

22. When is Estonia going to elaborate "principles of licensing for importing food" (question 16)? Please confirm that these principles will be in line with provisions of the Agreement on Import Licensing.

The licensing provisions for food importing have not yet been approved by the Government and so they are not in use. This process would be finalised in the first half of 1996. Please see also answer to question 28.

Estonia confirms that the principles of licensing for importing food will be in conformity with provisions of the Agreement on Import Licensing Procedures.

(g) Customs Valuation

23. What is the status of the Law on Customs Valuation? Please confirm that the Law on Customs Valuation, set to be implemented on 1 January 1996, will supersede any provisions for instituting minimum prices on imports, even agricultural imports.

Law on Customs Valuation became effective on 1 January 1996 and supersede institution of minimum prices on imports.

Extract from the Article 9 of the Law on Customs Valuation:

(2) No customs value shall be determined under the provisions of this article on the basis of:

- ... 4) minimum customs values established by the executive State institution;
- 5) arbitrary or fictitious values; ...

This holds for all imports, even agricultural. (See also answer to the question 13, WT/ACC/EST/4)

24. Please provide copies of the current and new legislation governing customs valuation to the Working Party.

No new legislative acts have been adopted since the "Information on Implementation and Administration of the Customs Valuation Agreement" and "Act on Customs Valuation" were provided in WT/ACC/EST/4 as Annex 1 and Annex 6.

(h) Rules of Origin

25. What is the status of the "elaboration" on Estonian rules of origin planned for 1995 that is noted in WT/ACC/EST/4?

Drafting of Estonian rules of origin is continuous process and is developing in accordance to the developments in the frame of the work of the Technical Committee on Rules of Origin of the WCO.

Due to the extremely liberal foreign trade regime the use of national rules of origin is not essential. To reach favourable treatment of estonian goods the agreed rules of origin are used in the frame of free trade agreements. (See answer to the question 14, WT/ACC/EST/4)

(i) Sanitary and Phytosanitary Measures (and Technical Barriers to Trade)

26. WT/ACC/EST/2 notes that Estonia has no legal act concerning the adoption and application of technical regulations.

- **How does Estonia ensure that their standards are developed in a clear and transparent manner?**
- **What steps are Estonia taking, e.g. drafting legislation, to develop and apply its technical regulations consistent with the obligations detailed in the WTO Agreement on Technical Barriers to Trade?**

Rules for developing and presentation of Estonian standards are established in normative documents which are based on international (ISO Directives and Guides) and European rules (CEN/CENELEC International Regulations).

Where technical regulations are required and relevant international standard exist Estonia uses them as a basis in drafting its technical regulations. General aim of the standardization policy is the adoption of international standards and national implementation of European Standards. In some cases, if it appears impossible, the Estonian standards are harmonized with the international ones.

27. Estonia notes in WT/ACC/EST/4, question 6, that its national standards (technical barriers to trade) are published.

- **Could Estonia make these standards available to the WTO Secretariat?**
- **What process will Estonia establish for a prior comment period by WTO members before standards are published? How long is the comment period?**

The standards are published in the Estonian language. Information about the standards is given in the monthly magazine of the National Standards Board. The WTO Secretariat will be provided with standards after introducing work programmes and notification procedures. At present the prior comment period in Estonia is 2 months. The comment period by the WTO Members is 60 days.

28. WT/ACC/EST/4, question 16 states that the Law on Food is intended to guarantee food quality and "internationally competitive" food.

- **What is meant by the term "internationally competitive", and how does this relate to food standards?**
- **Have the import licensing provisions been determined? Please elaborate the "non-automatic" licensing plan envisioned.**
- **If most licensing for food products will be non-automatic, how is this consistent with objectives of the WTO?**

The Decree of the Estonian Government No.384 from December 7, 1994 states: In order to verify the reliability of experimentation, calibration, control and certification in Estonia, to start carrying out these activities from 1 January 1994 in accordance with the European series of standards EN45000.

According to the Decree of the Minister for Finance No.45 from 25 February 1994 it is temporarily allowed to use in parallel with EN45000 an analogical but slightly simplified procedure.

Under "internationally competitive food" it is meant, that instead of simplified procedure, accreditation is done in conformity with the European series of standards EN45000.

The licensing provisions for food importing are not approved by the Government yet and so they are not in use. This is expected to be finalised in the first half of 1996.

Granting of a license is automatic and is in no way quantity restrictive. Licensing is planned fully in accordance with Article 2 "Automatic Import Licensing" of the Agreement on Import Licensing Procedures. Under the non-automatic element it is understood that phytosanitary requirements are violated.

As licensing of food in Estonia is automatic it is consistent with objectives of the WTO and does not restrict import "for any person, firm or institution which fulfils the legal and administrative requirements of the importing Member" (Art.3 and 5 of the Agreement on Import Licensing Procedures).

As "non-automatic" element of licensing pertains only to illegal action in importation of food (abolishing the long-term license when infringement of the law is discovered) it can in no way be inconsistent to WTO principles.

29. In the response to question 16 of WT/ACC/EST/4, Estonia indicates that they have established a National Food Board.

- **What is the legal basis for this board? What laws/regulations govern it? Will Estonia submit copies to the WTO?**

Chapter 3, Article 12 of the Food Law is the legal basis for the National Food Board:

- (1) National Food Board (further Food Board) is formed by the Government of the Republic.
- (2) Officials of the Food Board have the right to require information and data on food quality and safety from country governments, inspecting officials, enumerated in paragraphs 1 and 2 of Article 16, from food handling enterprises and from State authorities and officials, examining food and nutrition.
- (3) Main tasks of the Food Board are analysis of the status of food and nutrition policy in the State and working out proposals, drafts of laws and other legislative acts in this field, informing the Commission of Food Policy, inspection authorities and the public, coordinating of inspection of food quality and safety, providing of food handlers and laboratories, analysing food samples, working out of methods of control and analysis and corresponding counselling, taking part in accrediting, certifying and licensing of inspection authorities and officials, dealing with food inspection, working out and coordinating of national monitoring programmes.
- (4) The officials of the Food Board have the pledge of business and production secrecy, coming to their knowledge during fulfilling their professional duties.
- (5) The Food Board informs every year the Government of the Republic and the Riigikogu (Parliament) of the status of the food quality and safety in the State (Annual Report of the Food Board).

The National Food Board is clearly an institution for drafting legislation and to carry out organizational activities. The National Food Board does not have any administrative power.

The text of the Food Law was provides as Annex 10 to WT/ACC/EST/4.

30. Estonia indicates that it intends to implement non- automatic licensing for importing food.

- **What sort of licensing is envisaged and how will the Government of Estonia insure that such licensing is consistent with the WTO?**

The essence of the non-automatic licensing for importing food is described in answer to question 28. As "non-automatic" element of licensing pertains only to illegal action in importation of food (abolishing

the long-term license when infringement of the law is discovered) it can in no way be inconsistent to WTO principles.

(j) Other

31. What is the status of the Anti-Dumping Law that was to be sent to Parliament in late 1994? Has the legislation been finalized? If so, please summarize key provisions. Does it provide for the application of safeguard measures as consistent with the provisions of the WTO Safeguards Agreement (WT/ACC/EST/2, question 68)? Has Estonia developed, or is it planning to develop, separate legislation for taking safeguard measures?

The Anti-Dumping Law is still pending. The law consist provisions on levying countervailing duty on subsidized imports. The draft Anti-Dumping Law does not provide for the application of safeguard measures. Estonia is in the position that working out separate laws on countervailing duty and safeguard measures and implement these laws when needed, is more likely than levying anti-dumping duties. When drafting law on safeguard measures, the principles of the WTO Agreement on Safeguards will be followed.

2. Export Regulations

(b) Export Licensing System

32. We are pleased that Estonia has removed export quotas on gravel and clay.

- **Are there any quotas remaining on exports? Can Estonia confirm that it is prepared to meet WTO obligations relating to quantitative restrictions for both imports and exports?**

There are no quotas whatsoever used as trade regulation instruments. Estonia readily and repeatedly confirms its intention to meet WTO obligations relating to quantitative restrictions for both imports and exports. (See also answer 17.)

3. Export Incentives

33. In its response to questions 65 and 66 in WT/ACC/EST/2, Estonia discusses export credits. Export credits can be export subsidies.

- **Can Estonia confirm that the preferential loans provided under the Export Credit Fund are not subsidies as defined by the WTO? Are the rates under Estonia's programme comparable to general commercial rates?**

The loans granted by the Export Credit Fund are not subsidies under GATT Article XVI as they are granted at average commercial interest (currently at around 18 per cent p.a.) and at other common business conditions. Therefore, these loans are not "preferential". For instance these loans also miss the features of subsidies as described in the Agreement on Subsidies and Countervailing Measures

According to the Articles of Association of the Export Credit Fund of Estonia, hereafter referred to as the Fund, the loans provided under the Fund are extended to legal persons registered in the Republic of Estonia at the submission of an application, regardless of their ownership structure. Foreign businesses can get registered in Estonia.

The interest rates earned by the Fund are determined by the Management Board according to the average commercial credit interest rate. It is essential for the Management Board to provide competitive interest

rates since there are plans to develop the Fund into an Export Credit and Guarantee Board which, like the Fund, must operate in conformity with the Law on Credit Institutions, on terms similar to its commercial counterparts. In restructuring the Fund the OECD Arrangement on Guidelines for Officially Supported Credits and the Bern Union agreements have been followed.

The Export Credit and Guarantee Board shall have to specialise on commercial credits in the field of Estonia's external trade but by no means subsidies. It should provide professional competition in the field of the presently underdeveloped private commercial financing of export projects through crediting and guaranteeing in the areas of supplier credit refinancing as well as buyer credit. It has been a common problem that commercial banks are reluctant to provide these services to the relatively small and fairly unknown newly started entrepreneurs of Estonia; there are also problems in using the bigger credit lines for financing several smaller projects.

- **If commercial financing is available on similar terms, what is the purpose of the term?**

Commercial financing is available on similar terms. However, the purpose of the Fund of Estonia is to specialise solely on financing and guaranteeing of international trade and, by doing so, accumulate the needed information and expertise on possible ways to recover the aftermath of the Soviet planned economy and the resulting foreign trade deficit. The presence of the Fund on Estonia's credit market is also expected to add more competition to the commercial finance sector, thereby influencing the capital market to generally refrain from too high interest and add more trust to the operations of the newly established enterprises which generally tend to receive less neutral treatment from both their clients abroad as well as the private commercial financing institutions. For instance, as a rule the Estonian exporters cannot enjoy the benefit of cash payment and they often have to offer trade credit on their own, accompanied with the immediate impact on their daily operations. The activities of this Fund may not violate the provisions of the Law on Competition or the Law on Credit Institutions.

34. Please elaborate whether the terms of loans provided by "The Export Credit Fund" are different from commercial interest rates charged in Estonia in 1995 (answer to question 18 of WT/ACC/EST/4). Whether loans granted by the Fund are specific in terms of Article 1 of the Agreement on Subsidies and Countervailing Measures.

These loans are not subsidies. Besides, they do not have the features which could make them specific in terms of Article 1 of the Agreement on Subsidies and Countervailing Measures because eligibility, provided the feasibility-based uniform conditions are fulfilled, is automatic, these subsidies are not to be viewed as contingent on export performance but rather solving the issues of the above mentioned crediting and guaranteeing in the areas of supplier credit refinancing as well as buyer credit.

The loans are not different from commercial loans and the rates are comparable; the truthfulness of this statement can be guaranteed by the fact that the Export Credit and Guarantee Board is to receive only the initial starting capital from the National Budget.

The problem is, that in the commercial sector this particular financial service is still underdeveloped. In the next stage on the basis of the Fund an Export Credit and Guarantee Board will be established to operate fully on commercial basis and thereby achieve more of commercial objectiveness.

35. Please explain whether the "moderate export incentives" are treated as a remedy to trade balance problems in Estonia (answer to question 19 of WT/ACC/EST/4).

The objective of Article XVI on Subsidies is to avoid subsidisation seriously prejudicial to the trade or interests of contracting parties. Estonia's aim in applying the moderate export incentives is to achieve competitiveness in the sectors that suffered serious stagnation during the Soviet intervention. The support