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Additional Questions and Replies

The Ministry of Foreign Affairs of the Republic of Estonia has submitted the replies to questions raised at the meeting of the Working Party held on 14 November 1995, with the request that they be circulated to the members of the Working Party. The questions and replies are reproduced hereunder.

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GENERAL

1. Please complete the four notifications annexed to the procedures for accession (WT/ACC/1) - Import Licensing Procedures, Customs Valuation, TBT and State Trading.

Notifications on Import Licensing Procedures, TBT and State Trading are annexed herewith.

II. ECONOMY AND FOREIGN TRADE

1. Economy

2. Estonia maintains that it has no State trading enterprises and that trade is "totally decentralized" (WT/ACC/EST/4, question 1).

- **How does Estonia justify this claim when 30 per cent of industry is State-owned and the operations of specific sectors such as alcohol and tobacco are controlled by government agencies through licensing arrangements?**

There are enterprises that still belong to the State (i.e. are owned by the government) as the process of privatisation is still in progress. The fact that the Government of Estonia owns shares in some company or other does not denote any privileges to such an enterprise in the sense of Article XVII. Therefore, as the government-owned enterprises have to follow their pragmatic business interests without any kind of discriminatory treatment, Estonia, with certain reservations for the current status of the prices in electric power generation and the State monopoly of metal export and reexport (for the issue of scrap metal exports monopoly please refer to the answer to question 72 under State Trading), does not contradict with any of the provisions laid out in Article XVII.

As for specific sectors (include also alcohol and tobacco), licensing arrangements are first and foremost to protect the consumer and to provide information on certain social security issues; therefore they are also in conformity with the principles of GATT Article XX (General Exceptions).

In this connection it is essential to stress over again that the Government of Estonia does not set any quantitative restrictions nor does it determine the prices even to the production of alcoholic beverages and tobacco products. Licensing is, like in any other country, required to guarantee the needed level of consumer protection and to effectively limit all illegal business activities, and to provide general information on the number and kind of specific activities and/or operators.

3. Estonia notes that price controls for electricity were partially liberalized in July 1994.

- **Have prices been liberalized for any other sectors considered by Estonia as natural monopolies? Are there plans for similar price decontrols in other related sectors?**

At present there are very few prices that have not been released of control. The exceptions are the pricing of electricity and oil shale.

Liberalisation of electricity prices is an ongoing, but complicated process. In the long run there are intentions to release prices also in oil shale industry.

(a) General Description

4. Concerning the response to question 8 of WT/ACC/EST/2, regarding purchase of land by overseas residents, what is the procedure for obtaining the permission of the government and local authority? What criteria are applied in determining whether to grant permission?

The procedure of obtaining permissions from the local authorities and the Government mentioned in the answer to question eight of WT/ACC/EST/2 is regulated by the Government Regulation No. 131 "Restoration of Land Ownership in the Cases of Unlawful Nationalisation and the Order of Privatisation of Land in the Cases of Application of the Right of First Refusal" of 11 April 1994. As has been established explicitly in the General Provisions, this Regulation does not discriminate against overseas residents: for both Estonians and foreigners the procedures start from fulfilling a required form and submitting the needed documentation which, in itself may not guarantee a desired outcome because of the problems associated with the current stage of the Land Reform.

Differences between the rights of Estonian and foreign citizens are established in the Law on Land Reform only in connection with the determination of entitled persons in paragraph 21:

- (1) The entitled persons of land privatisation can be citizens of Estonia.
- (2) A foreigner may privatise farmland that has been given for use according to the Farm Law of the Estonian Soviet Socialist Republic, also the land under his house and the land necessary for servicing the building.
- (3) The land under production and service buildings and other constructions, and vacant land necessary for erecting the above mentioned buildings, can be privatised by legal persons and foreigners at the consent of a local municipal council and at the permission of the Government of the Republic of Estonia.

The reason behind confirming a lawful deal with a permission is certainly not an intention to hinder buying and selling of land neither to foreigners nor citizens of Estonia but rather the fact that, as the system of cadastral units of real property has been just started and the legislation on land is still being developed, there are several problems also stemming from the principle of legal continuity, the existence of incorrect measurements and plans.

This Regulation which places the ultimate responsibility on the Government of Estonia is not meant for anything else but to guarantee lawful re-entering of land (specific cadastral units of real property) into normal business transactions and thereby avoid possible later law suits against State authorities. The fact that generally the real property units as such do not exist complicates the situation.

At present a new Law on Land Reform is being submitted to the Riigikogu (Estonian Parliament). According to this law the central government is going to have less of expensive State authority control over deals with land. More control is to be given to the local authorities. The greatest difficulty in granting these permissions is the actual absence of a functioning real estate market because the real property is now only in the stage of formation. The real property becomes tradable as soon as the new measurement system gets started. In accordance with the new Law the Estonian Privatisation Agency will be responsible for selling land for business purposes.

(b) Main directions of the ongoing economic policies, tactical and strategic goals, etc.

5. Concerning the response to question 2 in WT/ACC/EST/2, how does the government determine which spirits and alcoholic beverages are "over produced" in Estonia? Why is it necessary to set these prices to improve tax collection?

Estonia asks the sentence on page 3 in the answer to question 2 in WT/ACC/EST/2 to be read as follows:

As far as consumer products are concerned, prices are fixed only on spirits and on alcoholic beverages of 21 per cent and over, **produced in Estonia**.

We apologise for the ambiguity caused by the absence of a comma; additionally we have to point out once again that according to the Government Regulation No. 357 "Changes to the Government Regulation No. 408, of 21 December 1993", since 1 December 1995, in the Republic of Estonia the prices of the alcoholic beverages with the alcohol content of 22 volume percent, and over, of absolute alcohol have been released of governmental price control.

6. Please clarify whether provisions guiding the financial support provided by the Innovation Fund are in line with criteria established by Article 8.2(a) of the Agreement on Subsidies and Countervailing Measures (see answer to question 4 of WT/ACC/EST/4).

According to the Charter of the Estonian Innovation Fund financing is provided in line with the following rules:

- The extent of the financial support may not exceed 50 per cent of the total cost of the relevant project.
- The loan (or loan together with financial support) may not exceed 75 per cent of the total cost of the relevant project.
- The interest rate of a loan is agreed upon the conclusion of a loan agreement.
- Loans are provided for the maximum period of five years; the exact duration of the loan agreement and other conditions shall be determined in the agreement.
- It can be said that the provisions guiding the financial support provided by the Innovation Fund are in line with criteria established by Article 8.2 (a) of the Agreement on Subsidies and Countervailing Measures with the only exception being that the Charter does not distinguish for the notions of 'industrial research' and 'pre-competitive development activity' as determined by Article 8.2 (a).

However, the principle of "pre-competitive development activity" is integrated in the operations of the Estonian Innovation Fund as it does not support enterprises; instead, financing is effected on a project basis. The goal of the fund is neither to support the operations of any enterprise nor artificial creation of competitive advantages to any specific product but to enhance the technological level of Estonian enterprises and thereby support transition to modern technologies. This can be essentially effected through research programmes and pre-competitive activities.

Additionally it has to be mentioned that these are specific subsidies but meet the conditions provided for in Article 2 Specificity 2.1 (a), (b), (c); therefore, also in the sense of Article 8 Identification of Non-Actionable Subsidies 8.1 (b) they are to be considered as non-actionable. Besides, they are issued in amounts which do not allow any adverse effects or serious prejudice in the sense of Articles 5 and 6 and they do not prefer domestic over imported.

The attention has to be drawn that these subsidies are neither (a) contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance nor (b) contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods (most of the modern technologies are just to be brought into Estonia; this needs appropriate financing). Therefore this financing support does not fall under Article 3 (Prohibition).

Privatization

7. What is current status of the 1995 privatization effort described in the responses to questions 9 and 10 of WT/ACC/EST/2? What State-owned companies does the Government of Estonia intend to maintain; that is, which State-owned companies will not be privatized? Are foreigners not eligible to purchase shares?

The results of the privatisation in 1995: 137 contracts were concluded through the method of tender with preliminary negotiations. The total sales price is EEK 870,374,104 (USD 75.5 million). Investments worth EEK 975,686,600 (USD 76 million) and jobs for 15,801 people have been guaranteed by the purchasing firms. In 1995, 118 objects have been sold on auctions for the total of EEK 113 million (USD 9.8 million).

The ten largest enterprises privatised in 1995.

Name of the State-owned share company	field of activity	Price in EEK (EEK 8 = DEM 1)	Name of the purchasing company
RAS Balti Manufaktuur	clothing	25 million (plus liabilities worth 40 million)	Asean Interest, Ltd.
RAS Wermo	furniture	24 030 000	AS Thompson
RAS Tartu Õlletehas	brewery	26 000 000	AS Magnum Konsumer
RAS Keila TERKO	granary	27 000 000	AS Printsiip PM
RAS Saku AB	transportation	24 000 000	AS A.T.V.
RAS Kalev	confectionery	56 000 000	AS Talinvest
RAS Rakvere Lihakombinaat	meat factory	50 000 000	Nigula Põllumajandusühistu
RAS Tallinna Meretehas	engineering	37 000 000	AS Vavekor

The list of State-owned property that is not going to be privatised has been established by a Government Regulation No. 328 of 25 October 1993 (published in "Riigi Teataja" No. 70 of 16 November 1993) and it consists of mostly buildings belonging to the Government and other State institutions: various offices, the buildings of Ministries, the seat of the Riigikogu, police stations, hospitals, museums, public libraries, schools, etc. Among major items the list also contains the bigger part of the property of Estonian Railway, Estonian Airports, Estonian Post, the property of the Estonian Highways' Department, the locations of Estonian Borderguard Department, Estonian Defence Force, and the property of the Ministry of Foreign Affairs at home and abroad.

As it has been said, the list is not final as the governmental administrative sector has been in existence for about five years and alterations in the list of governmental authorities' property do occur. Many services are to be established.

The Board of the Estonian Privatisation Agency treats equally both domestic and foreign investors when considering their bids. The only difference is that, considering the short period of accumulation of domestic capital, two exceptions are made to companies belonging at least 51 per cent to Estonian capital:

- 1) they are allowed to pay in instalments (down payment is 20 per cent);