NOTE

from: Working Party on Enlargement and Countries Negotiating Accession to the EU
on: 16 December 2008
to: Permanent Representatives Committee
Subject: ENLARGEMENT
  – Accession Negotiations with Croatia
  = Chapter 27: Environment

1. With a view to the next Accession Conference with Croatia, delegations will find attached the draft European Union common position on Environment resulting from the discussions of the Working Party on Enlargement and Countries Negotiating Accession to the EU.

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2. This dossier is therefore brought to the attention of the Permanent Representatives' Committee.

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Croatia – Negotiating chapter 27: Environment

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

– any view expressed by either party on a chapter of the negotiations will in no way prejudice the position which may be taken on other chapters;

– agreements – even partial agreements – reached during the course of the negotiations on chapters to be examined successively may not be considered as final until an overall agreement has been established;

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

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

The EU encourages Croatia to continue the process of alignment with the acquis and its effective implementation and enforcement, and in general to develop already before accession, policies and instruments as close as possible to those of the EU.
The EU encourages Croatia to ensure that environmental protection requirements are integrated into the definition and implementation of other sectoral policies and that sustainable development is promoted. The EU also points out that all new investments should comply with the environmental acquis.

The EU notes that Croatia, in its position CONF-HR 17/08 accepts the acquis under chapter 27 as in force on 1 June 2008,

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

**Horizontal legislation**

The EU takes note of the efforts made by Croatia to further align its legislation with the acquis in this sector, including ratification of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention). The EU notes that a regulation and a programme for development and management of the Environmental Protection Information System will be adopted allowing for collection and processing of environmental data and reporting to the European Environment Agency (EEA) in line with the acquis. The EU takes note that the Croatian Environment Agency intends to apply for the EEA membership by the end of 2008. The EU further takes note of the ratification of the Memorandum of Understanding on Croatia's participation in the Civil Protection Financial Instrument and invites Croatia to proceed towards signature of the Memorandum on its participation in the Community Civil Protection Mechanism.
As regards the climate change, the EU takes note of efforts made by Croatia to align its legislation with the *acquis* in this field, including ratification of the Kyoto Protocol. The EU takes note that the National Strategy with an Action Plan for the implementation of the UN Framework Convention on Climate Change and the Kyoto Protocol has been prepared. The EU also takes note of Croatia's plans to complete transposition of the remaining parts of the *acquis* in this sector in 2008, including Directive 2003/87/EC, and the planned adoption of a National Allowance Allocation Plan and legislation on registries. The EU invites Croatia to continue this work and also to implement the Monitoring Mechanism Decision 280/2004/EC as well as other elements of the EU's climate change policy initiated through the European Climate Change Programme. Joining the EU Emissions Trading Scheme (ETS) before accession can only be effective for Croatia if its emissions trading scheme is linked to the EU ETS through a separate bilateral agreement. The EU also underlines the need for Croatia to prepare for the future commitments under the Effort Sharing Decision (targets for sectors not covered by ETS) which is expected to enter into force in 2009.

As regards administrative capacity, the EU takes note of the new organisational structure of the Ministry of Environmental Protection, Physical Planning and Construction in place since 2007 and of Croatia's intention to strengthen its capacity, including environmental inspection. The EU invites Croatia to continue capacity building, also at the regional and local level, in line with the Plan for Setting up Necessary Administrative Capacities at National, Regional and Local level and Required Financial Resources for Implementing the Environmental Acquis (hereinafter referred to as the Action Plan) of February 2008. The EU underlines also the need to approve a new structure of the Croatian Environment Agency allowing for a substantial increase in staff, better division of tasks in response to the *acquis* requirements and further development of national registers within the framework of the newly established Environmental Protection Information System. The EU takes note that for the purpose of implementation of the INSPIRE Directive (2007/2/EC), a National Infrastructure and Spatial Data Council has been established. The EU takes note of the foreseen strengthening of the National Protection and Rescue Directorate responsible for civil protection. The EU notes also that the Cooperation Agreement has been signed between the inspection services and is being implemented.
Air quality

The EU takes note of the efforts made by Croatia to further align its legislation with the *acquis* in the field of air quality, including ratification of protocols to the Convention on Long-Range Transboundary Air Pollution. The EU invites Croatia to continue the work, including transposition of the directives on national emission ceilings and on ambient air quality and cleaner air for Europe, which is pending. The EU notes that the National Air Quality Protection and Implementation Plan for the period 2008-2011 was adopted in May 2008 and that the Air Quality Information System is being established. The EU underlines the need to enhance implementation of the *acquis*, including through upgrading and further development of the monitoring network, as well as taking measures to gradually reduce the pollution, along the limit values for certain pollutants set by the *acquis*.

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As regards administrative capacity, the EU takes note of a foreseen capacity strengthening of the Ministry of Environmental Protection, Physical Planning and Construction, including inspection services, and of the Croatian Environment Agency. The EU underlines the importance of a proper monitoring of the air quality, in terms of a developed network of monitoring stations, equipment and staff. In this regard, the EU notes the intention to entrust the Meteorological and Hydrological Service with performing expert tasks related to air quality monitoring and invites Croatia to provide additional clarification concerning the timetable for capacity building and an envisaged date for the Service to start its new task.

**Waste management**

The EU takes note of Croatia's efforts to pursue its legislative alignment and of the plans to address remaining parts of the *acquis* in this sector by the end of 2008. The EU notes also the adoption of the National Waste Management Plan in 2007 and the establishment of a system for management of certain categories of waste (packaging waste, waste oils, waste batteries and accumulators, end-of-life vehicles, electrical and electronic equipment, waste tyres). The EU encourages Croatia to pursue the work on legislative alignment and timely implementation, and to ensure its compliance with the *acquis* in particular as regards construction of the waste management centres, remediation of the existing landfills and hot-spots, as well as further development and operation of systems for collection and treatment of certain categories of waste, including electrical and electronic equipment, packaging waste, end-of-life vehicles and PCB/PCT.
The EU invites Croatia to pursue efforts on strengthening administrative capacity in this area, in line with the Action Plan. The EU underlines in particular the importance of capacity building at the regional and local level and of the inspection services to be responsible for *acquis* implementation and enforcement. Due attention needs to be paid to strengthening the Environmental Protection and Energy Efficiency Fund providing financial resources for development and implementation of several projects, including remediation of landfills, construction of waste management centres and establishment of systems for collection and treatment of certain categories of waste.

**Water quality**

The EU takes note of the current level of legislative alignment and invites Croatia to step up its efforts in this respect, in particular as regards adoption of the new Water Act and the Water Management Financing Act, followed by implementing legislation. The EU notes that the Water Management Strategy has been adopted. The EU further takes note of plans to develop by the end of 2009 the river basin management plans, the register of protected areas and the monitoring programme for surface waters, groundwater and protected areas. The EU also notes Croatia's intention to adopt by the end of 2008 some implementation plans, including for the Urban waste water treatment directive. The EU invites Croatia to prepare for transposition and implementation of the Directive 2008/56/EC establishing a framework for Community action in the field of marine environmental policy and present its plans in this respect.
The EU takes note of the new Regulation on internal structure of the Ministry of Regional Development, Forestry and Water Management, including new organisation and envisaged strengthening of both directorates for water management, in comparison to the Action Plan. The EU invites Croatia to provide more information concerning plans on further capacity building in these directorates in 2009. The EU notes that in the Ministry of Agriculture, Fisheries and Rural Development, the Fisheries Directorate has been established with competences in the area of fresh waters quality to support fish life. The EU underlines the importance of strengthening administrative capacity in water quality sector, in particular at the regional and local level, and with respect to inspection services, in line with the Action Plan of February 2008. The EU underlines also the need to approve a new structure of Croatian Waters to allow for a better division of tasks and effective water management, in line with the requirements of the *acquis*. The EU notes that the main water management laboratory, in charge of water monitoring, has been established within Croatian Waters. The EU also stresses importance to develop coordination mechanisms and to improve cooperation between administrative bodies involved in the *acquis* implementation and enforcement in the field of water quality.

**Nature protection**

The EU takes note on the current level of legislative alignment and invites Croatia to step up its efforts in this respect, in particular as regards the Habitats Directive and the Wild Birds Directive. The EU notes that the national ecological network comprising 1500 sites has been established and invites Croatia to pursue work on preparation of a list of the sites for the NATURA 2000 network. The EU notes that the National Strategy and the Action Plan for the Protection of Biological and Landscape Diversity in Croatia are envisaged for adoption by the end of 2008.
The EU underlines the importance of further administrative capacity building in the field of nature protection, in particular at the regional and local level, including public institutions for management of national and nature parks, and other protected areas, and with respect to the inspection services (nature protection inspection and veterinary inspection). The EU stresses also the need to further develop coordination mechanisms and to continuously improve cooperation between the numerous administrative bodies involved in the acquis implementation and enforcement in this area. In this regard, the EU takes note of the envisaged recruitment of additional staff in the Ministry of Culture, responsible for nature protection, the State Institute for Nature Protection and the remaining institutions, in line with the Action Plan of February 2008.

**Industrial pollution control and risk management**

The EU takes note of Croatia's efforts to further align its legislation in this sector and of the plans to complete transposition of the remaining parts of the acquis, in particular of the IPPC and Seveso II Directives, by the end of 2008. The EU takes note that the Plan for reducing emissions from large combustion plants is envisaged for adoption in 2008. The EU notes that Croatia intends to maintain after accession its national label award scheme.
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The EU notes Croatia's intention to strengthen administrative capacity in this sector, in line with the Action Plan of February 2008. The EU underlines the importance of the capacity building in particular as regards inspection services. In this respect, the EU notes Croatia's plans to further develop the capacity of inspection services beyond 2009 to enable conduct of checks in installations for which integrated environmental protection requirements have been issued.

Chemicals

The EU takes note of Croatia's efforts to further align its legislation in this sector, including amendments to the Chemicals Act and adoption of implementing legislation, also for the Regulation (EC) No 1907/2006 concerning the registration, evaluation, authorisation and restriction of chemicals (REACH). The EU notes that Croatia has taken steps to become party to the Rotterdam Convention. The EU also notes that the National Chemicals Strategy has been adopted. The EU invites Croatia to pursue work on transposition, including directive on biocidal products and to continue implementation of the acquis.
As regards administrative capacity, the EU takes note of the new organisational structure of the Ministry of Health and Social Welfare (in place since April 2007), including the newly established department for Dangerous Chemicals. The EU further takes note of the plans to strengthen administrative capacity, including the Croatian Institute of Toxicology and the sanitary inspection, in line with the Action Plan of February 2008. The EU also notes that an Agreement on Coordination and Cooperation between the Ministry and other bodies competent for chemicals is under preparation and will be signed by the end of 2008.

**Genetically modified organisms (GMOs)**

The EU takes note of Croatia's efforts to align its legislation in this sector and the plans related to the *acquis* transposition. The EU invites Croatia to pursue the work on implementation.

As regards administrative capacity, the EU takes note that within the new structure of the Ministry of Health and Social Welfare, the Department for GMO Control has been established. The EU further takes note of the establishment of the Department for Development of the Scientific System within the Ministry of Science, Education and Sports and the Department of Plant Production within the Ministry of Agriculture, Fisheries and Rural Development, both competent for GMOs. The EU notes also plans to establish in 2008 an inspection service for monitoring contained use of GMOs to complete the overall system of inspection services for GMOs. The EU notes Croatia's intention to strengthen the capacity of the bodies competent for GMOs, including laboratories and inspection services. Given the number of institutions involved in implementation and enforcement of the *acquis* in the area of GMOs the EU underlines the importance of coordination of their work. In this respect the EU notes that an Agreement on Coordination and Cooperation between the Ministry of Health and Social Welfare and other bodies competent for GMOs is under preparation and will be signed by the end of 2008. The EU notes also Croatia's plans to establish two Councils: the GMO Council and the "Council for deliberate release of GMOs into environment and their contained use."
Noise

The EU takes note of Croatia's efforts to further align its legislation in this sector with the acquis. The EU invites Croatia to pursue work on implementation, notably on development of noise maps and action plans.

The EU notes Croatia's intention to strengthen the capacity of sanitary inspection. The EU also notes that an Agreement on Coordination and Cooperation between the Ministry of Health and Social Welfare and other bodies competent for noise is under preparation and will be signed by the end of 2008.

Forestry

The EU invites Croatia to pursue the work on implementation of the legislation on forestry, including adoption of the National Forestry Programme, establishment of the gene- and the seed banks, as well as setting up the Forest Fire Register and the Register of Forest Damage.

The EU takes note of the envisaged strengthening of the administrative capacity in this area, including the Forestry Directorate in the Ministry of Regional Development, Forestry and Water Management, forestry inspection and the Forestry Advisory Service.
Action Plan on administrative capacity and financial resources

In general, the EU emphasises that early attention must be given to the building of a strong and well-equipped administration, which is required for the application and enforcement of the environmental *acquis*. In this light, the EU welcomes that Croatia has adopted an Action Plan for putting in place the necessary administrative capacity and required financial resources for implementation and enforcement of the *acquis*. The EU invites Croatia to provide to the Commission further information on the monitoring and co-ordination of the implementation of the Action Plan. The EU will closely monitor implementation of the Action Plan and other commitments undertaken in Croatia's negotiating position.

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

- Croatia adopts legislation aimed at transposing the *acquis* in the field of water quality, notably the new Water Act and the new Water Management Financing Act and makes further significant progress in legislative alignment in this sector by adopting implementing legislation.

- Croatia adopts legislation aimed at transposing the *acquis* in the field of industrial pollution control and risk management and ensures that definitions, notably related to installations, are aligned with the *acquis*.

- Croatia continues its alignment with the *acquis* in the remaining sectors of this chapter and demonstrates that it will be fully prepared to ensure the implementation and enforcement of the EU requirements at the date of accession.
• Croatia continues capacity building of the administrative bodies at all levels, including inspection services, in line with the Action Plan, further improves coordination of work and demonstrates that all appropriate administrative structures will be in place in good time before accession to enable implementation and enforcement of the acquis in all sectors of this chapter.

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

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

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