

# WORLD TRADE ORGANIZATION

RESTRICTED

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## **DRAFT REPORT OF THE WORKING PARTY ON THE ACCESSION OF ESTONIA TO THE WORLD TRADE ORGANIZATION**

### **Introduction**

1. In March 1994, the Government of Estonia requested accession to the General Agreement on Tariffs and Trade (GATT 1947). At its meeting on 23-24 March 1994, the GATT Council of Representatives established a Working Party to examine the application of the Government of Estonia to accede to the General Agreement under Article XXXIII, and to submit to the Council recommendations which may include a draft Protocol of Accession. Membership of the Working Party was open to all contracting parties indicating the wish to serve on it. In pursuance of the Ministerial Decision of 14 April 1994 on Acceptance of and Accession to the Marrakesh Agreement Establishing the World Trade Organization (WTO) and to the decision of 31 May 1994 of the Preparatory Committee for the WTO, the Working Party examined the application of Estonia for membership in the WTO and agreed to pursue the market access negotiations for goods, including an agricultural country schedule, and for services. The WTO Agreement entered into force on 1 January 1995. In pursuance of the decision adopted by the WTO General Council on 31 January 1995, the GATT 1947 Accession Working Party was transformed into a WTO Accession Working Party. The terms of reference and the membership of the Working Party are reproduced in document WT/ACC/EST/7.

2. The Working Party met on 25 November 1994; 6-7 June and 14 November 1995; 28 March and 18 September 1996; and ..... under the Chairmanship of H.E. Mr. D. Kenyon (Australia).

### **Documentation**

3. The Working Party had before it, to serve as a basis for its discussions, a Memorandum on the Foreign Trade Régime of Estonia (L/7423) and the questions submitted by Members on the foreign trade régime of Estonia, together with the replies thereto, and other information provided by the Estonian authorities (L/7529 and Addenda 1 and 2, WT/ACC/EST/2, WT/ACC/EST/4, WT/ACC/EST/9 and

Corrigendum 1, WT/ACC/EST/11 and WT/ACC/EST/12). The Government of Estonia made available to the Working Party the following documentation:

- The Customs Law of 24 September 1993;
- Law on Amending the Customs Law of 1 December 1993;
- Law on Foreign Relations of 16 November 1993;
- Law on Competition of 7 July 1993;
- Law on the State Border of 30 June 1994;
- Law on State Budget (amended version of 20 April 1994);
- Law on Municipal and Town Budget of 28 June 1993;
- Law on Correlation between Municipal and Town Budgets and the State Budget (amended version of 2 February 1994);
- Law on Privatization of 7 July 1993;
- Law on Export and Transit of Strategic Goods of 21 April 1994;
- Law on Amending the Law of the Central Bank of the Republic of Estonia of 20 April 1994;
- The Food Law of 9 February 1995;
- The Law of the Republic of Estonia on Foreign Investments;
- Statutes of the Estonian Foreign Investment Agency (9 May 1994);
- Law on Bankruptcy of the Republic of Estonia of 10 June 1992;
- Law on Taxation of 29 December 1993;
- Law on Amending the Law on Taxation of 30 March 1994;
- Income Tax Law of 21 December 1993;
- Law on Land Tax of 12 May 1993;
- Law on Local Taxes of 10 October 1994;
- Law of the Central Bank of the Republic of Estonia of 31 May 1993;
- Law on Motor Vehicle Excise Tax of 8 February 1995;
- Law on Alcohol Excise Tax (with 1994 amendments);
- Law on Tobacco Excise Tax (new version of 13 July 1994);
- Law on Revenue Stamps of 28 March 1994;
- Law on Value Added Tax (amended version of 30 June 1994);
- Law on Customs Valuation of 8 February 1995;
- A draft Law on Public Procurement;
- Copyright Law of 23 November 1992;
- Patent Law of 30 March 1994;
- Utility Model Law of 30 March 1994;
- Law on Securities Market of 14 June 1993;
- Insurance Law of 18 November 1992;
- Memorandum on the Export Control System in Estonia;
- Rules of Origin in Free-Trade Agreements with the European Union, the Ukraine and the Trilateral Free-Trade Agreement with Latvia and Lithuania;
- Rules of Origin in Free-Trade Agreements with EFTA countries (Norway and Switzerland);
- Commercial Code, consolidated on 12 June 1996;
- Law of Property Act, consolidated on 8 October 1996;
- Packaging Act of 3 May 1995;
- Medicinal Products Act, consolidated on 15 October 1996;
- Privatization in Estonia (summary);
- Economic bulletins.

## **Introductory Statements**

4. The representative of Estonia noted that Estonia had been an observer to the GATT 1947 since June 1992 and had accordingly witnessed the successful conclusion of the Uruguay Round and looked forward to its implementation. Estonia had adopted new laws and regulations forming a solid legislative foundation. Moreover, Estonia's economy, which encouraged competition and an entrepreneurial spirit through a liberal trade régime for agricultural and industrial products and openness regarding foreign investment and foreign exchange, was expanding steadily. Estonia's free and open market had been underpinned by bilaterally binding and mutually beneficial market opening commitments in trade agreements covering more than two thirds of Estonia's trade. Bilateral free trade agreements had been concluded with Latvia, Lithuania, EFTA countries, Ukraine, Czech Republic, Slovak Republic, the European Union and Slovenia, and Estonia had trade agreements based on the GATT 1947 principles with several other countries. Having followed the code of conduct laid down by GATT 1947 principles, full membership in the GATT 1947 and upon its entry into force in the Marrakesh Agreement Establishing the World Trade Organization - was the one important missing aspect in Estonia's trade policy. Estonia intended to join the multilateral trading system embodied in the WTO Agreement as a developed country, fully aware of, and ready to assume, all the obligations and responsibilities this entailed. Estonia's accession to the WTO should, however, also be viewed in the context of an overall political objective to integrate with the European Union. The representative of Estonia looked forward to the beginning of an active negotiating process which should be concluded by Estonia's accession to the WTO in the very near future.

5. Members of the Working Party welcomed Estonia's initial application for accession to the General Agreement and, upon conclusion of the Uruguay Round, to the WTO. The rise in exports and foreign direct investment were indicative of the relative success of Estonia's liberal economic policies. Membership in the WTO would offer Estonia the opportunity to consolidate its small, open economy within a multilateral framework and to develop and increase trade exchanges with WTO Members worldwide. The liberal, open market principles currently being implemented by Estonia would also facilitate its assumption of obligations and commitments arising from the Uruguay Round. Several members accordingly expressed the expectation that the establishment of market access conditions for goods and services would proceed in an expeditious manner and looked forward to the successful and timely conclusion of the tasks of the Working Party.

6. The Working Party reviewed the economic policies and foreign trade régime of Estonia and the possible terms of a draft Protocol of Accession to the WTO. The views expressed in the course of the deliberations of the Working Party are summarized below in paragraphs 7 - 115.

## **ECONOMIC POLICIES**

### **Monetary and Fiscal Policy**

7. Questions by some members of the Working Party focused on the tax components of government revenue and the scope for raising revenue from taxes on trade in Estonia in the light of important free trade agreements which covered a large share of Estonia's foreign trade.

8. In response, the representative of Estonia recalled that as a way to improve the competitiveness of the domestic industries at the present time Estonia did not generally apply import or export duties. Should Estonia apply import duties in the future, he confirmed that preferential treatment would only be accorded in the context of free trade agreements as provided for in Article XXIV of the GATT 1994. He said that the main sources of government revenue in 1995 were the Value Added Tax (46.3 per cent), income taxes (31.8 per cent), and excise taxes (12.4 per cent). Estonia confirmed that all taxes including the corporate income taxes were applied equally to domestic and foreign products and enterprises. In the case of amendments to the tax régime in the future Estonia would continue to comply with the national treatment principle.

### **Foreign Exchange and Payments**

9. Some members of the Working Party requested up-to-date information on Estonia's foreign exchange régime, i.e. the determination of the exchange rate, convertibility, availability of foreign exchange for trade and payments purposes, and the retention of foreign currency.

10. The representative of Estonia confirmed that Estonia, as a member of the International Monetary Fund, followed internationally accepted monetary rules. Since June 1992, the Estonian kroon had been pegged against the Deutsche mark at the official rate of 8 kroon to 1 DM, with a technical fluctuation limit of 3 per cent. The fixed exchange rate was enshrined in the Law on the Security of the Estonian Kroon; a devaluation required approval by Parliament. He also said that the Bank of Estonia guaranteed free exchange within Estonia of the kroon at the official rate according to current needs of customers for convertible currencies. Non-convertible currencies were obtained at the commercial banks. The

last restrictions on current account transactions were lifted in March 1994, when Estonia accepted the obligations under Article VIII of the Articles of Agreement of the International Monetary Fund. Capital account transactions were unrestricted, but exports of cash and securities were subject to a customs declaration.

### **Investment Régime**

11. Some members of the Working Party sought information on Estonia's strategies in attracting foreign investment and in the application of any restrictions or conditions attached to foreign investment and to land ownership. The representative of Estonia replied that no specific promotion programmes were envisaged; foreign investments were encouraged through an open, non-restrictive régime. The Government had established a Foreign Investment Agency in 1994, providing various services to foreign investors, and had concluded bilateral agreements on investment promotion and protection with the following countries: Austria, Belgo-Luxembourg Economic Union, China, Czech Republic, Denmark, Finland, France, Germany, Israel, Latvia, Lithuania, Netherlands, Norway, Poland, Sweden, Switzerland, Ukraine, United Kingdom, and the United States. He added that the procedures for registration of companies in Estonia distinguished between domestic and foreign investment in only six areas namely, mining; power engineering, gas and water supply; administration of waterways, ports, dams and similar structures; railways and air transport; telecommunication and communication network; and retail trade in medicines; where foreign investors would need a "Foreign Investment Licence" from the Ministry of Finance while a "Licence of Activity" was required for domestic investors. The licences carried the same rights, the procedural difference being the issuing authority. The criteria for determining whether or not to grant the two types of licence were identical.

12. The representative of Estonia added that when State enterprises were sold against privatization vouchers majority stakes were offered to "core" investors, i.e. majority shareholders (domestic or foreign), who were selected by an open bid. In purchasing State-owned enterprises investors (domestic or foreign) might undertake specific commitments with regard to the amount of capital to be invested and minimum workforce ("performance guarantee"). The Estonian Privatization Agency checked the compliance with agreed conditions. The performance guarantee did not extend to local content or export requirements.

13. Regarding purchase of land, the representative of Estonia said that foreign commercial undertakings would need permission from local authorities, and permits would only be granted when the branch of a foreign commercial undertaking had been entered in Estonia's Commercial Register.

Non-residents were not allowed to purchase land in border areas and on Estonia's islands, except on the four largest islands (Saaremaa, Hiiumaa, Vormsi and Muhu). In these areas the purchase of land required special permission of the Government. Non-residents would be permitted to buy land provided the purchase was not in conflict with the interests of the State, local governments or national security.

14. The representative of Estonia confirmed that Estonia applied national treatment with respect to taxation. The Income Tax Law allowed losses to be carried forward up to five years. Revenue could be repatriated freely. The Working Party took note of these assurances.

### **State Ownership and Privatization**

15. Some members of the Working Party requested details concerning progress in Estonia's privatization programme and plans to retain State ownership in enterprises or sectors. Further questions addressed relations between the State and company management, the application of competition legislation to State-owned enterprises, bankruptcy or enterprise dissolution provisions in Estonian legislation and general or exclusive funds available for State-owned enterprises. A member requested a detailed report on firms remaining in Government hands, the nature of goods they consumed, exported or distributed; and a report on plans, as appropriate, to complete the privatization process. To ensure full transparency, Estonia should keep WTO Members informed about progress in privatization, and provide periodic reports on developments in privatization and economic reform issues as relevant to its obligations under the WTO.

16. The representative of Estonia said that an enterprise was considered privatized when the majority share holding was in private hands. According to this definition all agricultural enterprises had been privatized by January 1995, and about 70 per cent of industrial enterprises had been privatized by July 1995. By August 1996, privatization had been completed for more than 90 per cent of all industrial enterprises. Companies had been sold in eleven tender rounds with successful bidders offering guarantees with regard to investment and employment. The public offering of shares had begun in mid-1994; in a public offer the majority stake was sold to a local or foreign "core" investor. In 1996 privatization of major infrastructural enterprises was under preparation (Estonian Energy, Estonian Oil-Shale, Estonian Railway, Port of Tallinn and Estonian Telecom). State ownership would be retained in railways and power stations, while Estonia's sole oil-shale mine, the electricity distribution companies and the service structure of railway depots were to be privatized. These enterprises would be privatized in accordance with a program established through Government Order No. 155-k of 20 February 1996.

17. The representative of Estonia said that some privatization tenders had only been published in Estonia, but foreign investment had only been restricted in the case of enterprises processing agricultural commodities or offering services to farmers. These companies were now owned by farmers' co-operative societies. He added that the Tallinn Stock Exchange was established on 31 May 1996.

18. In response to questions concerning the appointment and dismissal of the management of State-owned enterprises, the representative of Estonia said that the administrative council or board and the management of a State-owned enterprise or joint stock company was appointed in accordance with the company's by-laws or by the responsible Ministry. The administrative council or board could dismiss the general director of the enterprise; council or board members were released by the Government or the appointing Ministry. The provisions of the Law on Competition, including its sanctions, applied equally to private and State-owned enterprises. Since 1 September 1995, the Civil Code and the Commercial Code contained procedures for the liquidation of enterprises. The representative of Estonia confirmed that State-owned enterprises acted on a purely commercial basis and that their directors were not government employees. [He also stated that purchases by the State enterprises cannot be considered as government procurement.] The State-owned enterprises could not be considered to be in State trading activities because they did not enjoy any exclusive or special privileges in the sense of Article XVII of GATT 1994. They were not subject to any control by the Government, nor to Government directives in relation to their operations. Their operations were not funded by the State budget. State-owned and private enterprises had equal access to Government funds, i.e. the Export Credit Fund, the Fund of Credit to Agriculture and Rural Life, the Fund of Credit to Small Enterprises and the Innovation Fund. The representative of Estonia assured the Working Party that the national trade policy and practices under the regular trade policy reviews in the WTO would be transparent. Because the statistical data was not compiled on the basis of the different forms of ownership of enterprises, Estonia did not find it possible to provide periodic reports on progress in privatization.

19. The representative of Estonia confirmed that Estonia would ensure the transparency of its national trade policies and practices under the regular trade policy reviews in the WTO. The Working Party took note of this assurance.

### **Pricing Policies**

20. Some members of the Working Party requested information on the process of price liberalization in Estonia and the extent of any remaining controls on prices for goods and services. Estonia was requested to provide a description of existing price controls; list the affected products by HS tariff

line with reference to the legal provisions under which controls were applied; provisions, if any, for border charges that would increase import prices; and the conditions under which the authority to control prices was to be exercised.

21. The representative of Estonia confirmed that prices of all goods and services were determined freely by market forces except for oil-shale and electricity. The prices set for these items, valid as of 1 June 1996, are reproduced in Tables 1 and 2. He added that price controls on oil-shale and electricity were subject to gradual deregulation programs; prices would approach world market levels with due regard to the balance between the required return on the invested capital and the interests of consumers. He also noted that the present producers of energy, heating and oil-shale were not monopolies since there was no prohibition for anybody to start similar operations in Estonia or offer a competitive solution for the entire Estonian energy system including price reform. The legal basis for the price controls were the Price Law of 1989 and the Decree of the Ministry of Economic Affairs No. 7 of 15 May 1996. Heating and local transport charges were regulated to some limited extent at the level of municipalities.

**Table 1**  
**Electricity prices (Since 1 June 1996)**

Consumer Group	Payment Variants	Capacity charge EEK/kW per month	Consumer charge EEK/A per month	Active Energy				Reactive Energy	
				Main price sent/KWh*	Time price sent/kWh*			consump- tion /kvarh	releasing to the network sent/kvarh*
					day 07.00- 12.00	day 12.00- 23.00	night		
I Consumer with capacity 400 kW or more per one substation or measuring system unit	A voltage in connection point 110kV or more	51.00	-	27.6	31.2	29.6	19.4	3.8	7.6
					30.4	30.4			
	B voltage in connection point 6-35kV	56.00	-	30.8	34.6	32.8	21.6	4.3	7.6
					33.7	33.7			
	C voltage in connection point less than 6kV	61.00	-	33.5	37.8	35.8	23.6	5.0	7.6
					36.8	36.8			
II Consumer with capacity 400 kW or more per one substation or distribution unit. At the choice of the consumer either A, B, or C.	A voltage in connection less than 6kV	-	1-phase 2.50	37.7	42.6	40.4	24.7	5.0	7.6
			3- phase 7.50		41.5	41.5			
	B voltage in connection point less than 6kV	-	-	48.6	53.5	53.5	33.0	5.0	7.6
	C voltage in connection point 6-35kV	-	-	43.2	47.5	47.5	30.5	4.3	7.6
III Reseller		-	7.00	C	C+ 2.0	C+ 2.0	0.61 C	4.1	6.8
IV Households		-	-	38.1/ 45.0	38.1/ 45.0	38.1/ 45.0	18.6/ 22.0	-	-
V. Consumer without measuring	A (1-phase)	-	53.00	-	-	-	-	-	-
	B (2-phase)	-	159.00	-	-	-	-	-	-
VI Night consumers consumption regulators 100kW or more	A voltage in connection point 6kV or more	-	3.00	-	-	-	19.3	4.3	7.6
	B voltage in connection point less than 6kV	-	3.00	-	-	-	22.4	5.0	7.6

\* 1 EEK=100 sent

**Table 2**  
**Oil-shale Prices (Since 1 June 1996)**

	Quality class	MJ/kg	Price for regular customer EEK/t	Price for clients without contract EEK/t
1.	PK	over 11.51	68.93	98.43
2.	1PK	over 10.97	68.07	97.21
3.	2PK	10.26 - 10.97	67.12	95.86
4.	3PK	9.59 - 10.25	66.27	94.65
5.	4PK	8.54 - 9.58	65.33	93.03
6.	P	over 9.21	64.40	92.00
7.	1P	over 8.79	63.55	90.78
8.	2P	7.79 - 8.79	62.68	89.55
9.	3P	7.29 - 7.78	61.74	88.23
10.	4P	6.28 - 7.28	60.88	87.00
11.	5P	6.07 - 6.27	59.96	85.67

22. The representative of Estonia confirmed that prices of goods and services in every sector of Estonia were determined freely by market forces with the exception of those listed in paragraph 21 above. He added that prices for goods and services would not be subject to State control. He confirmed that Estonia would apply such controls, now and in the future, in a WTO-consistent fashion, and would take account of the interests of exporting WTO members as provided for in Article III.9 of the GATT 1994. Estonia would publish any list of goods and services subject to State price controls in the official journal, Riigi Teataja (State Gazette), including any changes regarding existing price controls on oil-shale and electricity. The Working Party took note of these commitments.

### **Competition Policy**

23. Some members of the Working Party requested a detailed description of Estonia's competition policy, including the provisions in the Law on Competition which prohibits unfair trade practices and the authority of the Competition Board to permit agreements restricting competition.

24. In response, the representative of Estonia said that the Law on Competition of 1993 prohibited unfair trade practices with specific reference to the following six types of practices:

- (i) misleading advertising;
- (ii) incorrect use of the designation of a firm, trade mark or other attributes;
- (iii) disparaging a competitor or his goods;
- (iv) abuse of business secrets;
- (v) preferences or influence obtained through the use of an employee of another market participant; and
- (vi) unlawful restricting or favouring of the sale of goods and services.

Provisions concerning the abuse of a dominant market position had entered into force on 1 October 1993 and agreements and concerted practices restricting competition on 1 January 1994. The Estonian Competition Board was established under the Ministry of Finance in December 1993. In its procedural way of making decisions the Board gave priority to the interest of the consumers. Supervision of banking and insurance was carried out by a separate State body. The terms of international agreements ratified by Parliament prevailed over provisions in the Law on Competition in cases of contradiction. Upon entry into force, the WTO Agreement would have the status of an international agreement.

#### **FRAMEWORK FOR MAKING AND ENFORCING POLICIES**

25. The representative of Estonia stated that, in accordance with the Constitution, the activities of the Riigikogu (Parliament), the President of the Republic, the Government of the Republic, and the judiciary courts were based on the principle of separation and balance of powers. Legislative power was vested in the Riigikogu and executive power in the Government of the Republic. Justice was administered solely by the courts which acted independently as provided in the Constitution and the laws. The main government entities responsible for the formulation and implementation of policies affecting foreign trade were the Ministries of Economic Affairs; Foreign Affairs; Finance; Agriculture; and Transport and Communications. All local issues were resolved and managed by local governments - municipalities and townships - operating autonomously. The representative body of local government was the council, elected in free elections for a term of three years.

## **POLICIES AFFECTING TRADE IN GOODS**

### **Trading Rights**

26. The representative of Estonia said that from 1 September 1995, the Commercial Code had replaced the Enterprise Law. The Commercial Code defined five types of business association (general partnership, limited partnership, limited liability company, joint stock company and co-operative association) and the individual private entrepreneur, and stipulated procedures for opening a foreign company's branch office in Estonia. The Commercial Register was to be kept by local city courts. Enterprises set up under previous legislation, not meeting the requirements of the new Code, would need to be restructured or terminated by 1 September 1997. Stricter mandatory capital requirements would apply from 1 September 1999. The Commercial Code did not contain any provision which would be inconsistent with the national treatment principle.

### **Market Access Negotiations**

27. The representative of Estonia presented an initial offer for market access negotiations on goods in April 1995 and submitted a Revised General Offer for Market Access Negotiations on Goods in August 1995. An offer on domestic support and export subsidies in agriculture was circulated to members of the Working Party in September 1995. A number of members entered into market access negotiations with Estonia. The concessions on imported and exported goods and the commitments in agriculture agreed between Estonia and members of the Working Party are annexed to the Protocol of Accession of Estonia which is reproduced in the Appendix to this Report. As indicated in the conclusions of this Report, the Working Party took note of the market access commitments of Estonia.

### **1. Import Regulations**

#### **Customs Tariff**

#### **Customs Duties**

28. Noting that the current absence of a customs tariff demonstrated Estonia's free trade determination, some members of the Working Party commended the successful and effective outcome of Estonia's free trade policies and hoped that Estonia would continue to pursue these same sound and progressive policies in the future. Some members also asked Estonia to provide details about the

imposition of customs duties and the criteria for application of zero and non-zero rates. A member expressed concern about Estonia's intentions in this area and requested further clarification, noting that the Estonian authorities had drafted a Law on Customs Tariff although the draft law apparently remained unadopted. This member requested that the draft law be provided to the Working Party for review and comment.

29. The representative of Estonia said that customs duties had not been required so far since prices of local resources had yet to reach the approximate international level. He reaffirmed the free trade orientation of his country noting, however, that Estonia would reserve the right to impose customs duties in the future, in full consistency with its concessions and commitments as a member of the WTO. A ceiling tariff binding would offer Estonia the same regulatory opportunities in external trade as its main trading partners. Therefore, Estonia would prefer to bind its tariffs at levels comparable to the average duty levels prevailing in WTO Members in line with the agreements and commitments on market access achieved in the Uruguay Round. The representative of Estonia added that, at present, the Estonian Government had no plan to impose any more import duties than those for the imports of furs (16%), sea scooters, small vessels and snow-scooters (10%), and the exports of vintage cars presenting a cultural value (100%) as provided for in Government Decree No. 200 of 10 July 1993. Should there be any need for further legal instruments, Estonia took the commitment to apply these in a WTO-consistent manner. He added that the Law on Customs Tariffs was still in the process of drafting and a special expert group had been established in order to finalise the drafting. Estonia would provide a translated copy of the draft law as soon as possible. However, as there were no significant tariffs in Estonia, his Government could not take the commitment that this law would be among the country's first priorities. It was not possible to make any predictions as to when the Estonian Parliament would adopt a Law on Customs Tariffs.

30. The representative of Estonia said that his Government undertook the commitment to ensure that the Customs Tariff Law would comply with the provisions of the WTO. The Working Party took note of this commitment.

### **Other Duties and Charges**

31. The representative of Estonia stated that Estonia levied no duties and charges on imports other than ordinary customs duties and charges for services rendered. He confirmed that Estonia would bind all duties and charges, other than the ordinary customs duties, listed in its goods schedule annexed

to its Protocol of Accession under Article II.1(b) of the GATT 1994, at zero. The Working Party took note of this commitment.

### **Fees and Charges for Services Rendered**

32. Some members of the Working Party noted that Estonia had applied an ad valorem tax to customs clearance operations and questioned whether the revised fee was commensurate with the approximate costs of the services rendered as provided for in Article VIII of the GATT 1994. Estonia was also asked to provide details on the exemptions from the fee.

33. The representative of Estonia informed the Working Party that, as of 1 April 1995, a 0.5 per cent customs procedure tax had been replaced by a flat fee per customs declaration. The representative of Estonia confirmed that a fixed fee of EEK 200 per import and export declaration was charged as a customs declaration fee and that this was the only fee or charge for services rendered currently in force. The fee was collected by the National Customs Board as a procedure fee covering the cost of customs formalities.

34. The representative of Estonia said that the fee related only to the cost of customs processing, and represented some 8.4 per cent of all revenue collected by Estonian Customs during January-September 1996; other revenue was derived from excise taxes (91.6 per cent) and customs duties (0.1 per cent). The fee was levied on imports from all trading partners, but not on transit trade or goods in customs warehouses, goods declared by physical persons, or preliminary declarations. Also exempt were goods for official use by foreign diplomatic representations, consular representations or international organizations; printed matter and information carriers addressed to libraries; irrecoverable economic aid; and humanitarian aid received by the Estonian Red Cross.

35. The representative of Estonia confirmed that the customs declaration fee described in paragraphs 33 and 34 was applied on a non-discriminatory basis to trade with all Estonia's trading partners. He further confirmed that, from the date of accession, Estonia would not reintroduce an ad valorem customs fee. The customs declaration fee would be applied in conformity with WTO obligations, in particular Articles VIII and X of the GATT 1994. The level of the applied fee would not exceed the cost of processing individual import and export declarations, revenues from the fee would be used solely for customs processing of imports and exports, and total annual revenue from collection of the fee would not exceed the cost of customs processing operations for the items subject to the fees. Information

regarding the application and level of the fee, revenues collected and their use, would be provided to WTO members upon request. The Working Party took note of these commitments.

### **Application of internal taxes to imports**

#### **Excise taxes**

36. Some members of the Working Party noted that the excise taxes for certain domestic and imported tobacco products and alcoholic beverages were different. These members requested Estonia to phase out all measures inconsistent with Article III of the GATT 1994. Some members also questioned the conformity of Estonia's excise tax on automobiles with Articles III, VII and VIII of the GATT 1994 and the WTO Agreement on Customs Valuation and requested details about the new tax régime. Estonia was also asked to provide details on excise tax exemptions. A member held the view that excise tax exemptions for small domestic producers of beer (annual domestic production not exceeding 5,000 dekalitres) and of wine (annual production not exceeding 1,000 dekalitres), and the exemption from the excise tax on second-hand motor vehicles for domestically-owned cars were inconsistent with the national treatment provision of Article III of the GATT 1994. In his view, Estonia would need to change its excise tax legislation to bring it into conformity with Article III of the GATT 1994.

37. The representative of Estonia described the rates of excise tax applied in 1996 on tobacco, petroleum products, alcohol and motor vehicles (Tables 3 and 4). These tax levels were considered optimal and no reductions were foreseen upon accession to the WTO. Estonia confirmed that the Law on Alcohol Excise Tax provided exemptions from excise tax for very small-scale producers whose annual production of beer did not exceed 5,000 dekalitres or whose annual production of wine did not exceed 1,000 dekalitres. These exemptions were necessary to maintain national traditions in the rural areas of Estonia. The beer and wine produced in such small quantities were consumed locally on a very limited area. These exemptions were considered to be measures of regional development. The production of such breweries and wineries was not significant in the framework of the total domestic production of beer and wine. For tobacco products, the excise rates were equalized on 1 January 1996 by bringing taxes on domestic products up to the level applied to imports. According to amendments to the Law on Alcohol Excise Tax, the excise rates on domestic and imported beer would be equalized on 1 December 1996. However, small-scale producers of beer - producers with annual production not exceeding 300,000 dekalitres - were subject to a lower rate of excise duty as a regional development measure. The small scale producers covered only 9% of the Estonian domestic beer market. An excise duty of 16 per cent on furs and fur products, levied only on domestic producers, had been eliminated.

**Table 3**  
**Excise Taxes in Estonia**

<b>Tariff Heading, subheading</b>	<b>Product description</b>	<b>Tax rate (EEK)</b>
2204 10 110 - 2204 21 101, 2204 21 110 - 2204 21 840, 2204 29 105, 2204 29 129, 2204 29 139, 2204 29 179, 2204 29 189, 2204 29 429, 2204 29 439, 2204 29 449, 2204 29 469, 2204 29 479, 2204 29 489, 2204 29 589, 2204 29 629, 2204 29 649, 2204 29 659, 2204 29 719, 2204 20 729, 2204 29 759, 2204 29 819, 2204 29 829, 2204 29 839, 2204 29 849, 2205 10 101, 2205 90 103.	1. Sparkling wines and other wines of fresh grapes with an alcoholic content by volume up to 15 %	10.40*
2204 29 101, 2204 29 121, 2204 29 131, 2204 29 171, 2204 29 181, 2204 29 421, 2204 29 431, 2204 29 441, 2204 29 461, 2204 29 471, 2204 29 481, 2204 29 581, 2204 29 621, 2204 29 641, 2204 29 651, 2204 29 711, 2204 29 721, 2204 29 751, 2204 29 811, 2204 29 821, 2204 29 831, 2204 29 841, 2205 90 101	- unbottled wines of fresh grapes	8.00*
2204 21 109, 2204 21 870 - 2204 21 990, 2204 29 109, 2204 29 879, 2204 29 889, 2204 29 899, 2204 29 919, 2204 29 929, 2204 29 939, 2204 29 949, 2204 29 959, 2204 29 969, 2204 29 979, 2204 29 989, 2204 29 999, 2205 10 109 - 2205 10 900, 2205 90 109, 2205 90 902.	2. Sparkling wines and other wines of fresh grapes with an alcoholic content by volume exceeding 15%	15.60*
2204 29 103, 2204 29 871, 2204 29 881, 2204 29 891, 2204 29 911, 2204 29 921, 2204 29 931, 2204 29 941, 2204 29 951, 2204 29 961, 2204 29 971, 2204 29 981, 2204 29 991, 2205 90 105, 2205 90 901.	- unbottled wines of fresh grapes	12.50*
2206 00 100-2206 00 510 2206 00 591	3. Other fermented drinks (e.g. cider, berry, wine etc.) and their blends:	4.90*
2206 00 810 2206 00 891	1) with an alcoholic content by volume up to 15 %vol.	4.90*
2206 00 592 2206 00 892	2) with an alcoholic content by volume exceeding 15 %vol.	6.50*
ex2207 10 000 2208 2106 90 200 3302 10 100	4. Other alcohol	1.15**

Tariff Heading, subheading	Product description	Tax rate (EEK)	
ex2207 10 000 ex2208 90 910 ex2208 90 990	5. Rectified spirits used in medicine, pharmaceuticals, veterinary medicine for scientific and study purposes, the production of perfumery	0.20**	
* per litre ** per one %vol. of absolute alcohol a litre			
Beer		until 1/12/96 (EEK)	from 1/12/96 (EEK)
2203 00 019 2203 00 099 2203 00 909	1) with an alcoholic content by volume up to 4.7 % vol. in case of annual production in thousands of dekalitres: up to 300 (incl.) over 300	1.50* 2.00*	2.00* 2.50
2203 00 011 2203 00 091 2203 00 901	2 ) with an alcoholic content by volume exceeding 4.7 % vol. in case of annual production in thousands of dekalitres: up to 300 (incl.) over 300	2.00* 2.50*	2.50* 3.00*
	5. Imported beer:		<u>After</u>
2203 00 019 2203 00 099 2203 00 909	1) with an alcoholic content by volume up to 4.7 %vol.	6.00*	<u>1/12/96</u> <u>no separate</u> <u>excise tax</u> <u>exists on</u> <u>imported</u> <u>beer. Both</u> <u>domestic</u>
2203 00 001 2203 00 091 2203 00 901	2) with an alcoholic content by volume exceeding 4.7 % vol.	9.00*	<u>and</u> <u>imported</u> <u>beer will</u> <u>be covered</u> <u>by the</u> <u>same</u> <u>excise rate</u>
* per litre			

Tariff Heading, subheading	Product description	Tax rate (EEK)
<b>Motor Fuel</b>		
2710 00 271, 2710 00 272 2710 00 290, 2710 00 320 2710 00 341, 2710 00 342 2710 00 343, 2710 00 344	Petrol	1.20 EEK per litre
2710 00 691	Diesel Oil	0.75 EEK per litre
2710 00 510, 2710 00 260 2710 00 370	Aviation petrol and gasoline	1.50 EEK per litre
2711 12 940, 2711 12 960 2711 12 980, 2711 13 910 2711 13 930, 2711 13 980	Liquid gas used as motor fuel	0.75 EEK per litre
2711 21 000	Compressed gas used as motor fuel	0.75 EEK per m <sup>3</sup>
2710 00 871	Motor oil	0.15 EEK per litre
<b>Tobacco products (EEK)</b>		
2402 20	Filtered cigarettes	3*
2402 20	Unfiltered cigarettes	3*
2402 20	Russian cigarettes	3*
2402 10 001	Cigarillos	3*
2402 10 009	Cigars	3**
2403 10	Smoking tobacco	3***
2403 99 100	Snuff	3***
2403 99 100	Chewing tobacco	3***
2402 90 000, 2403 99 900	Other tobacco products	3***
* applies to up to 20 cigarettes or cigarillos; a package containing 21 - 40 cigarettes or cigarillos is marked with two revenue stamps etc. ** applies to one cigar *** applies to up to 50 grams of a tobacco product; a package containing 51 - 100 grams of a tobacco product is marked with two revenue stamps etc.		

38. The representative of Estonia added that excise taxes on alcoholic beverages were not collected on domestically produced alcohol exported by the manufacturer directly or through a customs warehouse; supplies to maritime or air transport vessels engaging in foreign travel; temporary importation by foreign juridical persons of limited amounts of alcohol for fairs and exhibitions; alcohol to be included in a data base on producer brands; and alcohol imported for official functions under diplomatic status. The excise tax on wines distinguished between bulk and bottled imports to encourage bottling and further processing in Estonia. However, the higher rate applied on sales of domestically bottled wines. Imported

alcohol was taxed upon importation while domestic manufacturers paid the tax at the time of sale, exchange, free transfer or own consumption.

39. Concerning the taxation of automobiles, a Member said that the exemption of used domestically owned automobiles from the excise tax on used automobiles was inconsistent with Article III of the GATT 1994 and should be changed to bring into conformity. In response, the representative of Estonia referred to the Law on Motor Vehicle Excise Tax, in force since 1 April 1995, replacing a 10 per cent import tax which had been levied in accordance with original invoices for legal persons and a valuation list for natural persons in order to avoid fraud. The new system taxed vehicles in fixed amounts according to vehicle age and engine cylinder capacity. According to the Law on Motor Vehicle Excise Tax, the excise tax was imposed on motor vehicles imported into Estonia and manufactured in Estonia. There were no manufactures of motor vehicles in Estonia except that buses were assembled in small quantities. At present there were no sales of domestically produced new or used motor vehicles. According to the Law, if there would be manufactures of motor vehicles, they would pay the excise tax upon sale, exchange, gratuitous transfer or self-consumption of motor vehicles. Resale of such motor vehicles by a buyer was not subject to the excise tax. The same treatment applied to the resale of imported motor vehicles. Estonia considered that the Law on Motor Vehicle Excise Tax was in conformity with Article III of GATT 1994 because imported motor vehicles were treated as favourably as domestically produced motor vehicles. The tax was paid by the importer upon importation and by domestic manufactures upon the sale of the vehicle.

40. The representative of Estonia said that all new motor vehicles and used motor vehicles imported into Estonia were subject to excise tax. The excise tax was imposed on the first ownership of a motor vehicle in Estonia, and the tax would be reflected in the domestic market price for subsequent owners. The excise tax was designed to encourage importation of modern vehicles. In order to explain how excise duties on automobiles were calculated an example was included in Table 4.

**Table 4**  
**Motor Vehicles**

<b>Tariff Heading, subheading</b>	<b>Product description</b>	<b>Tax rate (EEK)</b>
<b>1. Excise tax based on the cylinder capacity of motor vehicles</b>		
8703	Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading No. 8702), including station wagons and racing cars:	
8703 10	Motor vehicles specially designed for travelling on snow; golf cars and similar vehicles	1 EEK/cc
	Other vehicles, with spark-ignition internal combustion reciprocating piston engine of a cylinder capacity:	
8703 21	not exceeding 1,000 cc	1 EEK/cc
8703 22	exceeding 1,000 cc but not 1,500 cc	1 EEK/cc
8703 23	exceeding 1,500 cc but not 3,000 cc	1 EEK/cc
8703 24	exceeding 3,000 cc	3 EEK/cc
	Other vehicles with compression-ignition internal combustion piston engine (diesel or semi-diesel) of a cylinder capacity:	1 EEK/cc
8703 31	not exceeding 1,500 cc	1 EEK/cc
8703 32	exceeding 1,500 cc but not 2,500 cc	1 EEK/cc
8703 33	exceeding 2,500 cc	1 EEK/cc
8711 (except under subheading 8711 90)	Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars	1 EEK/cc
<b>2. Excise tax on used motor vehicles based on the age of the motor vehicle</b>		
	of up to 12 years of age	100 EEK/year
	from 13 years of age	150 EEK/year
<b>3. Excise tax on new motor vehicles</b>		1000 EEK
<b>Example:</b> A used automobile, cylinder capacity 2 000 cm <sup>3</sup> , age 10 years and price according to the purchase documents is 10 000 EEK: <p style="margin-left: 40px;"> 10 000 - price according to the purchase documents  2 000 - excise tax on the basis of the cylinder capacity  <u>1 000 - excise tax on the basis of age</u>  13 000  <u>2 340 - VAT (18% from 13 000)</u>  15 340 - price for importer after importation </p>		

41. The representative of Estonia said that the Law on Stamp Duty established revenue stamps, issued against payment of taxes by the National Tax Board at no extra charge, for goods subject to excises. At present the Stamp Duty concerned only imported and domestically produced tobacco products.

#### **Value Added Tax (VAT)**

42. Some members of Working Party requested information on the application of the value-added tax, including product and user-specific exemptions and equal treatment for imported and domestic products. Questions were also raised regarding the calculation of the VAT on motor vehicles.

43. The representative of Estonia confirmed that the value-added tax at an 18 per cent rate was applied equally to domestic goods and to all imports regardless of country of origin. VAT on motor vehicles imported by natural persons had been based on a standard valuation list until the excise tax system was changed on 1 April 1995. He also confirmed that the exemptions for certain goods and services from the VAT were applied equally to domestic and imported goods and services. The following goods and services were exempt from VAT: education and advanced training, postal services, medical services, banking and insurance, funeral services and materials, gambling and lotteries, rents, medical equipment, treatment of dangerous waste and, since February 1995, reusable packaging and municipal sauna services. Exports, subscriptions to periodicals published and printed in Estonia, and theatre tickets had zero-rate VAT. The turnover of goods such as medicines, medical goods, medical treatment equipment and lottery tickets was tax free and imports for non-profit purposes were tax exempt. Imports required for official purposes of foreign representations and diplomats were not subject to VAT provided that foreign country granted the same right to Estonia's representations abroad.

44. Noting that certain legal entities with a turnover below EEK 250,000 were not registered as obligatory payers of VAT, a member questioned the rationale for this provision and its conformity with Article III of the GATT 1994. In his view, this exemption would appear to constitute a subsidy program for sales of domestic goods by small Estonian businesses since imports were assessed for the VAT in any case upon importation. Estonia should revise its legislation in the near term or propose a method by which the deficiencies identified in its excise tax and VAT application would be addressed. The representative of Estonia replied that legal persons whose taxable base (except imports) exceeded the threshold value of EEK 250,000 in a calendar year were obliged to register with the Tax Board as persons liable to taxation. Legal persons with a taxable base below the threshold value could also seek registration as liable to taxation at the Tax Board. In his view, non-registration did not amount

to a subsidy program for small Estonian companies for sales of domestic goods and services since only registered tax payers could claim a refund for VAT paid on goods and services used as inputs in their production.

45. The representative of Estonia confirmed that, as of the date of accession to the WTO, the only domestic taxes applied to imports would be excise taxes and value added tax. He further stated that, from the date of accession, any application to imports of domestic taxes or other internal charges of any kind would be in accordance with the provisions of the WTO, including Article III of the GATT 1994. The Working Party took note of these commitments.

### **Quantitative Import Restrictions, including Prohibitions, Quotas and Licensing Systems**

46. Some members of the Working Party sought information about the scope of "Licences of Activity" and also criteria in the granting of licences and related requirements; licensing arrangements for trade in metals, spirits, tobacco and tobacco products, medicaments, weapons, ammunition, and explosives; and the use of quantitative restrictions. Some members expressed the concern that under certain circumstances the conditions of sale of imported products could be affected in a manner not consistent with Article III of the GATT 1994, for instance, trade in alcohol and tobacco required a preliminary declaration. A member was concerned that Estonia's licensing system could be discretionary and requested that the draft Licensing Law be provided to the Working Party.

47. The representative of Estonia said that licensing was not applied to restrict imports, the production or the wholesale of any product. The "preliminary declaration" requirement simply implied that all customs procedures and formalities needed to be completed before goods could cross the border.

48. In document WT/ACC/EST/9 (Annex II), the representative of Estonia provided the information on import licensing procedures according to the format applicable to WTO Members. He stressed that general government policy was to maintain a liberal economic policy and to reduce the areas of activity subject to licensing. He noted that Estonia considered the licensing arrangements to be consistent with the WTO Import Licensing Agreement. In its submission, Estonia listed 41 economic activities in which operators needed a "Licence of Activity" for production and/or trade, valid for up to five years, and the corresponding regulatory authority (Table 5). Among the justifications listed were safety (e.g. medicaments); a technological level adequate to comply with compulsory standards (e.g. alcoholic beverages); registration requirements to prevent threats to security and the environment (e.g. firearms and vehicles); and registration and accounting requirements for tax purposes (alcoholic beverages,

tobacco, metals, etc.). The criteria for the issuing of licences were published in the official journal "Riigi Teataja" (State Gazette). The number of licences was not restricted. Licences were granted to national and foreign operators under equal conditions. In each licensed sector identical criteria, objectively neutral and systematically administered, were applied regarding importation, exportation and domestic trade. An expired licence could be renewed or replaced by a new valid licence.

49. The representative of Estonia explained that Estonia intended to establish a general framework for licensing which would ensure conformity with WTO provisions. Activity licences had so far been established under different regulations; a new Licensing Act would be elaborated in 1997 to regulate activity licences. No further areas would be subject to licensing while the new law was in preparation. The licensing legislation was still subject to internal discussion between Government agencies. A translated text would be provided to interested WTO Members as soon as possible.

50. The representative of Estonia stated that the importation of products covered by activity licences were subject only to requirements consistent with the WTO Agreement. He confirmed that no restrictions existed on the right of foreign and domestic individuals and enterprises to import and export goods and services within Estonia's customs territory, with the exception of those specifically listed in Table 5. The criteria for engaging in import and export trade in the restricted sectors were consistent with generally applicable restrictions placed on trade in similar domestically produced goods and based on criteria published in the official journal. The availability of activity licences was not restricted nor was the licensing applied to restrict imports, the production, wholesale or retail trade in any product.

51. The representative of Estonia confirmed that Estonia applied no quotas, licences, prior permits or other requirements or measures that could act as quantitative restrictions on imports or exports. Balance of payments measures were not envisaged at the present stage. The representative of Estonia confirmed that activity licensing relating to the trade in goods was carried out fully in line with the WTO Agreements, including the Agreements on Import Licensing Procedures and Articles VIII and XI of the GATT 1994. The representative of Estonia confirmed that, from the date of accession, Estonia would not introduce, re-introduce or apply quantitative restrictions on imports, or other non-tariff measures such as licensing, quotas, bans and other restrictions having equivalent effect that could not be justified under the provisions of the WTO Agreement. If balance-of-payment measures were ever necessary in the future, Estonia would impose them in a manner consistent with the relevant WTO provisions, including Article XII of the GATT 1994 and the Understanding on Balance-of-Payments Provisions of the GATT 1994. The Working Party took note of these commitments.

**Customs Valuation**

52. Some members of the Working Party asked about the status of the Customs Valuation Law and its content. Relating the request for information to Estonia's implementation of the WTO Agreement on the Implementation of Article VII of the GATT 1994, these members enquired whether Estonia's Customs Valuation Law was fully consistent with the WTO Agreement. A member understood that Estonia was considering legislation which could provide for minimum prices on importation of certain food products and questioned the conformity of such legislation with GATT rules. Estonia also appeared to use price lists of reference prices to verify invoices.

53. The representative of Estonia explained that the Customs Valuation Law had been adopted on 8 February 1995 and had entered into force on 1 January 1996. The delay had been necessary to undertake preparatory work for its implementation, including practical arrangements such as the printing of documents, the training of customs officers, informing traders, etc. Estonia considered the Law to be in full conformity with WTO rules, including the WTO Agreement on the Implementation of Article VII of the GATT 1994.

54. Estonia's response to the questionnaire on "Information on Implementation and Administration of the Agreement" was submitted in August 1995 (WT/ACC/EST/4, annexes 1 and 6, listed in document WT/ACC/EST/5). The representative of Estonia was asked to clarify provisions in the Customs Valuation Law relating to the use of transaction value between related parties (Article 4(3)); verification of transaction values between related parties based on test values (Articles 4(5)(4) and (5)); and a reference to minimum customs values in Article 9(2)(4) of the Law. Estonia was also asked about the implementation of Decision 4.1 of the Customs Valuation Committee concerning the valuation of carrier media bearing software for data processing equipment (the Software Decision).

55. The representative of Estonia said that Estonia had introduced the provisions of the Software Decision. A decree, issued by the Ministry of Finance on 11 January 1996, stipulated that only the cost of the carrier medium itself would be accounted for in the customs value. He stated that the value of imported merchandise was determined in conformity with GATT Article VII (2)(a) also in transactions between related parties; test values were used for the verification of the declared value with the actual value only at the request of the importer.

56. The representative of Estonia assured members of the Working Party that the Law on Customs Valuation would be applied in full conformity with the WTO Agreement on the Implementation of

Article VII of the GATT 1994. In addition, he confirmed that Article 9(2)(4) of the Law would be applied consistent with Article VII (Valuation for Customs Purposes). He stressed that Article 9(2)(4) of the Customs Valuation Law prohibited the setting up of minimum import values. The representative of Estonia confirmed that Estonia did not use any form of reference price or fixed valuation schedule for the valuation of imports or to apply duties and taxes, and that all methods of valuation used were in strict conformity with those provided for in the WTO Agreement on the Implementation of Article VII of the GATT 1994.

57. The representative of Estonia confirmed that Estonia would apply fully the WTO provisions concerning customs valuation from the date of accession, including, in addition to the Agreement on the Implementation of Article VII of the GATT 1994, the provisions for the Valuation of Carrier Media Bearing Software for Data Processing Equipment and the provisions on the Treatment of Interest Charges in Customs Value of Imported Goods. He further confirmed that, as an international agreement, the provisions of the WTO Agreement on the Implementation of Article VII of the GATT 1994 would supersede domestic law after accession. The Working Party took note of these commitments.

#### **Other Customs Formalities**

58. The representative of Estonia confirmed that other customs formalities were applied in accordance with internationally accepted rules and were based on the Kyoto Convention. He added that Estonia was a member of the World Customs Organization since June 1992.

#### **Rules of Origin**

59. Some members of the Working Party requested information about the elaboration of rules of origin in Estonia whether in the context of free trade agreements or otherwise. A member requested Estonia to confirm that its rules of origin for both preferential and non-preferential trade complied fully with the WTO Agreement on Rules of Origin. Estonia was asked to describe, in particular, measures consistent with the disciplines under Article 2 of the Agreement and the Common Declaration in Annex II of the Agreement.

60. The representative of Estonia said that the drafting of rules of origin was a continuous process evolving in accordance with developments in the Technical Committee on Rules of Origin of the WTO. Due to the liberal foreign trade régime the elaboration of national rules of origin had not been considered essential in Estonia, but agreed rules of origin were used in the framework of free trade agreements.

Estonia applied unified rules of origin within the system of diagonal cumulative origin among the countries of the European Economic Area, Switzerland and ten associated countries in central and eastern Europe. The Estonian authorities envisaged the elaboration of a law on rules of origin along the lines of existing rules of origin in preferential trade agreements and the suggestions and decisions of the Committee on Rules of Origin of the World Customs Organization and the WTO Agreement on Rules of Origin. Members of the Working Party were supplied copies of the rules of origin of Estonia's free trade agreements with EFTA countries; the European Union, the Ukraine and the trilateral free-trade agreement with Latvia and Lithuania.

### **Anti-Dumping, Countervailing Duties, and Safeguard Régimes**

61. Some members of the Working Party noted that Estonia appeared not to have any specific anti-dumping legislation, but that an Anti-dumping Law, including countervailing duties procedures, was in preparation. In view of the uncertainty regarding the date of entry into force of such a law and its content, Estonia was asked to submit draft legislation for comment to members of the Working Party.

62. The representative of Estonia confirmed that, at this point, Estonia did not have legal authority to apply anti-dumping duties, countervailing duties, and safeguards, and therefore did not use these measures to regulate trade. He also clarified that while price dumping was mentioned among abuses of dominant position in Chapter III, Article 17 of the Law on Competition, the listed unfair trade practices in the Act did not overlap with any pending anti-dumping statute. He added that no text of any Anti-dumping Law existed yet.

63. The representative of Estonia said that in the elaboration of any legislation concerning anti-dumping duties, countervailing duties and safeguards, Estonia would ensure their full conformity with the relevant WTO provisions, including Articles VI and XIX of GATT 1994 and the Agreements on the Implementation of Article VI, the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards. Estonia would also apply any anti-dumping duties, countervailing duties and safeguard measures in full conformity with the WTO provisions. The Working Party took note of these commitments.

## **2. Export Regulations**

### **Customs Tariffs, Fees and Charges for Services Rendered, Application of Internal Taxes to Exports**

64. Some members of the Working Party noted that Estonia applied export taxes on metals and objects of cultural value and asked for a description and justification of these taxes. In response, the representative of Estonia replied that a 100 per cent export tax was levied on objects of cultural value, i.e. dating from before 1950. Prices for objects of cultural value destined for export were determined by the Expert Division on Exportation of Cultural Values of the Central Board of Antiquities. Export taxes on metals had been abolished, but exports were strictly controlled through the licensing of exporters and a State monopoly on scrap metal exports.

### **Export Restrictions**

65. Noting that the Ministry of Economic Affairs had the right to impose export quotas on certain goods, some members of the Working Party asked the representative of Estonia to clarify licensing arrangements affecting trade in metals, spirits, tobacco products and medicaments and to justify export quotas/licences on gravel and clay. Some members also sought clarification on Estonia's intentions regarding the use of non-tariff measures on exports for emergency purposes. The representative of Estonia replied that the Ministry of Economic Affairs' right to determine export quotas had been eliminated. The last remaining export quota (on quartz sand) had been abolished and Estonia did not foresee any further quantitative regulation of foreign trade. As the export quota/licence on gravel and clay had been terminated on 1 January 1995, no justification would be required under GATT or WTO provisions and Estonia would seek no transitional period for this measure. Export and import licences as such did not exist, but he referred to the earlier response regarding "Licence of Activity" (in paragraph 48 above). He added that Estonia would not apply regulations on exports beyond WTO mechanisms. Export control measures (licences) on scrap metal and radioactive waste material did not carry any limitation of quantity. Licences were issued automatically provided the applicant could prove that the goods had been obtained legally. Failure to do so could constitute a criminal offence.

66. The representative of Estonia confirmed that all export quotas had been abolished. He further confirmed that the export control measures would be consistent with Article XX and Article XXI of the GATT 1994 and the administration of such measures would be in full conformity with these articles. He also confirmed that current export control measures on scrap metal and radioactive waste material were of a temporary nature, in consistency with Article XX and Article XXI of the GATT 1994, and

the administration of these measures would be in full conformity with these articles. The Working Party took note of this commitment.

### **Export Subsidies**

67. Some members of the Working Party sought information about subsidies, including tax incentives related to exports, the activities of the Export Credit Fund, the consideration of wide ranging use of export incentives, and existing or planned measures to tackle market disturbances or balance-of-payments problems. The representative of Estonia said that no tax incentives, including tax holidays, existed to promote exports. He confirmed that loans from the Export Credit Fund carried 12 to 16 per cent annual interest, comparable to the commercial interest rates of 12 to 18 per cent in effect for short-term loans in Estonia in 1996. Plans existed to develop the Fund into an Export Credit and Guarantee Board which would receive the initial capital injection from the National Budget. Estonia would not consider wide ranging export incentives, but, due to an increasingly negative trade balance, had the intention to introduce moderate export incentive schemes. Enterprise- or sector-specific subsidies were not envisaged; the schemes would be of horizontal nature and allocations would be based on objective economic criteria. The representative of Estonia added that the incentives schemes would be applied in conformity with WTO requirements.

68. The representative of Estonia stated that Estonia did not maintain any export subsidies which met the definition of a prohibited subsidy within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures, and would therefore not invoke the provisions in the Agreement that provide for the progressive elimination of such measures within a fixed period of time. The Working Party took note of this commitment.

## **3. Internal Policies Affecting Foreign Trade in Goods**

### **Industrial Policy, including Subsidies**

69. Some members of the Working Party requested details on any subsidies to private or State-owned enterprises and asked whether Estonia maintained any industry support to be notified in accordance with the Agreement on Subsidies and Countervailing Measures. Some members also asked Estonia to state its attitude regarding future resort to subsidies in the pursuit of industrial policy and clarification of the intention to restore historical trade links.

70. The representative of Estonia said that the restoration of historical trade links would involve free and balanced economic links with countries offering Estonia the best possibilities and real potential for mutually beneficial economic partnership. Estonia considered financial support provided by its Innovation Fund to be in line with criteria established by Article 8.2 (a) of the Agreement on Subsidies and Countervailing Measures. The Law on State Support for Entrepreneurship regulated State support to small and medium sized enterprises. Support - loans and loan guarantees - were made available from funds managed by an eleven-member Council. The representative of Estonia stated that his Government would notify its Innovation Fund upon entry into force of Estonia's Protocol of Accession. The Working Party took note of this commitment.

### **Technical Barriers to Trade, Sanitary and Phytosanitary Measures**

71. Some members of the Working Party inquired about the application of international and national standards in Estonia and the compliance with various provisions of the Agreement on Technical Barriers to Trade (TBT) and on Sanitary and Phytosanitary Measures (SPS). Regarding agriculture, some members asked about the objectives of the Food Law and the resort to sanitary and phytosanitary measures, with particular reference to Government Regulations 300 and 340 of 1992.

72. The representative of Estonia supplied information on technical barriers to trade in document WT/ACC/EST/9 (Annex III) and a notification on sanitary and phytosanitary measures. He added that at present no legal act regulated the adoption and application of standards, and Estonia had not concluded any agreement with other countries in this area. The National Standards Board was responsible for standardization issues. Current Estonian standards were based on ISO standards and harmonized regulations of the European Union and were generally voluntary, except for mandatory standards on spirits (white vodka) and construction cement. Conformity assessments were organized in accordance with European requirements (EN 45000). Former USSR criteria, the so-called GOST standards, remained temporarily valid in some areas but were no longer mandatory. All standards applied equally to domestic and imported products. Acceptance of foreign certification was based on the principle of mutual recognition between the relevant body in Estonia and its counterpart in another country. The National Standards Board of Estonia was responsible for standardization issues. Draft standards and registration notices were published in "Standards of the Republic of Estonia".

73. The representative of Estonia said that "high quality" and "internationally competitive food" were key objectives cited in Estonia's Food Law, which was to serve as a basis for further legislation regulating food handling, quality, safety, control and inspection. Estonia did not envisage the use of

minimum import prices, but non-automatic import licensing might be employed in the pursuit of food policy objectives. A National Food Board had been established to deal with all matters concerning food and nutrition policy.

74. The representative of Estonia added that border controls on plants and plant products were effected by the State Plant Quarantine Inspection in accordance with Government Regulation 300 (of 17 October 1992) on "Regulation of arranging phytosanitary control on the State border" and amendments to this done on 19 October 1992 (Regulation No. 340) and 31 March 1995 (Regulation No. 147) as well as the Law on Plant Protection and the Temporary Regulation on the State Control, Sale, Export and Import of the Seeds of Field Crops. Goods subject to veterinary controls, border check points, requirements for veterinary certificates and the procedures for settling claims were laid down in a Decree of the Minister of Agriculture of 3 August 1994 and Government Regulation No. 17 of 10 April 1995. The authorities considered the health and safety provisions of the Food Law to be consistent with the WTO Agreement on Sanitary and Phytosanitary Measures. The Food Law would be amended to include acceptance of exporters' certificates, issued in conformity with ISO 9000 and EN 45000, at the border.

75. Some members of the Working Party noted that Estonia had adopted no laws, regulations or administrative procedures relating to the implementation and administration of the WTO obligations on technical barriers to trade and that regulations concerning SPS were being developed. In their view, these procedures should be enacted by the time of Estonia's accession to the WTO.

76. The representative of Estonia said that Estonia would provide copies of draft legislation related to technical barriers to trade and sanitary and phytosanitary measures to Members for comment. Noting that Estonia did not yet have a specific timetable for formulating and implementing such legislation, he confirmed that Estonia would eventually establish such legislation. He confirmed that Estonia would establish an Enquiry Point as required in Article 10 of the WTO Agreement on Technical Barriers to Trade, and that agencies drafting standards and conformity assessment or certification procedures would take into account existing international standards or guidelines prior to drafting domestic legislation. These agencies would accept the Code of Good Practice established in Annex 3 of the TBT Agreement, notify WTO Members at the draft stage and take into account comments from WTO Members before finalizing regulations. Estonia was preparing a notification under Article 15.3 of the TBT Agreement.

77. The representative of Estonia confirmed that Estonia would apply all obligations under the WTO Agreements on Sanitary and Phytosanitary Measures and Technical Barriers to Trade from the

date of accession without recourse to any transition period. The representative of Estonia confirmed that procedures to grant licences to import food would be finalized by the end of 1996 and would be in full conformity with the provisions of the WTO Agreement on Import Licensing Procedures, notably its Articles 2, 3 and 5. The representative of Estonia added that licences would not act to restrict the quantity of imports; they would be granted automatically with the exceptions of conditions related to phytosanitary requirements. The Working Party took note of this commitment.

### **Trade-Related Investment Measures (TRIMs)**

78. With reference to trade related investment measures, the representative of Estonia confirmed that his Government applied the principle of national treatment. He said that Estonia did not maintain any measures inconsistent with the TRIMs Agreement and would not invoke provisions in the Agreement that provide for the progressive elimination of such measures within a fixed period of time. The Working Party took note of this commitment.

### **State Trading**

79. Some members of the Working Party noted that a significant portion of Estonia's output and trade remained in State hands and that tobacco and alcohol had been subject to State monopoly. Estonia was requested to notify under Article XVII any de facto or de jure trade monopoly and trade activities of any State-owned firm benefitting from selective support or subject to State intervention.

80. The representative of Estonia replied that following extensive privatization State-owned firms accounted for less than 5 per cent of domestic trade. Estonia notified under Article XVII of the GATT 1994 in its Information on State-trading (WT/ACC/EST/9 (Annex IV)) that a State monopoly had been established on scrap metal to control metal trade for reasons consistent with Article XXI (Security Exceptions). The purpose of the scrap metal monopoly (EMEX) was to prevent serious crime; i.e. trade in metal stolen from unguarded installations and construction sites. Such thefts had caused extensive damage to domestic infrastructure, in particular to the operations of Estonian Railways, Estonian Energy and Estonian Telephone. The monopoly would also be used to control trade in radioactive scrap materials.

81. The representative of Estonia stated that, except for the monopoly on exports of metal scrap, no enterprises carried special or exclusive rights in Estonia. He confirmed that the scrap metal monopoly would be operated in accordance with the relevant provisions of the WTO Agreements, including

Articles XVII and XI of the GATT 1994, and that the monopoly would be abolished with the return to normal conditions in the trade of metal scrap in Estonia. The representative of Estonia further confirmed that, in the application of laws and regulations governing the trading activities of State-owned enterprises and other enterprises with special and exclusive rights, his Government would in all circumstances act in full conformity with the provisions of the WTO Agreements, in particular Article XVII of the GATT 1994, including the Understanding on that Article, and Article XI of the GATT 1994; as well as Article VIII of the GATS. The Working Party took note of these commitments.

### **Free Zones, Special Economic Areas**

82. The representative of Estonia said that there were currently no free trade zones in Estonia.

### **Government Procurement**

83. Some members of the Working Party asked whether Estonia intended to join the Agreement on Government Procurement and requested details about Estonia's procurement legislation, its coverage and its conformity with WTO principles. The representative of Estonia said that the Law on Public Procurement was adopted in May 1995 and entered into force on 1 January 1996. The Law was in line with WTO provisions. The Government had established a Public Procurement Board to coordinate and administer public procurement activities. The legislation defined five principal methods of procurement: open tender, two-stage tendering, negotiated tendering, request for quotations and single-source procurement. Open tender implied that any interested supplier could submit a bid and no negotiation would take place between the procuring entity and any tenderer. Two-stage tendering would be applied when all technical and economic factors could not be assessed *a priori* or the procurement carried uncertainty regarding research and development costs. Negotiated tendering would be organized in procurement involving State secrets or subsequent to an inconclusive round of open tender (no bids received or all tenders rejected). The procuring entity could request quotations when a competitive market existed for the product to be purchased and the procedure would result in offers below the going market price. Single-source procurement could only take place in the existence of sole suppliers, extraordinary needs or time pressure; as a continuation of previous procurement contracts; when the supplier would carry out research and development resulting in prototypes; or in procurement involving State secrets.

84. The representative of Estonia confirmed that, upon its accession, his Government would notify the Committee on Government Procurement of its intention to accede to the Agreement on Government

Procurement and seek observer status in that Committee. He further confirmed that Estonia would initiate negotiations for membership in the Agreement by tabling an entity offer. He also confirmed that, if the results of the negotiations were satisfactory to the interests of Estonia and the other members of the Agreement, Estonia would complete negotiations for membership to the Agreement by the year 2002. The Working Party took note of these commitments.

## **Transit**

85. The representative of Estonia said that Estonia had joined the "Convention on Customs for Goods in International Transit under the TIR Carnet" in April 1993. Departure and arrival formalities were completed at the customs inspection stations at the border. No customs duty, customs clearance charge, sales tax or excise tax were levied on goods in transit.

86. The representative of Estonia confirmed that his Government would apply its laws and regulations governing transit operations and would act in full conformity with the provisions of the WTO Agreement, in particular Article V of the GATT 1994. The Working Party took note of this commitment.

## **4. Agricultural Policies**

87. Some members of the Working Party requested information on Estonia's current agricultural policy, including main principles, and specific policies regarding tariffs and tariff bindings, trade measures in the grain sector, safeguards, farm support programmes and incomes policy, price controls, export subsidies, privatization and preferential trade arrangements.

88. The representative of Estonia said that the return of land to former owners had been a cumbersome process but the major part of agriculture had been privatized. Remaining State enterprises still played an important rôle in the development of seeds and breeds. Foreign ownership existed in the food processing industry. Estonia had no tariffs or non-tariff measures affecting agricultural imports and no subsidies or price controls on food. However, the Law on Market Arrangements would allow the introduction of tariffs. The initial offer for the market access negotiations (WT/L/60) included no zero-tariff bindings in agriculture and Estonia indicated that its tariffs would be bound at a level similar to the neighbouring countries. Estonia had the possibility, until 1996 or 1997, to regulate agricultural imports with tariffs under the Free Trade Agreement with the European Union. The 1994 Law on Grain allowed the Government to restrict grain imports when domestic demand was fully covered by local production. However, quotas had not been implemented until now.

89. The representative of Estonia confirmed Estonia's awareness of the WTO requirement to convert quantitative import restrictions into customs duties and said that this rule would be followed in future policy. The representative of Estonia added that licensing arrangements for food imports would be finalized by December 1996. Licences would not act to restrict the quantity of imports; they would be granted automatically with the exception of conditions related to phytosanitary requirements.

90. The representative of Estonia added that the 1994 Free Trade Agreement between Estonia, Latvia and Lithuania did not cover HS Chapters 1 to 24, but an agreement covering trade in farm products would enter into force in 1997.

91. The representative of Estonia added that Estonia would not exclude any future resort to special safeguard measures, but was not able to indicate any specific areas where such measures might be used. Some members of the Working Party noted that the provisions regarding special safeguard measures in the Agreement on Agriculture were reserved for WTO members having undertaken tariffication of non-tariff measures in the Uruguay Round. Therefore, as a non-member of the WTO at that time, Estonia would not be entitled to resort to special safeguard measures.

[92. The representative of Estonia said that the lack of financial resources had so far prevented subsidization of agricultural exports, but Estonia would reserve the right to introduce domestic support programmes and export subsidies. An offer on domestic support and export subsidies for agriculture was circulated to members of the Working Party in September 1995 (WT/SPEC/13) including export subsidy ceilings for butter, cheese, milk powder, beef, pig meat and poultry meat; income support measures subject to reduction commitments; and various "green box" measures. Estonia also listed a number of current support programmes it considered "green box" support in WT/ACC/EST/4. Some members of the Working Party did not agree that Estonia should be entitled to claim protection for programs it had not yet implemented, such as export subsidy programs, or programs that had been implemented after Estonia applied for accession to the WTO.]

[to be completed]

### **Trade in Civil Aircraft**

93. A member of the Working Party sought a commitment that Estonia would implement the Agreement on Trade in Civil Aircraft without exceptions or transition periods at the time of accession.

94. The representative of Estonia confirmed that Estonia would become a signatory to the Agreement on Trade in Civil Aircraft upon accession to the WTO. The Working Party took note of this commitment.

#### **TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS**

95. Some members of the Working Party requested details about legislation and enforcement of intellectual property right protection in Estonia and the compatibility with requirements of the TRIPS Agreement. Specific questions were addressed regarding exceptions from national or m.f.n. treatment, non-patentable inventions, protection of plant varieties, patent holders' rights, extension of patent terms, granting of compulsory licences, judicial review, semiconductors, copyright, trademarks, industrial design and competition and anti-trust.

96. The representative of Estonia said that Estonia deemed its intellectual property right protection compatible with the TRIPS Agreement with no exceptions to the principles of national and m.f.n. treatment. The Patent Office had opened in March 1992. During 1992 and 1994 Estonia had enacted a Patent Law; a Utility Model Law; a Trademark Law; and a Copyright Law. A design protection law was in preparation. Legislation on industrial property was said to be modelled on corresponding laws of the Nordic countries. Estonia's Copyright Law and Trademark Law allowed bilateral and multilateral agreements to which Estonia had acceded to take precedence if provisions of national law were inconsistent with the provisions of such agreements.

97. In 1994, Estonia had become full member of the World Intellectual Property Organization, joined the Patent Cooperation Treaty and restored its membership to the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works which Estonia originally joined in 1924 and 1927, respectively. The Ministry of Culture was preparing Estonia's accession to the 1971 Geneva Convention and the 1961 Rome Convention. The text of the Rome Convention had been translated into Estonian and a draft Law to join the Convention would be presented to Parliament in the first half of 1997. Estonia also planned to accede to the Protocol relating to the Madrid Agreement on International Registration of Marks and the Trademark Law Treaty. In response to further questions, the representative of Estonia said that plant varieties were protected under the 1994 Variety Protection Law and patent protection for microorganism strains could be granted following Estonia's accession to the Budapest Treaty. Estonia intended to accede to the Union for the Protection of New Plant Varieties (UPOV) and the Variety Protection Law would be harmonized with the 1991 UPOV Convention.

98. Certain inventions were non-patentable (inventions contrary to public order and morality, treatment and diagnostic methods practised on humans or animals, topology of micro-circuits and substances derived from nuclear fission). Patent protection was provided to equipment, methods, substances or micro-organism strains, including their combination and use for novel purposes, in accordance with Article 6 of the Estonian Patent Law; no plans existed to introduce supplementary protection certificates for pharmaceutical and agricultural chemical products. Provisions regarding a patentee's exclusive rights and exceptions were found in Chapter IV (sections 15, 17, 45 and 46) of Estonia's Patent Law. There were no restrictions on a patent owner's rights to assign, transfer or licence rights, but a licensing agreement needed to be registered with the Patent Office to be valid. Compulsory licences could be granted by court order only (section 47). Estonia considered this provision to fulfil entirely the requirements of Article 31(b) and (c) of the TRIPS Agreement. Patents were not extendable under present legislation. Provisions corresponding to Article 34 of the TRIPS Agreement (Process Patents: Burden of Proof) had not yet been established.

99. With respect to copyright and related rights, the representative of Estonia said that Estonia applied the principle of national treatment in the protection of works. The Copyright Law also protected works originating in countries where international treaties did not apply, provided that the other country guaranteed similar protection to the works of Estonian authors or works first published in Estonia. The representative of Estonia added that the drafting and enactment of legislation on protection of semiconductor layout design was scheduled for 1998. The conditions governing free use and free decompilation of computer programs were set out in Chapter IV, Sections 24 and 25, of the Copyright Law. The Law did not contain provisions on compulsory licensing of copyrightable works and sound recordings; full retroactive protection was provided under Sections 38 and 74. Section 75 prescribed the limitations on rights neighbouring on copyright. The collection of a levy to compensate for the use of audiovisual works and sound recordings began in January 1996.

100. With regard to trade marks, the representative of Estonia said that signs registrable as trade marks were enumerated in Section 6 of the Trade Marks Law. The Law protected well known marks whether or not registered in the Republic of Estonia. Section 5 of the Law set out the rights (and limitations) granted to holders of trademarks; registration satisfied notice of the exclusive right, and no specific provisions restricted the licensing or transfer of trademarks. The registration of an assignment was not mandatory, but it was not considered valid without registration. Registrability of a trademark generally did not depend on use. Applications were lodged with the Patents Office, its refusal to register a trademark (contravention of sections 7 and 8) might be contested through the Board of Appeals of

Industrial Property. Decisions of the Appeal Board could be brought before a court of law. Estonia foresaw no changes to the Trademark Law at this stage.

101. The representative of Estonia said that Estonia was drafting new laws on industrial design, geographical indications of origin and semiconductor layout designs. For the time being, geographical indications of origin were protected indirectly through the Trademark Law and the Law on Competition. Trade secrets were not protected by separate legislation, but were covered under Article 148 of the Criminal Code. Undisclosed information was protected under the provisions governing the abuse of business secrets in the Law on Competition. Information submitted to government agencies was protected under the Public Service Law. The Second Part of Estonia's Competition Law: Unfair Competition was consistent with the Paris Convention and Article 40 of the TRIPS Agreement. The Customs Law formed the legal basis for the prevention of imports of infringing goods. In accordance with Article 38 of the Customs Law, customs officers examined goods to check that their nature, origin, condition, quantity and value corresponded to the information provided in the customs declaration. Proceedings could be instituted in cases of forged, falsified or incomplete documentation. Amendments to the Criminal Code and the Code of Infringement of Administrative Law to include specific provisions on legal protection of industrial property awaited approval by Parliament.

102. A member asked Estonia to become a member of the Geneva Phonograms Convention, noting that the restoration of protection for copyrighted works was required under Article 18 of the TRIPS Agreement. Protection of industrial designs, semiconductor chip layout designs and new plant varieties was also required under TRIPS. On patents, this member asked for confirmation that a court, in deciding on a compulsory licence, would follow the procedures outlined in Article 8, paragraph 6 of its bilateral agreement with Estonia.

103. The representative of Estonia stated that Estonia would fully apply all the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights by the date of its accession to the WTO, without recourse to any transitional period. The Working Party took note of this commitment.

## **POLICIES AFFECTING TRADE IN SERVICES**

104. In the interest of accelerating the process of accession to the WTO Agreement, the representative of Estonia submitted Estonia's draft schedule of specific commitments in services (document WT/L/59), and a Revised Draft Schedule of Specific Commitments in Trade in Services (document WT/ACC/EST/6). Certain services activities were subject to licensing; the required licences and the

corresponding regulatory authorities are listed in Table 5. Estonia's schedule of specific commitments on services is reproduced in the annex to this report. As indicated in the conclusions of this report, the Working Party took note of the services commitments of Estonia.

105. Some members of the Working Party commented on Estonia's draft schedule of commitments on trade in services. In their view, the initial offer was not sufficient since the documentation indicated an open services régime and Estonia had entered unbound in several modes of delivery. Specific questions covered procedures or restrictions on the entry of foreign labour, including lawyers, architects and accountants and cross-border trade in such services; market access conditions, cross-border trade, the effect of the economic stabilization programme, and recent legislation in the financial services sector; licensing of operators in telecommunications and air transport; restrictions on foreign investment; establishment of trade offices and the coverage of services in preferential trading arrangements.

106. The representative of Estonia presented a revised services schedule undertaking further commitments. According to the representative of Estonia the unbound entries in the first draft reflected the lack of specific regulations with regard to specific services. He added that visa regulations governed the temporary entry of foreigners; a residence permit and a work permit was required for foreign personnel to take up employment in Estonia. The annual immigration quota corresponded to 0.1 per cent of Estonia's population. Foreign lawyers, architects and accountants could act as consultants to Estonian firms and there were no legal obstacles to the purchase of such services abroad. The representative of Estonia stated that the financial services sector was free from restrictions and that no restrictive measures were planned for the near term. Estonia confirmed that foreign suppliers were not treated less favourably than national providers of financial services, with the exception of some special requirements concerning foreign-owned insurance companies indicated in its draft Schedule of Specific Commitments (WT/L/59). Applications to establish representation offices or subsidiaries in banking were addressed to the Bank of Estonia. Recent amendments in financial sector legislation included further regulations on prudential requirements and the adoption of a new Credit Institution Law with additional instruments for the supervisory authority and provisions on money laundering. The Estonian securities market was in its early stages of development, but growth had been substantial. The demand for insurance had been boosted by compulsory insurance for motor vehicles.

107. With regard to telecommunications, the representative of Estonia said that a foreign firm would need a foreign investment licence and register as a legal person in Estonia to do business in telecommunications. A concession conferring monopoly rights to "Eesti Telefon" (Estonian Telephone)

was valid until year 2003. The Law of Broadcasting (Article 22) limited foreign ownership and possession of broadcasting transmitters to less than 50 per cent of the shares.

108. With regard to transportation, the representative of Estonia said that only companies registered in Estonia could obtain a licence for conveyance of goods and passengers; a ferry had to be owned by a citizen of Estonia or a company with headquarters in Estonia and have a minimum 51 per cent national ownership. The shipping company "Estline" currently had a monopoly concession, valid for a further three years, on the conveyance of passengers between Estonia and Sweden. Aviation licences were issued to permanent residents of Estonia or legal persons with minimum 51 per cent resident or national ownership. Air carriers operating in Estonia included Estonian Air and several foreign carriers.

109. The representative of Estonia stated that Estonia did not prohibit foreign services suppliers from establishing trade offices in any sector and that no services sectors and activities were completely closed to foreign companies.

110. He added that Estonia's free trade agreements mainly covered goods; no current agreement gave any country preferential status in services trade in Estonia.

## **TRANSPARENCY**

### **Publication of Information on Trade**

111. The representative of Estonia stated that, at the latest from the date of accession, all laws and normative acts related to trade would be published promptly in the official journal "Riigi Teataja". He stated further that no law or rule, etc. related to international trade would become effective prior to such publication. The Working Party took note of this commitment.

### **Notification**

112. The representative of Estonia said that, at the latest upon entry into force of the Protocol of Accession, Estonia would submit all notifications (other than those required to be made on an ad hoc basis) required by any Agreement constituting part of the WTO Agreement. Any regulations subsequently enacted by Estonia which gave effect to the laws enacted to implement any Agreement

constituting part of the WTO Agreement would also conform to the requirements of that Agreement. The Working Party took note of this commitment.

## **TRADE AGREEMENTS**

113. Some members of the Working Party enquired about Estonia's preferential agreements with the European Union and EFTA member countries, Latvia and Lithuania, further plans to conclude such agreements, including a possible Baltic Customs Union, and the existence of countertrade agreements with former CMEA members. Questions were also raised concerning the consistency of Estonia's free trade agreements with the requirements of Article XXIV of the GATT 1994, in particular the obligation to cover substantially all the trade between the constituent territories. A member requested information on the scope of Estonia's preferential agreements with particular attention to sectors where all measures and charges on trade had not yet been eliminated.

114. The representative of Estonia replied that Estonia had preferential trade agreements with EFTA; the EU; Latvia and Lithuania; Ukraine; the Czech Republic; the Slovak Republic and Slovenia. Based on the period January-March 1996, about 73 per cent of Estonia's foreign trade was subject to preferential agreements. The Free Trade Agreement with the European Union had entered into force on 1 January 1995, also covering new members Austria, Finland and Sweden. Estonia's Free Trade Agreement with the European Union had been notified to the WTO in document WT/REG8/N/1 and was being examined in accordance with normal practice. Estonia had made proposals to conclude free trade agreements with Poland and Hungary. He stated that Estonia had no countertrade agreements with countries in central and eastern Europe. The free trade agreements generally granted duty free importation and exportation of manufactures (HS Chapters 25-97) while trade in agricultural goods were covered in separate agreements or protocols. Some quantitative and qualitative requirements applied to Estonia's agricultural exports. The main aim of a possible Baltic Customs Union would be the abolition of internal customs controls; an assessment of its effect on Estonia's liberal trade policy was not possible at this stage.

115. The representative of Estonia stated that his Government would observe the provisions of the WTO including Article XXIV of the GATT 1994 and Article V of the GATS in its trade agreements, and would ensure that the provisions of these WTO Agreements for notification, consultation and other requirements concerning preferential trading systems, free trade areas and customs unions of which Estonia was a member were met from the date of accession, in so far as these provisions had not already

been met by one of the other Parties to such an agreement. The Working Party took note of these commitments.

## **Conclusions**

116. The Working Party took note of the explanations and statements of Estonia concerning its foreign trade régime, as reflected in this report. The Working Party took note of the assurances given by Estonia in relation to certain specific matters which are reproduced in paragraphs 14 and 19 of this report. The Working Party took note of the commitments given by Estonia in relation to certain specific matters which are reproduced in paragraphs 22, 30, 31, 35, 45, 51, 57, 63, 66, 68, 70, 77, 78, 81, 84, 86, 94, 103, 111, 112 and 115 of this report. The Working Party took note that these commitments had been incorporated in paragraph 2 of the Protocol of Accession of Estonia to the WTO.

117. Having carried out the examination of the foreign trade régime of Estonia and in the light of the explanations, commitments and concessions made by the representative of Estonia, the Working Party reached the conclusion that Estonia be invited to accede to the Marrakesh Agreement Establishing the WTO under the provisions of Article XII. For this purpose, the Working Party has prepared the draft Decision and Protocol of Accession reproduced in the Appendix to this report, and takes note of Estonia's Schedule of Specific Commitments on Services (document ..... ) and its Schedule of Concessions and Commitments on Goods (document ..... ) that are annexed to the Protocol. It is proposed that these texts be adopted by the General Council when it adopts the report. When the Decision is adopted, the Protocol of Accession would be open for acceptance by Estonia which would become a Member thirty days after it accepts the said Protocol. The Working Party agreed, therefore, that it had completed its work concerning the negotiations for the accession of Estonia to the Marrakesh Agreement Establishing the WTO.

[TO BE COMPLETED]

**Table 5**  
**Activities subject to licensing (Activity Licence)**

<b>Activity</b>		<b>Issuing Authority</b>
1.	Management of aviation and sea transport (exclude small private boats), international car and railway transport (excludes intra-enterprise rail transport)	Ministry of Transport and Communications
2.	Geology-related activities, mining of natural resources	Ministry of Economic Affairs
3.	Production and trade in objects containing precious metals and precious stones	Ministry of Finance
4.	Production, possession and trade in weapons, parts thereof, ammunition, or pyrotechnic equipment; repairs of weapons	Ministry of Internal Affairs
5.	Production and trade in medical narcotic, highly toxic, radioactive, and poisonous substances. Growing plants that contain narcotic, highly toxic and poisonous substances. Purchase and possessing of medical narcotic, highly toxic, radioactive, and poisonous substances	Ministry of Social Affairs
6.	All forms of medical treatment	Ministry of Social Affairs
7.	Production of and trade in medicines	Ministry of Social Affairs
8.	Import and export, as well as production and wholesale of tobacco and production thereof, and alcohol; and retail of alcohol	Ministry of Economic Affairs; Municipal Governments
9.	Printing and minting of money	Bank of Estonia
10.	Printing of securities	Ministry of Finance
11.	Printing of postage stamps	Ministry of Transport and Communications
12.	Building and management of public communications' networks of any kind	Ministry of Transport and Communications
13.	Management of an educational institution of a higher or general level, both vocational, or professional; together with the right to issue nation wide accepted certificates of education	Ministry of Culture and Education
14.	Management of security services' firms, installation of security, guard, and signalization systems	Ministry of Internal Affairs
15.	Opening and management of private detective agencies	Ministry of Internal Affairs
16.	Collation of measuring instruments	Ministry of Finance
17.	Production and trade in micro-organisms, plants, and animals created by genetic engineering	Ministry of Agriculture
18.	Insurance	Ministry of Finance
19.	Projecting, expertise and inspection of buildings, construction contracting activities	Ministry of Environment; Ministry of Agriculture
20.	Geodetic and cartographic activities	Ministry of Environment
21.	Ecological expertise	Ministry of Transport and Communications

	<b>Activity</b>	<b>Issuing Authority</b>
22.	Management of environmentally harmful substances	Ministry of Transport and Communications
23.	Transmission or broadcasting of radio and television programmes by means of the radio and television networks	Ministry of Culture and Education
24.	Management of casinos (gambling)	Ministry of Finance
25.	Reproduction of the State symbols or their parts of the Republic of Estonia	State Chancellery
26.	Exchange management	Ministry of Finance
27.	Tourism	Ministry of Economic Affairs
28.	Ships' agencies and organizing sea transport	Ministry of Transport
29.	Lotteries	Ministry of Transport and Communications
30.	Assessment of land property, selling and buying land	Ministry of Agriculture
31.	Activities on the securities' market	Ministry of Finance
32.	Veterinary activities, veterinary practice	Ministry of Agriculture
33.	Temporary storage of commercial goods, customs-storage procedures	Ministry of Finance
34.	Commercial trade (imports, re-exports), wholesale and retail, and storage of imported fuels and lubricants	Ministry of Economic Affairs
35.	Production and repairs of weapons, ammunition, and technology for national defence purposes	Ministry of Defence
36.	Experiments with animals	Ministry of Agriculture
37.	Management of imports and exports, as well as other trade, services, repairs, and disassembling of motor vehicles and trailers	Ministry of Economic Affairs
38.	Assessment of personal protective equipment types, quality certification; assessment of machinery and equipment types	National Labour Inspection Board
39.	Logopedical aid	Ministry of Social Affairs
40.	Conservation, restoration, creating of repairs projects, and carrying out the corresponding activities on the objects of cultural importance (the objects of archaeological, architectural, technological, and historical value, objects of fine arts)	Ministry of Culture and Education
41.	Classification of goods and measuring of goods for customs' purposes	Ministry of Finance

## **APPENDIX**

### **ACCESSION OF ESTONIA**

#### **Draft Decision**

**The General Council,**

**Having regard** to the results of the negotiations directed towards the establishment of the terms of accession of the Republic of Estonia to the Marrakesh Agreement Establishing the World Trade Organization and having prepared a Protocol for the Accession of Estonia,

**Decides**, in accordance with Article XII of the Marrakesh Agreement Establishing the World Trade Organization, that the Republic of Estonia may accede to the Marrakesh Agreement Establishing the World Trade Organization on the terms set out in the said Protocol.

**PROTOCOL OF ACCESSION OF ESTONIA  
TO THE MARRAKESH AGREEMENT ESTABLISHING THE  
WORLD TRADE ORGANIZATION  
DRAFT**

The World Trade Organization (hereinafter referred to as the "WTO"), pursuant to the approval of the General Council of the WTO accorded under Article XII of the Marrakesh Agreement Establishing the World Trade Organization (hereinafter referred to as "WTO Agreement"), and the Republic of Estonia (hereinafter referred to as "Estonia"),

Taking note of the Report of the Working Party on the Accession of Estonia to the WTO in document WT/ACC/EST/.... (hereinafter referred to as the "Working Party Report"),

Having regard to the results of the negotiations on the accession of Estonia to the WTO,

Agree as follows:

**Part I - General**

1. Upon entry into force of this Protocol, Estonia accedes to the WTO Agreement pursuant to Article XII of that Agreement and thereby becomes a Member of the WTO.
2. The WTO Agreement to which Estonia accedes shall be the WTO Agreement as rectified, amended or otherwise modified by such legal instruments as may have entered into force before the date of entry into force of this Protocol. This Protocol, which shall comprise the commitments referred to in paragraph 116 of the Working Party Report, shall be an integral part of the WTO Agreement.
3. Except as otherwise provided for in the paragraphs referred to in paragraph 116 of the Working Party Report, those obligations in the Multilateral Trade Agreements annexed to the WTO Agreement that are to be implemented over a period of time starting with the entry into force of that Agreement shall be implemented by Estonia as if it had accepted that Agreement on the date of its entry into force.

4. Estonia may maintain a measure inconsistent with paragraph 1 of Article II of the GATS provided that such a measure is recorded in the text of Article II Exemptions annexed to this Protocol and meets the conditions of the Annex to the GATS on Article II Exemptions.

## **Part II - Schedules**

5. The Schedules annexed to this Protocol shall become the schedule of Concessions and Commitments annexed to the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the "GATT 1994") and the Schedule of Specific Commitments annexed to the General Agreement on Trade in Services (hereinafter referred to as "GATS") relating to Estonia. The staging of concessions and commitments listed in the Schedules shall be implemented as specified in the relevant parts of the respective Schedules.

6. For the purpose of the reference in paragraph 6(a) of Article II of the GATT 1994 to the date of that Agreement, the applicable date in respect of the Schedules of Concessions and Commitments annexed to this Protocol shall be the date of entry into force of this Protocol.

## **Part III - Final Provisions**

7. This Protocol shall be open for acceptance, by signature or otherwise, by Estonia until .....

8. This Protocol shall enter into force on the thirtieth day following the day of its acceptance.

9. This Protocol shall be deposited with the Director-General of the WTO. The Director-General of the WTO shall promptly furnish a certified copy of this Protocol and a notification of acceptance thereto pursuant to paragraph 7 to each member of the WTO and Estonia.

10. This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Geneva this ... day of .... one thousand nine hundred and ninety seven, in a single copy in the English, French and Spanish languages each text being authentic, except that a Schedule annexed hereto may specify that it is authentic in only one or more of these languages.

ANNEX

SCHEDULE CXLII - ESTONIA

Part I - Goods

[to be completed]

Part II - Services

[to be completed]