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Subject: EUROPEAN UNION COMMON POSITION
Chapter 32: Financial Control

EUROPEAN UNION COMMON POSITION

(Revision of CONF-HR 19/07)

Chapter 32: Financial Control

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 develop already before accession, policies and instruments as well as to implement them in accordance with the requirements under this Chapter.

The EU notes that Croatia, in its positions CONF-HR 18/06 and CONF-HR 5/09 accepts the *acquis* under Chapter 32 as in force on 1 June 2009, and that Croatia declares that it will be ready to implement it by the date of its accession to the European Union.

Public internal financial control

The EU takes note of the existing PIFC Policy Paper and Action Plan for the period 2009-11 and the PIFC Policy Paper for the local government level from November 2007, which both provide the framework for further development of PIFC in Croatia.

The EU takes note of the adoption and entering into force of the Public Internal Financial Control Law in January 2007 and the subsequent implementing rules in March 2008. The EU further notes that the new Organic Budget Law, which entered into force in January 2009, is consistent with the provisions of the PIFC law and that centralised budget inspection is since July 2008 regulated in a manner that is compatible with PIFC.

The EU notes that the Central Harmonisation Unit (CHU) is in place and that it has produced necessary manuals and provides methodological guidance to budget users. The EU further notes the considerable training role for the CHU, and therefore invites Croatia to take necessary measures to efficiently safeguard sustainability of training facilities.

The EU further notes that audit trails are under continuous development, a functionally independent internal audit service is largely in place, and internal audit activity has steadily increased. The EU invites Croatia to take appropriate measures to safeguard implementation capacity.

The EU notes that the above measures fulfil the requirements of the first closing benchmark set in the EU Common Position (CONF-HR 19/07).

External Audit

The EU takes note that operational and financial independence of the State Audit Office (SAO) is anchored in the Constitution as of 16 June 2010, following the amendments introduced to the Constitution of the Republic of Croatia.

The EU takes note that the SAO law from 1993 and as amended last time in 2004 provides a large mandate for the SAO, covering all public institutions and any flow of public funds, including auditing of EU funds.

The EU further notes that the SAO may perform a full range of regularity and performance audit work as set out in the standards of the International Organisation of Supreme Audit Institutions (INTOSAI), and that the SAO has developed necessary financial and performance audit manuals, and auditors have been trained.

The EU encourages Croatia to continue with improving SAO's audit capacity, especially by building on a systems based audit approach and by developing performance audit work.

The EU takes note that SAO's reporting to parliament has improved as of 2010, and the SAO has submitted its audit report on budget execution to parliament before parliament has approved the annual statement of the budget accounts.

The EU notes that the above measures fulfil the requirements of the second closing benchmark set in the EU Common Position (CONF-HR 19/07).

Protection of EU financial interests

The EU notes that Croatia has aligned its legislation concerning the substantive criminal law dealing with the offences and punishments prescribed in all three conventions (fraud, corruption, and money-laundering). Moreover, the EU notes that Croatia has aligned its general concepts of substantive criminal law, such as the criminal liability of heads of businesses and legal persons as well as issues of confiscation. The EU further notes that Croatia's legislation relating to criminal procedure, such as jurisdiction, extradition, and the *ne bis in idem* principle, is also aligned with the *acquis*. Thus, the EU concludes that the improvements made satisfy the conditions for meeting the third closing benchmark set out in the EU Common Position (CONF-HR 19/07).

Moreover, the EU takes note that an Anti-Fraud Coordination Structure (AFCOS) has been nominated and has assumed its functions. An anti-fraud strategy for the protection of EU financial interests for the period 2010-2012 including an action plan has been adopted by the Croatian Government on 14 January 2010. The EU notes that the operational independence of the AFCOS is assured. Its cooperation with the Commission has proven to be effective and efficient. The EU now invites Croatia to improve and maintain its network of anti-fraud bodies, as well as to continue with the implementation of the action plan.

The EU notes that the above measures fulfil the requirements of the fourth closing benchmark set in the EU Common Position (CONF-HR 19/07).

Protection of the Euro against Counterfeiting

Regarding the Council Regulation (EC) No 2182/2004 on medals and tokens similar to Euro coins, the EU notes that the Croatian National Bank implements all relevant provisions including sanctions applicable to infringements of the provisions of the regulation. The EU also notes that all relevant institutions for the implementation of Council Regulation (EC) No 1338/2001 against counterfeits are in place. Since October 1991, Croatia has been party to the 1929 International Convention for the Suppression of Counterfeiting Currency. The EU further notes that the Croatian National Bank prescribes the procedures for handling foreign cash suspected of being counterfeit, thus implementing Article 6 of Council Regulation (EC) No 1338/2001. Furthermore, effective and proportionate sanctions in case of infringements have been established.

The EU thus notes that Croatia fulfils the requirements of the fifth closing benchmark set in the EU position (CONF-HR 19/07).

The EU invites Croatia to keep it regularly informed of the developments and steps undertaken as regards the area of financial control.

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In view of all 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 to implement an effective policy on financial control. 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 relevant international standards, as well as 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 EU will, if necessary, return to this chapter at an appropriate moment.

Furthermore, the EU recalls that there may be new *acquis* between 1 June 2009 and the conclusion of the negotiations.
