

WORLD TRADE ORGANIZATION

RESTRICTED

WT/REG62/4

WT/REG63/4

21 June 1999

(99-2425)

Committee on Regional Trade Agreements

Original: English

FREE TRADE AGREEMENT BETWEEN THE CZECH REPUBLIC AND ESTONIA FREE TRADE AGREEMENT BETWEEN THE SLOVAK REPUBLIC AND ESTONIA

Questions and Replies

This document reproduces questions addressed to the Parties and the responses submitted. The questions and replies set out below are organized in accordance with documents WT/REG62/2 and WT/REG63/2.

I. BACKGROUND INFORMATION ON THE AGREEMENTS

1. Membership, Dates of Signature, Ratification and Entry into Force

Article XXIV:7(a) requires that regional agreements be notified promptly to the WTO. We do not have the relevant information to ascertain whether this procedural requirement was met and would welcome advice of the date of notification of the Agreements to the WTO.

We would welcome advice of date on which the Agreements were notified to the WTO?

The Free Trade Agreement between the Czech Republic and the Republic of Estonia entered into force on 12 February 1998. First information on this FTA was provided at the meeting of the Council for Trade in Goods (CTG) on 4 February 1998. Full notification, containing text of the Agreement together with Protocols and Annexes, accompanied by a summary, was submitted to the WTO Secretariat on 29 June 1998 and was subsequently circulated on 6 August 1998 in WTO documents WT/REG62/N/1 and WT/REG62/1, respectively.

The Free Trade Agreement between the Slovak Republic and the Republic of Estonia entered into force on 13 March 1998. First information on this FTA was provided at the meeting of the CTG on 4 February 1998. Full notification, containing text of the Agreement together with Protocols and Annexes, accompanied by a summary, was submitted to the WTO Secretariat on 3 September 1998 and was subsequently circulated on 25 September 1998 in WTO documents WT/REG63/N/1 and WT/REG63/1, respectively.

2. Type of Agreements

Article XXIV:5(c) outlines that an interim agreement to form an FTA should be implemented in a reasonable length of time (i.e. ten years). The Agreements appear to comply with this requirement (having been applied provisionally from mid-1996 with a ten-year implementation phase). If there were any extensions of this timeframe, we would wish to know the reasons why.

There is no intention of extension of the timeframe, free-trade areas on substantially all the trade will be established by January 1, 2001 at the latest.

Article 1.1. (Objectives) states that the Parties shall gradually establish a free-trade area on substantially all their bilateral trade. Grateful if the Parties could confirm the timeframe/deadline for full implementation of the free-trade area. WT/REG62/2 appears to indicate that the agreement will be implemented by 1/1/2001 – are there any exemptions to this deadline?

There are no exemptions. Free trade areas will be established on 1 January 2001 on substantially all the trade.

4. Trade Data

Article XXIV:8(b) outlines that in forming an FTA the duties and other restrictive regulations of commerce are eliminated on substantially all the trade between parties. We will need to examine protocols/annexes and further information (particularly statistical data) before we can make an assessment of conformance with this requirement.

Statistical data on trade between the Parties for the years 1995, 1996 and 1997 were notified to the WTO as a part of a Standard Format Notification and can be found in documents WT/REG62/2 and WT/REG63/2). The Annexes and Protocols to the FTAs have been submitted to the WTO secretariat and are available for consultation by interested members.

We would appreciate trade and tariff statistics or intra-FTA trade and MFN trade according to major products and partners.

See Tables 1-4 in Annex.

What percentage of FTA trade between the Parties (for each party):

- has the duties eliminated – for agricultural trade?
- has the duties eliminated – for industrial trade?
- is given concessions or excluded – for agricultural trade?
- is given concessions or excluded – for industrial trade?

To what products of Estonian origin do the Czech Republic and the Slovak Republic not grant duty-free treatment? What does this represent as a percentage of (a) total bilateral trade; (b) total bilateral agricultural trade; and c) total tariff lines?

Please provide the same information in respect of tariff preferences.

See Tables 5 and 6 in Annex.

II. TRADE PROVISIONS

1. Import Restrictions

1.1 Duties and charges

Please confirm that all agricultural tariff lines carry a duty-free treatment in respect of Czech and Slovak originating goods imported into Estonia.

Yes. (See Protocols 1 to the Agreements, paragraph 3.)

Please confirm that all tariff lines of Chapters 25-97 are duty free in respect to originating goods traded between the Czech Republic and the Slovak Republic and Estonia.

Yes. All originating trade in industrial products under Chapters 25-97 is already duty free.

5. Safeguards

Have any specific actions been taken under Article 16 on agricultural products? If so, on which products and what was the nature of the measures taken?

No specific safeguard actions have been taken on agricultural products.

Under Article 16 on special agricultural safeguards, what measures, pending solution, do the Parties envisage taking to deal with market disturbance? Would such measures be WTO consistent? Can the Parties give assurances that such measures would not prejudice the rights of non-parties to the Agreements? What criteria are to be used to determine whether a “serious disturbance” to agriculture markets is being caused?

As regards to the measures which the Parties to the Agreements are entitled to take to deal with market disturbance, they shall be selected on a case-by-case basis. In the selection of such measures, priority shall be given to those which least disturb the functioning of these FTAs. The measures foreseen under Articles 16 of the respective FTA are not considered as third-country measures but measures relating strictly to the agricultural trade between the Parties. These measures are not in conflict with the WTO rules and they do not prejudice the rights of non-parties to these FTAs.

Are the safeguard measures on intra-trade (i.e. between the Parties to the Agreements) transitional in nature or can they be applied at any time and left in place for any period of time?

Safeguard measures concerning infant industries, or certain sectors undergoing restructuring or facing serious difficulties according to Art. 30 are transitional. There are no such measures in force at present. Any possible measure shall cease to apply on 1 January 2001 at the latest.

Other safeguards provided for in the FTAs (Article 29 – General Safeguards, Article 31 - Re-Export and Serious Shortage) can be applied at any time on condition all requirements set up in the respective Articles of FTAs have been met.

Have any general safeguards measures been taken under Article 29? If so, on what products and what was the measure and for what duration?

No safeguards measures under Article 29 have been taken so far.

Article 30 on structural adjustments makes provision for exceptional measures to be taken concerning infant industries, or sectors undergoing restructuring or facing serious difficulties. Have any structural adjustment measures been taken, and if so, on what products? How is it decided that exceptional measures can be taken?

No exceptional measures under Article 30 concerning infant industries, or sectors undergoing restructuring or facing serious difficulties have been taken so far.

Can the Parties explain whether there is any difference in practice between the obligations under Articles 29, 30, 31, 33 and 16 (general safeguards/structural adjustments/re-export and serious shortage/safeguard procedures and agricultural safeguards) and the manner in which they will operate, and the obligations of the Parties under the WTO?

The Parties to the Agreements believe that there is no contradiction between obligations under Articles 29, 30, 31 and 33 of these FTAs and the manner in which they operate and the Parties' appropriate obligations under the WTO.

Will balance-of-payments (BOP) measures under Article 34 be applied in a non-discriminatory manner and without prejudice to the interests of non-parties to the Agreements?

Yes, the BOP measures under Articles 34 will be applied in a non-discriminatory manner and without prejudice to the interests of non-parties to these FTAs, in compliance with provisions of Article XII of GATT 1994.

7. Subsidies and State-Aid

7.1 State aid

On Article 25 on state aid, have any measures been taken to deal with action which is considered incompatible with this provision, and if so on what products and what was the measure and for what duration?

No measures under Article 25 have been taken so far.

7.2 State monopolies

Which products are currently subject to state monopolies (Article 22)? This Article suggests that state monopolies might currently discriminate in their commercial decisions – can the Parties confirm that such monopolies operate in a manner consistent with GATT Article XVII in their purchase from and sales to third countries?

In present time there are no state monopolies of trading character (with exclusive rights) in Parties to the FTAs.

The main aim of these Articles is to ensure that the abolition of governmental restrictions on trade between the Parties is not nullified by discriminatory behaviour in the purchasing and marketing activities of state monopolies of a commercial character, therefore there is no contradiction with the provisions and obligations of Article XVII of the GATT 1994.

7.3 Rules of competition concerning undertakings

We acknowledge that competition policy (Article 24) is not covered explicitly by the WTO rules. However, certain aspects of competition are captured by various WTO rules and we therefore would be grateful for comments on the following questions:

- **What criteria are to be applied in assessing whether actions prevent, restrict or distort competition, or whether actions by dominant undertakings constitute an abuse of their position?**
- **Are these considerations subject to specific legally based processes?**

At the outset it should be noted that, in our opinion, competition rules issues go beyond the scope of examination within the meaning of Article XXIV.

Competition policy in the Czech Republic is regulated by the Act No. 63/1991 Coll. on Protection of Competition amended by the Act No. 286/1993 Coll. and in the Slovak Republic by the Act No. 188/1994 Coll. on Protection of Competition. These Acts are applicable to all entrepreneurs, as well as associations of these entrepreneurs, performing economic activities and are aimed at protection of the competition on market relating to the trade in goods and services. They also prohibit conclusion of agreements and integration procedures of entrepreneurs aimed at limitation of competition. Antimonopoly Offices, both in the Czech Republic and in the Slovak Republic, responsible for surveillance of competition policy, prohibiting agreements limiting competition by issuing of decisions, based on provisions and conditions set out in the above-mentioned Acts. Consequently, agreements to which such decisions apply are considered to be invalid. These Acts apply to horizontal as well as vertical limitations, they generally prohibit abusing of dominant position of any undertaking and do not allow any exceptions.

Competition policy in Estonia is regulated by the Competition Act which entered into force on 1 October 1998. The purpose of the Act is to safeguard free competition in the extraction of natural resources, manufacture of goods, provision of services, sale and purchase of services products, and to prevent and eliminate the restriction of competition in other economic activities based on the interests of free enterprise. The Act prohibits agreements and concerted practices restricting competition and abuse of dominant position, and contains provisions regarding individual exemptions on restrictive agreements; market domination; undertaking with special or exclusive rights or natural monopoly; State aid; merger control; unfair competition; State supervision; liability; and implementing provisions.

Can the Parties give assurances that implementation of this provision does not discriminate against the interests of non-parties to the Agreements (particularly given that it exempts agricultural products which “form an integral part of a national market organisation” from the provisions stipulated in paragraph 1(a) of this Article)?

Legislation of the Parties to the FTAs on protection of competition is based on the principle of prohibition of any limitation/prevention, restriction or distortion of competition, grants equal rights to business entities regardless their nationality (in all sectors and by all subjects) and consequently does not discriminate against the interests of non-parties to the Agreements.

ANNEX

Table 1

Estonia's Imports of Products above US\$100,000 from the Czech Republic, in 1998

HS code	In thousand US\$	As a percentage of total trade
040690	106.6	0.42
190219	156.4	0.62
220210	106.6	0.42
282110	128.0	0.51
300490	327.1	1.29
340220	3789.5	14.97
391810	149.3	0.59
392010	711.0	2.81
481840	128.0	0.51
521159	142.2	0.56
560749	177.7	0.70
590110	497.7	1.97
611511	113.8	0.45
690790	369.7	1.46
690890	974.0	3.85
691010	277.3	1.10
691090	1016.7	4.02
691110	170.6	0.67
700529	412.4	1.63
701321	142.2	0.56
701331	135.1	0.53
731021	383.9	1.52
830990	547.5	2.16
844839	113.8	0.45
844849	113.8	0.45
846249	135.1	0.53
847982	199.1	0.79
848110	106.6	0.42
853110	199.1	0.79
853710	334.2	1.32
860210	149.3	0.59
860719	206.2	0.81
860799	113.8	0.45
870190	312.8	1.24
870322	1486.0	5.87
870323	1215.8	4.80
870421	291.5	1.15
870431	241.7	0.95
870899	241.7	0.95
871200	128.0	0.51
940171	319.9	1.26
940179	199.1	0.79
940540	135.1	0.53

Table 2*Estonia's Imports of Products above US\$100,000 from the Slovak Republic, in 1998*

HS code	In thousand US\$	As a percentage of total trade
380830	376.8	5.39
392010	142.2	2.03
401120	177.7	2.54
481139	128.0	1.83
481810	135.1	1.93
490199	156.4	2.24
640590	177.7	2.54
640699	234.6	3.36
721012	753.6	10.78
721070	839.0	12.00
721240	945.6	13.53
830990	739.4	10.58
845011	462.1	6.61
940510	135.1	1.93

Table 3*Czech Republic's Imports of Products above US\$100,000 from Estonia, in 1998*

HS code	In US\$	As a percentage of total trade
160413	672,753	17.94
160420	1,029,922	27.46
321410	175,449	4.68
840211	204,034	5.44
902190	277,231	7.39

Table 4*Slovak Republic's Imports of Products above US\$100,000 from Estonia, in 1998*

HS code	In US\$	As a percentage of total trade
160413	450,240	44.96
160420	311,168	31.07

Table 5

Tariff Treatment of Total Trade between the Parties in 1998
(Value and percentage shares)

	Total import value (Thousand US\$)	With concessions				MFN rate	
		Zero import duties		Reduced duties		Import value (Thousand US\$)	Share in total imports (%)
		Import value (Thousand US\$)	Share in total imports (%)	Import value (Thousand US\$)	Share in total imports (%)		
Imports <i>from</i> Estonia <i>into</i> :							
- Czech Republic	3,849	3,849	100	0	0	0	0
- Slovak Republic	1,001	1,001	100	0	0	0	0
Imports <i>into</i> Estonia <i>from</i> :							
- Czech Republic	24,998.2	24,998.2	100	0	0	0	0
- Slovak Republic	6,988.9	6,988.9	100	0	0	0	0

Table 6

Tariff Treatment of Trade in Agricultural Products and Industrial Goods
between the Parties in 1998
(Percentage shares in corresponding total imports)

	With concessions				MFN rate	
	Zero import duties		Reduced duties		Agricultural products	Industrial goods
	Agricultural products	Industrial goods	Agricultural products	Industrial goods		
Imports <i>from</i> Estonia <i>into</i> :						
- Czech Republic	46.2	53.8	0	0	0	0
- Slovak Republic	20.5	79.5	0	0	0	0
Imports <i>into</i> Estonia <i>from</i> :						
- Czech Republic	3.8	96.2	0	0	0	0
- Slovak Republic	1.4	98.6	0	0	0	0