

## **NEGOTIATING FRAMEWORK**

Luxembourg, 3 October 2005

### **Principles governing the negotiations**

11. The negotiations will be based on Croatia's own merits and the pace will depend on Croatia's progress in meeting the requirements for membership. The Presidency or the Commission as appropriate will keep the Council fully informed so that the Council can keep the situation under regular review. The Union side, for its part, will decide in due course whether the conditions for the conclusion of negotiations have been met; this will be done on the basis of a report from the Commission confirming the fulfilment by Croatia of the requirements listed in point 13. The shared objective of the negotiations is accession. By their very nature, the negotiations are an open-ended process whose outcome cannot be guaranteed beforehand.
  
12. Negotiations are opened on the basis that Croatia meets the political criteria set by the Copenhagen European Council in 1993, for the most part later enshrined in Article 6(1) of the Treaty on European Union and proclaimed in the Charter of Fundamental Rights, and the Stabilisation and Association Process conditionalities established by the Council in 1997. The Union expects Croatia to continue to fulfil the political criteria and to work towards further improvement in the respect of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law; to cooperate fully with the International Criminal Tribunal for the former Yugoslavia; and to make further progress in relation to minority rights, the return of refugees, judiciary reform, regional cooperation and the fight against corruption. The Union and Croatia will continue their intensive political dialogue. To ensure the irreversibility of progress in these areas and its full and effective implementation, notably with regard to fundamental freedoms and to full respect of human rights, progress will continue to be closely monitored by the Commission, which is invited to continue to report regularly on it to the Council.

In the case of a serious and persistent breach in Croatia of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law on which the Union is founded, the Commission will, on its own initiative or on the request of one third of the Member States, recommend the suspension of negotiations and

propose the conditions for eventual resumption. The Council will decide by qualified majority on such a recommendation, after having heard Croatia, whether to suspend the negotiations and on the conditions for their resumption. The Member States will act in the Intergovernmental Conference in accordance with the Council decision, without prejudice to the general requirement for unanimity in the Intergovernmental Conference. The European Parliament will be informed.

13. The advancement of the negotiations will be guided by Croatia's progress in preparing for accession, within a framework of economic and social convergence. This progress will be measured in particular against the following requirements:

- the Copenhagen criteria, which set down the following requirements for membership:
  - \* the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
  - \* the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union;
  - \* the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union and the administrative capacity to effectively apply and implement the *acquis*;
- the Stabilisation and Association Process conditionalities, in particular:
  - \* Croatia's full cooperation with the International Criminal Tribunal for the former Yugoslavia;
  - \* Croatia's commitment to good neighbourly relations taking full account, inter alia, of the European Council conclusions of 17/18 June 2004, and the strong contribution expected from Croatia to the development of closer regional cooperation in accordance with the Thessaloniki Agenda for the Western Balkans adopted in June 2003, which remains the common framework for relations with all Western Balkan countries up to their accession;

- Croatia's undertaking to resolve any border disputes in conformity with the principle of peaceful settlement of disputes in accordance with the United Nations Charter, including if necessary compulsory jurisdiction of the International Court of Justice;
  - the fulfilment of Croatia's obligations under the Stabilisation and Association Agreement, as well as the implementation of the European Partnership, as regularly revised.
14. In the period up to accession, Croatia will be required to progressively align its policies towards third countries and its positions within international organisations with the policies and positions adopted by the Union and its Member States.
  15. Croatia must accept the results of any other accession negotiations as they stand at the moment of its accession.
  16. Enlargement should strengthen the process of continuous creation and integration in which the Union and its Member States are engaged. Every effort should be made to protect the cohesion and effectiveness of the Union. In accordance with the conclusions of the Copenhagen European Council in 1993, the Union's capacity to absorb Croatia, while maintaining the momentum of European integration is an important consideration in the general interest of both the Union and Croatia.

Parallel to accession negotiations, the Union will engage with Croatia in an intensive political dialogue and cultural cooperation. With the aim of enhancing mutual understanding by bringing people together, this inclusive cooperation also will involve civil society.

### **Substance of the negotiations**

17. Accession implies the acceptance of the rights and obligations attached to the Union system and its institutional framework, known as the "*acquis*" of the Union. Croatia will have to apply this as it stands at the time of accession. Furthermore, in addition to legislative alignment, accession implies timely and effective implementation of the *acquis*. The *acquis* is constantly evolving and includes:

- the content, principles and political objectives of the Treaties on which the Union is founded;
- legislation and decisions adopted pursuant to the Treaties, and the case law of the Court of Justice;
- other acts, legally binding or not, adopted within the Union framework, such as interinstitutional agreements, resolutions, statements, recommendations, guidelines;
- joint actions, common positions, declarations, conclusions and other acts within the framework of the common foreign and security policy;
- joint actions, joint positions, conventions signed, resolutions, statements and other acts agreed within the framework of justice and home affairs;
- international agreements concluded by the Communities, the Communities jointly with their Member States, the Union, and those concluded by the Member States among themselves with regard to Union activities.

Croatia will need to produce translations of the *acquis* into Croatian in good time before accession, and will need to train a sufficient number of translators and interpreters required for the proper functioning of the EU institutions upon its accession.

18. The resulting rights and obligations, all of which Croatia will have to honour as a Member State, imply the termination of all existing bilateral agreements between Croatia and the Communities, and of all other international agreements concluded by Croatia which are incompatible with the obligations of membership. Any provisions of the Stabilisation and Association Agreement which depart from the *acquis* cannot be considered as precedents in the accession negotiations.
19. Croatia's acceptance of the rights and obligations arising from the *acquis* may necessitate specific adaptations to the *acquis* and may, exceptionally, give rise to transitional measures which must be defined during the accession negotiations.

Where necessary, specific adaptations to the *acquis* will be agreed on the basis of the principles, criteria and parameters inherent in that *acquis* as applied by the Member States when adopting that *acquis*, and taking into consideration the specificities of Croatia.

The Union may agree to requests from Croatia for transitional measures provided they are limited in time and scope, and accompanied by a plan with clearly defined stages for application of the *acquis*. For areas linked to the extension of the internal market, regulatory measures should be implemented quickly and transition periods should be short and few; where considerable adaptations are necessary requiring substantial effort including large financial outlays, appropriate transitional arrangements can be envisaged as part of an on-going, detailed and budgeted plan for alignment. In any case, transitional arrangements must not involve amendments to the rules or policies of the Union, disrupt their proper functioning, or lead to significant distortions of competition. In this connection, account must be taken of the interests of the Union and of Croatia. Transitional measures and specific arrangements, in particular safeguard clauses, may also be agreed in the interest of the Union, in line with the second bullet point of paragraph 23 of the European Council conclusions of 16/17 December 2004.

Detailed technical adaptations to the *acquis* will not need to be fixed during the accession negotiations. They will be prepared in cooperation with Croatia and adopted by the Union institutions in good time with a view to their entry into force on the date of accession.

20. Croatia will participate in economic and monetary union from accession as a Member State with a derogation and shall adopt the euro as its national currency following a Council decision to this effect on the basis of an evaluation of its fulfilment of the necessary conditions. The remaining *acquis* in this area fully applies from accession.
21. With regard to the area of freedom, justice and security, membership of the European Union implies that Croatia accepts in full on accession the entire *acquis* in this area, including the Schengen *acquis*. However, part of this *acquis* will only apply in Croatia following a Council decision to lift controls on persons at internal borders taken on the basis of the applicable Schengen evaluation of Croatia's readiness.
22. The EU points out the importance of a high level of environmental protection, including all aspects of nuclear safety.
23. In all areas of the *acquis*, Croatia must bring its institutions, management capacity and administrative and judicial systems up to Union standards with a view to implementing the *acquis* effectively or, as the case may be, being able to implement

it effectively in good time before accession. At the general level, this requires a well-functioning and stable public administration built on an efficient and impartial civil service, and an independent and efficient judicial system.

### **Negotiating procedures**

24. The Commission will undertake a formal process of examination of the *acquis*, called screening, in order to explain it to the Croatian authorities, to assess the state of preparation of Croatia for opening negotiations in specific areas and to obtain preliminary indications of the issues that will most likely come up in the negotiations.
25. For the purposes of screening and the subsequent negotiations, the *acquis* will be broken down into a number of chapters, each covering a specific policy area. A list of these chapters is provided in the Annex. Any view expressed by either Croatia or the EU on a specific chapter of the negotiations will in no way prejudice the position which may be taken on other chapters. Also, agreements reached in the course of negotiations on specific chapters, even partial ones, may not be considered as final until an overall agreement has been reached for all chapters.
26. Building on the Commission's Opinion on Croatia's application for membership, on subsequent Regular Reports and in particular on information obtained by the Commission during screening, the Council, acting by unanimity on a proposal by the Commission, will lay down benchmarks for the provisional closure and, where appropriate, for the opening of each chapter. The Union will communicate such benchmarks to Croatia. Depending on the chapter, precise benchmarks will refer in particular to legislative alignment with the *acquis* and to a satisfactory track record in implementation of key elements of the *acquis* demonstrating the existence of an adequate administrative and judicial capacity. Where relevant, benchmarks will also include the fulfilment of commitments under the Stabilisation and Association Agreement, in particular those that mirror requirements under the *acquis*. Where negotiations cover a considerable period of time, or where a chapter is revisited at a later date to incorporate new elements such as new *acquis*, the existing benchmarks may be updated.
27. Croatia will be requested to indicate its position in relation to the *acquis* and to report on its progress in meeting the benchmarks. Croatia's correct transposition and

implementation of the *acquis*, including effective and efficient application through appropriate administrative and judicial structures, will determine the pace of negotiations.

28. To this end, the Commission will closely monitor Croatia's progress in all areas, making use of all available instruments, including on-site expert reviews by or on behalf of the Commission. The Commission will inform the Council of Croatia's progress in any given area when presenting draft EU Common Positions. The Council will take this assessment into account when deciding on further steps relating to the negotiations on that chapter. In addition to the information the EU may require for the negotiations on each chapter and which is to be provided by Croatia to the Conference, Croatia will be required to continue to provide regularly detailed, written information on progress in the alignment with and implementation of the *acquis*, even after provisional closure of a chapter. In the case of provisionally closed chapters, the Commission may recommend the re-opening of negotiations, in particular where Croatia has failed to meet important benchmarks or to implement its commitments.

**PRELIMINARY INDICATIVE LIST OF CHAPTER HEADINGS**

**(Note: This list in no way prejudices the decisions to be taken at an appropriate stage in the negotiations on the order in which the subjects will be dealt with.)**

1. Free movement of goods
2. Freedom of movement for workers
3. Right of establishment and freedom to provide services
4. Free movement of capital
5. Public procurement
6. Company law
7. Intellectual property law
8. Competition policy
9. Financial services
10. Information society and media
11. Agriculture and rural development
12. Food safety, veterinary and phytosanitary policy
13. Fisheries
14. Transport policy
15. Energy
16. Taxation
17. Economic and monetary policy
18. Statistics
19. Social policy and employment
20. Enterprise and industrial policy
21. Trans-European networks
22. Regional policy and coordination of structural instruments
23. Judiciary and fundamental rights
24. Justice, freedom and security
25. Science and research
26. Education and culture
27. Environment
28. Consumer and health protection



29. Customs union
30. External relations
31. Foreign, security and defence policy
32. Financial control
33. Financial and budgetary provisions
34. Institutions
35. Other issues