

ANNEX VIII

Commitments undertaken by the Republic of Croatia on the restructuring of the Croatian shipbuilding industry (referred to in Article 36(1), third subparagraph, of the Act of Accession)

The shipbuilding companies to be restructured (hereinafter referred to as 'the companies') are the following:

- Brodograđevna industrija 3. MAJ dioničko društvo, Rijeka (hereinafter referred to as '3. MAJ')
- BRODOTROGIR d.d., Trogir (hereinafter referred to as 'Brodotrogir')
- BRODOGRAĐEVNA INDUSTRIJA SPLIT, dioničko društvo, Split (hereinafter referred to as 'Brodosplit')
- BRODOSPLIT-BRODOGRADILIŠTE SPECIJALNIH OBJEKATA društvo s ograničenom odgovornošću, Split (hereinafter referred to as 'BSO')
- BRODOGRADILIŠTE KRALJEVICA dioničko društvo za izgradnju i popravak brodova, Kraljevica (hereinafter referred to as 'Kraljevica').

Croatia agreed to carry out the restructuring of these companies through their privatisation on the basis of a competitive tendering process. Restructuring plans for these companies have been submitted by the bidders and accepted by the Croatian Competition Agency and the Commission. The restructuring plans will be incorporated in the respective privatisation contracts to be concluded between Croatia and the buyers of the companies.

The restructuring plans submitted for each of these companies specify the following key conditions to be respected in the restructuring process:

- All State aid received by these companies since 1 March 2006 must be counted as restructuring aid. The companies shall provide a contribution to the restructuring plan from their own resources which must be real, free of State aid and which represents at least 40 % of the total restructuring costs.
- The overall production capacity of the companies shall be reduced compared to the levels of 1 June 2011 from 471 324 CGT to 372 346 CGT. The companies shall reduce their production capacity no later than twelve months after the signing of the privatisation contract. Capacity reduction shall be implemented through the permanent closure of slipways, through the designation of slipways for exclusive military production within the meaning of Article 346 of the TFEU and/or through surface area reduction. The CGTs are the units of measurement of output calculated according to the applicable OECD rules.
- The total annual production of the companies shall be limited to 323 600 CGT for a ten year period, starting on 1 January 2011. The companies' output will be limited to the following levels ⁽¹⁾:
 - 3. MAJ: 109 570 CGT
 - Brodotrogir: 54 955 CGT
 - Brodosplit and BSO: 132 078 CGT
 - Kraljevica: 26 997 CGT

The companies may agree to review their individual production limits. On the basis of binding agreements, they can expressly establish which portion of their individual production quota (expressed in CGTs) they cede to each other. The overall yearly production limit of 323 600 CGT shall be respected.

- The restructuring plans also specify a number of other measures which each company will implement to ensure a return to long term viability.

Any subsequent change to these plans shall comply with the key conditions in the restructuring process listed above and shall be submitted to the Commission for acceptance.

⁽¹⁾ The annual production of a given company is calculated as follows: The start of production of a ship is the planned date of steel cutting and the end of production is the date of expected delivery of the ship as set out in the contract with the buyer (or the anticipated date of delivery of the incomplete ship when the construction of a ship is shared between two companies). The number of CGTs corresponding to a ship is linearly allocated to the calendar years covering the production period. The total output of a company in a given year is calculated by adding the number of CGTs produced over that year.

The companies shall not receive any new rescue or restructuring aid until at least ten years have elapsed since the date of signature of the privatisation contract. Upon Croatia's accession, the Commission shall order Croatia to recover any rescue or restructuring aid granted in breach of this provision, with compound interest.

The restructuring plans that have been accepted by the Croatian Competition Agency and by the Commission will be incorporated in the respective privatisation contracts to be concluded between Croatia and buyers of the companies. The privatisation contracts shall be submitted to the Commission for acceptance and shall be signed before Croatia's accession.

The Commission shall closely monitor the implementation of the restructuring plans and compliance with the conditions set out in this Annex regarding the level of State aid, the own contribution, the capacity reductions, the production limitation and the measures taken to ensure a return to viability.

This monitoring shall be carried out each year of the restructuring period. Croatia shall comply fully with all the arrangements for monitoring. In particular:

- Croatia shall supply the Commission with six-monthly reports concerning the restructuring of the benefiting companies, no later than 15 January and 15 July each year until the end of the restructuring period.
- The reports shall contain all the information necessary to monitor the restructuring process, the own contribution, the reduction of capacity, the production limitation and the measures taken to ensure a return to viability.
- Croatia shall submit reports on the annual output of the companies under restructuring no later than 15 July each year, until the end of 2020.
- Croatia shall oblige the companies to disclose all relevant data which might, under other circumstances, be considered as confidential. The Commission shall ensure that the company-specific confidential information is not disclosed.

The Commission may at any time decide to mandate an independent expert to evaluate the monitoring results, undertake any research necessary and report to the Commission. Croatia will provide full cooperation to the independent expert appointed by the Commission and ensure that such expert has full access to all information needed to carry out the tasks entrusted to him by the Commission.

Upon Croatia's accession, the Commission shall order Croatia to recover all rescue or restructuring aid granted since 1 March 2006 to a particular company, with compound interest if:

- the privatisation contract for this company has not yet been signed or does not fully incorporate the conditions set out in the restructuring plan accepted by the Croatian Competition Agency and by the Commission, or
- the company has not provided a real, State aid free contribution from its own resources which represents at least 40 % of the restructuring costs, or
- the reduction of the overall production capacity has not been implemented within twelve months from the signing of the privatisation contract. In that case, the recovery of the aid shall only be required from those companies that have not achieved the following individual reductions of capacity:
 - 3. MAJ: by 46 543 CGT
 - Brodotrogir: by 15 101 CGT
 - Brodosplit and BSO: by 29 611 CGT
 - Kraljevica: by 9 636 CGT, or
- the overall production limitation for the companies (i.e. 323 600 CGT) has been exceeded in any individual calendar year between 2011 and 2020. In that case, the recovery of the aid shall be required from those companies that have exceeded their individual production limits (if applicable, as amended by a legally binding agreement with another shipbuilding company).