

## EU Accession Guidelines

Sharing Croatia's Experience - Chapter 12

### Food Safety



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### **Food Safety**

Sarajevo, March 2012

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## Croatia's Accession Timeline – Chapter 12: Food Safety

2003	<i>February 21:</i>	Croatia submitted a formal application for EU membership
	<i>July 10:</i>	European Commission presented Croatia with a questionnaire
	<i>October 9:</i>	Croatia submitted answers to the EC questionnaire
2004	<i>April 20:</i>	European Commission replies to the answers with a positive Avis
	<i>June 18:</i>	Croatia receives official candidate status
	<i>December 20:</i>	European Council sets March 16, 2005 for beginning the negotiations
2005	<i>March 16:</i>	Negotiations postponed by the EU Council
	<i>October 4:</i>	Opening of negotiations
	<i>October 20:</i>	Beginning of the screening process
2006	<i>March 9 – 15:</i>	Chapter 12 Screening I (EC – Croatia) – Explanatory Meetings
	<i>May 29 – June 7:</i>	Chapter 12 Screening II (Croatia – EC) – Bilateral Meetings
2007	<i>February 9:</i>	European Commission presented, to the Member States, the Screening Report for the Chapter 12 and proposed four opening benchmarks.
	<i>April 3:</i>	EU Council decided on Croatia's readiness to open the chapter or to set up additional benchmarks. On the very same day, the German presidency has officially informed Croatia regarding the opening benchmarks for chapter 12.
2008	<i>April 22:</i>	Croatia officially presented all documentation on fulfilment of the benchmarks required to open the chapter, to the EU Commission.
	<i>July 16:</i>	EU Presidency invited Croatia to submit its Negotiations Positions for the chapter 12.
	<i>July 24:</i>	Croatia submitted Negotiating Position for Chapter 12 to the EU presidency, in which it requested five transitional periods.
2009	<i>October 2:</i>	EU adopted its Common Position in chapter 12 that determined three closing benchmarks.
	<i>October 2:</i>	Formal chapter opening at the Intergovernmental conference.
2010	<i>May 6:</i>	Croatia adopted and submitted final Report on fulfilment of the obligations in chapter 12 to the EU.
	<i>May 13:</i>	Croatia adopted and submitted to the EU Presidency an Addendum to its Negotiations Position, in which it has altered its original requests for the Transitional Periods, but also introduced new Negotiations requests for technical adjustments of EU Council Directives.
	<i>July 27:</i>	EU adopted Common Positions for the chapter 12 closure, in which it has accepted Negotiation positions of Croatia. The same day the chapter was closed at the Intergovernmental session.

## Introduction: the Purpose of these Guidelines

These guidelines are directed at policy makers and policy analysts interested in better understanding the EU accession process pursued successfully by the most recent candidate to complete the accession negotiations, Republic of Croatia. We are convinced that Croatia's recent experience is extremely relevant to all future negotiating countries, in particular Bosnia and Herzegovina, Croatia's neighbour. This document addresses the basic principles of chapter 12 – Food Safety and it serves as a contribution to understanding all the complexities of the process that Bosnia will face in the future. It contains a number of practical and useful examples that anyone working in the public sector will find useful.

### *Croatia's Accession Timeline: it took a decade*

2001	Stabilization and Association Agreement
2003	Application for membership
2005	Opening of negotiations
2011	Concluding of negotiations

It took Croatia a decade to do conclude EU accession negotiations under a new and more demanding accession framework, defined in a number of recent EU core documents: the new framework for negotiations (Brussels European Council 2004), the renewed consensus on negotiations (Brussels European Council 2006) and the 2008 Council Conclusions on Enlargement Strategy. These guidelines explain in detail what these provisions actually meant in practice.

Bosnia has yet to submit its application. If Bosnian policy makers were to set an ambitious objective for their accession talks, it would be to conclude them as rapidly as Croatia has done.

### *Bosnian accession ambitions using Croatia template*

2012	Application for membership
2014	Opening of negotiations
2020	Concluding of negotiations

These guidelines are based on the assumption that it would be useful for Bosnian policy makers to set themselves a goal that is ambitious yet not unrealistic. For this to be a meaningful exercise, however, it is important to develop a deeper understanding of the accession process. This requires the accession process to be broken down into different components. In this case, we do so by focusing in particular on one of the most comprehensive areas in the context of accession talks: Food Safety policy.

Stakeholders need to develop a particular understanding of the following key stages in the EU accession process:

- The questionnaire and the opinion (in the case of Croatia 2003 – 2004)
- The explanatory and bilateral meetings-*Screening* (2006)
- The opening and closing of a chapter, in this case Chapter 12 (2010)

These guidelines look at each of these three crucial steps in detail. We start by examining what the state of Croatian Food Safety policy prior to its application for EU membership, as revealed by the first step (questionnaire and opinion): the starting position. We then look at how specific challenges for the accession process within Food Safety chapter were defined during the

screening phase: defining the specific hurdles and so-called opening benchmarks. Finally, we look at what it took to close this chapter, one of the last to be closed, reaching the finishing line.

The guidelines are based on a series of interviews with key individuals involved in the accession process in Croatia, including many key figures who worked on the Chapter 12. All relevant documents regarding this area have been collected and made available at the Populari website.



## Adopting the EU acquis

In order to become a member state, a candidate country must bring its institutions, management capacity, and administrative and judicial systems up to EU standards, both at national and regional levels. This will allow the country to implement **the acquis** effectively upon accession and, where possible, to effectively implement laws prior to accession. For the purposes of screening and the subsequent negotiations, the acquis is broken down into a number of chapters,<sup>1</sup> each covering a specific policy area.

For accession negotiations with Croatia (and Turkey), the acquis was split into 35 chapters. All food safety aspects, veterinary and phytosanitary issues are covered in negotiation chapter 12 of the acquis: Food Safety, Phytosanitary and Veterinary Policy (For the purposes of this paper, we will refer to it as 'Food Safety'), which consists of a very large number of Regulations, Directives and Decisions.

In order to ensure better consumer protection, Member States are required to develop an effective food control system based on integration of an entire food chain. Such an integrated approach is called **from farm to fork**, in which the roles of all stakeholders in the food chain are clearly defined. Feed manufactures, farmers and food operators have the primary responsibility for food safety, while the competent authorities monitor and enforce this responsibility through the operation of national surveillance and control systems.<sup>2</sup>

*The **acquis communautaire**, often shortened to **acquis**, is the accumulated legislation, legal acts and court decisions which constitute the body of European Union law. The term is French in origin and literally translates into English as "that which has been agreed". It refers to the institutions, and legal rules of the European Union, and includes regulations, directives, decisions, guidance and is constantly being amended to improve the life of European citizens. The full acquis amounts to some 2 815 000 documents with texts dating back to 1951. The acquis is updated daily and every year approximately 12,000 documents are added.*



Everybody associated with the food has a responsibility to adhere to the set rules defined in the acquis. Therefore, the implementation of food safety legislation is certainly no easy task. The principal pre-requisites for a Candidate Country in this domain are the transposition of the EU legislation, and implementation by a properly structured and trained administration. The (lack of)

<sup>1</sup> [http://europa.eu/legislation\\_summaries/index\\_en.htm](http://europa.eu/legislation_summaries/index_en.htm)

<sup>2</sup> Power point presentation from explanatory screening



**Regulations are normative acts directly applicable in all Member States, which do not need to be supported by adoption of implementing measures at the national level. These normative acts allow institutions of the Community to have the greatest influence on the legal system of EU Member States. These acts are considered a means of unification of laws throughout the Community, since they are binding in their entirety in all EU Member States.**

**Directives are normative acts not directly applicable in all EU Member States, and they require adoption of additional implementing measures at the national level by the date defined by specific Directive. They are not binding in their entirety in EU Member States, but they are binding as to the results to be achieved. Directives allow for a certain degree of discretion by national competent bodies to decide about the methods to incorporate and enforce goals of the Community within their national legal system. These acts are considered as means of harmonization, which implies elimination of national contradictions and conflicts between national laws.**

**Decisions are normative acts binding in their entirety only for those to which they are directly addressed. Decisions may be addressed to only one, or all EU Member States, economic subjects or individuals. Cases in which decisions are often used refer to violation of fair competition or imposing of sanctions.**

administrative capacity issue was repeatedly reported by the EU as an area Croatia needed to improve in order to carry out inspection and control of food products, including provision of appropriate laboratory capacities.

The basic rules are defined by the general food and feed law regulation. It regulates the general principles and requirements for food production, processing, packaging, labelling, marketing and distribution. In particular, it lays down definitions, principles and obligations covering all stages of food/feed production and distribution.

Fulfilment of traceability requirements for all foods and feeds, as well as related business operators are compulsory. Furthermore, this part covers packaging, labelling, marketing, additives, extraction solvents, flavouring, food contact materials, food supplements, contaminants, novel food, genetically modified foodstuffs, mineral waters and ionizing radiations.

In the areas of veterinary and phytosanitary policy, EU legislation lays down rules for internal trade and introduction from third countries in the veterinary, plant health and animal nutrition sectors while safeguarding public health, plant and animal health and animal welfare. The EU regime is based on the implementation of the same rules by the authorities in the Member States.

Veterinary and plant health checks at internal borders are abolished. A common regime of checks at the external borders is applied. A substantial part of the *acquis* in this field covers hygiene aspects related to processing and placing food of animal origin on the market, control of animal diseases, and to the protection of plants.

By defining clear safety requirements, most often through Regulation Annexes, producers are to fulfil requirements, which are binding, thus transferring the responsibility to them. **It is the obligation of the State to enforce the mentioned regulations through harmonized administrative system for food control** in a manner that ensures the establishment of competent bodies and the overall division of responsibilities, including the division of responsibilities referring to individual control

systems. It is also the obligation of a MS to establish an adequate quality system infrastructure to guarantee autonomy and impartiality of the body from the compliance evaluation, and to

guarantee that specific requirements defined by standards and related to product, process, system or a body, are fulfilled. Finally, it is the obligation of the Member States to implement continuous educational programs for all counterparts.

***Food Safety in the EU is enforced through binding essential requirements for safety and consumer protection, defined under following Regulations:***

*178/2002- General Food Law (including cattle feed)*

*852/2004-Regulation on the hygiene on foodstuffs*

*853/2004-Regulation on hygiene for food of animal origin*

*854/2004-Regulation on official controls on products of animal origin intended for human consumption*

*183/2005 –EU Feed Hygiene Regulation*

*882/2004-Regulation on official feed and food controls*

*2073/2005-Regulation on microbiological criteria for foodstuffs*

## Applying for Membership

Croatia applied for EU membership on February 21, 2003, when the country's President and Prime Minister, on behalf of the Croatian Government, sent an official application letter to the President of the Council of the European Union.

Upon receiving the application, the EU Commission submitted an opinion, or **avis**, regarding the application. To evaluate its application, the Commission sent Croatia a Questionnaire. The questionnaire is one of initial mechanisms to prove to the EC that a candidate country has the capacity to implement the *acquis*. It contains approximately 2,500 questions, with numerous sub-questions about an applicant country's administration, economics and politics. On July 10, 2003, the European Commission President, Romano Prodi, presented Croatian Prime Minister Ivica Račan with a **questionnaire**.<sup>3</sup>

## Getting the Questionnaire

The Croatian Ministry of Foreign Affairs and European Integration<sup>4</sup> analysed the Questionnaire and assigned its chapters and questions to appropriate ministries and other state administration bodies as per their competencies.

The task was enormous. It required coordination and input of all the administrative bodies of Croatia. The answers were written on 3,000 pages and 4,000 pages of supplements, with 350 experts and 162 translators. Some questions remained unanswered due to differences in some

<sup>3</sup>The EC Questionnaire included both simple and extremely complex questions regarding all aspects of Croatian society; the legal system, the constitution, laws and regulations, statistics, foreign affairs, infrastructure, government subsidies to different branches of the economy, food safety, environment, and many more.

<sup>4</sup> Ministry of European Integration formed within the Croatian Government in 2000

statistical methods, analyses that are yet to be carried out, and lack of competent staff. Such questions accounted for slightly more than five percent of the questionnaire<sup>5</sup>.

Ruzica Gelo, Head of Food Safety Directorate within MAFRD<sup>6</sup> explained what happened after Croatia received the questionnaire:

*“After you receive the questionnaire, you have a short period of time during which you need to give answers, translate it, get the national procedure going (approval of the document) and present at the bilateral screening... In our case, the Parliament was involved from the beginning and this was very demanding and took time. Parliament voted unanimously on the document but it took a while to get the procedure in place.”<sup>7</sup>*

The Ministry of Health and Social Welfare and the Ministry of Agriculture, Forestry and Water Management received the task to answer the food safety questions. This required a thorough scan of the entire food safety sector in the country.

At the time, Food Safety was not contained in one chapter, but rather sections covering food safety topics were scattered about different chapters. For instance, food of non-animal origin was covered under Chapter 1 – Free Movement of Goods, whereas live animals, food of animal origin, feed, and plant health issues were covered under Chapter 7 – Agriculture. Consequently, Croatia’s answers regarding food safety legislation, institutions, and structures were divided between Chapter 1 and 7.

First of all, the Questionnaire required from Croatia to present an overview of the Croatian legislative and administrative framework responsible for the food safety at the time.<sup>8</sup> Croatia submitted the following response:

*“The Food Act, adopted by the Croatian Parliament in July 2003, establishes the integrated approach to food safety regulation throughout the food supply chain, including animal food, too. This created the legal framework for the future approximation of rules to those of the EU. The Act will also enable a better regulation of the quality of food products.*

*By the adoption of this Act and, consequently, by the improved organisation of inspection and control of food products, the conditions for better food safety management will be ensured. The establishment of the Food Agency, as the central institution responsible for food safety, is anticipated within six months of the adoption of this Act, i.e. in January 2004. The Agency will be responsible for scientifically based risk analyses and food control throughout the distribution chain. Consumer protection will be ensured by regulations on product declaration, presentation and advertising.”*

Jelena Đugum, director of the Food Safety Administration at the Croatian Ministry of Agriculture, Fishery and Rural Development, gave an account of the process of answering the questions related to the food safety sector:

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<sup>5</sup> [http://www.southeasteurope.org/subpage.php?sub\\_site=2&id=9684&s\\_word=eu](http://www.southeasteurope.org/subpage.php?sub_site=2&id=9684&s_word=eu)

<sup>6</sup> Ministry of Agriculture, Fishery and Rural Development

<sup>7</sup> Interview with Ruzica Gelo, Zagreb, Croatia

<sup>8</sup> Answer to the Question number 1: “General agricultural policy framework and horizontal mechanisms” of the Chapter 7: Agriculture

*“We took our legislation and the acquis and wrote answers. After that, I put statistical analyses of the different sectors together and gave them to my boss. We would meet when we had work to do. There were no regular pre-scheduled meetings per se. Some of the areas we needed to focus on more.”*

In order to submit answers to the Questionnaire, it was not only necessary to collect data about all sectors regarding food safety;<sup>9</sup> they also had to present plans for development of all institutions responsible for plants and veterinary sectors. Below is a summary of the responses that describe the structure of the Veterinary Administration at the Ministry of Agriculture and Forestry (MAF).

<b>Veterinary Administration</b>		<b>No. of Employees</b>
Assistant Minister – Director		1
Department for Animal Health and Veterinary Practice		8
Department for Hygiene of Animal Origin Products and Veterinary Public Health		8
Department of Veterinary Inspection		82
Department for Border Veterinary Inspection		58
Total:		162

The plan for establishing the new organizational structure of the Veterinary Administration was submitted<sup>10</sup> after this. Reorganization aimed to produce a clearer division within the Veterinary Administration in relation to administrative and inspection activities, and the new sub-units were formed in line with the requirements for harmonization:

<b>VETERINARY ADMINISTRATION</b>	
<b>DEPARTMENT FOR ANIMAL HEALTH AND VETERINARY PRACTICE</b>	
Epidemiology	Animal identification and internal transport
Veterinary Practice	Welfare
Harmonization of Regulations	
<b>DEPARTMENT OF VETERINARY PUBLIC HEALTH</b>	
Hygiene of animal products	Veterinary medicine and animal feed
Holding register	Monitoring of residues and antimicrobial resistance
<b>DEPARTMENT OF VETERINARY INSPECTION</b>	

<sup>9</sup> Question: 2. Resources (human, material and financial) allocated to each sector

<sup>10</sup> Based on the Regulation on internal organization of the Ministry of Agriculture and forestry (Official Gazette No. 112/3)

Monitoring of the state veterinary inspection	Authorized veterinary inspection
County veterinary inspection monitoring	
<b>DEPARTMENT FOR BORDER VETERINARY INSPECTION</b>	
International transport	Border veterinary inspectors
Risk analysis	

Similar data and plans had to be collected for all institutions involved in the food safety system. August 22, 2003 was the internal deadline for Croatian ministries to submit the answers, after which they were adjusted, edited and revised.

It took three months to review, adjust, and edit responses; a process that required good organization and coordination. Finally, the Croatian Prime Minister Ivica Račan presented the European Commission President, Romano Prodi, with Croatia's answers to the EC Questionnaire on October 9 2003, in Brussels.

## The Opinion - Avis (2004)

The preparation of the Avis demanded not only the analysis of the questionnaire, but also finding a middle point between what Croatia reported in the questionnaire and what other sources said about the current state of Croatia's administrative, legislative and institutional structure in various sectors. This included utilizing sources from the member states and international organizations.

The Avis was submitted on April 20, 2004 based on the answers to the questionnaire and the secondary information obtained. Its analysis took into account the Copenhagen criteria, the political conditions mentioned by the EC such as democracy, the rule of law and human rights, as well as the fulfilment of the conditions of the SAA. Other factors considered were Croatia's prospects with respect to the economic conditions mentioned by the EC such as the market economy, its capacity to cope with competitive pressure, its ability to adopt the obligations of membership, i.e. the *acquis*. The Avis made a final evaluation of Croatia's ability to adopt the conditions for membership of the Union, including a recommendation concerning accession negotiations.

When it came to food safety and legislation related to food, the Avis concluded that Croatia ***"began a preliminary harmonization with the *acquis*"*** by adopting the new Food Act in July 2003. It also concluded that the EU Directives on *"labelling, presentation and advertising and official control of foodstuffs had only been partially transposed, resulting with **only partial harmonization with the Community *acquis*.**"*

Food Act provided a **framework for establishment of the new Croatian Food Agency**. *"When it becomes operational, the Agency will be tasked with analysing the risks related to food products, it will present its opinion on legal regulations required to achieve alignment with the EU norms, both on behalf of Ministry of Health and the Ministry of Agriculture, and it will **coordinate inspection activities between the two ministries responsible for food safety**. The Agency shall be*

*involved in training activities for various inspection bodies and development of guidelines for a good hygiene practice, and hazard analysis and critical control points (HAACP). The Food Act also anticipates the establishment of a centralized Croatian Rapid Alert System with the Croatian Food Agency”.*

The Avis also concludes that the **“Croatian system for approval of food products prior to their placement on the market is not aligned with the regulations of the Community acquis.**

*Although during 2003 Croatia undertook first steps toward harmonization of its national legislation with the freedom of movement of goods, **key elements of the Community acquis have not yet been in effect.***

*This particularly refers to horizontal and procedural measures and **sectoral legislation, which need to be harmonized with the EU legislation to even greater extent.***

*Croatia still needs to finalize division of regulatory functions, accreditation functions, standardization and verification/certification of products, out of which the two latter functions shall be assigned, to a largest extent, to the private sector...Although first steps necessary to harmonize the legislation with regulations of the Community acquis had already been taken, it shall be necessary to review Croatian legislation referring to food products.”<sup>11</sup>*

Following issuance of the positive Avis, the European Council declared Croatia a candidate country in June of 2004 with accession negotiations starting in early 2005. It therefore requested that the European Commission prepares a Pre-Accession Strategy for Croatia.<sup>12</sup>

Following development of the Pre-Accession Strategy, the first Progress Report on Croatia’s accession process was published by the EU covering the period April 2004 to September 2005. It assessed, inter alia, Croatia’s ability to assume responsibilities towards the EU and align itself with the acquis. In the area of food safety the report stated:

*“...in overall terms preparations in this sector are still at an early stage. Croatia will need **to develop a comprehensive strategy for food safety, veterinary and phytosanitary policy, outlining a timetable for the transposition of the acquis in this area, and a plan for strengthening the various official bodies involved, as well as improved coordination between them.**”<sup>13</sup>*

With the positive Avis granted, the next stage Croatia expected was defining the date for accession talks decided by consensus of all EU member states. On December 17, 2004 the date to

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<sup>11</sup> Opinion on the application of the Republic of Croatia for EU Membership, COM (2004) 257, final text, Brussels, April 20, 2004.

<sup>12</sup> The Pre-Accession Strategy defines a framework for each candidate country’s accession process. It lists procedures and priorities and lays down the instruments on which the process is based: the bilateral agreements, the accession partnerships and the national programmes for the adoption of the acquis, participation in Community programmes, agencies and committees, political dialogue, the evaluation of the Commission (“monitoring”), pre-accession assistance, co-financing by international financial institutions. Some of the elements of the Pre-Accession Strategy were: drafting regular annual Progress Reports for Croatia of the Commission, starting 2005, opening the pre-accession financial programmes, adopting a Framework Agreement enabling Croatia to participate in Community programmes, etc.

<sup>13</sup> 2005 EC Progress Report for Croatia

start the talks was set for March 17, 2005, on the condition that Croatia continued to cooperate fully with the ICTY<sup>14</sup>.

One day before the negotiations were to begin, on March 16, 2005, the Council of the European Union adopted the Negotiating Framework for Croatia<sup>15</sup>. Although the Framework was adopted, consensus was not reached on the opening of accession negotiations because the ICTY prosecution assessed Croatia's efforts to capture fugitive general Ante Gotovina as insufficient. The negotiations began only in October 2005. By this time, the Food Safety had become a separate chapter.

## Preparing for Negotiations

### Food Safety Strategy

Even though Croatia had not officially opened negotiations on this Chapter, as with many other chapters, preparations started earlier. One of the key points in preparations was drafting a comprehensive National Food Safety Strategy (NFSS) that *“enables a country to develop an integrated, coherent, effective and dynamic food control system, and to determine priorities that should ensure better consumer protection and promote national economic development.”*<sup>16</sup>

As early as 2002, Croatia recognized a lack of multi-institutional approach within the existing food safety system with no common objectives, action plans and terms of achieving them. The underdeveloped food safety system required an upgrade based on a modern risk analysis approach. Throughout the period Croatian representatives participated in several seminars and workshops on national food strategy.<sup>17</sup>

The real motive to achieve true progress and draft a comprehensive National Food Safety Strategy came from the FVO mission to Croatia in March 2005 conducted as part of the screening process in Croatia. The FVO conducted a general assessment of control systems for food safety, animal health and welfare, and plant health. They concluded that, among other things, Croatia needs a clear NFSS<sup>18</sup> that would prepare the food safety system's adjustments to EU requirements. The main prerequisite to start drafting the Strategy was improvement of coordination between various Croatian food safety institutions.

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<sup>14</sup> The International Criminal Tribunal for the former Yugoslavia

<sup>15</sup> This document determines the general guidelines for the accession negotiations between EU and Croatia and more specifically, it defines the reforms and adaptations that each candidate country must undertake in order to join the EU.

<sup>16</sup> “Background to the preparation of the Croatian Food Safety Strategy”, B. Antunovic , A. Mancuso , K. Capak , V. Poljak , T. Florijančić, 2007

<sup>17</sup> *The first initiative to draft the national Food Safety Strategy came from the project “Strengthening Food Safety and Nutrition Services in South-East Europe: Food Policy, Strategy and Legislation” (WHO, 2003–2005) in contract with the Croatian National Institute of Public Health (CNIPH).*” This was the first time that different Croatian institutions discussed about preparing the Strategy

<sup>18</sup> Croatian Food Safety Strategy

The problem of coordination and jurisdiction of the food safety institutions was one of the main obstacles and remained as such until the time the Croatian authorities finally appointed the MAFWM as the main competent authority<sup>19</sup> for food safety. It took more than one year for the Croatian authorities to appoint the MAFWM as the main competent authority.

Regardless of this obstacle, Croatia used two opportunities to pace up the Strategy development in the meantime: *“Strengthening food safety in South-East European transition countries – A regional approach to food legislation and control” (FAO, 2005–2007)*<sup>20</sup>, and CARDS 2002 Twinning Project *“Capacity building in the area of agriculture, live animals and food products” (EC, 2005–2006)*<sup>21</sup>. The main result of was to draft and develop the Food Safety Strategy and Action Plan for its implementation.

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<sup>19</sup> “Background to the preparation of the Croatian Food Safety Strategy”, B. Antunovic , A. Mancuso , K. Capak , V. Poljak , T. Florijančić, 2007

<sup>20</sup> The Project aimed to increase international cooperation in the preparation of national food safety strategies and improve national food safety legislation. Eight South-East European countries (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Kosovo - Serbia and Montenegro, Moldova, Romania and TFYR Macedonia) were involved.

<sup>21</sup> The Project aimed to support the Croatian MAFWM and the Croatian MHSW and other organizations involved in food safety to develop an upgraded control system, to draft a Food Safety Strategy and build the institutional and legislative framework necessary to implement this Strategy.



### Bosnia and Herzegovina

In the aforementioned period, until June 2001, BiH had signed a bilateral free trade agreement only with Croatia, so that the issues would be intensified within these activities. By spring 2002, the agreements with Serbia and Macedonia were signed, and the negotiations with Albania, Bulgaria Romania, etc. were commenced. The previous bilateral agreements gained their final look in the form of CEFTA 2006, which was abandoned in 2007 by Bulgaria and Romania due to their joining the EU. During this period, BiH used international support relatively well, and it was one of the leaders in preparing the country for adaptations to the global requirements of food safety in the Southeast Europe at the time. On the basis of foreign trade policy – the competence of the State of BiH – the new legislation was prepared and adopted, allowing BiH to be the first country in the region to develop legislative preconditions to establish the Veterinary Office of BiH, BiH Administration for the Plant Health and BiH Food Safety Agency – the competent bodies at the state level responsible for adopting the Regulations – through the model of voluntary harmonization with the WTO/EU requirements. The overall distribution of the responsibilities, including the distribution of the responsibilities concerning the individual control systems was not resolved at the time due to the disagreements of the veterinary and human health sectors primarily with regard to control systems of the products of animal origin.

The solution to this problem was given priority in the Law since it is the only period of 12 months prescribed by Law – Article 22, paragraph (2) – on import control. As the Law is based on the foreign trade policy, the systematic solution to this Article should be linked to the Article 35, paragraph (2) on official control in accordance with the WTO fundamental principle of non-discrimination within trade – the principle of national procedure – and it should resolve the issue of competences of the individual control systems of food and animal feed.

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*Up to now, the aforementioned issues have not been solved. Deadlock and disregard of the mentioned set of laws commenced immediately upon its adoption by non-compliance with deadlines for appointment of the Steering Committee of the Agency, the management of the Administration for the Plant Health, and the Food Safety Agency.*

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As the team in charge of this task was unaware of the outcome of the dispute over which institution would take a leading role taking in account the EU expectations on general food safety framework outcomes in Croatia, which had still not been made by the Croatian authorities, the final draft version of the Food Safety Strategy proposed two possibilities:

- Appointing an Interministerial Food Safety Coordination Unit, or
- Appointing a Single Authority on Food Safety – this can either be a newly created institutional body or an existing authority, i.e. the MAFWM<sup>22</sup> or the MHSW<sup>23</sup>.

The National Food Safety Strategy was finalized and then approved by the CARDS 2002 Project Steering Committee on December 12, 2006. It took Croatian authorities more than a year to appoint MAFWM as the main competent body<sup>24</sup>. The Strategy became part of the negotiations within the Chapter 12. It was adopted in May 2008 under the official title *“Croatian Strategy for the Transposition and Implementation of the Acquis Communautaire in chapter 12 – Food Safety, Veterinary and Phytosanitary Policy into national legislation.”* To conclude, successful development of the National Food Safety Strategy presented the major milestone when it comes to fulfilling the Chapter 12 requirements. This was an important factor in organizing the Croatian institutional and legislative structure and harmonizing them with the acquis.

## Setting up the Working Groups

To better prepare and facilitate the coming negotiation process, the Government of the Republic of Croatia established a structure for accession negotiations.<sup>25</sup> The structure included Working Groups necessary to prepare for the negotiations – there had to be one for each chapter. In the words on Ruzica Gelo:

*“In some areas, when we started the negotiations we were fully aligned with the acquis. In some, we needed to change the whole system. Some of these groups met once. Some met 10 times. So, not everyone was as involved.”*<sup>26</sup>

The Working Group on the Preparation of the Negotiations on Chapter 12 - Food Safety, was established in April 2005 and composed of members who were ‘borrowed’ from other institutions and not necessarily in the government. For instance, Ruzica Gelo, who led the negotiations on this chapter, had a background in agriculture and was recruited from the Chamber of Commerce. This Working Group had 310 members<sup>27</sup>, but not everyone was actively participating in its activities. The majority of the work was carried out by twenty to thirty people; thus it was crucial to identify

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<sup>22</sup> Ministry of Agriculture and Forestry, Croatia

<sup>23</sup> Croatian authorities appointed the MAFWM as the central body for food safety in 2007.

<sup>24</sup> “Background to the preparation of the Croatian Food Safety Strategy”, B. Antunovic , A. Mancuso , K. Capak , V. Poljak , T. Florijančić, 2007

<sup>25</sup> To better prepare and facilitate the coming negotiation process, the Government of the Republic of Croatia adopted Decision establishing the structure for accession negotiations with the EU on April 7, 2005. By this Decision, six institutions/bodies were to be established in Croatia.

<sup>26</sup> Interview with Ruzica Gelo, Zagreb, Croatia

<sup>27</sup> A full list of names is still in the website of the EU accession negotiations

the right experts. It is important to mention that this process should be in the ownership of public administration, as Ruzica Gelo puts it:

*“They need to feel a part of the process or otherwise this will fail. A professor might be useful for ideas and contributions but the ownership needs to be with civil servants.”<sup>28</sup>*

Having a member of the negotiating team come from the Chamber of Commerce was beneficial for the businesses in food sector. This meant that the negotiating team for this chapter knew the stakeholders, and managed to inform them on time about relevant changes taking place due to process of aligning with the EU acquis:

*“We tried to help businesses with some of the expenses they incurred as we changed the laws. For example, we changed animal welfare standards and we made this a priority within IPA. We then changed the eligibility criteria in order to have the businesses apply for these funds. Finally, we informed the business community about how to apply for these funds”<sup>29</sup>*

Later in the process, the Chamber of Commerce would organize conferences on 'Food Safety' where the stakeholders would be informed of the changes, which were taking place in the country in the field that touches upon them. The topic included the new Food Law, the Strategy for Food Safety etc.

## Negotiations

### Screening (2005 – 2006)

The Screening constitutes the first phase of accession negotiations. The entire screening process takes about one year and helps determine whether the *acquis* chapters may be provisionally opened at Intergovernmental Conferences. The screening is completed for each chapter of the *acquis*, and its **three stages** are shown in the chart below:

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<sup>28</sup> Interview with Ruzica Gelo, Zagreb, Croatia

<sup>29</sup> Interview with Ruzica Gelo, Zagreb, Croatia

**Stage 1: Explanatory meetings in Brussels**

*Explanatory meetings in which the candidate country (or countries) is explained the content of the *acquis**

**Stage 2: Bilateral Meetings, or so-called Country Screening**

*Meetings with each of the candidate countries separately in which the country presents the level of alignment of **their** country with the *acquis**

**Stage 3: Screening Report**

*The Commission reports to the Council on the screening of each chapter and provides a recommendation of whether to open negotiations or whether prior to opening negotiations the candidate country needs to fulfill additional conditions, all compiled into the Screening Report.*

The information gathered during the screening process serves as a basis for member states to decide on the opening of accession negotiations on individual chapters. Within the Council, the Working Group for Enlargement discusses the screening report and determines a candidate country's ability to begin formal negotiations. Depending on this assessment, the Council may set opening benchmarks or conditions for a particular chapter that a candidate country has to fulfil before opening the *acquis* chapter.

Parallel to the screening process, with accession negotiations underway with Croatia in 2005, the Council adopted the **Accession Partnership with Croatia**<sup>30</sup> on February 20, 2006. The Accession Partnership for Croatia was an updated version of the **European Partnership for Croatia**<sup>31</sup>.

The Accession Partnership echoed what Croatia would soon hear repeatedly – the necessity of strengthening administrative capacity and the alignment of legislation with the *acquis*. In order to respond to the Accession Partnership, the competent authorities in Croatia reviewed and adopted the National Programme for Transposition of the *Acquis* (NPAA)<sup>32</sup> for 2006, which consisted of a

<sup>30</sup> Document provides detailed steps that Croatia needed to take in order to join the EU, an update of the European Partnership for Croatia. It is a large document with recommendations for every chapter of the *acquis*, which generally correspond to the Country Progress Report. The AP set new priorities for action and provided guidance for financial assistance to Croatia.

<sup>31</sup> This document was adopted for all the Western Balkan countries to prepare for European integration in order to make the accession process to the EU easier. It gives recommendations and areas that needed to be addressed for European integration. In Croatia's case, it was an instrument of the SAP, which was adopted in 2004.

<sup>32</sup> The planned activities within Chapter 12 were divided into short (2007) and mid-term priorities (2008/2009). During 2007, Croatia planned to adopt seven ordinances under the responsibility of the Ministry of Health and Social Welfare. In addition, drafting of a new Sanitary Inspection Act was scheduled for 2007. The mid-term priorities included adoption of six ordinances and the compilation of a register of existing food business operators dealing with food of non-animal origin in 2008. This comprehensive plan covered different segments of the Chapter: Food safety, Veterinary medicine, Plant Health Protection, Plant Protection Products and Pesticide Residues, Quality of seeds and planting material, Plant varieties protection, and Livestock Breeding. The achievements were reported in the annual NPAA's.

plan with a timetable and measures Croatia intended to take by the end of 2007. Through the adoption of documentation for fulfilling the priorities of the Accession Partnership, Croatia was continually preparing to integrate successfully into the European Union.

Soon after screening commenced, the first Intergovernmental Conference, attended by the deputy heads of delegations/chief negotiators, was held in Brussels during which principles and procedures for accession negotiations were agreed upon.

During the first stage of the screening of Chapter 12, delegations from

Croatia travelled to Brussels in order to learn more about the *acquis* regarding FSVP<sup>33</sup> policies from the Commission. These Explanatory Meetings took place in Brussels between March 9<sup>th</sup> and 15<sup>th</sup>, 2006. Some 35 presentations were held, all exclusively given by the people working in the Directorate General SANCO – an institute caring for Health and Consumer Protection in Europe. They were attended by both Croatian and Turkish Delegations. These meetings were very useful particularly because the Chapter 12 was a new chapter. In an interview, Ruzica Gelo commented on this:

*“DG SANCO has what we call the Bible – a set of regulations, which are regularly updated. In fact, the content of the entire chapter was outlined with all the titles and subtitles.”<sup>34</sup>*

Approximately one month after the initial explanatory meetings, **bilateral meetings** were held. Croatia explained its degree of legal harmonization with a particular *acquis* chapter and its future negotiation plans. This is the second phase of the screening process, referred to as the **country screening**. It took place between May 29 and June 2 2006 for Chapter 12. In this phase, the Croatian representatives presented the EC with the state of Croatia’s legal framework and their level of harmonization with the *acquis*. It was certainly not an easy task.

*“All candidate countries should use the latest experience, so we looked at the 2004 enlargement and prepared a ‘transposition tables’ for the acquis. This is a table with all the regulations and directives and corresponding national laws. We never had to hand this in. It was there to guide our work internally. There were at least 500 pages of legislation, so doing this exercise was difficult, but we used it as an internal guidance, part of national procedure. In the first column, we put the*

**Accession Partnership recommendations for chapter 12:**

*Substantially improve the alignment of legislation in the food safety, veterinary and phytosanitary domain and strengthen the necessary implementing structures including control and inspection services. ... Ensure the setting up of compliant regimes in the food safety, veterinary and phytosanitary sectors, including a system for animal identification and registration of movements, treatment of animal by-products, upgrading of agri-food establishments, animal welfare and programmes of control of animal diseases, control of animals and animal products at border inspection posts, control of plant health, authorization of plant protection products and control of their residues as well as quality of seeds and plant propagating material.*

<sup>33</sup> Food Safety, Veterinary and Phytosanitary

<sup>34</sup> Interview with Ruzica Gelo, Zagreb, Croatia

*article from national legislation and in the second column we put the corresponding article from the acquis and in the third column we commented on the extent of alignment.”<sup>35</sup>*

The “screening” process of Croatian legislation in the area of food safety had revealed that the legal framework and administrative capacity needed to be adjusted to EU requirements. Consequently, Croatian authorities **needed to recognize gaps and differences in the legislation and institutional framework between Croatia and the EU** that needed to be adjusted in the process of EU accession.<sup>36</sup>

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<sup>35</sup> Interview with Ruzica Gelo, Zagreb, Croatia

<sup>36</sup> “Background to the preparation of the Croatian Food Safety Strategy”, B. Antunovic , A. Mancuso , K. Capak , V. Poljak , T. Florijančić, 2007

## Opening benchmarks

*Opening and closing benchmarks are new instruments designed by the EU that were used for the first time during Croatia's accession negotiations. They usually stipulate that the candidate country has to adopt an additional law, strategy or action plan or fulfil some remaining obligation from the Stabilization and Association Agreement before formally opening negotiations. According to Croatian authorities, this tremendously changed the mechanics of the process.*

As a result of the screening process, the European Commission compiled the Screening Report on FSVP<sup>37</sup>, and formally submitted its first two parts to Croatia in February 2007. These are the factual parts describing where Croatia is and what it really needs to do in order to achieve full legal harmonization with the *acquis*. The additional two parts – an assessment of the level of harmonization with the

*acquis* and the recommendations for opening of negotiations or necessity of meeting benchmarks prior to opening negotiations – was sent to the member states. Then, the representatives of the MS within the COREPER<sup>38</sup> met in order to make the final decision on opening the chapters, or setting the benchmarks. There was a total of 127 benchmarks: 23 opening benchmarks in 11 chapters, and 104 closing benchmarks in 31 chapters.

On April 3, 2007, the European Council decided on Croatia's preparedness in the area of FSVP and presented the Croatian Government with **four opening benchmarks**:

*Croatia adopts new framework laws (Food Act and Veterinary Act) complying with the EU acquis and makes provisions for a clear assignment of responsibilities in particular for the controlling bodies.*

Opening benchmark  
No. **ONE**

Based on the screening of Chapter 12, the EC concluded that, even though the Croatia “has demonstrated good knowledge of the EU acquis and that the efforts had been made in all rather important areas to prepare for the fulfilment of the EU requirements, **it was still necessary for Croatia to continue to work hard on transposing the acquis, especially on developing and adopting a new legal framework in accordance with the acquis.** The ongoing legal review should define more clearly the responsibilities in food chain. Disagreements between veterinary inspectors and food inspectors affect the effectiveness of controls. It is of key importance to solve the issue of overlapping authority in such a way that responsibilities are separated in a consistent way.”<sup>39</sup>

*It was concluded that the Croatian Food Act “already takes into consideration numerous aspects of acquis, although it will have to be amended in a number of areas, especially **regarding clearly defined authority of various bodies, responsibilities of establishments, fundamental activities***

<sup>37</sup> Food Safety, Veterinary and Phytosanitary

<sup>38</sup> The Permanent Representatives Committee

<sup>39</sup> Croatia's Screening Report for Chapter 12

*such as risk assessment and risk management, as well as a definition of various terms used in the Community legislation pertaining to food safety. It is of particular importance that the Food Act is drafted in such a way that it ensures full harmony and alleviates the transposition of secondary legislation”.*<sup>40</sup>

The first benchmark was especially important. Designation of the Ministry with the authority in the Food Safety policy was crucial for the entire integrations process. As Ruzica Gelo explains:

*“We had two interested ministries (agriculture and health) and both wanted to be in charge. Both ministries said: we are in charge and the other ministry can be involved. But the point is clear: you can involve ten ministries if you want, but one ministry has to be the contact point. Here the prime minister decided because the issue could not be resolved among us. Minister of agriculture became the key [point of contact].”*

This is an example of how important the political will is to resolve disputes over competences. It shows that when the issues cannot be solved at the ministerial level, somebody has to intervene. In the case of Croatia, this was the Prime Minister. The Croatian case shows that in order for a candidate country to keep its process credible and moving, all issues have to be addressed no matter how difficult or politically challenging that may be.

*Croatia presents to the Commission a **comprehensive strategy** for transposition, implementation and enforcement of the EU acquis for food safety, veterinary and phytosanitary policy, including plans for the development of the relevant administrative capacities. Particular attention should be given to a detailed action plan as regards the control and eradication of Classical Swine fever for domestic pigs and wild boars.*

Opening benchmark  
No. **TWO**

The EC underscored at a number of places in its Screening Report that *“It is crucial to develop a **comprehensive food safety strategy** which will include all aspects of food safety legislation and veterinary and phytosanitary legislation in order to serve as a basis for the general transposition of food safety legislation”... The complexity of the food safety mandates that it is extremely important that the preparation of legal frameworks and more specific legal provisions is thorough and well-planned throughout the period until accession. **The development of a comprehensive strategy, which will include all aspects of food safety should be the top priority in this phase. An emphasis should be placed on a thorough preparation of legal frameworks, which can be used as a legal basis for a comprehensive transposition of all parts of the acquis, covered by this Chapter.**”*<sup>41</sup>

This benchmark turned out to be difficult, but necessary. Within the process of negotiations in Chapter 12 “Food Safety, Veterinary and Phytosanitary Policy”, the Croatian authorities were advised to work simultaneously on developing a Food Safety Strategy together with preparing a new Food Act and harmonization of other food safety legislation.

<sup>40</sup> Croatia’s Screening Report for Chapter 12

<sup>41</sup> Croatia’s Screening Report for Chapter 12



*“All the legal issues were resolved in the strategy. For each piece of legislation we needed to set the date for transposing it. Then, we had to report to the Commission whether we stick to the deadline or not. After we drafted that it became easy to follow.”<sup>42</sup>*

The Strategy had to be sent to the EC for revision. The EC declared that the “financing” component was lacking and because the central body for food safety had to ensure that all goals, priorities and activities from the Strategy were going to be carried out (which requires adequate financing), this was an important omission. Croatia responded to the assessment of the Strategy by upgrading it with a chapter on financing, after which the EC approved the Strategy.<sup>43</sup>

The National Food Safety Strategy was adopted in March 2008. Its full title was: *Croatian Strategy for the Transposition and Implementation of the Acquis Communautaire in Chapter 12 – Food Safety, Veterinary and Phytosanitary Policy into national legislation.*

The other part of this benchmark referred to the Croatian institutions, that is, to their capacity building:

***“Generally, there are required institutions for enforcement and implementation of the food safety and veterinary and phytosanitary legislation of the acquis, although it is necessary to ensure the appropriate capacities. ... The EU acquis in the area of food safety, veterinary and phytosanitary policy requires huge administrative capabilities. Administrative, inspection and supervisory bodies need to be improved in terms of procedures, technical equipment and resources, as well as in terms of education and size of their staff. This particularly refers to the competent authorities envisaged in the acquis, as well as to the laboratories and border inspection points.”<sup>44</sup>***

In order to join the European Union, Croatia had to significantly improve its institutional capacities, increase administrative staff, and upgrade its laboratories and inspection institutions’ resources and technical capabilities.

*Croatia starts the implementation of an adequate system for identification and registration of pigs, caprine and ovine animals and demonstrates that measures have been taken in view to set up a compliant system of identification and registration of bovines and their movements.*

Opening benchmark  
No. **THREE**

Furthermore, the 2006 Progress Report states:

*“Croatia has made certain progress in identification and registration of animals. As regards bovine animals, Croatia has to accelerate reporting and review the numerical identification system*

<sup>42</sup> Interview with Jelena Djugum, Zagreb, Croatia

<sup>43</sup> Background to the preparation of the Croatian Food Safety Strategy, B. Antunovica\*, A. Mancusob, K. Capakc, V. Poljaka, T. Florijanc

<sup>44</sup> 2006 EC Progress Report for Croatia

*(animal IDs and farm IDs). Croatia needs to encourage further progress in order to address the remaining non-harmonised parts in a proper and well-planned way, early enough prior to accession, and especially in order to establish a central computer database for pigs, sheep and goats. Some improvements need to be made to the system and its continuity has to be ensured. Some controls are carried out in the farms, but it is necessary to improve insufficient cooperation among various officers. The bovine system should be expanded to include other species. In order to be able to control animal diseases, it is crucial that Croatia has the fully functioning identification and registration system for the bovine, sheep, goats and pigs. The system will ensure also the traceability of animals and their products, as required by the acquis.*<sup>45</sup>

On March 15, 2010, Croatia finished a project regarding the registration of farms, which determined that Croatia had 117,088 registered farms where animals are kept. In order to speed up the process of registration and identification of animals, Croatia established a system of annual veterinary inspections for all farms, whose main goal was to educate the owners of animals about their rights and obligations regarding education of the animal owners on their rights and obligations and the control of the implementation of these obligations.

Following the adoption of national registration regarding the identification and registration of **cattle**, Croatia started to systematically decrease the number of mistakes in the database through the veterinary inspections mentioned above and to establish corrective measures for identified irregularities within the system as well as inspections of ranches keeping cattle.

Regarding the identification of pigs, there were 105,657 registered farms keeping pigs in 2010. July 1, 2009 marked the end of the transitional period for registration of pigs and movement of pigs, therefore the implementation of newly adopted legislation in this matter came into effect. Similarly, the full implementation of new legislation regarding the identification and registration of sheep and goats showed that 20,984 registered farms kept sheep and that 9,518 farms kept goats in March 2010.

*Croatia presents to the Commission a **classification of all food establishments** by category based on the EU acquis which will serve as a basis for a future National Programme for the upgrading of food establishments.*

Opening benchmark  
No. **FOUR**

*Croatia has not made significant progress in setting up a register of establishments and their classification in compliance with the EU norms. Many facilities have been approved for exports to the EU. However, many facilities do not fulfil all EU requirements. Croatia has to develop a plan for upgrading its establishments. The funds from the IPARD<sup>46</sup> programme will be available for support to the reorganization of the establishments. Within this plan, it will be necessary to invest efforts toward informing the establishments and encouraging the reorganization process. In particular,*

<sup>45</sup> 2006 EC Progress Report for Croatia

<sup>46</sup> IPARD is the European Union's Pre-Accession Programme

*efforts should be made to encourage small establishments to fulfil the EU requirements. In a later stage, it will be necessary to develop individual plans for each establishment separately, with a description of weaknesses and plans for their removal. No data were submitted for the establishments in the non-animal food sector.*<sup>47</sup>

This was a demanding task which required them to assess each individual facility.

*“For the fourth opening benchmark, we needed to assess all establishments. And we had to inspect each establishment producing food. And see if they are in line with the acquis. As a result, we produced a report of 4,500 pages on each establishment producing food, which we sent to the Commission.”*<sup>48</sup>

Croatia needed to have their **country profile**<sup>49</sup>, while the FVO<sup>50</sup> from Dublin had to assess if they were ready. For each establishment, on an individual basis, it was necessary to establish if they were complying. Fisheries were all approved before the negotiations, but very few from meat market.

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<sup>47</sup> Croatia’s Screening Report

<sup>48</sup> Ruzica Gelo, Zagreb, Croatia

<sup>49</sup> A country profile is a compilation of key information for each Member State used by the Commission to support its monitoring and enforcement activities. The country profile includes: The five most recently published FVO inspection and audit reports, The Commission's assessment of the actions taken by the Member States in response to its audits and inspections, An overview of how control systems are organised in the Member States, based on information supplied by them, The Member States' production, consumption and trade of food, animals and plants, Some links to Member States' websites.

Each country profile provides a horizontal, country-based overview which: facilitates the conduct of audits and inspections, supports the systematic follow up of recommendations in FVO reports, helps to identify the main strengths and weaknesses of each national control system, assists the overall prioritisation of FVO audits, inspections and other monitoring activities, serves as a basic source of background information for stakeholders FVO WEBSITE

<sup>50</sup> The Food and Veterinary Office (FVO), a directorate of the Directorate-General for Health and Consumers of the European Commission, works to assure effective control systems and to evaluate compliance with EU standards in the areas of food and feed safety, animal health, animal welfare and plant health. It does this mainly by carrying out inspections and audits in Member States.

This will be a problem in the region. If, for example, BiH wants to export meat or dairy products into EU, it will have to comply with all the regulations. With Croatia becoming a member of EU, the trade and regulations defined by the 2006 CEFTA Agreement are no longer being discussed; instead, the regulations defined by *acquis* are discussed now.

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*“The state-level legislation has been transposed by the entities and the Brcko District through various legal provisions. It continues to be necessary to develop a national plan for food testing laboratories. It is necessary to designate reference laboratories. The responsibilities in the area of food safety continue to be divided. There has been no progress in improving the agri-food plants. The capacities for official controls, including the capacities of the laboratories, continue to be weak...”<sup>51</sup>*

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In terms of foreign trade, BiH still functions on the principles of ex-Yugoslav legislation that was adapted to the global foreign trade affairs during the implementation period. The big difference, compared to that period of international trade, is a much lower level of microbiological and chemical threats arising from the use of pesticides, mineral fertilizers, veterinary medicines and additives in relation to the current international food trade.

## Negotiating Position

For *acquis* chapters that have opening benchmarks, the candidate country works to fulfil conditions set down by the Council. As soon as the benchmarks are met, Negotiating Positions may be prepared by the Candidate Country for those *acquis* chapters<sup>51</sup> in line with the screening results for that chapter, which serve as the basis for substantive negotiations.

The entire negotiating structure, together with the Croatian Government, prepared the negotiating position which specified the plan and mode of adoption and implementation of the *acquis* in specific chapters, along with a description of its institutional capacity. This was the point at which a candidate country bargains for quotes regarding specific areas, transitional periods and any other specific requests. It was a document that, in short, identified what Croatia’s priorities were and where emphasis should be placed during negotiations.

The importance of the negotiating position can be seen in the account of the significant impact the negotiated quotas had on their industry:

*“We produce sugar on 30,000 ha. We have three sugar factories (we had four but one is out of business). More than 200,000 tons of sugar is produced annually. They process sugar beet from Hungary and Vojvodina...We had a quota of 180,000 tons of sugar as per the SAA. In the*

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<sup>51</sup> In the case of *acquis* chapters where no opening benchmarks are given, the candidate country begins preparing Negotiating Positions.

*negotiating position we asked for 217,000 tons, but we got 193,000 tons. This is a good deal as it covers all of our current production.”<sup>52</sup>*

Having finalized all its negotiating positions, quotas and transitional periods, the Government of Croatia adopted its negotiating position for chapter 12 and presented it to the EU on July 23, 2008.

Through its Negotiating Position, Croatia committed itself to accept the *acquis*, as it is on June 1, 2008, and to achieving its full implementation until the accession to the EU with the exception of the certain EU regulations for which **transitional periods** are requested. Transitional periods are a requested time of adjustment for a candidate country granting it a postponement of requested parts of the *acquis* to a later date. As the name suggests, these are temporary and meant only to ease the economic, administrative and political strain of implementing the *acquis*. Granting them is by no means obligatory on the part of the EU.

A detailed account of Croatia’s requested transitional periods can be found in section *Transitional Periods*.

## EU Common Position and Closing Benchmarks

In response to a country’s negotiating position, the European Commission prepares a Draft Common Positions (DCP), with recommendations for closing benchmarks. Closing benchmarks are meant to finalize the harmonization of the *acquis* and they have to be fulfilled before the closing of negotiations or at least before accession to the EU. The DCP is then discussed and adopted by the European Council, more specifically COREPER<sup>53</sup>.

The eighth meeting of the Intergovernmental Conference was held in Brussels on October 2, 2009. Negotiations on six chapters were opened, one of them chapter 12 and the EU presented Croatia with its closing benchmarks. The conference was headed by Carl Bildt on the EU side and Gordan Jandroković (Croatia’s Minister of Foreign Affairs and European Integration) on Croatia’s side. It was a significant step in Croatia’s accession process where Croatia’s progress for six chapters<sup>54</sup> was examined.

The EU’s Common Position on FSVP was adopted on October 2, 2009, and on the same day Chapter 12 on FSVP was formally opened.

Three closing benchmarks appeared in the final draft of the EU’s Common Position.

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<sup>52</sup> Interview with Ruzica Gelo, Zagreb, Croatia

<sup>53</sup> The Permanent Representatives Committee

<sup>54</sup> Chapter 4 - Free Movement of Capital; Chapter 11 - Agriculture and Rural Development; Chapter 12 - Food Safety, Veterinary and Phytosanitary policy; Chapter 16 - Taxation; Chapter 22 - Regional Policy and Coordination of Structural Instruments; and Chapter 24 - Justice, Freedom and Security.

*Croatia submits an approved national programme for the upgrading of the establishments for products of animal origin, including establishments for animal by-products. This programme must include a precise plan for the monitoring by the Croatian authorities of the process of upgrading establishments. As regards the milk sector the national programme must also include a strategy for the use of non-compliant raw milk. Croatia must also demonstrate sufficient progress in the implementation of this national programme. Furthermore, Croatia demonstrates that it has devoted sufficient human and financial resources for monitoring the process of upgrading the establishments covered by the national programme.*

Closing benchmark  
No. **ONE**

For this particular closing benchmark Croatia needed to put together a plan (National Program for upgrading establishments for products of animal origin and establishments dealing with animal by-products not intended for human consumption). Croatia requested a transitional period until 2015 for this benchmark (see section *Transitional Periods*) even though Croatian officials said that some businesses wanted to delay this for 20 years.

*“By this exercise, we were forced to deal with this problem. At the beginning, businesses did not respond to our request. Then we invited them to meetings. Then we decided to close a few establishments to send a message. That was when they realized that we are serious.”<sup>55</sup>*

According to the Croatian officials, they had around 50 establishments that did not want to upgrade. Of the remaining 700 establishments that needed an upgrade, they only need to close 40. Upgrading facilities made sense for companies as their goods can now be traded on the entire EU market. However, there was the issue of money, not just for Croatia but for the entire EU, as implementing these requirements is costly.

*“But companies could use some pre-accession funds to cover some costs, [but we do not have a figure] of how much this will cost companies. Companies will want to be number one so it is their choice to make these investments.”<sup>56</sup>*

The Ordinance on the list of approved establishments for animal by-products not intended for human consumption was published on August 4, 2009, by which provisions of the Commission Regulation (EC) No. 1192/2006 of 4 August, 2006 implementing Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards lists of approved establishments in Member-States were transposed into the national legislation. This Ordinance came into force on 1 January, 2010.

The Ordinance on the use of milk, milk-based products and milk-derived products which are considered as animal by-products not intended for human consumption defined as Category 3 material was published on 30 September, 2009 (Official Gazette, No. 118/09), by which the provisions of the Commission Regulation (EC) No. 79/2005 of 19 January 2005 implementing Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards to the

<sup>55</sup> Interview with Ruzica Gelo, Zagreb, Croatia

<sup>56</sup> Interview with Ruzica Gelo, Zagreb, Croatia

use of milk, milk-based products and milk-derived products, defined as Category 3 material were transposed into national legislation.

<p><i>Croatia provides the Commission with all necessary guarantees regarding the setting up of a fully EU-compliant system for official controls of live animals and animal products, including its funding.</i></p>	<p>Closing benchmark No. <b>TWO</b></p>
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The Ordinance on fees and charges related to official controls of food of animal origin and feed (Official Gazette, No. 79/09), which came into force on 1 August 2009, by which the provisions of the Regulation (EC) No. 882/2004 the part thereof regarding the financing of official controls in the establishments for food of animal origin were transposed into the national legislation. The Ordinance prescribes the minimal fees for implemented official controls, as defined in the above-mentioned EU Regulation. The establishments for food of animal origin and the establishments for feed pay fees to the national budget of the Republic of Croatia, and the paid fees are used for funding official controls.

As of that moment, the Authority for Veterinary Inspections employs 133 civil servants who perform official controls, of whom 103 are national veterinary inspectors, and 30 are official veterinarians. Under the Order on Internal Organisation of the Ministry of Agriculture, Fishery and Rural Development (Official Gazette, No. 35/08) and the Book of Rules for Internal Order of the Ministry of Agriculture, Fishery and Rural Development, 192 official veterinarians should be employed. By the end of 2009, vacancies were announced for additional 80 veterinarians. By 31 December 2010, the Republic of Croatia will have the fully harmonised official control system, including its financing.

*“Food law sets out responsibilities of the inspectorates. And they coordinate with municipalities and regions. The division of regions is different in the different inspectorates and it was hard to organize them in the same way. They are not. But it works. Creativity is required.”<sup>57</sup>*

*When it comes to BiH, the current food control system is based on the activities of 49 laboratories, scattered across BiH, that conduct analysis within the field of safety. The BiH Institute for Accreditation accredited only eight test labs, of generally poor analytical methods, which conduct the food analysis, including drinking water. What is often mentioned as a reason not to go into the accreditation process is the fact that BiH Institute for Accreditation (BATA)<sup>1</sup> is not a signatory of the MLA.*

The control bodies, often in the form of authorized veterinarians, continue to exist without meeting the requirements of the EC 882/2004 Regulation on previous accreditation by an independent accreditation body in accordance with the ISO/IEC 17020 standard requirements; and why wouldn't they exist, since there is no regulation that would require accreditation?

<sup>57</sup> Interview with Jelena Djugum, Zagreb, Croatia

*Croatia continues to set up and develop, in accordance with the acquis, the relevant administrative structures, in particular as regards food safety controls, and to further increase its administrative capacities and infrastructures. Croatia demonstrates that it will have sufficient administrative capacity to correctly implement and apply all the acquis covered in this chapter.*

Closing benchmark  
No. **THREE**

The recruitment of staff for the inspection service turned out to be extremely difficult as this was during the highpoint of the financial crisis and the Government of Croatia had decided that it would not hire more personnel. However, they had made a promise to the Commission that they would hire and train more people, thus an exception was made: *“ if it is for the EU integration process, recruitment would be allowed. Drobnyak was great at raising issues and bringing them to the fore.”*<sup>58</sup> More information regarding the specific numbers of the recruitment process can be found in the section: *What changed during negotiations?*

Upon fulfilling all the closing benchmarks, the Croatian government adopted the *Final Report on fulfilling the obligations for Chapter 12 – Food Safety, Veterinary and Phytosanitary Policy*, in which it outlined the actions taken by Croatia to fully align itself with the *acquis*, including the closing benchmarks.

## Transitional Periods

In addition to setting up the Closing Benchmarks, the DPA required Croatia to withdraw some of its requests for transitional periods:

*Recalling its general negotiating position on transitional measures, the EU also considered Croatia's various requests in these regards. As a result, and in line with the EU Common Position, Croatia was invited to reconsider some of these requests and to provide further information with regard to others.*<sup>59</sup>

In view of the EU Common Position for Chapter 12 and the comprehensive technical consultations held with the European Commission, the Republic of Croatia amended or modified through the **Addendum to the Negotiation Position of the Republic of Croatia** which the Government of the Republic of Croatia handed over to the European Union on 14 May, 2010, the originally set requests for transitional periods and specific exemptions from the full implementation of the EU rules.

<sup>58</sup> Interview with Ruzica Gelo, Zagreb, Croatia

<sup>59</sup> Press release of the 8<sup>th</sup> Intergovernmental Meeting



Original request by the Republic of Croatia	EC comment	Modified request
A transitional period for the enforcement of the ban on keeping laying hens in unenriched cages from 1 January 2012 [1] to 1 January 2015. Also, Croatia requested the approval of the use of cages smaller than 550 cm <sup>2</sup> , the height and inclination of which do not meet EU standards [2] until 1 January 2015.	Laying hens in unenriched cages will be prohibited in EU from 1. Jan 2012. EU invites Croatia to accelerate preparations in this regard and reconsider its request on this basis	The Republic of Croatia withdrew its original requests...At the same time, it requested that it be allowed to continue to keep, upon its accession to the EU, the laying hens in the existing cages, which are not in accordance with the EU acquis, until the completion of the production cycles which began prior to the date of accession of the Republic of Croatia to the European Union, i.e. within a period which will not exceed 12 months from the accession date. By the reason of animal welfare protection, Croatia believes that it is not appropriate to relocate the laying hens during the production cycle from the existing cages, even when they do not meet all requirements of the EU acquis. .[1]
The request that the bees that do not belong to the <i>Apis mellifera carnica</i> –gray bees sub-species be not grown within the national territory of the Republic of Croatia	EU underlines that fully justified measures can be taken on the basis of article 30 of the Treaty establishing the European Community. This issue should not be part of the negotiations and EU urges Croatia to reconsider its request.	The Republic of Croatia withdrew its request.
A transitional period of 4 years maximum from the EU accession date is requested for some establishments in the meat, milk and fish sectors which will not be harmonised with the EU requirements as on the accession date. During that period, such establishments would be allowed to sell their products only in the Croatian market and the markets of third countries.	EU encourages Croatia to continue the process of alignment with the acquis and its full implementation.	The Republic of Croatia modified its original request and requested a transitional period until 31 December 2015, from the EU accession date for some facilities for food of animal origin, in the meat, milk and fish sectors, as well as for some facilities for the animal by-products not intended for human consumption, which will not be harmonised with the EU requirements [1] until the EU accession date, in accordance with the deadlines set in individual plans for improvement of facilities, and in individual documents which are part of the National Programme for upgrading of establishments for products of animal origin and establishments dealing with animal by-products not intended for human consumption. During the transitional period, the above-said establishments will be allowed to sell their products only in the Croatian market and the markets of third countries.
A 3-year transitional period is requested from the EU accession date for the delivery of raw milk which does not meet the EU criteria [1], within which the facilities processing such milk would sell their products only in the Croatian market and the markets of third countries.	EU encourages Croatia to continue the process of alignment with the acquis and its full implementation.	The Republic of Croatia withdrew its request.
A transitional period until 31 December 2014 is requested for selling in the market the seeds of some sub-species of turnip, cereals, oil crops and fibre plants, fodder crops, seed potato and vegetables [1] during which such seeds would be sold only in the Croatian market.	the request for a transitional period regarding the Distinctness, Uniformity and Stability (DUS) examinations of seeds and propagating material was accepted. ... .	
N/A	N/A	The request for introducing, upon EU accession, of a special regime for the passage of the shipments of products of animal origin subject to the acquis Chapter 12 regulations, through the “Neum Corridor”.

## Closing Chapter 12

In order for a chapter to be provisionally closed, the candidate country must fulfil its closing benchmarks, if there are any. Once this has occurred, the provisional closing of chapters takes place at intergovernmental conferences attended by European Union member states and the candidate country.

The European Union adopted on 22 July, 2010 the **European Union's Common Position for Closing Chapter 12** and approved the Republic of Croatia's requests as amended by the Addendum, and established that the Republic of Croatia had fulfilled all the benchmarks for the provisional closure of the Chapter. The Chapter was provisionally closed for negotiations at the meeting of the Intergovernmental Conference held on 27 July, 2010.

## Conclusion

The Accession process is not an easy game. For Croatia, the process started from scratch after the '90s, and the country had to undergo multiple transitions in order to be granted full membership in 2013. It was indeed a difficult and extremely demanding process, but Croatia proved that it is possible. In order to play the game well, however, “you need several important elements; you need political commitment, but you also need the necessary expertise to serve and to stand behind this political commitment and to transpose it into operational reality. Also, you need time.”<sup>60</sup>

The daily-growing acquis has set the rules for almost every aspect of life imaginable, and any candidate country – besides making all of the necessary adjustments - must “adjust legally, logistically, and adjust in terms of a new organisational framework.” However, once that is finalized, the results are visible.

The greatest benefit of the process can be seen in concrete sectors, such as Food Safety. The streamlining of laws, strategies, institutions, skills and capacities results in a significant improvement of communication among different food safety authorities. This occurs through the organization of regular meetings and discussions, mostly through international projects.<sup>61</sup> It also captures a wide range of actors and sets rules that would be beneficial for any country, regardless of its EU membership aspirations:

“Through this process we developed a system and a way of thinking not just within the ministry but also with consumers, businesses etc.; the way of thinking about food changed. And I would say that we needed the EU process in order to change our way of thinking about food safety.”<sup>62</sup>

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<sup>60</sup> Interview with Vladimir Drobnjak, Zagreb, Croatia

<sup>61</sup> Background to the preparation of the Croatian Food Safety Strategy, B. Antunovica\*, A. Mancusob, K. Capak, V. Poljaka, T. Florijanc

<sup>62</sup> Interview with Jelena Đugum, Zagreb, Croatia



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