

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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WORKING PARTY ON THE FREE TRADE AGREEMENT
BETWEEN THE EFTA STATES AND POLAND

Questions and Replies

Contracting parties were invited (GATT/AIR/3548) to communicate to the Secretariat any questions they might wish to put concerning the Free Trade Agreement between the EFTA States and Poland relating to the Agreement. In response to this request, a number of questions were received and were transmitted to the parties to the Agreement. The questions and the replies which have been received are set out below.

1. Objectives (Article 1)

1.1 Question

Can the Parties to the Free Trade Agreement confirm that it is their intention to establish a full free-trade area? In this regard, can the Parties provide a written summary detailing their full plan and schedule for the elimination of tariffs and quantitative restrictions on substantially all the trade between the Parties to the Free Trade Agreement?

1.1 Answer

The objective of the Agreement is to establish a free-trade area in conformity with Article XXIV of the General Agreement. The full plans and schedules for the reduction to zero of tariffs on substantially all the trade between the Parties are contained in the relevant Articles of the Agreement as well as in the relevant Annexes and Protocols of the Agreement. To facilitate, a summary of the plans and schedules is given below.

- (a) The EFTA States abolished, upon the entry into force of the Agreement, all customs duties on imports and any charges having equivalent effect for products originating in Poland, except for the following products and countries (contained in Annex III to the Agreement):

- (i) *for coal and steel products;*

Austria reduced the duties to 50 per cent of the basic duty on the entry into force of the Agreement and to 40 per cent on 1 January 1994. Further reductions to 20 per cent, 10 per cent and to zero shall be made on 1 January 1995, 1996 and 1997, respectively;

Sweden reduced the duties to 60 per cent of the basic duty on the entry into force of the Agreement and to 40 per cent on 1 January 1994. Further reductions to 20 per cent, 10 per cent and to zero shall be made on 1 January 1995, 1996 and 1997 respectively;

- (ii) for certain *plastics products*;

Norway and Sweden reduced the duties to 60 per cent of the basic duty on the entry into force of the Agreement and to 40 per cent on 1 January 1994. Further reductions to 20 per cent and to zero shall be made on 1 January 1995 and 1996 respectively;

- (iii) for certain *textile and clothing products*;

Austria reduced the duties to 65 per cent of the basic duty on the entry into force of the Agreement and to 4/7 of the basic duty on 1 January 1994. Further reductions to 3/7, 2/7, 1/7 and to zero shall be made on 1 January 1995, 1996, 1997 and 1998 respectively;

Norway and Sweden reduced the duties to 5/7 of the basic duty on the entry into force of the Agreement and to 4/7 on 1 January 1994. Further reductions to 3/7, 2/7, 1/7 and to zero shall be made on 1 January 1995, 1996, 1997 and 1998 respectively;

- (b) Poland:

- (i) abolished, on the entry into force of the Agreement, all customs duties on products originating in an EFTA State and specified in Annex IV to the Agreement (covers a wide range of products classified in H.S. Chapters 25 to 97);
- (ii) reduced the duties to 6/7 of the basic duty on products specified in Annex V to the Agreement (tractors, buses, motor cars and lorries) on 1 January 1994. Further reductions to 5/7, 4/7, 3/7, 2/7 and 1/7 of the basic duty and to zero shall be made on 1 January 1996, 1998, 1999, 2000, 2001 and 2002 respectively.

1.2 Question

Can a summary be provided of the products listed in Protocol A which will not be free of customs duties (or duties having equivalent effect) by the end of the transition period?

1.2 Answer

The non-agricultural element of customs duties and charges having equivalent effect will be eliminated before the end of the transitional for all products covered by Protocol A.

2. Scope (Article 2)

2.1 Question

What percentage of trade between Parties to the Agreement is accounted for by products:

- (a) Falling within Chapters 25 to 97 of the Harmonized Commodity Description and Coding System;
- (b) Listed in Annex I to the Agreement;
- (c) Listed in Annex II to the Agreement;
- (d) Specified in Protocol A to the Agreement; and

- (e) Not covered by Chapters 25-97, Annex I, Annex II and Protocol A.

2.1 Answer

- (a) Products falling within HS Chapters 25 to 97 account for 90.5 per cent of the total trade between the EFTA countries and Poland (1992);
- (b) Products listed in Annex I account for 0.1 per cent of imports from Poland to the EFTA countries (1992);
- (c) Products listed in Annex II account for 0.6 per cent of the total trade between the EFTA countries and Poland (1992);
- (d) Products specified in Protocol A account for 0.7 per cent of the total trade between the EFTA countries and Poland (1992);
- (e) Products not covered by HS Chapters 25 to 97, Annex I, Annex II and Protocol A account for 5.5 per cent of the total trade between the EFTA countries and Poland (1992).

2.2 Question

What are the intentions of the Parties to the Agreement for bringing products not covered by Article 2 into the Free Trade Agreement?

2.2 Answer

A large number of those products not covered by Article 2 of the Agreement are basic agricultural products. These are, however, to a considerable extent covered in the bilateral agricultural arrangements, which have been concluded within the framework of the FTA to provide for measures to facilitate trade in agricultural products. These arrangements have been concluded on a bilateral basis, taking into account different agricultural policies and trade regimes of each EFTA State. The arrangements also contain review clauses, thus allowing to review the functioning and also the coverage of the arrangements. The few products listed in Annex I are excluded on a permanent basis.

**3. Rules of origin and co-operation
in customs administration (Article 3)**

3.1 Question

Can Parties confirm that the rules of origin provisions of the Agreement and in the individual bilateral arrangements on agriculture are consistent with the rules of origin set out in the Final Act of the Uruguay Round and will not result in higher trade barriers to non-parties to the Agreement?

3.1 Answer

The provisions on rules of origin laid down in Protocol B to the EFTA-Poland Agreement and in the individual bilateral arrangements on agriculture are conceived for the purpose of this Agreement and these arrangements. Furthermore, they are completely in line with the Common Declaration with Regard to Preferential Rules of Origin contained in Annex II to the Agreement on

Rules of Origin as set out in the Final Act of the Uruguay Round. They will thus not result in higher trade barriers to non-parties to the Agreement.

4. Customs duties on imports and charges having equivalent effect (Article 4)

4.1 Question

What customs duties or duties having equivalent effect are presently applied on imports by the Parties to this Agreement?

4.1 Answer

See answer to Question 1.

4.2 Question

Annex III to the Agreement provides that certain Parties to the Agreement may, in case of serious disturbances on the domestic market results from lower protection, reintroduce duties on the products listed in the Annex. What is the relationship between this provision and agreement's provisions on the application of safeguard measures?

4.2 Answer

Article 22 of the Agreement contains the general provisions on safeguard measures which may be invoked in relation to any products.

The provisions contained in paragraph 4 of Annex III are specific and may be invoked only in relation to products which are contained in that Annex, i.e. products originating in Poland in relation to which certain EFTA States (Austria, Norway and Sweden) apply, during the transition period, a progressive reduction of import duties.

4.3 Question

Could the Parties provide a summary of Annexes IV and V?

4.3 Answer

See answer to Question 1.

5. Quantitative restrictions on imports and measures having equivalent effect (Article 8)
Quantitative restrictions on exports and measures having equivalent effect (Article 9)

5.1 Question

What quantitative restrictions, and measures having equivalent effect, are currently applied to imports by Parties to this Free Trade Agreement?

5.1 Answer

1. EFTA States apply the following import restrictions:

- (a) Quantitative restrictions on *lignite* will be applied in Austria until the end of the transition period, i.e. 31 December 2000.
- (b) Quantitative restrictions apply at present in Iceland on *brooms and brushes*.
- (c) Quantitative restrictions apply in Norway mainly on *clothing made of textile materials*. These restrictions will be abolished on 31 December 1997.

2. Poland shall abolish:

- (a) at the latest by the end of the transition period, i.e. 31 December 2000, import restrictions on *used motor cars, buses and lorries, and on two-stroke engines and motor cars fitted with such engines*;
- (b) at the latest by 31 December 1996 import restrictions on *petroleum oils, petroleum gases, beer and vermouth*.

5.2 Question

What plans are there for the abolition of the quantitative restrictions on imports maintained by one State Party on the petroleum oils listed in Annex VII?

5.2 Answer

The import restrictions on petroleum oils and products thereof, listed in Annex VII, were abolished on 1 January 1994.

5.3 Question

What quantitative restrictions, and measures having equivalent effect, are currently applied on exports by Parties to this Free Trade Agreement?

5.3 Answer

1. EFTA States apply the following export restrictions:

- (a) On *ferrous waste and scrap* by Austria, Finland, Liechtenstein and Switzerland;

(b) on *unwrought copper, copper waste and scrap and on aluminium waste and scrap* by Austria; and

(c) on *vessels and other floating structures for breaking up* by Finland.

2. Poland:

(a) shall abolish by 31 December 1996 the export licensing on *coal, coke, petroleum oils and preparations of petroleum oils*;

(b) applies export restrictions on *waste and scrap of copper, nickel, aluminium, lead, zinc and tin*.

5.4 Question

Do the provisions of Article 8 and Article 9 of the Agreement regarding the elimination of quantitative import and export restrictions and measures having equivalent effect apply to all products (both agricultural and non-agricultural)?

5.4 Answer

The provisions of Article 8 and Article 9 apply to the products covered by the Free Trade Agreement, as specified in Article 2 of the Agreement.

As far as import restrictions are concerned, specific provisions may apply to agricultural products covered by bilateral arrangements, to processed agricultural products referred to in Protocol A or to fish and other marine products referred to in Annex II to the Agreement.

There are no other export restrictions applied in trade between the EFTA States and Poland than those referred to in the answer to Question 11.

6. State monopolies (Article 11)

6.1 Question

What products are currently subject to state monopolies?

6.1 Answer

The Agreement does not contain any lists of state monopolies in the States Parties, with the exception of those state monopolies listed in Protocol D and to which the provisions of Article 12 do not apply. Since Protocol D is part of the Free Trade Agreement it has been notified together with the Agreement and its Annexes and Protocols to the Contracting Parties. For easy reference, the text of Protocol D is enclosed in Annex 1 to this document.

7. Information procedure on draft technical regulations (Article 12)

7.1 Question

Will the technical regulations and amendments apply equally to all countries and be notified under the TBT Agreement?

7.1 Answer

The technical regulations and amendments will be applied equally to all countries under the provisions of the TBT Agreement. Notification requirements under the TBT Agreement will be observed by those Parties which are signatories to the TBT Agreement.

8. Trade in agricultural products (Article 13)

8.1 Question

In what manner do the bilateral arrangements between the EFTA States and Poland facilitate trade in agricultural products?

8.1 Answer

The bilateral arrangements abolish or reduce customs duties and charges having equivalent effect on a large number of agricultural products, thereby providing better access conditions for those products.

The agricultural policy considerations prevailing in each country have been decisive when formulating the product-specific solutions for items included in the bilateral arrangements. These considerations also determine the possibilities to facilitate trade in agricultural products.

8.2 Question

Are quotas or any other quantitative restrictions applied on trade in agricultural products between the Parties in their separate bilateral arrangements? If so, what form do these quantitative restrictions take and are they to be abolished under the bilateral arrangements? If the bilateral arrangements only reduce (under line one) duties and charges, how will free trade be achieved?

8.2 Answer

No specific quotas or any other quantitative restrictions are applied under the bilateral arrangements.

While trade in processed agricultural products (Protocol A) and in fish and other marine products (Annex II) is liberalized, the bilateral arrangements improve market access conditions either by eliminating or significantly reducing tariff barriers on products covered by these arrangements. The Parties have declared their readiness to foster, in so far as their agricultural policies allow, harmonious development of trade in agricultural products (Article 13 of the Agreement). In most of the bilateral arrangements a reference is also made to the commitment to continue the efforts by relevant Parties with a view to achieving progressive liberalization of agricultural trade, within the framework of their respective agricultural policies and their international commitments, and taking into account the results of the Uruguay Round.

Although the bilateral arrangements, concluded within the framework of the Free Trade Agreement, provide mainly for reduction or elimination of duties, such measures contribute nevertheless to the development of closer integration between the economies of the Parties to the free-trade area without raising barriers to the trade of other Contracting Parties with the Parties to this area. Furthermore, within this free-trade area, duties and other restrictive regulations of commerce are eliminated on substantially all the trade between the Parties in products originating in their territories.

9. Internal taxation (Article 14)

9.1 Question

Are there any measures or practices of an internal fiscal nature establishing, directly or indirectly, discrimination against other countries? If so, what are they?

9.1 Answer

There are no measures or practices of an internal fiscal nature establishing discrimination against other countries.

10. Rules of competition concerning undertakings (Article 18)

10.1 Question

What criteria are to be applied in assessing whether actions prevent, restrict or distort competition, or whether actions by dominant undertakings constitute an abuse of their position? Are these considerations subject to specific legally based processes within the States Parties to this Free Trade Agreement?

10.1 Answer

No further criteria have been defined in Article 18 of the Agreement. The assessment of the conduct of undertakings is made on a case-by-case basis, taking into consideration the effects of competition and trade between Parties.

11. State aid (Article 19)

11.1 Question

Can the Parties to this Agreement confirm that any action taken in accordance with Article 19 will be in accordance with the relevant provisions of the GATT?

11.1 Answer

Yes.

12. Dumping (Article 20)
Emergency action on imports of a particular product (Article 21)

12.1 Question

Can the Parties to this Free Trade Agreement give assurance that any action in respect of dumping or emergency action (Articles 20 and 21) shall not attribute to third countries any injury resulting from imports from States Parties to the Free Trade Agreements, particularly where a commonly acceptable solution is agreed in accordance with Article 25 of the Free Trade Agreement?

12.1 Answer

No injury is attributed to third countries by any action in respect of dumping or emergency actions (Articles 21 and 22), not even in cases where a commonly acceptable solution is agreed in accordance with Article 25 of the Agreement.

13. Re-export and serious shortage (Article 23)

13.1 Question

What quantitative export measures would be maintained or are being envisaged as applied, under Article 23?

13.1 Answer

Specific measures are neither maintained nor envisaged under Article 23.

14. Balance of Payments Difficulties (Article 24)

14.1 Question

Will commitments under Article 24 on measures for balance-of-payments purposes be carried out in a non-discriminatory fashion and without prejudice to the interest of these countries?

14.1 Answer

Article 25 provides that any measures for balance-of-payments purposes will be applied in accordance with the conditions established under the GATT.

ANNEX 1

PROTOCOL D

(Referred to in Paragraph 1 of Article 11)

Monopolies not adjusted in accordance with Article 11
at the Entry into Force of the Agreement

1. Article 11 of the Agreement shall apply to Liechtenstein and Switzerland and with regard to state monopolies concerning salt and gunpowder and to the Icelandic monopoly on fertilizers only to the extent that these States will have to fulfil corresponding obligations under the Agreement between the EFTA States and the European Economic Community and its Member States on a European Economic Area.
2. Article 11 shall be applicable at the latest from 1 January 1995 in the case of the Austrian monopoly on salt.
3. The adjustment according to paragraph 1 of Article 11 shall in the case of Poland be made progressively and be accomplished not later than 1 January 1997.