

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(92) 177 final

Brussels, 4 May 1992

Proposal for a

COUNCIL DECISION

on the conclusion by the European Economic Community of an
Agreement between the European Economic Community and Estonia on
trade and commercial and economic cooperation

(presented by the Commission)

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EXPLANATORY MEMORANDUM

1. The attached proposal for a Council Decision is the legal instrument for the conclusion of the Agreement on Trade and Commercial and Economic Cooperation between the European Economic Community and the European Atomic Energy Community and the Republic of Estonia.

2. Exploratory talks between Commission and Estonian experts took place between November 1991 and February this year in Brussels.

3. On the basis of directives adopted by the Council on 4 November 1991 there were a number of informal meetings between Community and Estonian representatives, which resulted in a formal negotiating session in Brussels on 27 February this year, at which the Agreement was initialled.

Regarding the initialled text, which is attached to the proposal for a Decision, the following should be noted:

- (a) it contains no financial protocol or financial undertakings;
- (b) the respect for democratic principles and human rights is an essential aspect of the Agreement (Article 1);
- (c) ECSC products and textile and clothing products falling within Section XI of the Harmonized System are not covered by the Agreement (Article 3);
- (d) the Community and Estonia reaffirm their undertaking to accord each other most-favoured-nation treatment under the GATT, and the Community also undertakes to abolish quantitative restrictions specific to Estonia (Article 8);
- (e) as regards commercial cooperation, Estonia also undertakes to guarantee effective, suitable protection of intellectual and commercial property and to accede to the relevant international conventions (Article 13(3));
- (f) economic cooperation is focused on the sectors listed non-exhaustively in Article 15 with a view to establishing economic links and increasing trade between the two parties: it is also designed to support structural changes in the Estonian economy;
- (g) the Community undertakes to support Estonia's applications to accede to international organizations and conventions (Article 17);
- (h) Article 18 sets up a Joint Committee and lays down its responsibilities: the Committee will monitor the proper working of the Agreement and recommend measures that it deems appropriate to achieve the aims of the Agreement.

- (i) the Agreement is concluded for an initial period of ten years, tacitly renewable each year: it may be denounced by means of the usual procedure, and suspended with immediate effect, totally or partially, should there be serious infringement of essential provisions of the Agreement.
- 4. Since Articles 113 and 235 of the Treaty provide the legal basis for the Agreement, the opinion of Parliament is required.
- 5. It is proposed to sign a joint declaration on political dialogue when the Agreement is signed.
- 6. The Council is asked to adopt the attached proposal for a Council Decision on the conclusion of an Agreement on Trade and Commercial and Economic Cooperation between the Community and Estonia.

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PROPOSAL FOR

A COUNCIL DECISION

of

on the conclusion by the European Economic Community of an
Agreement between the European Economic Community and Estonia on
trade and commercial and economic cooperation

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic
Community, and in particular Articles 113 and 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas the conclusion of the Agreement between the European Economic
Community and on trade and commercial and economic cooperation is
necessary for the achievement of the Community's objectives in the field
of external economic relations; whereas this Agreement should be
approved on behalf of the European Economic Community;

Whereas it appears that certain measures of economic cooperation
provided for by the Agreement exceed the powers of action provided for
in the Treaty, and in particular those specified in the field of the
common commercial policy,

HAD DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Economic Community and Estonia on
trade and commercial and economic cooperation is hereby approved on
behalf of the European Economic Community.

The text of that Agreement is attached to this decision.

Article 2

The President of the Council shall give the notification, provided for
in Article 21 of the Agreement.

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Article 3

The Commission assisted by representatives of the Member States, shall represent the Community in the joint committee set up by Article 18 of the Agreement.

Done at Brussels,.....

For the Council

The President

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Brussels, 27 February 1992

DRAFT AGREEMENT

between the European Economic Community and the Republic of Estonia on trade and commercial and economic cooperation

THE EUROPEAN ECONOMIC COMMUNITY,

hereinafter called the "Community", of the one part, and

THE REPUBLIC OF ESTONIA,

hereinafter called "Estonia", of the other part,

CONSIDERING the importance of establishing and expanding trade links between the Community and Estonia,

DESIROUS of creating favourable conditions for a substantial and harmonious development and diversification of trade and the promotion of commercial and economic cooperation in areas of mutual interest on the basis of equality, non-discrimination, mutual benefit and reciprocity,

AWARE of the particular importance of foreign trade and other forms of international economic cooperation for the economic and social development of each of the Contracting Parties,

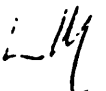
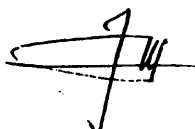
AWARE of the importance of giving full effect to all the provisions and principles of the CSCE process, and in particular those set out in the Helsinki Final Act, the concluding documents of the Madrid, Vienna and Copenhagen meetings, and those of the Charter of Paris for a new Europe, particularly with regard to the rule of law, democracy and human rights, as well as those of the Bonn CSCE Conference on Economic Co-operation,

RECOGNIZING the importance of guaranteeing the rights of ethnic and national groups and minorities, in accordance with the undertakings made within the context of the CSCE,

AWARE of the importance of strengthening their democratic institutions and of supporting the process of economic reform in Estonia,

BELIEVING that a further impetus should be given to the trading and economic relationship between the Community and Estonia by establishing contractual links which will contribute to progress towards the objective of an association agreement in due course, when conditions are met, and to further development of relations between them,

TAKING INTO ACCOUNT the favourable implications for trade and economic cooperation between the Contracting Parties of reform under way in Estonia,



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HAVE DECIDED to conclude this Agreement and to this end have designated as their Plenipotentiaries:

THE EUROPEAN ECONOMIC COMMUNITY:

THE REPUBLIC OF ESTONIA:

WHO, having exchanged their full powers, found in good and due form,

HAVE AGREED AS FOLLOWS:

TITLE I

General

Article 1

Respect for the democratic principles and human rights established by the Helsinki Final Act and the Charter of Paris for a new Europe inspires the domestic and external policies of the Community and Estonia and constitutes an essential element of the present agreement.

Article 2

Within the framework of their respective laws and regulations, the Contracting Parties undertake to facilitate and promote:

- the harmonious development and diversification of trade between them;
- the development of various types of commercial and economic cooperation.

They therefore confirm their resolve to consider favourably, each for its own part, suggestions made by the other Party with a view to attaining these aims.

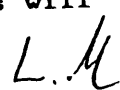
TITLE II

Trade and commercial cooperation

Article 3

1. This Agreement shall apply to trade in all products originating in the Community and in Estonia with the exception of products covered by the Treaty establishing the European Coal and Steel Community and of the textiles and apparel covered by Section XI of the Harmonized System.

2. The provisions of this Agreement may be supplemented if necessary by sectoral agreements or arrangements concluded between the Community and Estonia. In particular, a separate agreement for textile products will be negotiated.

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Article 4

Unless otherwise specified in this Agreement, trade and other commercial cooperation between the Contracting Parties shall be conducted in accordance with their respective laws and regulations.

Article 5

1. The Contracting Parties shall accord each other most-favoured-nation treatment in all matters regarding:

- customs duties and charges of any kind imposed on or in connection with importation or exportation,
- the method of levying such duties and charges,
- all rules and formalities in connection with importation and exportation, including provisions relating to customs clearance, transit, warehousing and transshipment,
- taxes and other internal charges levied directly or indirectly on imported products,
- methods of payment and the transfer of such payments,
- the regulations affecting the sale, purchase, transport, distribution and use of goods on the domestic market.

2. The provisions of paragraph 1 shall not apply to:

- (a) advantages accorded to adjacent countries in order to facilitate frontier traffic;
- (b) advantages accorded with the aim of creating a customs union or a free trade area or pursuant to the creation of such a union or area;
- (c) advantages accorded to particular countries in accordance with the General Agreement on Tariffs and Trade and other international arrangements in favour of developing countries.

Article 6

Without prejudice to the rights and obligations stemming from international conventions on the temporary admission of goods which bind both sides,

the Contracting Parties shall furthermore grant each other reciprocal exemption from import charges and duties on goods admitted temporarily, in the instances and according to the procedures stipulated by any other international convention on this matter binding only one of them. Account shall be taken of the conditions under which the obligations stemming from such a convention have been accepted by the Contracting Party in question.

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Article 7

Estonia shall grant imports of products originating in the Community treatment which is non-discriminatory in relation to products originating in other countries, as regards the application of quantitative restrictions, the granting of licences and access to the foreign currency needed to pay for such imports.

Article 8

1. Without prejudice to Article 7, each of the Contracting Parties shall grant imports of products originating in the other the highest degree of liberalization generally extended to third countries. To that end, the specific quantitative restrictions applying to imports from Estonia into the Community shall be eliminated.

2. For the purposes of this Agreement, "specific quantitative restrictions" shall mean those quantitative restrictions applied by the Community to imports originating in Estonia under Regulation (EEC) No 3420/83, which concerns products other than those to which quantitative restrictions are applied under Regulation (EEC) No 288/82.

Article 9

The Parties shall inform each other of any changes in their tariff or statistical nomenclature or of any decision taken in accordance with the procedures in force concerning the classification of products covered by this Agreement.

Article 10

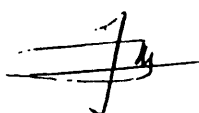
Goods shall be traded between the Contracting Parties at market-related prices.

Article 11

1. The Contracting Parties shall consult each other if any product is being imported into the territory of one of them in such increased quantities or on such terms as to cause or threaten to cause serious injury to domestic producers of like or directly competing products.

2. The Contracting Party claiming serious injury or threat thereof shall request consultations by notification in writing and shall provide the other Party with all the relevant information required for a detailed examination of the situation.

3. The consultations requested pursuant to paragraph 1 shall be held with a view to seeking mutually satisfactory solutions and with due regard for the fundamental aims of the Agreement; they shall be completed not later than 30 days from the date of notification of the request by the Party concerned, unless the Parties agree otherwise.



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4. If, as a result of such consultations, it is agreed that the situation referred to in paragraph 1 exists, exports shall be limited or such other action taken, possibly with regard to the price at which these exports are sold, as will prevent or remedy the injury.

5. If, following action under paragraphs 1 to 4, agreement is not reached between the Contracting Parties, the Contracting Party which requested the consultations shall be free to restrict the imports of the products concerned to the extent and for such time as is necessary to prevent or remedy the injury. The other Contracting Party shall then be free to deviate from its obligations towards the first Party in respect of substantially equivalent trade.

6. In critical circumstances, where delay would cause damage difficult to repair, such preventive or remedial action may be taken provisionally without prior consultation, provided consultations are held immediately after such action is taken.

7. In the selection of measures under this Article, the Contracting Parties shall give priority to those which cause the least disturbance to the functioning of this Agreement.

8. Where necessary the Contracting Parties may hold consultations to determine when the measures adopted pursuant to paragraphs 4 to 6 shall cease to apply.

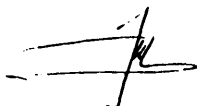
Article 12

1. 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 life and health of humans, animals or plants, the protection of industrial, commercial and intellectual property, or rules relating to gold or silver or imposed for the protection of national treasures of artistic, historic or archaeological value.

Such prohibitions and restrictions must not, however, constitute a means of arbitrary discrimination or disguised restrictions on trade between the Contracting Parties.

2. This Agreement shall not preclude the taking of action justified on grounds of protection of essential security interests:

- (a) relating to fissionable materials or the materials from which they are derived;
- (b) relating to traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;
- (c) taken in time of war or other emergency in international relations or to allow it to comply with obligations it has accepted in connection with the maintenance of international peace and security.



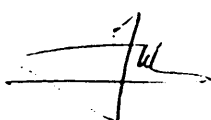
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Article 13

1. The Contracting Parties shall make every effort to promote, expand and diversify their trade on the basis of non-discrimination and reciprocity. In the spirit of this Article, the Joint Committee established under Title V of this Agreement will attach special importance to examining ways of encouraging the reciprocal and harmonious expansion of trade.

2. In furtherance of the aims of this Article and within the limits of their respective powers, the Contracting Parties agree on the necessity to improve favourable business regulations and facilities for each other's firms or companies on their respective markets, inter alia by taking steps:

- to ensure the publication and facilitate exchanges of commercial and economic information on all matters which would assist the development of commercial and economic cooperation, for example:
 - general and sectoral import arrangements,
 - economic and commercial law, including regulations on markets, companies and investment,
 - macroeconomic information and statistics, including production, consumption and foreign trade statistics,
- to facilitate the establishment and operation of each other's companies,
- to encourage trade promotion activities,
- to provide natural and legal persons of the other Party with guarantees of their individual and property rights, such as non-discriminatory access for that purpose to courts and appropriate administrative bodies of the Community and Estonia.





3. Estonia will take measures guaranteeing an effective and adequate protection of intellectual, industrial and commercial property, at a level similar to that which exists in the Community, and will adhere to International Conventions on intellectual, industrial and commercial property.

4. The Contracting Parties undertake to facilitate, within the limits of their respective powers, administrative cooperation between the appropriate authorities in matters relating to customs, in particular in the following areas:

- vocational training,
- simplification of customs documentation and procedures, and
- prevention and detection of infringements of the rules on customs matters, including the rules governing import quotas.

Article 14

Within the limits of their respective powers, the Contracting Parties:

- shall encourage the adoption of arbitration for the settlement of disputes arising out of commercial and cooperation transactions concluded by companies, enterprises or economic organizations of the Community and those of Estonia,
- agree that when a dispute is submitted to arbitration, each party to the dispute may freely choose its own arbitrator, irrespective of nationality, and that the presiding third arbitrator or the sole arbitrator may be a citizen of a third State,
- shall encourage recourse to the arbitration rules developed by the United Nations Commission on International Trade Law (Uncitral) and to arbitration by any centre of a State signatory to the Convention on Recognition and Enforcement of Foreign Arbitral Awards concluded in New York on 10 June 1958.

TITLE III

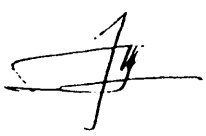
Economic cooperation

Article 15

1. In the light of their respective economic policies and objectives, the Contracting Parties, within the limits of their existing powers, shall foster economic cooperation on as broad a base as possible in all fields deemed to be in their mutual interest.

The objectives of such cooperation shall be, inter alia:

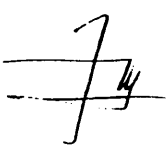
- to reinforce and diversify economic links between the Contracting Parties,



- to contribute to the development of their respective economies and standards of living,
- to open up new sources of supply and new markets,
- to encourage cooperation between economic operators with a view to promoting joint ventures, licensing agreements, and other forms of industrial cooperation to develop their respective industries,
- to encourage scientific and technological progress,
- to support structural changes in the Estonian economy which will increase and diversify trade in goods and services with the Community,
- to encourage the participation of small and medium-sized enterprises in trade and industrial cooperation.

2. In order to achieve these objectives, the Contracting Parties shall make efforts to encourage and promote economic cooperation in areas of mutual interest, in particular in the following sectors:

- industry, including the textiles and apparel sectors,
- agriculture, including agro-industry,
- fisheries,
- science and technology in areas in which the Contracting Parties are active and which they consider to be of mutual interest,
- telecommunications,
- energy, including the saving of energy and the development of new sources of energy,
- mining and production of building materials,
- environmental protection, including protection from water and air pollution and industrial accidents, and the management of natural resources; also taking into account environmental requirements in other policy areas such as industry, agriculture, energy, transport,
- transport, communications and the running of ports,
- tourism and other service activities,
- economic, monetary, banking, insurance and financial services,
- development of human resources and training,
- health,





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- economic policy,
- standards,
- statistics.

3. To give effect to the objectives of economic cooperation and within the limits of their respective powers, the Contracting Parties shall encourage the adoption of measures aimed at creating favourable conditions for economic and industrial cooperation, including:

- the facilitation of exchanges of commercial and economic information,
- the development of a favourable climate for investment, notably by the extension by the Member States of the Community and Estonia of arrangements for investment promotion and protection, in particular for the transfer of profits and the repatriation of invested capital, and also of agreements on the avoidance of double taxation,
- exchanges and contacts between persons and delegations representing commercial or other appropriate organizations,
- the organization of seminars, fairs or exhibitions, symposia and business weeks.
- the encouragement of activities contributing to technical competence in specific fields, notably commercialization.

Article 16

Without prejudice to the relevant provisions of the Treaties establishing the European Communities, this Agreement and any action taken pursuant to it shall in no way affect the powers of the Member States of the Community to undertake bilateral activities with Estonia in the field of economic cooperation and to conclude, where appropriate, new economic cooperation agreements with Estonia.

TITLE IV

Accession to international organizations and conventions

Article 17

The Community undertakes, within the limits of its powers, to support the accession of Estonia to international organizations and conventions to which the Community is a party, in order to enable Estonia to become more active in the world economic system.



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TITLE VJoint Committee

Article 18

1. A Joint Committee shall be set up, comprising representatives of the Community, on the one hand, and representatives of Estonia on the other.

The Joint Committee shall formulate recommendations by mutual agreement between the Contracting Parties.

The Joint Committee shall, as necessary, adopt its own rules of procedure and programme of work.

The Joint Committee shall meet once a year in Brussels and Tallinn alternately. Special meetings may be convened by mutual agreement, at the request of either Contracting Party. The Joint Committee shall be chaired alternately by each of the Contracting Parties. Wherever possible, the agenda for meetings of the Joint Committee shall be agreed beforehand.

The Joint Committee may decide to set up working parties to assist it in carrying out its duties.

2. The Joint Committee shall ensure the proper functioning of this Agreement and shall devise and recommend practical measures for achieving its objectives, keeping in view the economic and social policies of the Contracting Parties.
3. The Joint Committee shall endeavour to find ways of encouraging the development of trade and commercial and economic cooperation between the Contracting Parties. In particular, it shall:
 - examine the various aspects of trade between the Parties, notably its overall pattern, rate of growth, structure and diversification, the trade balance and the various forms of trade and trade promotion,
 - make recommendations on any trade or economic cooperation problem of mutual concern;
 - seek appropriate means of avoiding possible difficulties in the fields of trade and cooperation and encourage various forms of commercial and economic cooperation in areas of mutual interest;
 - consider measures likely to develop and diversify trade and economic cooperation, notably by improving import opportunities in the Community and in Estonia;



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- exchange information on macroeconomic plans and forecasts for the economies of the Contracting Parties which have an impact on trade and cooperation and, by extension, on the scope for developing complementarity between their respective economies and also on proposed programmes of economic reform;
- examine the situation concerning the procedures for the award of contracts for supplying goods and services following an international invitation to tender;
- exchange information on amendments to and developments in the laws, regulations and formalities of the Contracting Parties in the areas covered by this Agreement;
- examine favourably ways of improving conditions for the development of direct contacts between firms established in the Community and those established in Estonia;
- formulate and submit to the authorities of both Contracting Parties recommendations for resolving any problems that arise, where appropriate by means of the conclusion of arrangements or agreements.

TITLE VI

General and final provisions

Article 19

Subject to the provisions of Article 16, the provisions of this Agreement shall replace the provisions of agreements concluded between Member States of the Community and Estonia where the latter provisions are either incompatible with or identical to the former.

Article 20

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Economic Community is applied and under the conditions laid down in that Treaty and, on the other, to the territory of the Republic of Estonia.

Article 21

This Agreement shall enter into force on the first day of the second month following the date on which the Contracting Parties notify each other that the legal procedures necessary to this end have been completed. The Agreement is concluded for an initial period of ten years. The Agreement shall be automatically renewed year by year provided that neither Contracting Party gives the other Party written notice of denunciation of the Agreement six months before it expires.



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However, the two Contracting Parties may amend the Agreement by mutual consent in order to take account of new developments, notably the situation which would arise from the accession of Estonia to the General Agreement on Tariffs and Trade. In the latter case, the Contracting Parties shall prepare together the amendments to this Agreement necessary to take account of the protocol of accession of Estonia to the General Agreement. If the Parties are unable to agree on this subject they reserve the right to denounce this Agreement.

The parties reserve the right to suspend this Agreement in whole or in part with immediate effect if a serious violation occurs of the essential provisions of the present agreement.

Article 22

This Agreement is drawn up in duplicate in the Danish, Dutch, English, French, German, Greek, Italian, Portuguese, Spanish and Estonian languages, each text being equally authentic.

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FICHE D'INCIDENCEIMPACT DE LA PROPOSITION SUR LES P.M.E.
ET SUR LE MARCHE DE L'EMPLOI

L'incidence économique éventuelle du présent accord ne saurait être qu'indirecte et tributaire des recommandations du Comité Mixte institué dans le cadre de celui-ci. Il n'est donc pas possible de procéder à une évaluation précise des effets économiques de l'accord.

FICHE FINANCIERE

Le présent accord n'a pas d'implications budgétaires directes.

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