

determined whether they have export subsidies which meet the definition of Article 9(1) of the Agreement on Agriculture.

**54. On page 22 (and 23) of WT/ACC/EST/4, Estonia states that it does not intend to give either serious or wide ranging considerations to using export incentives; that there have been no export incentive programmes so far, but that its intention is to introduce moderate export incentive schemes to bring Estonian exporters nearer to the conditions enjoyed by exporters of developed countries, and to do that in conformity with the rules set by the WTO. According to WTO requirements, since export subsidies are not now used, no new export subsidies can be implemented and even if export subsidies exist, no new commodities can be eligible for export subsidies. Could Estonia clarify how the proposal on export subsidy comply with WTO requirements.**

Estonia's will to bind its export subsidies in WTO is reasoned with their existence in 1886-1990. This period was the most recent stable period for Estonian agriculture.

**55. The exact H.S. lines covered by each of these six product categories (i.e. butter, cheese, milk powder, beef, pig meat and poultry) must be provided, including those H.S. lines for which exports were actually subsidized. For example, does it include all cheese, or only certain lines, skim milk powder but not whole milk powder, fresh chilled meat, but not frozen meat, etc.?**

Methodology used in planned economy during the Soviet period was less advanced and it does not allow to educe product by product subsidies. The total sum was indicated only on HS product category level.

**56. A table of future proposed commitments, based on reductions from the level established by the supporting data would also be needed. This would constitute the "offer", not the supporting data now provided by Estonia.**

**57. Estonia states that it reserves the right to use export support schemes and establish domestic support measures not prohibited by the WTO, and has made such proposals in its agricultural country schedule. However, in WT/ACC/EST/2, in the response to question 77, Estonia agreed to bind export subsidy commitments and internal support at zero.**

**- Please explain this discrepancy. What was the basis used to calculate the export subsidy commitments when Estonia currently does not have export subsidies?**

According to Article 8 of the Agreement on Agriculture each member has the right to provide export subsidies in conformity with that agreement and with the commitment specified in its Member's Schedule.

In the response to question 77 WT/ACC/EST/2 Estonia did not commit itself, but expressed its willingness to bind internal support and export subsidies in its agricultural country schedule at zero and stated at the same time that these policies are dependant on the overall economic climate surrounding the country. Taking into account the subsidizing policies of the major trading partner countries, Estonia has to reserve itself the possibility to apply similar policies. Consequently no discrepancy in these statements could be found.

Estonia's agricultural country schedule presented to the WTO includes subsidies to agricultural export which are based on the agreement between government and agricultural producers done on 31 July 1995.

The reduction commitments from the base period 1986-1988 has already been taken into account in these calculations.

**58. On the basis of supporting data on export subsidies, we seek clarification on whether the quantities shown are fixed or whether Estonia intends to reduce these levels.**

The quantities shown in the tables are fixed as the reduction commitment respective to the base-period has already been taken into account. The amount to be bound in the WTO for 1996 export subsidies will be 46 mil USD.

**59. What are the intended markets for exported subsidised products?**

Any exports depend on existence of favourable markets and this cannot be regulated by Estonia. Export decisions are made by the businessmen.

**60. The Export Credit Fund and the Fund of Crediting Agriculture and Rural Life are not listed in Estonia's Agricultural Schedule (WT/SPEC/13). The Export Credit Fund programme appears to function like a subsidy programme for farmers trying to export, while the Fund of Crediting Agriculture and Rural Life appears to offer internal support to farmers.**

- **Why are these programmes not included in the agricultural schedule?**

The Export Credit Fund and the Fund of Crediting Agriculture and Rural Life are institutions not subsidizing but crediting the agriculture. It means that agricultural enterprises can borrow from these funds within the limit of the sums assigned from the State budget. In the case of the Fund of Crediting Agriculture and Rural Life the borrowing can be made indirectly i.e. through the banks. Consequently these funds fulfil presently the functions of a bank. The need for that will disappear when banks will have enough resources to lend in the future and the risk factor will diminish.

**61. Concerning the responses to questions 72-78 in WT/ACC/EST/2: The policy prescribed by the Estonian Parliament calling for supplying of foodstuffs of predominantly Estonian origin is an import substitution scheme and could conflict with the provisions of the WTO.**

- **How does the Government of Estonia intend to conduct such a policy in conformity with the WTO Agreement on Agriculture?**

This calling for supplying of foodstuffs of predominantly Estonian origin is purely of a recommendatory character and can in no way be considered as been enacted in a law.

- **How will Estonia bring its agricultural quotas and licensing measures into conformity with the WTO?**

Estonia does not apply any agricultural quotas and licensing measures and so does not have anything to bring into conformity with the WTO.

**62. What is the status of the Law on Market Arrangement as discussed in WT/ACC/EST/4 (question 21-22)? Will this legislation convert quantitative import restrictions into customs duties?**

The Law on Market Arrangement is in force since 23 October 1995. As Estonia does not have any quantitative import restrictions this law cannot convert any of those into customs duties. Estonia confirms that it does not intend to impose any quantitative restrictions on importing of goods.

- **Does this legislation apply to all products, or just select agricultural products? Please summarize the provisions of this legislation and submit a copy to the WTO.**

The Law on Agricultural Market Regulation enforces the basis for agricultural market regulation and for the relations between agricultural producers and the Government. This law applies to all agricultural products.

According to the law the representatives of agricultural producers and the Government will negotiate for the target and minimum prices of the following year as well as for government subsidies. The calculations of the prices of the agricultural products and the made expenses serve as the basis for the formation of the agricultural target price, proceeding from the desired level of agricultural income and the other factors influencing it. Target prices will be considered as the basis for government subsidies to agricultural production. The minimum price of agricultural products is considered in State reserve purchases, in the regulation of the imports of agricultural products and in the regulation of the imports of agricultural products and in export subsidies.

The development of rural infrastructure will mainly take place through development projects.

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

- **What is the status of the law on marketing of agricultural products referred to in the response to question 75 of WT/ACC/EST/2?**

The Law on Market Arrangement is in force since 23 October 1995.

- **Does Estonia intend to establish minimum import prices for grains? Is Estonia aware that such measures are inconsistent with the WTO Agreements on Customs Valuation and Agriculture?**

Estonia is aware that minimum import prices are inconsistent with the WTO Agreements on Customs Valuation and Agriculture and Estonia does not intend to establish import prices for grains. The Law on Customs Valuation which became effective on 1 January 1996 supersedes institution of minimum prices on imports (See also answer to question 23).

- **What does it mean that the Government of Estonia will "implement restrictive measures on imports similar to other countries"?**

This incomplete quotation from answer to question 73 in WT/ACC/EST/2 explains the right of Estonian veterinary health and plants protection inspecting institutions to apply restrictive measures in the cases of animal and plant diseases and to do that in similar way to other countries.

### **Market Access**

**63. The revised offer on market access tabled by Estonia (WT/ACC/EST/3) is a marked improvement over its initial offer on agriculture. Although, the proposed tariff bindings still seem excessive considering the current applied rate for all of these commodities is zero. Additionally, there are some tariff lines where the rate offered is higher in this proposal than in the initial market access proposal (Ch. 1903, 1904, 1905, 2003, 2101, 2102, 2202). Please explain why this is the case.**

In the revised offer Estonia has eliminated in several cases the specific component of the ceiling binding rate and converted it into ad valorem tariffs. This is the reason why some tariff lines has been changed, but according to the calculations the new ones are not higher compared to the combined ones in the initial offer.

**64. Minimum import prices, quotas, and discretionary licensing practices are inconsistent with the WTO Agreement on Agriculture. Estonia should regulate its agriculture in a WTO-consistent manner.**

**65. On page 24 WT/ACC/EST/4: under "Current Agricultural Policy" it is stated that: "the law on grain states that the government may restrict grain import if domestically produced grain and grain products cover fully the needs of domestic markets".**

- **Can Estonia clarify its intention with respect to this provision?**

Estonia confirms that provisions on restriction of grain imports in the Law on Grain will be brought into conformity with the WTO rules. The application of this law is affected only in the case proven need for special safeguard measures is identified.

**66. On page 26 WT/ACC/EST/4: under "Special Safeguards for Agriculture" it is stated that "at the moment Estonia is not able to provide details on specific areas where SSG measures could possibly be introduced in the future when circumstances warrant."**

- **Can Estonia confirm that it does not intend to request the use of the SSG?**

Estonia confirms that it does not intend to request the use of SSG unless economically proven need is identified in conformity with the WTO rules.

## **5. Foreign Investment Policy**

**67. After a Foreign Investment Licence is granted, does the investor receive national treatment? If not, what other differences exist for foreign investors in the sectors in which a Foreign Investment Licence is required? What is the duration of the licence?**

After a Foreign Investment Licence is granted, the investor receives national treatment. The Government Regulation No. 112 of 6 April 1992, which regulates the issue of Foreign Investment Licensing does not provide any concrete duration of validity. The intended duration of the period of making the investment as well as the intended amount of investment to that project shall be specified separately in the Licence. Therefore the duration of the License varies according to the plan of investment as well as the extent of the financial means of each foreign investor. The intention of the Foreign Investment Licence is to minimise fraud and keep a statistical record of foreign investments to the six strategic sectors:

1. Mining;
2. Electricity, gas, and fresh-water supply;
3. Activities related to facilities of railway and air transport;
4. Operation of dams, ports, seaways and other similar structures;
5. Activities related to facilities of long-distance and other communication networks.
6. Retail of medicaments.

**68. Does Estonia have any laws and regulations on foreign domestic investment that are contrary to the provisions of the TRIMs Agreement? Will Estonia notify any TRIMs under the Agreement?**

The Foreign Investment Law which regulates these issues is in conformity with the TRIMs Agreement. Having proper regard to the size and nature of Estonian market anything listed in the illustrative list annexed to the TRIMs Agreement would have to be observed by Estonia in her own interest. Estonia cannot afford to limit the enterprises' right to make economically feasible decisions.

**69. Please give further information on land reform and procedures applicable to foreigners in this regard.**

Please refer back to answer 4. Presently a new Law on Land Reform is being submitted to the Riigikogu.

**6. Government Procurement**

**70. Has the law on government procurement entered into force? Does Estonia plan to join the Government Procurement Agreement?**

The Law on Government Procurement has become in force on January 1, 1996. Estonia has not yet made the decision.

**71. Estonia has stated that it is prepared to adhere to the Agreement on Government Procurement. Since that is the case, Estonia should become an observer in the Committee of that Agreement.**

Estonia has not yet made the decision of joining the Committee in an observer status.

**7. State Trading**

**72. Does the State monopoly on scrap metal exports still exist (WT/ACC/EST/2, question 58)? What is the rationale for such controls? If this monopoly still exists, does Estonia intend to notify under GATT Article XVII?**

The State monopoly on metal exports and re-exports has been established by a Government Regulation No. 53 "On Bringing Order to Trade in Metals", of 19 February 1993, and it forms an essential part of the measures taken to reduce criminal destruction of public and other metal constructions, especially to the railways' communication and power transmission systems. It is significant that this regulation not only sets the rules for trade in scrap metal but also radioactive metals with the aim of effectively limiting international criminal business that posed a serious threat to the State security after regaining of independence. Therefore the establishment of this monopoly partly falls under Article XXI (Security Exceptions).

**73. Estonia has stated in its documentation that the State entities which control the production, sale, export, and import of alcohol and tobacco products through activity licences do not meet the notification requirements under Article XVII.**

These government institutions that guarantee the needed level of consumer protection, nature conservation, and observance of social issues through activity licensing are not authorised to "control" the related activities' market conditions; neither are they State-trading enterprises in the sense of Article XVII of GATT but ministries and government offices. Exercising control over market, which results in prejudice to any party or which causes market distortions, no matter whether in alcohol and tobacco or any other business, would be qualified as an infringement of the Law on Competition.

**74. We believe that Estonia's discretionary grant of licensing in this area may well constitute a special right conferred by the State, and therefore engage the provisions of Article XVII of the GATT.**

The State-owned or partly State-owned enterprises are placed on the same basis as any other business in their daily operations. Preferential treatment (which contradicts the Law on Competition of the