

## ANNEX IV

**List referred to in Article 16 of the Act of Accession: other permanent provisions****1. INTELLECTUAL PROPERTY LAW**

Treaty on the Functioning of the European Union, Part Three, Title II, Free Movement of Goods

## SPECIFIC MECHANISM

With regard to Croatia, the holder, or the holder's beneficiary, of a patent or Supplementary Protection Certificate (SPC) for a medicinal product filed in a Member State at the time when such protection could not be obtained in Croatia for that product, may rely on the rights granted by that patent or SPC in order to prevent the import and marketing of that product in the Member State or Member States where the product in question enjoys patent or SPC protection, even if this product was put on the market in Croatia for the first time by the holder or with the holder's consent.

Any person intending to import or market a medicinal product covered by the first paragraph in a Member State where the product enjoys patent or SPC protection shall demonstrate to the competent authorities in the application regarding that import that one month's prior notification has been given to the holder or beneficiary of such protection.

**2. COMPETITION POLICY**

Treaty on the Functioning of the European Union, Part Three, Title VII, Chapter 1, Rules on Competition

1. The following aid schemes and individual aid put into effect in Croatia before the date of accession and still applicable after that date shall be regarded upon accession as existing aid within the meaning of Article 108(1) of the TFEU:

- (a) aid measures put into effect before 1 March 2002;
- (b) aid measures listed in the Appendix to this Annex;
- (c) aid measures which prior to the date of accession were assessed by the Croatian Competition Agency and found to be compatible with the Union *acquis*, and to which the Commission did not raise an objection on the grounds of serious doubts as to the compatibility of the measure with the internal market, pursuant to the procedure set out in paragraph 2.

All measures still applicable after the date of accession which constitute State aid and which do not fulfil the conditions set out above shall be considered as new aid upon accession for the purpose of the application of Article 108(3) of the TFEU.

The above provisions do not apply to aid to activities linked to the production, processing or marketing of products listed in Annex I to the TEU and the TFEU.

2. To the extent that Croatia wishes the Commission to examine an aid measure under the procedure described in point (c) of paragraph 1, it shall provide the Commission regularly with:

- (a) a list of existing aid measures which have been assessed by the Croatian Competition Agency and which that authority has found to be compatible with the Union *acquis*; and
- (b) any other information which is essential for the assessment of the compatibility of the aid measure to be examined;

in accordance with the concrete reporting format provided by the Commission.

If the Commission does not object to the existing aid measure on the grounds of serious doubts as to the compatibility of the measure with the internal market, within three months of receipt of complete information on that measure or of receipt of the statement of Croatia in which it informs the Commission that it considers the information provided to be complete because the additional information requested is not available or has been already provided, the Commission shall be deemed not to have raised an objection.

All aid measures submitted to the Commission under the procedure described in point (c) of paragraph 1 prior to the date of accession are subject to that procedure irrespective of the fact that in the period of examination Croatia has already become a member of the Union.

3. A Commission decision to object to a measure, within the meaning of point (c) of paragraph 1, shall be regarded as a decision to initiate the formal investigation procedure within the meaning of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty<sup>(1)</sup> (now Article 108 of the TFEU).

<sup>(1)</sup> OJ L 83, 27.3.1999, p. 1.

If such a decision is taken before the date of accession, the decision shall only come into effect upon the date of accession.

### 3. AGRICULTURE

#### (a) Treaty on the Functioning of the European Union, Part Three, Title III, Agriculture and Fisheries

1. Public stocks held at the date of accession by Croatia and resulting from its market-support policy shall be taken over by the Union at the value resulting from the application of Article 4(1)(d) and Annex VIII of Commission Regulation (EC) No 884/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the financing by the European Agricultural Guarantee Fund (EAGF) of intervention measures in the form of public storage operations and the accounting of public storage operations by the paying agencies of the Member States <sup>(1)</sup>. The said stocks shall be taken over only on condition that public intervention for the products in question is operated in the Union and that the stocks meet the Union intervention requirements.
2. For any stocks, whether private or public, in free circulation at the date of accession in Croatia and which exceed the level of what can be considered as normal carry-over of stock, Croatia shall be charged with a payment to the general budget of the European Union.

The amount of the payment shall be fixed at a level which reflects the cost related to the effects of the surplus stock on the markets of agricultural products.

The level of the surplus stock shall be determined for each product taking into account the characteristics of each product and the relevant markets as well as Union legislation applicable to it.

3. The stocks referred to in paragraph 1 shall be deducted from the quantity exceeding the normal carry-over of stocks.
4. The Commission shall implement and apply the arrangements outlined in paragraphs 1 to 3 in accordance with the procedure laid down in Article 41(2) of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy <sup>(2)</sup> or, as appropriate, in accordance with the procedure referred to in Article 195(2) of Council Regulation (EC) No 1234/2007 or the relevant committee procedure as determined in the applicable legislation.

#### (b) Treaty on the Functioning of the European Union, Part Three, Title VII, Chapter 1, Rules on competition

Without prejudice to the procedures concerning existing aid provided for in Article 108 of the TFEU, aid schemes and individual aid granted to activities linked to the production of, and trade in, products listed in Annex I to the TEU and the TFEU, with the exception of fisheries products and products derived therefrom, put into effect in Croatia before the date of accession and still applicable after that date, shall be regarded as existing aid within the meaning of Article 108(1) of the TFEU subject to the following conditions:

- the aid measures shall be communicated to the Commission within a period of four months from the date of accession. This communication shall include information on the legal basis for each measure. Existing aid measures and plans to grant or alter aid communicated to the Commission prior to the date of accession shall be deemed to have been communicated on the date of accession. The Commission shall publish a list of such aid.

Those aid measures shall be regarded as 'existing' aid within the meaning of Article 108(1) of the TFEU for a period of three years from the date of accession.

Within a period of three years from the date of accession Croatia shall, where necessary, amend those aid measures in order to comply with the guidelines applied by the Commission. After that period, any aid found to be incompatible with those guidelines shall be considered as new aid.

### 4. FISHERIES

#### Treaty on the Functioning of the European Union, Part Three, Title VII, Chapter 1, Rules on competition

Without prejudice to the procedures concerning existing aid provided for in Article 108 of the TFEU, aid schemes and individual aid granted to activities linked to the production of, and trade in, fisheries products and products derived therefrom listed in Annex I to the TEU and the TFEU, put into effect in Croatia before the date of accession and still applicable after that date, shall be regarded as existing aid within the meaning of Article 108(1) of the TFEU subject to the following conditions:

- the aid measures shall be communicated to the Commission within a period of four months from the date of accession. This communication shall include information on the legal basis for each measure. Existing aid measures and plans to grant or alter aid communicated to the Commission prior to the date of accession shall be deemed to have been communicated on the date of accession. The Commission shall publish a list of such aid.

Those aid measures shall be regarded as 'existing' aid within the meaning of Article 108(1) of the TFEU for a period of three years from the date of accession.

<sup>(1)</sup> OJ L 171, 23.6.2006, p. 35 and OJ L 326M, 10.12.2010, p. 70.

<sup>(2)</sup> OJ L 209, 11.8.2005, p. 1.

Within a period of three years from the date of accession Croatia shall, where necessary, amend those aid measures in order to comply with the guidelines applied by the Commission. After that period, any aid found to be incompatible with those guidelines shall be considered as new aid.

## 5. CUSTOMS UNION

Treaty on the Functioning of the European Union, Part Three, Title II, Free Movement of Goods, Chapter 1, The Customs union

31992 R 2913: Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

31993 R 2454: Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

Council Regulation (EEC) No 2913/92 and Commission Regulation (EEC) No 2454/93 shall apply to Croatia subject to the following specific provisions.

### PROOF OF UNION STATUS (TRADE WITHIN THE ENLARGED UNION)

1. Notwithstanding Article 20 of Council Regulation (EEC) No 2913/92, goods which on the date of accession are in temporary storage or under one of the customs treatments and procedures referred to in Article 4(15)(b) and (16)(b) to (h) of that Regulation in the enlarged Union, or which are in transport after having been the subject of export formalities within the enlarged Union, shall be free of customs duties and other customs measures when declared for release for free circulation within the enlarged Union on condition that one of the following is presented:
  - (a) proof of preferential origin properly issued or made out prior to the date of accession under the SAA;
  - (b) any of the means of proof of Union status referred to in Article 314c of Commission Regulation (EEC) No 2454/93;
  - (c) an ATA carnet issued before the date of accession in a present Member State or in Croatia.
2. For the purpose of issuing the proof referred to in paragraph 1(b), with reference to the situation at the date of accession and in addition to the provisions of Article 4(7) of Council Regulation (EEC) No 2913/92, 'Community goods' shall mean goods:
  - wholly obtained in the territory of Croatia under conditions identical to those of Article 23 of Council Regulation (EEC) No 2913/92 and not incorporating goods imported from other countries or territories,
  - imported from countries or territories other than Croatia, and released for free circulation in Croatia, or
  - obtained or produced in Croatia, either from goods referred to in the second indent alone or from goods referred to in the first and second indent.
3. For the purpose of verifying the proof referred to in paragraph 1(a), the provisions concerning the definition of 'originating products' and the methods of administrative cooperation under the SAA shall apply. Requests for subsequent verification of such proof shall be accepted by the competent customs authorities of the present Member States and of Croatia for a period of three years from the issue or making out of the proof of origin concerned and may be made by those authorities for a period of three years after acceptance of the proof of origin in support of a declaration of free circulation.

### PROOF OF PREFERENTIAL ORIGIN (TRADE WITH THIRD COUNTRIES, INCLUDING TURKEY, IN THE FRAMEWORK OF THE PREFERENTIAL AGREEMENTS ON AGRICULTURE, COAL AND STEEL PRODUCTS)

4. Without prejudice to the application of any measure deriving from the common commercial policy, proof of origin properly issued by third countries or made out in the framework of preferential agreements concluded by Croatia with those third countries shall be accepted in Croatia, provided that:
  - (a) the acquisition of such origin confers preferential tariff treatment on the basis of the preferential tariff measures contained in agreements or arrangements which the Union has concluded with, or adopted in respect of, those third countries or groups of third countries, as referred to in Article 20(3)(d) and (e) of Council Regulation (EEC) No 2913/92;
  - (b) the proof of origin and the transport documents were issued or made out no later than the day before the date of accession; and
  - (c) the proof of origin is submitted to the customs authorities within a period of four months from the date of accession.

Where goods were declared for release for free circulation in Croatia prior to the date of accession, proof of origin issued or made out retrospectively under preferential agreements in force in Croatia at the date of the release for free circulation may also be accepted in Croatia, provided that such proof of origin is submitted to the customs authorities within a period of four months from the date of accession.

5. Croatia is authorised to retain the authorisations with which the status of 'approved exporters' has been granted in the framework of agreements concluded with third countries, provided that:

- (a) such a provision is also provided for in the agreements or arrangements which the Union has concluded with, or adopted in respect of, those third countries or groups of third countries prior to the date of accession; and
- (b) the approved exporters apply the rules of origin provided for in those agreements or arrangements.

These authorisations shall be replaced by Croatia, no later than one year from the date of accession, by new authorisations issued under the conditions of Union legislation.

6. For the purpose of verifying the proof referred to in paragraph 4, the provisions concerning the definition of 'originating products' and the methods of administrative cooperation of the relevant agreements or arrangements shall apply. Requests for subsequent verification of such proof shall be accepted by the competent customs authorities of the present Member States and of Croatia for a period of three years after the issue or making out of the proof of origin concerned and may be made by those authorities for a period of three years after acceptance of the proof of origin in support of a declaration of free circulation.

7. Without prejudice to the application of any measure deriving from the common commercial policy, proof of origin issued or made out retrospectively by third countries in the framework of preferential agreements or arrangements which the Union has concluded with, or adopted in respect of, these third countries shall be accepted in Croatia for the release for free circulation of goods which on the date of accession are either in transport or in temporary storage, in a customs warehouse or in a free zone in one of these third countries or in Croatia, provided that Croatia had no free trade agreement in force with the third country, for the products concerned, at the moment when the transport documents were issued, and provided that:

- (a) the acquisition of such origin confers preferential tariff treatment on the basis of the preferential tariff measures contained in agreements or arrangements which the Union has concluded with, or adopted in respect of, third countries or groups of third countries, as referred to in Article 20(3)(d) and (e) of Council Regulation (EEC) No 2913/92;
- (b) the transport documents were issued no later than the day before the date of accession; and
- (c) the proof of origin issued or made out retrospectively is submitted to the customs authorities within a period of four months from the date of accession.

8. For the purpose of verifying the proofs referred to in paragraph 7, the provisions concerning the definition of 'originating products' and the methods of administrative cooperation of the relevant agreements or arrangements shall apply.

#### PROOF OF STATUS UNDER THE PROVISIONS ON FREE CIRCULATION FOR INDUSTRIAL PRODUCTS WITHIN THE EU-TURKEY CUSTOMS UNION

9. Proof of origin properly issued by either Turkey or Croatia or made out in the framework of preferential trade agreements applied between them and providing for a prohibition of drawback of, or exemption from, customs duties on the goods concerned shall be accepted in the respective countries as proof of status under the provisions on free circulation for industrial products, laid down in Decision No 1/95 of the EC-Turkey Association Council of 22 December 1995 on implementing the final phase of the Customs Union <sup>(1)</sup> (hereinafter referred to as 'Decision No 1/95'), provided that:

- (a) the proof of origin and the transport documents were issued or made out no later than the day before the date of accession; and
- (b) the proof of origin is submitted to the customs authorities within a period of four months from the date of accession.

Where goods were declared for release for free circulation in either Turkey or Croatia, prior to the date of accession, in the framework of preferential trade agreements referred to in the first subparagraph, proof of origin issued or made out retrospectively under those agreements may also be accepted provided that it is submitted to the customs authorities within a period of four months from the date of accession.

10. For the purpose of verifying the proof referred to in paragraph 9, the provisions concerning the definition of 'originating products' and the methods of administrative cooperation of the relevant preferential agreements shall apply. Requests for subsequent verification of such proof shall be accepted by the competent customs authorities of the present Member States and of Croatia for a period of three years after the issue or making out of the proof of origin concerned and may be made by those authorities for a period of three years after acceptance of the proof of origin in support of a declaration of free circulation.

<sup>(1)</sup> OJ L 35, 13.2.1996, p. 1.

11. Without prejudice to the application of any measure deriving from the common commercial policy, an A.TR movement certificate issued under the provisions on free circulation for industrial products, laid down in Decision No 1/95, shall be accepted in Croatia for the release for free circulation of goods which on the date of accession are either in transport after having been the subject of export formalities within the Union or Turkey or are in temporary storage or under a customs procedure referred to in Article 4(16)(b) to (h) of Council Regulation (EEC) No 2913/92 in Turkey or in Croatia, provided that:
- (a) no proof of origin as referred to in paragraph 9 is submitted for the goods concerned;
  - (b) the goods comply with the conditions for the implementation of the provisions on free circulation for industrial products;
  - (c) the transport documents were issued no later than the day before the date of accession; and
  - (d) the A.TR movement certificate is submitted to the customs authorities within four months from the date of accession.
12. For the purpose of verifying the A.TR movement certificates referred to in paragraph 11, the provisions concerning the issue of A.TR movement certificates and the methods of administrative cooperation under Decision No 1/2006 of the EC-Turkey Customs Cooperation Committee of 26 July 2006 laying down detailed rules for the application of Decision No 1/95 of the EC-Turkey Association Council <sup>(1)</sup> shall apply.

#### CUSTOMS PROCEDURES

13. Temporary storage and customs procedures referred to in Article 4(16)(b) to (h) of Council Regulation (EEC) No 2913/92 which have begun before accession shall be ended or discharged under the conditions of Union legislation.

Where the end or discharge gives rise to a customs debt, the amount of import duty to be paid shall be that in force at the time when the customs debt is incurred in accordance with the Common Customs Tariff and the amount paid shall be considered as own resources of the Union.

14. The procedures governing customs warehousing laid down in Articles 84 to 90 and 98 to 113 of Council Regulation (EEC) No 2913/92 and Articles 496 to 535 of Commission Regulation (EEC) No 2454/93 shall apply to Croatia subject to the following specific provisions:

— where the amount of a customs debt is determined on the basis of the nature of the import goods and where the declaration placing the goods under the procedure was accepted prior to the date of accession, the tariff classification, quantity, value for customs purposes and origin of the import goods at the time they were placed under the procedure shall result from the legislation applicable in Croatia at the date of acceptance of the declaration by the customs authorities.

15. The procedures governing inward processing laid down in Articles 84 to 90 and 114 to 129 of Council Regulation (EEC) No 2913/92 and Articles 496 to 523 and 536 to 550 of Commission Regulation (EEC) No 2454/93 shall apply to Croatia subject to the following specific provisions:

— where the amount of a customs debt is determined on the basis of the nature of the import goods and where the declaration placing the goods under the procedure was accepted prior to the date of accession, the tariff classification, quantity, value for customs purposes and origin of the import goods at the time they were placed under the procedure shall result from the legislation applicable in Croatia at the date of acceptance of the declaration by the customs authorities,

— where the discharge gives rise to a customs debt, in order to maintain equity between the holders of authorisations established in the present Member States and those in Croatia, compensatory interest shall be paid on the import duties due under the conditions of Union legislation from the date of accession,

— if the declaration for inward processing was accepted under a drawback system, the drawback shall be effected under the conditions of Union legislation, by and at the expense of Croatia, where the customs debt in respect of which the drawback is requested was incurred before the date of accession.

16. The procedures governing temporary importation laid down in Articles 84 to 90 and 137 to 144 of Council Regulation (EEC) No 2913/92 and Articles 496 to 523 and 553 to 584 of Commission Regulation (EEC) No 2454/93 shall apply to Croatia subject to the following specific provisions:

— where the amount of a customs debt is determined on the basis of the nature of the import goods and where the declaration placing the goods under the procedure was accepted prior to the date of accession, the tariff classification, quantity, value for customs purposes and origin of the import goods at the time they were placed under the procedure shall result from the legislation applicable in Croatia at the date of acceptance of the declaration by the customs authorities,

<sup>(1)</sup> OJ L 265, 26.9.2006, p. 18.

— where the discharge gives rise to a customs debt, in order to maintain equity between the holders of authorisations established in the present Member States and those in Croatia, compensatory interest shall be paid on the import duties due under the conditions of Union legislation from the date of accession.

17. The procedures governing outward processing laid down in Articles 84 to 90 and 145 to 160 of Council Regulation (EEC) No 2913/92 and Articles 496 to 523 and 585 to 592 of Commission Regulation (EEC) No 2454/93 shall apply to Croatia subject to the following specific provisions:

— Article 591, second paragraph, of Commission Regulation (EEC) No 2454/93 shall apply *mutatis mutandis* to temporary export goods which have been exported temporarily from Croatia before the date of accession.

#### OTHER PROVISIONS

18. Authorisations which have been granted by Croatia before the date of accession for the use of the customs procedures referred to in Article 4(16)(d), (e) and (g) or the status of Authorised Economic Operators referred to in Article 5a(2) of Council Regulation (EEC) No 2913/92 shall be valid until the end of their validity or one year from the date of accession, whichever is the earlier.

19. The procedures governing incurrence of a customs debt, entry in the accounts and post-clearance recovery laid down in Articles 201 to 232 of Council Regulation (EEC) No 2913/92 and Articles 859 to 876a of Commission Regulation (EEC) No 2454/93 shall apply to Croatia subject to the following specific provisions:

— recovery shall be effected under the conditions of Union legislation. However, where the customs debt was incurred before the date of accession, recovery shall be effected by Croatia, in its own favour, under the conditions in force in Croatia before accession.

20. The procedures governing repayment and remission of duty laid down in Articles 235 to 242 of Council Regulation (EEC) No 2913/92 and Articles 877 to 912 of Commission Regulation (EEC) No 2454/93 shall apply to Croatia subject to the following specific provisions:

— repayment and remission of duties shall be effected under the conditions of Union legislation. However, where the duties of which repayment or remission is requested relate to a customs debt which was incurred before the date of accession, the repayment and remission of duties shall be effected by Croatia, at its own expense, under the conditions in force in Croatia before accession.

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## Appendix to ANNEX IV

**List of existing aid measures referred to in point (b) of paragraph 1 of the existing aid mechanism provided for in Section 2 ('Competition policy')**

Note: The aid measures listed in this Appendix are only to be considered as existing aid for the purpose of the application of the existing aid mechanism set out in Section 2 to the extent that they fall within the scope of paragraph 1 thereof.

Registration Number			Title (original)	Date of approval by the Croatian Competition Agency	Duration
MS	No.	Yr			
HR	1	2011	Zakon o slobodnim zonama (NN 44/96, 92/05, 85/08)	17.6.2008	31.12.2016
HR	3	2011	Zakon o Hrvatskoj radioteleviziji (NN 137/10)	21.10.2010	Unlimited
HR	4	2011	Odluka o otvorenosti Zračne luke Osijek d.o.o. u razdoblju od 2009. do 2013. godine, od 20. veljače 2009. i 24. travnja 2009.	25.5.2009	31.12.2013
HR	5	2011	Program financiranja nakladništva od 2011. do 2013.	10.2.2011	31.12.2013
HR	6	2011	Naknadno odobrenje državnih potpora poduzetniku Rockwool Adriatic d.o.o.	30.12.2010	31.12.2015
HR	9	2011	Zakon o znanstvenoj djelatnosti i visokom obrazovanju (NN 123/03, 198/03, 105/04, 174/04, 46/07)	1.2.2007	31.12.2014
HR	10	2011	Odluka o obvezi otvorenosti Zračne luke Rijeka d.o.o. za javni zračni promet u razdoblju od 2010. do 2014., od 25. siječnja 2010. i 3. studenoga 2010.	10.3.2011	31.12.2014