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**Working Party on the
Accession of Estonia**

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

Revision

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; 11 February 1997 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 Regime of Estonia (L/7423) and the questions submitted by Members on the foreign trade regime 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, WT/ACC/EST/12 and WT/ACC/SPEC/EST/3). The Government of Estonia made available to the Working Party the following documentation:

- The Customs Act of 17 December 1997, consolidated on 13 May 1998;
- The Customs Tariff Act of 14 October 1997;
- Law on Foreign Relations of 16 November 1993;
- Competition Act of 11 March 1998;
- Law on the State Border of 30 June 1994;
- Public Service Act of 25 January 1995;
- 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 of 11 September 1991;
- Statutes of the Estonian Foreign Investment Agency (9 May 1994);
- Restrictions on Transfer of Immovable Property Ownership to Aliens, Foreign States and Legal Persons Act of 29 May 1996;
- 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 Amending the Law on Alcohol Excise Tax;
- Alcohol Excise Duty Act of 8 November 1995, consolidated on 15 April 1997;
- Law on Tobacco Excise Tax (new version of 13 July 1994);
- Tobacco Excise Duty Act of 29 June 1994, consolidated on 22 October 1997;
- Law on Revenue Stamps of 28 March 1994;

- Packaging Excise Duty Act of 19 December 1996;
- Law on Value Added Tax (amended version of 30 June 1994);
- Law on Customs Valuation of 8 February 1995;
- Law on Public Procurement of 1 January 1996;
- Public Procurement Amendment Act of 1 January 1997;
- Copyright Law of 23 November 1992;
- Trade Marks Act of 27 August 1992, consolidated on 17 December 1997;
- Packaging Act of 3 May 1995, consolidated on 30 June 1997;
- Patent Law of 30 March 1994;
- Industrial Design Protection Act of 18 November 1997;
- Utility Model Law of 30 March 1994;
- Legislation on the Agreement on Trade-Related Aspects of Intellectual Property Rights;
- 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;
- Medicinal Products Act, consolidated on 15 October 1996;
- Draft Law on Standardization;
- Draft Technical Regulations and Standards Act, last modified on 6 October 1998;
- Information on standardization in Estonia (July 1998);
- Estonian legislation on sanitary and phytosanitary measures (October 1998);
- Animal Protection Act of 17 December 1992, consolidated on 22 February 1998;
- Farm Animal Breeding Act of 25 June 1995, consolidated on 9 December 1997;
- Plant Variety Rights Act of 1 July 1998;
- Fertilizers Act of 1 July 1998;
- Organic Agriculture Act of 17 July 1997;
- Legislation and draft legislation in the field of veterinary measures (April 1997);
- Veterinary conditions for importing goods into Estonia (April 1997);
- Regulations for the import of plants and part of plants to Estonia (April 1997);
- Law of the Republic of Estonia on Veterinary Services of 1 January 1993;
- The Order of Registration for Veterinary Medicines of 15 September 1994;
- Grains Act of 8 June 1994, as amended;

- Privatization in Estonia (summary);
- Information on the Estonian Innovation Foundation;
- A comparison of the old and new version of the Food Act, concerning food control in Estonia;
- 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 regime 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, Slovenia, Turkey, Poland [and Hungary,] 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. 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 regime 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 - 135].

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 domestic industries at the present time Estonia did not apply import or export duties. The main sources of government revenue in 1997 were the Value Added Tax (47.9 per cent), income taxes (25.4 per cent), and excise taxes (17.2 per cent).

Foreign Exchange and Payments

9. Some members of the Working Party requested up-to-date information on Estonia's foreign exchange regime, 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 commercial banks. The last restrictions on current account transactions had been 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 Regime

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 regime. The Tallinn Stock Exchange had been established on 31 May 1996. The Government had established a Foreign Investment Agency in 1994, providing various services to foreign investors. The Agency had been restructured in 1997, and was now operating under the Estonian Trade and Investment Board. Estonia 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 Foreign Investment Licence and the Licence of Activity carried the same rights, the procedural difference being the issuing authority. The criteria for determining whether or not to grant these two types of licence were identical. He confirmed that the differentiation between foreign and domestic investment in the communications and telecommunications sector was of technical nature and did not affect negatively the market access and national treatment commitments made in Estonia's GATS schedule.

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. Concerning taxation of foreign investment the representative of Estonia said that the Income Tax Law allowed losses to be carried forward up to five years. The Income Tax Law applied to income earned in and outside Estonia by residents, and income derived from Estonian sources by non-residents. Revenue could be repatriated freely. [The representative of Estonia confirmed that Estonia applied national treatment with respect to direct taxation and did not use national taxation for export promotion or performance.

15. The representative of Estonia confirmed that from the date of accession Estonia would continue to apply the national treatment principle with respect to direct taxation, in accordance with its obligations under the WTO.] [The representative of Estonia confirmed that Estonia applied national treatment with respect to direct taxation and Estonia would continue to apply the national treatment principle in the case of amendments to the tax regime in the future. He further confirmed that Estonia did not use national taxation for export promotion or performance.] The Working Party took note of this commitment.

State Ownership and Privatization

16. 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.

17. The representative of Estonia said that an enterprise was considered privatized when the majority share holding was in private ownership (i.e. not including assets held by the Estonian Privatization Agency). According to this definition all agricultural enterprises had been privatized by January 1995, and more than 90 per cent of all industrial enterprises by August 1996. Companies had been sold in 16 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. The Estonian Privatization Agency became the temporary owner of the shares in the interim period needed for selection of "core" investors or sale of minority stakes.

18. The representative of Estonia provided information on progress in privatization of State enterprises, summarized in Table 1. Privatization was entering its final stage, involving privatization of major infrastructure services such as communications, transportation and energy supply. These enterprises would be privatized in accordance with a program established through Government Order No. 155-k of 20 February 1996. The Government had confirmed a final list of companies to be privatized. In all, 18 enterprises were sold in 1997. However, the main task in 1997 was to prepare the privatization of *Eesti Energia*, *Eesti Põlevkivi*, the operational parts of Estonian Railways and the privatization of land. *Eesti Energia* and *Eesti Põlevkivi* were complex privatization projects which were unlikely to be completed before 2000. Estonia also intended to privatize the Port of Tallinn and Estonian Telecom.

Table 1: Information on Progress in Privatization of State Enterprises

Year	1993	1994	1995	1996	1997
Number of enterprises sold through:					
- privatization contracts	54	215	142	43	18
- open bids	252	126	120	84	64
- public sales of shares	0	1	16	16	6
Revenue raised from: (EEK million)					
- privatization contracts	353.2	1,330.4	919.1	474.5	1,295.4
- liabilities accepted by the buyers	195.6	700.2	617.9	230.3	416.3
- investment guarantees	236.8	858.5	1,002.9	453.6	1,714.9
- total obligations accepted by new owners	922.0	3,272.7	2,799.1	1,177.5	0.0
- open bids	122.8	68.2	79.8	148.7	160.6
- public sale of shares		99.9	604.5	662.1	944.5
Privatization contracts:					
- number of jobs under employment guarantees	9,099	25,573	17,279	1,274	2,929

19. 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.

20. In response to questions concerning the appointment and dismissal of the management of State-owned enterprises, the representative of Estonia said that both the Minister of Finance and the Minister in charge of the Ministry managing the State-owned shares of a company had the right to appoint the members (State representatives) of the administrative council or board of a State-owned enterprise or joint stock company. The management was appointed by the board according to the company's by-law. 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 were required to make their purchases and sales solely in accordance with commercial considerations, and the purchases and sales of State firms, either for their own use or for use in the production process, were not considered government procurement. The representative of Estonia further confirmed that their directors and administrative council or board were not government employees, even though they could be dismissed or released by the Government or the appointing Ministry. 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 (see also paragraph [96] in the section "State-trading"). 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, and the Government had no right to intervene in the daily operations of these enterprises. 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.

21. [The representative of Estonia said that Estonia would provide annually to WTO Members information on developments in its programme of privatization as long as the privatization programme was in existence. The Working Party took note of this commitment.]

Pricing Policies

22. 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.

23. 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 18 November 1997 for electricity and as of 1 May 1997 for oil shale, are reproduced in the Annex (Tables 2 and 3). 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.

24. The representative of Estonia said that Estonia could not foresee any further conditions for the application of any price controls, including those for imports, except for those in place for electricity and oil-shale. These incumbent price controls covered only domestic transactions via the facilities of *Eesti Energia* and *Eesti Põlevkivi*. [The representative of Estonia confirmed that prices for goods and services in every sector of Estonia were determined freely by market forces with the exception of those listed in Tables 2 and 3 attached to this report.]

25. The representative of Estonia confirmed [that prices for goods and services in every sector of Estonia were determined freely by market forces with the exception of those listed in Tables 2 and 3 attached to this report. He added] that prices for goods and services other than for oil-shale and electricity would not be subject to State control. He confirmed that Estonia would apply such controls, from the date of accession without recourse to a transition period, 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

26. 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.

27. 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. The Board gave priority to the interest of consumers in its procedures for making decisions. Supervision of banking and insurance was carried out by a separate State body.

FRAMEWORK FOR MAKING AND ENFORCING POLICIES

28. 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.

29. Municipal and town councils had the right to impose local taxes according to the Law on Local Taxes. Considered as local taxes were the poll tax, local income tax, sales tax, boat tax, motor vehicles tax, commercial and advertisement tax, tax on closing roads and streets, taxes for keeping pets and entertainment tax. Sub-central Governments also had the right to provide "green box" and non-actionable subsidies from local budgetary revenues.

30. The representative of Estonia stated that if Estonian laws or other acts should be found to contradict international treaties ratified by the *Riigikogu* (Parliament), the provisions of the international treaty would apply. The WTO Agreement would have the status of an international treaty. The representative of Estonia confirmed that sub-central entities had no autonomous authority over issues of subsidies, taxation, trade policy and any other measures covered by WTO provisions. He confirmed that the provisions of the WTO Agreement, including Estonia's Protocol, shall be applied uniformly throughout its customs territory and other territories under its control, including in regions engaging in border trade or frontier traffic, special economic zones, and other areas where special regimes for tariffs, taxes and regulations are established. He added that when apprised of a

situation where WTO provisions were not being applied or were applied in a non-uniform manner, central authorities would act to enforce WTO provisions without requiring affected parties to petition through the courts. The Working Party took note of these commitments.

POLICIES AFFECTING TRADE IN GOODS

Trading Rights

31. 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. A firm obtained the relevant rights and obligations, becoming legally a subject of Estonian law, through registration in the Commercial Register. An entry in the Commercial Register was made upon application. Registration was applied uniformly to all firms, including those which had applied for a Foreign Investment Licence, covering all types of business operations. A trader submitted the required documents and the application, with notarized signatures, to the registrar. An enterprise wishing to perform business in an area which required a Licence of Activity would also need to obtain such a licence and submit it to the registrar. The Commercial Register was to be kept by local city courts. The registrar had no right to deny an entry if the applicant had submitted all necessary documentation in compliance with the requirements.

32. Enterprises set up under previous legislation, not meeting the requirements of the new Code, had 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 was inconsistent with the national treatment principle; all its provisions applied equally to domestic and foreign-owned companies.

33. The representative of Estonia confirmed that the former State monopoly in foreign trade had been abolished and that no restrictions existed on the right of foreign and domestic individuals and enterprises to import and export goods within Estonia's customs territory, except as provided in WTO Agreements. He confirmed that individuals and firms were not restricted in their ability to import and export based on their registered scope of business, and the criteria for enrolment in the Commercial Register of companies in Estonia were generally regulated in the Commercial Code which was published in the Official Journal "*Riigi Teataja*" (State Gazette). There was no special system of registration of persons or firms to engage in importation, except for those businesses covered by activity licences, in which case anybody fulfilling a set of objective criteria (e.g. relevant education, a place to carry out the activity, fulfilling the sanitary requirements, clean tax record, etc.) could have

such a licence. There was no differentiation between foreign-owned and domestic firms for either the non-automatic or automatic (obligation to announce the beginning of the business activity) activity licences.

34. [The representative of Estonia confirmed that from the date of accession Estonia would ensure that its laws and regulations relating to the right to trade in goods and all fees, charges or taxes levied on such rights would be in full conformity with its WTO obligations, including Articles VIII:1(a), XI:1 and III:2 and 4 of the GATT 1994 and that it would also implement such laws and regulations in full conformity with these obligations. The Working Party took note of this commitment.]

1. Import Regulations

Customs Tariff

35. 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. A number of members entered into market access negotiations with Estonia. The commitments 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.

Customs Duties

36. 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, noting that progress on market access negotiations was contingent upon review of this document by members of the Working Party.

37. 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. The representative of Estonia added that Estonia had imposed import duties on furs (16 per cent), sea scooters, small vessels and snow-scooters (10 per cent), and the exports of vintage cars presenting a cultural value (100 per cent) as provided for in Government Decree No. 200 of 10 July 1993. However, all customs tariffs had been abolished in accordance with Government Decree No. 115 of 2 June 1998, effective as of that date.

38. Parliament had adopted the Law on Customs Tariff on 14 October 1997, and it had been in force since 22 November 1997. The Law on Customs Tariff, which was a framework law laying down the legal basis for the application of customs tariffs, included tariff ceiling rates for all commodities (at the four-digit level of the Harmonized System). When Parliament would ratify Estonia's Protocol of Accession to the WTO, the commitments annexed thereto in its schedule of concessions would prevail over the tariff ceiling rates provided in the Law on Customs Tariff, the text of which had been provided to the Working Party.

39. [One member noted that notwithstanding the fact that Estonia had for several years applied tariff rates of zero per cent on virtually all imports, it had insisted on establishing its bindings at higher rates, in some cases in excess of 50 per cent *ad valorem*. This member sought information from Estonia on its intentions in terms of applied tariffs after the conclusion of this negotiation, so that WTO members might have more transparency and certainty in the level of market access Estonia was actually prepared to offer.]

Other Duties and Charges

40. The representative of Estonia stated that Estonia levied no duties and charges on imports other than ordinary customs duties and charges for services rendered. Any such charges applied to imports after accession would be in accordance with WTO provisions. He further confirmed that Estonia would not list any other charges in its Goods Market Access Schedule under Article II:1(b) of GATT 1994, binding such charges at "zero".

Fees and Charges for Services Rendered

41. 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.

42. 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 State fee for customs declaration 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. [He confirmed that the State fee for customs declaration was applied on a non-discriminatory basis to trade with all Estonia's trading partners.]

43. The representative of Estonia said that the fee related only to the cost of customs formalities, and represented some 1.14 per cent of all revenue collected by Estonian Customs during 1997; other revenue was derived from excise taxes (19.51 per cent), value added tax (79.22 per cent), customs duties (0.01 per cent) and other fees (0.12 per cent). The fee was levied on imports from all trading partners, but not on transit trade or goods in customs warehouses, re-exports after customs warehousing, 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; humanitarian aid received by the Estonian Red Cross; containers, pallets or other kind of transferable containers and medical and laboratory equipment for emergency aid (exported with an obligation to re-import in unchanged state and imported with an obligation to re-export in unchanged state).

44. The representative of Estonia confirmed that [the State fee for customs declaration described in paragraphs [42 and 43] 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 State fee for customs declaration 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 approximate cost of processing 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 approximate cost of customs processing operations for the items subject to the fees. [He confirmed that revenues from the State fee were not used for customs processing of imports exempted from the fee.] [He confirmed that the cost of processing imports exempted from the fee would not enter the calculations when the amount to be charged was decided.] 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

45. 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 regime. Estonia was also asked to provide details on excise tax exemptions. Some members 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 100 dekalitres), and the exemption from the excise tax on domestically-owned second-hand motor vehicles were inconsistent with the national treatment provision of Article III of the GATT 1994. In their view, Estonia would need to change its excise tax legislation to bring it into conformity with Article III of the GATT 1994.

46. The representative of Estonia described the rates of excise tax applied in 1997 on tobacco, petroleum products, alcohol, motor vehicles and packaging materials (Tables 4 and 5). These tax levels were considered optimal and no reductions were foreseen upon accession to the WTO. An excise duty of 16 per cent on furs and fur products, levied only on domestic producers, had been eliminated.

47. The representative of Estonia said that according to amendments to the Law on Alcohol Excise Tax, the excise rates on domestic and imported beer were equalized on 1 December 1996. However, small-scale producers of beer - producers with annual production not exceeding 500,000 dekalitres - were subject to a lower rate of excise duty as a regional development measure. The small scale producers covered only 9 per cent of the Estonian domestic beer market. The lower tax rate would apply also to imported beer provided the manufacturer provided the following documentation: (i) the official name, address, contact address and telephone number of the company; (ii) the annual production of the previous year; (iii) the name, address, contact address and telephone number, title and original signature of the liable person; and (iv) date. The Law on Alcohol Excise Tax was amended with effect from 1 July 1997, with lower rates of excise tax applying for producers with annual production below 2 million decalitres (Table 4).

48. The representative of 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 100 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.

49. 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. Bottled wine was taxed at EEK 15.60 (over 15 per cent alcohol content by volume) or EEK 10.40 per litre (up to 15 per cent alcohol content by volume), and bulk wine at EEK 12.50 or EEK 8.00, respectively. Bulk wine was only taxed at the lower rate if the importer processed the wine into consumer packaging prior to sale, exchange, free sampling or self-consumption. The Estonian National Tax Board supervised compliance with the rules. Estonia had no domestic production of wine from fresh grapes. In 1997, imports of bulk wine amounted to 593,594 litres, constituting 6.9 per cent of all imports of wine.

50. The representative of Estonia said that the excise tax was fixed in Estonian Kroon per litre, by volume of pure alcohol (e.g. the tax on 1 litre of vodka (40 per cent vol.) amounted to EEK 1.15 x 40 = EEK 46), and assessed on the amount of alcohol sold, exchanged, for free transfer or own consumption. Domestic manufacturers paid the tax to the State Budget through the local Tax Board three times per month - on the third day following each ten-day period - on the basis of their actual turnover during that period. Importers were required to pay the excise tax upon importation, before release for free circulation in Estonia.

Table 4: Excise Taxes in Estonia

Tariff Heading, subheading	Product description	Tax rate (EEK)
Alcohol		
2203 00 011 2203 00 091 2203 00 101	Beer annual production from 5,000 to 500,000 decalitres (incl.): beer with an alcoholic content by volume up to 4.7% vol.	2.00*
2203 00 019 2203 00 099 2203 00 109	- beer with an alcoholic content by volume exceeding 4.7% vol	2.50*

Tariff Heading, subheading	Product description	Tax rate (EEK)
2203 00 011 2203 00 091 2203 00 101 2203 00 019 2203 00 099 2203 00 109	Annual production from 500,000 to 2,000,000 decalitres: beer with an alcoholic content by volume up to 4.7% vol. - beer with an alcoholic content by volume exceeding 4.7% vol.	2.50* 3.00*
2203 00 011 2203 00 091 2203 00 101 2203 00 019 2203 00 099 2203 00 109	Annual production surmounting 2,000,000 decalitres: beer with an alcoholic content by volume up to 4.7% vol. - beer with an alcoholic content by volume exceeding 4.7% vol.	3.00* 3.50*
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.	2. 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 with an alcoholic content by volume up to 15%	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.	3. 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 with an alcoholic content by volume exceeding 15%	12.50*

Tariff Heading, subheading	Product description	Tax rate (EEK)
2206 00 100-2206 00 510 2206 00 591	4. Other fermented drinks (e.g. cider, berry, wine etc.) and their blends:	
2206 00 810, 2206 00 891	a) with an alcoholic content by volume up to 15 %vol.	4.90*
2206 00 592, 2206 00 892, 2204 30 109, 2204 30 969, 2204 30 989	b) with an alcoholic content by volume exceeding 15 %vol.	6.50*
2207 10 009, 2208 2106 90 200, 3302 10 100	5. Other alcohol	1.15**
ex2207 10 000 ex2208 90 910 ex2208 90 990	6. Rectified spirits used in medicine, pharmaceuticals, veterinary, scientific research and study purposes, the production of perfumery	0.20**
per litre		
** per one %vol. of absolute alcohol in a litre		
Motor Fuel		
2710 00 271, 2710 00 272 2710 00 290, 2710 00 320 2710 00 341, 2710 00 342 2710 00 343, 2710 00 344, 2710 00 360	Petrol	2500 EEK per 1000 litre* 3000 EEK per 1000 litre**
2710 00 660, 2710 00 671, 2710 00 681	Diesel Oil	EEK per kg* 2.32 EEK per kg**
2710 00 260, 2710 00 370	Aviation gasoline	EEK per kg* 1.50 EEK per kg**
2710 00 510	Aviation petrol	3.12 EEK per kg* 3.50 EEK per kg**
2711 12 940, 2711 12 970 2711 13 910, 2711 13 970	Liquid gas used as motor fuel	1.50 EEK per kg* 1.50 EEK per kg**
2711 21 000	Compressed gas used as engine fuel	1.10 EEK per kg* 1.20 EEK per kg**
2710 00 871	Motor oil	0.27 EEK per kg* 0.38 EEK per kg**
2710 00 679, 2710 00 689	Light motor oil	0.24 EEK per kg* 0.24 EEK per kg**
Excise rate from 01.12.1997		
** Excise rate from 01.12.1998		

Tariff Heading, subheading	Product description	Tax rate (EEK)
Tobacco products		
2402 20	Filtered cigarettes	4.50*
2402 20	Unfiltered cigarettes	4.50*
2402 20	Russian cigarettes	4.50*
2402 10 001	Cigarillos	4.50*
2402 10 009	Cigars	4.50**
2403 10	Smoking tobacco	4.50***
2403 99 100	Snuff	4.50***
2403 99 100	Chewing tobacco	4.50***
ex2403 99 900	Other tobacco products	4.50***
*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.		
Packaging*		
Alcohol and soft drink packaging**, depending on the material	Per unit	Per litre
Glass and ceramics	0.50	2.00
Plastics	1.00	2.00
Metal	0.75	2.00
Other	0.25	1.00
Excise is calculated according to both rates and summarized. On packaging from which at least 40% will be recycled excise will not be imposed until 31 December 1998.		
Starting from 1 January 1999 excise will not be imposed on packaging from which at least 60% will be recycled.		
**Soft drink packaging will be taxed starting from 1 December 1998.		

51. 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. For example, the excise tax per package of 20 cigarettes amounted to EEK 4.50. Domestic firms paid excise taxes to the local Tax Board three times per month, taxes on imported tobacco products were payable before release for free circulation in Estonia. The representative of Estonia confirmed that excise rates for imported and domestically-produced tobacco products had been equalized on 1 January 1996 by bringing taxes on domestic products up to the level applied to imports.

52. 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 said that used automobiles imported into Estonia had been subject to a 10 per cent import tax levied in accordance with original invoices for legal persons and a valuation list

for natural persons in order to avoid fraud. The import tax had been replaced by excise taxes levied in accordance with the Law on Motor Vehicle Excise Tax, in force since 1 April 1995.

53. All new motor vehicles and used motor vehicles imported into Estonia were subject to excise tax. Passenger automobiles were subject to a tax based on age and cylinder capacity either at the time they were imported or at the point of manufacture within Estonia. The tax was therefore applied at the point of first sale, i.e. either at the time of importation or sale by domestic manufacturer. The subsequent sale was not taxed. There were no manufacturers 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 manufacturers of motor vehicles, they would pay the excise tax upon sale, exchange, gratuitous transfer or self-consumption of motor vehicles. According to the Law on Motor Vehicle Excise Tax buses were not subject to excise tax. Estonia considered the Law on Motor Vehicle Excise Tax to be in conformity with Article III of GATT 1994 because imported motor vehicles were treated as favourably as domestically produced motor vehicles. In order to explain how excise duties on automobiles were calculated an example was included in Table 5. The excise tax was designed to encourage importation of modern vehicles.

Table 5: Motor Vehicles

Tariff heading, subheading	Product description	Tax rate (EEK)
1.	Excise tax based on the cylinder capacity of motor vehicles	
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:	
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 sub-heading 8711 90)	Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars	1 EEK/cc

Tariff heading, subheading	Product description	Tax rate (EEK)
2.	Excise tax on used motor vehicles	
	of up to 12 years of age	100 EEK/year
	from 13 years of age	150 EEK/year
3.	Excise tax on new motor vehicles	1,000 EEK
Example: A used automobile, cylinder capacity 2 000 cm ³ , age 10 years and price according to the purchase documents is 10,000 EEK:		
10,000 - price according to the purchase documents		
2,000 - excise tax on the basis of the cylinder capacity		
1,000 - excise tax on the basis of age		
13,000		
2,340 - VAT (18% from 13 000)		
15,340 - price for importer after importation		

54. 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.

55. 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, postage stamps and postal services, medical services, banking and insurance, funeral services and requisites gambling and lotteries, residential rent (letting of housing), medicines, medical goods, medical equipment, treatment of dangerous waste (since February 1995), social services and scientific research activities of universities and State research establishments funded from the State budget, and municipal sauna services. Exports, subscriptions to periodicals published and printed in Estonia, theatre tickets, tickets to concerts of State concert organizations and State collectives of performers, textbooks and workbooks for basic schools and gymnasiums, had zero-rate VAT. The Government had the right to grant exemptions from VAT on imports for non-profit purposes. 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.

56. 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. Experience suggested that most firms making use of the threshold were small services providers with relatively low input costs.

57. [The representative of Estonia confirmed that, from the date of accession, Estonia will apply its domestic taxes, including those on products listed in paragraphs [46 to 56] in strict compliance with Article III of the GATT 1994, in a non-discriminatory manner to imports regardless of country of origin and to domestically-produced goods. In this regard, the following actions will be taken concerning the current tax measures applied to alcoholic beverages and automobiles:

(i) The Law on Alcohol Excise Tax shall be revised as follows (revisions are indicated by ~~strikeout~~):

§ 6. Exemption from Excise Tax

Excise tax shall not be charged on:

(1) Beer manufactured ~~in Estonia~~ by ~~one~~ manufacturers, whose annual production of beer does not exceed 5,000 dekalitres;

(2) Wine with an alcoholic content by volume of up to 15 per cent vol., manufactured ~~in Estonia~~ by ~~one~~ manufacturers, whose annual production does not exceed 100 dekalitres.

(ii) The Law on Motor Vehicle Excise Tax shall be revised as follows:

Excise rates currently in force based on the age of motor vehicle shall be replaced as follows:

Used motor vehicle up to 10 years of age	EEK 1,000
Used motor vehicle from 11 to 12 years of age	EEK 100 per year
Used motor vehicle from 13 years of age	EEK 150 per year

The Working Party took note of these commitments.]

Quantitative Import Restrictions, including Prohibitions, Quotas and Licensing Systems

58. 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 Act be provided to the Working Party.

59. 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.

60. 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 7 which is reproduced in the Annex). 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). Any person or firm fulfilling a set of objective criteria (e.g. regarding relevant education, proper place of business, sanitary requirements, a clean tax record, etc.) could obtain a "Licence of Activity". He confirmed that the number of licences was not restricted and that 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. The fees for

issuing licences were no higher than necessary to cover the relevant costs. In most cases the fee did not exceed EEK 1,000 while alcohol and tobacco licences cost EEK 10,000.

61. The representative of Estonia confirmed that Estonia undertook to observe the relevant WTO provisions, in particular the Agreement on Import Licensing Procedures, in different acts covering specific fields of activity. Activity licences had so far been established under different regulations dealing separately with specific fields of activity. The translated texts of relevant legislation would be provided to interested WTO members as soon as possible.

62. 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 7. The activity licenses enumerated in Table 7 did not restrict foreign participation as they applied equally to foreign and domestic businesses. Activity licences were administered for the purpose of ensuring product safety. The criteria for granting activity licences differed according to the area of activity and had been published in the Official Journal "*Riigi Teataja*" (State Gazette). Upon request, the representative of Estonia would provide a more detailed table containing references to relevant Government Regulations. 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 "*Riigi Teataja*" (State Gazette). 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.

63. [The representative of Estonia confirmed that Estonia would not introduce, re-introduce or apply quantitative restrictions or other non-tariff measures such as 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

64. 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. This member reminded Estonia that the use of minimum import prices or reference prices was a violation of Article VII.

65. 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.

66. 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).

67. 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.

68. 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. He underlined that Estonia did not have any measures in place which would be inconsistent with WTO rules, nor would Estonia introduce such measures in the future. Estonia did not use measures such as minimum prices, reference prices or lists of prices in order to calculate customs value or to verify invoices.

69. The representative of Estonia confirmed that, from the date of accession, Estonia would apply fully the WTO provisions concerning customs valuation, including in addition to the Agreement on the Implementation of Article VII of the GATT 1994, the provisions on the Treatment of Interest Charges in Customs Value of Imported Goods and for the Valuation of Carrier Media Bearing Software for Data Processing Equipment. In accordance with these latter provisions, only the cost of the carrier medium itself would be accounted for in the customs value. He stated that Estonia [did not and] would 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. 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

70. 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 had been a member of the World Customs Organization since June 1992.

Rules of Origin

71. 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.

72. 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 regime 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. 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. He said that the preferential rules of origin complied fully with the disciplines under the Common Declaration in Annex II of the WTO Agreement on Rules of Origin. The Estonian authorities envisaged the elaboration of legislation 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. Estonia had not developed its own non-preferential rules of origin and was waiting for the new set of rules of origin to be elaborated by the WTO. The new Customs Act that entered into force on 19 January 1998 provided the basis for enactment of those rules. The non-preferential rules of origin would comply fully with the WTO Agreement on Rules of Origin.

Anti-Dumping, Countervailing Duties, and Safeguard Regimes

73. 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.

74. 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. In response to a specific question the representative of Estonia 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. Provisions on anti-dumping and countervailing measures were not included in the Law on Customs Tariff.

75. The representative of Estonia confirmed that Estonia would not apply any anti-dumping, countervailing or safeguard measure until it had implemented appropriate laws in conformity with the provisions of the WTO Agreements on the Implementation of Article VI, on Subsidies and

Countervailing Measures, and on Safeguards. In the elaboration of any legislation concerning such anti-dumping, countervailing and safeguard measures Estonia would ensure their full conformity with the relevant WTO provisions, including Article VI and XIX of the GATT 1994 and the Agreements on the Implementation of Article VI, the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards. After such legislation was implemented, Estonia would also apply any anti-dumping duties, countervailing duties and safeguard measures in full conformity with the relevant 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

76. 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 had been levied on objects of cultural value, i.e. dating from before 1950, but this tax had been abolished by Government Decree No. 115, which entered into force on 2 June 1998. Export taxes on metals had been abolished. As of 15 September 1998, controls on scrap metal exports and radioactive metal exports by a State monopoly had been abolished by Government Regulation No. 200 "On the Approval of the Order of Issuing Activity Licences for Commercial Intermediation of Scrap Metal and Metal Waste", which granted access to any private enterprise to trade in scrap metal, provided the enterprise fulfilled the conditions stipulated in the Regulation.

77. [The representative of Estonia confirmed that after accession to the WTO, Estonia would minimize the use of export taxes and any such taxes applied would be in accordance with the provisions of the WTO Agreement and published in the Official Journal "*Riigi Teataja*" (State Gazette). Changes in the application of such measures, their level, scope, or justification, would also be published in the Official Journal "*Riigi Teataja*" (State Gazette). The Working Party took note of these commitments.]

Export Restrictions

78. 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 export 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 [60] above). He added that Estonia would not apply regulations on exports beyond WTO mechanisms.

79. 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. The monopoly rights of the former State Monopoly on trade in scrap metals and dangerous metal waste had been abolished by Government Regulation No. 200 "On the Approval of the Order of Issuing Activity Licences for Commercial Intermediation of Scrap Metal and Metal Waste" as of 15 September 1998, and the enterprise itself had been privatized. All firms trading in scrap metal or radioactive metal waste were required to follow the rules established by the regulation. [The representative of Estonia confirmed that all export quotas and licences and measures having similar effect had been eliminated.]

80. The representative of Estonia confirmed that [all export quotas and licences and measures having similar effect had been eliminated and that] any remaining export control requirements were fully consistent with WTO provisions, including those contained in Articles XI, XVII, XX and XXI of the GATT 1994. The Working Party took note of this commitment.

Export Subsidies

81. 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.

82. The representative of Estonia stated that from the date of accession Estonia would not maintain any export subsidies which met a definition of a prohibited subsidy within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures, and would not introduce such prohibited subsidies from the day of accession. The Working Party took note of this commitment.

3. Internal Policies Affecting Foreign Trade in Goods

Industrial Policy, including subsidies

83. 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.

84. 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 confirmed that it had some programmes providing subsidies to industries, in particular the Innovation Foundation, which provided grants for research and development activities, and the Law on State Support for Entrepreneurship, which regulated State support to small and medium sized enterprises. In this latter case support - loans and loan guarantees - were made available by an eleven-member Council. The Estonian Innovation Foundation was a non-profit organization, established by the Government. Its operations were coordinated by the Estonian Research and Development Council, a collective advisory body to the Government. The main functions of the Foundation were to initiate and fund State technology programmes; finance projects to improve production technology at the pre-industrial stage; promote technical and technological research and development; and to support the development of science and technology parks and production infrastructure. The Foundation provided grants for applied research (up to 50 per cent of project costs) and loans for industrial projects (maximum 75 per cent of project costs). In the period 1991-1995, the Estonian Innovation Foundation had supported 214 projects, providing grants totalling EEK 12 million and loans of EEK 80 million; the Foundation's budget for 1997 amounted to EEK 20 million. Estonia provided a draft notification under Article 8.3 (Non-actionable subsidies) of the Agreement on Subsidies and Countervailing Measures regarding the activities of the Estonian Innovation Foundation to the Working Party (document WT/ACC/EST/20).

85. The representative of Estonia confirmed that any subsidy programmes would be administered in line with the Agreement on Subsidies and Countervailing Measures and that all necessary information on notifiable programmes would be notified to the Committee on Subsidies and Countervailing Measures in accordance with Article 25 of the Agreement 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

86. 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.

87. 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. The Draft Law on Technical Regulations and Standards was in preparation and the enforcement of this Law was scheduled for 1999. The National Standards Board of Estonia (EVS) was responsible for standardization issues. The EVS was a correspondent member of ISO and an affiliated member of CEN, the Estonian Electrotechnical Committee was an associated member of IEC and an affiliated member of CENELEC, and the Estonian Telecommunications Board had become a member of ETSI. The EVS had accepted the Code of Good Practice for the Preparation, Adoption and Application of Standards (Annex 3 to the WTO TBT Agreement), and this had encouraged the application of international and European standards. Current Estonian standards were based mainly on standards of international organizations and on national standards of other countries. Estonian standards were harmonized with the regulation of the European Union and were generally voluntary, except the application of some standards (e.g. on purchasing requirements of milk, on fire safety, etc.) made mandatory by ministries' regulations and in the case of technical regulations on spirits (white vodka) and construction cement. 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. All information about the preparation of standards was published in the official bulletin of the National Standards Board "*EVS Teataja*". Draft standards were available for comment at EVS. Conformity assessments were organized in accordance with European requirements (EN 45000). Acceptance of foreign certification was based on the principle of mutual recognition between the relevant body in Estonia and its counterpart in another country.

88. 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. A National Food Board had been established to deal with all matters concerning food and nutrition policy, however, its tasks had been transferred to the Ministry of Agriculture in accordance with the amendments to the Food Law of 26 June 1996. The responsibilities of the Ministry thus included planning and analysis of the status of food and nutrition, elaboration of relevant strategic proposals, drafting laws on food and food handling, organization of food safety inspection, advising authorities certifying and testing food quality and safety, and elaboration and implementation of food monitoring programmes.

89. The representative of Estonia added that border controls on plants and plant products were effected by the Plant Quarantine Department of the Plant Protection Inspectorate 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, and the Law on Veterinary Services of 1992. Sanitary and phytosanitary measures and the work of veterinary services were in accordance with the Codex of the OIE (Office International des Epizooties), in which Estonia had been member since 1992. 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 new Food Law, that had been drafted and was currently being reviewed by Parliament, would include acceptance of exporters' certificates, issued in conformity with international principles of certification, at the border.

90. 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.

91. 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. He confirmed that Estonia would establish an Enquiry Point as required in Article 10 of the WTO Agreement on Technical Barriers to Trade; its establishment at the National Standards Board of Estonia (EVS) was in preparation, and was anticipated to be operational by the end of 1998. The EVS had accepted the Code of Good Practice established in Annex 3 of the TBT Agreement.

Programmes on the drafting of standards in Estonia were submitted to the ISO/IEC twice a year. Agencies drafting standards and conformity assessment or certification procedures took into account existing international standards or guidelines prior to drafting domestic legislation, and would notify WTO Members at the draft stage and take into account comments from WTO Members before finalizing regulations. Estonia submitted information on national enquiry points to the Working Party in document WT/ACC/EST/19.

92. The representative of Estonia provided a draft notification under Article 15.2 of the TBT Agreement in April 1997 (document WT/ACC/EST/17). The authorities had prepared a Draft Law on Technical Regulations and Standards, currently being processed in Parliament and foreseen to enter into force by early 1999. This act would provide the legal and organizational basis for standardization activities and notification procedures in Estonia. The Ministry of Agriculture would review the Food Law, the Law on Veterinary Services, the Law on Plant Protection, the Law on Grain, the Law on Consumer Protection and the Law on Common Health with a view to ensure their conformity with WTO requirements upon accession to the WTO, including the Agreement on Technical Barriers to Trade and the Agreement on Sanitary and Phytosanitary Measures. *[New versions of the Veterinary Services Act and the Plant Protection Act will be provided to the Working Party.]*

93. 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 for importing food were being elaborated and would be finalized by the end of 1998 and that these procedures 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 in this connection would not act to restrict the quantity of imports; they would be granted automatically with the exception of conditions related to TBT and phytosanitary requirements. The Working Party took note of these commitments.

Trade-Related Investment Measures (TRIMs)

94. 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 would not maintain any measures inconsistent with the TRIMs Agreement and would not introduce any such non-conforming measures in the future 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

95. 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.

96. The representative of Estonia replied that following extensive privatization State-owned firms accounted for less than 5 per cent of domestic trade. The process of privatization was continuing and shares in privatized companies were traded actively on the Tallinn Stock Exchange. He stressed that the influence on international trade of the shares remaining in Government ownership was difficult to estimate as Estonian law did not allow the customs authorities to disclose enterprise-specific trade information to any third party except the tax authorities. Estimates based on trade per share were not meaningful in practice because of rapid changes in share ownership. Therefore, he could only confirm a strong tendency for State-ownership to decrease as the State sold shares to the public to encourage the development of Estonia's stock market. With the exception of *Eesti Energia* and *Eesti Põlevkivi*, the representative of Estonia said that enterprises part-privatized through the sale of State-owned shares did not constitute a State trading enterprise in the sense of Article XVII since they had no special rights or privileges in relation to any other enterprises.

97. 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. 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 could also be used to control trade in radioactive scrap materials. However, the monopoly rights on trade in scrap metals and radioactive metal waste had been abolished by Government Regulation No. 200 "On the Approval of the Order of Issuing Activity Licences for Commercial Intermediation of Scrap Metal and Metal Waste", in force since 15 September 1998, and the enterprise itself had been privatized. [The representative of Estonia stated that his Government had identified the trading activities of the firms *Eesti Energia* and *Eesti Põlevkivi* as subject to the provisions of Article XVII of the GATT 1994.]

98. The representative of Estonia [stated that his Government had identified the trading activities of the firms *Eesti Energia* and *Eesti Põlevkivi* as subject to the provisions of Article XVII of the GATT 1994. He] confirmed that it was the intent of his Government to eventually eliminate its State trading rôle. He further confirmed that after accession to the WTO, Estonia would observe the

provisions of Article XVII of the GATT 1994, the WTO Understanding on that Article, and Article VIII of the GATS regarding State trading, in particular abiding by the provisions for notification, non-discrimination, and the application of commercial considerations for trade transactions. The Working Party took note of these commitments.

Free Zones, Special Economic Areas

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

Government Procurement

100. 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 had been 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 Office to coordinate and administer public procurement activities. The legislation defined four principal procedures of procurement; open tender, two-stage tendering, negotiated tendering, 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 subsequent to an inconclusive round of open tender (no bids received or all tenders rejected) or in case public procurement involved urgent works or public procurement was performed by the diplomatic representation of the Republic of Estonia, i.e. procurement taking place outside Estonia. Prior to the commencement of the tendering the procuring entity should notify the Public Procurement Office in writing about the performance of the tendering. 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; and when the supplier would carry out research and development resulting in prototypes. Again, the relevant notice in writing should be sent to the Office prior to the tendering procedure. In accordance with the amendments to the Law on Public Procurement of 1 January 1997, the observance of the rules established in the Law on Public Procurement were not obligatory when the objective of the public procurement was; (i) public procurement involving State secrets; (ii) printed matter and articles of virtue; (iii) scientific research and special programmes; (iv) elaboration of legal acts and legal assistance; (v) purchase of an existing building or any part thereof from a natural person; and (vi) public procurement established by other laws.

101. Estonia requested observer status in the Committee on Government Procurement in a letter dated 1 October 1998 and obtained observer status in that committee on 7 October 1998.

102. The representative of Estonia confirmed that, upon accession, Estonia would initiate negotiations for membership in the Agreement on Government Procurement by tabling an entity offer within [three][six] months of accession to the WTO. 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 in the Agreement by [31 December 1998 or within one year of accession, whichever came first]. The Working Party took note of these commitments.

Transit

103. 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.

104. 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.

Agricultural Policies

105. 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.

106. 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 role 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. 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. The representative of Estonia agreed that the Law on Grain was inconsistent with the WTO and the Agreement on Agriculture and Estonia was ready to take a commitment to bring the Law on Grain into conformity with WTO Agreements by the date of accession. The provisions in the Grain Law authorizing the use of import quotas when domestic demand was fully covered by local production would be amended in order to bring the Law into full conformity with the provisions of the WTO Agreements. The amended Law on Grain was planned to be elaborated and adopted in 1999.

107. The representative of Estonia confirmed Estonia's awareness of the WTO requirement not to use quantitative restrictions and to rely on customs duties and said that this rule would be followed in future policy. The representative of Estonia said that drafting of a Law on Food Licensing had not been completed as foreseen by the end of 1996 due to amendments made in the Food Law. Rather than prescribing food licensing by law, it had been decided to develop secondary legislation regulating the issuance of licences for importing food. A regulation had been prepared and submitted to the Government for discussion. The regulation was likely to enter into force in early 1999. He stressed that licensing arrangements for food imports would be of automatic nature and would not have restrictive effect on imports.

108. [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. A member sought a commitment from Estonia not to invoke special safeguard measures on any agricultural products. The representative of Estonia said that Estonia's understanding was that non-Uruguay Round countries also had a possibility to use such measures. Accordingly, Estonia would not exclude any future resort to special safeguard measures, but he was not able to indicate any specific areas where such measures might be used.]

109. [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 programmes it had not yet implemented, such as export subsidy programmes, or programs that had been implemented after Estonia applied for accession to the WTO.]

[to be completed]

Trade in Civil Aircraft

110. 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.

111. 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

112. 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 MFN 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.

113. 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 MFN treatment. The status of legislation on intellectual property in Estonia as per October 1998 is presented in Table 6. He added that 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, and provisions related to TRIPS-obligations had been included in the Law on Competition of 7 July 1993. A Law on Industrial Design Protection had been prepared and adopted by Parliament on 18 November 1997; the Law had entered into force on 11 January 1998. The Trademark Law had been amended in 1995, 1996 and 1997. Legislation on industrial property was said to be modelled on corresponding laws of the Nordic countries and European and international legislative acts. According to the Constitution, the provisions of an international treaty ratified by Parliament prevailed over national law. An indication of this rule was included in all intellectual and industrial property laws.

Table 6: Status of Legislation on Intellectual Property in Estonia (October 1998)

TRIPS Agreement	Laws and other legal provisions addressing and covering the subject matters	Effective and draft legislation relating to requirements of the TRIPS Agreement
Part II, Section 1 Copyright and related rights	Copyright Act of 1992 The Criminal Code and the Code of Administrative Offences Amendment Act of 1995	Copyright Act and amendments are effective and full compliance with WTO TRIPS requirements ensured
Part II, Section 2 Trademarks	Trademark Act of 1992	Trademark Act is effective and full compliance with TRIPS ensured since 1997
Part II, Section 3 Geographical Indications	Trademark Act of 1992	Estonia does not have a Geographical Indications Act, requirements of Art.22-23 are partly fulfilled by the Trademark Act and the Competition Act. Draft Trademark Act is foreseen to include regulations on geographical indications.
Part II, Section 4 Industrial Designs	Industrial Designs Act of 1997	Effective and full compliance with TRIPS requirements ensured
Part II, Section 5 Patents	Patents Act of 1994 Utility Model Act of 1994	In effect and full compliance with TRIPS requirements ensured since 1998 In effect, the compliance with TRIPS requirements ensured
Part II, Section 6 Layout Designs		Draft Act on Layout Designs (topographies) of Integrated Circuits is in full compliance with TRIPS requirements
Part II, Section 7 Protection of Undisclosed Information	Partly regulated by Patent Act of 1994	
Part II, Section 8 Control of Anti-Competitive Practices in Contractual Licenses		Partly to be regulated by draft regulation for block exemptions on some categories of technology transfer and draft regulation for block exemptions on certain categories of franchise agreements
Part III, Section 3 Provisional measures	Code of Civil Procedure passed in 1998 Law on Competition passed in 1998 Chapter 8 "Unfair Competition"	Effective and full compliance with WTO TRIPS requirements ensured

TRIPS Agreement	Laws and other legal provisions addressing and covering the subject matters	Effective and draft legislation relating to requirements of the TRIPS Agreement
<u>Part III, Section 4</u> Special requirements related to border measures	Customs Code passed in 1997	The draft-law of the Copyright Act, the Code of Administrative Offences, the Criminal Code, the Consumer Protection Act and the Customs Code Amendment Act submitted to Parliament in October, expected to be adopted by the beginning of 1999 and will provide full compliance and WTO TRIPS requirements ensured
<u>Part III, Section 5</u> Criminal procedures	Code of Criminal Procedure of 1995 Criminal Code passed in 1992	Code of Criminal Procedure is effective and full compliance with WTO TRIPS requirements ensured the draft-law of the Copyright Act, the Code of Administrative Offences, the Criminal Code, the Consumer Protection Act and the Customs Code Amendment Act submitted to Parliament in October, expected to be adopted by the beginning of 1999 and will ensure TRIPS requirements

114. 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 Estonia was expected to join the Convention by the end of 1999. Estonia had declared its intention to accede to the Protocol relating to the Madrid Agreement on International Registration of Marks and Trademark Law Treaty. Parliament had adopted a Law concerning Estonia's accession to this Protocol on 16 June 1998. The Protocol would come into force in Estonia on 18 November 1998. 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 micro-organism strains could be granted following Estonia's accession to the Budapest Treaty. As of 14 September 1996, Estonia had been a member of the Budapest Treaty on the International Recognition of the Deposit of Micro-organism for the Purposes of Patent Procedure. From that date, the Estonian Patent Office had accepted patent applications on the micro-organism strains and the novel use of micro-organism strains. 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.

115. 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. Supplementary protection certificates for pharmaceutical and agricultural chemical products would be introduced through passage of the Law on Amending the Patent Law in the second half of 1998. 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. Parliament had adopted the Law on Amending the Patent Law on 16 June 1998 in order to establish provisions corresponding to Articles 27 and 34 of the TRIPS Agreement. According to paragraph 2 of Article 11 of the Patent Law, Estonia recognized the right of priority on the basis of an earlier patent application filed within a period of twelve months in any other WTO Member or in a Member of the Paris Convention. A Draft Law on Protection of Layout-Design of Integrated Circuits had been prepared and would be presented to Parliament in the second half of 1998.

116. 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 had begun in January 1996.

117. 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. The Government intended to draft a new Trademark Law in 1999.

118. The representative of Estonia said that the Law on Industrial Design Protection had entered into force in January 1998. The legislative aspects of geographical indications of origin would be provided in the new Trademark Law, which would be drafted by the end of 1999. For the time being, geographical indications of origin were protected indirectly through the Trademark Law and the Law on Competition. Taking into account that WIPO was revising the Washington Treaty on Intellectual Property in respect of Integrated Circuits, the drafting of the a Law on Semiconductor Layout Designs would not take place before the amendments to the Washington Treaty had been made. 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 had been approved by Parliament in 1996.

119. 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.

120. In reply, the representative of Estonia said that Estonia was preparing to accede to the 1971 Geneva Convention, the 1961 Rome Convention and the Union for the Protection of New Plant Varieties (UPOV). Parliament had adopted the Law on Industrial Design Protection in

November 1997, and would examine the Law on Protection of Layout-Design of Integrated Circuits in the second half of 1998.

121. The representative of Estonia stated that Estonia would fully apply all the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights from 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

122. 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 7. 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. [Revert to this section at an appropriate time.]

123. 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 regime 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.

124. 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.

125. 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.

126. 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.

127. 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. Licensing requirements such as the Foreign Investment Licence and the Licence of Activity fell under GATS Article VI (Domestic Regulation) and were accordingly not indicated in the GATS Schedule of Estonia. In sectors in which Estonia would undertake specific commitments, Estonia would not apply technical standards, licensing or qualification requirements that nullify or impair such specific requirements in a manner not complying with the criteria outlined in subparagraph 4 of Article VI of the GATS, or which could not reasonably have been expected of Estonia at the time the commitments were made. Regarding Estonia's commitments on professional services, Estonia would provide for adequate procedures to verify the competence of professionals of any other Member.

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

[to be completed]

TRANSPARENCY

Publication of Information on Trade

129. The representative of Estonia said that Article 2 of the Law on Official Journal "*Riigi Teataja*" (State Gazette) stipulated 14 different groups of legislative acts (normative acts) to be published in the Official Journal "*Riigi Teataja*" (State Gazette), including: (i) Laws, decisions, and declaration of Parliament; (ii) decisions and regulations of the President; (iii) regulations and orders of Government; (iv) regulations of ministers; and (v) the annual report and general regulations of the Central Bank. Prompt publication of laws and normative acts ensured the highest transparency possible.

130. The representative of Estonia said that, at the latest from the date of accession, all laws and other normative acts related to trade would be published in the Official Journal "*Riigi Teataja*" (State Gazette) promptly and no law, rule, etc. related to international trade would become effective prior to such publication. He further stated that Estonia would fully implement Article X of the GATT 1994 and the other transparency requirements in WTO Agreements requiring notification and publication.

Notification

131. 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. His Government would notify its Innovation Fund at the latest upon entry into force of Estonia's Protocol of Accession. 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

132. 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.

133. The representative of Estonia replied that Estonia had preferential trade agreements with EFTA; the EU; Latvia and Lithuania; the Czech Republic; the Slovak Republic; Poland; Slovenia; Turkey; Ukraine [and Hungary]. 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 Communities had been notified to the WTO in document WT/REG8/N/1 and was being examined in accordance with normal practice (document WT/REG8/1 contained the Agreement and document WT/REG8/2 the Terms of Reference). The Free Trade Agreement with EFTA States had been notified to the WTO in document WT/REG28/N/1; additional relevant documentation included document WT/REG28/1 (the Agreement), document WT/REG28/2 (Standard Format) and document WT/REG28/3 (Terms of Reference). The Free Trade Agreement with Slovenia had been notified to the WTO in document WT/REG37/N/1. He stated that Estonia had no countertrade agreements with countries in central and eastern Europe. The free trade agreements generally provided duty free importation and exportation of industrial goods (HS Chapters 25-97) while trade in agricultural goods were covered either in separate agreements or related protocols. Some quantitative and qualitative requirements applied to Estonia's agricultural exports.

134. The representative of Estonia said 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 had entered into force on 1 January 1997. The two agreements complemented each other and, taken together, constituted a free trade area in terms of Article XXIV of the GATT 1994. He noted that Estonia had had the possibility, until the end of 1997, to regulate agricultural imports with tariffs under the Free Trade Agreement with the European Union. Should Estonia apply import duties in the future under the terms of any of its free trade agreements, 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.

135. 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

136. The Working Party took note of the explanations and statements of Estonia concerning its foreign trade regime, as reflected in this report. The Working Party took note of the commitments given by Estonia in relation to certain specific matters which are reproduced in paragraphs [15], [21], [25], 30, [34], [44], [57], [63], [69], 75, [77], 80, 82, 85, 93, 94, [98], [102], 104, 111, 121, 131 and [135] 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.

137. Having carried out the examination of the foreign trade regime 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]

ANNEX

Table 2: Electricity prices (since 18 November 1997)

Consumers with capacity 400kW or more per one substation or measuring system unit (group I)

Category description	Unit (1EEK = 100 sent)	IA	IB	IC
		voltage in connection point		
		110kV or more	6-35 kV	less than 6kV
Capacity charge	EEK/kW per month	53.00	58.00	64.00
and Active Energy main price	sent/kWh	29.6	38.9	49.8
or daytime price (07.00.-23.00)	sent/kWh	32.6	42.8	54.8
and night time price	sent/kWh	20.4	26.8	32.4
or daytime price (07.00.-12.00)	sent/kWh	33.0	43.9	56.3
daytime price (12.00.-23.00)	sent/kWh	31.4	41.7	53.3
and night time price	sent/kWh	20.4	26.8	32.4
and Reactive Energy consumption	sent/kvarh	3.8	4.6	6.0
and releasing to the network	sent/kvarh	7.6	8.1	8.1

Consumers with capacity less than 400kW per one substation or measuring system unit (group II)

Category description	Unit (1EEK = 100 sent)	voltage in connection point		
		less than 6kV		6-35kV
		Variant A	Variant B	II C
Consumption charge for 1-phase consumer	EEK/A per month	2.80	-	-
Consumption charge for 3-phase consumer	EEK/A per month	8.40	-	-
and Active Energy main price	sent/kWh	61.0	74.6	53.2
or daytime price (07.00.-23.00)	sent/kWh	66.9	82.2	58.5
and night time price	sent/kWh	36.4	44.9	36.7
or daytime price (07.00.-12.00)	sent/kWh	68.7	-	-
daytime price (12.00.-23.00)	sent/kWh	65.1	-	-
and night time price	sent/kWh	36.4	-	-
and Reactive Energy consumption	sent/kvarh	6.0	6.0	4.6
and releasing to the network	sent/kvarh	8.1	8.1	8.1

Resellers (group III)

The category description	Unit (1EEK = 100 sent)	
Active Energy main price	sent/kWh	C
or daytime price (07.00.-23.00)	sent/kWh	1.06C
and night time price	sent/kWh	0.62C
and Reactive Energy consumption	sent/kvarh	4.6
and releasing to the network	sent/kvarh	7.7

Households (group IV)

The category description	Unit (1EEK = 100 sent)	without VAT	VAT included
Active Energy main price	sent/kWh	55.1	65.0
or daytime price (07.00.-23.00)	sent/kWh	55.1	65.0
and night time price	sent/kWh	33.1	39.0

Consumers without measuring (group V)

The category description	Unit (1EEK = 100 sent)	
Consumption charge for 1-phase consumer	EEK/A per month	77.40
Consumption charge for 3-phase consumer	EEK/A per month	232.20

Night consumers and consumption regulators 100kW or more (group VI)

The category description	Unit (1EEK = 100 sent)	voltage in connection point	
		6 kV or more	less than 6 kV
Consumption charge	EEK/A per month	3.00	3.50
and Active Energy during night time	sent/kWh	24.0	28.5
and Reactive Energy consumption	sent/kvarh	4.6	6.0
and releasing to the network	sent/kvarh	8.1	8.1

Table 3: Oil-shale Prices (since 1 May 1997)

	Quality class	MJ/kg	Price for clients with the deviation from the average monthly shipment by less than $\pm 15\%$ EEK/t	Price for clients without contract or for those with the deviation from the average monthly shipment by more than $\pm 15\%$ EEK/t
1	PK	over 11.51	71.63	127.27
2	1PK	over 10.97	70.73	125.70
3	2PK	10.26 - 10.97	69.75	123.95
4	3PK	9.59 - 10.25	68.86	122.39
5	4PK	8.54 - 9.58	67.89	120.29
6	P	over 9.21	66.92	118.96
7	1P	over 8.79	66.04	117.38
8	2P	7.79 - 8.79	65.13	115.79
9	3P	7.29 - 7.78	64.16	114.09
10	4P	6.28 - 7.28	63.26	112.50
11	5P	6.07 - 6.27	62.31	110.78

Table 7: Activities subject to licensing (Activity Licence)

Activity		Issuing Authority
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 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 Economic Affairs
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

Activity		Issuing Authority
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
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
41.	Classification of goods and measuring of goods for customs' purposes	Ministry of Finance
42.	Commercial mediation of scrap metal and metal waste	Ministry of Economic Affairs

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 [136] 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 [136] 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 list 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, 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]
