

- 2) they are allowed to pay half of the price in privatisation vouchers, accepted at their nominal value of EEK 300.

Competition policy

8. **Concerning the response to question 12 of WT/ACC/EST/2, how does the Government of Estonia determine whether an enterprise is in a "dominant position"?**

Determining of a "dominant position" of an enterprise belongs to the competency of court authorities not to the Government.

According to Article III paragraph 16 Enterprise Dominant in the Market of the Law on Competition, a dominant position is defined as follows:

The market is dominated by an enterprise or any other market participant who is:

1. without any substantial competition (having at least 40 per cent of the circulation of that market);
2. dominant in the market owing to its financial power, access to markets, contacts, or other circumstances.

III. FOREIGN TRADE REGIME

1. Import Regulations

9. **The response to question 21 in WT/ACC/EST/2 states that the customs procedure tax, which Estonia has acknowledged as inconsistent with GATT Article VIII, will be replaced by a fixed tax.**

- **Has this occurred as planned?**
- **Will Estonian exports also be charged the processing fee?**
- **How will Estonia determine the fixed rate? Please outline how the fixed tax will approximate the cost of the services rendered in line with Article VIII of the GATT.**

Customs procedure tax has been replaced with a State fee in fixed amount of 200 EEK per customs declaration on 1 April 1995. Both, imports and exports are charged a State fee; thereby no difference is made between domestic and foreign goods. The 200 EEK covers all necessary expenses for customs clearance service and does not represent an indirect protection to domestic products nor a taxation of imports or export for fiscal purposes.

(a) The evolution of the Customs Tariff Regulation

10. **What is the status of the Law on Customs Tariffs which was to have been presented to the Government last February? Please submit a copy of the law to the WTO.**

The Law on Customs Tariffs is not adopted yet by the Riigikogu (Parliament).

The draft text of that law has not been translated into English so far. After completing translation it will be submitted to the WTO immediately.

11. **What is the status of the Commercial Code?**

The Commercial Code became effective on 1 September 1995. The provisions of the Commercial Code are described in answer to question 7 of WT/ACC/EST/2.

(b) Customs tariff nomenclature, types of duties, general description of the customs tariff structure, weighted average level of duties on main customs tariff groupings

Customs Duties

12. In the response to question 8, Estonia states that it intends to maintain its free trade orientation but would like to reserve the right to impose customs tariffs when circumstances warrant. This is not consistent with the use of bound tariffs to provide some level of transparency and predictability in the level of import protection. Article XIX provides temporary protection for domestic producers which have been injured by import surges. Invoking Article XIX is a more attractive alternative than establishing a permanently high tariff level.

Estonia is in the position to reserve the right to impose customs tariffs when circumstances so warrant. There are no intentions to establish high tariff level. Estonia is applying for the bound tariff ceilings equally with its WTO partners.

Excise Duties

13. Please confirm that the differences between excise tax rates on imported and domestically produced alcoholic beverages and tobacco products will be eliminated as from 1 January 1996 (answer to question 9 of WT/ACC/EST/4).

Estonia confirms that the differences between excise tax rates on imported and domestically produced alcoholic beverages and tobacco products are eliminated as of 1 January 1996. The excise tax rate on domestically produced tobacco products was raised to the level of imported tobacco products. Excise tax on beer will be equalised from 1 July 1996.

14. We are pleased with Estonia's confirmation that the differential excise tax on alcohol and tobacco imports and exports will be equalized on 1 January 1996, consistent with GATT provisions.

- **Has Estonia determined what excise tax rate will be charged on alcoholic beverages when the domestic rate and import rate are equalized?**
- **This member would like to see the equalized excise duty rate for alcoholic beverages set at the current rate for domestically produced alcohol. Based on current exchange rates, excise duties on imported beer is about 7 times that of local production.**

Please, see answer to question 13 of present document. For determining the excise tax rates imposed to alcoholic beverages, please see here the appendix to the Law on Alcohol Excise Tax.

Excise Tax Rates on Alcohol Excise tax rate in EEK

Taxable product	Until 1 July 1996	From 1 July 1996
1. Sparkling wines and other wines of fresh grapes with an alcoholic content by volume up to 15 %vol	10.40*	10.40*

	- unbottled wines of fresh grapes	8.00*	8.00*
2.	Sparkling wines and other wines of fresh grapes with an alcoholic content by volume exceeding 15 %vol	15.60*	15.60*
	- unbottled wines of fresh grapes	12.50*	12.50*
3.	Other fermented drinks (e.g. cider, berry wine etc.) and their blends :		
	1) with an alcoholic content by volume up to 15 %vol	4.90*	4.90*
	2) with an alcoholic content by volume exceeding 15 %vol	6.50*	6.50*
4.	Beer:		
	1) with an alcoholic content by volume up to 4. 7 % vol in case of annual production in thousands of dekalitres: up to 300 (incl.)	1.50*	2.00*
	over 300	2.00*	2.50*
	2) with an alcoholic content by volume exceeding 4. 7 % vol in case of annual production in thousands of dekalitres: up to 300 (incl.)	2.00*	2.50*
	over 300	2.50*	3.00*
5.	Imported beer:		
	1) with an alcoholic content by volume up to 4.7 % vol	6.00*	2.50*
	2) with an alcoholic content by volume exceeding 4. 7 % vol	9.00*	3.00*
6.	Other alcohol	1.15**	1.15**
7.	Rectified spirits produced in Estonia, used in medicine, pharmaceuticals, veterinary medicine, for scientific and study purposes, the production of perfumery	0.20**	0.20**

* per litre

** per one %vol. of absolute alcohol a litre

Value-added Tax

15. Concerning the list of VAT exemptions in the response to question 34 of WT/ACC/EST/2, how does the Ministry of Social Affairs determine which goods, including medicines, are included on the list of VAT exemptions? Is there an established procedure for broadening the list or for removing products from the list? What are "goods imported on the basis of contractual guarantees"?

The VAT exemptions that are determined in details by the Ministry of Social Affairs are:

- medicines and other medical products and goods;
- orthopaedic prostheses and other aid devices for disabled persons including their spare parts;
- glasses and contact lenses for correction of visual disorders and other devices for the same purpose, devices for hearing impairment, and spare parts for the mentioned devices.

The Ministry of Social Affairs is issuing more detailed list. No specific procedure has been established for that.

In case of medicines, all medicines and semi-medicinal products in form of bulk or final products approved for the medical use in the country by State Agency of Medicines belong to the VAT exemptions.

"Goods imported on the basis of contractual guarantee" means goods, which are re-imported to Estonia under the contract of guarantee (warrant) or which are imported to Estonia for making necessary repairs under the contract mentioned above.

(d) Taxation Regime

16. Concerning the customs duty assessed on imported cars by natural persons and based on an "artificial" list of value:

- **Has this been replaced by an excise tax as noted in WT/ACC/EST/2?**
- **Is this new excise tax also applied on an "artificial" value? Is this tax also applied on domestic car sales?**
- **This tax seems to be inconsistent with GATT provisions. How does Estonia intend to bring this tax into conformity with GATT/WTO provisions?**

According to the Law on Motor Vehicle Excise Tax that is in force from 1 April 1995, all motor vehicles imported into Estonia or manufactured in Estonia are subject to the excise tax. The cylinder capacity and age of the motor vehicle form the basis for charging the excise tax. Estonia believes that using such a method for charging the motor vehicle excise tax, does not violate the GATT/WTO provisions. See also answer to question 11 of WT/ACC/EST/4.

(f) Non-tariff Measures, Quotas and Licensing System

17. We are pleased that Estonia does not foresee the use of quotas to regulate trade (WT/ACC/EST/2). Please confirm that no quotas remain governing exports or imports.

Estonia confirms that it has been generally accepted in Estonia that no quotas will be used to regulate trade.

18. What is the status of the Estonian submission on Notification on Import Licensing Procedures?

Notification on Import Licensing Procedures is annexed herewith.

19. Estonia notes that a law dealing with import licensing is under development following the proposals of State authorities (WT/ACC/EST/4, question 12).

- **What is the conclusion of Government discussions regarding the import licensing system and the new legislation?**

This law is not meant to deal with import licensing as such but rather to regulate any issues pertaining to licensing in general in conformity with the WTO. The provisions of these documents are to be used as the basis for the law.

The Government discussions are still under way. The most likely result would be a new law that deals with licensing in general as was specified above.

20. Concerning the responses to questions 46 and 46 of WT/ACC/EST/2, we need more detail on the licensing of activities:

- **What are the procedures for getting a licence? What are fees? Is there an appeal if the licence is refused? Is the applicant provided with a justification for the refusal?**

The order of issuing licenses is regulated by relevant Government Regulations. It is essential to submit an application.

The Licence fees have been determined by the Law on State Fees which is in force since 1 April 1991 and altered since 31 March 1995.

The order of declaring a licence null and void or postponing its validity has also been set by Government Regulations. The issuer of an activity license can refrain from issuing a licence in the cases when the activities of the enterprise can harm the security considerations, can cause harm to the natural environment of Estonia, pose a threat to the health of people and the property owned by them, or in the cases when the interests of the consumer of the product have been neglected or the terms of the application have been violated or not fulfilled.

In each case the application has been submitted, the issuer of the licence is obliged to determine whether that license is granted or refused in thirty days' time from having received all the required application documentation. In the cases of refusal the applicant may file for a court procedure. The refusal has to be justified.

- **What are the standards applied to alcoholic beverages? What laboratories do the testing? Does Estonia recognize standards of any third countries? How often does a product have to be tested - for each shipment? Annually? What are the costs?**

Estonian laboratories follow European Directives. For instance, 1238/92 No.L130/13, 1576/89 No.L160/1 for determining Community methods for the analysis of spirits and alcohol; 000/90 - Methods for determining the quality norms of wines. According to these directives the Government Regulation No. 40. of 5 February 1993 "The Technical Conditions and Physical Chemical Parameters of the Spirits and Alcohol Sold to Consumers" has been adopted.

The procedures of carrying out the needed chemical analyses and issuing of the quality certificates has been so far fulfilled by an independent laboratory RAS Areto which has been accredited according to the requirements established during the transition period. At present the laboratory of RAS Liviko constitutes an exception as it has the right to conduct analyses of its own produced alcoholic beverages.

Recognition of standards of third countries is mutual and the first steps in this direction are being taken.

According to the Government Regulation No. 486 of 28 December 1994, all alcoholic beverages, regardless of whether they have been produced in Estonia or imported to Estonia, must be entered into the alcohol data bank. According to the Regulation of the Minister of Economic Affairs No. 9 of 2 February 1995 the analyses are to be conducted for all entries to the databank. Analysis of each shipment is obligatory.

The price of entering the data on an alcoholic beverage to the alcohol data bank is: the annual databank fee EEK 800; entering a new entry to the body of data EEK 200; analyses (depending on amount of work done according to an agreement) EEK 500 and EEK 700.

21. Please elaborate whether, in light of the provisions of the Agreement on Import Licensing, the "licence on activity" as applied to imports of tobacco, fuels and lubricants cannot be considered as an automatic licensing procedure (answer to question 12 of WT/ACC/EST/4).

The licence on activity as applied to the sales of both domestic and imported tobacco, fuels, and lubricants is not used to restrict trade and it serves as an equivalent of an automatic import licence applied in a neutral and impartial way in the sense of the "Agreement on Import Licensing Procedures". These procedures are not applied in a manner contrary to the principles and obligations of WTO.

In the case of tobacco, the activity licences are administered in conformity with Article 2 of the Agreement on Import Licensing Procedures in such a manner that any legal person which fulfils the legal requirements as stated in the Government Regulation No. 4. of 7 January 1994 (The Order of Import and Export, Production and Selling of Alcohol, Tobacco and Tobacco Products) is equally eligible to apply for and to obtain this activity license covering also the import operations involving the products subject to it (Article 2 Automatic Import Licensing 2. (a) (i)). Applications for activity licenses may be submitted on any working day prior to the customs clearance of the goods. The maximum period of time allowed for the issuing authority to either grant or refuse to grant the license to the applicant is 30 days (for justification see below).

Government Regulation No. 132 of 22 March 1995 (The Order of Commerce in Fuels and Lubricants) regulates the trade in fuels and lubricants which includes the import and export, retail and wholesale, and storing of fuels and lubricants. Applications for this type of activity license may be submitted on any working day prior to the customs clearance of the goods. The maximum period of time allowed for the issuing authority to either grant or deny the license to the applicant is 10 days. Again, any legal person which fulfils the legal requirements as stated in the Government Regulation No. 132. of 22 March 1995 is equally eligible to apply for and to obtain this activity license covering also the import operations involving the products subject to it (Article 2 Automatic Import Licensing 2. (a) (i)).

For any Government Regulation which does not set the duration of the issuing period, the maximum duration of the period is set on 10 days by the Government Regulation No. 90 of 8 May 1990 (On Licensing the Activities of Enterprises in the Estonian SSR). In the case of the Government Regulation No. 4 of January 1994 (The Order of Import and Export, Production and Selling of Alcohol, Tobacco and Tobacco Products) the duration of 30 days is to be viewed as an exception caused by the need to implement the analyses of quality. It is to be regarded as justified under GATT Article XX (b) and in conformity with Article 2 2. (b) of the Agreement on Import Licensing Procedures it will be maintained as long as the circumstances which gave rise to its introduction prevail and as long as its underlying administrative purposes cannot be achieved in a more appropriate way.

Although regularly any activity license involves the right to import and export the item specified by a relevant Government Regulation, these licenses only partly cover the term of "import licensing" but specify more of other conditions like observance of the quality standards and include also longer validity terms in the case of establishing a longer operations' record in this field. This system of licensing has been established to guarantee consumer safety. No sporadic trade based on a single deal with possible involvement of any fraudulent practice should be possible under this system since long-term licenses can be obtained in all cases of conformity with the established requirements. Enterprises that have developed a longer record are eligible for licences with longer validity periods.