

# WORLD TRADE ORGANIZATION

RESTRICTED

**WT/L/60**

21 April 1995

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Original: English

## ACCESSION OF ESTONIA

### Communication from Estonia

The following communication has been received from the Ministry of Foreign Affairs of the Republic of Estonia.

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In order to pursue the process of Estonia's accession to the World Trade Organization, please find enclosed herewith the following documentation:

- Note on services;
- Note on Trade-Related Intellectual Property Rights;
- Estonia's initial offer for market access negotiations on goods;
- Note on foreign trade legislation.

The initial offer for negotiations of commitments in services has been submitted separately.

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Estonia's draft Schedule of Specific Commitments on Trade in Services has been circulated in document WT/L/59.

The Law on Credit Institutions in English translation is available in the Secretariat (Accessions Division, Room 2075) for consultation.

The notes mentioned in the communication from Estonia are reproduced hereunder.

## NOTE ON TRADE IN SERVICES

None of the existing legal acts in Estonia is inconsistent with the General Agreement on Trade in Services.

According to the Law on Aliens and the Order of Giving Residential Permit and Working Permits to Aliens, only a person who has a residential and working permit can work in Estonia. One can apply for a visa for a period of 90 days, but a temporary stay is limited to 30 days at a time. Residential Permit can be applied for the maximum of five years. The immigration quota is 1,000 persons a year, regardless of their qualification or origin.

Commercial presence of a foreign company must take the form of a legal person registered in Estonia.

Services are regulated by the following legal acts:

Legal services are regulated by the Bar Statute (*Advokatuuri põhimäärus*) which states that foreign investors are not allowed to participate in establishing a lawyer's office. All lawyers must be members of the Bar Association (*Advokatuur*). At first one must work as an assistant to a barrister at law for two years, then pass an exam and work for three years as a senior assistant and after that it is possible to pass a lawyers exam. Law on Public Notaries (notaries are appointed by the Ministry of Justice) and a draft Law on Legal Advice are in conformity with the GATS.

Accounting, auditing and bookkeeping services are regulated by the Law on Bookkeeping and Auditing Statute which are consistent with the GATS. An auditor needs an attestation certificate issued by the Auditors Board, which is appointed by the Ministry of Finance. To acquire an attestation certificate one must have either economic or legal higher education plus work experience in a relevant field at least for three years.

Architectural and construction services: at the present moment the Government Decree is in force, according to which activity licences are required. However, there is a draft Law on Planning and Construction in the Parliament which contains only a competency requirement (specialists must have higher education in the relevant field). Probably the licences will remain in use for another year.

Medical and dental services: are regulated by a Decree of the Ministry of Social Affairs "The Temporary regulation on the Order of Foreign Practising Physicians in Estonia". There are no barriers, only an attestation certificate issued by the Ministry of Social Affairs is required.

Tourism and travel related services: no barriers, only activity licence is required; special minimum requirements for hotels. Decrees of the Ministry of Economy "The Regulation on the Order of Granting State Licences on Rendering Tourist Services to Travel Agents and Tour Operators" and "The General Requirements and Minimum Requirements to Private Individuals and Legal Persons Rendering Hotel Services".

Transport services: Traffic Law; Merchant Shipping Code; Law on Aviation; Law on Railways; Law on Telecommunications. There are no barriers. To offer transport or communication services, one must acquire an activity licence in a corresponding field (aviation, navigation, road or rail transport; or communications) from the Ministry of Transport and Communications. Activity licences will be abolished in the nearest future. In shipping the licence is not required already now.

In the field of transport and communications, there exists two concession agreements guaranteeing monopoly rights: in shipping there is a concession on conveyance of passengers between Estonia and Sweden granted to a company "Estline"; in telecommunications a concession has been granted to "Eesti Telefon". The 10 years, foreseen in the GATS for eliminating monopolies, is enough, as "Estline's" concession remains in force for another three years and that of "Eesti Telefon" for eight years. Licences for conveyance of passengers and goods are issued only to vehicles belonging to companies registered in Estonia. To sail under the Estonian flag, the ferry must belong either to a citizen of the Estonian Republic or a company where the share of Estonia is at least 51 per cent and which headquarters are situated in Estonia and which operates under the Estonian law.

Banking and financial services: Law on Credit Institutions; Law on Bank of Estonia; Law on Securities Market; Law on Insurance; Law on Traffic Insurance. Licences are needed in insurance, banking and securities sectors. All legal acts concerning banking and financial services are consistent with the GATS.

Computer and related services: research and development services are not regulated with specific legal acts.

Other business services: must follow the generally admitted laws like Civil Code, Law on Property, Law on Foreign Investments, Law on Competition, Advertising Law, Business Law.

Rental/leasing services are regulated by the Law on Renting.

## NOTE ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

### INDUSTRIAL PROPERTY RIGHTS

All the laws on and regulations concerning industrial property rights at present in force in Estonia, i.e. the Law on Trademarks (in force from 1 October 1992), the Law on Patents (23 May 1994) and the Law on Utility Model (23 May 1994) are fully consistent with the Agreement on Trade-Related Intellectual Property Rights.

The Law on Industrial Design, The Law on Geographical Indication and the Law on Layout-Designs are in the stage of preparing a draft. For enforcement of industrial property rights certain amendments and supplements to the Criminal Code and to the Code of Administrative Offences is to be made. After adopting them in Riigikogu (Parliament) during 1995-1997, the legislative bases guarantee the implementation of TRIPS Agreement.

### COPYRIGHT AND RELATED RIGHTS

Comparative Analysis of Estonian Legislation.

#### Part I: General provisions and basic principles

1. The Estonian legislation on copyright and related rights consists of the following acts:
  - Article 39 of the Constitution of 28 June 1992: "Authors shall have inalienable right to their creation. The State protects the rights of the authors";
  - Copyright Law (Author's Rights Law) of 11 November 1992 which came into effect on 12 December 1992;
  - Competition Law of 1993 contains a special chapter on unfair competition;
  - Broadcasting Law of 19 May 1994 contains some provisions on copyright;
  - Law on Amending and Supplementing the Criminal Code and the Code of Administrative Offences of 9 January 1995 introduces new criminal sanctions and for the first time establishes administrative liability for the infringement of copyright and neighbouring rights;
  - Government Resolution No. 40 of 26 January 1995 which approved the Order of Collection and Payment of the Levy to Compensate for the Use of Audiovisual Works and Sound Recordings of Works.
2. The Copyright Law of 1992 was worked out on the basis of the Paris Act of the Berne Convention for the Protection of Literary and Artistic Works, and the International Convention for the Protection of Performers, Producers of Phonogrammes and Broadcasting Organizations (Rome 1961), as well as the principles of the EEC Council Directive of 14 May 1991 on the legal protection of computer programmes (the software directive). The WIPO Model Law on Copyright and Neighbouring Rights served as one of the models. The Draft Law passed the expertise of WIPO and was assessed by leading copyright specialists in Finland, Sweden and the United States.

The 1992 Copyright Law repealed Part IV "Copyright" of the Civil Code of 1964. In the process of legal reform going on in Estonia the Civil Code of the Estonian Soviet Socialist Republic of 12 June 1964 (in force from 1 January 1995) is being replaced by a new Civil Code. The new Civil Code will consist of five separate laws and will not include the Copyright Law. However, the Civil Code includes general civil law provisions which are applicable to copyright and related rights.

The structure of the new Civil Code is drafted as follows:

- I. Law on General Principles of the Civil Code of 28 June 1994 which was effected from 1 September 1994;
- II. Property Law of 9 June 1993, in force from 1 December 1993 and Law on Implementation of the Property Law of 27 October 1993;
- III. Family Law of 12 October 1994 which came into effect on 1 January 1995;
- IV. Law on Obligations is likely to pass in 1995 and will also contain a separate part on commercial contracts which traditionally forms part of the Business Code;
- V. Inheritance Law which is expected to pass in 1995.

The Business Code which is also a legal basis for copyright-based industries (cultural industries) was passed on 14 February 1995. It contains rules about different forms of enterprises (partnerships, joint-stock companies, limited liability companies, etc.).

3. Estonia is a member of the World Intellectual Property Organization (WIPO) since 5 February 1994 (State Reporter II 1994, No. 1/2, p. 77). The Law on the Ratification of the Convention on Establishing the World Intellectual Property Organization was passed by Riigikogu on 25 August 1993.

4. Estonia is party to the Berne Convention for the Protection of Literary and Artistic Works since 26 October 1994. The Law on Accession to the Berne Convention for the Protection of Literary and Artistic Works was passed on 18 May 1994.

5. Estonia is not a party to the International Convention for the Protection of Performers, Producers of Phonogrammes and Broadcasting Organizations (Rome Convention, 1961). But there are no formal obstacles to join as the Rome Convention served as a model for the neighbouring rights chapter (Chapter VIII) in the Estonian Copyright Law. The question of accession to the Rome Convention is under discussion at the Ministry of Culture and Education.

6. Estonia is not a party to the Universal Copyright Convention (UCC; Geneva 1952).

7. Estonia is not a party to the Convention for the Protection of Producers of Phonogrammes against Unauthorized Duplication of their Phonogrammes of 1971 (Phonogramme Convention, Geneva 1971). The question of accession to the Phonogramme Convention is under discussion at the Ministry of Culture and Education.

Part II: Standards concerning the availability, scope and use of intellectual property rights

Section 1: Copyright and related rights

Article 9, Relation to the Berne Convention

1. Estonia has acceded the Berne Convention (1971, Paris Act) without making any reservations.

The Estonian Copyright Law grants the author economic rights, which are transferable either as separate rights or as a collection of rights (§ 11 and 13), and moral rights (§ 11 and 12).

The economic rights include a right of reproduction of the work, right of public performance, right of distribution, right of importation, right of translation, right of adaptation, right of display, right of communication etc. (§ 13).

2. According to § 4(1) of the Copyright Law copyright subsists in literary, artistic and scientific works. "Works" for the purposes of the Copyright Law means any original results of a person's creative activities in the literary, artistic and scientific domain, which have been expressed in an objective form and, in this form, can be perceived and reproduced either directly or by means of a technical device (§ 4(2)). Copyright in a work shall commence upon the creation of the work which means the moment of fixing the work in an objective form which permits it to be perceived and reproduced.

According to § 5 ideas, images, notions, theories, processes, systems, methods, conceptions, principles, discoveries, inventions and other such results of intellectual creation, described, explained or otherwise expressed in a work are not protected by the Copyright Law.

§ 4(3) contains a non-exhaustive list of works protected by the Copyright Law. The list also contains works of applied art and works of design. After adoption of the special law on industrial designs the last-mentioned objects will have cumulative protection in Estonia.

3. The principle of national treatment is expressed in § 3 of the Copyright Law.

4. The author (a physical person or persons) shall be the first owner of the moral rights and the economic rights in his work (§ 28). The exceptions from this general principle provided in the Copyright Law as regards the economic rights of the author are the following:

- the author's economic rights in the use of the work created in the course of employment under an employment contract shall be transferred to the employer, unless provided otherwise by contract (§ 32);
- copyright in an audiovisual work shall be enjoyed by its author or joint authors - the director, scriptwriter, composer, cameraman and designer - but the economic rights of the author shall be transferred to the producer of the work, unless provided otherwise by contract (§ 33);
- copyright in a collective work shall be enjoyed by the person on whose initiative and under whose direction such a work was created and under whose name it was made available to the public, unless provided otherwise by contract.

"Collective work" is a work consisting of contributions by different authors which have been merged into an integral whole by a physical person or legal entity on his or its initiative and under his or its direction, and which has been made public under the name of the physical person or the legal entity (works of reference, scientific collections, newspapers, journals and other periodicals, etc.) (§ 31).

5. The use of a work by other persons shall be permitted only in case of the transfer (assignment) of the author's economic rights or on the basis of a licence (exclusive or non-exclusive) granted by the author in an author's contract (§ 46 and the following sections in Chapter VII "Use of Works"). The exceptions to this rule are dealt with under Article 13.

#### Article 10, Computer programmes and compilations of data

1. According to § 4(3)3 computer programmes are protected as written/literary/works.

Chapter IV of the Copyright Law "Use of Works Without the Author's Consent and Without Payment of Remuneration" contains two sections on free use of computer programmes. § 24 "Free Use of Computer Programmes" and § 25 "Free Decompilation of Computer Programmes" follow the principles of the 1991 EEC software directive.

2. "Collections of works and collections of information (including databases)" are directly mentioned on the list of works in which copyright subsists (§ 4(3)22) of the Copyright Law. There is a special section - § 34 - on copyright of compilers. According to § 34(1) a person (the compiler) who has, as a result of his creative activities by selecting and systematizing the material, created a collection shall enjoy the data or material itself. According to § 34(4) works protected by copyright may be systematized and included in a collection, either in their original form or in a modified form, only with the consent of the author or his heirs, except for the cases provided for under Chapter IV of the Copyright Law. The compiler shall be obliged to respect the copyright of the author of the works included in the collection.

#### Article 11, rental rights

According to § 13(2) of the Copyright Law the authors and their successors in title of audiovisual works/cinematographic works/works included in phonogrammes, computer programmes and works which can be used by means of a computer or any other technical device shall enjoy the right to authorize the rental or any other public use of their work.

#### Article 12, terms of protection

1. The general rule is that copyright shall subsist for the life of the author and 50 years after his death (§ 38(1)).

2. Copyright in a work first made available to the public within 50 years after the death of the author shall subsist for 50 years after the lawful making available to the public of the work (§ 38(2)).

3. Copyright in a work created by two or more persons by joint creation (joint authorship) shall subsist for the life of the last surviving author and 50 years after his death (§ 39).

4. Copyright in a work made available to the public anonymously or under a pseudonym shall subsist for 50 years after the work has been lawfully made available to the public but if during this term the author reveals his civil name or his authorship is otherwise established, the life plus 50 years term shall be applied (§ 40).

5. Copyright in a collective work, the producer's copyright in an audiovisual/cinematographic/work and a copyright in a photographic work shall subsist for 50 years after the work has been lawfully made available to the public. If such a work has not been made available to the public within 50 years after the creation thereof, copyright therein shall subsist for 50 years after the creation of the work (§ 41).

6. Copyright in works of applied art shall subsist for 25 years after the work has been created (§ 42).

7. The terms run from 1 January of the year following the death of the author or following the date of lawfully making the work available to the public or the creation of the work (§ 43).

#### Article 13, limitations and exceptions

1. Limitations to exclusive rights of the author are in Chapter IV "Use of Works Without the Author's Consent and Without Payment of Remuneration" of the Copyright Law. The use of a work without the authors consent and without payment of remuneration (free use) shall be permitted only in the cases directly prescribed by § 18 to § 25 of the Copyright Law, provided that such a use does not conflict with a normal exploitation of the work and does not prejudice the legitimate interests of the author (§ 17). Such a free use includes:

- free reproduction of works for certain scientific, educational, informatory, legal and administrative purposes (§ 19);
- free reproduction of works by libraries, archives and museums in certain cases (§ 20);
- free use of images of works permanently located in public places (§ 21);
- free public performance of works at educational institutions, under certain limitations (§ 22);
- making of ephemeral recordings by broadcasting organizations (§ 23);
- cases of free use of computer programmes (§ 24) and decompilation of computer programmes (§ 25).

2. The Estonian Copyright Law does not contain provisions on compulsory licences.

3. The Government Resolution No. 40 of 26 January 1995 prescribes the procedure for fulfilment of Sections 26 and 27 of the Copyright Law. According to Sections 26 and 27 of the Copyright Law the authors, performers and producers of phonogrammes shall be compensated for the reproduction of their audiovisual works and sound recordings for personal use. The appropriate remuneration, the size of which is established on a yearly basis by the Ministry of Culture and Education, shall be paid by producers and importers of technical devices for private reproduction, blank tapes, cassettes and other such devices. The organization in charge of collecting the remuneration is the Author's Association. The collecting and distribution of remuneration starts from 1 April 1995.

#### Article 14, protection of performers, producers of phonogrammes (sound recordings) and broadcasting organizations

1. The rights of performers, producers of phonogrammes and radio and television organizations (broadcasting organizations) are in Chapter VIII of the Copyright Law.



2. According to § 65 the performer shall enjoy moral and economic rights in the performances.

The performer of a work shall have the exclusive right to use the performance of the work and to authorize the use thereof by others, as well as the right to remuneration for such use, which has been agreed upon between the parties, except for the cases agreed between the parties and prescribed in § 75 "Limitations on Rights Neighbouring on Copyright" of the Copyright Law (§ 67).

It shall be permitted only with the authorization of the performer:

- (1) to fix an unfixed performance on a record, sound or video tape, film etc.;
- (2) to reproduce a fixation of the performance;
- (3) to broadcast the performance;
- (4) to communicate the performance to the public by any technical device outside the place where the performance is taking place;
- (5) to use the sound and the images separately, where these have been fixed together and form an integral whole (§ 67).

3. According to § 70 of the Copyright Law it shall be permitted only with the authorization of the producer of phonogrammes:

- (1) to reproduce his phonogrammes;
- (2) to import copies of his phonogrammes;
- (3) to rent, or use in any other manner, copies of his phonogramme.

4. According to § 73 of the Copyright Law it shall be permitted only with the authorization of the broadcasting organization:

- (1) to fix a broadcast;
- (2) to reproduce the fixation of a broadcast;
- (3) to rebroadcast a broadcast (it includes the rebroadcasting by wireless means of broadcasts, as well as the communication to the public of television broadcasts of the same) (§ 73).

5. The term of protection available under the Estonian Copyright Law in respect of performers, producers of phonogrammes and broadcasting organizations shall last for 50 years. The term is computed from the first performance of the work if it is unfixed, or from the first publication if the performance has been fixed on the phonogramme (performers), from the first publication (producers of phonogrammes) and from the first transmission of the broadcast (broadcasting organizations). The term shall run from 1 January of year following the year during which the acts referred to were done (§ 74).

6. The limitations of the related rights, fixed in § 75 of the Copyright Law, are those permitted by the Rome Convention.

### Part III: Enforcement of intellectual property rights

#### Section 1: General obligations

1. According to § 79 of the Copyright Law, violations of the rights of authors, performers, producers of phonogrammes and broadcasting organizations shall bring about civil, administrative or criminal liability.
2. The court reform in Estonia was completed in 1993. There are three court levels - city (county) courts, district courts and the National Court situated in Tartu. There are also separate Administrative Courts in Tallinn, Tartu and Narva. City and county courts include administrative judges. There are no separate intellectual property (copyright) courts in Estonia.
3. The Ministry of Culture and Education is responsible for the development and administration of Copyright and related rights in Estonia. All the bills in these fields have been drafted at the Ministry of Culture and Education.

#### Section 2: Civil and administrative procedures and remedies

1. Civil law remedies for the violation of author's moral and economic rights can be found in the Copyright Law as well as in the Civil Code.

Protection of author's moral and economic rights can be achieved through court in the following ways:

- (1) by recognizing the rights;
  - (2) by ceasing the acts of violation or restraining the activities which aggravate the risk of violation of the rights (stopping the reproduction of the work, fixation of a performance or phonogramme or stopping the distribution thereof, etc.);
  - (3) by restoring the situation prior to the violation of the right;
  - (4) by obliging the other party to fulfil the contract or by cancelling the contract;
  - (5) by eliminating the effects of the infringement;
  - (6) by recovering material compensation for the moral damage incurred;
  - (7) by reclaiming the profit made by the infringer for the benefit of the person who has suffered damages;
  - (8) by compensating for the damages;
  - (9) by other means prescribed by legal acts (§ 80 of the Copyright Law).
2. The Civil Law measures also include destruction, alteration and seizure of illegal copies and technical devices used for making such infringing copies (§ 81 of the Copyright Law).
  3. The practical questions of protection of violated rights with Civil Law means are regulated in the Code of Civil Procedure of 19 May 1993 which is in conformity with the requirements of Section 2 of Part III of the TRIPS Agreement.

Parties to the procedure have the right to be represented by independent legal counsel (as a rule, a member of the Estonian Bar Association is chosen by the parties as a representative). The procedure shall provide a means to identify and protect confidential information.

4. The Law on Amendments to the Criminal Code and to the Code of Administrative Offences of 9 January 1995 introduces for the first time a special provision (Section 184) which prescribes administrative liability for the violation of copyright and related rights. The sanctions foreseen are a fine and administrative detention.

#### The Code of Administrative Offences

##### Section 184: Violation of copyright and neighbouring rights

- (1) The unlawful reproduction of copyright works, including computer programmes, electronic databases and audiovisual works, performances of works, phonogrammes, radio and television programmes shall be punishable with a monetary fine amounting to the daily wages of up to 200 days.
- (2) The unlawful alteration or making of copies as well as the unlawful rental, leasing, offering for sale or rental, display, distribution, performance of works, broadcasting or any other unlawful use of copyright works, phonogrammes, radio and television programmes shall be punishable with a monetary fine amounting to the daily wages of up to 200 days or with an administrative detention lasting up to 15 days.
- (3) Making known to the public without consent of the author or performer of works of their name if the work was published under a pseudonym, author's sign or anonymously, as well as violation of the integrity and intactness of a work, or of the order of its publicising shall be punishable with a monetary fine amounting to the daily wages of up to 200 days or an administrative detention lasting up to 20 days.
- (4) Violation of regulations regarding payment of remuneration provided for in Sections 15, 26 and 27 of the Copyright Law shall be punishable with a monetary fine amounting to the daily wages of up to 100 days.
- (5) The sale, rental, leasing, offering for sale or rental, display, distribution or any other unlawful use of technical equipment or devices designed for removal of a protective device against the unlawful reproduction of copyright works, performances of works, phonogrammes, radio and Television programmes, or for removal of a protective device against the unlawful reception of a signal transmitted via satellite or cable shall be punishable with a monetary fine amounting to the daily wages of up to 200 days or an administrative detention up to 15 days.

##### Section 4: Special requirements related to border measures

The Customs Law of 15 September 1993, effected from 1 November 1993, forms the legal foundation for protection measures against import and export of pirated copyright goods. The Customs Law also contains sanctions for the violation of customs regulations.

### Section 5: Criminal procedures

1. Fundamental changes were introduced in the Criminal Code with the Law on Amendments to the Criminal Code and to the Code of Administrative Offences of 9 January 1995. Now it is expressly stated that "special seizure may be exercised in respect of copies of works which have been made in violation of the Copyright Law" (§ 33(5)).

For the violation of author's and performer's moral rights (plagiarism, etc.) the sanction is a fine or imprisonment up to two years. The criminal code now contains the enumeration of these violations of economic rights of authors, performers, producers of phonogrammes and broadcasting organizations which bring along criminal sanctions - a fine or imprisonment up to three years. A fine can be imposed in the amount of up to 300 daily wages. The daily wages of the fine shall be calculated on the basis of the mean daily income after tax of the person convicted, considering his/her family and economic condition (§ 28 of the Criminal Code).

There are three conditions for imposing criminal sanctions:

- (i) if an administrative penalty had been imposed on the guilty party for the same act;
- (ii) if the unlawful act was performed for the purpose of entrepreneurship, or
- (iii) if this act caused a major economic damage to the person holding the copyright or neighbouring rights.

### Criminal Code

#### Section 136: Violation of copyright and neighbouring rights

- (1) Publishing in one's own name of a copyright work, performance of a work, phonogramme, radio or TV programme (plagiarism), or any other violation of copyright shall be punishable with a monetary fine or imprisonment up to two years.
- (2) The unlawful reproduction, sale, rental, leasing, performance, broadcasting, offering for sale or rental, display, distribution, import, export or any other unlawful use (contrafaction) of copyright works, including computer programmes, electronic databases and audiovisual works, performances of works, phonogrammes, radio and TV programmes shall be punishable with a monetary fine or imprisonment up to three years, if the unlawful act was performed for the purpose of entrepreneurship, or if an administrative penalty had been imposed on the guilty party for the same act, or if this act caused a major economic damage to the person holding the copyright or neighbouring rights.
- (3) The production, sale, rental, leasing, offering for sale or rental, display, distribution, import or any other unlawful use of technical equipment or devices designed for removal of the protective device against the unlawful reproduction of copyright works, including computer programs, electronic databases and audiovisual works, performances of works, phonogrammes, radio and TV programmes, or for removal of the protective device against the unlawful reception or signals transmitted via satellite or cable shall be punishable with a monetary fine or imprisonment up to three years, if the unlawful act was performed for the purpose of entrepreneurship, or if an administrative penalty had been imposed on the guilty party for the same act, or if this act caused a major economic damage to the person holding the copyright or related rights.

#### Part V: Dispute prevention and settlement

1. The Estonian Copyright Law (§ 82) envisages the foundation of a Copyright Commission at the Ministry of Culture and Education which can act as an arbitrator between the opposing parties. The Commission, acting on an ad hoc basis, has considered two disputes concerning the size of payments between the Estonian Authors' Society and broadcasting organizations. In one dispute in August 1994 a compromise solution was made, in January 1995 another dispute remained unsettled and will probably come before the court.

#### 2. Collective administration of rights

1. The legal foundation for establishing authors' societies in Estonia is Chapter IX of the 1992 Copyright Law "Collective exercise of rights".

2. The Estonian Authors' Society (EAÜ; Eesti Autorite Ühing) started its activities at the beginning of 1992. From May 1993 EAÜ is a member of CISAC.

EAÜ is based on a membership principle and by 1 March 1995 has 375 members. Cooperation agreements have been concluded with sister-societies in 13 countries, including the United States, Great Britain, Germany, Finland, Sweden, Denmark, Austria, Switzerland, Hungary, Lithuania, etc.

Starting from 1993 one of the most important tasks of EAÜ has been to draft and conclude contracts with the users of musical works. Concert organizations, state and private radio and television organizations as well as restaurants have been negotiation partners. The first steps are made in starting negotiations with cinemas. Shops, transportation and sports organizations are waiting for their turn.

The users of copyright works as a rule do not object to paying the authors; disputes arise in connection with the size of payment. As there is no established practice in Estonia in this question, negotiations are hard and may lead to nothing. EAÜ intends to bring an action in this case before the court of justice.

3. In September 1994, a new collective administration organization to represent mostly the authors of audio-visual works Eesti Audiovisuaalautorite Ühing (Estonian Audio-visual Authors' Society) EAAÜ) was founded in Tallinn. By 1 March 1995 the Statutes of the Society were not yet officially registered. Nevertheless, the Society has started an ambitious project to fight video piracy in Estonia. According to its Statutes the new organization is based on the membership principle, but can also represent producers and other interested persons on the basis of a special contract.

#### Part VII: Final provisions

The year 1995 is likely to witness a new stage in the Estonian copyright reform. The Ministry of Culture and Education is planning to start work on a bill amending the Copyright Law. The aim of the bill is not only to regulate certain questions more thoroughly, but to revise some copyright and neighbouring rights issues conceptually, in the light of recent developments in GATT, EU and WIPO as well as new legislation adopted in other countries.

Estonia's Initial Offer for Market Access Negotiations

HS Chapter Nos. 1-24

HS Heading No.	Rate of MFN tariff	
	Ad valorem	Specific
0101	50%	
0102	20%	+ 26,000 EEK/T
0103		12,000 EEK/T
0104		23,000 EEK/T
0105		10,000 EEK/T
0106	50%	
0201	20%	+ 90,000 EEK/T
0202	20%	+ 90,000 EEK/T
0203		30,000 EEK/T
0204	20%	+ 90,000 EEK/T
0205	50%	
0206	20%	+ 90,000 EEK/T
0207		40,000 EEK/T
0208	50%	
0209		10,000 EEK/T
0210	20%	+ 90,000 EEK/T
0301	50%	
	50%	
0302	50%	
0303	50%	
0304	50%	
0305	50%	
0306	50%	
0307	50%	
0401		50,000 EEK/T
0402		50,000 EEK/T
0403	20%	+ 50,000 EEK/T
0404		50,000 EEK/T
0405		66,000 EEK/T

HS Heading No.	Rate of MFN tariff	
	Ad valorem	Specific
0406		66,000 EEK/T
0407		3,000 EEK/T
0408		40,000 EEK/T
0409	50%	
0410	50%	
0501	50%	
0502	50%	
0503	50%	
0504	50%	
0505	50%	
0506	50%	
0507	50%	
0508	50%	
0509	50%	
0510	50%	
0511	50%	
0601	50%	
0602	50%	
0603	50%	
0812	50%	
0813	50%	
0814	50%	
0901	50%	
0902	50%	
0903	50%	
0904	50%	
0905	50%	
0906	50%	
0907	50%	
0908	50%	
0909	50%	

HS Heading No.	Rate of MFN tariff	
	Ad valorem	Specific
0910	50%	
1001		4,000 EEK/T
1002		4,000 EEK/T
1003		4,000 EEK/T
1004		4,000 EEK/T
1005		4,000 EEK/T
1006		4,000 EEK/T
1007	50%	
1008	20%	+ 8,000 EEK/T
1101		8,000 EEK/T
1102		8,000 EEK/T
1103		8,000 EEK/T
1104		8,000 EEK/T
1105	50%	
1106	50%	
1107		6,000 EEK/T
1108		6,000 EEK/T
1109		15,000 EEK/T
1201	50%	
1202	50%	
1203	50%	
1204	50%	
1205	50%	
1206	50%	
1207	50%	
1208	50%	
1209	50%	
1210	50%	
1211	50%	
1212		5,000 EEK/T



HS Heading No.	Rate of MFN tariff	
	Ad valorem	Specific
1213	50%	
1214	50%	
1301	50%	
1302	50%	
1401	50%	
1402	50%	
1403	50%	
1404	50%	
1501	20%	+ 5,000 EEK/T
1502	50%	
1503	50%	
1504	50%	
1505	50%	
1506	50%	
1507	50%	
1508	50%	
1509		35,000 EEK/T
1510		35,000 EEK/T
1511	50%	
1512	50%	
1513	50%	
1514	50%	
1515	50%	
1516	50%	
1517	20%	+ 8,000 EEK/T
1518	50%	
1519	50%	
1520	50%	
1521	50%	
1522	20%	+ 11,000 EEK/T

HS Heading No.	Rate of MFN tariff	
	Ad valorem	Specific
1601	20%	+ 43,000 EEK/T
1602	20%	+ 87,000 EEK/T
1603	50%	
1604	50%	
1605	50%	
1701		10,000 EEK/T
1702		10,000 EEK/T
1703		8,000 EEK/T
1704	20%	+ 5,000 EEK/T
1801	50%	
1802	50%	
1803	50%	
1804	50%	
1805	50%	
1806	20%	+ 9,000 EEK/T
1901	20%	+ 5,000 EEK/T
1902		16,000 EEK/T
1903	20%	+ 4,000 EEK/T
1904	20%	+ 13,000 EEK/T
1905	20%	+ 17,000 EEK/T
2001	50%	
2002	50%	
2003	20%	+ 5,000 EEK/T
2004	50%	
2005	50%	
2006	30%	+ 5,000 EEK/T
2007	30%	+ 5,000 EEK/T
2008	30%	+ 1,000 EEK/T
2009	40%	+ 5,000 EEK/T
2101	20%	+ 6,000 EEK/T

HS Heading No.	Rate of MFN tariff	
	Ad valorem	Specific
2102	20%	+ 11,000 EEK/T
2103	50%	
2104	50%	
2105	30%	+ 2,000 EEK/T
2106	20%	+ 22,000 EEK/T
2201	50%	
2202	20%	+ 6,000 EEK/T
2203	50%	
2204	30%	+ 3,000 EEK/hl. + 5,000 EEK/T
2205		300 EEK/hl.
2206		500 EEK/hl.
2207		500 EEK/hl.
2208		30 EEK(% vol./hl.) + 200 EEK/hl
2209		200 EEK/hl
2301	50%	
2302		3,000 EEK/T
2303		10,000 EEK/T
2304	50%	
2305	50%	
2306	50%	
2307		40 EEK/kg. 100% alc.
2308	50%	
2309		30,000 EEK/T
2401	100%	
2402	100%	
2403	100%	

The exchange rate of Estonian Kroon is a fixed rate against Deutschmark of DM 1 = EEK 8.

Estonia's Initial Offer for Market Access Negotiations

HS Chapter Nos. 25-97

HS Chapter No.	Tariff rate (% ad valorem)	
	MFN	Preferential
25	8	3.5
26	Free	Free
27	15	4.5
28	18	10
29	23	12
30	25	12
31	16	11
32	22	10
33	18	7
34	19	7
35	20	12
36	16	6
37	23	8
38	19	8
39	23	12.5
40	22	10
41	12	7
42	22	12
43	24	6
44	18	10
45	12	8
46	18	6
47	Free	Free
48	23	12
49	19	7
50	17	7.5

HS Chapter No.	Tariff rate (% ad valorem)	
	MFN	Preferential
51	15	6
52	19	10
53	21	14
54	21	9.5
55	21	9
56	19	7
57	28	14
58	23	14
59	21	12
60	20	12
61	23	14
62	22	14
63	22	14
64	20	20
65	19	6
66	20	8
67	22	5.5
68	15	3.5
69	27	10
70	25	12.5
71	17	8.5
72	11	6
73	19	6
74	18	6.5
75	15	5
76	21	10
78	17	7
79	15	8
80	15	5
81	14	7
82	19	5

HS Chapter No.	Tariff rate (% ad valorem)	
	MFN	Preferential
83	19	6
84	20	6
85	22	10
86	15	5
87	29	9
88	18	6
89	13	5
90	20	7
91	18	6
92	22	6
93	19	6
94	22	7
95	25	7
96	26	7.5
97	Free	Free

### NOTE ON FOREIGN TRADE LEGISLATION

Estonia informs the WTO Secretariat that the following laws have been adopted this year. Unfortunately the translation of none of these laws has been completed by today. The English language versions will be dispatched to the Secretariat as soon as they become available.

1. The Law on Customs Valuation was adopted by Riigikogu (Parliament) on 15 February 1995. The Law will come into force on 1 January 1996. The Law establishes the principles and methods of customs valuation. The bases of the Law is taken from Article VII of GATT. According to the Law, the primary customs value of imported goods is the transaction value of goods whenever the conditions prescribed there are fulfilled. Transaction value of imported goods is the price actually paid for goods when sold for export to Estonia. The transaction value could, if necessary, be adjusted to items to be included in the custom value and with charges for interest in the customs value. The Law also specifies methods for determining the customs value, provided that it is impossible to use the transaction value.

2. The Law on the Excise Tax of Motor Vehicles was adopted by Riigikogu on 8 February 1995. The Law will come into force on 1 April 1995. Imported vehicles and motor vehicles produced in Estonia are equally taxed with the excise tax pursuant to their cylinder volume and age. The excise tax calculated on the basis of both rates will be summarized at the taxation. In broad terms all motor vehicles with the cylinder volume of 3,000 cm<sup>3</sup> are taxed with 1 EEK/cm<sup>3</sup>, over 3,000cm<sup>3</sup> - 3 EEK/cm<sup>3</sup>. The excise tax for new (unused) motor vehicles is 1,000 EEK. Used motor vehicles of 1-12 years are taxed with 100 EEK per year, of 13 years and older - 150 EEK per year calculated from the year of production.

Import tax of 10 per cent levied on motor vehicles at present will become invalid after the Law will come in force.

3. The Law on Food was adopted by Riigikogu on 9 February 1995. The Law will come into force on 1 May 1995. The aim of the Law is to guarantee high quality food which is internationally competitive and safe for human health as well as the function of unified control and surveillance over food in the territory of Estonia and on the border while imported.

The Law establishes requirements for food, its treatment, export and import, surveillance and organization of the control and sanctions for violation of the Law. A provision of the Law requires from food importers (legal persons according to Estonian law) a licence from 1 January 1996.

4. The Commercial Code was adopted by the Riigikogu on 15 February 1995. The Code will come into force on 1 September 1995. The Code establishes six forms of entrepreneurship (entrepreneur/natural person, general partnership, limited partnership, limited company, profit organization and joint-stock company) and formation of the commercial register. The requirements for minimum capital are prescribed (in case of a limited company 40,000 EEK, in case of joint-stock companies 40,000 EEK) and a transition period of four years to achieve this. In case of establishing a firm, the stock capital should be paid at once and in full amount. The Code also prescribes, that stock companies' foundation shares are equal to others in nominal and voting terms. In case of a limited company, partnerships of different extent is possible.

In addition to the adopted Laws described above, we would also like to inform the Secretariat, that the following steps have been taken to improve the trade regime in Estonia:

- to regulate more adequately the licensing system and procedures in Estonia, the Government has obliged all ministries and departments issuing the licences of activity to present their position on the expedience of continuing or terminating of the issuance of activity licences as well as submit their proposals on necessity of preparing new legal acts and to amend the legal acts in force, in this field. The proposals will be discussed in the Government in May;
- the Prime Minister of Estonia, Latvia and Lithuania discussed the matters pertaining to the plans to establish the Baltic Customs Union by 1 January 1998 and came to a conclusion, that it is necessary to establish such a Union for facilitating and ensuring the movement of goods and services between the Baltic States. The Resolution was signed on 13 February 1995.

Referring to the GATT document of 10 February, L/7529/Add.2, question 29, please find enclosed herewith the English version of the Law on Credit Institutions, adopted on 15 December 1994.