

Republic of Estonia) shall be treated as proper to an infringement of law. That also concerns tobacco and alcohol businesses.

- **Could Estonia explain more fully the criteria that are applied for granting a business licence in this area, and indicate how many such licences have been granted?**

The basic criterion in this area is the submission of an application. Activity licenses are issued on the basis of the submission of an application. In 1995 the total number of licenses granted was:

184 alcohol licenses (import/export);
70 tobacco licenses (import/export).

As of 20 December 1995, 36 enterprises were granted alcohol production licenses; 2 enterprises were granted tobacco production licenses. The small number for tobacco production licenses means that Estonia is not a tobacco growing country and that largely foreign brands are preferred (as can be seen from the number of licensed tobacco exporters). It has to be noted that Estonia has a population of only 1.5 million people.

V INSTITUTIONAL BASE FOR TRADE AND ECONOMIC RELATIONS WITH THIRD COUNTRIES

1. Brief description of the bilateral trade and economic agreements and integration agreements

75. Under the FTA signed with the EU, what are the tariff margins of preference for industrial products imported by Estonia?

As Estonian tariff level on imported goods is 0 there are no special tariff preferences for EU industrial goods which are imported by Estonia.

76. What products are regulated by protocols of exemption with the EU?

There are no protocols of exemption with the EU.

77. Will Estonia notify its FTAs under Article XXIV?

Estonia will notify its FTAs under Article XXIV. The Working Party on Free Trade Agreement between Estonia and the European Communities is established already.

78. Please provide further information on trade relations with countries which are not WTO members, e.g. any free trade area agreements with non-members.

With countries, that are not the WTO members, Estonia has concluded Free Trade Agreements with Latvia and Lithuania (trilateral agreement) and one with Ukraine, both agreements are based and directly referring to the principles of the WTO.

VI TRADE RELATED INTELLECTUAL PROPERTY RIGHTS

79. Please provide some more information on steps taken to enforce copyright legislation.

The Copyright Law of 11 November 1992 came into effect on 12 December 1992 (State Reporter 1992, No 49, Art. 615). According to §79 of the Copyright Law, violations of the rights of authors, performers, producers of phonograms and broadcasting organisations shall bring about civil, administrative or criminal liability.

Civil law remedies for the violation of author's moral and economic rights can be found in the Copyright Law, as well as in the Civil Code.

Protection of author's moral and economic rights can be achieved through court in the following ways:

1. by recognizing the rights;
2. by ceasing the acts of violation or restraining the activities which aggravate the risk of violation of the rights (stopping the reproduction of the work, fixation of a performance or phonogram or stopping the distribution thereof, etc.);
3. by restoring the situation prior to the violation of the right;
4. by obliging the other party to fulfil the contract or by cancelling the contract;
5. by eliminating the effects of the infringement;
6. by recovering material compensation for the moral damage incurred;
7. by reclaiming the profit made by the infringer for the benefit of the person who has suffered damages;
8. by compensating for the damages;
9. by other means prescribed by legal acts (§ 80 of the Copyright Law).

The civil law measures also include destruction, alteration and seizure of illegal copies and technical devices used for making such infringing copies (§ 81 of the Copyright Law).

The practical questions of protection of violated rights with civil Law means are regulated in the **Code of Civil Procedure of 19 May 1993** (State Reporter 1993, No 31/32) which is in conformity with the requirements of Section 2 of Part III of the TRIPS-Agreement.

Parties to the procedure have the right to be represented by independent legal counsel as a rule, a member of the Estonian Bar Association is chosen by the parties as a representative). The procedure shall provide a means to identify and protect confidential information.

Case law. The first copyright case after the adoption of the new copyright Law was heard in the City Court of Tallinn in April 1993. But there is also a copyright case which has gone through all the three court levels - the city, district and National Court. At present there are some 5 copyright cases in Estonian courts under consideration.

Law on Amending and Supplementing the Criminal Code and the Code of Administrative violations was passed on **9 January 1995** (State Reporter I 1995, No 11, Art. 114). It introduced new criminal sanctions and for the first time established administrative liability for the infringement of copyright and neighbouring rights (Section 184). The sanctions foreseen are a fine and administrative detention.

The Code of Administrative Violations

Section 184. Violation of copyright and neighbouring rights

- (1) The unlawful reproduction of copyright works, including computer programs, electronic databases and audiovisual works, performances of works, phonograms, radio and television programmes shall be punishable with a monetary fine amounting to the daily wages of up to 200 days.
- (2) The unlawful alteration or making of copies as well as the unlawful rental, leasing, offering for sale or rental, display, distribution, performance of works, broadcasting or any other unlawful use of copyright works, phonograms, radio and television programmes shall be punishable with a monetary fine amounting to the daily wages of up to 200 days or with an administrative detention lasting up to 15 days.
- (3) Making known to the public without consent of the author or performer of works of their name if the work was published under a pseudonym, author's sign or anonymously, as well as violation of the integrity and intactness of a work, or of the order of its publicising shall be punishable with a monetary fine amounting to the daily wages of up to 200 days or an administrative detention lasting up to 20 days.
- (4) Violation of regulations regarding payment of remuneration provided for in Sections 15, 26 and 27 of the Copyright Law shall be punishable with a monetary fine amounting to the daily wages of up to 100 days.
- (5) The sale, rental, leasing, offering for sale or rental, display, distribution or any other unlawful use of technical equipment or devices designed for removal of a protective device against the unlawful reproduction of copyright works, performances of works, phonograms, radio and television programmes, or for removal of a protective device against the unlawful reception of a signal transmitted via satellite or cable shall be punishable with a monetary fine amounting to the daily wages of up to 200 days or an administrative detention up to 15 days.

Fundamental changes were introduced in the **Criminal Code** (State Reporter 1992, No 20, Art. 287) with the Law on Amendments to the Criminal Code and to the Code of Administrative Violations of 9 January 1995. Now it is expressly stated that "special seizure may be exercised in respect of copies of works which have been made in violation of the Copyright Law" (§ 33 (5)).

For the violation of author's and performer's moral rights (plagiarism, etc.) the sanction is a fine or imprisonment up to two years. The criminal code now contains the enumeration of these violations of economic rights of authors, performers, producers of phonograms and broadcasting organisations which bring along criminal sanctions - a fine or imprisonment up to three years. A fine can be imposed in the amount of up to 300 daily wages. The daily wages of the fine shall be calculated on the basis of the mean daily income after tax of the person convicted, considering his/her family and economic condition (§ 28 of the Criminal Code).

There are three conditions for imposing criminal sanctions:

- (i) if an administrative penalty had been imposed on the guilty party for the same act,
- (ii) if the unlawful act was performed for the purpose of entrepreneurship, or
- (iii) if this act caused a major economic damage to the person holding the copyright or neighbouring rights.

Criminal Code.

Section 136. Violation of copyright and neighbouring rights

- (1) Publicising in one's own name of a copyright work, performance of a work, phonogram, radio or television programme (plagiarism), or any other violation of copyright shall be punishable with a monetary fine or imprisonment up to two years.
- (2) The unlawful reproduction, sale, rental, leasing, performance, broadcasting, offering for sale or rental, display, distribution, import, export or any other unlawful use (counterfeit) of

copyright works, including computer programs, electronic databases and audiovisual works, performances of works, phonograms, radio and television programmes shall be punishable with a monetary fine or imprisonment up to three years, if the unlawful act was performed for the purpose of entrepreneurship, or if an administrative penalty had been imposed on the guilty party for the same act, or if this act caused a major economic damage to the person holding the copyright or neighbouring rights.

- (3) The production, sale, rental, leasing, offering for sale or rental, display, distribution, import or any other unlawful use of technical equipment or devices designed for removal of the protective device against the unlawful reproduction of copyright works, including computer programs, electronic databases and audiovisual works, performances of works, phonograms, radio and television programmes, or for removal of the protective device against the unlawful reception of signals transmitted via satellite or cable shall be punishable with a monetary fine or imprisonment up to three years, if the unlawful act was performed for the purpose of entrepreneurship, or if an administrative penalty had been imposed on the guilty party for the same act, or if this act caused a major economic damage to the person holding the copyright or related rights.

No criminal cases have been tried in Estonian courts after the adoption of the new law. The police in co-operation with the Estonian Authors' Society (EAÜ; Eesti Autorite Ühing) has organised some raids to fight with pirated audio and video tapes.

VII TRADE IN SERVICES

Financial services

80. In its answer, WT/ACC/EST/4, question 66, Estonia confirms that foreign credit or financial institutions other than insurance companies are not treated less favourably than domestic providers of financial services. Estonia also stated that no restrictive measures were planned.

- **Why then has Estonia offered no commitments to national treatment in the financial services sectors that it has inscribed in its schedule?**

The consultations on binding the commitments on credit and financial institutions are still under way. We expect to inform you of the results at the next working party. The officially consulted bindings of credit and financial services' commitments are most likely to confirm that Estonia maintains her generally liberal policies towards foreign credit and financial institutions' operations.

ESTONIA

Annex I

Comments to the Supporting Data, Domestic Support and Export Subsidies presented to WTO in June 1995. (WT/SPEC/13)

In initial offer, applied agricultural policies regarding domestic and export support during recent years (1992-1995), are described. These are the first years of reestablished independency (independency was reestablished on August 20, 1991) and means transition from command economy to market economy. However, Estonian agriculture is not coming from nowhere, it did exist also in the years 1986 - 1990, which has been the basic period for many WTO member countries for domestic support and export subsidy bindings. This period, when to Estonian agriculture was applied agricultural policy of former Soviet Union, is the most recent stable period before heavy transition. At the moment OECD is calculating the amount of state support (PSE and CSE) during this period, the results will be presented to the ad hoc meeting at the end of February 1996. Based on the preparatory work, done together with OECD specialists, AMS and export support is calculated for this period. The attached figures show that the amount proposed for binding is many times lower than the base period average and includes already significant reduction.

Calculation of Domestic Support to Agriculture in 1986 - 1988

In order to estimate the level of agricultural subsidies in Estonia 1986-1988 the following calculations are made:

- the difference between the reference prices (the world market prices) of the named years and the state purchase prices in Estonia of basic agricultural products is determined. The prices in roubles are converted into USD according to the official currency rates registered by the World Bank and the Bank of Estonia.
- the value of the production at purchase prices has been found;
- the price support sums has been found as the outcome of the price difference and the production quantity;
- the level of support in percentage has been found by dividing the total sum of the price support by the value of the production.

The conclusion based on the above stated facts and calculations is that the products having received the highest subsidies were milk - 52,1%, pork - 51,6%, beef - 49,5% and poultry - 45,7%. This result is completely in accordance with the budgetary subsidies of the former Soviet Union during that period paid to the meat (ca 394 million roubles a year) and milk industries (ca 230 million rubles a year).

Calculation of Export Subsidies in 1986 - 1990

The products exported to other republics of the former Soviet Union, have been sold at retail prices much lower than the purchase price. The difference in the price was paid in Estonia to producers from state financial resources. The amount of money paid to the largest products categories are shown in annexed tables. A further specification of products is not possible because the budget of these years does not indicate the financial allocations in more detailed way.

Commitments on domestic support and export subsidies

Estonia would like to show the period of 1986-1988 as the base period for domestic support as the most recent stable period in agriculture. To Estonian agriculture was applied the agricultural policy