

**No. 30604**

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**ESTONIA  
and  
SWITZERLAND**

**Free Trade Agreement (with annexes and protocols). Signed  
at Tallinn on 21 December 1992**

*Authentic text: English.*

*Registered by Estonia on 10 December 1993.*

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**ESTONIE  
et  
SUISSE**

**Accord de libre-échange (avec annexes et protocoles). Signé à  
Tallinn le 21 décembre 1992**

*Texte authentique : anglais.*

*Enregistré par l'Estonie le 10 décembre 1993.*

# FREE TRADE AGREEMENT<sup>1</sup> BETWEEN THE REPUBLIC OF ESTONIA AND THE SWISS CONFEDERATION

## PREAMBLE

The Republic of Estonia (hereinafter called Estonia),

and

The Swiss Confederation (hereinafter called Switzerland)

Recalling their intention to participate actively in the process of economic integration in Europe and expressing their preparedness to cooperate in seeking ways and means to strengthen this process,

Having regard to the Declaration signed by Estonia and the EFTA States in Geneva on 10 December 1991,

Recalling the Trade Agreement between Estonia and Switzerland signed on 14 October 1925,<sup>2</sup>

Recalling their firm commitment to the Final Act of the Conference on Security and Cooperation in Europe,<sup>3</sup> the Charter of Paris for a new Europe,<sup>4</sup> and in particular the principles contained in the final document of the CSCE Bonn Conference on Economic Cooperation in Europe,<sup>5</sup>

Reaffirming their commitment to pluralistic democracy based on the rule of law, human rights and fundamental freedoms,

Desiring to create favourable conditions for the development and diversification of trade between them and for the promotion of commercial and economic cooperation in areas of common interest on the basis of equality, mutual benefit, most favoured nation treatment and international law,

Resolved to contribute to the strengthening of the multilateral trading system and to develop their relations in the field of trade in accordance with the basic principles of the General Agreement on Tariffs and Trade (GATT)<sup>6</sup> having in mind the objective of Estonia to become a Contracting Party of the GATT,

<sup>1</sup> Came into force on 1 April 1993, the Parties having notified each other by that date of the completion of their constitutional or other legal requirements, in accordance with article 32 (1).

<sup>2</sup> League of Nations, *Treaty Series*, vol. 49, p. 421.

<sup>3</sup> *International Legal Materials*, vol. XIV (1975), p. 1292 (American Society of International Law).

<sup>4</sup> United Nations, *Official Records of the General Assembly, Forty-fifth Session*, document A/45/859, p. 3.

<sup>5</sup> *International Legal Materials*, vol. XXIX, No. 4 (1990), p. 1054 (American Society of International Law).

<sup>6</sup> United Nations, *Treaty Series*, vol. 55, p. 187.

Declaring their readiness to examine, in the light of any relevant factor, the possibility of developing and deepening their relations in order to extend them to fields not covered by this Agreement,

Have decided, in pursuit of the above, to conclude this Agreement:

## Article 1

### Objective

1. Estonia and Switzerland shall, taking into account the need to ensure the accelerated transition to market economy in Estonia, give effect to free trade in accordance with the provisions of the present Agreement.
2. The objectives of this Agreement, which is based on trade relations between market economies, are:
  - (a) to promote, through the expansion of mutual trade, the harmonious development of the economic relations between Estonia and Switzerland and thus to foster in Estonia and in Switzerland the advance of economic activity, the improvement of living and employment conditions, increased productivity, financial stability and sustainable growth;
  - (b) to provide fair conditions of competition for trade between Estonia and Switzerland;
  - (c) to contribute in this way, by the removal of barriers to trade, to the harmonious development and expansion of world trade.

## Article 2

### Scope

The Agreement shall apply:

- (a) to products falling within Chapters 25 to 97 of the Harmonized Commodity Description and Coding System,<sup>1</sup> excluding the products listed in Annex I;
- (b) to products specified in Protocol A, with due regard to the arrangements provided for in that Protocol;
- (c) to fish and other marine products as provided for in Annex II;

originating in Estonia or Switzerland.

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<sup>1</sup> See "International Convention on the Harmonized Commodity Description and Coding System", United Nations *Treaty Series*, vol. 1503, p.3.

### **Article 3**

#### Rules of origin and cooperation in customs administration

1. Protocol B lays down the rules of origin and methods of administrative cooperation.
2. The Parties to this Agreement shall take appropriate measures, including regular reviews by the Joint Committee and arrangements for administrative cooperation, to ensure that the provisions of Articles 4 (Prohibition and abolition of customs duties on imports) to 6 (Prohibition and abolition of quantitative restrictions on imports or exports), 8 (Internal taxation) and 20 (Reexport and serious shortage) of the Agreement and Protocol B are effectively and harmoniously applied, and to reduce, as far as possible, the formalities imposed on trade, and to achieve mutually satisfactory solutions to any difficulties arising from the operation of those provisions.

### **Article 4**

#### Prohibition and abolition of customs duties on imports and charges having equivalent effect

1. No new customs duty on imports or charge having equivalent effect shall be introduced in trade between Estonia and Switzerland.
2. Customs duties on imports and charges having equivalent effect shall be abolished upon the date of entry into force of this Agreement.
3. The provisions of this Article shall also apply to customs duties of a fiscal nature except as provided for in Protocol C. The Parties to this Agreement may replace a customs duty of a fiscal nature or the fiscal element of a customs duty by an internal tax.

### **Article 5**

#### Prohibition and abolition of customs duties on exports and charges having equivalent effect

1. No new customs duty on exports or charge having equivalent effect shall be introduced in trade between Estonia and Switzerland.
2. Customs duties on exports and charges having equivalent effect shall be abolished upon the entry into force of this Agreement.

## Article 6

### Prohibition and abolition of quantitative restrictions on imports or exports and measures having equivalent effect

1. No new quantitative restriction on imports or exports and measures having equivalent effect shall be introduced in trade between Estonia and Switzerland.
2. Quantitative restrictions on imports or exports and measures having equivalent effect shall be abolished on the date of entry into force of this Agreement, except as provided for in Annex III.

## Article 7

### National treatment

The goods of the territory of one Contracting Party imported into the territory of the other Contracting Party shall be accorded treatment no less favourable than that accorded to like goods of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use.

## Article 8

### Internal taxation

1. The Parties to this Agreement shall refrain from any measure or practice of an internal fiscal nature establishing, whether directly or indirectly, discrimination between the products originating in one Party and like products originating in the other Party.
2. Products exported to the territory of one of the Parties may not benefit from repayment of internal taxation in excess of the amount of direct or indirect taxation imposed on them.

## Article 9

### General exceptions

This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of the environment; the protection of national treasures possessing artistic, historic or archaeological value; the protection of intellectual property; rules relating to gold or silver. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties to this Agreement.

## **Article 10**

### State monopolies

1. The Parties shall ensure that any state monopoly of a commercial character be adjusted, subject to the provisions laid down in Protocol D, so that no discrimination regarding the conditions under which goods are procured and marketed will exist between nationals of Estonia and of Switzerland. These goods shall be procured and marketed in accordance with commercial considerations.
2. The provisions of this Article shall apply to any body through which the competent authorities of the Parties to this Agreement, in law or in fact, either directly or indirectly supervise, determine or appreciably influence imports or exports between the Parties to this Agreement. These provisions shall likewise apply to monopolies delegated by the State to others.

## **Article 11**

### Cooperation in the field of agriculture

1. The Parties to this Agreement declare their readiness to foster, in so far as their agricultural policies allow, harmonious development of trade in agricultural products.
2. In pursuance of this objective, measures to facilitate trade and cooperation in the field of agriculture will be decided upon by the Parties to this Agreement based on recommendations of the Joint Committee.
3. The Parties to this Agreement shall apply their regulations in veterinary, plant health and health matters in a non-discriminatory fashion and shall not introduce any new measures that have the effect of unduly obstructing trade.

## **Article 12**

### Payments

1. Payments relating to trade and the transfer of such payments to the territory of the Party to this Agreement where the creditor resides shall be free from any restrictions.
2. The Parties shall refrain from any currency exchange or administrative restrictions on the grant, repayment or acceptance of short and medium term credits covering commercial transactions in which a resident participates.

### **Article 13**

#### Public procurement

1. The Parties to this Agreement consider the effective liberalization of their respective public procurement markets as an integral objective of this Agreement.
2. To this effect, the Parties shall elaborate rules within the Joint Committee with a view to ensure such a liberalization not later than 31 December 1995.
3. The Party to this Agreement concerned shall endeavour to accede to the relevant agreements negotiated under the auspices of the General Agreement on Tariffs and Trade.

### **Article 14**

#### Protection of intellectual property

1. In order to achieve the objectives of this Agreement, the Parties shall grant and ensure adequate, effective and non-discriminatory protection of intellectual property rights. They shall adopt and take adequate, effective and non-discriminatory measures for the enforcement of such rights against infringement thereof, and in particular against counterfeiting and piracy. Particular obligations of the Parties shall be listed in Annex IV.
2. The Parties to this Agreement shall take, as soon as possible after the entry into force of the Agreement, all necessary measures to comply with the substantive provisions of the multilateral conventions which are specified in Article 2 of Annex IV and make best endeavours to reestablish membership, or adhere to them respectively, as well as to multilateral agreements facilitating cooperation in the field of protection of intellectual property rights.
3. In the field of intellectual property, the Parties to this Agreement shall not grant treatment less favourable to each other's nationals than that accorded to nationals of any other State. Any advantage, favour, privilege or immunity deriving from:
  - (a) existing bilateral agreements concluded by a Party to this Agreement before the entry into force of this Agreement, as notified to the other Party within one year from the date of entry into force of this Agreement,
  - (b) existing and future regional agreements on economic integration to which not all of the Parties are parties,may be exempted from this obligation, provided that such agreement does not constitute an arbitrary or unjustifiable discrimination of nationals of the other Party.
4. The Parties to this Agreement may conclude further agreements exceeding the requirements of this Agreement.

5. The Parties to this Agreement shall agree upon appropriate modalities for technical assistance and cooperation of respective authorities of the Parties. To this end, they shall coordinate efforts with relevant international organizations.

### **Article 15**

#### Rules of competition concerning undertakings

1. The following are incompatible with the proper functioning of this Agreement in so far as they may affect trade between Estonia and Switzerland:
  - (a) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;
  - (b) abuse by one or more undertakings of a dominant position in the territories of the Parties to this Agreement as a whole or in a substantial part thereof.
2. If a Party to this Agreement considers that a given practice is incompatible with the provisions of paragraph 1, it may take appropriate measures after consultations within the Joint Committee or after thirty days following referral for such consultations.

### **Article 16**

#### State aid

1. Any aid granted by a Party to this Agreement or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it may affect trade between Estonia and Switzerland, be incompatible with the proper functioning of this Agreement. In particular, the Parties shall not maintain or introduce export aid as listed in Annex V.
2. The Parties to this Agreement shall ensure transparency of state aid measures by exchanging information on the request of either Party to this Agreement.
3. The Joint Committee shall keep the situation regarding the application of state aid measures under review, and shall elaborate further rules of implementation which shall be applicable not later than 31 December 1995.
4. If a Party to this Agreement considers that a given practice is incompatible with paragraph 1 of this Article, it may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 22 (Safeguard procedure).
5. The Party to this Agreement concerned shall endeavour to accede to the relevant agreements negotiated under the auspices of the General Agreement on Tariffs and Trade.



### **Article 17**

#### Dumping

1. If a Party finds that dumping within the meaning of Article VI of the General Agreement on Tariffs and Trade is taking place in trade relations governed by this Agreement, it may take appropriate measures against that practice in accordance with that Article and agreements related thereto, under the conditions and in accordance with the procedure laid down in Article 22 (Safeguard procedure).
2. The Party to this Agreement concerned shall endeavour to accede to the relevant agreements negotiated under the auspices of the General Agreement on Tariffs and Trade.

### **Article 18**

#### Emergency action on imports of a particular product

If an increase in imports of a given product originating in Estonia or in Switzerland occurs in quantities or under conditions which cause, or are likely to cause:

- (a) serious injury to domestic producers of like or directly competitive products in the territory of the other Party, or
- (b) serious disturbances in any related sector of the economy or difficulties which could bring about serious deterioration in the economic situation of a region,

the Party concerned may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 22 (Safeguard procedure).

### **Article 19**

#### Structural adjustment

The Parties agree that exceptional measures of limited duration which derogate from the provisions of the Article 4 (Prohibition and abolition of customs duties on imports) may be taken by Estonia in the form of increased customs duties under the conditions and in accordance with Annex VI.

### **Article 20**

#### Reexport and serious shortage

Where compliance with the provisions of Articles 5 (Prohibition and abolition of customs duties on exports) and 6 (Prohibition and abolition of quantitative restrictions on imports and exports) leads to:

- (a) reexport towards a third country against which the exporting Party to this Agreement maintains for the product concerned quantitative export restrictions, export duties or measures or charges having equivalent effect; or
- (b) a serious shortage, or threat thereof, of a product essential to the exporting Party to this Agreement;

and where the situations referred to above give rise or are likely to give rise to major difficulties for the exporting Party, that Party may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 22 (Safeguard procedure).

### **Article 21**

#### **Balance of payments difficulties**

1. Where Estonia or Switzerland is in serious balance of payments difficulties, or under imminent threat thereof, Estonia or Switzerland, as the case may be, may, in accordance with the terms and conditions established under the General Agreement on Tariffs and Trade and associated legal instruments, adopt trade restrictive measures, which shall be of limited duration and non-discriminatory, and may not go beyond what is necessary to remedy the balance of payments situation. The Parties shall give preference to price-based measures. The measures shall be progressively relaxed as balance of payments conditions improve and they shall be eliminated when conditions no longer justify their maintenance. Estonia or Switzerland, as the case may be, shall inform the Joint Committee forthwith of their introduction and of a time schedule for their removal.
2. The Parties to this Agreement shall, nevertheless, endeavour to avoid the imposition of restrictive measures for balance of payments purposes.

### **Article 22**

#### **Procedure for the application of safeguard measures**

1. Without prejudice to paragraph 5 of this Article, the Party to this Agreement which considers resorting to safeguard measures shall promptly notify the other Party thereof and supply all relevant information. Consultations shall take place without delay in the Joint Committee with a view to finding a mutually acceptable solution.
2. (a) As regards Article 16 (State aid) the Parties concerned shall give to the Joint Committee all the assistance required in order to examine the case and, where appropriate, eliminate the practice objected to. If the Party in question fails to put an end to the practice objected to within the period fixed by the Joint Committee or if the Joint Committee fails to reach an agreement after consultations, or after thirty days following referral for such consultations, the Party concerned may adopt the appropriate measures to deal with the difficulties resulting from the practice in question.

- (b) As regards Articles 17 (Dumping), 18 (Emergency action on imports) and 20 (Re-export and serious shortage), the Joint Committee shall examine the case or the situation and may take any decision needed to put an end to the difficulties notified by the Party concerned. In the absence of such a decision within thirty days of the matter being referred to the Joint Committee, the Party concerned may adopt the measures necessary in order to remedy the situation.
  - (c) As regards Article 27 (Fulfilment of obligations), the Party concerned shall supply the Joint Committee with all relevant information required for a thorough examination of the situation with a view to seeking a mutually acceptable solution. If the Joint Committee fails to reach such a solution or if a period of three months has elapsed from the date of notification, the Party concerned may take appropriate measures.
3. The safeguard measures taken shall be notified immediately to the other Party. They shall be restricted with regard to their extent and to their duration to what is strictly necessary in order to rectify the situation giving rise to their application and shall not be in excess of the injury caused by the practice or the difficulty in question. Priority shall be given to such measures as will least disturb the functioning of the Agreement.
4. The safeguard measures taken shall be the object of regular consultations with a view to their relaxation, substitution or abolition as soon as possible.
5. Where exceptional circumstances requiring immediate action make prior examination impossible, the Party concerned may, in the cases of Articles 16 (State aid), 17 (Dumping), 18 (Emergency action on imports) and 20 (Reexport and serious shortage) apply forthwith the precautionary and provisional measures strictly necessary to deal with the situation. The measures shall be notified to the Joint Committee without delay and consultations between the Parties to this Agreement shall take place as soon as possible.

### **Article 23**

#### **Security exceptions**

Nothing in this Agreement shall prevent a Party to this Agreement from taking any measures which it considers necessary:

- (a) to prevent the disclosure of information contrary to its essential security interests;
- (b) for the protection of its essential security interests or for the implementation of international obligations or national policies;
  - (i) relating to the traffic in arms, ammunition and implements of war, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes, and to such traffic in

other goods, materials and services as is carried on directly or indirectly for the purpose of supplying a military establishment; or

- (ii) relating to the non-proliferation of biological and chemical weapons, nuclear weapons or other nuclear explosive devices; or
- (iii) taken in time of war or other serious international tension.

### **Article 24**

#### Joint Committee

1. The implementation and functioning of this Agreement shall be supervised and administered by a Joint Committee.
2. The Joint Committee shall consist of representatives of Estonia and of Switzerland. It shall act by mutual agreement and shall meet whenever necessary, normally once a year. Each Party may request that a meeting be held.
3. For the purpose of the proper implementation of the Agreement, the Parties shall exchange information and, at the request of any Party to this Agreement, shall hold consultations within the Joint Committee. The Joint Committee shall keep under review the possibility of further removal of the obstacles to trade. The Joint Committee shall take decisions in the cases provided for in this Agreement. On other matters the Joint Committee shall make recommendations.
4. The Joint Committee may decide to amend the Annexes and Protocols to this Agreement. These decisions shall be put into effect according to each Party's internal procedures.
5. The Joint Committee may decide to set up such sub-committees and working parties as it considers necessary to assist it in accomplishing its tasks.

### **Article 25**

#### Evolutionary clause

1. The Parties undertake to examine, in the light of any relevant factor, the possibility of further developing and deepening the cooperation under this Agreement and to extend it to areas not covered therein. The Parties to this Agreement may instruct the Joint Committee to examine this possibility and, where appropriate, to make recommendations to them, particularly with a view to opening up negotiations.
2. Agreements resulting from the procedure referred to in paragraph 1 will be subject to ratification or approval by the Parties to this Agreement in accordance with their own procedures.

### **Article 26**

#### **Services and investment**

1. The Parties to this Agreement recognize the growing importance of certain areas, such as services and investments. In their efforts to gradually broaden and deepen their economic relations, they will cooperate with the aim of achieving a gradual liberalization and mutual opening of markets for investments and trade in services, taking into account relevant GATT work. They will endeavour to accord treatment no less favourable than that accorded to domestic and foreign operators in their territories on condition that balance of rights and obligations exists between the Parties to this Agreement.
2. Estonia and Switzerland will discuss the modalities of this cooperation in the Joint Committee.

### **Article 27**

#### **Fulfilment of obligations**

1. The Parties to this Agreement shall take all necessary measures to ensure the achievement of the objectives of the Agreement and the fulfilment of their obligations under the Agreement.
2. If either Party considers that the other Party has failed to fulfil an obligation under this Agreement, the Party concerned may take the appropriate measures under the conditions and in accordance with the procedure laid down in Article 22 (Safeguard procedure).

### **Article 28**

#### **Annexes and Protocols**

The Annexes I to VI and the Protocols A to F to this Agreement are an integral part of it.

### **Article 29**

#### **Customs unions, free trade areas and frontier trade**

This Agreement shall not prevent the maintenance or establishment of customs unions, free trade areas or arrangements for frontier trade to the extent that these do not negatively affect the trade regime and in particular the provisions concerning rules of origin provided for by this Agreement.

### **Article 30**

#### Territorial application

This Agreement is extended to the Principality of Liechtenstein as long as this country is bound to the Swiss Confederation by a customs union treaty.<sup>1</sup>

### **Article 31**

#### Amendments

Amendments to this Agreement other than those referred to in paragraph 3 of Article 24 (Joint Committee) which are approved by the Joint Committee shall be submitted to the Parties to this Agreement for acceptance and shall enter into force if accepted by these Parties.

### **Article 32**

#### Entry into force

1. This Agreement shall enter into force on 1 April 1993 provided that both Parties have notified to each other through diplomatic channels that their constitutional or other legal requirements for the entry into force of this Agreement have been fulfilled.
2. In case one or both of the Parties have not notified the fulfilment of their ratification requirements by 1 April 1993, the Agreement shall be provisionally applied from this date until the ratification procedures have been completed.

### **Article 33**

#### Denunciation

Either Party to this Agreement may denounce this Agreement by means of a written notification to the other Party. The Agreement shall cease to be in force six months after the date on which the notification was received by the other Party.

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<sup>1</sup> League of Nations, *Treaty Series*, vol. XXI, p. 232 and United Nations, *Treaty Series*, vol. 1666, No. I-28648.

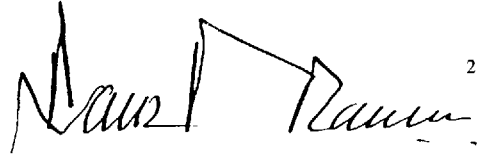
IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto, have signed the present Agreement.

DONE at Tallinn on 21 Dec 1992 in two originals in the English language.

For the Government  
of the Republic of Estonia:

 <sup>1</sup>

For the Government  
of the Swiss Confederation:

 <sup>2</sup>

<sup>1</sup> Trivimi Velliste.

<sup>2</sup> F. Blankart.

ANNEX I<sup>1</sup> REFERRED TO IN SUB-PARAGRAPH (a) OF ARTICLE 2 (SCOPE)

Products falling within Chapters 25 to 97 of the Harmonized Commodity Description and Coding System (HS) to which this Agreement does not apply when imported into Switzerland and Liechtenstein.

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<sup>1</sup>Not published herein in accordance with article 12 (2) of the General Assembly regulations to give effect to Article 102 of the Charter of the United Nations as amended in the last instance by General Assembly resolution 33/141 A of 19 December 1978.



**PROTOCOL A CONCERNING PRODUCTS  
REFERRED TO IN SUB-PARAGRAPH (b) OF ARTICLE 2 (SCOPE)**

**Article 1**

In order to take account of the differences in the cost of the agricultural raw materials incorporated in the goods specified in the Tables 1 and 2 of this Protocol, the Agreement does not preclude :

- (a) the levying, upon import, of a variable component or fixed amount, or the application of internal price compensation measures;
- (b) the application of measures adopted upon export.

**Article 2**

For products listed in Table 1 of this Protocol, originating in Estonia, Switzerland shall accord the concessions indicated in that Table.

**Article 3**

For products listed in Table 2 of this Protocol, originating in Switzerland, Estonia shall accord a treatment not less favorable than that accorded to any other European Free Trade Association (EFTA) country or the European Economic Community (EC).

**Article 4**

Estonia shall inform Switzerland of all changes in the treatment accorded to any other EFTA country or the EC.

**Article 5**

Estonia and Switzerland shall review periodically the development of their trade in products covered by this Protocol. A first review shall be held before the end of 1994. In the light of these reviews and taking into account the arrangements between Estonia and any other EFTA country and the EC in this field, Estonia and Switzerland shall decide on possible changes to the product coverage of this Protocol as well as on a possible development of the rules concerning price compensation systems.

TABLE 1<sup>1</sup>*Liechtenstein, Switzerland*TABLE 2<sup>1</sup>*Estonia*ANNEX II<sup>1</sup> REFERRED TO IN SUB-PARAGRAPH (c) OF ARTICLE 2 (SCOPE)

## FISH AND OTHER MARINE PRODUCTS

*Switzerland, Liechtenstein*

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<sup>1</sup>Not published herein in accordance with article 12 (2) of the General Assembly regulations to give effect to Article 102 of the Charter of the United Nations as amended in the last instance by General Assembly resolution 33/141 A of 19 December 1978.

## PROTOCOL B

### RULES OF ORIGIN CONCERNING THE DEFINITION OF THE CONCEPT OF "ORIGINATING PRODUCTS" AND METHODS OF ADMINISTRATIVE COOPERATION

#### Title I

Definition of the concept of "originating products"

#### Article 1

1. For the purpose of implementing the Agreement, and without prejudice to the provisions of Article 2, the following products shall be considered as products originating in Estonia or in Switzerland.

- (a) products wholly obtained in Estonia or in Switzerland within the meaning of Article 4;
- (b) products obtained in Estonia or in Switzerland incorporating materials which have not been wholly obtained there, provided that:
  - (i) such materials have undergone sufficient working or processing in Estonia or in Switzerland within the meaning of Article 5, or that
  - (ii) such materials originate in the other Party to this Agreement, within the meaning of this Protocol, or that
  - (iii) such materials originate in Latvia or in Lithuania in application of the origin rules in the Agreements establishing Free Trade Areas between Switzerland on the one side and Latvia or Lithuania on the other, in so far as the said rules are identical to those of this Protocol.<sup>1</sup>

2. For products obtained in Estonia the provisions of paragraph 1 (b) (iii) may be applied only on condition that the necessary administrative co-operation between Estonia, Latvia and Lithuania for the implementation of these provisions has been established in accordance with the provisions of this Protocol.

#### Article 2

1. Notwithstanding the provisions of sub-paragraphs (b) (ii) and (iii) of paragraph 1 of Article 1, products originating within the meaning of this Protocol in Estonia or in Switzerland or in Latvia or Lithuania in application of the origin rules referred to in sub-paragraph (b) (iii) of paragraph 1 of Article 1, and exported from one State Party to this Agreement to the other in the same state or having undergone in the exporting State no working or processing going beyond that referred to in paragraph 5 of Article 5, retain their origin.

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<sup>1</sup> United Nations, *Treaty Series*, vol. 1885, No. I-32081.

2. In the purpose of implementing paragraph 1, where products originating in Estonia and in Switzerland or in one or both of these States and Latvia and/or Lithuania are used and those products have undergone no working or processing in the exporting State going beyond that referred to in paragraph 5 of Article 5, the origin is determined by the product with the highest customs value or, if this is not known and cannot be ascertained, with the highest first ascertainable price paid for the products in that State.

### **Article 3**

(This protocol does not contain an Article 3)

### **Article 4**

The following shall be considered as wholly obtained in Estonia or in Switzerland within the meaning of sub-paragraph (a) of paragraph 1 of Article 1:

- (a) mineral products extracted from its soil or from its seabed;
- (b) vegetable products harvested there;
- (c) live animals born and raised there;
- (d) products from live animals raised there;
- (e) products obtained by hunting or fishing conducted there;
- (f) products of sea fishing and other products taken from the sea by its vessels;
- (g) products made aboard its factory ships exclusively from products referred to in subparagraph (f);
- (h) used articles collected there fit only the recovery of raw materials, subject to Note 5a on used tyres contained in Annex I to this Protocol;
- (i) waste and scrap resulting from manufacturing operations conducted there;
- (j) goods produced there exclusively from products specified in sub-paragraphs (a) to (i).

### **Article 5**

1. The expressions "Chapters" and "headings" used in this Protocol shall mean the Chapters and the headings (four digit codes) used in the Nomenclature which makes up the "Harmonized Commodity Description and Coding System" (hereinafter referred to as the Harmonized System or HS). The expression "classified" shall refer to the classification of a product or material under a particular heading.

2. For the purposes of Article 1, non-originating materials are considered to be sufficiently worked or processed when the products obtained is classified within a heading which is different from those in which all the non-originating materials used in its manufacture are classified, subject to the provisions of paragraphs 3, 4 and 5.
3. For a product mentioned in columns 1 and 2 of the List in Annex II to this Protocol, the conditions set out in column 3 for the product concerned must be fulfilled instead of the rule in paragraph 2.
4. For the products of Chapters 84 to 91 inclusive, as an alternative to satisfying the conditions set out in column 3, the exporter may opt to apply the conditions set out in column 4 instead.
5. For the purpose of implementing sub-paragraph (b) (i) of paragraph 1 of Article 1, the following shall still be considered as insufficient working or processing to confer the status of originating product, whether or not there is a change of heading:
  - (a) operations to ensure the preservation of merchandise in good condition during transport and storage (ventilation, spreading out, drying, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal damaged parts, and like operations);
  - (b) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, painting, cutting up;
  - (c)
    - (i) changes of packing and breaking up and assembly of consignments;
    - (ii) simple placing in bottles, flasks, bags, cases, boxes, fixing on cards or boards, etc., and all other simple packing operations;
  - (d) affixing marks, labels or other like distinguishing signs on products or their packaging;
  - (e) simple mixing of products, whether or not of different kinds, where one or more components of the mixtures do not meet the conditions laid down in this Protocol to enable them to be considered as originating products;
  - (f) simple assembly of parts of articles to constitute a complete article;
  - (g) a combination of two or more operations specified in subparagraphs (a) to (f);
  - (h) slaughter of animals.

### **Article 6**

1. The term "value" in the List in Annex II shall mean the customs value at the time of the import of the non-originating materials used or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the territory concerned.

Where the value of the originating materials used needs to be established, this paragraph shall be applied *mutatis mutandis*.

2. The term "ex-works price" in the List in Annex II shall mean the ex-works price of the product obtained minus any internal taxes which are, or may be, repaid when the product obtained is exported.

### **Article 7**

Goods originating in the sense of this Protocol and constituting a single shipment which is not split up may be transported through territory other than that of Estonia, Switzerland, Latvia or Lithuania with, should the occasion arise, transshipment or temporary warehousing in such territory, provided that the crossing of latter territory is justified for geographical reasons, that the goods have remained under the surveillance of the customs authorities in the country of transit or of warehousing, that they have not entered into the commerce of such countries or been delivered for home use there and have not undergone operations other than unloading, reloading or any operation designed to preserve them in good condition.

## **TITLE II**

### **Methods for administrative cooperation**

### **Article 8**

1. Originating products within the meaning of this Protocol shall, on importation into Estonia or Switzerland, benefit from the Agreement upon submission of one of the following documents:

- (a) an EUR.1 movement certificate, hereinafter referred to as an "EUR.1 certificate" or an EUR.1 certificate, valid for a long term, and invoices referring to such certificate made out in accordance with Article 13. A specimen of the EUR.1 certificate is given in Annex III to this Protocol;
- (b) an invoice bearing the exporter's declaration as given in Annex IV to this Protocol, made out in accordance with Article 13;
- (c) an invoice bearing the exporter's declaration as given in Annex IV to this Protocol, made out by any exporter for any consignment consisting of one or more packages containing originating products whose total value does not exceed 5 110 units of account.

2. The following originating products within the meaning of this Protocol shall, on importation into Estonia or Switzerland, benefit from the Agreement without it being necessary to produce any of the documents referred to in paragraph 1:

- (a) products sent as small packages from private persons to private persons, provided that the value of the products does not exceed 365 units of account;

- (b) products forming part of travellers' personal luggage, provided that the value of the products does not exceed 1 025 units of account.

These provisions shall be applied only when such goods are not imported by way of trade and have been declared as meeting the conditions required for the application of the Agreement, and where there is no doubt as to the veracity of such declaration.

Importations which are occasional and consist solely of goods for the personal use of the recipients of travellers or their families shall not be considered as importations by way of trade if it is evident from the nature and quantity of the goods that no commercial purpose is in view.

3. Amounts in the national currency of the exporting Party to the Agreement equivalent to the amounts expressed in units of account shall be fixed by the exporting State and communicated to the other Party to the Agreement. When the amounts are higher than the corresponding amounts fixed by the importing State, the importing State shall accept them if the goods are invoiced in the currency of the exporting State.

If the goods are invoiced in the currency of the other Party to the Agreement, of Latvia or of Lithuania the importing State shall recognize the amount notified by the State concerned.

4. The equivalent of a unit of account in the currencies of Estonia, Switzerland, Latvia or Lithuania shall be the amounts specified in Annex VI to this Protocol.

5. The amounts expressed in units of account should be reviewed whenever necessary but anyway at least every second year.

6. Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle which are part of the normal equipment and included in the price thereof or are not separately invoiced are regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

7. Sets, within the meaning of General Rule 3 of the Harmonized System, shall be regarded as originating when all component articles are originating products. Nevertheless, when a set is composed of originating and non-originating articles, the set as a whole shall be regarded as originating provided that the value of the non-originating articles does not exceed 15 per cent of the ex-works price of the set.

#### **Article 9**

1. An EUR.1 certificate shall be issued by the customs authorities of the exporting State when the goods to which it relates are exported. It shall be made available to the exporter as soon as actual exportation has been effected or ensured.

2. The EUR.1 certificate shall be issued by the customs authorities of Estonia or Switzerland if the goods to be exported can be considered as products originating in that State within the meaning of Article 1.

3. The customs authorities in Estonia or in Switzerland may, provided that the goods to be covered by the EUR. 1 certificates are in its territory, issue EUR.1 certificates under the conditions laid down in this Protocol if the goods to be exported can be considered as products originating in Estonia or in Switzerland or in Latvia or in Lithuania within the meaning of Article 2.

In such cases, the issue of the EUR.1 certificate is subject to the presentation of the evidence of origin issued or made out previously.

4. An EUR.1 certificate may be issued only where it can serve as the documentary evidence required for the purpose of implementing the preferential treatment provided for in this Agreement or the Agreements referred to in sub-paragraph (b) (iii) of paragraph 1 of Article 1.

The date of issue of the EUR.1 certificate must be indicated in the box on the EUR.1 certificate reserved for the customs authorities.

5. In exceptional circumstances an EUR.1 certificate may also be issued after exportation of the goods to which it relates if it was not issued at the time of exportation because of errors, involuntary omissions of special circumstances.

The customs authorities may issue an EUR.1 certificate retrospectively only after verifying that the particulars supplied in the exporter's application agree with those on the corresponding document.

EUR.1 certificates issued retrospectively must be endorsed with one of the following phrases: "ISSUED RETROSPECTIVELY", "TAGANTJÄRELE VÄLJAANTUD", "IZDOTS PEC PRECU EKSPORTA", "ISLEISTI ATGALINE DATA", "NACHTRÄGLICH AUSGESTELLT", "DELIVRE A POSTERIORI", "RILASCIATO A POSTERIORI".

6. In the event of the theft, loss or destruction of an EUR.1 certificate, the exporter may apply to the customs authorities which issued it for a duplicate to be made out on the basis of the export documents in their possession. The duplicate issued in this way must be endorsed with one of the following words: "DUPLICATE", "DUPLIKAAT", "DUBLIKATS", "DUBLIKATAS", "DUPLIKAT", "DUPLICATA", "DUPLICATO".

The duplicate, which must bear the date of issue of the original EUR.1 certificate, shall take effect as from that date.

7. The endorsements referred to in paragraphs 5 and 6 shall be inserted in the "Remarks" box on the EUR.1 certificate.

8. It shall always be possible to replace one or more EUR.1 certificates by one or more EUR.1 certificates, provided that this is done at the customs office where the goods are located.

9. For the purpose of verifying whether the conditions stated in paragraph 2 and 3 have been met, the customs authorities shall have the right to call for any documentary evidence or to carry out any check which they consider appropriate.



10. The provisions of paragraphs 2 to 9 above shall apply, *mutatis mutandis*, to the evidence of origin made out by approved exporters under the conditions set out in Article 13.

#### **Article 10**

1. An EUR.1 certificate shall be issued only on application having been made in writing by the exporter or, under the exporter's responsibility, by his authorized representative, on the form of which a specimen is given in Annex III to this Protocol, which shall be completed in accordance with this Protocol.

2. It shall be the responsibility of the customs authorities of the exporting State to ensure that the form referred to in paragraph 1 is properly completed. In particular, they shall check whether the box reserved for the description of the goods has been completed in such a manner as to exclude any possibility of fraudulent additions. To this end, the description of the goods must be given without leaving any blank lines. Where the box is not completely filled, a horizontal line must be drawn below the last line of the description, the empty space being crossed through.

3. Since the EUR.1 certificate constitutes the documentary evidence for the application of the preferential tariff and quota arrangements laid down in the Agreement, it shall be the responsibility of the customs authorities of the exporting country to take any steps necessary to verify the origin of the goods and to check the other statements on the certificate.

4. When an EUR.1 certificate is issued within the meaning of paragraph 5 of Article 9 after the goods to which it relates have actually been exported, the exporter must in the application referred to in paragraph 1:

- indicate the place and date of exportation of the goods to which the EUR.1 certificate relates,
- certify that no EUR.1 certificates was issued at the time of exportation of the goods in question, and state the reasons.

5. Application for EUR.1 certificates and the evidence of origin referred to in the second sub-paragraph of paragraph 3 of Article 9, upon presentation of which new EUR.1 certificates are issued, must be preserved for at least two years by the customs authorities of the exporting country.

#### **Article 11**

1. EUR.1 certificates shall be made out on the form of which a specimen is given in Annex III to this Protocol. This form shall be printed in one or more of the official languages of the States Parties to this Agreement or in English. EUR.1 certificates shall be made out in one of those languages and in accordance with the provisions of the domestic law of the exporting State; if they are handwritten, they shall be completed in ink in capital letters.

2. The EUR.1 certificate shall be 210 x 297 millimetres. A tolerance of up to plus 8 millimetres or minus 5 millimetres in the length may be allowed. The paper used must be white-sized writing paper not containing mechanical pulp and weighing not less than 25 grammes per squaremetre. It shall have a printed green guilloche pattern background making any falsification by mechanical or chemical means apparent to the eye.

3. The States Parties to this Agreement may reserve the right to print the EUR.1 certificates themselves or may have them printed by printers approved by them. In the latter case, each EUR.1 certificate must include a reference of such approval. Each EUR.1 certificate must bear the name and address of the printer or a mark by which the printer can be identified. It shall also bear a serial number, whether or not printed, by which it can be identified.

### **Article 12**

1. An EUR.1 certificate must be submitted, within four months of the date of issue by the customs authorities of the exporting State, to the customs authorities of the importing State where the goods are entered, in accordance with the procedures laid down by that State. The said authorities may require a translation of a certificate. They may also require the import declaration to be accompanied by a statement from the importer to the effect that the goods meet the conditions required for the implementation of the Agreement.

2. Without prejudice to paragraph 5 of Article 5, where, at the request of the person declaring the goods at customs, a dismantled or non-assembled article falling within Chapter 84 or 85 of the Harmonized System is imported by instalments under the conditions laid down by the competent authorities, it shall be considered to be a single article and an EUR.1 certificate may be submitted for the whole article upon importation of the first instalment.

3. An EUR.1 certificate which is submitted to the customs authorities of the importing State after the final date for presentation specified in paragraph 1 may be accepted for the purpose of applying preferential treatment, where the failure to submit the certificate by the final date is due to force majeure or exceptional circumstances.

In other cases of belated presentation, the customs authorities of the importing State may accept the EUR.1 certificates where the goods have been submitted to them before the said final date.

4. The discovery of slight discrepancies between the statements made in the EUR.1 certificate and those made in the documents submitted to the Customs office for the purpose of carrying out the formalities for importing the goods shall not ipso facto render the certificate null and void, provided it is duly established that the certificate corresponds to the goods.

5. EUR.1 certificates shall be preserved by the customs authorities of the importing State in accordance with the rules in force in that State.

6. Proof that the conditions set out in Article 7 have been met shall be provided by submission to the customs authorities of the importing State of either:

- (a) a single supporting transport document, made out in the exporting State, under the cover of which the transit country has been crossed; or
- (b) a certificate issued by the customs authorities of the transit country containing:
  - an exact description of the goods,
  - the date of unloading and reloading of the goods and, where applicable, the names of the ships,
  - certified proof of the conditions under which the goods have stayed in the transit country;
- (c) or, failing these, any substantiating documents.

### **Article 13**

1. Notwithstanding paragraphs 1 to 7 of Article 9 and paragraphs 1, 4 and 5 of Article 10, a simplified procedure for the issue of the documentation relating to the evidence of origin shall be applicable under the terms of the provisions set out below.

2. The customs authorities in the exporting State may authorize any exporter, hereinafter referred to as "approved exporter", who makes frequent shipments for which EUR.1 certificates may be issued, and who offers to the satisfaction of the customs authorities all guarantees necessary to verify the originating status of the goods, not to submit to the customs office in the exporting State at the time of export either the goods or the application for an EUR.1 certificate relating to those goods, for the purpose of obtaining an EUR.1 certificate under the conditions laid down in paragraphs 1 to 4 of Article 9.

3. In addition, the customs authorities may authorize an approved exporter to draw up EUR.1 certificates, valid for a maximum period of one year from the date of issue, hereinafter referred to as "LT certificates" (Long term certificates). The authorization shall be granted only where the originating status of the goods to be exported is expected to remain unchanged for the period of validity of the LT certificate. If any goods are no longer covered by the LT certificate, the approved exporter shall immediately inform the customs authorities who gave the authorization.

Where the simplified procedure applies, the customs authorities of the exporting State may prescribe the use of EUR.1 certificates bearing a distinctive sign by which they may be identified.

4. The authorization referred to in paragraphs 2 and 3 shall stipulate, at the choice of customs authorities, that Box 11, "Customs endorsement", of the EUR.1 certificate must:

- (a) either be endorsed beforehand with the stamp of the competent customs office of the exporting State and the handwritten or non-handwritten signature of an official of that office; or

- (b) be endorsed by the approved exporter with a special stamp which has been approved by the customs authorities of the exporting State and corresponds to the specimen given in Annex V to this Protocol; this stamp may be preprinted on the form.

Box 11. "Customs endorsement", of the EUR.1 certificate shall be completed if necessary by the approved exporter.

5. In the cases referred to in paragraph 4 (a), one of the following phrases shall be entered in box 7, "Remarks", of the EUR.1 certificate: "Simplified procedure", "Lihtsustatud protseduur", "Vienkarsota procedura", "Supaprastinta procedura", "Vereinfachtes Verfahren", "Procédure simplifiée", "Procedura simplificata". The approved exporter shall if necessary indicate in Box 13, "Request for verification", the name and address of the customs authority competent to verify the EUR.1 certificate.

6. In the case referred to in paragraph 3, the approved exporter shall also enter in box 7 of the EUR.1 certificate one of the following phrases:

"LT certificate valid until ...",

"Pikaajaline sertifikaat kehtib kuni ...",

"LT sertifikats ir speka līdz ...",

"LT-sertificatas galioja iki ...",

"LT-Certificat gültig bis ..."

"Certificat LT valable jusqu'au ..."

"Certificato LT valido fino al ..."

(date indicated in Arabic numerals),

and a reference to the authorization under which the relevant LT certificate has been issued.

The approved exporter shall not be required to refer in Box 8 and Box 9 of the LT certificate to the marks and numbers and number and kind of packages and the gross weight (kg) or other measure (litres, m<sup>3</sup>, etc.). Box 8 must, however, contain a description and designation of the goods which is sufficiently precise to allow for their identification.

7. Notwithstanding paragraphs 1 to 3 of Article 12, the LT certificate must be submitted to the customs office of import at or before the first importation of any goods to which it relates. When the importer carries out the customs clearance at several customs offices in the State of importation, the customs authorities may request him to produce a copy of the LT certificate to all of those offices.

8. Where an LT certificate has been submitted to the customs authorities, the evidence of the originating status of the imported goods shall, during the validity of the LT certificate, be given by invoices which satisfy the following conditions:

- (a) when an invoice includes both goods originating in Estonia, Switzerland, Latvia or Lithuania and non-originating goods, the exporter shall distinguish clearly between these two categories;
- (b) the exporter shall state on each invoice the number of the LT certificate which covers the goods and the date of expiry of the certificate and the name(s) of the country or countries in which the goods originate.

The statement on the invoice made by the exporter of the number of the LT certificate with the indication of the country of origin shall constitute a declaration that the goods fulfil the conditions laid down in this Protocol for the acquisition of preferential origin status in trade between the States Parties to this Agreement.

The customs authorities of the exporting state may require that the entries, which, under the above provisions, must appear on the invoice, be supported by the manuscript signature followed by the name of the signatory in clear script;

- (c) the description and the designation of the goods on the invoice shall be in sufficient detail to show clearly that the goods are also listed on the LT certificate to which the invoice refers;
- (d) the invoices can be made out only for the goods exported during the period of validity of the relevant LT certificate. They may, however, be produced at the import customs office within four months of the date of their being made out by the exporter.

9. In the framework of the simplified procedures, invoices which satisfy the conditions of this Article may be made out and/or transmitted using telecommunications or electronic data processing methods. Such invoices shall be accepted by the customs of the importing State as evidence of the originating status of the goods imported in accordance with the procedures laid down by the customs authorities there.

10. Should the customs authorities of the exporting State identify that a certificate and/or invoice issued under the provisions of this Article is invalid in relation to any goods supplied, they shall immediately notify the customs authorities of the importing State of the facts.

11. The customs authorities may authorize an approved exporter to make out invoices bearing the declaration given in Annex IV to this Protocol in place of EUR.1 certificates.

The declaration made by the approved exporter on the invoice shall be made out in one of the official languages of the Parties to this Agreement or in English. It shall be signed in manuscript and must either:

- (a) have a reference to the approved exporter's authorization number, or
- (b) be endorsed by the approved exporter with the special stamp referred to in paragraph 4 (b) which has been approved by the customs authorities of the exporting State. This stamp may be preprinted on the invoice.

12. However, the customs authorities in the exporting State may authorize an approved exporter not to sign the statement in paragraph 8 (b) or the declaration referred to in

paragraph 11 given on the invoice, when such invoices are made out and/or transmitted using telecommunication or electronic data processing methods.

The said customs authorities shall lay down conditions for the implementation of this paragraph, including, if they so require, a written undertaking from the approved exporter, that he accepts full responsibility for such statement and declaration as if they had in fact been signed in manuscript by him.

13. In the authorization referred to in paragraphs 2, 3 and 11 the customs authorities shall specify in particular:

- (a) the conditions under which the application for EUR.1 certificates or for LT certificates are made or under which the declaration concerning the origin of goods is made on the invoice;
- (b) the conditions under which these applications, as well as a copy of the invoices referring to an LT certificate and of the invoices bearing the exporter's declaration, are kept for at least two years. In the case of LT certificates or invoices referring to an LT certificate, this period shall begin from the date of expiry of validity of the LT certificate. These provisions shall also apply to the EUR.1 certificates or LT certificates and the invoices referring to an LT certificate, as well as to invoices bearing the exporter's declaration, having served as the basis for the issue of other evidence of origin, used under the conditions laid down in the second sub-paragraph of paragraph 3 of Article 9.

14. The customs authorities in the exporting State may declare certain categories of goods ineligible for the special treatment provided for in paragraph 2, 3 and 11.

15. The customs authorities shall refuse the authorization referred to in paragraph 2, 3 and 11 to exporters who do not offer all the guarantees which they consider necessary.

The customs authorities may withdraw the authorizations at any time. They must do so where the conditions of approval are no longer satisfied or the approved exporter no longer offers those guarantees.

16. The approved exporter may be required to inform the customs authorities, in accordance with the rules which they lay down, of goods to be dispatched by him, so that the competent customs office may make any verification it thinks necessary before the dispatch of the goods.

17. The provisions of this Article shall not prejudice application of the rules of the States Parties to this Agreement on customs formalities and the use of customs documents.

#### **Article 14**

The declaration referred to in paragraph 1 (c) of Article 8 shall be made out by the exporter in the form given in Annex IV to this Protocol in one of the official languages of the States Parties to this Agreement or in English. It shall be typed or stamped and signed by hand. The exporter must keep a copy of the invoice bearing the said declaration for at least two years.

### **Article 15**

1. The exporter or his representative shall submit with his request for an EUR.1 certificate any appropriate supporting document proving that the goods to be exported qualify for the issue of an EUR.1 certificate.

He shall undertake to submit at the request of the appropriate authorities, any supplementary evidence they may require for the purpose of establishing the correctness of the originating status of the goods eligible for preferential treatment and shall undertake to agree to any inspection of his accounts and to any check on the processes of the obtaining of the above goods, carried out by the said authorities.

2. Exporters must keep for at least two years the supporting documents referred to in paragraph 1.

3. The provisions of paragraphs 1 and 2 shall apply *mutatis mutandis* in the case of the use of the procedures laid down in paragraphs 2 and 3 of Article 13 and of the declarations referred to in paragraphs 1 (b) and 1 (c) of Article 8.

### **Article 16**

1. Goods sent from Estonia or Switzerland for exhibition in a country other than Estonia, Switzerland, Latvia or Lithuania and sold after the exhibition for importation into Estonia or Switzerland shall benefit on importation from the provisions of this Agreement on condition that the goods meet the requirements of this Protocol entitling them to be recognized as originating in Switzerland or Estonia and provided that it is shown to the satisfaction of the customs authorities that:

- (a) an exporter has consigned these goods from Estonia or from Switzerland to the country in which the exhibition is held and has exhibited them there;
- (b) the goods have been sold or otherwise disposed of by that exporter to someone in Switzerland or Estonia;
- (c) the goods have been consigned during the exhibition or immediately thereafter to Switzerland or Estonia in the state in which they were sent for exhibition;
- (d) the goods have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

2. An EUR.1 certificate must be produced to the customs authorities in the normal manner. The name and address of the exhibition must be indicated thereon. Where necessary, additional documentary evidence of the nature of the goods and the conditions under which they have been exhibited may be required.

3. Paragraph 1 shall apply to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display which is not organized for private purposes in shops or business premises with a view to the sale of foreign goods, and during which the goods remain under customs control.

### **Article 17**

1. In order to ensure the proper application of this Title, Estonia and Switzerland shall assist each other through their respective customs administrations, in checking the authenticity and accuracy of EUR.1 certificates, including those issued under paragraph 3 of Article 9 and the exporters' declarations made on invoices.
2. The Joint Committee shall be authorized to take any decisions necessary for the methods of administrative cooperation to be applied in due time in Estonia and Switzerland.
3. The customs authorities of Estonia and Switzerland shall provide each other with specimen impressions of stamps used in their customs offices for the issue of EUR.1 certificates.
4. Penalties shall be imposed on any person who draws up, or causes to be drawn up, a document which contains incorrect particulars for the purpose of obtaining a preferential treatment for goods.
5. Estonia and Switzerland shall take all necessary steps to ensure that goods traded under cover of an EUR.1 certificate, which in the course of transport use a free zone situated in their territory, are not substituted by other goods and that they do not undergo handling other than normal operations designed to prevent their deterioration.
6. When products originating in Estonia and Switzerland and imported into a free zone under cover of an EUR.1 certificate undergo treatment or processing, the customs authorities concerned must issue a new EUR.1 certificate at the exporter's request if the treatment or processing undergone is in conformity with the provisions of this Protocol.

### **Article 18**

1. Subsequent verifications of EUR.1 certificates and of exporters' declarations made on invoices shall be carried out at random or whenever the customs authorities of the importing State have reasonable doubt as to the authenticity of the document or the accuracy of the information regarding the true origin of the goods in question.
2. For the purposes of implementing the provisions of paragraph 1, the customs authorities of the importing State shall return the EUR.1 certificate and the invoice, if it has been submitted, or the invoice referring to an LT certificate, or the invoice bearing the exporter's declaration or a copy of those documents, to the customs authorities of the exporting State, giving where appropriate, the reasons of substance or form for an inquiry.

The customs authorities shall forward, in support of the request for a posteriori verification, any documents and information that have been obtained suggesting that the particulars given on the EUR.1 certificate or the invoice are inaccurate.

If the customs authorities of the importing State decide to suspend the provisions of the Agreement while awaiting the results of the verification, they shall offer to release the goods to the importer subject to any precautionary measures judged necessary.



3. The customs authorities of the importing State shall be informed of the results of the verification as soon as possible. These results must be such as to make it possible to determine whether the documents returned under paragraph 2 apply to the goods actually exported, and whether these goods can, in fact, qualify for application of the preferential arrangements.

Where such disputes cannot be settled between the customs authorities of the importing State and those of the exporting State or where they raise a question as to the interpretation of this Protocol they shall be submitted to the Sub-Committee on customs and origin matters referred to in Article 26. The decisions shall be taken by the Joint Committee.

For the purpose of the subsequent verification of EUR.1 certificates, the customs authorities of the exporting country must keep the export documents, or copies of EUR.1 certificates used in place thereof, for at least two years.

### **TITLE III**

#### **Final provisions**

##### **Article 19**

Estonia and Switzerland shall each take the steps necessary to implement this Protocol.

##### **Article 20**

The Annexes to this Protocol shall form an integral part thereof.

##### **Article 21**

Goods which conform to the provisions of Title I and which on the date of entry into force of the Agreement are either being transported or are being held in Estonia or Switzerland in temporary storage, in bonded warehouses or in free zones, may be accepted as originating products subject to the submission - within four months from that date - to the customs authorities of the importing State of an evidence of origin, drawn up retrospectively, and of any documents that provide supporting evidence of the conditions of transport.

##### **Article 22**

Estonia and Switzerland undertake to introduce measures necessary to ensure that the EUR.1 certificates which their customs authorities are authorized to issue in pursuance of this Agreement are issued under the conditions laid down by this Agreement. They also undertake to provide the administrative co-operation necessary for this purpose, in particular to check on the itinerary of goods traded under this Agreement and the places in which they have been held.

### **Article 23**

1. Products which are of the kind to which the Agreement applies, and which are used in the manufacture of products for which an EUR.1 certificate, an LT certificate or the invoices referring to the LT certificate, or an invoice bearing the exporter's declaration are issued or completed, can only be the subject of drawback of customs duty or benefit from an exemption of customs duty of whatever kind when products originating in Estonia, Switzerland, Latvia or Lithuania are concerned.
2. In this Article, the term "customs duty" also means charges having an effect equivalent to customs duty.

### **Article 24**

(This Protocol does not contain an Article 24)

### **Article 25**

1. Originating products within the meaning of this Protocol shall, on importation into Estonia benefit from the Agreement also upon submission of an EUR.1 certificate issued by a customs office in Latvia or Lithuania in which the expression "Application Article 25" has been inserted and authenticated by the stamp of the said office.
2. When products, previously imported into Estonia accompanied by evidence of origin referred to in paragraph 1 of Article 8, issued or made out in Switzerland, are re-exported to Latvia or to Lithuania shall undertake to issue EUR.1 certificates with the expression "Application Article 25", provided that the products are re-exported in the same state or have undergone no working or processing in Estonia going beyond that referred to in paragraph 5 of Article 5.

### **Article 26**

A Sub-Committee on customs and origin matters shall be set up under the Joint Committee in accordance with paragraph 5 of Article 24 of the Agreement charged with carrying out administrative cooperation with a view to ensuring a practical, correct and uniform application of this Protocol as well as a continuous information and consultation process between experts.

It shall be composed of experts from Estonia and Switzerland responsible for questions related to customs and origin matters.

**Article 27**

For the purpose of implementing sub-paragraph (b) (ii) or (iii) of paragraph 1 of Article 1 any product originating in the territory of Estonia or Switzerland shall, on exportation to the territory of the other Party to this Agreement, be treated as a non-originating product during the period or periods in which the last-mentioned Party to this Agreement applies the rate of duty applicable to third countries or any corresponding safeguard measure to such products in accordance with this Agreement.

ANNEX I<sup>1</sup>

## EXPLANATORY NOTES

ANNEX II<sup>1</sup>

LIST OF WORKING OR PROCESSING REQUIRED TO BE CARRIED OUT ON NON-ORIGINATING MATERIALS IN ORDER THAT THE PRODUCT MANUFACTURED CAN OBTAIN ORIGINATING STATUS

ANNEX III TO PROTOCOL B<sup>1</sup>*Movement certificate**Application for a movement certificate*<sup>1</sup>

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<sup>1</sup>Not published herein in accordance with article 12 (2) of the General Assembly regulations to give effect to Article 102 of the Charter of the United Nations as amended in the last instance by General Assembly resolution 33/141 A of 19 December 1978.

ANNEX IV TO PROTOCOL B<sup>1</sup>ANNEX V<sup>1</sup>ANNEX VI TO PROTOCOL B<sup>1</sup>

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<sup>1</sup>Not published herein in accordance with article 12 (2) of the General Assembly regulations to give effect to Article 102 of the Charter of the United Nations as amended in the last instance by General Assembly resolution 33/141 A of 19 December 1978.

PROTOCOL C REFERRED TO IN PARAGRAPH 3 OF ARTICLE 4  
(CUSTOMS DUTIES ON IMPORTS)

Liechtenstein and Switzerland may apply duties of a fiscal nature to products falling under the tariff headings specified in Table I while observing the conditions of Article 8 (Internal taxation) of the Agreement.

When production is started in Liechtenstein and Switzerland of a product of like kind to the one of those listed in Table I, the duty to which the latter product is subject must be abolished.

TABLE I TO PROTOCOL C<sup>1</sup>ANNEX III<sup>1</sup> REFERRED TO IN ARTICLE 6 (PROHIBITION AND ABOLITION  
OF QUANTITATIVE RESTRICTIONS ON IMPORTS OR EXPORTS)

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<sup>1</sup>Not published herein in accordance with article 12 (2) of the General Assembly regulations to give effect to Article 102 of the Charter of the United Nations as amended in the last instance by General Assembly resolution 33/141 A of 19 December 1978.

## PROTOCOL D

### MONOPOLIES NOT ADJUSTED IN ACCORDANCE WITH ARTICLE 10 AT THE ENTRY INTO FORCE OF THE AGREEMENT

Article 10 (State monopolies) of the Agreement shall apply to Liechtenstein and Switzerland with regard to state monopolies concerning salt and gunpowder only to the extent that both States will have to fulfil corresponding obligations under the Agreement between the EFTA States and the European Economic Communities and their Member States on a European Economic Area.



## ANNEX IV

## INTELLECTUAL PROPERTY PROTECTION

**Article 1**Definition and scope of protection

"Intellectual property" shall be construed in the meaning of Article 2 (VIII) of the Convention Establishing the World Intellectual Property Organization, signed at Stockholm on 14 July 1967. For the purposes of this Agreement, "Intellectual property protection" comprises, in particular, protection of trademarks for goods and services, geographical indications, patents, industrial designs, topographies of integrated circuits, copyright, including computer programs and databases, and neighbouring rights, as well as undisclosed information on know-how.

**Article 2**Substantive standards according to international conventions

1. In accordance with paragraph 2 of Article 14, the Parties to this Agreement agree to comply with the substantive standards of the following multilateral agreements:
  - (a) Paris Convention, of 20 March 1883, for the Protection of Industrial Property (Stockholm Act, 1967);<sup>1</sup>
  - (b) Berne Convention, of 9 September 1886, for the Protection of Literary and Artistic Works (Paris Act 1971);<sup>2</sup>
  - (c) International Convention, of 26 October 1961, for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention);<sup>3</sup>
2. The Parties to this Agreement agree to promptly hold expert consultations, upon request of any Party, on:
  - (a) activities relating to the identified or to future international conventions on harmonization, administration and enforcement of protection of intellectual property rights;
  - (b) compliance with the substantive standards of the European Patent Convention of 5 October 1973;<sup>4</sup>
  - (c) activities in international organizations, such as the General Agreement on Tariffs and Trade, and the World Intellectual Property Organization (WIPO);

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<sup>1</sup> United Nations, *Treaty Series*, vol. 828, p. 305.

<sup>2</sup> *Ibid.*, vol. 1161, p. 3.

<sup>3</sup> *Ibid.* vol. 496, p. 43.

<sup>4</sup> *Ibid.* vol. 1065, p. 199.

- (d) relations of the Parties to third countries on matters concerning rights and obligations on intellectual property under this agreement.

### Article 3

#### Additional substantive standards

1. The Parties to this Agreement shall ensure in their national laws at least the following:
  - (a) adequate and effective protection of copyright, including computer programmes and data bases, as well as of neighbouring rights;
  - (b) adequate and effective protection of trademarks for goods and services, in particular of internationally well known trademarks;
  - (c) adequate and effective means to protect geographical indications, including appellations of origin, with regard to all products, at least to the extent that such protection shall prevent the use of indications which mislead the public;
  - (d) adequate and effective protection of industrial designs by providing in particular a period of protection of five years from the date of application with a possibility of renewal for two consecutive periods of five years each;
  - (e) adequate and effective protection of patents for inventions on a level similar to that prevailing in the European Free Trade Area;
  - (f) compulsory licensing of patents shall be non-exclusive, non-discriminatory, subject to compensation commensurate with the market value for the licence of the patent and to judicial review. The scope and duration of such licence shall be limited to the purpose for which it was granted. Licences granted on the grounds of non-working shall be used only to the extent necessary to satisfy the local market on reasonable commercial terms;
  - (g) adequate and effective protection of topographies of integrated circuits;
  - (h) adequate and effective protection of undisclosed information on know how.

### Article 4

#### Acquisition and maintenance of intellectual property rights

Where the acquisition of an intellectual property right is subject to the right being granted or registered, the Parties to this Agreement shall ensure that the procedures for grant or registration be non-discriminatory, fair and equitable. They shall not be unnecessarily complicated and costly, or entail unreasonable time limits or unwarranted delays.

### **Article 5**

#### Enforcement of intellectual property rights

1. The Parties to this Agreement shall ensure that the enforcement procedures be non-discriminatory, fair and equitable. They shall not be unnecessarily complicated and costly, or entail unreasonable time limits or unwarranted delays.
2. The Parties to this Agreement shall provide for enforcement provisions that are adequate, effective and non-discriminatory so as to guarantee full protection of intellectual property rights against infringement. Such provisions shall include in particular injunctions, damages adequate to compensate for the injury suffered by the right holder, as well as provisional measures, including *inaudita altera parte* ones.

## ANNEX V

## ILLUSTRATIVE LIST OF FORMS OF EXPORT AID REFERRED TO IN ARTICLE 16 (STATE AID)

- (a) Currency retention schemes or any similar practices which involve a bonus on exports or re-exports.
- (b) The provision by governments of direct subsidies to exporters.
- (c) The remission, calculated in relation to exports, of direct taxes or social welfare charges on industrial or commercial enterprises.
- (d) The exemption, in respect of exported goods, from charges or taxes, other than charges in connection with importation or indirect taxes levied at one or several stages on the same goods if sold for internal consumption, or the payment, in respect of exported goods, of amounts exceeding those effectively levied at one or several stages on these goods in the form of indirect taxes or of charges in connection with importation or in both forms.
- (e) In respect of deliveries by governments or governmental agencies of imported raw materials for export business on different terms than for domestic business, the charging of prices below world prices.
- (f) In respect of government export credit guarantees, the charging of premiums at rates which are manifestly inadequate to cover the long-term operating costs and losses of the credit insurance institutions.
- (g) The grant by governments (or special institutions controlled by governments) of export credits at rates below those which they have to pay in order to obtain the funds so employed.
- (h) The government bearing all or part of the costs incurred by exporters in obtaining credit.

## ANNEX VI

## MEASURES REGARDING STRUCTURAL ADJUSTMENT REFERRED TO IN ARTICLE 19

1. Exceptional measures may only concern infant industries, or certain sectors undergoing restructuring or facing serious difficulties, particularly where these difficulties produce important social problems.
2. Customs duties on imports applicable in Estonia to products originating in Switzerland introduced by these measures may not exceed 25 per cent ad valorem. Such customs duties shall maintain an element of preference for products originating in Switzerland, and they may not exceed customs duties levied on the imports to Estonia of similar goods from any other country. The total value of imports of the products which are subject to these measures may not exceed 15 per cent of total imports of industrial products from Switzerland as defined in Article 2 during the last year for which statistics are available.
3. These measures shall be applied for a period not exceeding five years unless a longer duration is authorized by the Joint Committee, and cannot be introduced later than five years after the entry into force of this Agreement.
4. Estonia shall inform the Joint Committee of any exceptional measures it intends to take and, at the request of Switzerland, consultations shall be held in the Joint Committee on such measures and the sectors to which they apply before they are introduced. When taking such measures Estonia shall provide the Joint Committee with a schedule for the elimination of the customs duties introduced under this Article. This schedule shall provide for a phasing out of these duties starting at the latest two years after their introduction, at equal annual rates. The Joint Committee may decide on a different schedule.

**PROTOCOL E CONCERNING THE TREATMENT THAT MAY BE APPLIED  
BY LIECHTENSTEIN AND SWITZERLAND TO IMPORTS OF CERTAIN  
PRODUCTS SUBJECT TO THE SCHEME FOR BUILDING UP COMPUL-  
SORY RESERVES**

Liechtenstein and Switzerland may subject to a scheme of compulsory reserves products which are indispensable for the survival of the population, and in the case of Switzerland for the army, in times of serious supply shortages and the production of which in Liechtenstein and Switzerland is insufficient or non-existent and the characteristics and nature of which enable reserves to be built up.

Liechtenstein and Switzerland shall apply this scheme in a manner that does not involve discrimination, direct or indirect, between the products imported from the other Party to this Agreement and like or substitute national products.

## PROTOCOL F

RECORD OF UNDERSTANDINGS RELATING TO THE AGREEMENT  
BETWEEN ESTONIA AND SWITZERLAND

1. The Parties agree to closely co-ordinate their efforts in training those concerned with the use of the simplified procedure laid down in Protocol B with regard to the issue, control and verification of evidence of origin in order to enable them to be authorized to use this procedure. The simplified procedure shall be used in a restricted way and its implementation be subject to deliberations in the Sub-Committee on origin and customs matters.
2. The Parties may, within the framework of the Joint Committee established under this Agreement, agree to discuss possibilities to cooperate more closely on matters related to removing obstacles to trade. This cooperation may take place in fields related to technical regulations, standardization as well as testing and certification.
3. This Agreement shall not preclude prohibitions or restrictions of imports, exports or goods in transit justified on grounds of the protection of the environment, imposed under the provisions of Article 9 (General exceptions), provided that such prohibitions or restrictions are made effective in conjunction with equivalent measures imposed domestically or undertaken in pursuance of obligations under an intergovernmental agreement on the environment. Any difficulty in interpreting the notion "protection of the environment" in the context of Article 9 of this Agreement shall be examined by the Joint Committee.
4. The Parties agree that the substantive provisions set out in Article 14 Paragraphs 1 and 2, as well as those contained in Annex IV shall take effect as soon as possible, but not later than 31 December 1995.
5. The Parties consider that an arbitration procedure for disputes that cannot be settled through the procedures envisaged in Article 22 (Safeguard procedure) may be appropriate. This matter will be further examined in the Joint Committee.
6. With reference to paragraph 2 of Annex VI, if there is a disagreement with regard to the actual value of imports of industrial products, international trade statistics such as those of ECE, GATT and OECD will serve as a basis.
7. If and when a free trade agreement covering essentially the same substance as the one covered by this Agreement is concluded between Estonia and the EFTA States, it is the intention of Switzerland that the EFTA agreement shall supercede this Agreement.