

Act concerning the conditions of accession of the Republic of Croatia to the EU (9 December 2011)

Caption: Act concerning the conditions of accession to the European Union of the Republic of Croatia and the adjustments to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community, annexed to the Treaty concerning the accession of the Republic of Croatia signed in Brussels on 9 December 2011.

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ACT

concerning the conditions of accession of the Republic of Croatia and the adjustments to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community

PART ONE

PRINCIPLES

Article 1

For the purposes of this Act:

— the expression ‘original Treaties’ means:

- (a) the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU), as amended or supplemented by treaties or other acts which entered into force before the accession of the Republic of Croatia;
- (b) the Treaty establishing the European Atomic Energy Community (EAEC Treaty), as amended or supplemented by treaties or other acts which entered into force before the accession of the Republic of Croatia,

— the expression ‘present Member States’ means the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland,

— the expression ‘the Union’ means the European Union founded on the TEU and on the TFEU and/or, as the case may be, the European Atomic Energy Community,

— the expression ‘the institutions’ means the institutions established by the TEU.

Article 2

From the date of accession, the provisions of the original Treaties and the acts adopted by the institutions before accession shall be binding on Croatia and shall apply in Croatia under the conditions laid down in those Treaties and in this Act.

Where amendments to the original Treaties have been agreed by the representatives of the governments of the Member States pursuant to Article 48(4) of the TEU after the ratification of the

Treaty of Accession by Croatia and where those amendments have not entered into force by the date of accession, Croatia shall ratify those amendments in accordance with its constitutional requirements.

Article 3

1. Croatia accedes to the decisions and agreements of the Heads of State or Government of the Member States meeting within the European Council.

2. Croatia accedes to the decisions and agreements adopted by the representatives of the governments of the Member States meeting within the Council.

3. Croatia is in the same situation as the present Member States in respect of declarations or resolutions of, or other positions taken up by, the European Council or the Council and in respect of those concerning the Union adopted by common agreement of the Member States. Croatia will accordingly observe the principles and guidelines deriving from those declarations, resolutions or other positions and will take such measures as may be necessary to ensure their implementation.

4. Croatia accedes to the conventions and protocols listed in Annex I. Those conventions and protocols shall enter into force in relation to Croatia on the date determined by the Council in the decisions referred to in paragraph 5.

5. The Council, acting unanimously on a recommendation by the Commission and after consulting the European Parliament, shall decide to make all adjustments required by reason of the accession to the conventions and protocols referred to in paragraph 4 and publish the adapted texts in the *Official Journal of the European Union*.

6. Croatia undertakes, in respect of the conventions and protocols referred to in paragraph 4, to introduce administrative and other arrangements, such as those adopted by the date of accession by the present Member States or by the Council, and to facilitate practical cooperation between the Member States' institutions and organisations.

7. The Council, acting unanimously on a proposal from the Commission, may supplement Annex I with the relevant conventions, agreements and protocols signed before the date of accession.

Article 4

1. The provisions of the Schengen *acquis* as referred to in the Protocol on the Schengen *acquis* integrated into the framework of the European Union (hereinafter referred to as the 'Schengen Protocol'), annexed to the TEU and the TFEU, and the acts building upon it or otherwise related to it, listed in Annex II, as well as any further such acts adopted before the date of accession, shall be binding on, and applicable in, Croatia from the date of accession.

2. Those provisions of the Schengen *acquis* as integrated into the framework of the European Union and the acts building upon it or otherwise related to it not referred to in paragraph 1, while binding on Croatia from the date of accession, shall only apply in Croatia pursuant to a Council decision to that effect, after verification, in accordance with the applicable Schengen evaluation procedures, that the necessary conditions for the application of all parts of the relevant *acquis* have been met in Croatia, including the effective application of all Schengen rules in accordance with the agreed common standards and with fundamental principles. That decision shall be taken by the Council, in accordance with the applicable Schengen procedures and while taking into account a Commission report confirming that Croatia continues to fulfil the commitments undertaken in its accession negotiations that are relevant for the Schengen *acquis*.

The Council shall take its decision, after consulting the European Parliament, acting with the unanimity of its members representing the Governments of the Member States in respect of which the provisions referred to in this paragraph have already been put into effect and of the representative of the Government of the Republic of Croatia. The members of the Council representing the Governments of Ireland and of the United Kingdom of Great Britain and Northern Ireland shall take part in such a decision insofar as it relates to the provisions of the Schengen *acquis* and the acts building upon it or otherwise related to it in which these Member States participate.

Article 5

Croatia shall participate in the Economic and Monetary Union from the date of accession as a Member State with a derogation within the meaning of Article 139 of the TFEU.

Article 6

1. The agreements concluded or provisionally applied by the Union with one or more third countries, with an international organisation or with a national of a third country shall, under the conditions laid down in the original Treaties and in this Act, be binding on Croatia.

2. Croatia undertakes to accede, under the conditions laid down in this Act, to the agreements concluded or signed by the present Member States and the Union with one or more third countries or with an international organisation.

Unless otherwise provided for in specific agreements referred to in the first subparagraph, the accession of Croatia to such agreements shall be agreed by the conclusion of a protocol to such agreements between the Council, acting unanimously on behalf of the Member States, and the third country or countries or international organisation concerned. The Commission, or the High Representative of the Union for Foreign Affairs and Security Policy (the High Representative) where the agreement relates exclusively or principally to the common foreign and security policy, shall negotiate these protocols on behalf of the Member States on the basis of negotiating directives approved by the Council, acting unanimously, and in consultation with a committee comprised of the representatives of the Member States. The Commission, or the High Representative, as appropriate, shall submit a draft of the protocols for conclusion to the Council.

This procedure is without prejudice to the exercise of the Union's own competences and does not affect the allocation of powers between the Union and the Member States as regards the conclusion of such agreements in the future or any other amendments not related to accession.

3. As of the date of accession, and pending the entry into force of the necessary protocols referred to in the second subparagraph of paragraph 2, Croatia shall apply the provisions of the agreements referred to in the first subparagraph of paragraph 2 concluded or provisionally applied before the date of accession, with the exception of the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons ⁽¹⁾.

Pending the entry into force of the protocols referred to in the second subparagraph of paragraph 2, the Union and the Member States, acting jointly as appropriate in the framework of their respective competences, shall take any appropriate measure.

4. Croatia accedes to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 ⁽²⁾, as well as to the two agreements amending that Agreement, signed in Luxembourg on 25 June 2005 ⁽³⁾ and opened for signature in Ouagadougou on 22 June 2010 ⁽⁴⁾, respectively.

5. Croatia undertakes to accede, under the conditions laid down in this Act, to the Agreement on the European Economic Area ⁽⁵⁾, in accordance with Article 128 of that Agreement.

6. As of the date of accession, Croatia shall apply the bilateral textile agreements and arrangements concluded between the Union and third countries.

⁽¹⁾ OJ L 114, 30.4.2002, p. 6.

⁽²⁾ OJ L 317, 15.12.2000, p. 3.

⁽³⁾ OJ L 209, 11.8.2005, p. 27, OJ L 287, 28.10.2005, p. 4 and OJ L 168M, 21.6.2006, p. 33.

⁽⁴⁾ OJ L 287, 4.11.2010, p. 3.

⁽⁵⁾ OJ L 1, 3.1.1994, p. 3.

The quantitative restrictions applied by the Union on imports of textile and clothing products shall be adjusted to take account of the accession of Croatia to the Union. To that effect, amendments to the bilateral textile agreements and arrangements referred to in the first subparagraph may be negotiated by the Union with the third countries concerned prior to the date of accession.

Should the amendments to the bilateral textile agreements and arrangements not have entered into force by the date of accession, the Union shall make the necessary adjustments to its rules for the import of textile and clothing products from third countries to take into account the accession of Croatia.

7. The quantitative restrictions applied by the Union on imports of steel and steel products shall be adjusted on the basis of imports of Croatia over recent years of steel and steel products originating in the supplier countries concerned.

To that effect, the necessary amendments to the bilateral steel agreements and arrangements concluded between the Union and third countries shall be negotiated prior to the date of accession.

Should the amendments to the bilateral steel agreements and arrangements not have entered into force by the date of accession, the provisions of the first subparagraph shall apply.

8. As of the date of accession, fisheries agreements concluded between Croatia and third countries prior to that date shall be managed by the Union.

The rights and obligations for Croatia which result from those agreements shall not be affected during the period in which the provisions of those agreements are provisionally maintained.

As soon as possible, and in any event before the expiry of the agreements referred to in the first subparagraph, appropriate decisions for the continuation of fishing activities resulting from those agreements shall be adopted in each case by the Council, acting by qualified majority on a proposal from the Commission, including the possibility of extending certain agreements for periods not exceeding one year.

9. Croatia shall withdraw from any free trade agreements with third countries, including the Central European Free Trade Agreement as amended.

To the extent that agreements between Croatia on the one hand, and one or more third countries on the other, are not compatible with the obligations arising from this Act, Croatia shall take all appropriate steps to eliminate the incompatibilities

established. If Croatia encounters difficulties in adjusting an agreement concluded with one or more third countries, it shall withdraw from that agreement.

Croatia shall take all the necessary measures to ensure compliance with the obligations of this paragraph as of the date of accession.

10. Croatia accedes, under the conditions laid down in this Act, to the internal agreements concluded by the present Member States for the purpose of implementing the agreements referred to in paragraphs 2 and 4.

11. Croatia shall take appropriate measures, where necessary, to adjust its position in relation to international organisations, and to those international agreements to which the Union or to which other Member States are also parties, to the rights and obligations arising from Croatia's accession to the Union.

Croatia shall in particular withdraw from international fisheries agreements and organisations to which the Union is also a party, unless its membership relates to matters other than fisheries.

Croatia shall take all necessary measures to ensure compliance with the obligations of this paragraph as of the date of accession.

Article 7

1. The provisions of this Act may not, unless otherwise provided herein, be suspended, amended or repealed other than by means of the procedure laid down in the original Treaties enabling those Treaties to be revised.

2. Acts adopted by the institutions to which the transitional provisions laid down in this Act relate shall retain their status in law; in particular, the procedures for amending those acts shall continue to apply.

3. Provisions of this Act the purpose or effect of which is to repeal or amend acts adopted by the institutions, unless such provisions are of a transitional nature, shall have the same status in law as the provisions which they repeal or amend and shall be subject to the same rules as those provisions.

Article 8

The application of the original Treaties and acts adopted by the institutions shall, as a transitional measure, be subject to the derogations provided for in this Act.

PART TWO

ADJUSTMENTS TO THE TREATIES

TITLE I

INSTITUTIONAL PROVISIONS

Article 9

The Protocol on the Statute of the Court of Justice of the European Union, annexed to the TEU, the TFEU and the EAEC Treaty, shall be amended as follows:

- (1) in Article 9, the first paragraph shall be replaced by the following:

‘When, every three years, the Judges are partially replaced, 14 Judges shall be replaced.’;

- (2) Article 48 shall be replaced by the following:

Article 48

The General Court shall consist of 28 Judges.’.

Article 10

The Protocol on the Statute of the European Investment Bank, annexed to the TEU and the TFEU, shall be amended as follows:

- (1) in Article 4(1), first subparagraph:

- (a) the introductory sentence shall be replaced by the following:

‘1. The capital of the Bank shall be EUR 233 247 390 000, subscribed by the Member States as follows:’;

- (b) the following shall be inserted between the entries for Romania and Slovakia:

‘Croatia 854 400 000’;

- (2) in Article 9(2), the first, second and third subparagraphs shall be replaced by the following:

‘2. The Board of Directors shall consist of twenty-nine directors and nineteen alternate directors.

The directors shall be appointed by the Board of Governors for five years, one nominated by each Member State, and one nominated by the Commission.

The alternate directors shall be appointed by the Board of Governors for five years as shown below:

— two alternates nominated by the Federal Republic of Germany,

— two alternates nominated by the French Republic,

— two alternates nominated by the Italian Republic,

— two alternates nominated by the United Kingdom of Great Britain and Northern Ireland,

— one alternate nominated by common accord of the Kingdom of Spain and the Portuguese Republic,

— one alternate nominated by common accord of the Kingdom of Belgium, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands,

— two alternates nominated by common accord of the Kingdom of Denmark, the Hellenic Republic, Ireland and Romania,

— two alternates nominated by common accord of the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden,

— four alternates nominated by common accord of the Republic of Bulgaria, the Czech Republic, the Republic of Croatia, the Republic of Cyprus, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic,

— one alternate nominated by the Commission.’.

Article 11

Article 134(2), first subparagraph, of the EAEC Treaty on the composition of the Scientific and Technical Committee shall be replaced by the following:

‘2. The Committee shall consist of forty-two members, appointed by the Council after consultation with the Commission.’.

TITLE II

OTHER ADJUSTMENTS

Article 12

In Article 64(1) of the TFEU, the following sentence is added:

'In respect of restrictions existing under national law in Croatia, the relevant date shall be 31 December 2002.'

Article 13

Article 52(1) of the TEU shall be replaced by the following:

'1. The Treaties shall apply to the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Republic of Croatia, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.'

Article 14

1. Article 55(1) of the TEU shall be replaced by the following:

'1. This Treaty, drawn up in a single original in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the Governments of the other signatory States.'

2. Article 225, second paragraph, of the EAEC Treaty shall be replaced by the following:

'Pursuant to the Accession Treaties, the Bulgarian, Croatian, Czech, Danish, English, Estonian, Finnish, Greek, Hungarian, Irish, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish versions of this Treaty shall also be authentic.'

PART THREE

PERMANENT PROVISIONS

Article 15

The acts listed in Annex III shall be adapted as specified in that Annex.

Article 16

The measures listed in Annex IV shall be applied under the conditions laid down in that Annex.

Article 17

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may make the adaptations to the provisions of this Act relating to the common agricultural policy which may prove necessary as a result of a modification in Union rules.

PART FOUR

TEMPORARY PROVISIONS

TITLE I

TRANSITIONAL MEASURES

Article 18

The measures listed in Annex V shall apply in respect of Croatia under the conditions laid down in that Annex.

TITLE II

INSTITUTIONAL PROVISIONS

Article 19

1. By way of derogation from Article 2 of the Protocol on transitional provisions, annexed to the TEU, the TFEU and the EAEC Treaty, and by way of derogation from the maximum number of seats provided for in the first subparagraph of Article 14(2) of the TEU, the number of members of the European Parliament shall be increased by 12 members from Croatia, to take account of the accession of Croatia, for the period running from the date of accession until the end of the 2009-2014 term of the European Parliament.

2. By way of derogation from Article 14(3) of the TEU, Croatia shall, before the date of accession, hold ad hoc elections to the European Parliament, by direct universal suffrage of its people, for the number of members fixed in paragraph 1 of this Article, in accordance with the Union *acquis*. However, if the date of accession is less than six months before the next elections to the European Parliament, the members of the European Parliament representing the citizens of Croatia may be designated by the national Parliament of Croatia, from its midst, provided that the persons in question have been elected by direct universal suffrage.

Article 20

Article 3(3) of the Protocol on transitional provisions, annexed to the TEU, the TFEU and the EAEC Treaty, shall be replaced by the following:

'3. Until 31 October 2014, the following provisions shall remain in force, without prejudice to the second subparagraph of Article 235(1) of the Treaty on the Functioning of the European Union.

For acts of the European Council and of the Council requiring a qualified majority, members' votes shall be weighted as follows:

Belgium	12
Bulgaria	10
Czech Republic	12
Denmark	7
Germany	29
Estonia	4
Ireland	7
Greece	12
Spain	27
France	29
Croatia	7
Italy	29
Cyprus	4
Latvia	4

Lithuania	7
Luxembourg	4
Hungary	12
Malta	3
Netherlands	13
Austria	10
Poland	27
Portugal	12
Romania	14
Slovenia	4
Slovakia	7
Finland	7
Sweden	10
United Kingdom	29

Acts shall be adopted if there are at least 260 votes in favour representing a majority of the members where, under the Treaties, they must be adopted on a proposal from the Commission. In other cases decisions shall be adopted if there are at least 260 votes in favour representing at least two thirds of the members.

A member of the European Council or the Council may request that, where an act is adopted by the European Council or the Council by a qualified majority, a check is made to ensure that the Member States comprising the qualified majority represent at least 62 % of the total population of the Union. If that proves not to be the case, the act shall not be adopted.'

Article 21

1. A national of Croatia shall be appointed to the Commission as of the date of accession until 31 October 2014. The new Member of the Commission shall be appointed by the Council, acting by qualified majority and by common accord with the President of the Commission, after consulting the European Parliament and in accordance with the criteria set out in the second subparagraph of Article 17(3) of the TEU.

2. The term of office of the Member appointed in accordance with paragraph 1 shall expire at the same time as those of the Members in office at the time of accession.

Article 22

1. The term of office of the Judge of the Court of Justice and the Judge of the General Court appointed from Croatia upon its accession in accordance with the third subparagraph of Article 19(2) of the TEU shall expire, respectively, on 6 October 2015 and 31 August 2013.

2. For the purpose of judging cases pending before the Court of Justice and the General Court on the date of accession in respect of which oral proceedings have started before that date, the full Courts of the Court of Justice and the General Court or the Chambers thereof shall be composed as before accession and shall apply the Rules of Procedure in force on the day preceding the date of accession.

Article 23

1. By way of derogation from Article 301, first paragraph, of the TFEU establishing the maximum number of members of the Economic and Social Committee, Article 7 of the Protocol on transitional provisions, annexed to the TEU, the TFEU and the EAEC Treaty, shall be replaced by the following:

'Article 7

Until the entry into force of the decision referred to in Article 301 of the Treaty on the Functioning of the European Union, the allocation of members of the Economic and Social Committee shall be as follows:

Belgium	12
Bulgaria	12
Czech Republic	12
Denmark	9
Germany	24
Estonia	7
Ireland	9
Greece	12
Spain	21
France	24
Croatia	9
Italy	24
Cyprus	6
Latvia	7
Lithuania	9
Luxembourg	6
Hungary	12
Malta	5
Netherlands	12
Austria	12
Poland	21
Portugal	12
Romania	15
Slovenia	7
Slovakia	9
Finland	9
Sweden	12
United Kingdom	24'

2. The number of members of the Economic and Social Committee shall be temporarily increased to 353 to take account of the accession of Croatia for the period running from the date of accession until the end of the term of office during which Croatia accedes to the Union or until the entry into force of the decision referred to in Article 301, second paragraph, of the TFEU, whichever comes first.

3. If the decision referred to in Article 301, second paragraph, of the TFEU has already been adopted by the date of accession, by way of derogation from Article 301, first paragraph, of the TFEU establishing the maximum number of members of the Economic and Social Committee, Croatia shall be temporarily allocated an appropriate number of members until the end of the term of office during which it accedes to the Union.

Article 24

1. By way of derogation from Article 305, first paragraph, of the TFEU establishing the maximum number of members of the Committee of the Regions, Article 8 of the Protocol on transitional provisions, annexed to the TEU, the TFEU and the EAEC Treaty, shall be replaced by the following:

'Article 8

Until the entry into force of the decision referred to in Article 305 of the Treaty on the Functioning of the European Union, the allocation of members of the Committee of the Regions shall be as follows:

Belgium	12
Bulgaria	12
Czech Republic	12
Denmark	9
Germany	24
Estonia	7
Ireland	9
Greece	12
Spain	21
France	24
Croatia	9
Italy	24
Cyprus	6
Latvia	7
Lithuania	9
Luxembourg	6
Hungary	12
Malta	5
Netherlands	12
Austria	12
Poland	21
Portugal	12
Romania	15

Slovenia	7
Slovakia	9
Finland	9
Sweden	12
United Kingdom	24'

2. The number of members of the Committee of the Regions shall be temporarily increased to 353 to take account of the accession of Croatia for the period running from the date of accession until the end of the term of office during which Croatia accedes to the Union or until the entry into force of the decision referred to in Article 305, second paragraph, of the TFEU, whichever comes first.

3. If the decision referred to in Article 305, second paragraph, of the TFEU has already been adopted by the date of accession, by way of derogation from Article 305, first paragraph, of the TFEU establishing the maximum number of members of the Committee of the Regions, Croatia shall be temporarily allocated an appropriate number of members until the end of the term of office during which it accedes to the Union.

Article 25

The term of office of the director of the Board of Directors of the European Investment Bank, nominated by Croatia and

appointed upon accession as provided for in the second subparagraph of Article 9(2) of the Protocol on the Statute of the European Investment Bank shall expire at the end of the annual meeting of the Board of Governors during which the annual report for the 2017 financial year is examined.

Article 26

1. New members of the committees, groups, agencies or other bodies created by the original Treaties or by an act of the institutions shall be appointed under the conditions and according to the procedures laid down for the appointment of members of those committees, groups, agencies or other bodies. The terms of office of the newly appointed members shall expire at the same time as those of the members in office at the time of accession.

2. The membership of the committees, groups, agencies or other bodies created by the original Treaties or by an act of the institutions with a number of members which is fixed, irrespective of the number of Member States, shall be completely renewed upon accession, unless the terms of office of the present members expire within 12 months from accession.

TITLE III

FINANCIAL PROVISIONS

Article 27

1. From the date of accession, Croatia shall pay the following amount corresponding to its share of the capital paid in for the subscribed capital as defined in Article 4 of the Statute of the European Investment Bank:

Croatia EUR 42 720 000

The contribution shall be paid in eight equal instalments falling due on 30 November 2013, 30 November 2014, 30 November 2015, 31 May 2016, 30 November 2016, 31 May 2017, 30 November 2017 and 31 May 2018.

2. Croatia shall contribute, in eight equal instalments falling due on the dates provided for in paragraph 1, to the reserves and provisions equivalent to reserves, as well as to the amount still to be appropriated to the reserves and provisions, comprising the balance of the profit and loss account, established at the end of the month preceding accession, as entered on the balance sheet of the European Investment Bank, in amounts corresponding to the following percentage of the reserves and provisions:

Croatia 0,368 %

3. The capital and payments provided for in paragraphs 1 and 2 shall be paid in by Croatia in cash in euro, save by way

of derogation decided unanimously by the Board of Governors of the European Investment Bank.

4. The figures for Croatia referred to in paragraph 1 as well as in Article 10, point 1, may be adapted by decision of the European Investment Bank governing bodies on the basis of the latest final data of GDP published by Eurostat before accession.

Article 28

1. Croatia shall pay the following amount to the Research Fund for Coal and Steel referred to in Decision 2002/234/ECSC of the Representatives of the Governments of the Member States, meeting within the Council, of 27 February 2002 on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel (1):

(EUR, current prices)

Croatia 494 000.

2. The contribution to the Research Fund for Coal and Steel shall be made in four instalments starting in 2015 and paid as follows, in each case on the first working day of the first month of each year:

(1) OJ L 79, 22.3.2002, p. 42.

- 2015: 15 %,
- 2016: 20 %,
- 2017: 30 %,
- 2018: 35 %.

Article 29

1. Procurement, grant awards and payments for pre-accession financial assistance under the Transition Assistance and Institution Building Component and the Cross-Border Cooperation Component of the Instrument for Pre-Accession Assistance (IPA), established by Council Regulation (EC) No 1085/2006 of 17 July 2006 ⁽¹⁾, for funds committed before accession, with the exclusion of the Croatia-Hungary and Croatia-Slovenia cross-border programmes, and for assistance under the Transition Facility referred to in Article 30, shall be managed by Croatian implementing agencies as of the date of accession.

The *ex ante* control by the Commission over procurement and grant awards shall be waived by a Commission decision to that effect, after the Commission has satisfied itself of the effective functioning of the management and control system concerned in accordance with the criteria and conditions laid down in Article 56(2) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽²⁾ and in Article 18 of Commission Regulation (EC) No 718/2007 of 12 June 2007 implementing Council Regulation (EC) No 1085/2006 establishing an instrument for pre-accession assistance (IPA) ⁽³⁾.

If the Commission decision to waive *ex ante* control has not been adopted before the date of accession, any contracts signed between the date of accession and the date on which the Commission decision is adopted shall not be eligible under the pre-accession financial assistance and the Transition Facility referred to in the first subparagraph.

2. Budgetary commitments made before the date of accession under the pre-accession financial assistance and the Transition Facility referred to in paragraph 1, including the conclusion and registration of subsequent individual legal commitments and payments made after accession, shall continue to be governed by the rules applying to the pre-accession financial instruments and be charged to the corresponding budget chapters until closure of the programmes and projects concerned.

3. The provisions on the implementation of budgetary commitments of financing agreements concerning the pre-accession financial assistance referred to in paragraph 1, first subparagraph, and the IPA Rural Development Component, relating to financing decisions taken before accession, shall continue to be applicable after the date of accession. They

⁽¹⁾ OJ L 210, 31.7.2006, p. 82.

⁽²⁾ OJ L 248, 16.9.2002, p. 1.

⁽³⁾ OJ L 170, 29.6.2007, p. 1.

shall be governed by the rules applying to the pre-accession financial instruments. Notwithstanding this, public procurement procedures initiated after accession shall be carried out in accordance with the relevant Union directives.

4. Pre-accession funds to cover administrative expenditure, as referred to in Article 44, may be committed in the first two years after accession. For audit and evaluation costs, pre-accession funds may be committed up to five years after accession.

Article 30

1. For the first year after accession, the Union shall provide temporary financial assistance (hereinafter referred to as the 'Transition Facility') to Croatia to develop and strengthen its administrative and judicial capacity to implement and enforce Union law and to foster the exchange of best practice among peers. That assistance shall fund institution-building projects and limited small-scale investments ancillary thereto.

2. Assistance shall address the continued need for strengthening institutional capacity in certain areas through action which cannot be financed by the Structural Funds or by the Rural Development funds.

3. For twinning projects between public administrations for the purpose of institution building, the procedure for call for proposals through the network of contact points in the Member States shall continue to apply.

4. The commitment appropriations for the Transition Facility, at current prices, for Croatia shall be EUR 29 million in total in 2013 to address national and horizontal priorities.

5. Assistance under the Transition Facility shall be decided and implemented in accordance with Council Regulation (EC) No 1085/2006 or on the basis of other technical provisions necessary for the operation of the Transition Facility, to be adopted by the Commission.

6. Particular attention shall be paid to ensuring appropriate complementarity with the envisaged European Social Fund support for administrative reform and institutional capacity.

Article 31

1. A Schengen Facility (hereinafter referred to as 'the temporary Schengen Facility') is hereby created as a temporary instrument to help Croatia between the date of accession and the end of 2014 to finance actions at the new external borders of the Union for the implementation of the Schengen *acquis* and external border control.

2. For the period 1 July 2013 to 31 December 2014, the following amounts (current prices) shall be made available to Croatia in the form of lump-sum payments under the temporary Schengen Facility:

(million EUR, current prices)

	2013	2014
Croatia	40	80

3. The annual amount for 2013 shall be payable to Croatia on 1 July 2013 and the annual amount for 2014 shall be made available on the first working day after 1 January 2014.

4. The lump-sum payments shall be used within three years from the first payment. Croatia shall submit, no later than six months after expiry of this three-year period, a comprehensive report on the final execution of the payments under the temporary Schengen Facility with a statement justifying the expenditure. Any unused or unjustifiably spent funds shall be recovered by the Commission.

5. The Commission may adopt any technical provisions necessary for the operation of the temporary Schengen Facility.

Article 32

1. A Cash-flow Facility (hereinafter referred to as 'the temporary Cash-flow Facility') is hereby created as a temporary instrument to help Croatia between the date of accession and the end of 2014 to improve cash-flow in the national budget.

2. For the period 1 July 2013 to 31 December 2014, the following amounts (current prices) shall be made available to Croatia in the form of lump-sum payments under the temporary Cash-flow Facility:

(million EUR, current prices)

	2013	2014
Croatia	75	28,6

3. Each annual amount shall be divided into equal monthly instalments, payable on the first working day of each month.

Article 33

1. An amount of EUR 449,4 million (current prices) in commitment appropriations shall be reserved for Croatia under the Structural and Cohesion Funds in 2013.

2. One third of the amount referred to in paragraph 1 shall be reserved for the Cohesion Fund.

3. For the period covered by the next financial framework, the amounts to be made available to Croatia in commitment appropriations under Structural and Cohesion funding shall be calculated on the basis of the Union *acquis* applicable at that time. These amounts shall be adjusted in accordance with the following phasing-in schedule:

— 70 % in 2014,

— 90 % in 2015,

— 100 % as of 2016.

4. Insofar as the limits of the new Union *acquis* allow, an adjustment shall be made to ensure an increase of funds for Croatia in 2014 of 2,33 times the 2013 amount, and in 2015 of 3 times the 2013 amount.

Article 34

1. The total amount to be made available to Croatia under the European Fisheries Fund in 2013 shall be EUR 8,7 million (current prices) in commitment appropriations.

2. Pre-financing under the European Fisheries Fund shall be 25 % of the total amount referred to in paragraph 1 and shall be paid in one instalment.

3. For the period covered by the next financial framework, the amounts to be made available to Croatia in commitment appropriations shall be calculated on the basis of the Union *acquis* applicable at that time. These amounts shall be adjusted in accordance with the following phasing-in schedule:

— 70 % in 2014,

— 90 % in 2015,

— 100 % as of 2016.

4. Insofar as the limits of the new Union *acquis* allow, an adjustment shall be made to ensure an increase of funds for Croatia in 2014 of 2,33 times the 2013 amount, and in 2015 of 3 times the 2013 amount.

Article 35

1. Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) ⁽¹⁾ shall not apply to Croatia for the whole programming period 2007-2013.

In the year 2013, Croatia shall be allocated EUR 27,7 million (current prices) under the Rural Development Component referred to in Article 12 of Council Regulation (EC) No 1085/2006.

2. Temporary additional rural development measures for Croatia are laid out in Annex VI.

⁽¹⁾ OJ L 277, 21.10.2005, p. 1 and OJ L 286M, 4.11.2010, p. 26.

3. The Commission may, by means of implementing acts, adopt rules necessary for the application of Annex VI. Those implementing acts shall be adopted in accordance with the procedure laid down in Article 90(2) of Council Regulation (EC) No 1698/2005 in conjunction with Article 13(1)(b) of Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing

powers^(?) or the relevant procedure as determined in the applicable legislation.

4. The Council, acting on a proposal from the Commission, and after consulting the European Parliament, shall make any adaptations to Annex VI, where necessary, to ensure coherence with the regulations concerning rural development.

TITLE IV

OTHER PROVISIONS

Article 36

1. The Commission shall closely monitor all commitments undertaken by Croatia in the accession negotiations, including those which must be achieved before or by the date of accession. The Commission's monitoring shall consist of regularly updated monitoring tables, dialogue under the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part⁽¹⁾ (hereinafter referred to as the 'SAA'), peer assessment missions, the pre-accession economic programme, fiscal notifications and, when necessary, early warning letters to the Croatian authorities. In the autumn of 2011, the Commission shall present a Progress Report to the European Parliament and the Council. In the autumn of 2012, it shall present a Comprehensive Monitoring Report to the European Parliament and the Council. Throughout the monitoring process, the Commission shall also draw on input from Member States and take into consideration input from international and civil society organisations as appropriate.

The Commission's monitoring shall focus in particular on commitments undertaken by Croatia in the area of the judiciary and fundamental rights (Annex VII), including the continued development of track records on judicial reform and efficiency, impartial handling of war crimes cases, and the fight against corruption.

In addition, the Commission's monitoring shall focus on the area of freedom, security and justice, including the implementation and enforcement of Union requirements with respect to external border management, police cooperation, the fight against organised crime, and judicial cooperation in civil and criminal matters, as well as on commitments in the area of competition policy, including the restructuring of the shipbuilding industry (Annex VIII) and of the steel sector (Annex IX).

As an integral part of its regular monitoring tables and reports, the Commission shall issue six-monthly assessments up to the accession of Croatia on the commitments undertaken by Croatia in these areas.

2. The Council, acting by qualified majority on a proposal from the Commission, may take all appropriate measures if issues of concern are identified during the monitoring process. The measures shall be maintained no longer than strictly necessary and, in any case, shall be lifted by the Council, acting in accordance with the same procedure, when the relevant issues of concern have been effectively addressed.

Article 37

1. If, until the end of a period of up to three years after accession, difficulties arise which are serious and liable to persist in any sector of the economy or which could bring about serious deterioration in the economic situation of a given area, Croatia may apply for authorisation to take protective measures in order to rectify the situation and adjust the sector concerned to the economy of the internal market.

In the same circumstances, any present Member State may apply for authorisation to take protective measures with regard to Croatia.

2. Upon request by the State concerned, the Commission shall, by emergency procedure, determine the protective measures which it considers necessary, specifying the conditions and arrangements applicable thereto.

In the event of serious economic difficulties and at the express request of the Member State concerned, the Commission shall act within five working days of the receipt of the request accompanied by the relevant background information. The measures thus decided on shall be applicable forthwith, shall take into account the interest of all parties concerned and shall not entail border controls.

3. The measures authorised under this Article may involve derogations from the rules of the TEU, the TFEU and this Act to such an extent and for such periods as are strictly necessary in order to attain the objectives of this safeguard. Priority shall be given to measures which least disturb the functioning of the internal market.

⁽¹⁾ OJ L 26, 28.1.2005, p. 3.

^(?) OJ L 55, 28.2.2011, p. 13.

Article 38

If Croatia fails to fulfil commitments undertaken in the context of the accession negotiations, including commitments in any sectoral policy which concerns economic activities with a cross-border effect, thereby causing a serious breach of the functioning of the internal market or a threat to the Union's financial interests or an imminent risk of such a breach or threat, the Commission may, until the end of a period of up to three years after accession, upon reasoned request of a Member State or on its own initiative, take appropriate measures.

These measures shall be proportionate and priority shall be given to measures which least disturb the functioning of the internal market and, where appropriate, to the application of the existing sectoral safeguard mechanisms. The safeguard measures under this Article shall not be invoked as a means of arbitrary discrimination or a disguised restriction on trade between Member States. The safeguard clause may be invoked even before accession on the basis of the monitoring findings and the measures adopted shall enter into force on the date of accession unless they provide for a later date. The measures shall be maintained no longer than strictly necessary and, in any case, shall be lifted when the relevant commitment has been fulfilled. They may, however, be applied beyond the period referred to in the first paragraph as long as the relevant commitments have not been fulfilled. In response to progress made by Croatia in fulfilling its commitments, the Commission may adapt the measures as appropriate. The Commission shall inform the Council in good time before revoking the safeguard measures, and it shall take duly into account any observations of the Council in this respect.

Article 39

If there are serious shortcomings or any imminent risk of such shortcomings in Croatia in the transposition or state of implementation of acts adopted by the institutions pursuant to Part Three, Title V of the TFEU as well as of acts adopted by the institutions before the entry into force of the Treaty of Lisbon pursuant to Title VI of the TEU or pursuant to Part Three, Title IV of the Treaty establishing the European Community, the Commission may, until the end of a period of up to three years after accession, upon the reasoned request of a Member State or on its own initiative and after consulting the Member States, adopt appropriate measures and specify the conditions and arrangements applicable thereto.

These measures may take the form of a temporary suspension of the application of relevant provisions and decisions in the relations between Croatia and any other Member State or Member States, without prejudice to the continuation of close judicial cooperation. The safeguard clause may be invoked even before accession on the basis of the monitoring findings and the measures adopted shall enter into force on the date of accession unless they provide for a later date. The measures shall be maintained no longer than strictly necessary and, in any case, shall be lifted when the shortcomings are remedied. They may, however, be applied beyond the period referred to in the first paragraph as long as these shortcomings persist. In response to

progress made by Croatia in rectifying the identified shortcomings, the Commission may adapt the measures as appropriate after consulting the Member States. The Commission shall inform the Council in good time before revoking the safeguard measures, and it shall take duly into account any observations of the Council in this respect.

Article 40

In order not to hamper the proper functioning of the internal market, the enforcement of Croatia's national rules during the transitional periods referred to in Annex V shall not lead to border controls between Member States.

Article 41

If transitional measures are necessary to facilitate the transition from the existing regime in Croatia to that resulting from the application of the common agricultural policy under the conditions set out in this Act, they shall be adopted by the Commission in accordance with the procedure referred to in Article 195(2) of Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾ in conjunction with Article 13(1)(b) of European Parliament and Council Regulation (EU) No 182/2011 ⁽²⁾ or the relevant procedure as determined in the applicable legislation. They may be adopted within a period of three years from the date of accession and their application shall be limited to that period. The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may extend this period.

Transitional measures referred to in the first paragraph may also be adopted prior to the date of accession, if necessary. Such measures shall be adopted by the Council acting by qualified majority on a proposal from the Commission or, where they affect instruments initially adopted by the Commission, they shall be adopted by the Commission in accordance with the procedures required for adopting the instruments in question.

Article 42

If transitional measures are necessary to facilitate the transition from the existing regime in Croatia to that resulting from the application of the Union veterinary, phytosanitary and food safety rules, such measures shall be adopted by the Commission in accordance with the relevant procedure as determined in the applicable legislation. These measures shall be adopted within a period of three years from the date of accession and their application shall be limited to that period.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 55, 28.2.2011, p. 13.

Article 43

The Council, acting by qualified majority on a proposal from the Commission, shall define the terms under which:

- (a) the requirement for an exit summary declaration may be waived for the products referred to in Article 28(2) of the TFEU leaving the territory of Croatia to cross the territory of Bosnia and Herzegovina at Neum ('Neum corridor');
- (b) the requirement for an entry summary declaration may be waived for the products falling within the scope of point (a) when they re-enter the territory of Croatia after having crossed the territory of Bosnia and Herzegovina at Neum.

Article 44

The Commission may take all appropriate measures to ensure that the necessary statutory staff is maintained in Croatia for a maximum of 18 months following accession. During this period, officials, temporary staff and contract staff assigned to posts in Croatia before accession and who are required to remain in service in Croatia after the date of accession shall benefit from the same financial and material conditions as were applied before accession in accordance with the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽¹⁾. The administrative expenditure, including salaries for other necessary staff, shall be covered by the general budget of the European Union.

PART FIVE

PROVISIONS RELATING TO THE IMPLEMENTATION OF THIS ACT

TITLE I

ADAPTATIONS TO THE RULES OF PROCEDURE OF THE INSTITUTIONS AND TO THE RULES AND RULES OF PROCEDURE OF THE COMMITTEES*Article 45*

The institutions shall, in accordance with the respective procedures provided for in the original Treaties, make such adaptations to their Rules of Procedure as are rendered necessary by accession.

Adaptations to the rules of the Committees established by the original Treaties and to their Rules of Procedure which are rendered necessary by accession shall be made as soon as possible after accession.

TITLE II

APPLICABILITY OF THE ACTS OF THE INSTITUTIONS*Article 46*

Upon accession, Croatia shall be considered as being an addressee, in accordance with the original Treaties, of directives and decisions within the meaning of Article 288 of the TFEU. Except with regard to directives and decisions which have entered into force pursuant to the third subparagraph of Article 297(1) and the second subparagraph of Article 297(2) of the TFEU, Croatia shall be considered as having received notification of such directives and decisions upon accession.

Article 47

1. Croatia shall put into effect the measures necessary for it to comply, from the date of accession, with the provisions of directives and decisions within the meaning of Article 288 of the TFEU, unless another time limit is provided for in this Act. Croatia shall communicate those measures to the Commission by the date of accession or, where later, by the time limit provided for in this Act.

⁽¹⁾ OJ L 56, 4.3.1968, p. 1.

2. To the extent that amendments to directives within the meaning of Article 288 of the TFEU introduced by this Act require modification of the laws, regulations or administrative provisions of the present Member States, the present Member States shall put into effect the measures necessary to comply, from the date of accession of Croatia, with the amended directives, unless another time limit is provided for in this Act. They shall communicate those measures to the Commission by the date of accession or, where later, by the time limit provided for in this Act.

Article 48

Provisions laid down by legislation, regulation or administrative action designed to ensure the protection of the health of workers and the general public in the territory of Croatia against the dangers arising from ionising radiations shall, in accordance with Article 33 of the EAEC Treaty, be communicated by Croatia to the Commission within three months from accession.

Article 49

At the duly substantiated request of Croatia, submitted to the Commission no later than the date of accession, the Council, acting on a proposal from the Commission, or the Commission, if the original act was adopted by the Commission, may take measures consisting of temporary derogations from acts adopted by the institutions between 1 July 2011 and the date of accession. The measures shall be adopted according to the voting rules governing the adoption of the act from which a

temporary derogation is sought. Where those derogations are adopted after accession, they may be applied as of the date of accession.

Article 50

Where acts of the institutions adopted prior to accession require adaptation by reason of accession, and the necessary adaptations have not been provided for in this Act or its Annexes, the Council, acting by qualified majority on a proposal from the Commission, or the Commission, if the original act was adopted by the Commission, shall, to this end, adopt the necessary acts. Where those acts are adopted after accession, they may be applied as of the date of accession.

Article 51

Unless otherwise stipulated in this Act, the Council, acting by qualified majority on a proposal from the Commission, shall adopt the necessary measures to implement the provisions of this Act.

Article 52

The texts of the acts of the institutions adopted before accession and drawn up by these institutions in the Croatian language shall, from the date of accession, be authentic under the same conditions as the texts drawn up in the present official languages. They shall be published in the *Official Journal of the European Union* if the texts in the present official languages were so published.

TITLE III

FINAL PROVISIONS

Article 53

Annexes I to IX, the Appendices thereto and the Protocol are an integral part of this Act.

Article 54

The Government of the Italian Republic shall transmit to the Government of the Republic of Croatia a certified copy of the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community, and the Treaties amending or supplementing them, including the Treaty concerning the accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, the Treaty concerning the accession of the Hellenic Republic, the Treaty concerning the accession of the Kingdom of Spain and the Portuguese Republic, the Treaty concerning the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden, the Treaty concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the

Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the Treaty concerning the accession of the Republic of Bulgaria and Romania, in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages.

The texts of the Treaties referred to in the first paragraph, drawn up in the Croatian language, shall be annexed to this Act. Those texts shall be authentic under the same conditions as the texts of those Treaties, drawn up in the present official languages.

Article 55

A certified copy of the international agreements deposited in the archives of the General Secretariat of the Council shall be transmitted to the Government of the Republic of Croatia by the Secretary-General.