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Screening report

Croatia

Chapter 14 – Transport policy

Date of screening meetings:

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Bilateral meeting: 18-21 September 2006

I. CHAPTER CONTENT

EU transport policy is aimed at sustainable mobility combining Europe's competitiveness with the welfare of its citizens, making for greater safety and security and enhanced rights. It is an essential component of the Lisbon strategy and contributes to the EU's social and territorial cohesion. The objectives of EU transport policy are: to help provide Europeans with efficient, effective transportation systems offering a high level of sustainable mobility throughout the Union, protecting the environment, promoting labour and qualification standards for the sector and protecting safety and security of the citizens. The EU's sustainable transport policy requires our transport systems to meet society's economic, social and environmental needs. Mobility is an essential civic right.

Transport policy is governed by Title V - Articles 70-80 of the EC Treaty. A significant part of the *acquis* consists of regulations, decisions and their direct application by the day of accession has to be ensured. Another part of the *acquis* consists of directives that need to be transposed into the legal system of the country.

The *acquis* in the area of transport includes: road transport, rail transport, inland waterways transport, combined transport, air transport, maritime transport satellite navigation and state aid.

II. COUNTRY ALIGNMENT AND IMPLEMENTATION CAPACITY

This part summarises the information provided by Croatia and the discussion at the screening meeting as well as the additional information forwarded by Croatia after the meeting.

Croatia indicated that it can accept the *acquis* regarding transport but that it does expect some limited difficulties in implementing the *acquis* by accession.

II.a. Road transport

Market access for goods and passengers

Croatia considers its road transport legislation¹ to be at a good level of alignment with the *acquis*. The requirements for admission into occupation follow most of the European criteria (good repute, financial standing and professional competence) according to Directive 96/26 as amended, but include additional national requirements. The financial standing required for operator licensing for national transport is nonetheless only half of the one required for international transport. Professional competence for operators already in business for 5 years is recognised without requiring a test. The licensing procedure is done at the level of county offices and by the City of Zagreb for national transport and at the level of the Ministry of Transport for international transport, and includes a withdrawal procedure.

Directive 96/26 related to the recognition of diplomas has been transposed in the relevant articles of the Road Transport Act.

Croatia stated that Regulations on the measures to be taken in the event of a crisis in the market in the carriage of goods by road (3916/90) and on rules for the carriage of passengers by coach and buses (684/92) will be applicable by the date of accession, the latter being aligned with the Road Transport Act. The INTERBUS agreement already applies.

¹ Road Transport Act (OG 178/04, 48/05 and 151/05)

The legislation is aligned neither with the requirements of Regulation 484/2002² regarding the establishment of driver attestations nor with Regulation 12/98 on the cabotage in the carriage of goods and passengers. The access to cabotage remains restricted for non-residents if not covered by an international bilateral agreement.

Prices and fiscal conditions

Croatia has aligned its Road Transport Act on Regulation 4058/89 on the fixing of rates for the carriage of goods by road. It has partially aligned its legislation through several acts and ordinances, with Directive 1999/62 on the charging of heavy goods vehicles for the use of certain infrastructures but annual vehicle taxes are not yet applied. A toll system is in place based on a price per kilometre and four categories of vehicles defined by the number of axles, height measured from the first axle and shape of the car body.

Regarding the interoperability of electronic road toll systems (Dir. 2004/52), Croatia has not yet harmonised its legislation but considers that the current installed system is a very advanced system that can be upgraded. Croatia stated that 80% of the total motorway network (sections that are managed by the Croatian Motorways Ltd and the concessionaire Autocesta Rijeka – Zagreb), is interoperable in its entirety. Croatia considers that the installed electronic toll road system can respond to all future requirements to be imposed by the implementation of new technologies recommended by the EU.

Social Conditions

Croatia stated that its legislation is fully harmonised with Regulation 3820/85 and 3821/85 on recording equipment in road transport by virtue of the Ordinance NN 120/05 on technical requirements and testing of tachographs and speed limiting devices. However, the legislation is not yet aligned with Regulation 561/2006 amending and repealing the above Regulations and the Directive 2002/15³ on driving time, rest periods and working time.

Croatia intends to be ready for applying Digital tachograph by the end of 2008. A specialised working group including relevant administrations and manufacturers has been established within the Ministry of the Sea Tourism, Transport and Development.

Legislation is not yet aligned in terms of roadside checks and checks at the premises of undertakings. There is no minimum number of checks to be performed by the relevant inspection services (Road transport inspectorate and traffic police) but the percentage of checks performed is planned to increase up to 20% (roadside checks) of 2% of the total number of working days of all drivers in 2008 and up to 30% (company premises) of 2% of the total number of working days of all drivers in 2008. Croatia confirmed that the inspectors either in the traffic police or road traffic services should be further trained according to a national plan.

Technical and safety conditions – transport of dangerous goods

Croatia has started to align its legislation concerning the requirements for tyres, weights and dimensions of vehicles, roadworthiness tests, safety belts, and registration document for vehicles.

Regarding roadworthiness tests, Directive 96/96 and subsequent adaptations to technical progress (Directives 1999/52 – 2001/9 – 2001/11 and 2003/27) have been transposed by the

² Amending Regulation 881/92 and 3118/93.

³ Directive on the organisation of the working time of persons performing mobile road activities.

Road Traffic Safety Act (OG 105/04) and Ordinances on roadworthiness tests for motor vehicles (OG 136/04 and 38/06) and on technical requirements for vehicles in road traffic (OG 92/05), this latter being also compliant with the technical specifications for tyres (Directive 89/459). Regarding the controls to be performed on commercial vehicles however, the required test equipment, notably for control exhaust gas emissions, is not yet available, preventing a proper implementation of the requirements as defined in Directive 2000/30 adapted to technical progress by Directive 2003/26.

Croatian legislation is only partially aligned on speed limitation devices⁴ and technical data needed for the registration documents⁵ while it is aligned for safety belts requirements⁶ and driving licenses⁷.

Concerning the initial qualification and periodic training of drivers in compliance with Directive 2003/59 so far there is no periodical training for professionals. Finally, Croatia mentioned that the Central Bureau of Statistics was already collecting and submitting statistical data to the EU.

Tunnel safety requirements laid down in Directive 2004/54 are not transposed into the national legislation. Croatia indicated that tunnels within the trans-European road network mostly comply with the minimum safety-technical requirements, but generally do not meet the minimum safety requirements with respect to the administrative organisation, the settlement of a technical inspection body and the nomination of an independent safety officer. Croatia mentioned that in order to follow the latest technical requirements, the Austrian guidelines for tunnel design (RVS) were applied during the previous middle-term period and will continue to be applied in the future.

Regarding transport of dangerous goods⁸, Croatia accepted the European agreement concerning the international carriage of dangerous goods (ADR). ADR is not yet available in Croatian language. Although not yet fully aligned with EU directives, the transport of hazardous substances Act (OG 97/93 – 34/95 and 151/03) includes a wide range of provisions which are close to EU requirements. The implementation of regulations related to safety advisors remains at a very early stage and the requirements for transportable pressure equipment are supposed to be aligned by the first half of 2007.

II.b. Rail transport

Market and infrastructure access – standardisation of accounts and statistics

Croatia has adopted the Railway Act (OG 123/03, 194/03 and 30/04), which entered into force on 1 January 2006 aligning to a large extent the national framework legislation with the first railway package. The implementing legislative framework consists of four Ordinances (OG 127/05) harmonised with the EU relevant Directives⁹ related to railway infrastructure, to railway infrastructure operation safety certificates, to requirements and procedures for issuing rail transport service licences and railway infrastructure operation licences and to rail transport safety certificates.

⁴ Directive 92/6 modified by Directive 2002/85.

⁵ Directive 1999/37 adapted to technical progress by Directive 2003/127.

⁶ Directive 91/671 amended by Directive 2003/20.

⁷ Directive 91/439 and subsequent modifications and application decisions.

⁸ Directive 95/50 on uniform procedures for checks, 96/35 and 2000/18 on safety advisors, 1999/36 on transportable pressure equipments.

⁹ Directive 91/440– 95/18 – 2001/12 – 2001/13 - 2001/14 - 2001/16 and 2004/49 - 2004/13.

The Railway Act is based on the principle of separation of railway transport and railway infrastructure. Pursuant to this act, the Croatian railway division law (OG 153/05) defines how the national company Hrvatske Željeznice (HŽ) was divided into five companies in mid 2006, i.e.:

- one for infrastructure management (maintenance and construction);
- one for passenger transport services;
- one for freight transport;
- one for train traction.

These four companies are under a holding. Croatia underlined that the separation of accounts between infrastructure and transport services is in force in HŽ since 1998, therefore facilitating changes to come.

Further alignments are under preparation in order to ensure a proper functioning of the railway system. The establishment of an independent regulatory body is not yet done although this is foreseen in the Railway Act. Most of the changes needed in terms of standardisation of accounts of railway undertakings, according to the requirements of Directive 1192/69, should occur only after the unbundling of HŽ according to Croatia.

Technical and safety conditions

Croatia has not yet aligned its legislation to Directive 96/49 related to the transport of dangerous substances by rail. Nonetheless the country is party to the Convention of the Intergovernmental Organisation for International Carriage by Rail (COTIF) convention and applies Regulation "*concernant le transport ferroviaire international de marchandises dangereuses*" RID specifications as stated in the Transport of Hazardous Substances Act, Confirmation Act of Protocol of 3 June 1999 for the modification of the COTIF of 9 May 1980 (Protocol 1999) and COTIF of 9 May 1980 in the version of the Protocol of modification of 3 June 1999 and the Railway Safety Act. Croatia mentioned that a new Railway Safety Act was at a draft stage and will ensure a good level of alignment.

Railway safety – interoperability – European Railway Agency

Croatia considers that the Railway Safety Act (OG 77/92, 26/93 and 100/04) is partially aligned with Directive 2004/49 on Safety on the Community's railways. A new Safety Act is under preparation to ensure the full alignment by accession.

The railway safety Act provides for the establishment of regulatory structures, investigation methods and transparency in safety regulation. However, the independent bodies required by the relevant EU Directive have not yet been established in particular concerning the national safety authority and the accident investigation body. In addition, a large part of the secondary legislation, regarding in particular the elaboration of train timetables, signalling and traffic rules, or technical specifications for railway vehicles is currently determined through by-laws passed by HŽ Croatian railways. Croatia has indicated that the new Railway Safety Act will state that the adoption of any new regulation will be under the full authority of the competent Ministry.

Specific rules also apply regarding the requirements for executive staff, notably in terms of professional competence, health and rest periods, according to the Railway Safety Act and the ordinance OG 32/94 on executive staff in railway traffic.

Finally, the Railway Safety Act lays down the requirements and methods for interoperability. Croatia has stated that the new Railway Safety Act will aim at compliance

with the interoperability acquis. Croatia is aware that EU legislation on High Speed Interoperability needs transposing independently of plans to set up a high speed service. National implementation plan for TSI is being drafted and will be adopted upon the adoption of the new Railway Safety Act and the notified bodies will be established by 2009 according to Croatia.

Croatia has established contacts with the European Railway Agency (ERA)¹⁰ especially in the area of Technical Specification for Interoperability (TSI) and is interested to join ERA as observer prior to accession.

II.c. Inland waterways transport

Market access and recognition of professions

Croatia's fleet is relatively small (some 80.000 tons of registered vessel capacity) and the average age of vessels is relatively high (40 years).

Croatia used to provide subsidies for the Croatian river shipping companies until 2005 with the aim to ensure a good level of fleet renewal following war damages. Even if nowadays the privatisation process of the main shipping companies has been completed and state subsidies have been abolished, there are still protective restrictions of the market which limit access for foreign shipping companies.

Croatian legislation covering the inland waterways transport is defined by two main pieces of legislation: the Inland Navigation Act (OG 19/98) and the Inland Ports Act (OG 142/98) and subsequent amendments. This legislation is partially aligned with the acquis regarding Regulation 2919/85 (Rhine navigation) and Directive 87/540 on access to the occupation but the mutual recognition of diplomas, certificates and other documents proving the professional qualification is not ensured.

Croatia confirms that its legislation is not yet harmonised with the EU Regulations (3291/96 1356/96) laying down the conditions for transport of goods and passengers by inland waterway. It restricts the right of non-residents to the transport of goods or passengers by inland waterways to and from third countries. A special permit by the Minister of Transport is required. In addition, cabotage is restricted to national carriers.

The institutional structure in the inland waterways sector is quite recent, with an Agency for inland waterways founded in 2005 and a five years development plan (2007-2012) for inland waterway transport, based on the transport development strategy from 1999, under adoption.

Boatmaster's certificates – technical and safety conditions

As regards the boatmasters' certificates, Croatia considers that the requirements for acquiring the certificates, the model of certificates and the training curriculum and syllabus provided are not yet harmonised with Directives 91/672 on the reciprocal recognition of national boatmasters' certificates, Directive 96/50 on the harmonisation the conditions for obtaining national boatmasters' certificates and Directive 76/135 on reciprocal recognition of navigability licences. In this regard Croatia has the objective to amend the Navigation Act and the Ordinance on certifications and conditions for acquiring certifications for crew, so as to ensure full compliance with the relevant Directives.

¹⁰ Directive 881/04 establishing a European Railway Agency.

Croatia stated that its legislation is not yet harmonised with the technical and safety conditions laid down in Directive 82/714 but considers the level of alignment of the technical rules as very high. Full alignment is foreseen on the basis of the forthcoming EU Directive on technical requirements. The procedure of issuing the certificate of ship's ability for navigation and the model of certificate itself follows UNECE Resolution 33 which is close to the *acquis* requirements but the recognition of similar EU certificates is not ensured.

Given the small size of its fleet (80,000 tons), Croatia is not obliged to establish an inland waterways fund as foreseen by the *acquis* and considers that there is no risk of over capacity. Finally Directive 96/75 on systems of chartering and pricing is only partially transposed as the Croatian legislation does not impose restriction to the freedom to conclude contract of carriage on obligation of minimum staff.

As regards the River Information Services (RIS), Croatia started the system development in 2003 and considers it a priority. In this regard, Croatia plans to enhance the implementation of the requirements of Directive 2005/44 on harmonised RIS through:

- Legislative amendments;
- Strengthening of the administrative capacity of the Inland Waterway Agency in charge of RIS including the creation of a National Control Centre for inland waterways;
- Investment in the needed equipment.

II.d. Combined transport

Croatia has confirmed that, at present, its legislation is not yet aligned with Directive 92/106 on the establishment of common rules for certain types of combined transport of goods between Member States. This sector is currently covered by the Railway Act which provides for the possibility of financial state support for companies using combined transport (cost compensation). Nonetheless, various significant projects have been completed in this field such as the Ro-La terminal of Spačva or the equipped sea ports of Rijeka and Ploče. In addition, the memorandum of understanding for the Marco Polo programme with the European Commission is foreseen to be signed soon, allowing the relevant Croatian operators to take part in European combined transport projects.

II.e. Air transport

Market access and external aviation policy

Croatia has adopted the Air Traffic Act (OG 132/98 and 178/04) covering almost entirely the air transport sector and aligned to a limited extent with EU rules. Revision of the Act is underway and it should provide for further alignment. Croatia is also member of international organisations and specialised agencies (ICAO, ECAC, EUROCONTROL, JAA) and applies the relevant requirements accordingly.

Croatia signed the European Common Aviation Area (ECAA) agreement in 2006 and intends to legally and operationally implement the commitments taken.

Market access is regulated by bilateral air services agreements concluded by Croatia. However, the ECAA agreement has liberalised 3rd and 4th freedom services between Croatia and the other signatories.

Airport service charges are applied on an equal basis for domestic and foreign carriers pursuant to the Chicago Convention. Croatia Airlines is the sole scheduled national air carrier and it receives state aid notably through Public Service Obligation (PSO)

programme. Croatia underlined that Croatia Airlines operates domestic scheduled air services of importance for regional development and public connectivity. Croatia estimates that since it is a market of one, this compensation is granted in accordance with EU regulations. Croatia confirmed that as owner of Croatia Airlines, it granted state aids to increase the capital of the airline based on the private investor principle. Both are approved by the Croatian Competition Agency.

According to Croatian data, out of the eight Croatian airports (Brac, Dubrovnik, Osijek, Pula, Rijeka, Split, Zadar and Zagreb) only Zagreb Airport will soon reach the level of 2 million of passengers per year, while both Split and Dubrovnik airports have passed the threshold of 1 million passengers a year. According to Croatia the Directive 96/67 related to ground handling has been transposed through Ordinance on supplying ground handling services and time slots and scheduling at airports. However Croatia considers that the above mentioned airports have not reached all the thresholds mentioned in this Directive. Legislation has been aligned to a large extent with Regulation 95/93 on slot allocation (no schedule facilitators appointed) but there is no need yet for its application. Regulation 785/04 on insurance requirements is being implemented.

The Civil Aviation Authority has limited administrative capacity and Croatia has planned to create an independent Civil Aviation Agency without indicating any deadline for this. Croatia stated that the legislation on external aviation policy has not yet been harmonised, as most of it will be binding to Croatia only after accession.

Air traffic management

Croatian legislation in the field of Air Traffic Management (ATM) consists of the Air Traffic Act (OG 132/98 and 178/04), the Act establishing of the Croatian Air Traffic Control (OG 19/98) and several Ordinances (OG 130/99–69/01–139/05–75/06) laying down the relevant rules for operative services, controllers, reporting and investigations. There is a legal separation between the ATM Regulator represented by the Civil Aviation Authority (CAA) and the service provider, Croatia Control Ltd (HKZP)¹¹, which carries out civil and military control through a unified ATC system. The CAA is part of the Ministry of the Sea, Tourism, Transport and Development (MSTTD).

Croatia stated that, even though a large part of the relevant acquis is not yet applied, plans already exist to ensure the necessary administrative reorganisation of the MSTTD and to strengthen the administrative capacity. In this regard, notably the establishment of an independent Civil Aviation Agency is foreseen.

Regarding the licences and authorisations of Air Traffic Controllers (ATCO), Croatia confirmed that it was done according to ICAO Annex 1 and EUROCONTROL ESSAR 5, therefore in partial compliance with Directive 2006/23 on air traffic controller licences.

Croatia participates in the South East Europe Functional Airspace Block Approach (SEE FABA) initiative related to airspace of South-East Europe and has aligned its legislation on Regulation 730/2006 on airspace classification and access of flights operated under visual flight rules above flight level 195.

Air safety and air security

¹¹ HKZP = Hrvatska Kontrola zračne plovidbe, društvo s ograničenom odgovornošću.

Croatia considers its legislation as partially and in some cases totally aligned with the acquis on licensing of aeronautical staff (Directive 91/670/EEC), technical requirements and airworthiness (Reg. 3922/91 as modified and Regulation 1592/2002 and its implementing rules 1702/2003 and 2042/2003), and accident investigation and reporting (Directives 94/56 and 2003/42). Concerning Directive 2004/36 on the safety of third-country aircraft using Community airports, Croatia stated that, in practice, inspections take place according to the ECAC SAFA programme but that administrative capacity and organisation has to be adapted for a proper implementation of the requirements of the Directives.

The Croatian Civil Aviation Authority is a full member of the Joint Aviation Authority (JAA) and applies the relevant procedures. More actions are foreseen by the end of 2006 regarding aircraft maintenance and licensing of maintenance organisations, and continued air worthiness according to the provision (in particular Part M) of the Commission Regulation n° 2042/2003.

Croatia stated that accident investigations will be under the responsibility of an independent department of the MSTTD (currently under establishment). Croatia considers that the principles of investigation as well as the obligation of reporting are consistent with Directives 94/56 and 2003/42 through the Ordinance on reporting on and investigation of air safety risks, aviation accidents and incidents (OG 139/05).

As regards air security, Croatia implements to a large extent the standards and recommendations from the International Civil Aviation Organisation (ICAO) annex 17 and the European Civil Aviation Conference (ECAC) doc. 30, part II. Therefore Croatia is applying almost all the requirements of Regulation 2320/2002 establishing common rules in the field of civil aviation security. Croatia adopted a National Aviation Security Programme (NASP) in 2003 and amended the Air Traffic Act to oblige the air transport stakeholders to implement the NASP's provisions. This concerns the transport of passengers, cargo and mail.

The implementation is supervised by the National Civil Aviation Committee ensuring coordination with the MSTTD, the Ministry of Interior, the Ministry of Foreign Affairs and European Integration, the Ministry of Health, the Ministry of Defence, the Ministry of Finance, Croatia Control Ltd, the Intelligence Agency, airports and air operators.

ICAO and ECAC audits performed in 2003, found that Croatia is carrying out the security measures at an appropriate level.

Environmental conditions and protection of passengers

Croatia has adopted the Noise Protection Act (OG 20/03) partially laying down the provisions of Directive 2002/49 related to assessment and management of environmental noise. Croatia still allows Chapter 2 (ICAO Annex 16) aircraft under a special permit from the CAA and therefore does not comply with Directive 92/14.

As regards the protection of passengers according to the Regulation 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, the national legislation is not yet harmonised with the acquis. Concerning Decision 2001/539 on the conclusion by the European Community of the Convention for the unification of certain rules for international carriage by air, Croatia indicated that the Montreal Convention has to be ratified as a first stage and that the procedure was on-going. Croatia considers that the acquis concerning passenger

rights is already implemented in practice by Croatia Airlines when departing from EU airports.

II.f. Maritime transport

Market access

Croatia has adopted the Act on regular and Occasional Coastal Maritime Transport Services (OG 33/06) in compliance with Regulation 4055/86 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries. Therefore there are no restrictions to the access to international liner shipping operations between Croatia and foreign ports. However, the legislation is not aligned with Regulation 3577/92 related to maritime cabotage as carriage of goods and passengers between Croatian ports can only be operated by vessels of Croatian nationality. Croatia has indicated that it anticipates difficulties in application of this Regulation by accession. Croatia also stressed the specificities of the public maritime transport services which connect 49 populated islands linked by 46 maritime public lines, 40 of which are unprofitable due to the underdevelopment of the islands and its low inhabitancy rate as well as significant seasonal oscillations.

Technical and social conditions – international relations

Croatia is a member of the International Maritime Organisation (IMO) and of the International Labour Organisation (ILO). It therefore applies all the conventions, protocols and codes as well as any other instruments and rules adopted under the auspices of the above mentioned organisations. Croatia stated that the technical rules will be prepared and enacted by the Croatian Register of Shipping (CRS) until accession.

As concerns the registration of vessels, the conditions and procedures are laid down in the Maritime code (OG 181/2004) which is the basic act of maritime legislation. Registration requirements include the certificate of technical characteristics of the ship. Croatia confirmed that the legislation should be aligned with the Regulation 789/04 through the release of new technical rules for statutory certification of sea-going vessels, to be developed as from January 2008.

Croatia underlined that even if no central electronic register exists so far, it is under development and shall be in place by the end of 2007. Foreign companies must be registered in Croatia, whereas according to EU case law only a branch office would be required to be allowed in the register. With regard to the crew nationality of a registered vessel, the shipmaster must be a Croatian citizen.

Regarding social conditions, Croatian legislation is harmonised with relevant ILO and IMO standards and is partially aligned with Directive 1999/63¹² and fully aligned with Directive 1999/95 concerning the enforcement of provisions in respect of seafarers' hours of work on board ships calling at Community ports.

Croatia is a contracting party of a number of international conventions and instruments amongst which are: SOLAS 1974, SOLAS PROTOCOL 1988, MARPOL 73/78, MARPOL PROTOCOL 1997, LL 1966, LL PROTOCOL 1988, TONNAGE 1969 and CSC 1972. Croatia considers that parts of the *acquis* in this field cannot be applied in practice before the

¹² Concerning the Agreement on the organisation of working time of seafarers concluded by the European community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST).

date of accession, notably regarding Decisions 77/587, 78/774 and 83/573 and Regulations 4057/86 and 4058/86.

Maritime safety: control – technical & operational rules – environment – institutional

Croatia has elaborated a pre-accession Maritime strategy underlining the significant efforts made over the past years to enhance the level of safety and security of ships. In the field of **Flag State Control (FSC)**, the detention rate has decreased over the past ten years from 23.91% to 4.88% in 2005, approaching the EU average percentage. While still on the Grey List of the Paris Memorandum, Croatia intends to move on to the White List before accession. Croatia will align its maritime legislation to Directive 94/57 as amended on common rules and standards for ship inspections and survey organisations by 2008. The statutory certification of vessels is performed by the Croatian Register of Shipping (CRS). Croatia intends to apply during the negotiation process for CRS to have the status of a recognized organisation upon accession.

Regarding **Port State Control (PSC)**, the national legislation is aligned with Directives 95/21 (as amended) and Directive 96/40 (model of identity card) through the Ordinance on inspectional supervision of navigation safety (OG 127/05). According to the above mentioned Directives, the Port State Control inspectors undergo permanent training. Regarding the reporting formalities for ships in ports, Croatian legislation is aligned with Directive 2002/6 on reporting formalities for ships arriving/departing from ports of the Member States.

As for the **traffic monitoring**, the provisions of Decision 92/143 on radio-navigation systems for Europe and Directive 2002/59 concerning a Community Vessel Traffic Monitoring and Information System (VTMIS) are partially transposed into Croatian legislation. The Ministry of the Sea, Tourism, Transport and Development is in charge of the implementation of VTMIS for the Adriatic Sea. Croatia underlined that the VTMIS is being developed in three stages: completion of the Automatic Identification of ships System (AIS) infrastructure by 2008, completion of radar and other systems by 2009 and regional and EU-level data exchange (on availability) although full technical and operational integration of the VTMIS system is envisaged in 2010. The exchange of data regarding dangerous substances and hazardous material (HAZMAT) has been established in respect of the Adriatic Sea reporting system (ADRIREP) but other data required by the Directive are not yet covered.

As regards the certification of **marine equipment**, the legislation is partially aligned. However as far as the implementation is concerned the Croatian Register of Shipping performs the procedure applying the International Maritime Organisation (IMO)/International Organisation for Standardisation (ISO)/International Electrotechnical Commission (IEC) standards and the relevant modules of Directives 79/115 and 96/98 as amended.

The legislation regarding the **technical and operational rules** is partially aligned with the acquis. This encompasses:

- the EU requirements for passenger ships (Regulation 336/2006, Directives 98/18 - 98/41 – 1999/35 and 2003/25) to be fully transposed and implemented by early 2008 (for the certification of passenger ships, the stability requirements for ro-ro passenger ships, the registry of persons on board the investigation of marine casualties or the inspectional supervision of navigation);
- the technical requirement for fishing vessels according to Directive 97/70.

Croatia considers its legislation aligned regarding the obligations of port authorities, bulk cargo terminals and masters of ships pursuant Directive 2001/96 (modified by Dir. 2002/84) on bulk carriers.

Croatia considers its level of alignment at a good level regarding the gradual phasing-out of single-hull oil tankers (Directive 417/2002 and subsequent modifications) and the requirements for crews (medical fitness certificates, work/rest periods). Croatia informed that it has aligned its legislation in terms of protection of the marine environment with Directive 2000/59 and that the provisions of Regulation 782/2003 will be covered before accession by the Anti-Fouling System (ASF) Convention following its ratification by the end of 2006. As for the institutional requirement, notably the participation in the European Maritime Safety Agency (EMSA), Croatia stated that it will apply Regulation 1406/2002 and 2099/2002 by accession. Croatia already cooperates with EMSA.

Maritime security

Croatia has to a large extent aligned its legislation with Regulation 725/04 on ship and port facility security and should implement it by the end of 2009 according to the relevant national plan. Croatia is a party to SOLAS 74 Convention and therefore has transposed the relevant provisions (Chapter XI/2 and ISPS) in the Act on security of merchant ships and of the ports open for international traffic (OG 48/04) and in the Technical Rules. Directive 2005/65 will be implemented by an amendment to this Act by accession according to Croatia.

The implementation of maritime security is ensured by the Ministry of Sea, Tourism, Transport and Development (MSTTD) and by the Ministry of Interior, notably through the approval of the port security plans and certification of ships under the International Ship and Port facility Security (ISPS) Code as well as inspections of ships on international voyages.

II.g. State aid

Croatia considers that the national legislation on state aid is partially aligned with the *acquis*¹³. Communication C(2005)312 on airport financing is scheduled for transposition by 2007. New pieces of legislation have entered into force: the State Aid Act (December 2005) and the State Aid regulation (May 2006). A Croatian Competition Agency has been created and is looking at the organisation of a phasing out of current non-compliant state aids and already gives an opinion prior to any new decision on state support.

A large number of subsidies are provided to all modes of transport.

Croatia indicated that an important part of local and regional public transport is financed by the municipalities, regional governments and the central government. It considers that not all of the financing systems comply with the Altmark ruling and Regulations 1191/69 and 1107/70. Therefore Croatia is currently taking measures to take stock of the actual situation, and will propose measures how to bring these financing systems in line with the *acquis*.

The development programme for the inland waterway sector foresees the provision of state aid only for research and environment issues, while until 2005 state aid was granted to mitigate war damages. The air transport sector benefits from state subsidies either for supporting the airport infrastructure (terminals, safety and security equipments, and operational management) or to provide financial compensation to the sole scheduled air

¹³ Regulations 1191/69 - 1107/70 – 2408/92 and communication C(2005)43

carrier, Croatia Airlines. Croatia underlined that Croatia Airlines operates some unprofitable lines and the financial compensation aims to cover the difference between the actual operating cost and earnings on those routes.

The maritime sector largely benefits from various financial supports pursuant to provisions of the Maritime Code: owners operating in international navigation are exempted from the profit tax, crew members aboard ships are granted with tax exemptions, scholarships for maritime studies are fully state financed. In addition, to stimulate fleet renewal and to strengthen Croatian shipping companies, a state aid amounting to 10% of the total construction cost is provided to owners for building new ships the aim being to support fleet renewal in Croatia.

Finally, the concession system for all mode of transport will be reviewed according to the adoption in 2007 of a Concession Act.

II.h. Satellite navigation

Croatia is aware that the Regulations related to the establishment of the Galileo system (Regulations 876/2002 and 1321/04) will only apply upon accession.

III. ASSESSMENT OF THE DEGREE OF ALIGNMENT AND IMPLEMENTING CAPACITY

Overall, Croatia has reached a satisfactory level of alignment in the preparedness for accession. However further improvements are needed regarding both legislation and its implementation. The most problematic areas should be limited to some specific issues. The market access as such is not at risk but some restrictions may impact on it essentially in the field of road and maritime cabotage. In the rail sector, the full functioning of the market could be lengthier. Regarding state aid, the maritime sector is still receiving substantial subsidies. Finally, concerning air transport, the ECAA agreement is a first significant step but it will require a close follow-up in terms of implementation.

III.a. Road transport

The legal framework for road transport is at a reasonable level of alignment. Concerning the *market access for goods and passengers* there are some discrepancies in the access to the occupation, the licensing system, the establishment of driver's attestations and the cabotage.

As regard *prices and fiscal conditions*, the toll system, annual taxes and classification of vehicles needs further alignment with EU rules and the interoperability of the Croatian toll systems with EU systems is not guaranteed.

Regarding *social conditions*, the alignment of the legislation has started but the operational application of the driving and rest period is still lagging behind and the application of working time has not yet started. The controls performed by the road inspection services need to be enhanced notably to increase the number of checks on the companies' premises. The percentage of checks to be done in the next few years is lower than required by Directive 2006/22. The administrative capacity also needs to be strengthened and acquainted with regard to the data analysis of the digital tachograph, if the apparently optimistic timeframe for its introduction is to be met. There are still some 20.000 heavy vehicles which are not equipped with a tachograph.

The *technical and safety conditions* are partially aligned. Enforcement remains to be strengthened notably regarding roadworthiness tests and technical roadside inspections.

Many vehicles weighing more than 3,5 tonnes or with more than 8 passenger seats are not equipped with speed limitation devices. For admission into the occupation the level of initial vocational training of drivers is adequate but improvements are needed regarding the periodic trainings. Compulsory data collection on road accidents, following Commission Decision 93/704 on the creation of a specific Community database, needs to be further fine-tuned to comply with EU requirements regarding both the data itself (no information on gender) and the transmission to the CARE database. The legislation on tunnel safety and *transport of dangerous goods* is not transposed but most of the technical provisions are practically implemented.

Apart from the legislative alignment, implementation is facing some practical challenges: the entire road network does not meet the EU technical requirements to be applied for heavy vehicles. Most importantly, the administrative capacity needs to be significantly strengthened to ensure a good level of enforcement.

III.b. Rail transport

The legislative framework has reached a satisfactory level of alignment with the first railway package. However, the restructuring of the sector in accordance with the principles of the *acquis* still needs to be achieved. Regarding the *market and infrastructure access and standardisation of accounts*, Croatia needs to ensure the unbundling of the national railway undertaking HŽ, the establishment of a regulatory body sufficiently staffed and the full independence of the infrastructure manager, in particular regarding the definition of user charging system and the access to the railway infrastructure. So far Croatia has not defined the national framework of infrastructure charging and capacity allocation, and no network statement has been drawn up.

Regarding the *technical and safety conditions* the alignment on transport of dangerous substances by rail¹⁴ is partially covered through the new Railway Safety Act and ensured by the use of COTIF and RID international regulations. The current administrative capacity does not allow the right level of enforcement regarding the inspections to be performed.

Croatia is aligned to a certain extent with the *acquis* for *railway safety and interoperability*. However, the necessary supervising bodies such as the safety body, the accident investigation body and notified bodies have not been established. The implementing rules are still defined mainly at the level of the railway undertaking while they should be adopted only by the relevant Ministry. Finally, not all the TSI are currently in force on the Croatian territory.

Once restructured, the railway sector will need a significant strengthening of administrative capacity in order to be able to perform all essential functions.

III.c. Inland waterways transport

The legislative alignment and operational implementation of the *acquis* in the field of inland waterway is at an early stage. Regarding *market access and recognition of professions*, Croatia restricts the access to the infrastructure of foreign vessels and the right of non-resident to operate transport services. Restrictions are also included in the relevant Acts or Ordinances such as the absence of mutual recognition of professional qualification diplomas and seaworthiness certificates. The conditions for obtaining a *boatmaster's certificate* are aligned in practice but not yet legally. As regard the *technical and safety conditions*, River

¹⁴ In 2005, 15.85 million tons of goods were transported by rail in Croatia, out of these 1.97 million tons were RID classified (12%).

Information Services need to be set up and Croatia is progressing at a good pace in this regard. The legislation on upgrading of Croatia's fleet to the new technical requirements that would be adopted by 2008 can be expected to require significant efforts.

Croatia has elaborated a 5 year development plan for inland waterways (2007-2012) which foresees a full legislative harmonisation with the *acquis* by 2008 but this remains very ambitious and therefore unlikely.

III.d. Combined transport

Concerning the Directive 92/106 related to the combined transport, Croatian legislation is not yet aligned but in practice many initiative have been taken in this direction.

III.e. Air transport

Legislative alignment in the field of air transport stands at a reasonable level. Regarding *market access and external aviation policy*, the level of alignment is satisfactory. The market is relatively open through bilateral agreements and Croatia is member of the relevant international organisations and agencies. Considering the growing passenger volumes at the airports of Zagreb, Split and Dubrovnik, the *acquis* on ground handling needs to be fully implemented as Directive 96/97 contain provisions which apply irrespectively of traffic thresholds. Self-handling should be possible at all three airports. There is no system for monitoring airport charges. A large part of the *acquis* is not yet applied through the national legislation (Regulations 2299/89 on computerized reservation ; 3925/91 on controls applicable to the cabin and hold baggage; 2408/92 on access to intra-community air routes; 2409/92 on fares and rates for air services; 2027/97 on air carrier liability in the event of accident; 437/2003 on statistical returns) but it has to be noted that Croatia signed the European Common Aviation Area (ECAA) agreement in May 2006. Therefore the country has committed to complete the legislative harmonisation and to implement the aviation *acquis* in the near future.

Concerning *air traffic management* the alignment is at an early stage but Croatia is already applying ICAO and EUROCONTROL requirements. An independent supervisory authority for air traffic control has to be established and regional air space integration is not yet ensured as Croatia still needs to check the compatibility of the South East Europe Functional Airspace Block Approach (SEEFABA) with Central European Air Traffic Services (CEATS) agreement. Croatia has a reasonable level of alignment of its legislation regarding the licensing of Air Traffic Controllers.

In the field of *air safety*, Croatia has reached a good level of alignment. However, it needs to further harmonise its legislation notably with Regulation 1592/2002 establishing common rules on civil aviation safety and with subsequent adaptations of JAR procedures and standards in particular those regarding aircraft operational requirements. Implementation of the Community rules in the field of aviation safety nonetheless suffers from a lack of administrative capacity and relevant organisation of the required bodies. This is crucial as regard the capacity of the Civil Aviation Authority to ensure the correct oversight of aircraft, maintenance organisations and operators as well as the compulsory investigations as there is no permanent, independent and sufficiently staffed investigation authority. As part of EASA's annual programme of inspections, Croatia's capabilities to comply with its obligations of oversight in matters of continued airworthiness, maintenance, operations and crew licensing should be verified in a joint inspection with the JAA in June 2007.

Croatia has reached a good level of alignment regarding the *acquis* in the field of **air security** and adopted in 2003 a National Aviation Security Programme which encompasses a wide range of EU requirements arising from the relevant *acquis*. The national Aviation Security Commission supervises the implementation. Regulation 622/2003 laying down measures for the implementation of the common basic standards on aviation security cannot be aligned fully as annex 1 containing the technical details remains classified and only available to Member States.

Administrative capacity in the area of air safety and security, notably of the Civil Aviation Authority, needs to be strengthened.

As regards the **environmental conditions** and noise management, Croatian legislation needs to be further aligned so as to comply with the measurements procedures and the identification of city airports actually affected according to the provisions of the Directive 2002/30 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports. In addition, Chapter 2 aircraft should be fully banned.

Croatian legislation in the field of **protection of passengers'** rights is not aligned as regards delays, denied boarding and cancellation, although it is already applied in practice by the sole national carrier when departing from EU airports. Croatian legislation and practice notably in airports will also have to be aligned on Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air.

III.f. Maritime transport

Croatia has reached a satisfactory level of alignment of its legislation with the *acquis* in the field of maritime transport, notably through the application of several international conventions and standards. However, discrepancies still remain in terms of **market access** and state aid. There is no plan for the implementation of Regulation 3577/92 related to maritime cabotage, the Croatian authorities referring to the need to operate unprofitable maritime scheduled lines so as to ensure a public service.

Croatia has ensured a reasonable level of harmonisation regarding the **technical and social conditions**, but the registration system in place includes a series of restrictions linked to the need to set up a company in Croatia to be registered or to nationality requirements for ship owners.

In terms of **international relations**, Croatia is a member of the relevant international organisations (IMO, ILO, etc.) and applies international conventions and instruments (SOLAS, MARPOL, etc.).

There is a satisfactory level of alignment in the field of **maritime safety** regarding the Flag State Control (FSC) and Port State Control (PSC). The organisation of the inspection services ensure a good decentralised implementation which relies on a central office coordinating seven harbourmaster's offices at regional level. However the administrative capacity to enforce the controls needs to be further strengthened. The marine equipment reaches a good level of harmonisation through the anticipated application of international standards and EU legislation but the traffic management system is not yet operational according to the VTMIS requirements. As regards the technical and operational rules, the level of alignment is good for legislation related to bulk carriers, to crews and to the

compulsory introduction of single-hull oil tankers. Further alignment is needed regarding passenger ships and fishing vessels.

In the field of *maritime security*, a reasonable level of alignment has been achieved. Further legislative harmonisation is planned regarding Directive 2005/65 on enhancing port security. The administrative capacity needs to be strengthened to ensure a proper level of inspection.

III.g. State aid

The legal framework in the field of state aid and competition applied to the transport sector is to a limited extent aligned with the *acquis* but substantial efforts have been made over the past years to move toward a better harmonisation with the *acquis*. The state aid legislation has been reformed in 2005 and 2006 and the Croatian Competition Agency has to give its assent prior to any potential state aid foreseen.

All modes of transport are granted state subsidies according to their specificities, the most substantial being in the air and maritime sectors. Croatia Airlines is receiving state aid not only for Public Service Obligations (PSO) but as well by other means such as loan guarantees. The national legislation remains to be aligned with Regulation 3577/92 applying the freedom to provide services to maritime transport within Member States (cabotage) and Regulation 4055/86 also encompassing transport between Member States and third countries.

The four criteria set in the Altmark ruling have to be transposed in the national legislation and the definition of the services of public interest will need to be clarified. Improvements are therefore needed to fully align the legislation and to ensure a good level of enforcement. A special committee has been established to this end. The timeframe for harmonisation is linked to the National Plan for the accession of Croatia to the EU.

III.h. Satellite navigation

Croatia will be able to participate in relevant activities once the system will be operational.