to the disposition of 1 per cent customs duty applied by Croatia in accordance with the Free Trade Agreement with Macedonia and the 1 per cent customs

evidence fee applied on imports from the Federation of Bosnia and Herzegovina, be included in Working Party Report, as follows:

"The Representative of Croatia confirmed that the authorities of Croatia and Macedonia had accordingly agreed that Croatia would eliminate the 1 per cent customs duty at the latest by the date of accession, and the Former Yugoslav Republic of Macedonia would eliminate the 1 per cent customs evidence fee as from 1 January 2000. He further confirmed that the 1 per cent customs evidence fee on imports from the Federation of Bosnia and Herzegovina had been abolished on 15 May 1999 when MFN trade between Croatia and Bosnia and Herzegovina had been reintroduced."

Question 13.

Why was the material dealing with fees assessed on imported cement removed from the draft Working Party report. Are these fees still in place? Are they applied with reference to any particular service?

Para 58: The commitment in this paragraph is consistent with members requests.

Reply:

Croatia does not object to the reinsertion of the information on fees assessed on imported cement in the text of the Working Party Report. For the time being, fees on the imports of cement include a stamp administrative fee of HRK 60 per customs declaration, a fee of HRK 170 for the costs of quality control and a weight based fee for sampling and testing of the cement. Following the implementation of the new Law on State Inspectorate (beginning of October 1999), weight-based fee will be abolished and fees for quality control will be only cost-based i.e. in accordance with services rendered.

(e) Quantitative import restrictions, including prohibitions, quotas and licensing systems

Question 14.

We believe that this section as it relates to licensing requirements on iron tubes and bars and tractors (more than five years of age), should be edited with reference to the information contained in the response to Question 14 in WT/ACC/HRV/51, in particular that the tractor licenses are issued automatically.

We remain interested in detailed information from Croatia on the criteria and price requirements applied in conjunction with these licensing requirements, since it addresses the issue of Croatia's intent to use licenses as a form of trade restriction.

In the "Decision of July 12, 1996" referred to in WT/ACC/HRV/25 the same as the Decision of 12 June 1996 referred to in Para 68 of WT/ACC/SPEC/HRV/7/Rev.1? That Decision in the list of documents reviewed by the Working Party refers only to exports. May we have a copy?

We note that WT/ACC/HRV/25 does not offer sufficient information to determine that Croatia's trade regime is operated in conformity with the Import Licensing Procedures Agreement, particularly in light of the requirements of the mandatory quality certification system, which act as a from of import licensing regime, i.e., "requiring the submission of an application or other documentation (other than that required for customs purposes) to the relevant administrative body as a prior condition for importation into the customs territory of the importing Member."

We applaud Croatia's decision to abolish its discretionary import licenses for iron tubes and bars. We note, however, that iron tubes and bars are still listed as requiring import licenses in the chart appended to the Working Party report.
Could Croatia review this chart to update it?

In paragraph 47, Croatia states that the "purpose of the import license regime was to monitor and control import and export of goods which for various reasons were classified as sensitive. Discretionary import licensing used to protect sensitive products is WTO-inconsistent.

Croatia should re-examine the list of products subject to import licensing requirements, eliminating any products from the list for which the restriction is intended to protect domestic output, and with a view to ensuring that these licenses are being required for the purpose intended and to minimize the use of licenses to the fullest extent possible.

One item of particular concern to us is H.S. 84.22, dishwashing machines, machinery for cleaning or drying bottles or other containers. It is listed on the chart appended to the draft Working Party report, and it is unclear on what basis Croatia is maintaining an import license.

For what purpose is an import license required? We appreciate Croatia's effort to address this issue.

We object to the changes made to para 72. Most of the substance of the commitment has been eliminated. In light of Croatia's historical extensive use of quotas, licenses, and other quantitative restrictions, we would want to see this material restored.

Para 72: The commitment in this paragraph is not consistent with our requests, and is inadequate for the protocol. We seek restoration of a commitment along the following lines:

72: The representative of Croatia confirmed that, after accession, Croatia would take recourse to quantitative import restrictions only in situations envisaged in WTO Agreement, including in article XII of the GATT and according to the WTO Agreement on Safeguards.

72 bis. The representative of Croatia confirmed that Croatia would from the date of accession, eliminate and shall not introduce, re-introduce or apply quantitative restrictions on imports, or other non-tariff measures such as quotas, bans, permits, prior authorization requirements, licensing requirements and other restrictions having equivalent effect that cannot be justified under the provisions of the WTO Agreement. He further confirmed that the legal authority of the Government of Croatia to suspend imports and exports or to apply licensing requirements that could be used to suspend, ban, or otherwise restrict the quantity of trade will be applied from the date of accession in conformity with the requirements of the WTO, in particular Articles XI, XII, XIII, XVIII, XIX, XX and XXI of the GATT 1994, and the Multilateral Trade Agreements on Agriculture, Application of Sanitary and Phytosanitary Measures, Import Licensing Procedures, safeguards and Technical Barriers to Trade. The Working Party took note of these commitments.

We reserve on this section pending resolution of these issues.

Reply:

As already stated in previous documentation and answers, Croatia applies import licensing procedures in compliance with the respective WTO Agreement and on automatic basis.

Price requirements are not part of licensing requirements since Croatia abolished the import licensing regime for iron tubes and bars.

As we stressed very clearly several times before it is not Croatia's intention to use licenses as a form of trade or import restriction, so there is no price or similar criteria in issuing import or export licenses.

The “Decision of 12 July 1996”, referred to in HRV/25 is the same as the Decision referred to in para 68 of WT/ACC/SPEC/HRV/7/Rev 1. We apologize for that mistake, it should be stated in both documents “of July 12,1996” instead “of June 12, 1996”

That decision refers to import and export and its updated version (as of 9 July 1999) is attached to this document.

Croatia had never considered the mandatory quality certification system as a form of import licensing regime and quality control system has never operated like a prior precondition for importation into the Croatian customs territory. Furthermore, following the adoption of the new Law on State Inspectorate, quality controls on imported items prior to customs clearance has been completely abolished. The State Inspectorate would perform quality controls on certain imported and domestic products at the wholesale and retail level.

From the date of its first adoption, the Decision of Goods subject to Import and Export License Regime, was amended several times during the past 3 years (Official Gazette Numbers: 58/96, 67/96, 15/97, 95/97, 132/98, 8/99 and 15/99) with the aim to minimize the volume of goods subject to license regime and to ensure that licenses are issued on an automatic basis.

The machinery for cleaning or drying bottles and dishwashing machines is no longer subject to license regime according to the latest amendments of the Decision, the Decision of Goods subject to Import and Export License Regime which would be published in the next couple of weeks.

Croatia accepts the proposed wording of para 72 and 72bis above to be included in the Working Party Report, although we can not agree to the statement that Croatia has historically extensively used quotas, licenses and other quantitative restrictions.

Namely, Croatia's administrative history is very short and started only in 1991 when Croatia became independent. The restrictive trade regime that existed at that time was inherited from the former Yugoslavia. Croatia had over the past years dismantled that regime and brought it in full compliance with the WTO. Since July 1996, Croatia has abolished import quotas and quantitative restrictions on imports for all products. As explained above Croatia had amended its licensing regime and brought it in compliance with the WTO rules. Consequently, it would be difficult to argue that the extensive use of measures described above has been part of Croatia's trade regime or intended to restrict trade through their use.

(h) Customs valuation

Question 15.

Please confirm in the Working Party report that the currency rates “duly published” as provided for in Article 46 of the Customs Law are published in Croatia, and indicate in which publication they can be found.

Reply:

The currency rates “duly published” as provided in Article 46 of the Customs Law are fixed in accordance with the provisions of the Law on Foreign Exchange Operations and is set and published by the Croatian National Bank (the central bank). The currency rates are published in the daily newspapers, the Croatian National Bank official newsletter and are available on the Internet.

Question 16.

We appreciate Croatia's commitment and the pledge to implement this very important aspect of WTO provisions by July 1999.

Our examination of the new legislation and regulations indicated that most of the legal requirements of the WTO Customs Valuation Agreement have been enacted. With the changes requested below in place, we look forward to the implementation of these provisions on the accelerated basis outlined by Croatia in WT/ACC/HRV/51.

Para 83: The commitment in this paragraph is consistent with our requests.

We have examined the "Customs regulations Determining for the Determining the Valuation according to the Law of the Republic of Croatia (Articles 29 to 48). We have the following comments on these regulations, focusing on areas where it is possible that they have not met WTO requirements. We would like to make the following points:

Croatia uses the term "customs valuation " in its translation of the regulations when discussing the " transaction value " valuation method. It is important that these terms not be confused. "Customs valuation " can mean any one of many different types of valuation, including "transaction value". Examples of this occur in Note to article 38, para, item c, # 2; in Note to Article 39, para 1 item d; and in Note to Article 40, item 2. Could Croatia clarify the use of "customs valuation" in these instances?

Reply:

Please note that the majority of the comments and remarks made relate actually to the translation of the Croatian text to English and that with amendments in the attached new version of the draft Regulation, compliance with the WTO agreements has been achieved.

We agree with your remarks. The misunderstanding is due to the translation and it has been corrected in the attached version of the draft Regulation. Be assured that Croatia understands and uses both of these terms in the same way as the members. The use of the term "customs valuation" in the enumerated examples has been replaced by the correct use of the term "transaction value".

Question 17.

In the regulations concerning the adjustments to the price actually paid or payable in determining transaction value, Croatia states that additions are included in the price paid or payable. This is technically incorrect vis-a-vis the Agreement, where these additions, i.e., royalties, packing, goods and services/assists, etc., are to be added to the price actually paid or payable in determining transaction value. An example of this occurs in the Note to article 38, para 1 item c, #2, last sentence. This sentence says, " If only one of three above mentioned conditions has not been fulfilled, the cost of royalties and license fees shall not be included in the price actually paid or payable." These provisions and any others like them, throughout the Regulations should be modified to conform the regulations with the WTO Agreement.

Reply:

We have deleted the last sentence in the Note to article 38, para 1 item c, #2, c) in the attached new version of the draft Regulation. This has been a mistake in the previous version. The Article 38 of the Customs Law clearly states that royalties and license fees related to the goods being valued are added to the price actually paid or payable in determining transaction value. Therefore, we do have

the same understanding of the provisions of the Agreement and the provisions of the Regulations have been amended in that sense.

Question 18.

Note to Article 38, para 1, item a, indent 1, #1 excludes buying commissions from the price paid or payable. Article 8 of the Agreement, however, excludes them from being added to the price paid or payable to create transaction value. That point should be clarified in the regulations.

Reply:

In the Note to article 38, para 1 item a, #1, the first sentence has been amended as follows: " When determining the transaction value of imported goods it will be necessary to include in that value commissions and brokerage incurred by the buyer, except buying commissions".

Question 19.

Note to Article 41, #3,2nd paragraph, appears to permit the use of "valid prices lists" to value imported goods under Article 7 of the WTO Valuation Agreement. The use of prices lists, whether valid or not, is a form of minimum valuation which is a prohibited method of valuation under the Agreement. We urgently seek the removal of this paragraph from the regulations and confirmation from Croatia in the Working Party report that it will not use any form of price lists to value imports after accession.

Reply:

The Article 37 of the Customs Law stipulates that no customs value shall be determined on the basis of minimum customs values and this was confirmed in previous Croatian answers. In this case the Note to Article 41, #3,2nd paragraph has been changed in the attached latest version of the Regulation and Croatia can confirm in the Working Party Report that it will not use any form of price lists to value imports after accession.

The paragraph in question was related to the treatment of rented or leased goods and had been taken from the Study 2.1 of the Technical Committee on Customs Valuation of the WCO where the same wording is stipulated under point 8.

Question 20.

The Note to Article 43, #3 and #4, concerns the valuation of carrier media bearing data or instructions for data processing equipment. #3 states that sending software by ground telephone or satellite is not subject to customs clearance, i.e., valuation, noting WCO statements and the inability to classify under the HS. #4, however, states an exception where the software transferred shall be the customs value of the goods where the software contains engineering, development, artwork, design, plans and sketches, drawings, and similar material which meet the definition of a goods or service/ assist pursuant to Article 8 of the WTO Agreement. # 4 contradict #3, therefore, and creates opportunity for confusion and dispute. We also question whether this provision can be administered, and we recommended its removal.

Reply:

The note to Article 43, #4 has been deleted in the attached latest version of the draft Regulation.

Question 21.

The note to Article 44, #1, provides that, in 2 "extreme" cases, the importer shall have the right to commence an appeal to the Administrative Court. Article 11 of the WTO Valuation agreement provides that a party liable for the payment of duty shall have the right of appeal, without penalty, concerning the determination of customs value. This right is not to be restricted to "extreme" cases. The word "extreme" should urgently be removed from the regulations, and this section of the regulations clarified to ensure that the right of appeal is free and automatic. (Earlier in the report, we sought clarification of the automatic right of appeal to the Administrative Court in all maters covered by WTO. It should be freely granted. If this is not so, we will need to seek additional legislation from Croatia that would make it so).

Reply:

The Article 11 of the WTO Valuation Agreement has been incorporated in article 44 of the Customs Law and is in full compliance with the Agreement. In the previous version of the Regulation there was a mistake in the translation of the Note to article 44. Namely instead of the correct term "in the final instance" the term "in extreme cases" has been used. We would like to stress that the importer or any other persons liable for the payment of the duty has the right of appeal in regards to the determination of customs value, without penalty to the Customs Directorate of Croatia and to the Administrative court (HAC). This is in accordance with the answer provided under the section "Right of Appeal".

Namely as stated in that answer, for all WTO issues the right of appeal against a decision or act of an administrative body can be automatically lodged with the HAC, except in customs and tax issues. In such cases the first complaint (or appeal) against an act or decision issued by the lower administrative body (customs office or local tax authority), should be lodged to central customs or tax authorities (The Customs Directorate and the Tax Directorate of the Ministry of Finance).

If the trader is not satisfied with the ruling made by the central authorities, he can automatically file an appeal to the HAC.

Question 22.

The section of the regulations concerning "Data preservation and documents to be submitted " establishes procedures for the use of the use of a DVC or declaration on the customs value. The technical Committee on Customs valuation recently concluded that the use of such forms should be temporary, on a short term basis while risk management and post-importation audit systems are developed and established within the Customs Administration. If Croatia is to use such a system, it should be for only a limited period of time. We seek confirmation of this in the Working Party report and appropriate changes to the regulations that will make clear the temporary nature of this measure.

Reply:

The provisions related to the data preservation and documents to be submitted have been deleted from the draft Regulation (please refer to the attachment). The Declaration on the customs value (DCV) is fully in compliance with the WTO Valuation Agreement and is similar to the one used in the European Union and other WCO members. That DCV has been communicated to the Technical Committee for Customs Valuation of the WCO, and has been published and transmitted to other WCO members. If and when the Technical Committee decides that the DCV would cease to be used, Croatia shall accordingly accept such decision.

Question 23.

The Interpretative Note to Article 9 of the WTO Customs Valuation Agreement, defining the term "time of importation", appears to be missing from the regulations and should be included.

Reply:

Based on the provisions stipulated in article 46 of the Customs Law, the time of importation is the day of occurrence of the obligation to pay customs duty. The obligation to pay customs duty begins at the time of acceptance of the customs declaration by which the goods are released in free circulation (on the market).

(i) Other customs formalities

Question 24.

We have recently received additional material from Croatia relating to cross-border issues that we are evaluating. We will have further comments after our review.

We appreciate the explanations contained in WT/ACC/HRV/51, and Croatia's efforts over the last year to regularize its treatment of trade with Bosnia and Herzegovina.

Whether or not Croatia and Bosnia and Herzegovina negotiate a free trade area, we expect that Croatia's treatment of imports from all parts of that country will correspond to its WTO obligations, and that imports will receive equal treatment as provided for in Article I of the GATT. We would like this statement included in the working party text.

Reply:

As previously confirmed and in particular in the reply to question 16 in WT/ACC/HRV/51 Croatia applies MFN trade to the whole of Bosnia and Herzegovina as from 15 May 1999. Therefore, we can accept such a statement proposed above, as follows:

"He confirmed that whether or not Croatia and Bosnia and Herzegovina conclude a FTA, Croatia's treatment of imports from all parts of Bosnia and Herzegovina will correspond to its WTO obligations, and that imports will receive equal treatment as provided for in Article I of the GATT."

(k) Application of internal taxes on imports

Question 25.

We appreciate Croatia's work on tax issues.

We note that the commitment paragraph has been revised to remove reference to MFN treatment. We propose including reference to Article I as well as Article III in the commitment.

We would like to see Croatia's confirmation in response to Question 13 in HRV/51, that it levies only customs tariffs, VAT, and excise taxes on imports, recorded in para 63.

Para 64: The commitment in this paragraph is consistent with our requests, except with respect to the MFN issue identified.

Reply:

Croatia accepts that the commitment paragraph include reference to both Article I and Article III. We also agree that the confirmation in response to question 13 in WT/ACC/HRV/51 is recorded in para 63.

Question 26.

This paragraph appears to duplicate para 72 to some extent. One of them should be eliminated.

Reply:

Croatia agrees to delete para 73 of the Working Party Report.

(l) Rules of origin

Question 27.

We suggest that "Rules of Origin" be given a separate subheading so that the "border control issue" can be treated separately.
We note in para 88, Croatia indicates that its rules of origin will be available at the end of June. We have reviewed the draft Decree on rules of origin and procedure for issue of certificate of origin recently provided by Croatia. What is the relationship of this proposal to the regulations promised in the draft Working Party report?

Reply:

The Decree on Rules of Origin and Procedure for Issue of Certificate of Origin was adopted on June 24 with certain changes in relationship with the Draft Decree. Please find enclosed the final text of the Decree.

Question 28.

We do not see that the draft decree submitted to the WTO Secretariat addresses the requirements of Article 2(h) and Annex II, paragraph 3(d), i.e., that for both non-preferential and preferential rules of origin, the customs authority will provide upon request an assessment of the origin of the import and outline the terms under which it will be provided. Can Croatia indicate where that aspect of the WTO Agreement on Rules of Origin is located in its laws?

Reply:

The Article 17 of the Decree on Rules of Origin and Procedure for Issue of Certificate of Origin addresses the requirements of Article 2 (h) as well as the requirements of Annex II, paragraph 3. (d), i. e. that Article refers to both, non-preferential and preferential rules of origin and covers all aspects of the above mentioned articles of the WTO Agreement on Rules of Origin.

Question 29.

The treatment of this issue in paras 84 and 85 of WT/ACC/SPEC/HRV/7/Add. 1 and the commitment in para 87 do not address our concerns.

In addition, we look forward to seeing the regulations that Croatia has promised in draft.

Para 87: We seek revision of this commitment along the following lines:
87. The representative of Croatia confirmed that Croatia would remedy any departures from full conformity with the WTO Agreement on Rules of Origin prior to its accession, and that by

that time, Croatia's application of rules of origin for both MFN and preferential trade would be administered in conformity with the provisions of the Agreement. Croatia would adopt the Harmonized Rules of Origin once finalized by the WTO in co-operation with the World Customs Organization.

87 bis. The representative of Croatia confirmed that from the date of accession its laws and regulations on rules of origin would be in conformity with the provisions of the Agreement. In this regard, the requirements of Article 2(1) and Annex II, paragraph 3(d), i.e., that for non – preferential and preferential rules of origin, respectively, its customs authority or preshipment inspection authority acting on its behalf will provide upon request an assessment of the origin of the import and outline the terms under which it will be provided. The Working Party took note of this commitment.

Reply:

Croatia accepts the proposed revision of para 87.

(o) Safeguard regime

Question 30.

We do not believe that the draft amendments to the law on Trade meet the requirements of the Agreements on Safeguards, Antidumping, and Subsidies and Countervailing Duties.
Para 98: We wish the text in para 93 removed in the revision of WT/ACC/SPEC/HRV/7 to be restored, and that the commitment text will be as follows:

98. The representative of Croatia said that Croatia would not apply any anti-dumping, countervailing or safeguard measure until it had notified and implemented appropriate laws in conformity with the provisions of the WTO Agreements on the Implementation of Article VI, on Subsidies and Countervailing Measures, and on Safeguards. In the elaboration of any legislation concerning anti-dumping duties, countervailing duties and safeguards. Croatia would ensure their full conformity with the relevant WTO provisions, including Article VI, and the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards. After such legislation was implemented, Croatia would only apply any anti-dumping duties, countervailing duties and safeguard measures in full conformity with the relevant WTO provisions. The Working Party took note of these commitments.

Reply:

Croatia accepts that the text in para 98 (not 93) of the Working Party Report be restored and that it reads as proposed above.

2. Export Regulation

(b) Customs tariff nomenclature

Question 31.

Per Croatia's statements in WT/ACC/HRV/51, we suggest that para 99 be expanded to include information that the export taxes on hides and skins have also been removed, and that Croatia intends to apply any such measures, should they be applied or re-applied in the future, in a non-discriminatory fashion and in conformity with WTO provisions.

Reply:

Para 99 could not be expanded with the information that the export taxes have been removed because of the fact that, as stated in previous answers, Croatia has never applied export taxes on hides and skins. Croatia accepts the second part of the proposal.

Question 32.

We remain confused as to the relevance of Article XI in this discussion, and would appreciate a less cryptic reference in para 99, e.g., that such taxes would not be used to restrict export quantities.

Reply:

Croatia agrees that the para 99 be redrafted.

(c) Quantitative export restrictions

Question 33.

While we applaud Croatia's elimination of export restrictions earlier this year, in para 101 Croatia defends its earlier use of export quotas on corn, wood, raw leather, glass, and newspaper waste " for the purpose of protecting non-renewable natural resources ". This would not appear to be consistent with the spirit or letter of Article XI of the GATT.

As a consequence, we seek recognition in the commitment in para 104 that the earlier restrictions are gone and that the provisions of Article XI are relevant, as follows:

Para 104 104. The representative of Croatia confirmed that Croatia had eliminated all export quotas, bans and other forms of quantitative export restrictions as of 1 January 1999, and said that form the date of accession export restrictions would only be imposed in conformity with relevant provisions of WTO Agreements, including Article XI of the GATT. The Working party took note of this commitment.

Reply:

Croatia accepts the above-proposed commitments to be included in para 104 of the Working Party Report.

Export subsidies

Para 107: The commitment in this paragraph is consistent with our request.

3. Internal polices affecting trade in goods

(a) Industrial policy, including subsidies

Question 34.

From Croatia's statements in WT/ACC/HRV/49), it would appear that the Government makes direct financial transfers to maintain operation and promote production of "chosen entities" in the industrial and shipbuilding sectors. This aid is intended to ameliorate the impact of war damage and other adverse circumstances faced by these firms. It also is stated that most of the companies receiving the aid have substantial State ownership and large employment bases.

Croatia states that this support is intended to preserve employment and not intended to promote exports, and presumably none of it is directly tied to exports.

It is likely, however, that these firms produce for export, and it is most likely that Croatia's subsidies have affected trade.

It is important to bear in mind that subsidies to cover operating losses in certain circumstances and subsidies provided for the direct forgiveness of debt are both consider to be "dark amber" subsidies giving rise to rebuttable presumptions of serious prejudice.

The Subsidy Agreement charges members to avoid providing such subsidies, and we are anxious to have information from Croatia on its overall timetable for eliminating such supports, and, in the interim, how Croatia intends to limit such subsides and phase them out over this period, as noted in WT/ACC/HRV/51.

We appreciate Croatia's commitment, in para 110 of the draft Working Party report, to observe the provisions of the Agreement. We urge Croatia to establish as soon as possible a fixed schedule for eliminating these subsidies.

Para 100: The commitment in this paragraph is consistent with our requests.

Reply:

As already explained in WT/ACC/HRV/49, the purpose of the measures undertaken in some of the industrial sectors and shipbuilding companies is not aiming at enforcing their domestic or international competitiveness, but at creating basis for normal business activity after the completion of rehabilitation and restructuring process.

The need for this type of rehabilitation is absolutely due to the significant direct or indirect war damage during the aggression against Croatia suffered by many companies which were not able to solve the emerged problems with their own resources.

Most of these companies are predominantly in State ownership with a big number of employees and of special importance for certain regions and local communities, because in many cases they are the only industry in a particular region and there are no interested potential buyers.
Before their privatization, which is the final goal of the Government policy and as there has been a lack of foreign direct investment, the Croatian Government was forced to intervene with direct transfers in order to, at least up to a certain point, preserve the level of employment and to avoid a number of bankruptcies which would cause social tensions with unknown consequences. Therefore, the measures undertaken have not being in case prepared with the aim of creating serious prejudice to foreign industries and this can be observed from the information in WT/ACC/HRV/49.

Croatia has already committed itself not to maintain or introduced prohibited subsidies within the meaning of Article 3 of the SCM Agreement. Therefore, it is Croatia's assessment that the above mentioned subsidies are not prohibited. In addition, Croatia would notify its subsidy program in accordance with Article 25 of the SCM Agreement to the Committee on SCM for examination upon accession. With regard to the subsidies referred to in the member's question, there are as already noted, temporary by nature and related to the transformation of the economy, restructuring and privatization. Being an economy in transition or transformation into a market economy and if the examination of the Committee on SCM finds that Croatia should adapt relevant parts of its subsidy program, Croatia would do so by observing the provisions of Article 29 of the SCM Agreement and the period stipulate therein.

(c) Sanitary and phytosanitary measures

Standards and certification

Question 35.

We have reviewed the information provided on new laws and decrees addressing the issue of conformity with WTO Agreements on TBT and SPS.

We applaud the steps Croatia has undertaken to codify the procedures intended to meet its WTO TBT obligations. Croatia appears to be taking the right steps to meet its commitments.

Unfortunately, the material cited by Croatia in WT/ACC/HRV/51 is the same material in the draft Working Party report that raises the question as to whether the laws and regulations proposed by Croatia has actually changed its current WTO inconsistent quality certification system to bring it into conformity with, inter alia, the Agreements on TBT and SPS.

We have a number of remaining questions and concerns for which we seek clarification from Croatia. The additional information will enable us to better assess the consistency of Croatia's TBT regime with all TBT commitments.

The Working Party report notes that, "Croatia's implementing regulations would include a checklist of points addressing the issues regulated in the TBT and SPS Agreements.

We would appreciate if Croatia would provide promptly this checklist to interested Members – in draft form if not final yet-with the specific legal references noted.

Reply:

The TBT-SPS check list, which has already been submitted to members in the last week of June is attached to this document. We urge the Working Party members to recognize the fact that Croatia has substantially changed its quality certification system. Namely, by adoption of the new Law on State Inspectorate, the quality control system is no longer performed at the border, but at the wholesale and retail sale points. This fact enable us to declare that this system has been brought in conformity with the WTO TBT and SPS Agreements.

Question 36.

The Working Party report language on the Standardization Laws raises questions about accuracy. The paragraph notes that the new Law expressly mandates new standards be based on international or regional standards where available. A review of the actual legislation (Article 9 (3)) however, does not appear to establish such a preference for international standards (or regional standards) over national standards.

We seek a clarification from Croatia for the apparent discrepancy between the language in the Standardization Law and the Working Party report.

Likewise, the Standardization Law does not appear to stipulate a 30-day period for public comment on draft standards—as the Working Party report specifies in paragraph 112.

We would appreciate clarification for where such a provision is codified.

Reply:

Croatian Standardization Law has been adopted in 1996. Since than Croatia has adopted 1,332 standards among which 1,330 were transposed international standards, and only 2 were Croatian national standards. This shows very clearly which standards have preference in Croatia despite that provisions of Article 9 (3) of the Standardization Law does not highlight precisely the above mentioned fact.

Concerning the remark that the Standardization Law does not stipulate a 30-day period for public comment on draft standards, we would like to draw your attention to the Rules for Preparation, Adopting and Issuing of Croatian Standards, which was provided to the Working Party and where that obligation is stipulated.

Question 37.

We note that the "Regulation on Procedures for the Adoption of Regulations for Basic Requirements for Goods, Processes and Services" requires fees charged for conformity assessment procedures be equal for domestic and imported products (Article VII). We note, however, that the legislation does not appear to require such fees be cost-based.

We request clarification on how such conformity assessment fees reflect the cost of services rendered.

Reply:

It is true that this legislation does not stipulate that such fees should be cost-based. However, we take a commitment that future legislation concerning the fees charged for conformity assessment procedures shall be cost-based to cover only costs of services rendered.

Question 38.

Please confirm that the "Regulation on Procedures for the Adoption of Regulations for Basic requirements for Goods, processes and Services" has been adopted and is in effect.

Reply:

This legislation has been adopted by the Croatian Government on 27 May 1999 as the Governmental Decision on the Procedures for the Adoption of Regulations on Basic Requirements for Goods, Processes and Services and is in effect from mid June 1999.

Question 39.

We do not find the excerpt from the new Law on State Inspectorate useful and would appreciate receiving the Law itself.

Reply:

We would submit an English copy of the Law by mid July 1999.

Question 40.

The Working Party report language on these issues is too long, internally contradictory and not helpful in addressing the key issues.

Para 121: The commitment in this paragraph is consistent with our requests. However, we reserve on this section pending review of the TBT checklist, which we have only just received.

We do not understand the need to redraft the commitment for SPS compliance that was in the previous version of the Working Party report. The draft is not useful and we would suggest revision, as follows:

Para 134: 134. The representative of Croatia confirmed that Croatia's sanitary and phytosanitary standards system would be in compliance with WTO provisions under that Agreement on the Application of sanitary and Phytosanitary Measures as of the date of accession to the WTO, and that Croatia would apply the Agreement on the Application of Sanitary and Phytosanitary measures from the date of accession without recourse to any transition period. The Working party took note of this commitment.

Reply:

Croatia accepts the revision of para 134 as proposed above.

(d) Trade – related investment measures

Para 136: The commitment in this paragraph is consistent with our requests.

(e) State trading practices

Question 41.

We appreciate Croatia's commitment to notify its State trading enterprises, identified in para 144.

Has there been any progress on the issue of "private monopolies" since the last meeting? If not, we would appreciate a statement form Croatia in the Working Party report confirming that the government does not grant monopolistic trading rights in goods or services to any firm, other than those notified, so that this issue can be put to rest.

Para 145: The commitment in this paragraph is consistent with our requests.

Reply:

With regard to the issue of "private monopolies" that has been raised by a particular member without being based on any actual fact, we believe that the Croatian delegation has clearly explained and stated that there is no such a category in law or in practice in Croatia. Therefore, in order to put this issue to rest, Croatia accepts the proposal above and agrees to confirm in the Working Party Report that the Government does not grant monopolistic trading rights in goods or services to any firm, other than those notified.

(g) Free economic zones

Para 147: The commitment in this paragraph is consistent with our requests.

(l) Government procurement

Question 42.

We appreciate the addition of a date in the commitment in this section
Para 155: The commitment in this paragraph is consistent with our requests.

Transit

Question 43.

We thank Croatia for the additional information and for its assurances as reflected in WT/ACC/HRV/51 and the revised Draft Working Party report.

Para 159: The commitment in this paragraph is consistent with our requests.

4. Policies affecting foreign trade in agricultural products

We reserve pending resolution of outstanding issues in market access.

5. Policies affecting foreign trade in other sectors

Trade in civil aircraft

Para 168: The commitment in this paragraph is consistent with our requests.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

Question 44.

We thank Croatia for the information provided in WT/ACC/HRV/51. Clearly Croatia has worked hard to develop and enact the necessary legal structure to implement the WTO Agreement to TRIPS. We have noted, however, some aspects of current enforcement that are troublesome, and we seek Croatia's attention to these issues in the context of its accession to the WTO.

We would appreciate Croatia's response to these issues as soon as possible, so that we can agree that Croatia will implement TRIPS upon date of accession. Pending agreement on these points, we reserve on this section.

Para 202: the commitment in this paragraph is consistent with our requests.

There appears to be a major lack of enforcement concerning the piracy of computer software (TRIPS Art. 41). We understand that none of Croatia's law enforcement bodies that would have this responsibility have undertaken active efforts to deal with the problem. Neither the Police nor the Financial Police have been willing to conduct raids to stamp out this piracy, and we understand that the State Inspectorate has, as yet, no authority to conduct raids.

Reply:

With regard to the concerns raised in the question and comment above, we would like to state our assessment that the circumstances in the Republic of Croatia relating to the enforcement of rights provided for by the TRIPS Agreement do not appear to be troublesome to the extent suggested, having in mind the expressed commitment of Croatia to protect IPR through legislation and enforcement. In that respect all competent institutions (Ministry of Interior - Police, State Attorney Offices and courts) are taking on a regular basis all necessary measures for the protection of such rights. With the new Law on State Inspectorate that institution is given the authority to combat computer piracy and shall conduct anti-piracy raids. Croatia's future WTO membership shall substantially contribute to a more vigorous and efficient TRIPS enforcement in all aspects of TRIPS obligations stemming from the WTO Agreements.

With regard to piracy of computer software, since the Penal Law of the Republic of Croatia came into force (1 January 1998) the police has carried out a number of actions and has seized a number of pirated software and brought a number of criminal charges which are under procedure before the State Attorney Offices. Data on these actions have already been provided by Croatia on several occasions in previous answers. Croatian institutions have expressed their readiness to work with producers and owners of computer software rights, such as the Business software Alliance-BSA (including MICROSOFT) on this issues and meetings are being held with Croatian officials in order to enhance this cooperation on combating piracy.

Question 45.

There appears to be an absence of clear civil ex parte search provisions in the law (TRIPS Art. 50).

Reply:

The Croatian Enforcement Law contains general provisions concerning civil ex parte search provisions (TRIPS Art. 50), as follows:

Article 293, paragraph 1 of the Law on Enforcement provides for:

"The provisional measure may be proposed before the institution and during the court or administrative procedure and after the termination of those procedures, and until the enforcement is carried out."

However, in order to avoid any possible misunderstandings all laws which relate to the TRIPS provisions (the Patent Law, the Trademark Law, the Industrial Design Law, the Law on Geographical Indications and the Copyright Law) stipulate the kind of provisional measures from Art. 50 of the TRIPS.

Particular laws in the field of intellectual property have prescribed the kinds of provisional measures, as follows:

Article 79 of the Patent Law provides for:

(1) The action may contain a request for ordering, before the court decision comes into effect, a provisional measure comprising:

(a) the refraining from actions infringing a patent or actions that might infringe a patent,
(b) the seizure or exclusion from circulation respectively of products resulting from or acquired by the infringement of a patent and of articles (implements and tools) predominantly used in the creation of products infringing a patent,
(c) the preservation of evidence.

(2) Subject to the provision referred to in paragraph (1) of this Article, the proposal for ordering a provisional measure may be filed even before the action, provided that the action is brought within 15 days as from the day of filing a proposal.

(3) If there is a likelihood of irreparable damage or likelihood that the later derivation of evidence on the infringement would be difficult or impossible, the court shall order a provisional measure without previously notifying the other party.

(4) To the matters concerning the ordering of provisional measures not regulated by this Law the corresponding provisions of the Law on Enforcement shall apply.

Article 53 of the Trademark Law provides for:

(1) If the owner of a trade mark makes it likely that his right has been infringed or that there is a likelihood of infringement of his right which might cause the irreparable harm, may require from the court:

(a) to order provisional measures of the prohibition of acts infringing the rights of the owner of a trademark;
(b) provisional seizure of articles unlawfully designated by a trademark or the exclusion thereof from circulation;
(c) measures concerning the assurance of evidence concerning articles unlawfully designated by a trademark and measures for preserving the existing situation.

(2) The owner of a trade mark may require the ordering of provisional measures even before the institution of an action, provided that he institutes an action within 20 working days or 31 calendar days, whichever expires later.

(3) If the owner of a trademark does not institute an action within the time limit referred to in paragraph 2 of this Article, the court may, on the defendant's request, suspend the procedure and lift the required measures.

Article 52 of the Industrial Design Law provides for:

(1) If the holder of industrial design right makes it likely that his right has been infringed or that there is a likelihood infringement of his right which might cause an irreparable harm, he may require from the court:

(a) the ordering of a provisional measure of the prohibition of acts infringing the right of the industrial design holder;
(b) provisional seizure of articles which unlawfully embody, make or essentially imitate the industrial design, or their exclusion from circulation;
(c) measures aimed at providing evidence on the articles referred to in the previous subparagraph of this paragraph and measures aimed at maintaining the existing state.

(2) The holder of industrial design right may require the ordering of provisional measures even before instituting an action, provided that the action be instituted within 20 working days or 31 calendar days, whichever expires later.

(3) If the holder of industrial design does not institute an action within the time limit referred to in paragraph 2 of this Article, the court may, on the defendant's request, suspend the procedure and lift the required measures.

Article 30 of the Law on Geographical Indications provides for:

(1) Any interested person may bring charges for the protection of rights in the procedure before the competent Commercial Court in the Republic of Croatia against a person who infringes any right referred to in Article 25 of this Law, requiring:

(a) establishment of the infringement of a right
(b) prohibition or prevention of the infringement of a right
(c) compensation for damage

(d) seizure of the products which are made or put into circulation for the purpose of infringing rights and the seizure of equipment used directly for the production of such products;
(e) submission of the infringer's documentation relating to the unauthorized use of geographical indications on products, or otherwise for the purposes of evaluation of the damage.
(f) enforcement for the purpose of prohibition or prevention of the infringement of rights, and particularly the enforcement concerning the destruction of products or equipment referred to in subparagraph 4 of this Article,
(g) publication of the court decision on the expense of the defendant.

(2) The court shall deal with the disputes arising from the infringement of rights referred to in Article 25 of this Law in the urgent procedure.

Article 97 of the Copyright Law provides for:

"On the proposal of the author, or other copyright holder, or their association respectively, whereby it is made likely that the concerned copyright was infringed or that the infringement is imminent, the court may order:

(1) The provisional seizure or withdrawal from circulation of articles or means respectively, infringing the copyright, or used for the infringement thereof, or which resulted from the infringement of the copyright, or which may be used as evidence of the infringement thereof;

(2) The prohibition of the continuation of activities already started that would infringe copyright or the prohibition of the continuation of activities infringing it.

If there is a risk that the later provision of evidence on infringement of copyright could be difficult or impossible, or if there is a risk of irreparable damage, or if there is a risk that the provisional measures laid down in paragraph 1 of this Article would not be effective, he court shall order such measures, without the prior notification of the other party to that effect.

The procedure concerning the proposal for ordering provisional measures shall be urgent.

The corresponding provisions of the Law on Enforcement shall be applied to any matter concerning the ordering of provisional measures, not regulated by this Law ".

The identical provision is contained in Article 119, paragraph 3 of the Copyright Law and shall be applied to performers, producers of phonograms and broadcasting organizations.

Question 46.

Judicial proceedings designed to address cases of piracy are subject to extremely long delays as a result of institutional delays and procedural hurdles (TRIPS Art. 41).

Reply:

The above mentioned statement is not clear, and Croatia believes that there is not real ground for such an assessment. Furthermore, judicial proceedings designed to address cases of piracy and other violations of IPR are proceeded on urgent basis. Therefore, we quote Art. 303 of the law on Enforcement:

Article 303 of the Law on Enforcement provides for:

(1) The decision ordering a provisional measure shall also stipulate the duration of such measure, and if the measure has been ordered prior to the action is brought or prior to the institution of any other procedure - also the time limit within which the proposer of the assurance shall bring charges or a proposal for the institution of other procedure, for the purpose of justifying the measure.

(2) The court shall, on the proposal of the assurance proposer, extend the duration of the provisional measure, provided that the circumstances under which such measure has been ordered have not changed.

(3) The proposal referred to in paragraph 2 of this Article may be given only prior to expiration of the period the provisional measure has been ordered for.

Procedures concerning the infringement of intellectual property rights shall be urgent.

Question 47.

Concerning injunctive relief: Does a right holder have to institute legal proceedings in order to seek injunctive relief through a temporary restraining order? How long does it typically take for a party to receive injunctive relief under these circumstances?

Reply:

A right holder's right to seek a temporary restraining order is not exclusively linked to instituting legal proceedings. He is entitled to seek a temporary restraining order before, during and after termination of legal proceeding. The temporary restraining order is issued by the Commercial Court, either with or without hearing the alleged injuror. If the court decides not to hear the alleged injuror, then the order is issued within a 30 days period. If there is a hearing, then the procedure can be prolonged for several months.

Question 48.

Concerning civil judicial procedures: Has Croatia amended its existing civil procedure code to conform with TRIPS requirements?

Reply:

From Croatia's point of view the provisions of the Law on Civil Procedure fully comply with the requirements of the TRIPS Agreement, and, in that sense it appeared to be unnecessary to amend the mentioned Law:

For example:

a) Article 42 of the TRIPS Agreement

Article 285 of the Law on Civil Procedure provides for:

"Before fixing the preparatory hearing the President of the Tribunal may demand the defendant to submit a response to the action, if, due to the complexity of the dispute or to the number of claims contained therein, it would be appropriate that the defendant make a written declaration concerning the citations contained in the action.

A response to the action shall be submitted within the time limit fixed by President of the Tribunal, but it shouldn't be more than fifteen days counting from the institution of the action.

Exceptionally, taking into consideration the circumstances of the case, this time limit may be even up to 30 days.

The defendant may respond to an action in the written form although it was not ordered by the court."

Article 89 of the Law on Civil Procedure provides for:

"The parties may take actions in the procedure in person, or through an attorney, but the court may invite the party represented by the attorney to make a statement in person concerning the facts to be established in the lawsuit.

The party represented by the attorney may always come before the court to make statements apart from her/his attorney.

Article 5 of the Law on Civil Procedure provides for:

"The court shall give the possibility to each party to make a statement concerning the requirements and allegations of the adverse party.

Article 7 of the Law on Civil Procedure provides for:

"The parties shall state all the facts on which their requirements are based on and shall propose evidence for establishing such facts.

The court shall be authorized to establish also the facts not presented by the parties if the results of the hearing and presenting of evidence show that they seek to dispose with the requirements with which they can not dispose of (Article 3, paragraph 3), but it shall not base its decision on the facts concerning which the parties were not given the possibility of being heard.

Article 299 of Law on Civil Procedure provides for:

"Each party shall state all the facts necessary for the substantiation of its proposals, offer evidence necessary for the establishment of its citations and make a declaration concerning the citations and evidence offered by the adversary party.

Parties may present new facts and offer new evidence during the entire main hearing."

b) Article 43 of the TRIPS Agreement

Article 220 of the Law on Civil Procedure provides for:

"The evidence to be presented for the purposes of establishing decisive facts shall be decided by the court"

Article 7 of the Law on Civil Procedure provides for:
The court shall be authorized to establish also the facts not presented by the parties if the results of the hearing and presenting of evidence show that they seek to dispose with the requirements with which they can not dispose of (Article 3, paragraph 3), but it shall not base its decision on the facts concerning which the parties were not given the possibility of being heard.

Article 233 of Law on Civil Procedure provides for:

"When a party refers to the document and claim that is in the possession of the opposing party, the court shall invite the said party to submit the document, giving it a time limit to that effect.

The party shall not refuse to submit the document, if it has itself referred to that document to support its allegations, or if it concerns the document which it is, according to the Law, obliged to submit or to show, or if the document, having regard to its content, is considered to be common to both parties.

Where a party invited to submit a document denies being in its possession, the court may present evidence for the purposes of establishing such a fact.

The court shall, having regard to all circumstances, evaluate in its own discretion what is the importance of the fact that the party possessing the document refuse to observe the court decision ordering it to submit the document, or contrary to the conviction of the court denies the possession of the document.

The court decision referred to in paragraph 1 of this Article shall not be subject to a separate appeal.

"When a party refers to the document and claim that it is in the possession of the opposing party, the court shall invite the said party to submit the document, giving it a time limit to that effect.

Question 49.

Concerning border measures: Has Croatia made the necessary amendments to its Customs Code or other related provisions to meet enforcement obligations under TRIPS, including suspension of release requirements for posting of a security or equivalent assurance and right of inspection?

Reply:

Yes, The Customs Law enacted by the Croatian Parliament on 30 June 1999 provides for in its Article 70:

"The Government shall prescribe the procedure concerning the goods with regard to which there is a reasonable doubt that the importation thereof in the Republic of Croatia constitute the infringement of intellectual property rights"

The preparation of the Regulation by which the Government of the Republic of Croatia will, in detail and in compliance with the provisions of the TRIPS Agreement (Articles 51-55), prescribe the procedure on the border is under way and will be implemented prior to Croatia's accession to the WTO.

Question 50.

Concerning criminal provisions: Has Croatia addressed the TRIPS requirement to have in place deterrent criminal penalties at least for wilful infringement of copyrighted works of trademarked goods?

We are reviewing material provided by Croatia concerning current violations of intellectual property rights that involve members' interests. We thank Croatia for this information, which we have only just received.

Reply:

Yes, the Croatian legislation addresses such that particular TRIPS requirement, as follows:

Article 285 of the Penal Law provides for:

(1) Whoever, contrary to the provisions on industrial property, infringes a trade mark, an industrial design right, an appellation of origin or any other industrial property right of another, with exception of a patent (Article 232), shall be punished by a fine or imprisonment up to three years.

(2) Whoever manufactures, imports, transfers across the border line, offers, puts into circulation, stores or uses without authorization a product which is the subject of the protection referred to in paragraph 1 of this Article, shall be inflicted punishment referred to in paragraph 1 of this Article.

(3) Whoever uses a trade name of another or enters therein the indication of particular special designations or indications of rights referred to in paragraph 1 of this Article without authorization, shall be punished by a fine or imprisonment up to three years.

(4) If the commitment of a criminal act referred to in paragraphs (1) and (2) of this Article has resulted with the acquisition of a substantial financial gain or with a substantial damage, and the perpetrator has acted with the aim of acquiring such financial gain or causing such damage, he shall be punished by imprisonment from six months up to five years.

(5) Articles intended or used for the commitment of a criminal act or which resulted from the commitment of a criminal act referred to in paragraphs (1) and (2) of this Article shall be seized and destroyed."

Article 230 of the Penal Law provides for:

(1) Whoever, without the permission of the author or another copyright owner when such permission is required by the Law, or despite their prohibition, fixes, reproduces, multiplies, puts into circulation, rents, imports, transfers over border-line, presents, performs, broadcasts, transmits, makes available to the public, translates, arranges, adapts, or otherwise uses a copyright work, shall be punished by a fine or imprisonment for up to three years.

(2) By the punishment from paragraph 1 of this Article, shall be punished whoever, without the permission of the performer or a person who is authorized to give such permission when such permission is required by the Law, or despite their prohibition, records, reproduces, multiplies, puts into circulation, rents, imports, transfers over border-line, presents, performs, broadcasts, transmits, makes available to the public, or otherwise uses a performance.

(3) By the punishment from paragraph 1 of this Article, shall be punished whoever, with the intent to enable unauthorized use of a copyright work or of a performance, produces, imports, transfers over border-line, puts into circulation, rents, enables another to use or exploit any kind of equipment or means the main or predominant purpose of which is to enable unauthorized elimination or prevention of any of technical means or computer programs the purpose of which is protection of copyright or performer's right from unauthorized use.

(4) A person with whom the objects intended or used for the commitment of the criminal offence from paragraphs 1, 2, and 3, of this Article, or objects that have resulted from such commitment are found, and who had known or could and should have known, shall be punished by a fine for up to one hundred daily incomes or by imprisonment for up to six months.

(5) If, by the commitment of a criminal offence referred to in paragraphs 1, 2, and 3, of this Article, very large material gain was obtained and the perpetrator's intention was to obtain such material gain or to cause such damage, he/she shall be punished by imprisonment from six months up to five years.

(6) Objects intended or used for the commitment of the criminal offence from paragraphs 1, 2, and 3, of this Article, shall be seized and destroyed."

VI. TRADE-RELATED SERVICES REGIME

Question 51.

We believe that this section needs to be reviewed, to update the material to reflect the additional market access that has been negotiated in developing Croatia's GATS Schedule.

We find the various references in this section to the conditions and requirements for establishment of different forms of commercial presence somewhat disturbing since these issues haven't been raised in scheduling Croatia's services commitments.

For example, in para 205, it states "The establishment of a branch office (or a subsidiary) was a precondition for any foreign person to commence business activity in Croatia. " This would seem to indicate that not all forms of commercial presence by foreign firms is allowed.

Also, the references in para 207 to insurance establishment are particularly confusing.

Croatia should review this section to bring it into line with the state of its negotiations.

Reply:

Croatia has already communicated to the WTO Secretariat the revision of the text of this section in the Working Party Report. With regard to some specific points raised by members on the wording in para 205 and 207, we would like to point out that the various references have been made upon request and in answer to questions raised by the Working Party member in earlier stages of the accession process.

Namely para 205 reflects the discussion on the Company Law as the basic act for commencing business activity and establishing commercial presence in Croatia and Croatian answers to very specific questions on branch offices, subsidiaries and representatives offices. We confirm that apart from these three categories, commercial form can take a form of creating a fully new company or any kind of joint ventures and that commercial presence with respect to the amount of foreign ownership is not limited (it can be 100 per cent foreign owned). There are only few limitations in few sectors as reflected in the Croatian Services offer.

Para 207 also reflects earlier discussions and questions and answers in the Working Party meetings and has been updated in the revision of this para in WT/ACC/HRV/7/Rev.2 that has been communicated by Croatia to the WTO Secretariat by mid July 1999.

Transparency

Paras 214 and 215. The statement and commitment in these paragraphs are consistent with our requests.

Trade Agreements

We thank Croatia for the additional information submitted in the draft report and WT/ACC/HRV/51.

Para 223: The commitment in this paragraph is consistent with our requests.

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