

**CONFERENCE ON ACCESSION
TO THE EUROPEAN UNION
– CROATIA –**

Brussels, 26 November 2009

AD 29/09

LIMITE

CONF-HR 23

ACCESSION DOCUMENT

Subject : EUROPEAN UNION COMMON POSITION
Chapter 15: Energy

EUROPEAN UNION COMMON POSITION
(Revision of CONF-HR 5/08)

Chapter 15: Energy

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 develop already before accession, policies and instruments as close as possible to those of the EU.

The EU notes that Croatia, in its addendum (CONF-HR 4/09) to its position on Chapter 15 (CONF-HR 21/07) accepts the *acquis* under chapter 15 as in force on 15 June 2009, and that Croatia declares that it will be ready to implement it by the date of its accession to the European Union, while requesting a transitional period until 31 July 2012 in relation to Council Directive 2006/67/EC of 24 July 2006 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products.

With regard to this request, the EU takes note of the Action Plan provided by Croatia for the fulfilment of the relevant *acquis* requirements until 31 July 2012. On the basis of the information provided in this Action Plan, which is clear and feasible, the EU considers Croatia's request acceptable.

Security of supply

The EU notes that the required legislation on the minimum stocks of crude oil and petroleum products and the Agency for Compulsory Stocks of Crude Oil and Petroleum Products is in place and that the process of increasing physical stocks of crude oil will continue in line with the target date of 31 July 2012.

The EU takes note of Croatia's Action Plan for the fulfilment of the relevant *acquis* requirements until the end of the requested transitional period, including a description of the administrative structure responsible for the management of crude oil and petroleum products stocks. The EU takes note of the calculation of Croatia's stocks of crude oil and petroleum products which provides for accounting methods and products categories as defined by the *acquis*.

The EU welcomes Croatia's confirmation that in 2009 the process of increasing physical stocks of crude oil and petroleum products will continue, bilateral international agreements on compulsory stocks storage will be concluded, the regional distribution of compulsory stocks will be laid down and the project of building a part of additional storage capacities will start.

The EU takes note that Croatia has developed intervention plans in line with the *acquis* to be deployed in case of difficulties that might occur with regard to the supply of crude oil and petroleum products.

In this context, the EU calls attention to the newly adopted directive on oil stocks¹, which will make several substantial modifications to Member States' obligations in this area.

The EU takes note of Croatia's adoption of a new Mining Act which guarantees that the authorizations for the prospection, exploration and production of hydrocarbons will be granted on the basis of a non-discriminatory principle. The EU notes that that Mining Act, aiming at full alignment with Directive 94/22/EC will enter into force by accession.

In view of the above considerations, the EU considers that Croatia has met the requirements of the first closing benchmark as set out in the EU Common Position (CONF-HR 5/08).

Internal energy market

The EU welcomes the legislative efforts Croatia has undertaken as regards the internal energy market for gas and electricity.

The EU notes that the liberalisation of Croatia's electricity and gas markets has been completed with the opening of the electricity market for all electricity customers on 1 July 2008, and the opening of the gas market as of 1 August 2008, thus fully implementing Directive 2003/54/EC concerning common rules for the internal market in electricity, and Directive 2003/55/EC concerning common rules for the internal market in natural gas.

The EU takes note of the fact that Croatia has passed legislation on the allocation and the use of cross-border capacities, in line with Regulation (EC) No 1228/2003 and its Annex (Congestion Management Guidelines) as well as in compliance with Croatia's obligations under the Energy Community Treaty.

¹ Council Directive 2009/119/EC of 14 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products (O.J. L 265, 9/10/09, pp. 9-23).

The EU notes that against this background Croatia withdraws its request for a transitional period on conditions for access to the network for cross-border exchanges in electricity (CONF-HR 4/09).

In addition as regards the cross-border exchanges in electricity, the EU underlines that at the beginning of 2010 Croatia will need to submit a report on the outcome of the cross-border transmission capacity allocation procedures covering the year 2009. This will include the description and the result of the procedures on all borders and for all allocated timeframes including the yearly capacity allocations for 2010.

The EU calls attention to the newly adopted *acquis* as regards the internal energy market and welcomes Croatia's confirmation to ensure further alignment of its legislation to the following acts:

- Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC;
- Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003;
- Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC;
- Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005;
- Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators.

In view of the above considerations, the EU considers that Croatia has met the requirements of the second closing benchmark as set out in the EU Common Position (CONF-HR 5/08).

Renewable energy

Alignment to the *acquis* on renewable energy sources is advanced, although the system of Guarantees of Origin remains to be established. The EU takes note of Croatia's Action Plan for Renewable Energy Sources providing a roadmap with the objective to achieve an increase in its share of renewable energy sources to 20% of final energy consumption in 2020, in accordance with the EU's renewable energy sources objectives as reflected in Directive 2009/28/EC. The EU takes further note of Croatia's commitment to prepare a National Renewable Energy Action Plan (NREAP) in accordance with the timing and the format as set by the recently adopted EU Directive 2009/28/EC. Furthermore, the EU takes note of the commitment to a binding national target for Croatia of 20% gross final renewable energy consumption in 2020. This is equivalent to the targets which Member States need to meet under Directive 2009/28/EC. Considering the current level of development and the delays encountered by Croatia for achieving its target set for incentivised renewable electricity sources by 2010, the EU underlines that Croatia will need to undertake intensive efforts to reach the 2020 target. The EU stresses that developments in this area will be monitored closely.

In view of the above considerations, the EU considers that Croatia has met the requirements of the third closing benchmark as set out in the EU Common Position (CONF-HR 5/08).

Furthermore, as regards biofuels the EU takes note of the 2008 adoption of legislation on the percentage of biofuels in the total share of fuels as well as on the quantity of biofuels to be placed on the domestic market.

The EU takes note of Croatia's confirmation that its target for the share of biofuels in transport by 2010 can be achieved in the light of the current, relatively low levels.

The EU notes that in May 2009 Croatia adopted the act on biofuels for transport, in line with the EU *acquis*, particularly with Directive 2003/30/EC on the promotion of use of biofuels. The Act regulates the production, trade and storing of biofuels, the use of biofuels in transport, the adoption of programmes and plans for promotion of production and use of biofuels, authorities and the responsibilities for defining and implementation of the policy of promotion of production and use of biofuels, as well as the incentives for biofuels use. The EU recalls that under the new Renewable Energy Directive, the target for the share of renewable energy sources in the transport sector has been set at 10% for 2020 and underlines that Croatia will need to undertake intensive efforts to reach the 2020 target. The EU stresses that developments in this area will be monitored closely.

Energy efficiency

The EU takes note of the fact that Croatia adopted the Energy End-Use Efficiency Act in December 2008, aiming at increasing energy efficiency in end-use energy consumption sectors (households, services, industry, transport).

The EU notes that the first National Energy Efficiency Action Plan from 2008 foresees an overall indicative energy savings target of 9% for decreasing the final energy consumption in the period 2008-2016, in line with the Energy End-use Efficiency and Energy Services Directive.

The EU takes note of the adoption of the Action Plan for the implementation of the Energy Performance of Buildings Directive, which has been transposed into the national legislation via the Physical Planning and Building Act and the Energy End-Use Efficiency Act.

Furthermore, the EU notes that Croatia is preparing to adopt a National Cogeneration Potential document, in line with EU *acquis* on the promotion of cogeneration, examining the possibility of a further increase of the share of high-efficiency cogeneration in electricity and heat energy supply and identifying the points of consumption of heat energy for the application of high-efficiency cogeneration and thereby ensuring full compliance with the *acquis*.

The EU encourages Croatia to swiftly adopt this document and to implement the measures foreseen.

Nuclear energy, including nuclear safety and radiation protection

The EU takes note that in line with the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management Croatia addressed the issues related to the financing of the decommissioning and disposal of radioactive waste in relation to Krsko Nuclear Power Plant, which is situated on Slovenian territory near the border with Croatia, and which is jointly owned by both countries.

The EU takes further note that Croatia adopted a Strategy for Management of Radioactive Waste and Spent Nuclear Fuel in July 2009 and encourages Croatia to continue to complete it with respect to storage and disposal options.

In particular, the EU welcomes Croatia's confirmation to search for common solutions with Slovenia on the management of low and intermediate level radioactive waste (LILW) and spent nuclear fuel, while the final agreement still remains to be taken. In this context the EU recalls the Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Croatia from 2003. The EU underlines that the aim, in this context, should be to avoid imposing undue burdens on future generations. The EU takes note of Croatia's commitment to continue in the meantime with activities related to site exploration for a potential LILW and spent fuel storage and disposal site on Croatian territory in case all other options fail. In this regard, the EU invites Croatia to establish a satisfactory and coherent legislative framework, including in relation to Article 39 of the Croatian Act on Protection against Ionising Radiation and Safety of the Ionising Radiation Sources, in order to ensure a correct implementation of its international obligations under the *acquis* of this chapter, as a matter of priority.

In view of the above considerations, the EU considers that Croatia has met the requirements of this part of the fourth closing benchmark as set out in the EU Common Position (CONF-HR 5/08).

The EU notes that Croatia has upgraded the administrative capacity of the responsible Croatian authorities, i.e. the State Office for Radiation Protection and the State Office for Nuclear Safety in 2008 and 2009.

The EU notes that to increase overall efficiency in this area and to ensure the required independence, Croatia has also decided to merge both offices and to include relevant inspection functions in the new setting which will be operating under the authority of the Croatian Government. The EU further notes that, all budgetary resources of both offices will go to the newly created institution. The EU encourages Croatia to complete these administrative structure changes related to the nuclear safety and radiation protection according to the timetable set and invites Croatia to continue to provide detailed information on its preparations in this field. The EU stresses that developments in this area will continue to be monitored closely.

In view of the above considerations, the EU considers that Croatia has met the requirements of this part of the fourth closing benchmark as set out in the EU Common Position (CONF-HR 5/08).

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In view of all of the above considerations, the EU notes that, at this stage, this chapter does not require further negotiations.

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, and in particular its capacity to achieve an increase in its share of renewable energy consumption to 20% in 2020, to complete the administrative changes related to the nuclear safety and radiation protection, as well as with a view to ensuring the completion of the Strategy for management of nuclear waste and spent nuclear fuel with respect to storage and disposal options and with respect to ensuring that the relevant Croatian legislative framework is in line with Croatian obligations under this chapter. 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's 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 EU will, if necessary, return to this chapter at an appropriate moment.

As stated in the relevant sections above, the EU recalls that there may be new *acquis* between 15 June 2009 and the conclusion of the negotiations.
