

QUESTION 205:

In order to protect the interests of foreign investors, does Croatia intend to accede to the Washington Convention of 1965 on the Settlement of Investment Disputes between States and Nationals of other States (ICSID), and the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards - the main protection agreements in the field of foreign direct investment?

ANSWER:

Croatia acceded to the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards and Washington Convention of 1965 on the Settlement of Investment Disputes between States and Nationals of other States (ICSID) during succession. Croatia acceded to all conventions during succession that did not violate the Constitution of the Republic of Croatia.

Acquiring Property Ownership

QUESTION 206:

Which law (article) provides for reciprocity with respect to a foreigner's acquisition of property ownership rights? Could Croatia explain in detail such reciprocity? Regarding a foreigner's acquisition of property ownership, is Croatia able to abide by the obligations under GATS Articles 16 and 17?

ANSWER:

Article 13 of the Law on Basic Ownership Relations provides for the reciprocity with respect to a foreigner's acquisition of property ownership rights. This reciprocity is based on the principle of the International Private Law and enable Croatian citizens to have the same treatment abroad regarding the acquisition of property ownership rights as foreigners have in Croatia. The absence of such reciprocity may be discriminatory for the Croatian citizens, so we do not consider this principle inconsistent with GATS provisions.

QUESTION 207:

Croatia requires reciprocity for the acquisition of property rights by natural and legal persons. Does it intend to maintain this requirement ?

ANSWER:

Croatia intends to maintain the reciprocity requirement for the acquisition of property rights by natural and legal persons.

**Trading Conditions for Physical Persons, Managers and Experts from Foreign companies,
Residency Conditions in the Republic of Croatia**

QUESTION 208:

A) Business visa

B) Work permit

Can a person, who has been transferred within a company, be allowed to enter Croatia? Can professional foreign person (e.g. lawyer or accountant) be allowed entry?

ANSWER:

A business visa may be issued to the foreigner who is going to perform economic activities or other activities connected with foreign investments or foreign trade operations in the Republic of Croatia. This visa is issued by the Diplomatic or Consular Mission of the Republic of Croatia upon the request of the foreigner, legal person or independent undertaker.

In the event that the foreigner wants to be employed in Croatia, the visa is a prerequisite for a work permit from the Croatian Employment Office.

Persons transferred within a company, may enter into Croatia with a proper visa as well as any other professional foreign person, but if they want to be employed in Croatia, then they should acquire a work permit.

QUESTION 209:

In order to perform long-term activities, it is stated that a foreign company must establish a subsidiary or a joint-stock company. Is this obligation applicable to all service sectors? What are the criteria to determine "a long-term activity"?

ANSWER:

The answer on page 8 may indeed produce misunderstandings due to the legal terms not correctly used in question 14 on services. Please refer to the answer to question 126 WT/ACC/HRV/3. The access to market in the service sector is under the Company Law not restricted by establishing a subsidiary or a joint stock company. Foreign enterprise or trader have a free choice between choosing a subsidiary form in which case they establish a fully or partially owned company or branch office form. The "imposition" of establishing a branch applies in the case of "carrying on business" (going concern) and not "performing long-term activity". In the strict sense, this term is defined in the Company Law: "Carrying on business is commercial activity carried out independently, on one's own account, at one's own risk, regularly with the intention of making profit by production of goods and services (Article 1 in relation to Article 612 (2) of the Company Law).

These provisions do not prejudice or discriminate the freedom of contract among foreign and domestic entities and freedom of choice of applicable law and forum. The contracts concluded by a branch are valid although it is considered to be concluded with the foreign company which founded a branch. The branch has no legal existence separate from its parent company. As consequences their contracts are considered as international contracts and foreign law and forum can be negotiated as applicable.

International Transfers

QUESTION 210:

With respect to international payment transaction, which operations performed by a legal or natural person are allowed by the National Bank of Croatia?

ANSWER:

Croatia does not maintain any restriction on the making of payments and transfers for current international transactions.

As far as regards payments and transfers for capital international transactions please be advised on the following:

- resident juridical persons, including commercial banks, may borrow abroad.

They are required to register the loans contracted, including commercial credits, with the NBC. Financial credits may be extended to nonresidents by resident juridical persons, including tradesmen and natural persons engaging in independent activities, only if these credits are financed from profits or credit obtained from abroad. Natural persons are permitted to obtain loans from nonresidents in domestic or foreign currency.

- foreign direct investment by nonresidents may take the form of joint ventures or full ownership and must be registered with the commercial courts. Repatriation of capital and transfers abroad of profits are not restricted. In principle, domestic and foreign investment is treated equally (e.g. "national treatment"). Foreign direct investment abroad by residents must be registered with the Ministry of Economy within 30 days period commencing from signature of the contract. Such investment must generally be undertaken through loans abroad or through reinvestment of profits. Inward portfolio investment is not restricted, except in central bank short-term securities on primary market.
- nonresident natural persons may acquire real estate in Croatia through inheritance as long as their country of residence extends reciprocal treatment to residents of Croatia. Nonresident natural persons not engaged in economic activities in Croatia may purchase real estate only under the same conditions. Nonresident natural or juridical persons engaged in economic activities in Croatia may also purchase real estate under these conditions and may sell it to resident or nonresident juridical persons. In principle, residents may acquire real estate abroad on the basis of reciprocity of treatment, but in practice, they are not permitted to purchase foreign exchange in the exchange market for this purpose; the use of balances in foreign exchange accounts for this purpose is also prohibited.

3. MARKET ACCESS AND NATIONAL TREATMENT

I. HORIZONTAL COMMITMENTS

Legal Services

QUESTION 211:

Could Croatia clarify the possibilities for foreign lawyers to provide services in Croatia - to what extent are foreign lawyers permitted to give advice on legal matters in their home countries, or on international law ? Is the provision of legal services by foreign lawyers limited solely to the "selected arbitration courts" referred to on page 9 of the note on services?

ANSWER:

Foreign lawyers can provide legal consultancy services in Croatia without limitations on all legal matters. Legal consultants can perform such professional activities in the form of branch or subsidiaries registered for consultancy or as employers in a domestic firm or public service.

The other means of access to the Croatian market for foreign legal firms are newly practised cooperation contracts concluded between foreign and domestic law firms; such contracts are in no way regulated or restricted by law.

QUESTION 212:

Are foreign lawyers unable to provide legal services, except in the procedures mentioned in page 9 of WT/ACC/HRV/9? If they are allowed, what kind of legal services can foreign lawyers provide? What requirements are necessary for foreign lawyers to provide legal services?

ANSWER:

Lawyers are unable to provide legal services except in the procedures mentioned in page 5 of WT/ACC/HRV/9. Other legal services that they can provide are legal consultancy as independent specialized company or as a lawyer employed as a consultant in a firm or public office. It is proven in practice that foreign law firms conclude long-term cooperation contracts with domestic law firms as a means to access the domestic legal service market. There is no evidence of the number of, range

or scope of such cooperation contracts because there are no procedures of reporting of approving them.

II. SECTORAL SERVICES COMMITMENTS

Auditing Services

QUESTION 213:

Are there no other means by which foreign auditing companies can enter the Croatian market except through joint working with local companies ?

ANSWER:

There are no other means by which foreign auditing companies can enter the Croatian market except through joint working with local companies.

QUESTION 214:

For foreign auditing firms to provide auditing service, are there any other requirements than performing joint auditing services with domestic auditing firms?

ANSWER:

There are no other requirements than performing joint auditing services with domestic auditing firms for foreign auditing firms in order to access domestic auditing service market.

Communication Services

QUESTION 215

It is stated that foreign firms may perform telecommunication services, but only through the HPT. What is meant by "only through the HPT"?

ANSWER:

The statement that foreign firms may perform telecommunication services, but only through the HPT means that they can perform services only on the basis of bilateral agreement with the HPT.

Land-based Courier Services

QUESTION 216:

Does Croatia have any plans to permit competitors in any parts of this sector, which currently to the current state monopoly covering postal matter ?

ANSWER:

The postal sector of the Croatian economy has competitors within the express courier service, such as DHL. The Croatian Post and Telecommunications Company (HPT) is the only distributor, natural monopoly, for regular posting of mail.

Placement and Supply of Personnel

QUESTION 217:

Are there any plans to open this sector of activity to private companies, or is it to remain the preserve of the state Employment Office ?

ANSWER:

The Law on Employment stipulates that the State Employment Office performs employment activities. However, legal and natural persons may perform employment activities in the Republic of

Croatia upon the approval of the Ministry of Labour and Social Welfare. The party interested in performing employment activities should submit a detailed performance and business plan to the Ministry of Labour and Social Welfare; the Minister must either approve or reject the request in 60 days of its submission. Never the less, employment activities performed in Croatia for employment abroad is in the exclusive competence of the State Employment Office.

Education Services

QUESTION 218:

With regard to providing education services (including the establishments of schools and capital participation), is Croatia able to abide by the obligations under GATS Articles 2 (MFN), 16 (market access) and 17 (national treatment)? Are there any restrictions for foreigners or foreign firms in this area?

ANSWER:

Croatia applies the principles of Most Favoured Nation and national treatment with regard to foreign investors in the education service sector. There are no restrictions for foreign investors in this area.

Health Services

QUESTION 219:

With regard to providing health services, is Croatia able to abide by the obligations under GATS Articles 2 (MFN), 16 (market access) and 17 (national treatment)? Are there any restrictions for foreigners or foreign firms in this area?

ANSWER:

Croatia is able to abide by the obligations under GATS Articles 2 (MFN), 16 (market access) and 17 (national treatment) stipulated in the Law on Protection of Health for Foreigners.

Social Services

QUESTION 220:

With regard to providing social services, is Croatia able to abide by the obligations under GATS Articles 2 (MFN), 16 (market access) and 17 (national treatment) after the adoption of the new law?

ANSWER:

Croatia will be able to abide by the obligations under GATS Articles 2 (MFN), 16 (market access) and 17 (national treatment) after the adoption of the new Law on Social Welfare.

Construction Work and related Services

QUESTION 221:

Are the special regulations and the registration process governing the involvement of persons in this field applied in a non-discriminatory manner to both foreigners and Croatian nationals?

ANSWER:

Croatia applies non-discriminatory regulations to both foreigners and Croatian nationals in the construction sector, which includes project design, construction supervision and management. The registration of foreign companies must be in accordance with the Company Law.

Financial Services

Direct insurance

QUESTION 222:

Can a foreign insurance company provide direct insurance through agents or representatives in Croatia?

ANSWER:

The Law on Insurance governs the insurance sector in Croatia. Foreign insurance companies can transact business in Croatia only by establishing a company (wholly-owned or jointly with a domestic company), but not by merely opening a subsidiary. Croatia applies national treatment to foreign insurance companies.

Insurance intermediation and services auxiliary to insurance

QUESTION 223:

In this area, is Croatia able to abide by the obligations under GATS Articles 2, 16 and 17? With regard to supplying actuarial services, is Croatia able to abide by the obligations of GATS Articles 2 (MFN), 6 (reasonable, objective and impartial administration of measures), 16 (market access) and 17 (national treatment)?

ANSWER:

Croatia applies no restrictions with respect to the involvement of foreign companies in the Croatian insurance market, however foreign companies must establish a company in Croatia or invest in a domestic company or establish a joint venture with a domestic company in order to transact in Croatia. Hence, Croatia is able to abide by the GATS principles of MFN, market access and national treatment.

Audiovisual Services

QUESTION 224:

With regard to this sector, is Croatia able to abide by the obligations under GATS Articles 2 (MFN), 16 (market access) and 17 (national treatment)? Are there any restrictions for foreigners or foreign firms in this area?

ANSWER:

Croatia is able to abide by the obligations under GATS Articles 2 (MFN), 16 (market access) and 17 (national treatment). The restrictions for foreigners or foreign firms in this area are as follows: when filming a movie on the territory of the Republic of Croatia, the producer must apply for a permit to the Ministry of Culture; Radio, television and cable television concessionaire is a company for which one shareholder, legal entity or private person cannot hold more than 25 percent of the shares. Radio and television concessionaire must submit to the Telecommunications Council complete information about the shares at their disposition, wherein foreign capital cannot surpass 25 percent.

Most Favoured Nation Treatment

QUESTION 225:

In the area of audiovisual services and road transport services, what are the measures which Croatia intends to list as MFN exemptions under Article 2 of GATS?

ANSWER:

Croatia will submit the service offer and exemptions in due course.

VII. LEGISLATION

QUESTION 226:

What is the present status of the labour legislation which will increase the flexibility of the labour market in Croatia? (WT/ACC/HRV/3, Question 141)

ANSWER:

The comprehensive legislation with regard to employment and labour regulations is the Law on Labour, the Law on Employment, the Law on Labour Inspection, the Law on Protection at Work, and the Law on Retirement. Thus far, the Law on Labour, which provides for greater flexibility and a solid basis for an employment market in the Republic of Croatia, was enacted on January 1, 1996. The Law on Labour is in accordance with the Constitution of the Republic of Croatia and international conventions on labour. The remaining above mentioned laws will be enacted in the near future.

Annex 3: Main Economic Indicators and Foreign Trade Statistics

QUESTION 227:

Main Macroeconomics Indicators, Shares of Croatia Exports and Imports (pages 12-30) Could you please provide us with current statistics for the first trimester 1996? (WT/ACC/HRV/5)

ANSWER:

See attachment entitled "Macroeconomic Indicators". (WT/ACC/HRV/18)