

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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ACCESSION OF ESTONIA

**Questions and Replies to the Memorandum on
the Foreign Trade Régime (L/7423)**

Addendum

The Foreign Ministry of Estonia has transmitted to the secretariat on 2 November 1994 the following replies to additional questions put to Estonia concerning its foreign trade régime.

The Foreign Ministry has pointed out that the comments to the questions are an effort to additionally clarify the newest developments in the Estonian economy and provide an update of the latest changes in the Estonian legislation. It is hoped that these replies will be another contribution aimed at facilitating Estonian eventual accession to the GATT and the World Trade Organization.

ESTONIA'S MEMORANDUM ON THE FOREIGN TRADE REGIME (L/7423)

II. Economy and Foreign Trade

(1) Economy

a. 35 Main economic indicators

Q: Please clarify whether the corporate income taxes cited in this section are applied equally to domestic and foreign firms.

A: The corporate income taxes cited in this sections are applied equally to domestic and foreign firms.

b. Privatization

Please describe in further detail Estonia's plans for privatization of the transportation and energy sectors? Will Estonia confirm that government ownership in these sectors will not be used to indirectly subsidize energy or agriculture?

Does Estonia intend to restrict foreign participation in the third round of tenders for state enterprises cited in this section?

In the context of current law, what percentage of enterprise equity must be in private hands for it to be considered "privatized"?

1. An update on the privatization process since the Estonian Memorandum on the Foreign Trade Regime (L/7423) was compiled

Since November 1992, when the large-scale privatization started, there have been seven tenders, three of them local and four international. The difference between the two types lies only in the scale of advertising the tender - it is announced either only in local publications or, in case of an international tender, also in international publications worldwide. For potential purchasers there is no difference in principle.

As of November 1994 approximately 1500 small enterprises (mostly shops and service businesses) have been privatized, which is nearly 90 per cent of the total.

The main method of privatizing larger enterprises has been tender with preliminary negotiations. As of end of this October 192 contracts have been concluded through this method bringing approximately USD 98.2 million to the state. Investments worth USD 65 million and jobs for 24400 people have been guaranteed by the contracts.

On November 9 the eighth tender including 42 enterprises will be announced internationally.

In the beginning of November an entirely new method of privatization will be launched - the public offering of shares. The program involves selling minority shareholdings of state enterprises to Estonian citizens or residents for vouchers. Before this the majority shareholding has to be sold to a core investor.

2. Answers

Plans for privatization of transport and energy sectors. Privatization of smaller transport companies (e.g. motor depots) has been going on for almost a year. A major Tallinn-based bus transportation company is also currently under privatization. In addition, the new tender will include six transport enterprises.

The privatization of larger infrastructure companies like the Estonian Shipping Company and the aviation company "The Estonian Air" will begin in 1995. At present the abovementioned companies are being restructured according to the programme approved by the Government. The exact method of privatization is not decided yet.

The Estonian Railway will remain in state ownership for a longer period. The service structures of the railway depots, however, will be privatized in the near future.

As for the energy sector, the power stations will not be privatized. However, the electricity distribution companies will be privatized next year. The same applies to one oil shale mine - the Ahtme mine in North-East Estonia.

Foreign participation. According to Article 32 of the Law on Privatization of Estonia in case of enterprises processing agricultural produce or offering services to farmers foreign participation is restricted, since the entitled entities of privatization are the farmers co-operative societies who supply the abovementioned enterprises with the farming products or use their services. However, privatization according to this specific method is finished by now.

In case of all other enterprises foreign investors are fully entitled to participate in purchasing Estonian companies.

When the majority shareholding of a company is in private hands it is considered to be privatized.

III. Foreign Trade Regime

Please elaborate on whether information concerning Estonian laws and regulations governing business transactions is readily available to parties subject to such regulations.

Information concerning Estonian legislation comes out in a regular official publication "Riigi Teataja". All legal acts passed by the Estonian Parliament (Riigikogu), the President and

the Government are published there. "Riigi Teataja" is also published in English as "Legal Acts of Estonia". It can be subscribed to or bought in stores. In addition, a journal called "Välismajanduse Teataja" (Foreign Economic Herald) is published containing basic information concerning Estonian foreign trade.

(1) Import regulations

a.1 The evolution of the customs tariff regulation

Please describe what is meant by the "elaborating" of the Law on Customs Tariffs of the Republic of Estonia and provide a copy of this law.

The law is in an early stage of preparation. To this end a Customs Tariffs Commission operates by the Estonian Ministry of Finance. The Law is intended to establish definitions and principles for the future development of the tariff regime, taking into account the terms of Estonia's eventual accession to the GATT.

b.1 Customs tariff nomenclature

This section indicates that an antidumping law is "under elaboration". Please describe the status of the legislation and how it will confirm to the GATT Antidumping Code. Specifically, describe in some detail the procedures for the conduct of investigation leading to the application of antidumping or countervailing duties. Include reference to notification, due process, participatory rights of interested parties, injury thresholds, duration and scope of application of charges, and the right of appeal and judicial review. In addition, clarify how Estonian law defines "substantial injury".

At present Estonia still does not have an anti-dumping law. The draft law is being prepared by the Ministry of Economy and the Ministry of Finance in cooperation with US experts, and this law will be harmonized with the principles of the GATT Anti-Dumping Code.

b.4 Customs duties

Please explain why customs duties are only imposed on fur products, cars, motorcycles, and yachts? Are there any other tariffs or non-tariff measures applied to these items?

Such duties have remained since February 1992 when these items were classified as luxury goods. Such limited use of customs barriers is part of Estonia's extremely liberal foreign trade policy. No other tariffs or non-tariff measures are applied to these items.

b.5 Excise duties

Are Estonia's excise duties applied equally to goods from all countries? If not, please specify which countries receive preferential treatment.

Excise duties on goods imported into Estonia apply equally to products of all countries.

Different excise duties are applied to imported and domestic alcohol and tobacco products. (see also Annex 1) The rates will be made equal by the end of 1995.

Excise duty of 16% on fur and fur products presently only exists for Estonian producers selling in the domestic market. There is an intention to eliminate this duty altogether in the nearest future.

Please provide the reasons for Estonia maintaining substantial excise taxes on imported alcoholic beverages, tobacco, and tobacco products. Is Estonia prepared to reduce these taxes upon GATT accession? Please also specify whether the government controls trade in these products aside from licensing exporters and importers.

The current excise duty level when compared to other countries rates is generally estimated as optimal. Therefore, their reduction is not foreseen.

No other means of control but licensing are practised by the Government when controlling the production, import and distribution of alcohol and tobacco products.

b.6 Value-added tax

Please confirm that the VAT is applied equally to all imports and domestic goods. Is the VAT applied equally to the goods from all countries? Under which economic circumstances would the VAT be reduced?

The VAT is applied equally to all imports regardless of the country of origin as well as domestic goods. The applied fixed VAT rate is 18% of the taxable value. The following objects qualify for a zero-rate: exports, subscribed periodicals published and printed in Estonia and tickets of theatres registered in Estonia. See d.2 (Taxation regime) for further VAT exemptions.

d.2 Taxation regime

Please list any exceptions to the VAT in addition to automobiles and provide the table used to calculate the import tax on autos. What is the rate or table used for non-"natural" purchasers of autos?

Exemptions from the VAT are listed in the Law on the Value Added Tax (see Annex II).

Import tax of 10% and the VAT are levied on motor vehicles whose value (in EEK) is calculated on the basis of the following table:

Engine in cm3	Age in years			
	up to 3	4 to 7	8 to 12	13 and older
up to 1000	20000	12000	10000	6000
1001-1500	40000	24000	12000	8000
1501-3000	60000	40000	20000	10000
more than 3000	120000	80000	40000	20000

Natural persons here mean physical persons who when importing cars are following a different procedure when compared to legal persons. Import taxes on motor vehicles, when imported by a legal person are calculated on the basis of original invoice.

f.2 Non-tariff measures, quotas, and licensing system

Please describe the licensing process for trading in metals, spirits, tobacco and tobacco goods, medicaments, weapons, ammunition, and explosives. Please explain how these import licensing arrangements conform with the Uruguay Round Import Licensing Agreement.

At present in Estonia there are no longer licenses setting quantitative limits on certain goods or products, whether their import, export, production, wholesale, etc. Instead, licenses on activities are applied. Today there are over 30 fields of activities whose operators are required to have an activity license.

The reasons for licensing certain activities can be the following:

- specific requirements on safety (e.g. medicaments);
- certain technological level (e.g. alcoholic beverages);
- requirements about registration and specific conditions to be fulfilled by the buyer in the case the goods bought by them may threaten the surrounding environment, people, etc. (firearms, vehicles);
- to establish the basis for taxation, it is necessary to have specifically designed registration and accounting requirements established for certain goods (alcoholic beverages, tobacco, metals, etc.)

The Government of Estonia determines with its decrees and regulations the conditions and the procedure of licensing and accounting for each such group. Licenses are issued by different institutions depending on the specific area of licensing. Licenses are issued for a maximum period of 5 years.

The licensing requirement does not depend on whether the enterprise is based on foreign or Estonian capital. Licenses can be obtained by any firm which has the status of a legal person in a local Government Executive Office in Estonia. Licenses are obtained to guarantee quality and surveillance over the activities.

The issuance of licenses is governed by the Law on Enterprise and legal acts resulting from the latter. This Law will in the nearest months be replaced by the Commercial Code presently under discussion in the Government. A separate law dealing with the area of Licensing will be elaborated in the coming years.

The above description indicates that Estonia's licensing arrangements are consistent with the principles of the Uruguay Round Import Licensing Agreement.

g.1 Customs valuation

What is the status of the proposed Valuation Law? Please provide a copy. Are customs duties and other fees and taxes levied consistent with the provisions of the GATT Customs Valuation Agreement?

The Customs Valuation Law is presently being discussed in the Estonian Parliament (Riigikogu). The second reading of the draft is foreseen to take place in early November. Article VII - Valuation for Customs Purposes - of the GATT Agreement serves as a basis for the proposed draft.

h.1 Rules of Origin

Please provide an update on the status of the laws regarding the origin of goods and describe the philosophy on which the laws will be based. Please also provide copies when they are completed.

Presently no separate law dealing with the rules of origin exists in Estonia. Its elaboration is foreseen in the middle of 1995. The general philosophy will be based on the concept of the origin of goods in accordance with the free trade agreements concluded by Estonia, preferential treatment regimes, as well as general conditions for import and export.

Since the Estonian foreign trade regime is highly liberal and the existing customs rates overwhelmingly zero rates, rules of origin bear little significance mainly in the context of the free trade agreements. The issue of the rules of origin is covered in all the free trade agreements. Certificates of origin necessary to prove Estonian origin are issued by the Estonian Customs under the free trade agreements and the Generalized System of Preferences extended to Estonia by some countries.

(2) Export Regulations

a.1 Please elaborate on the criteria Estonia uses to determine what are items with cultural value? Can these items be defined in a more transparent manner in Estonia's customs schedule? Does Estonia impose export taxes on any other goods besides these?

Estonia imposes a 100% export tax only on objects of cultural value. These are determined as dating earlier than from before 1950.

(3) Export Incentives

Please further describe the program outlined in this section. Which industries currently are receiving incentives? Please elaborate on the criteria Estonia uses to determine eligibility to receive funds. Are any industries restricted from receiving incentives?

Does Estonia employ export subsidies of any kind? Is it willing to bind export subsidies at zero?

Until now rather different areas of Estonian industry (wood and timber, textile and clothing, plastic and furniture industries, as well as fur farming) have been given export credit under the described conditions. The main criteria for deciding whether the project is eligible for the credit line is the business plan and its export orientation. No specific areas or industries are determined which are restricted from getting incentives.

Estonia does not employ export subsidies.

IV. Other Policies Affecting Foreign Trade

(1) Industrial Policy

1. Please elaborate in good detail how Estonia plans to restore its "historical" trade links.

Restoring historical trade links means shifting the links from the unnaturally and forcefully kept centrally directed relations with mainly our Eastern neighbour to natural, freely developing, balanced economic links with the countries which have the best possibilities to offer to Estonia and with whom there is a real potential for mutually beneficial economic partnership.

(2) Agriculture Policy

1. Working group on agriculture policy

This section notes that a working group has been assembled to draft agricultural policy and that the results were to be completed by February 1994. Please provide an update on the activities of this group and a detailed explanation of its conclusions. Once the working group has issued its report, what must take place for the policy to be adopted? Has the working

group report been published? Does Estonia allow public comment on the working group results?

The main aims of the Estonian agricultural policy are spelled out in the Decision of the Estonian Parliament (Riigikogu) dated February 23, 1994. These are the main principles to be followed when elaborating relevant laws and regulations:

1. Supplying of Estonian residents with the main foodstuffs of predominantly Estonian origin. Formation of strategic food reserves.
2. Farming and collective activities based on private property form the basis of agricultural production.
3. Implementation of regional policy taking account of the regional differences and assistance to local authorities in building up social infrastructure aiming at keeping the rural areas populated and assuring the development of rural life and economy.
4. Stable agricultural production and optimal consumer prices for foodstuffs will be shaped via farm product market organisation, including the regulation of the import and export of foodstuffs as well as a credit policy sustaining rural economy.

Other areas of agricultural sphere are the competence of the formed working group.

2. Current agriculture policy

Does Estonia have a tariff line for each of the products covered in the Uruguay Round Agriculture Agreement? Is it willing to bind its tariffs at current applied rates?

Please clarify whether Estonia intends to raise its applied duty-free tariff rates on farm products or invoke any safeguard measure to curtail imports.

Please confirm that Estonia has no non-tariffs measures in agriculture including quotas, variable levies, minimum import prices, discretionary licensing, and voluntary import restraints.

- *Are any agricultural products currently subject to prior import approval requirements, mandatory import licenses, or import quotas?*
- *Are any farm products highly restricted or outright banned for animal or plant health reasons? If so, please provide the justification.*
- *Are any subsidies currently payable to exporters of agricultural products? If so, please specify the type and annual amount. Please also specify the recent operational scope -- in terms of budget and product coverage -- of the*

Estonian Export Credit Fund.

- Are any wholesale or retail food prices still regulated or subject to subsidies? If so, please specify.

Please describe any other farm support programs that are in effect and provide Estonia's plans to phase out these programs under its ongoing market reforms.

In Estonia there are currently no customs duties applied on agricultural imports.

In order to become a GATT member and for binding its rates at the level, customs tariff and import duty rates are presently under elaboration. These will be subject to further reductions in the years to come.

Estonia also has no non-tariff measures in agriculture.

- The Law on Grain offers the possibility to implement quotas on grain imports, since at present we are lacking minimum price level on the border and the imported grain is priced lower than the world market prices and the production costs of the local producer. Until now the quotas have not been implemented.

- Estonian veterinary health and plant protection inspecting institutions acquire information on animal and plant diseases from the relevant databases in foreign countries and implement restrictive measures on imports similar to other countries.

- Exporters of agricultural products receive no subsidies, although such a possibility is foreseen in the Law on Agricultural Income. Until now this has not happened due to the shortage of financial resources.

The objective of the Export Credit Fund is to provide preferential loans to the entrepreneurial projects aiming at export.

- The wholesale and retail food prices are free, neither regulated nor subsidized.

3. Agricultural privatization

Please elaborate on the progress of privatization in the farm economy. How are farms presently organized and administered?

This section notes that collective and state farms have been liquidated but the process of returning the land to previous owners will be a long-term process. What is the ownership status of farms during the transitional phase?

Please elaborate on the privatization of its former agricultural trading organizations. Which organizations still dominate trade in the major agricultural commodity groups?

What are the main activities of Estonia's food processing industry? Does Estonia plan to privatize its entire food procurement and processing system? How much foreign investment is there in this sector, and from which countries and companies does it come?

Privatization process in the rural areas is far from over. The return of land and to previous owners is a lengthy process. Besides, there is also the possibility of becoming a new farmer, i.e. starting a new farm.

Today the ownership status of farms is either private or state, since the latter have not been fully liquidated yet. Private farms can voluntarily join into cooperative societies. A network of Farm Unions is operating in different regions of Estonia.

One cannot name any organisations dominating trade in the major agricultural commodity groups. Trade is totally decentralized. The process of agricultural export organisation is developing and the changes are fast also due to the fact that the decision has been taken to fully privatize Estonia's entire food procurement and processing system.

Following the data procured by the Estonian Enterprise Register one can witness, that 44% (i.e. 1.4 billion EEK) of the foreign investments before July 1, 1994 have been made in the industrial sector. This includes the 380 million EEK foreign investments into the food processing industry. The major proportion of investments comes from Sweden and Finland, but also such countries as Austria, Hungary, Holland, Russia etc. (e.g. Pripps, Hartwall, Coca-Cola, Pepsico, Paulig, Fazer) have invested into Estonian food processing industry.

4. Future agriculture policy

Please describe how Estonia is ready to apply the GATT Code on Technical Barriers to Trade and support the Uruguay Round agreement on Sanitary and Phytosanitary Measures?

Please detail the agricultural provisions of Estonia's free-trade agreements, including its recently-implemented free-trade area with Latvia and Lithuania.

Estonia sees no obstacles in supporting the Uruguay Round Agreement on Sanitary and Phytosanitary Measures.

Please also see the comments on the Canadian question under III (1) (i).

All presently concluded Estonian free trade agreements are on behalf of Estonia zero-tariff agreements, including agricultural and farm products.

On April 1, 1994 the Free Trade Agreement between Estonia, Latvia and Lithuania came into force. This does not cover HS Chapters 1 to 24. A separate agreement or a supplementary protocol is

foreseen to be concluded dealing with the agricultural and farm products. The conclusion of this accord depends on the results of further negotiations.

Please comment on the agricultural provisions of Estonia's future free trade area with the EU, particularly product coverage, staged implementation, and preferences to EU products. Is Estonia undertaking any attempts to harmonize its agricultural or standards policies with those of the EU?

The Free Trade Agreement between Estonia and the European Union will come into force on January 1, 1995. For two and, if agreed, for three years Estonia has reserved the possibility to regulate its agricultural import with tariffs. Estonia has to acquire certificates providing international recognition to the conditions in its enterprises which will start exporting agricultural products.

On GATT accession Estonia is willing to bind its customs tariffs on a level similar to that applied on the common EU border, since its is the goal to eventually become a EU member.

Please elaborate on any countertrade agreements Estonia maintains with former CEMA members.

Estonia maintains no countertrade agreements with Central European countries. The non-existence of a fair bilateral trade agreement with Russia is an obstacle.

(3) Financial, Budgetary and Fiscal Policy

With outstanding free trade agreements with a number of its most important trading partners, how will Estonia raise future necessary revenues from taxes on trade? Does this mean that those nations without outstanding free trade agreements will eventually be required to pay higher tariffs than expected?

When this section mentions that "as of the present time, the government has eliminated all import licensing requirements", does it indicate that new licensing requirements are anticipated for the future? If so, on what basis?

Please elaborate on how the balance of payments situation for Estonia has evolved since the drafting of L/7423.

Instead of import licensing the licensing of activities is carried out. For further details please see comments on III (f) (2).

Recent information on the balance of payments situation is added as Annex III.

(5) Foreign Investment Policy

Please elaborate further on which policies and practices Estonia plans to change to conform to the TRIMs agreement.

Does Estonia use any performance requirements which may not be inconsistent with the TRIMs provisions but which could affect trade, such as export performance or technology transfer requirements?

There are no obstacles for Estonia to support the TRIMs Agreement. The applied foreign investment and foreign trade policies are highly liberal. The principles of national treatment are largely applied already now.

Estonia does not use any performance requirements which may not be inconsistent with the TRIM provisions but which could affect trade.

(6) Government Procurement

Please indicate the status of the "elaboration" of the Law on Public Procurement, and provide a copy. Please also elaborate on how the Law will conform to the provisions of the GATT Government Procurement Code.

The draft law on public procurement is undergoing coordination in different ministries and simultaneously being translated into English by the World Bank Tallinn Branch specialists. In general, the Law is guided by the principles of the EU and the WB.

(7) State-Trading Enterprises

This section notes that state-owned enterprises have neither exclusive rights nor special privileges in their purchases or sales involving foreign trade. Please further elaborate on how subsidies to state-owned enterprises do not subsidize the prices of the goods they export.

Please note that one cannot treat state-trading and state-owned enterprises on an equal footing. The state-owned enterprises are operating under the same conditions as private enterprises. State subsidies have been cut.

Not a large number of state-owned enterprises are operating in trade, since the latter either have been or will very soon be mainly private. There no state-traders left in Estonia.

(9) Protection of Intellectual Property Rights

This section mentions that a system of intellectual property rights is still being established and that the Law on Patents is still a bill. Please indicate the statuses of the system and the bill and provide copies of the Law on trademarks and the Law on Copyrights. Please also elaborate on the government resources devoted to the enforcement of the intellectual property rights system.

The Patent Office in Estonia was established on December 3, 1991. It started its activities from March 10, 1992

The following relevant laws are in force in Estonia (see also Annex II, the Laws on Trademark and Copyright have been provided to the GATT Secretariat together with the Estonian Memorandum on the Foreign Trade Regime - L/7423):

- Trademark Law since October 1, 1992;
- Copyright Law since December 12, 1992;
- Patent Law since May 23, 1994;
- Utility Model Law since May 23, 1994

The laws belonging to the field of industrial property are created on the basis on the corresponding laws of the Nordic countries and in close cooperation with them and also with the WIPO and EPO.

Estonia uses full examination system and as one of the European countries the so-called 'first to file' system. Applications must be filed through Estonian patent and trademark attorneys.

Since February 5, 1994 Estonia has been a full member in the World Intellectual Property Organisation (WIPO).

Estonia restored her membership in the Paris Convention to which the country belonged since February 12, 1924. The restored membership came into effect with respect to Estonia from August 24, 1994.

Estonia has joined the Patent Cooperation Treaty (PCT). The membership came into effect from August 24, 1994.

Estonia restored her membership in the Berne Convention to which it belonged since 1927. The restored membership came into effect on October 26, 1994.

V. Institutional Base for Trade and Economic Relations with the Third Countries

(1) Bilateral Trade and Economic Agreements

Please elaborate on whether Estonia intends to maintain preferential access for the countries with which it has free trade agreements after its accession to the GATT. Is such preferential access consistent in all respects with the requirements of GATT Article XXIV? Please confirm that substantially all trade between the Parties to the Agreements will be free upon the final staging of tariff reductions as stipulated in GATT Article XXIV:8(b).

- *Please list the products or product categories that are not covered in these free-trade agreements and the percentage of the total trade between the parties that they comprise.*

Please provide any assessments Estonia has made regarding the trade-creating and trade-diverting effects of its free-trade agreements with Finland, Norway, Sweden, and Switzerland. What

will happen to the agreements with Finland, Norway, and Sweden when they join the EU?

Is Estonia currently negotiating or otherwise considering the conclusion of additional agreements concerning free trade areas, customs unions, or other preferential trading arrangements? If yes, indicate the countries with which negotiations are underway and what type of agreement will be concluded.

Please specify the nature of the barriers facing Estonian exports. Are these barriers -- such as tariffs, antidumping duties and standards -- different from those that face other countries' exports?

It is the wish of Estonia to fully maintain the free trade agreements it has concluded, namely with Switzerland, Finland, Norway, Sweden and the European Communities, as well as Latvia and Lithuania. If the Nordic countries of Europe decide to join the European Union, the relevant free trade agreements will be replaced by the conditions foreseen in the Estonian-EU Free Trade Agreement.

The Free Trade Agreement concluded between Estonia, Latvia and Lithuania does not cover agricultural products (HS Chapters 1 to 24). The other agreements foresee the coverage of all products, although in some areas some parties have preferred to keep certain limitations on their imports, e.g. the European Union has set some specific quantitative and qualitative limitations on its agricultural imports originating in Estonia.

The barriers the Estonian exports are facing are comparable to those the other countries' exports do.

VI. Laws and legal acts

(2) Non-Tariff Regulation of Imports, Exports, Rules of Origin

This section mentions that Estonia imposes no quotas on imports. Is Estonia prepared to bind its non-use of quotas, including the relinquishment of its authority to impose quotas on the goods -- such as gravel and quartz sand -- listed in this section?

Estonia does not foresee any regulation of Estonian foreign trade by means of quotas. The last export quota on quartz sand has been abolished.

QUESTIONS ON ESTONIA'S POLICIES REGARDING TRADE IN SERVICES

Please elaborate in good detail on any actions Estonia has taken to reduce or eliminate barriers to or other distortions of international trade in services. Please refer to any barriers that deny national treatment or restrict the establishment and operation of foreign service providers.

- *What legal, regulatory, or administrative changes would be required to bind a comprehensive service schedule?*
- *Is Estonia prepared to draft a service trade regime memorandum for bilateral discussions with the US?*

Do the free trade agreements to which Estonia is a party apply to services? If so, are the agreements consistent with Articles of the General Agreement on Trade in Services? Which services are not covered in these Free Trade Agreements?

Conditions for the trade in services resemble those established for the trade in goods, i.e. the policy is very liberal and based on the principle of the national treatment.

Estonia is in principle ready to draft a service trade regime memorandum for bilateral discussions with the US.

The free trade agreements concluded by Estonia mainly deal with goods. The forthcoming negotiations between Estonia and the European Union on the conclusion of an association or a Europe Agreement will include the area of trade in services.

Section numbers below follow the numbering of GATT document L/7423:

II. ECONOMY AND FOREIGN TRADE

Q: II(1)(b). The memorandum provides that "private activities will be initiated through promoting investments - both domestic and foreign".

How will investments be "promoted"? Will programs "promoting" investments be equally applicable to both domestic and foreign entities?

Respecting the government's privatization program, are there, or will there be, sectors or particular enterprises to which foreign ownership restrictions apply? If so, which ones? And what are, or will be, the nature of restrictions (eg. limits on equity ownership)? Are there, or will there be, sectors or particular enterprises where government property will not be "privatized"? Finally, are there, or will there be "joint venture" sectors or particular enterprises, ie. where the government must be a partner or shareholder?

A: No special programmes for promoting investment are envisaged. Investments are mainly promoted by not restricting them.

However, the following measures are foreseen:

Article 21 (1) of the **Income Tax Law** (see Annex II) states that "If the total amount of deductions specified in Articles 13, 15, 17 and 18 of the present Law exceeds the income derived by the taxpayer during the period of taxation, the amount of expenses exceeding the income of the taxpayer may be carried forward for up to 5 succeeding periods of taxation." The rule applies both for local and foreign companies.

In order to promote foreign investments the Government established a **Foreign Investments Agency** on May 16, 1994. The Agency offers the various services to foreign investors, including:

- consultations free of charge;
- research materials and information about various sectors of Estonian economy;
- organisation of visits and meetings for foreign investors in Estonia;
- professional assistance to investors at the first stages of establishment of their operation in Estonia.

In order to create a more secure environment for investments **bilateral agreements on investment promotion and protection** have been concluded with a number of countries. An updated list of such agreements is appended as Annex V.

According to the Law of Privatisation there are **foreign ownership restrictions** only for agricultural enterprises. Article 32 of the Law states:

"1) Enterprises and their structural units processing farming products and enterprises servicing farmers to be privatised according to the procedure provided in this Article shall be determined by the Government of Estonia.

2) The entitled entity of privatisation of the enterprises as specified in paragraph 1 of this Article shall be cooperative society or a central community who supplies the enterprise or its structural units processing farming products to be processed in the enterprise or who uses (or whose members use) services of the enterprise or its structural units servicing farmers."

According to the Law of Privatisation there are no further restrictions.

For a longer period state ownership of the Estonian Railways is foreseen. However, the service structures of the railway depots will be privatized in the near future. Concerning the energy sector there is a decision that the power stations will not be privatized. However, the electricity distribution companies will be privatized next year. The same applies for one oil-shale mine - the Ahtme mine in North-East Estonia.

III. FOREIGN TRADE REGIME

III.(1) Import Regulations:

III.(1)(a). Would Estonia please provide its currently applied customs tariff schedule?

As foreseen in L/7423 under III. Foreign Trade Regime.

The Law on Customs Tariffs is under preparation. It is intended to take into account the terms of Estonia's eventual accession to the GATT.

III.(1)(b). It is indicated that "for goods whose production is not grounded in Estonia for natural or economic reasons, the customs duty rate would be free".

Would Estonia please provide more detail on which products it considers "grounded in Estonia on natural or economic reasons", and whether duties are applicable under certain circumstances, and if so, at what levels?

Following the principles of the Law on Customs Tariffs, which is currently being prepared, zero-duties will be applied to products which the Estonian industry utilizes as raw materials, which are

not produced in Estonia or whose sufficient amount of production in Estonia cannot be guaranteed.

Would Estonia please confirm that the only products facing excise taxes are the various alcoholic beverages, tobacco products, and petroleum products listed on page 13 of memorandum?

The products facing excise taxes are mainly the various alcoholic beverages, tobacco products, and petroleum products. For excise rates please see Annex 1. The Law amending alcohol excise rates is in force since September 1, 1994. Amendments are also made to the Law on Tobacco Excise (see Annex II).

Excise duty of 16% on fur and fur products presently only exists for Estonian producers selling in the domestic market. There is an intention to eliminate this duty altogether in the nearest future.

III.(1) (c). Is the Anti-Dumping Law being developed to be based on GATT Article VI and the WTO Agreement on Implementation of Article 6, and what is the expected timeframe for its finalization? Is there a countervail framework being developed as well and, if so, would it be consistent with the WTO Agreement on Subsidies and Countervailing Measures?

At present Estonia still does not have an anti-dumping law. The draft law is being prepared by the Ministry of Economy and the Ministry of Finance in cooperation with US experts, and this law will be harmonized with the principles of the GATT Anti-Dumping Code.

III.(1) (d). The memorandum provides that "for legal entities all imports except the exemptions provided by law, are subject to a VAT of 18 percent". What are "the exemptions"? Are further exemptions planned? Does the government notify changes to the exemptions list in an official register? Does the VAT apply to both goods and services? Does the VAT apply similarly to both imported and domestically produced goods?

Exemptions from the VAT as well as the general rules of the VAT application are formulated in the Law on the Value Added Tax (see Annex II).

The VAT is applied equally to all imports regardless of the country of origin as well as domestic goods.

III.(1) (f). The memorandum provides that only expressly licensed importers and exporters can trade in the listed goods (eg. metals, medicaments).

What is the exact scope of coverage of the various listed goods? What is the justification for requiring licenses to export or import these products? What is the law or regulation governing the issuance of these licenses? Are licenses granted on a "quota" basis? If so, how are the quotas determined? Are foreign owned or controlled exporters or importers prohibited from obtaining such licenses? Would Estonia please confirm that no quotas or

other non-tariff measures are applied to the import of the listed commodities nor to any non-listed products?

At present in Estonia there are no longer licenses setting quantitative limits on certain goods or products, whether their import, export, production, wholesale, etc. Instead, licenses on activities are applied. Today there are 39 fields of activity, including professions such as medicine and banking, where the corresponding licenses for activities shall be acquired by the operator. They include activities like production and selling of weapons, ammunition and explosives; production and trade in spirits, tobacco and related products, medicaments, dangerous and poisonous substances, fuels; organisation of international air, maritime and road transport; geological excavations; printing of money and securities; organisation of lotteries, insurance activities; etc.

The reasons for licensing certain activities can be the following:

- specific requirements on safety (e.g. medicaments);
- certain technological level (e.g. alcoholic beverages);
- requirements about registration and specific conditions to be fulfilled by the buyer in the case the goods bought by them may threaten the surrounding environment, people, etc. (firearms, vehicles);
- to establish the basis for taxation, it is necessary to have specifically designed registration and accounting requirements established for certain goods (alcoholic beverages, tobacco, metals, etc.)

The Government of Estonia determines with its decrees and regulations the conditions and the procedure of licensing and accounting for each such group. Licenses are issued by different institutions depending on the specific area of licensing. Licenses are issued for a maximum period of 5 years.

The licensing requirement does not depend on whether the enterprise is based on foreign or Estonian capital. Licenses can be obtained by any firm which has the status of a legal person and has registered itself in a local Government Executive Office in Estonia. Licenses are obtained to guarantee quality and surveillance over the activities.

The issuance of licenses is governed by the Law on Enterprise and legal acts resulting from the latter. This Law will in the nearest months be replaced by the Commercial Code presently under discussion in the Government. A separate law dealing with the area of licensing will be elaborated in the coming years.

The above description indicates that Estonia's licensing arrangements are consistent with the principles of the Uruguay Round Import Licensing Agreement.

III.(1) (g). What is the expected timeframe for finalization and enactment of the proposed Customs Valuation Law?

The Customs Valuation Law is presently being discussed in the Estonian Parliament (*Riigikogu*). The second reading of the draft is foreseen to take place in early November. Article VII - Valuation for Customs Purposes - of the GATT Agreement serves as a basis for the proposed draft.

III. (1) (h). What type of preparation has taken place to date in the development of a rules of origin regime?

The memorandum provides that "the country last listed is the country of origin". What is meant by "last listed"?

Do Estonian export data distinguish between metals that have simply been in transit and those which are of Estonian origin? If not, are other data available which make this distinction, and are they publicly available?

Presently no separate law dealing with the rules of origin exists in Estonia. Its elaboration is foreseen in the middle of 1995. The general philosophy will be based on the concept of the origin of goods in accordance with the free trade agreements concluded by Estonia, preferential treatment regimes, as well as general conditions for import and export.

Since the Estonian foreign trade regime is highly liberal and the existing customs rates are overwhelmingly zero rates, rules of origin bear some significance mainly in the context of the free trade agreements. The issue of the rules of origin is covered in all the free trade agreements. Certificates of origin necessary to prove Estonian origin are issued by the Estonian Customs under the free trade agreements and the Generalized System of Preferences extended to Estonia by some countries.

At present, by the country "last listed" the country where the last processing operation was carried out is meant.

In case of transit it is not the country of origin, but the country of departure and the country of destination which are determined. In case of export and import the origin is determined only for the goods exchanged in the framework of the existing free trade agreements and the Generalized System of Preferences. This is carried out following the rules set under these arrangements.

III.(1) (i). Are domestic and imported products treated in a similar fashion in the application of Estonia's sanitary and phytosanitary measures? How transparent are the activities of the Estonian Veterinary Control Border Inspection, and what is the nature of its state control of imports and exports? What is the scope and coverage of Government Regulations 300 and 340 covering the import and export of plant and plant products? Would Estonia please provide copies of Government Regulations 300 and 400?

Both, domestic and imported products have to pass sanitary and phytosanitary control.

Because of the conclusion of the Free Trade Agreement between Estonia and the European Union EU experts have studied and checked the Estonian system of veterinary control. Their conclusion was that the Estonian state veterinary system monitoring and controlling the exports of Estonian farm products corresponds to the EU standards and requirements. However, before actual exporting the following requirements have to be fulfilled:

1. conditions for practical control of all the products subject to veterinary control should be created on the state border;
2. the animals should be identifiable, i.e. numbered;
3. the existence of a functioning state system of identification of residues in farm products.

Following the standards set in the International Convention of Plant Protection plants and plant products are transported from country to country accompanied by common international phytosanitary certificates or phytosanitary re-export certificates.

Government Regulation No. 300 dated October 19, 1992 updated by the Government Regulation No. 340 dated December 15, 1992

This Regulation establishes the framework for the border control by the State Plant Quarantine Inspection on plants and plant products. The Inspection has to guarantee 24 hour control of import, export, re-export, transit of these products crossing the Estonian border. To this end the Regulation foresees administrative and financial measures for setting up the control mechanism, as well as obligatory notification of the relevant international organisations.

Starting from October 25, 1992 Estonian, foreign and international trading organisations, companies as well as physical persons can when transporting or sending plants and plant products cross the Estonian border only through the border control posts of Tallinn commercial and passenger harbours, the Muuga harbour, Tallinn airport, the road and railway border-control posts of Narva and Valga, the border-control posts of Pärnu Harbour and the Ikla road or via the State Postal Service (*Eesti Post*). These products are allowed to pass into the Estonian territory only after the control carried out by the Estonian State Plant Quarantine Inspection.

The Regulation also determines the pricelist for carrying out the phytosanitary examination of plants and plant products. It also gives the Ministry of Agriculture the authority to adjust these prices following the change in the index of the cost of living.

There is no other reference to Estonia's standards regime. Are Estonia's standards spelled out in law and regulation? If so, what are these? Are standards different for imported and domestic products?

The standards of Estonia are as a rule of advisory nature and they are based on the ISO standards. There are also some old, the so-called GOST, standards, but it has to be pointed out that they are no longer obligatory as they used to be. The obligatory standards established in Estonia exist only for spirits (white vodka) and construction cement. For these the ISO standards have been used as a basis. These standards apply equally to imports and domestic products. The Estonian standards policy is aiming at joining the EU Synchronized Standard System. To this end preparatory work is currently underway.

III.(2) Export Regulations

III.(2)(b). The memorandum states that "only expressly licensed exporters and importers can trade in metals etc. and that licences must also be obtained by their Estonian counterparts". Would Estonia provide more details on the functioning of the export and import licensing system? More specifically:

- How is a license obtained?*
- Can foreign-owned firms obtain licenses?*
- Is a license required for each transaction?*
- What is the meaning of the phrase "licenses must be obtained by their Estonian counterparts"? Does this imply that an Estonian importer or exporter and counterpart exporter or importer established in another country must both have licenses?*

Export and import in particular are not the object of licensing. Licenses are issued on specific activities for a certain period depending on different conditions but not exceeding five years.

Please also see the comments on the questions under III (1) (f).

III.(3) Export Incentives

III.(3). For which products are export incentives provided? What rates of interest are being charged on loans as described on this page? A maximum rate of 18% is noted - are there provisions for periodic revisions to this rate, and does the government subsidize these loans? What would be comparable commercial rates in Estonia for such loans? Does "refundable" (para. 1) mean "repayable", ie. by the borrower to the fund?

Fund monies will be available to "legal entities registered in Estonia". Does "legal entities" encompass foreign owned or controlled companies registered in Estonia?

The specific products for export incentives are not determined. The interest on export-loan is generally 18% p.a. Government does not subsidize the export loans. In the commercial sphere the export-loans' interests vary considerably, depending on relevant conditions. It is elementary that the loan amount is paid back to the creditor. Loans have been given mostly to Estonian firms but also to several foreign-Estonian joint companies.

IV. OTHER POLICIES AFFECTING FOREIGN TRADE

IV:(1) Industrial Policy

IV.(1). The memorandum provides that "the bulk of privatized enterprises is to be sold to international capital - requiring investment guarantees". What is the nature of the "investment guarantees"?

Does Estonia's foreign investment policy include "local performance requirements" such as the guarantee to achieve a given percentage of domestic content? Will the "investment guarantees" be required of both foreign owned and domestic entities?

The investment guarantees apply equally to foreign and domestic investors. It means that a "performance guarantee" including both investment and employment guarantees is attached to the sale-purchase contract signed by the Estonian Privatisation Agency and the buyer. The guarantees are bank guarantees. The investment guarantee is 125% of the value of the sum invested less than originally guaranteed. It means, in case there is a promise to invest 100 EEK, but instead only 90 EEK is invested, a fine worth 125% of the 10 EEK (12.50) not invested is payable.

The employment guarantee is of similar nature. It is a bank guarantee, according to which a fine of 15000 EEK per every employee less than originally guaranteed has to be paid. i.e. if instead of 100 people there are 98, the enterprise has to pay 30000 EEK of fine.

The Contract Control Department of the Privatisation Agency exercises control over the following of the contract conditions including investment and employment guarantees. A thorough follow-up control is carried out once a year. The enterprise has to prove with various documents that it keeps to the contract conditions.

Estonia's foreign investment policy does not include "local performance requirements" such as the guarantees to achieve a given percentage of domestic content.

The general objective of privatisation is to intensify company's activities through investments that the new owner disposes into the company. The amount of investments is not dictated by the Privatisation Agency. In most cases the bid is chosen where the biggest investments are guaranteed. In addition to that other conditions are also taken into consideration, like the amount paid for the object, guaranteed employment etc.

Investment guarantees are required from both foreign and domestic investors.

IV.(2). Agricultural Policy

IV (2) - No detailed information is given regarding the agricultural policy scheduled to be formulated by February 1994, and the treatment of agricultural products.

Would Estonia please provide more detail on:

- the proposed agricultural policy;
- the regime for the import and export of agricultural products eg. export subsidies;
- the privatisation process for the agricultural sector eg. transfer of land ownership), and;
- the current domestic programs provided to agricultural producers eg. price support or stabilisation programs.

It is stated that "for the main agricultural products, the anticipated level for the year 1994 is about 60% greater than that for 1992." Would Estonia elaborate on what the level refers to: the level of support, the level of production, or another variable?

The main aims of the Estonian agricultural policy are spelled out in the Decision of the Estonian Parliament (Riigikogu) dated February 23, 1994. These are the main principles to be followed when elaborating relevant laws and regulations:

1. Supplying of Estonian residents with the main foodstuffs of predominantly Estonian origin. Formation of strategic food reserves.
2. Farming and collective activities based on private property form the basis of agricultural production.
3. Implementation of regional policy taking account of the regional differences and assistance to local authorities in building up social infrastructure aiming at keeping the rural areas populated and assuring the development of rural life and economy.
4. Stable agricultural production and optimal consumer prices for foodstuffs will be shaped via farm product market organisation, including the regulation of the import and export of foodstuffs as well as a credit policy sustaining rural economy.

A law is in force enabling the regulation of the agricultural trade by quotas and licenses. The Government reserves the right to set up, change and eliminate these quotas.

A law on agricultural income does not rule out the possibility of subsidizing agricultural export. Until now this has not happened due to the shortage of financial resources.

The privatization process in the agricultural sector is continuing. The restoration of property rights on land is a lengthy process.

The possibility of consultations between the Government and the agricultural producers should be aimed at reaching a solution of a reasonable support balancing the income differences springing from different conditions of production.

IV. (3) Financial, Budgetary and Fiscal Policy

IV.(3). The memorandum provides that "As of the present time, the Government has eliminated all import licensing requirements". Yet, as previously noted, the memorandum also states at page 14 that only licensed importers and exporters can trade in metals, spirits, tobacco, etc. Can this be clarified?

The memorandum also notes that "export quotas and licensing requirements have all been removed except for shale oil, gravel, specialized clay, quartz and silicate sand". Can this statement be clarified in view of the page 14 export licensing requirement respecting goods different than those mentioned at page 19? What is the rationale for the quotas on products listed on page 19? How are quotas established? How are licenses obtained? Are there any restrictions applicable to either?

Instead of import licensing the licensing of activities is carried out. For further details please see comments on III (1) (f).

Estonia does not foresee any regulation of foreign trade by means of quotas. The last export quota on quartz sand is presently abolished.

IV.(5) Foreign Investment Policy

IV.(5). The memorandum provides that the Law on Foreign Investment "guarantees the protection of foreign investments". What type of investments are covered by the law? What is the definition of a "foreign" investment? The law also guarantees that the property (investment) of a foreign investor cannot be nationalized, expropriated or confiscated. What is a "foreign" investor? Does the law guarantee that property cannot be expropriated unless the foreign investor receives fair compensation for the expropriated investment?

The memorandum provides that the "Government requires a foreign investor to obtain a license before starting his business in the country" respecting "mining, energetics, gas and water supply, telecommunications and communications networks, etc." What are the specific types of economic activities that fall within this enumeration? Are there any restrictions (eg. foreign ownership) conditioned to the granting of the licenses? Will the license requirements respecting these activities be subject to a "phase-out" program?

Are foreign and domestic firms subject to different tax treatment?

The Law on Foreign Investments of Estonia provides foreign investors with the same rights as Estonian legal persons.

For more detailed information concerning the Estonian licensing arrangements please see comments on III (1) (f). The areas of licensing foreign investment are described in the copy of the Law and the documents appended as Annex IV. There have been no principal changes in the provisions of this Law.

Estonia offers to foreign investors a possibility of free repatriation of the revenue, fair trading possibilities and national treatment. Foreign and domestic companies are not subject to different tax treatment. The same taxes apply for both domestic and foreign firms.

IV. (6) Government Procurement

IV.(6). When will the Law on Public Procurement be elaborated, and is it being modeled on the WTO Agreement on Government Procurement?

The memorandum states that "public procurement will be administered bya federal agency". Will the legal regime regulating procurement cover goods and services? Will local governments be entitled to procure goods (and services)? If so, will such procurement practices be regulated federally?

The memorandum provides that "tenders may be submitted by any legal entity ... regardless of the nationality of an individual". Will this apply to all federal departments and agencies and in respect of all goods and services?

The draft law on public procurement has been elaborated and will be submitted to the Estonian Government this November.

Public procurement will be coordinated and administered by the Public Procurement Department of the Estonian Ministry of Economy. The legal regime regulating procurement will cover goods and services. The Law will not contradict the WTO Agreement on Government Procurement.

IV. (7). State Trading Enterprises

IV.(7). Please provide the names and information on the activities of the remaining state trading enterprises. Which enterprises does Estonia foresee notifying under GATS article XVII?

What proportions of Estonian imports and exports are handled by enterprises wholly or partially owned by the state (totals for recent years, as available, with product breakdown as detailed as possible)?

Please note that one cannot treat state-trading and state-owned enterprises on an equal footing. The state-owned enterprises are operating under the same conditions as private enterprises. State subsidies have been cut.

Not a large number of state-owned enterprises are operating in trade, since the latter either have been or will very soon be mainly private. There no state-traders left in Estonia.

No such statistics is available, especially under the present conditions when an active privatisation process is underway.

IV.(8). Protection of Intellectual Property Rights

IV.(9). Please provide an update of the legislative activities related to intellectual property.

Estonia's system of intellectual property rights is being developed in cooperation with which international organizations?

The Patent Office in Estonia was established on December 3, 1991. It started its activities from March 10, 1992

The following relevant laws are in force in Estonia (see also Annex II):

- Trademark Law since October 1, 1992;
- Copyright Law since December 12, 1992;
- Patent Law since May 23, 1994;
- Utility Model Law since May 23, 1994

The laws belonging to the field of industrial property are created on the basis on the corresponding laws of the Nordic countries and in close cooperation with them and also with the WIPO and EPO.

Estonia uses full examination system and as one of the European countries the so-called 'first to file' system. Applications must be filed through Estonian patent and trademark attorneys.

Since February 5, 1994 Estonia has been a full member in the World Intellectual Property Organisation (WIPO).

Estonia restored her membership in the Paris Convention to which the country belonged since February 12, 1924. The restored membership came into effect with respect to Estonia from August 24, 1994.

Estonia has joined the Patent Cooperation Treaty (PCT). The membership came into effect from August 24, 1994.

Estonia restored her membership in the Berne Convention to which it belonged since 1927. The restored membership came into effect on October 26, 1994.

V. INSTITUTIONAL BASE FOR TRADE AND ECONOMIC RELATIONS WITH THIRD COUNTRIES

V.(1). Brief Description of Bilateral Trade and Economic Agreements and Integration Agreements

V.(1). The memorandum notes that trade of specific agricultural products has been provided for in separate agreements. What products do these cover and what are the provisions? Could Estonia elaborate on its preferential trading agreements ie. the goods covered and their margins of preference?

Often the trade in agricultural goods is covered either in a separate agreement or an additional protocol. These documents normally cover the products under the HS Chapters 1 to 24.

VI. LAWS AND LEGAL ACTS

VI.(1) Laws and Legal Acts Regulating Activity of the Customs Authorities

VI.(1). Does Estonia's customs regime provide for any appeals against decisions of the Customs Board? If so, please describe which matters are subject to appeal, and how the process operates.

Were the Estonian Laws and Regulations governing the customs regime developed in line with GATT obligations? Are such laws and regulations available in a GATT language? Have they been supplied to the GATT Secretariat?

The Estonian Law on Customs foresees the possibility of appeals against the decisions of the customs authorities. Please see Paragraph 13 and 14 of the Law.

The English language copy of the Estonian Law on Customs has been provided to the GATT Secretariat together with the Estonia's Memorandum on the Foreign Trade Regime (L/7423)

VI.(2). Laws and Legal Acts Relating to Non-Tariff Regulation of Imports, Exports and Trade in Transit

VI.(2). The memorandum provides that "the Estonian Ministry of Economy has the right ... to prescribe a quota for the export of certain goods". What are these "certain goods"? Is the application of a quota conditioned on the triggering of certain events (eg. to alleviate domestic shortages)? Are modifications to the scope and coverage of quotas notified in an official "register"?

The memorandum states that "a prior declaration is required" for the import or export of alcohol and tobacco. What is the nature of this "prior declaration"?

The system where the Ministry of Economy was in a position to determine such quotas has been eliminated by now.

Prior declaration of means here that all the customs procedures and formalities have to be finalized before the goods can cross the border.

Annex I

Table 1 - Excise Duties on Tobacco Products

No.	Product name	Excise duty in EEK	
		Estonian products	Imported products
1	cigarettes without filter	0.5*	3*
2	cigarettes with filter	1*	3*
3	Russian-type cigarettes	1*	3*
4	cigarillos	3*	3*
5	cigars	3**	3**
6	smoking tobacco	1***	3***
7	snuff	3***	3***
8	chewing tobacco	3***	3***
9	other tobacco products	3***	3***

* up to 20 cigarettes, 21 to 40 cigarettes have to be marked with two tax stamps

** per one cigar

*** up to 50 gram tobacco products, 51 to 100 grams have to be marked with two tax stamps

Table 2 - Excise Duties on Fuels

No.	Product name	Excise duty in cents/EEK	
1	petrol	40*	0.52**
2	diesel	25*	0.28**
3	jet fuel	50*	0.63**
4	aviation petrol	50*	0.65**
5	liquid gas	25*	0.42**
6	compressed gas	25*	0.42**
7	engine oil	5*	0.05**

* cents (0.01 EEK) per litre

** EEK per kg

Table 3 - Excise Duties on Alcoholic Beverages

In Table 3:

* per one volume percent of absolute alcohol (100% alcohol) in one litre

** per litre

Excise rates on spirits, alcoholic beverages, and beer

Taxable product	Excise rate in EEK
<u>1. Imported alcoholic beverages and spirits:</u>	
1) Sparkling wine and other wine of fresh grapes of an alcoholic strength by volume of less than 15% vol. (HS Code 2201.10, 2204.21, and 2204.29 positions 100-399) and other fermented beverages (HSC 2206) of an alcoholic strength by volume of less than 15% vol.	10.40**
2) Wine of fresh grapes of an alcoholic strength by volume over 15% vol., vermouth and other wine of fresh grapes flavored with aromatic substances (HSC 2204.21 and 2204.29 positions 400-999; and HSC 2205) and other fermented beverages (HSC 2206) of an alcoholic strength by volume over 15% vol.	15.60**
3) cognac, brandy, armagnac, distilled spirits (HSC 2208.20)	32.50**
4) whisky (HSC 2208.30)	26.00**
5) other alcoholic beverages and spirits (HSC 2201.10 and 2208 except 2208.20 and 2208.30)	0.65*
<u>2. Imported beer</u>	
1) of an alcoholic strength by volume of less than 4.7% vol. (HSC 2203.00 positions 109 and 909)	6.00**
2) of an alcoholic strength by volume over 4.7% vol. (HSC 2203.00 positions 101 and 901)	9.00**

<p><u>3. Wine produced in Estonia</u></p> <p>1) of an alcoholic strength by volume of less than 15% vol. (HSC 2204.21 and 2204.29 positions 100-399) and other fermented beverages (HSC 2206) of an alcoholic strength by volume of less than 15% vol.; if more than 100 decalitres are produced per year</p> <p>2) of an alcoholic strength by volume of over 15% vol. (HSC 2204.21 and 2204.29 positions 400-999) and other fermented beverages (HSC 2206) of an alcoholic strength by volume of over 15% vol.</p>	<p>3.90**</p> <p>5.20**</p>
<p><u>4. Beer produced in Estonia:</u></p> <p>1) of an alcoholic strength by volume of less than 4.7% vol. (HSC 2203.00 positions 109 and 909) if produced several thousands decalitres per year</p> <ul style="list-style-type: none"> • more than 5.0 up to 600 • more than 600 	<p>1.00**</p> <p>1.10**</p>
<p><u>5. Spirits produced in Estonia</u></p>	<p>0.57*</p>
<p><u>6. Spirits made by rectification for use in medicine, pharmaceuticals, veterinary medicine, scientific studies, and for making perfumery</u></p>	<p>0.14*</p>

Annex II

List of New and Amended Laws and Regulations *

Law on Value Added Tax - amended version of 30 June 1994

Law on Tobacco Excise Tax - new version of 13 July 1994

Patent Law - 30 March 1994

Utility Model Law - 30 March 1994

Statutes of the Estonian Foreign Investment Agency - May 9, 1994

Law on State Budget - amended version of 20 April 1994

Law on Amending the Law on the Central Bank of the Republic of Estonia - 20 April 1994

Law on Amending the Law on Taxation - 30 March 1994

Law on Export and Transit of Strategic Goods - 21 April 1994

Law on Taxation - 29 December 1993

Income Tax Law - 21 December 1993

Law on Land Tax - 12 May 1993

Law on Amending the Customs Law - 1 December 1993

*Available for consultation at the office of the Special Adviser to the Director-General (Room 2017).

ANNEX IIIEESTI PANKNewsletterNo. 52October 1994Balance of Payments of Estonia for the Second Quarter of 1994

Changes in the balance of payments of Estonia in the second quarter of 1994 are reflected in the Table below.

Table 1

The Balance of Payments of Estonia for 1994
(in Millions of Kroons)

Item	Q1	Q2	Q1 + Q2
CURRENT ACCOUNT	-840.0	-366.6	-1,206.6
Merchandise exports f.o.b.	3,607.9	4,183.3	7,791.2
Merchandise imports f.o.b.	-4,914.9	-5,350.0	-10,264.9
Trade balance	-1,307.0	-1,166.7	-2,473.7
Services: credit	1,264.1	1,856.5	3,120.6
Services: debit	-1,003.4	-1,216.7	-2,220.1
Services net	260.7	639.8	900.5
Income: credit	107.6	104.0	211.6
Income: debit	-146.2	-166.8	-313.0
Income net	-38.6	-62.8	-101.4
Unrequited transfers: private	15.7	12.5	28.2
Unrequited transfers: official	229.2	210.6	439.8
Net	244.9	223.1	468.0
CAPITAL AND FINANCIAL ACCOUNT	857.7	875.0	1,732.7
Capital account	0.0	0.0	0.0
Financial account	857.7	875.0	1,732.7
Direct investments	550.8	1,051.7	1,602.5
Portfolio investments	-61.6	-17.7	-79.3
Other capital	437.0	-199.4	237.6
Government sector	154.2	120.7	274.9
Commercial banks	274.4	-328.4	-54.0
Other sectors	8.4	8.3	16.7
RESERVES	-68.5	40.4	-28.1
Net errors and omissions	-17.7	-508.4	-526.1

*According to additional information, the previous periods have been adjusted

CURRENT ACCOUNT

In the second quarter of 1994 the deficit of the current account decreased twice if compared to the first quarter and comprised 366.6 million kroons (f.o.b. prices).

Merchandise

The main reason for the current account deficit was still the deficit of the foreign trade balance, which decreased by 140.3 million kroons if compared to the first quarter. The decrease was caused first of all due to the decrease of fuel import. Estonian foreign trade is described by Table 2, broken down by groups of goods.

Table 2

Estonian Foreign Trade by Groups of Merchandise in Q2 1994
(in Millions of Kroons)

Groups of merchandise	Export		Import		Balance million kroons
	million kroons*	%	million kroons*	%	
Agricultural products	991.8	23.9	854.0	16.9	+137.8
Mineral products	279.4	6.7	649.6	12.9	-370.2
Chemical products	339.2	8.2	589.0	11.7	-249.8
Light industry products	603.7	14.6	731.1	14.5	-127.4
Timber, paper products	499.5	12.1	207.0	4.1	+292.5
Metals	392.3	9.5	272.3	5.4	+120.0
Machinery and equipment	383.7	9.3	932.9	18.5	-594.2
Transportation equipment	300.9	7.3	422.1	8.4	-121.2
Furniture etc.	222.4	5.4	143.7	2.9	+78.7
Other manufactured goods	130.6	3.2	237.1	4.7	-106.5
TOTAL	4,143.7	100.0	5,038.7	100.0	-895.0

*Export in f.o.b., import in c.i.f.

Compared to the second quarter of 1993, the export of goods increased in the second quarter of 1994 1.7 times and the import increased 1.9 times. Compared to the first quarter of this year, the export of goods increased in the second quarter more quickly than import (16 per cent and 7 per cent, respectively).

Especially rapid (compared to the first quarter) was the growth in the export of timber (53.3 per cent) and machinery and equipment (41.4 per cent). The export of light industry products decreased (7 per cent).

As to imports, the most rapid was the growth in light industry (37.4 per cent) and chemical products (26 per cent). In spite of an essential decrease in the import of mineral products (mostly fuels, 26.6 per cent) compared to the first quarter, the total import of this category was unusually large (63 per cent bigger compared to the second quarter of 1993).

Compared to the second quarter of 1993, the share of timber in the structure of Estonian export has increased from 8.2 per cent to 12 per cent, the share of chemical products from 5.9 per cent to 8.2 per cent and the share of machinery and equipment from 7.3 per cent to 9.3 per cent.

In the structure of import, more important was the increase of the share of machinery and equipment (from 15.7 per cent to 18.5 per cent) and the decrease of the share of mineral products (from 15.3 per cent to 12.9 per cent). As to transportation equipment, the export increased nearly 20 per cent if compared to the second quarter of 1993, but as the import was practically on the same level, the share of this group in Estonian export decreased from 10.6 per cent to 7.3 per cent and that of in import from 15.5 per cent to 8.4 per cent.

The biggest role in the deficit of the foreign trade balance was played by the machinery and equipment, mineral and chemical products. As earlier the largest export articles of Estonia had been first of all agricultural products, then in the second quarter of 1994 timber took the lead.

Nearly 85 per cent of the Estonian export in the second quarter and 76 per cent of import was to and from ten countries (see Table 3).

Table 3

Estonian Foreign Trade by Trade Partners in Q2 1994
(in Millions of Kroons)

Country	Export		Import		Balance
	million kroons*	%	million kroons*	%	million kroons
Finland	790.8	19.1	1,451.6	28.8	-660.8
Russia	1,038.4	25.1	842.7	16.7	+195.7
Sweden	480.8	11.6	457.3	9.1	+23.5
Germany	262.1	6.3	498.2	9.9	-236.1
Latvia	287.7	6.9	65.6	1.3	+222.1
Lithuania	203.3	4.9	101.7	2.0	+101.6
The Netherlands	123.5	3.0	135.0	2.7	-11.5
Denmark	138.4	3.3	111.8	2.2	+26.6
Ukraine	99.9	2.4	111.8	2.2	-11.9
Belorussia	79.3	1.9	51.8	1.0	+27.5
Other countries	639.5	15.5	1,211.2	24.1	-571.7

*Export in f.o.b., import in c.i.f. Import by country of origin.

Finland and Russia together had 45 per cent of the total Estonian foreign trade turnover, Sweden and Germany - more than 18 per cent. Compared to the second quarter of 1993, there were no considerable changes in the structure of import partners in the second quarter of this year. As to export partners, the share of Finland, Germany and the Netherlands decreased to some extent while that of Russia increased (from 15.9 per cent to 25.1 per cent).

As to foreign trade partners the biggest deficit was with Finland: more than one billion kroons if taken by the trading countries. Compared to the first quarter, the trade deficit with Germany increased nearly twice. The biggest was the surplus with Latvia, but compared to the first quarter, the deficit was one fifth less due to the decrease of the export of electrical energy. In the first quarter the foreign trade balance with Russia was in deficit due to an intensive import of fuels. However, in the second quarter a large surplus occurred due to the increase of the export of agricultural products.

Services

Table 4

Balance of Services in Q2 1994
(in Millions of Kroons)

Services total	639.8
Transportation	750.0
o/w freight	365.1
passengers	214.7
other	170.2
Tourism	88.3
Insurance	-37.6
Construction	-28.6
Communication	-11.1
Other services	-121.2

Unlike the foreign trade balance, the balance of services had a large surplus in the second quarter. This can be explained by the favourable season for rendering services, but also by the improvement of the balance-of-payments information base.

As before, the most profitable for Estonia were transportation services, especially freight services. The surplus of the passenger services was less than expected in the second quarter which was due to the rapid increase of the import of tourist services, although these services were also sold more than in any of the previous quarters starting from 1992. This trend can be explained by the fact that Estonian residents have started to buy more and more tourism services from foreign companies, which shows the increase in the living standard of a least one group of population.

For the first time in the second quarter the construction balance was in deficit. This was mostly caused by the renovation of a number of large buildings, undertaken by foreign companies.

Income

Compared to the first quarter, the deficit of the income balance increased considerably (from 38.6 million to 62.8 million kroons), as the income from foreign investments made in Estonia have increased.

Transfers

The surplus of the transfer balance comprises mainly of the foreign assistance rendered to Estonia in the form of goods and services. Foreign assistance was received in the second quarter for 52.8 million kroons as goods (nearly 30 per cent less than in the first quarter) and for 120 million kroons as services (according to the expert assessment).

CAPITAL AND FINANCIAL ACCOUNT

The surplus of the capital and financial account (together with reserves) was the biggest in one quarter during the whole period Estonian balance of payments has been compiled. The reason for such a surplus was mostly the essential growth of the foreign investments made in Estonia.

Table 5

Direct Investments into Estonia in Q2 1994 (in Millions of Kroons)

Share capital	776.2
o/w investments to new enterprises	298.7
privatization of State enterprises by non-residents	8.0
capital inflow to existing enterprises	469.5
Reinvested capital	120.9
Loan capital (net)	156.3
o/w liabilities to direct investors	167.0
claims on direct investors	10.7
TOTAL	1,053.4

In the second quarter the foreign investments increased especially intensively: as foreign direct investments made in Estonia in the first quarter comprised 552.5 million kroons, that figure was nearly doubled in the second quarter. At the same time Estonia made direct investments abroad for 1.7 million kroons.

The volumes of foreign investments increased in the form of share capital, loan capital as well as reinvested earnings. The increase was especially great in case of invested share capital - nearly double if compared to the first quarter.

As in the first quarter 75 per cent of the foreign share capital investments was used for founding new companies, then in the second quarter the respective figure was 38.5 per cent. The inflow of share capital in existing already companies formed 60.5 per cent in the second quarter.

As in the first quarter one third of the direct foreign investments were made into industry, one third into whole- and retail sale and one third divided between other branches of industry, then in the second quarter 61 per cent of the direct investments were made into industry and 22 per cent into the development of transport, warehouses and communication.

48 per cent of the share capital investments came from Russia and 20 per cent from Bosnia and Herzegovina. These two countries were followed by Italy, Finland and Sweden by 8 per cent each and the USA by 2 per cent.

Portfolio investments

The deficit of portfolio investments (-17.7 million kroons) was essentially smaller than in the first quarter.

Other investments

After a long time the other investments were again in deficit in the second quarter -199.4 million kroons. Last time such was the case in 1992. The result of that subgroup of balance of payments is mostly determined by commercial banks. In general, a bigger outflow of currency has been characteristic, the first quarter of 1994 being an exception. In the second quarter an intensive outflow (mostly cash and deposits) of currency could be felt in the commercial banks' sector, the outflow surpassing the inflow by 328.4 million kroons.

105.5 million kroons were used from the loans guaranteed by Eesti Pank and the Government. The repayments of earlier taken loans formed 18.3 million kroons. In other sectors, the inflow and outflow of currency in the form of other investments were more or less balanced in the second quarter, similar to the situation in the first quarter.

Information Department of Eesti Pank

P.S. In publishing or editing please quote the source.

Ants Kaasik
Executive Editor

ANNEX IV

Law of the Republic of Estonia on Foreign Investments

I. General provisions

Article 1. Scope of the law

This law determines the order and legal regime governing foreign investments, the granting of benefits and the legal guarantees to foreign investors in the Republic of Estonia.

Article 2. Foreign investment

Within the terms of this law, foreign investments are all kinds of assets and property rights, including intellectual property, which the foreign investor has contributed to an enterprise, situated in the Republic of Estonia.

Article 3. Foreign investor

1. The foreign investor can be:

- (1) A foreign country's legal entity.
- (2) A foreign country's citizen.
- (3) A citizen of the Republic of Estonia, whose permanent residence is outside the Republic of Estonia.
- (4) A person without citizenship in any country.
- (5) An international organization.

2. A citizen of a foreign country and the person without citizenship in any country can, in the meaning of this law, be an investor if his permanent residence is outside the Republic of Estonia.

3. A foreign country's legal entity is anyone or any organization that is registered outside the Republic of Estonia.

Article 4. Enterprise with foreign capital

1. Within the terms of this law, an enterprise with foreign capital is any enterprise that complies with the laws of the Republic of Estonia, and whose property belongs partially or wholly to one or more foreign investors. The foreign enterprise may also be a subsidiary or affiliated branch, as defined in Article 6, Section 1 of this law.

2. The enterprise with foreign capital is, from the moment of registration, a legal entity according to the law of the Republic of Estonia.

Article 5. Legal status of foreign investors and enterprises with foreign capital

1. The foreign investor making the investment (establishing the enterprise, making initial payments, etc.) has equal rights and liabilities as do the Estonian Republic's legal foreseen to be otherwise under the Republic of Estonia's law or its international agreement.
2. The foreign investor's right to acquire and use land and other natural resources is determined under the Republic of Estonia's laws.
3. An enterprise with foreign capital has all rights and liabilities, operative in the Republic of Estonia unless otherwise stipulated under the law or in international agreements.

Article 6. Affiliated branch and agency

1. A foreign legal entity and international organization can establish their affiliated branches as legal entities in the Republic of Estonia, and within the meaning of this law are enterprises with foreign capital.
2. A foreign legal person or international organization can establish agencies in the Republic of Estonia to represent and defend their interests. The procedures for opening agencies and their operation are determined by the Government of the Republic of Estonia.

Article 7. Real property acquisition

1. The enterprise with foreign capital may acquire necessary real estate by the same procedures as a Republic of Estonia enterprise, unless otherwise stated in the law.
2. Acquisition of real property by an enterprise with foreign capital has to be legally confirmed.

Article 8. International agreement

If this law is in conflict with an international agreement signed by the Republic of Estonia and ratified by the Republic of Estonia's supreme organ of power, then the international agreement is in force.

II. ESTABLISHING ENTERPRISES WITH FOREIGN CAPITAL AND PARTICIPATING THEM**Article 9. Establishment of foreign capital enterprise and participation provisions**

1. Establishing an enterprise with foreign capital and foreign investor's participation in the established enterprise is to be carried out without limitations and in accordance with the regulations in force in the Republic of Estonia except as stipulated in Sections 2 and 3 of this article.
2. The Government of the Republic of Estonia can designate the permitted fields of activity by an enterprise with foreign capital or foreign investor's participation, or indicate where the established enterprise is prohibited or where a special foreign investment's licence is required, as enacted by this law, Article 10.
3. A commercial bank, established by a foreign investor, or his participation in it, is to be carried out under a licence by the Bank of Estonia, as enacted in Article 10 of this law.

4. The Bank of Estonia can deny granting a licence to establish a commercial bank to the foreign investor for the following reasons:

- (1) the foreign investor's unreliability;
- (2) the foreign investor is seeking to gain monopoly power in the Republic of Estonia's banking system

Article 10. Foreign investment licence

1. To obtain a foreign investment licence, as cited in this law under Article 9, Section 2, an application is to be presented to the State Body, determined by the Government of the Republic of Estonia and to get the licence indicated in Article 9, Section 3, an application is to be presented to the Council of the Bank of Estonia. Both the State Body and the Council of the Bank of Estonia are required to take a decision within one month from the day an application is presented. If the required data is missing, the licence applicant must present additional data within one month from the day the application was received. In such cases a decision will be made within one month from the day that additional data was presented. If the decision is not made in the designated time, the applied licence will be granted and the State Body or the Council of the Bank of Estonia will issue a written note to that effect within three days following the presentation of such a request.

2. The regulation governing applications and the granting of foreign investment licences, indicated in Article 9, Section 2 of this law, is established by the Government of the Republic of Estonia. In the case of licences, mentioned in Section 3 of this Article, the governing regulations are those established by the Council of the Bank of Estonia together with the Government of Estonia.

3. If the State Body, determined by the Government of the Republic of Estonia declines to give a licence, the licence applicant can apply to the Government of the Republic of Estonia within one month from the day the applicant was declined and the Government of the Republic of Estonia will issue its decision within one month if the Government of the Republic of Estonia or the Council of the Bank of Estonia decline to grant the licence, the applicant can apply to the court system within the designated time.

4. The foreign investment licence, obtained under the regulation enacted in this Article, is a pre-condition to applying for a licence to establish an enterprise with foreign capital, and the foreign investment licence designates the locus of operation for which the licence is granted.

Article 11. Initial contributions to the enterprise's fixed capital and acquiring an enterprise or a part of it

1. The foreign investor makes initial payments to the enterprise's fixed capital as foreign investments under the meaning of this law.

2. The non-monetary initial payments, made to fixed capital, are priced by the enterprise's shareholders' agreement, taking into account world market prices, in terms of both Estonian Republic's official currency and/or foreign currency.

Shareholders' initial payments are recalculated into the Republic of Estonia's official currency on the day the enterprise's establishment agreement was signed or on some other date determined by the shareholders' agreement (validated by the Bank of Estonia).

3. The foreign investor must make an initial monetary payment in convertible currency to the enterprise's fixed capital, unless otherwise enacted under the Republic of Estonia's regulations or under an international agreement negotiated by the Republic of Estonia. The foreign investor can reinvest the profit in officially valid currency gained from a foreign investment in the Republic of Estonia.

4. The non-monetary initial payment has to be transferred from a foreign country or acquired for foreign currency in the Republic of Estonia. Assets can be acquired for the currency officially validated in the Republic of Estonia if it is gained as a profit from a foreign investment in the Republic of Estonia or exchanged for convertible currency in an Estonian bank.

5. The foreign investor can acquire for convertible currency an enterprise registered in the Republic of Estonia or part of an enterprise, including enterprise shares, common stocks or for officially valid currency in the Republic of Estonia, if this currency was derived from profit from the foreign investment in the Republic of Estonia or exchanged for convertible currency in an Estonian bank. If the foreign investor has followed these aforementioned requirements the enterprise is within the meaning of this law, an enterprise with foreign capital.

III. FUNDAMENTALS OF ACTION FOR ENTERPRISES WITH FOREIGN CAPITAL AND FOREIGN INVESTORS

Article 12. Taxation and tax allowances

An enterprise with foreign capital is assessed by the regulations established under the Republic of Estonia's normative acts, taking into account the tax allowances.

Article 13. Customs allowances

1. Property, brought into the Republic of Estonia by foreign investors as an initial payment to fixed capital for a foreign enterprise, is exempt from customs duties.

2. Property which is brought in by an enterprise as foreign capital for its own statutory operations and needs is also exempt from customs duties.

3. Property which the foreign workers, working in an enterprise with foreign capital, bring to the Republic of Estonia for their own needs is also exempt from customs duties.

4. The imported own production of an enterprise with foreign capital; also property which the foreign investor takes out is also exempt from customs duties as a share after liquidating the enterprise or getting on other grounds his share from the enterprise's fixed capital in kind.

Article 14. Accounting regulation

1. The enterprise with foreign capital opens accounts of Estonian official currency and/or foreign currency in Estonian banks and carries out financial credit and accountancy operations in accordance with the Republic of Estonia's regulations.

Article 15. Foreign currency repatriation

The foreign investor has the right to export foreign currency:

- (1) Which was received as a profit from an enterprise with foreign currency after paying income tax;

- (2) from the property of the enterprise after selling his share of it when finishing his participation in the enterprise; or
- (3) when the enterprise is liquidated in the Republic of Estonia.

Foreign currency export is also not restricted, if the foreign investor has acquired it for Estonian official currency in a legal way, received as a contractual payment or as a compensation, foreseen in Article 21, Section 4.

Article 16. Export and import

1. The enterprise with foreign capital has the right to export its own production (services), and to import goods for its statutory activities. The regulation determining what is a company's "own production or services" is established by the Government of the Republic of Estonia. The enterprise with foreign capital can export and import other production or services in a general way.
2. Allowances, stipulated in Section 1 of this Article are valid for these enterprises with foreign capital, in whose fixed capital the foreign investor's part is at least 30 per cent.

Article 17. Price and payments

1. The enterprise with foreign capital establishes the prices for its production or services and decides whether it will received payment in the Republic of Estonia or elsewhere through direct negotiation with the customer.
2. The enterprise with foreign capital pays for acquired goods or services in Estonian official currency or foreign currency, unless otherwise stipulated in a Republic of Estonia's normative act.

Article 18. Amortization quotas

The enterprise with foreign capital may be granted a right by the Government of the Republic of Estonia to use enhance amortization of its fixed assets.

Article 19. Work relations

1. Work relations in an enterprise with foreign capital are regulated with the Republic of Estonia's laws and other normative acts.
2. An employee, who is a citizen of a foreign country may take his earnings out of the Republic of Estonia after paying income tax unless otherwise stipulated under an international agreement.

Article 20. Medical and social security

Medical and social security of the employees of an enterprise with foreign capital is regulated under the Republic of Estonia's laws, unless otherwise stipulated under an international agreement.

IV. PROTECTION OF FOREIGN INVESTMENTS

Article 21. Principles of foreign investment protection

1. Protection of foreign investments is guaranteed by the Republic of Estonia.

2. Restriction of rights of an enterprise with foreign capital or the imposition of additional obligations in that enterprise is prohibited, unless otherwise stipulated in this law on Foreign Investments.
3. Foreign investments cannot be nationalized, appropriated or confiscated in the Republic of Estonia, except on the grounds of Estonian Republic's normative acts.
4. Property loss incurred by the foreign investor through nationalization or requisition will be compensated wholly in the same currency the initial investment was made, or in other currency, acceptable to the foreign investor. The payment must be made by the state body, who made the decision to nationalize or requisite the property.
5. If compensation for a loss (mentioned in Section 4 of this Article) causes an argument, the foreign investor has a right to apply to the Court of the Republic of Estonia with jurisdiction over these matters unless otherwise stipulated under an international agreement.

Article 22. Resolving Disagreements

The controversies between foreign investors of enterprises:

- (1) With foreign capital and legal entities of the Republic of Estonia;
- (2) controversies between the shareholders of an enterprise with foreign capital, also shareholders;
- (3) controversies with the enterprise with foreign capital, are to be solved in the Court of the Republic of Estonia or in a court arbitration procedure agreed upon by both sides.

V. SPECIAL PROVISIONS

Article 23. Foreign investments special conditions

1. Differences over making foreign investments in special economy zones, customs duty free zones, or in the Republic of Estonia's districts with special status are regulated additionally under the Republic of Estonia's laws and normative acts.
2. Granting a concession to a foreign investor is carried out as stipulated under the laws of the Republic of Estonia.

Tallinn, 11 September 1991

Decree of the Government of the Republic of Estonia on the Spheres of Activity where the Establishment of the Enterprise with Foreign Capital or the Participation of Foreign Investors in the Enterprise is taking place on the Basis of Foreign Investment Licence

In accordance with Article 9, Section 2 of the Law of the Republic of Estonia on Foreign Investments and making a point of guaranteeing the control on foreign investments in utilization of natural resources and in the more important sections of the infrastructure of the economy the Government of the Republic of Estonia decrees

1. To approve:

- (1) "The list of the fields of activity where the establishment of an enterprise with foreign capital or foreign investor's participation in it is to be carried out on the basis of the foreign investment licence" (supplemented).
 - (2) "The order for seeking and granting a foreign investment licence" (supplemented).
2. To charge the Estonia State Department of Foreign Economic Relations with looking through the applications for foreign investment licences, passing the decisions and issuing foreign investment licences.

Tallinn, 6 April 1992

List of the Fields of Activity where the Establishment of the Enterprise with
Foreign Capital or the Participation in the Established Enterprise
is taking place on the Basis of Foreign Investment Licence

1. Mining industry (10, 14)
2. Power engineering, gas and water supply (4010, 4020, 4030, 4110)
3. Expansion and reconstruction of railways and air transport (452010, 452011, 452012)
4. Administration of waterways, ports, dams and other hydraulic structures
5. Telecommunication (forwarding of sound, images, news or other information by cable, broadcasting, translation or satellites, telephone, telegraph and telecommunication), as well as care, expansion and reconstruction of the communication network (6420)

Note in parenthesis is given the activity code by the Estonian State Activity Classifier.

Tallinn, 6 April 1992

Order of Applying to and Granting the
Foreign Investment Licence

I. GENERAL PROVISIONS

1. The present order shall determine the procedure for applying to and granting the foreign investment licence in establishing the enterprises with foreign capital or participating of the foreign investor in the established enterprise.
2. Foreign investment licence is the permit granted by the State to make foreign investments into the fields of activity the list of which is confirmed by the Government of the Republic of Estonia.

II. ORDER FOR APPLYING TO AND GRANTING THE FOREIGN INVESTMENT LICENCE

3. A foreign investment licence is issued by the Estonian State Department for Foreign Economic Relations.

4. To obtain a foreign investment licence the appropriate application is to be presented to the Estonian State Department for Foreign Economic Relations, supplemented by:

- (1) The statute of the enterprise to be established and depending on circumstances, either the agreement for establishing, leasing or acting;
- (2) the enterprise schedule presenting the detailed plan of activities for the following five years;
- (3) the copy of the investors' (firm, organization) registration certificate verified in the investor's country;
- (4) bank certificate on an individual's solvency or a certificate on investment source and solvency if a foreign investor is a legal person.

The Estonian State Department for Foreign Economic Relations is entitled to demand supplementary documents if they are necessary for looking through the applications.

5. The Estonian State Department for Foreign Economic Relations is obliged to take a decision within one month from the day an application is presented. If the required data is missing, the licence applicant must present additional data within one month from the day of getting the corresponding report in such cases a decision will be made within one month from the day additional data was presented. If the decision is not made in the designated time, the applied licence will be granted and the Estonian State Department for Foreign Economic Relations will issue a written note to that effect within three days following the presentation of such a request. In the course of looking through the application the Ministry or State Body governing the field of activity of the licence applicant shall present a written standpoint to the Estonian State Department for Foreign Economic Relations.

6. The Estonian State Department for Foreign Economic Relations is entitled to decline to grant the foreign investment licence if:

- (1) a foreign investor is unreliable
- (2) a foreign investor is seeking to gain monopoly power
- (3) a foreign investment causes essential damage to (the interests of) the economy of the Republic of Estonia.

If the Estonian State Department for Foreign Economic Relations declines to give a licence, the licence applicant can apply within one month from the day the corresponding note was gained to the Government of the Republic of Estonia and the Government will issue its decision within one month. If the Government of the Republic of Estonia declines to grant the licence, the applicant can apply to the court system within one month.

7. The Estonian State Department for Foreign Economic Relations shall take account of all the issued by the Department foreign investment licences.

8. The foreign investment licence, obtained under the present regulation, is a precondition to applying for a licence to establish an enterprise with foreign capital and designates the locus of operation for which the licence is granted.

III. INVALIDATION OF FOREIGN INVESTMENT LICENCE

9. The Estonian State Department for Foreign Economic Relations can invalidate the foreign investment licence:

- (1) if on applying for a foreign investment licence the data not corresponding with reality is presented;
- (2) if the enterprise's activity has caused damage to the environment or has endangered the health of people;
- (3) if the enterprise does not fulfil the foreign investment licence conditions;
- (4) in other cases foreseen by the legislation of the Republic of Estonia.

10. In case of emerging the reasons for invalidation of foreign investment licence, the Estonian State Department for Foreign Economic Relations shall issue the order to eliminate the violation. If it is not done by the enterprise within 30 days from the day of gaining the order or the enterprise repeatedly violates regulations and norms on the locus of operation, the Estonian State Department for Foreign Economic Relations shall invalidate the foreign investment licence.

11. The Estonian State Department for Foreign Economic Relations shall send the copy of the decision on invalidation of foreign investment licence to the enterprise within three days from the acceptance of the decision.

12. The enterprise has the right to apply to the court system within thirty days from gaining the copy of the decision on invalidation of foreign investment licence to demand annulment of the decision and to compensate the damage caused.

Tallinn, 6 April 1992

*In connection with the liquidation of the Estonian State Department for Foreign Economics in 1 July 1992 the granting of foreign investment licence is given into the competence of Ministry of Economics.

ANNEX VESTONIAN INVESTMENT PROTECTION AND PROMOTION AGREEMENTS

1. Agreement on Encouragement and Reciprocal Protection of Investments between the Republic of Estonia and the Kingdom of the Netherlands.
2. Agreement between the Government of the Republic of Estonia and the Government of the Kingdom of Norway on the Mutual Promotion and Protection of Investments.
3. Agreement between the Republic of Estonia and the Swiss Confederation on the Promotion and Reciprocal Protection of Investments.
4. Agreement between the Government of the Republic of Estonia and the Government of the Republic of Finland for the Promotion and Protection of Investments.
5. Agreement between the Government of the Republic of Estonia and the Government of the Kingdom of Sweden on the Promotion and Reciprocal Protection of Investments.
6. Investment Incentive Agreement between the Government of the Republic of Estonia and the Government of the United States of America.
7. Accord entre le Gouvernement de la République D'Estonie et le Gouvernement de la République Française sur l'Encouragement et la Protection Réciproques des Investissements.
8. Vertrag zwischen der Republik Estland und der Bundesrepublik Deutschland über die Förderung und den gegenseitigen Schutz von Kapitalanlagen.
9. Agreement between the Government of the Republic of Estonia and the Government of the Kingdom of Denmark concerning the Promotion and Reciprocal Promotion and Protection of Investments.
10. Agreement between the Republic of Estonia and the Republic of Poland on the Reciprocal Promotion and Protection of Investments.
11. Agreement between the Government of the Republic of Estonia and the Government of the People's Republic of China on the Promotion and Reciprocal Protection of Investments.
12. Agreement between the Government of the Republic of Estonia and the Government of Ukraine for the Promotion and Reciprocal Protection of Investments.
13. Agreement between the Government of the Republic of Estonia and the government of the United Kingdom of Great Britain and Northern Ireland for the Promotion and Protection of Investments.
14. Agreement between the Government of the Republic of Estonia and the Government of the Czech Republic for the Promotion and Reciprocal Protection of Investments.