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Free Trade Agreements between Finland and Central and Eastern European Countries

Free trade arrangements with foreign trading partners have been important to Finland throughout the entire postwar period. A framework for Finland's active participation in international trade and investment was created in 1948 when Finland became a member of the Bretton Woods institutions (the International Monetary Fund and the International Bank for Reconstruction and Development), and was further enhanced in 1949 by Finland's accession to the General Agreement of Tariffs and Trade (GATT). Finland entered into an association agreement with the European Free Trade Association (EFTA) in 1961 and became a full member of the EFTA in 1985.

Finland's association with the EFTA became insufficient for Finnish foreign trade when two of Finland's important trading partners, the United Kingdom and Denmark, left the EFTA in 1973 to become member countries of the European Economic Community (EEC). Since the EEC constituted a customs union with common external tariffs, Finland had an interest in preserving its free trade arrangements with the United Kingdom and Denmark and in securing reasonable, competitive conditions for Finnish industries within the enlarged area of the EEC. To secure such trading status, Finland entered into a free trade agreement with

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the EEC that became effective on January 1, 1974, creating a free trade area between Finland and the EEC.

When Finland entered into the free trade agreement with the EEC, it was considered necessary that Finland avoid possible deterioration of its trade relations with the Central and Eastern European countries, which were not members of the EEC. At the time, these countries belonged to the COMECON. Consequently, between 1974 and 1978 Finland entered into free trade agreements (KEVSOS agreements) with Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, and Poland.[1]

This article reviews the main contents of the KEVSOS agreements (except the agreement with the former East Germany, which is no longer in force) and compares them with arrangements that have so far been entered into by the Central and Eastern European countries with the EFTA and the European Community (EC), which became the European Union (EU) upon the entry into force of the Treaty of Maastricht in 1993. The article also reviews features of the recently negotiated Central European Free Trade Agreement (CEFTA) among Hungary, Poland, the Czech Republic, and the Slovak Republic, to the extent the arrangement relates to the KEVSOS agreements. Finally, the article reviews the comparative benefits provided by the KEVSOS agreements to trade between Finland and the other contracting parties of the Agreements.

The main purpose of the KEVSOS agreements was to provide mutually fair competitive conditions to each contracting party in the others' markets, thereby enhancing the development of trade between the contracting parties.[2] To achieve this purpose, the KEVSOS agreements reciprocally removed all barriers, including customs duties and import levies, from trade among the contracting countries. The Agreements were drafted to comply with the GATT. Accordingly the

1. The original texts of the existing KEVSOS agreements in Finnish and English have been published in the Treaty Series of the Collection of Statutes of Finland (SUOMEN SÄÄDÖSKOKOELMAN SOPIMUSSARJA originally called SUOMEN ASETUSKOKOELMAN SOPIMUSSARJA) as follows: The agreement with Bulgaria: SUOMEN ASETUSKOKOELMAN SOPIMUSSARJA Nos. 56-57 (1974), *amended by* regulations SUOMEN ASETUSKOKOELMAN SOPIMUSSARJA No. 37 (1978), SUOMEN SÄÄDÖSKOKOELMAN SOPIMUSSARJA No. 34 (1983), and SUOMEN SÄÄDÖSKOKOELMAN SOPIMUSSARJA No. 24 (1989). The agreement with Czechoslovakia: SUOMEN SÄÄDÖSKOKOELMAN SOPIMUSSARJA No. 65 (1989), SUOMEN ASETUSKOKOELMAN SOPIMUSSARJA Nos. 60-61 (1974), *amended by* regulations SUOMEN ASETUSKOKOELMAN SOPIMUSSARJA No. 32 (1976), SUOMEN SÄÄDÖSKOKOELMAN SOPIMUSSARJA No. 9 (1982), SUOMEN SÄÄDÖSKOKOELMAN SOPIMUSSARJA No. 71 (1987), SUOMEN SÄÄDÖSKOKOELMAN SOPIMUSSARJA No. 61 (1989), and SUOMEN SÄÄDÖSKOKOELMAN SOPIMUSSARJA No. 67 (1989). The agreement with Hungary: SUOMEN ASETUSKOKOELMAN SOPIMUSSARJA Nos. 58-59 (1974), *as amended by* regulations SUOMEN SÄÄDÖSKOKOELMAN SOPIMUSSARJA No. 8 (1982). The agreement with Poland: SUOMEN ASETUSKOKOELMAN SOPIMUSSARJA Nos. 12-13 (1978), *amended by* regulations SUOMEN SÄÄDÖSKOKOELMAN SOPIMUSSARJA No. 10 (1982), and SUOMEN ASETUSKOKOELMAN SOPIMUSSARJA Nos. 101-102 (1989).

For a general presentation on the KEVSOS agreements, see R. VOLK, SUOMEN KEVSOS-KAUPPA [FINNISH KEVSOS TRADE] (1983).

2. *See* the introductory paragraphs and article 1 of each KEVSOS agreement, *supra* note 1.

Agreements created free trade areas within the meaning of article XXIV of the GATT.[3]

Despite the dramatic political and economic changes in the Central and Eastern European countries, the KEVSOS agreements remain in force, except for the agreement with the former East Germany.[4] The parties to the KEVSOS agreements have unofficially agreed that the agreement with Czechoslovakia will continue as to both successors of Czechoslovakia: the Czech Republic and the Slovak Republic.[5]

Initially, the KEVSOS agreements resulted in increases of imports to Finland of steel, shoes, garments, and other textile and rubber products from Finland's KEVSOS partners. As a result, Finland often had a trade deficit with its KEVSOS partners during the years of communism in those countries. However, the development of market-oriented economic systems in Central and Eastern European countries has resulted in more balanced trade and, in general, the increase of trade between Finland and its KEVSOS partners. Consequently, the present benefits provided by the agreements to the trade between Finland and the KEVSOS countries are important, and the significance of the agreements has exceeded the expectations at the time the agreements were signed.[6]

The EC has also entered into interim trade and trade-related agreements (EC interim agreements) with Poland, the Czech and Slovak Federal Republics, Hungary, and Bulgaria. The EC interim agreements have been in force since March 1, 1993, and in the case of Bulgaria, since June 1, 1993. In 1992 Finland formally applied for membership in the EC and in March 1994 completed its accession

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3. The introductory paragraph of each KEVSOS agreement states that the contracting parties desire "to progressively eliminate the obstacles to substantially all their trade in accordance with the provisions of the General Agreement on Tariffs and Trade concerning the establishment of free trade areas." Agreements, *supra* note 1; *see also* K. RISSANEN, SUOMEN VAPAAKAUPAN HÄIRIÖT [DISTURBANCES OF FREE TRADE OF FINLAND] 56-57 (1984).

4. A notice from the Finnish Ministry for Foreign Affairs regarding the termination of certain agreements between Finland and the German Democratic Republic because of German unification as of October 3, 1990, confirmed the termination of the KEVSOS agreement with East Germany. SUOMEN SÄÄDÖSKOKOELMAN SOPIMUSSARJA NO. 74 (1990).

5. The official decisions are expected to be confirmed by an exchange of diplomatic notes during 1994.

6. Finland originally regarded the KEVSOS agreements as more of a formality than an economically efficient measure. Since customs duties never played a significant role in countries where the economy was based on communism, the KEVSOS agreements did not increase exports from Finland to the KEVSOS countries during the era of communism. *See* BERNITZ-TILLI-POKELA, KANSAINVÄLINEN MARKKINAOIKEUS [INTERNATIONAL MARKET LAW] 37-38 (1988).

The volume of exports from Finland to Poland has increased by 167% in 1991 and by 158% during the first eight months of 1992 compared to the previous years. Finland's exports to Hungary increased by 35% from 1990 to 1991 and by 55% from January to August of 1991 to the same period in 1992. During 1991 exports from Finland to Czechoslovakia fell by 20% but increased by 40% from January to August of 1992 compared to the previous year. However, the volume of Finnish trade with all the KEVSOS countries is small, representing only about 2% of Finland's total exports. Poland contributes approximately 1.5% of Finland's total exports. *See* KAUPPAPOLITIIKKA [TRADE POLICY], May 1992, at 23 [hereinafter TRADE POLICY].

negotiations with the EU in parallel with Austria, Sweden, and Norway. Finland accession to the EU is still subject to approval by the European Parliament, passage of a popular referendum to be held in Finland in late 1994, and approval of the Finnish Parliament. Furthermore, the EFTA has entered into free trade agreements (EFTA free trade agreements) with the Central and Eastern European countries.[7] Some of the EFTA free trade agreements are also already in force and others should become effective in 1994. However, neither the EC interim agreements nor the EFTA free trade agreements accomplish the immediate reductions in trade barriers between the Central and Eastern European countries concerned and the EC and the EFTA as substantial as the benefits provided by the KEVSOS agreements for trade between Finland and those countries.

The EC interim agreements and the EFTA free trade agreements remove customs duties gradually. Consequently, benefits will continue until the next decade favoring trade between Finland and the KEVSOS countries, compared to the trade among these countries, the EC, and the EFTA. However, the comparative benefits of the KEVSOS agreements have to be discontinued if Finland becomes a member of the EU before these comparative benefits disappear.

Hungary, Poland, and the Czech and Slovak Federal Republics entered into a free trade agreement (CEFTA Agreement) in December 1992 concerning trade among them, but excluding the trade between the Czech Republic and the Slovak Republic.[8] As the customs duties and quantitative restrictions pursuant to this agreement will be gradually removed by the year 2001, Finland is expected to benefit in the present and near future from lower trade barriers with its KEVSOS partners than from trade among the CEFTA countries.

I. The Main Contents of the KEVSOS Agreements

The purpose of the KEVSOS agreements is to remove all trade barriers among the contracting parties by eliminating both tariffs and nontariff measures that restrict or distort trade. With some exceptions, the KEVSOS agreements are identical to each other. The following description of the main features therefore applies to each of these agreements, unless otherwise indicated.

A. Abolition of Customs Duties, Quantitative Restrictions, and Other Measures

1. *Customs Duties, Fiscal Charges, and Quantitative Restrictions*

The KEVSOS agreements abolished all the existing customs duties over a transitional period that ended in 1977 or 1980, depending on the individual

7. *See* discussion on the EC interim agreements and the EFTA free trade agreements *infra* notes 32-56 and accompanying text.

8. *See* discussion on the CEFTA agreement *infra* notes 57-59 and accompanying text.

agreement.[9] Each agreement stated that no new customs duties would be introduced.[10] Any existing or new charge having the effect of a customs duty would be similarly treated.[11] In addition, the contracting parties do not apply to goods imported from the territory of the other contracting party any fiscal charge or administrative requirement in excess of those applied to similar domestic and imported goods.[12]

Pursuant to the agreements, all the quantitative restrictions, measures, and practices having the equivalent effect (for example, import licenses and permits) were eliminated, and no quantitative restrictions are allowed in the future.[13]

2. *Permitted Restrictions on Imports*

The KEVSOS agreements do not preclude prohibitions or restrictions on imports, exports, or goods in transit justified on grounds of public morality, public security, protection of national treasures, preservation of intellectual property rights, or rules relating to gold or silver.[14] Such prohibitions or restrictions must not, however, constitute a means of arbitrary discrimination or disguised restriction on trade between the contracting parties.[15] In addition, the contracting parties have reserved the right to take necessary measures relating to national security and military affairs.[16]

3. *Other Measures*

When the agreements were executed Finland's KEVSOS partners had communist economies based on central planning, while the Finnish economy was based on Western European (or Scandinavian) models of market economy. Therefore, Finland did not consider the removal of customs tariffs alone as a sufficient concession to eliminate the effective trade barriers, particularly with Czechoslovakia and Poland. For this reason, the agreements with Czechoslovakia and Poland included an article whereby those countries agreed to use "the means provided by their economic systems" to ensure for Finnish exports advantages corresponding to those enjoyed by exports of the contracting party on the Finnish market as a result of the liberalization measures taken by Finland under the KEVSOS agreement.[17] This provision meant that the centrally controlled purchasing organi-

9. *See* Agreements with Bulgaria, Hungary, Czechoslovakia and Poland, *supra* note 1, art. 3.
10. *Id.*
11. *Id.* art. 5.
12. *Id.* art. 6.
13. *Id.* art. 8.
14. *See* Agreements with Bulgaria and Hungary, *supra* note 1, art. 12; Agreement with Czechoslovakia, *supra* note 1, art. 13; Agreement with Poland, *supra* note 1, art. 14.
15. *See supra* note 14.
16. *See* Agreements with Bulgaria and Hungary, *supra* note 1, art. 13; Agreement with Czechoslovakia, *supra* note 1, art. 14; Agreement with Poland, *supra* note 1, art. 15.
17. *See* Agreements with Czechoslovakia and Poland, *supra* note 1, art. 9; *see also* RISSANEN, *supra* note 3, at 53-55.

zations in these countries had to give preferential treatment to Finnish goods. However, such a provision was not included in the agreements entered into with Hungary and Bulgaria, since those countries already applied effective customs tariffs that were technically similar to those applied by Finland.[18]

As a consequence of the 1989 downfall of communism, the Central and Eastern European countries are restructuring their economies on the basis of free markets. The former regulating mechanisms directed at foreign trade have been abolished and replaced by effective customs tariffs, and the special provisions in the KEVSOS Agreements with Czechoslovakia and Poland have now lost their practical significance.

B. Safeguard Provisions (Escape Clauses) in the Event of Market Disruption

1. *Disruption of Markets or Serious Economic Disturbances*

Each of the KEVSOS agreements includes a safeguard provision (or escape clause) that allows a contracting party to initiate measures to prevent or remedy the situation if: (1) the imports from a contracting country occur in such increased quantities or under such conditions as to cause or threaten to cause disruption to the domestic market or to the production of the other contracting party; or (2) serious disturbances or difficulties arise in any sector of the economy that could cause deterioration in the economic situation of a region.[19] The proposed measures are to be mutually negotiated between the parties in the Joint Commission of the contracting parties established by the Agreement.[20] However, if the negotiations produce no satisfactory resolution within three months, the party suffering from market disruptions may apply such safeguard measures, including withdrawal from tariff concessions, which it considers necessary to deal with the situation.[21] Furthermore, in those exceptional circumstances that require immediate action and make prior notification to the other contracting party impossible, a contracting party may apply safeguard measures strictly necessary to remedy the situation without resorting to the Joint Commission procedure.[22]

18. *See* Rissanen, *supra* note 3, at 53.

19. *See* Agreements with Bulgaria and Hungary, *supra* note 1, art. 9; Agreement with Czechoslovakia, *supra* note 1, art. 10; Agreement with Poland, *supra* note 1, art. 11.

20. *See supra* note 19. For a discussion on the role of the Joint Commission, see discussion *infra* notes 29-31 and accompanying text.

21. *See supra* note 19 and *infra* notes 29-31.

22. Because safeguard measures are not defined in the agreements, they may be chosen by the party concerned. *See* Rissanen, *supra* note 3, at 63. Possible safeguard measures may include, e.g., imposing import restrictions or temporary customs duties. *See* Erma-Lehtinen-Tolonen, Ulkomaankaupan Oikeuden Käsikirja [Handbook of Foreign Trade Law] 11-12 (1989).

Since Finnish industries have previously suffered from low-priced imports from the KEVSOS countries, Finland has used these safeguard provisions several times. Safeguard measures have been taken in individual cases relating to a particular product imported from one of the KEVSOS countries.

2. *Balance of Payments Difficulties*

In addition to the safeguard clause, each KEVSOS agreement includes a separate provision that allows a contracting party undergoing or threatened by serious balance of payment difficulties to take the necessary safeguard measures.[23]

C. Rules of Origin

The KEVSOS agreements cover products originating in the contracting countries that fall within chapters 25 to 99 of the Brussels Nomenclature. Products that fall within chapters 1 to 24 (agricultural products) are exempt.[24] The rules of origin of the KEVSOS agreements are set forth in protocol 3 of each agreement.

The rules of origin are not cumulative; therefore, the free trade arrangement applies only to goods originating in Finland or the contracting party concerned. The products originating in each contracting country are defined by these rules as being products wholly produced in one contracting country, or as products produced in one contracting country but manufactured within another country, provided that the products have undergone sufficient working or processing.[25] In principle, "sufficient working or processing" means the degree of working or processing required to reclassify the goods under a tariff heading other than that originally covering each of the products worked or processed.[26] However, certain enumerated products have additional requirements to render a product as one originating in a contracting country. Often the value of the manufacturing process in the contracting country must comprise at least 50 percent of the value of the product.[27]

D. Other Provisions

1. *Fulfillment of the Objectives of the Agreement*

Each of the KEVSOS agreements includes a general obligation of each contracting party to take all measures required to fulfill its duties arising from the agreement and to refrain from jeopardizing the objectives of the agreement. Each agreement further provides that if either contracting party considers that the other has failed to fulfill an obligation arising from the agreement or that any of the

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These measures have included a requirement to obtain an import license for products of textile and garment industries. *See* Bernitz-Tiili-Pokela, *supra* note 6, at 38; *See also* Rissanen, *supra* note 3, at 177-92.

23. *See* Agreements with Bulgaria and Hungary, *supra* note 1, art. 10; Agreement with Czechoslovakia, *supra* note 1, art. 11; Agreement with Poland, *supra* note 1, art. 12.

24. Specific arrangements are applied to these products. *See* Agreements with Bulgaria, Czechoslovakia, Hungary, and Poland, *supra* note 1, protocol 1.

25. *See* Agreements, *supra* note 1, protocol 3, art. 1.

26. *Id.* protocol 3, art. 1.

27. For example, several chemical industry products are included in this group. *Id.* protocol 3, list A.

objectives of the agreement is in jeopardy, either contracting country may adopt appropriate safeguard measures by invoking procedures established in the safeguard provision (or escape clause) as required to prevent or remedy any likely injury.[28]

2. *Joint Commission*

A Special Joint Commission was established by each KEVSOS agreement for the administration and review of the implementation of the agreements and for the resolution of problems that arise when domestic markets of a contracting country are disrupted. The Joint Commission consists of representatives of each contracting party.[29] The parties alternate in nominating the chair for the Commission. The Commission arranges a meeting at least once a year and also whenever special circumstances so require.[30]

3. *Termination*

The KEVSOS agreements provide that they may be terminated upon three months' notice.[31] However, these provisions have been superseded by provisions in the EFTA free trade agreements that allow the KEVSOS agreements to remain in effect until fully substituted by the EFTA free trade agreements, as discussed in part II.B. below.

II. Comparison to the EC Interim Agreements and the EFTA Free Trade Agreements

A. EC Interim Agreements

The EC has entered into so-called Europe agreements with Bulgaria, Poland, the Czech Republic, the Slovak Republic, and Hungary. These agreements establish an association between the EC and those states primarily for purposes of political and economic cooperation. While the Europe agreements are not yet effective, the EC has entered into an interim agreement on trade and trade related

28. *See* Agreement with Poland, *supra* note 1, art. 13; Agreement with Czechoslovakia, *supra* note 1, art. 12; Agreement with Hungary, *supra* note 1, art. 11; Agreement with Bulgaria, *supra* note 1, art. 11.

29. *See* Agreement with Bulgaria, *supra* note 1, art. 14; Agreement with Hungary, *supra* note 1, arts. 14-15; Agreement with Czechoslovakia, *supra* note 1, arts. 15-16; Agreement with Poland, *supra* note 1, arts. 16-17.

30. *See* Agreement with Bulgaria, *supra* note 1, art. 15; Agreement with Hungary, *supra* note 1, art. 16; Agreement with Czechoslovakia, *supra* note 1, art. 17; Agreement with Poland, *supra* note 1, art. 18. Since 1978 the meetings of the Joint Commissions with Bulgaria and Poland have been held with the meetings of the Joint Commissions dealing with economic, industrial, and technical-scientific cooperation. This procedure has been followed by the Joint Commissions with the other KEVSOS partners since 1980. RISSANEN, *supra* note 3, at 59.

31. *See* Agreement with Bulgaria, *supra* note 1, art. 17; Agreement with Hungary, *supra* note 1, art. 18; Agreement with Czechoslovakia, *supra* note 1, art. 19; Agreement with Poland, *supra* note 1, art. 20.

matters with Poland,[32] the Czech and Slovak Federal Republics,[33] and Hungary[34] that became effective on March 1, 1993. The interim agreement with the Czech and Slovak Federal Republic remains in force with both the Czech Republic and the Slovak Republic.[35] A similar agreement was later signed with Bulgaria and became effective on June 1, 1993.[36] The EC interim agreements provide that customs tariffs between the contracting parties will be gradually phased out in such a manner that as to the Czech and Slovak Republics and Bulgaria, the benefits of Finnish trade with those countries, as compared with their trade with the EC countries, will disappear in 2001.[37] For Poland the comparative benefit will disappear two years earlier in 1999,[38] and for Hungary, in 2000.[39]

B. EFTA Free Trade Agreements[40]

The EFTA has entered into a free trade agreement with the Czech and Slovak Federal Republic.[41] This agreement becomes effective for each EFTA state depending on the time of ratification. It became effective for Finland on December 1, 1992.[42] A free trade agreement that was negotiated with Poland, has yet to be ratified by the Polish parliament, but was provisionally applicable as of November 15, 1993.[43] The negotiations between the EFTA, Hungary, and Bulgaria concerning similar agreements have concluded, and the agreements have been signed.[44] The Hungarian agreement became effective between Hungary, and each of Austria, Norway, and Sweden on October 1, 1993, and with Finland on March 1, 1994. Bulgaria ratified the EFTA free trade agreement on July 1, 1993. This agreement is expected to become effective as to Finland in 1994.

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32. *See* 1992 O.J. (L 114) 1, *amended by* 1992 O.J. (L 195) 45.

33. *See* 1992 O.J. (L 115) 1, *amended by* 1992 O.J. (L 195) 47, 49.

34. *See* 1992 O.J. (L 116) 1, *amended by* 1992 O.J. (L 195) 43.

35. *See* EC Commission Analyze Synthétique des Accords qui Lient les Communautés à des Pays Tiers [Synthetic Analysis on the Agreements Between the EC and Third Countries] 97-98 (1993).

36. *See* COM(93)46 final *amended by* COM(93)216 final.

37. *See* EC interim agreement with Bulgaria, *supra* note 36, art. 5; EC interim agreement with the Czech and Slovak Republics, *supra* note 33, art. 4.

38. *See* EC interim agreement with Poland, *supra* note 32, art. 4.

39. *See* EC interim agreement with Hungary, *supra* note 34, art. 4.

40. The Finnish Ministry for Foreign Affairs provided the following information to the authors concerning the EFTA free trade agreements.

41. *See* the Agreement Between the EFTA States and the Czech and Slovak Federal Republic (CSFR), March 20, 1992. This agreement will be continued with both successors of CSFR by Protocol on the Succession by the Slovak Republic to the Agreement Between the EFTA States and CSFR, April 19, 1993, and Protocol on the Succession by the Czech Republic to the Agreement Between the EFTA states and CSFR, April 19, 1993.

42. Suomen Säädöskokoelman Sopimussarja Nos. 98-99 (1992).

43. *See* Agreement Between the EFTA States and the Republic of Poland, December 10, 1992. This agreement is expected to be ratified by the Polish parliament at a later stage. This arrangement has been accepted by the EFTA states.

44. *See* Agreement Between the EFTA States and the Republic of Hungary, March 29, 1993; Agreement between the EFTA States and the Republic of Bulgaria, March 29, 1993.

The EFTA free trade agreements provide for a gradual reduction of customs duties over a transitional period. In principle, all the customs duties under these agreements will end as follows: as to the Czech and Slovak Republics on June 30, 2002; as to Bulgaria on December 31, 2002; as to Hungary on June 30, 2003; and as to Poland on December 31, 2001.[45]

As a member of the EFTA, Finland is also a party to the EFTA agreements.[46] However, the EFTA agreements expressly allow Finland and its KEVSOS partners to maintain their KEVSOS agreements in force during a transitional period.[47] At the end of this transition, the mutual benefits provided by the KEVSOS agreement in question will be fully substituted by the benefits provided by each particular EFTA free trade agreement.[48] Thus the KEVSOS agreements will remain significant well beyond the year 2000, unless they are terminated by virtue of Finland's possible accession to the EU.

C. Withdrawal of Customs Duties, Rules of Origin, and Treatment of Certain Products

The above described EC and EFTA agreements are asymmetrical, which means that the EC and EFTA countries will withdraw customs duties and levies sooner than their contracting parties.[49] In this respect, the benefits provided to Finnish exporters by the KEVSOS agreements are better.[50] On the other hand, according to the EC and EFTA agreements, semimanufactured products of all EC and EFTA countries are regarded as products originating in the EC or the EFTA. The KEVSOS agreements are limited to only those goods originating in Finland and the contracting country in question.[51] However, depending on the group of products, the rules of origin are more liberal in the KEVSOS agreements than in EC and EFTA agreements. For example, the KEVSOS agreements allow 50 percent of the value of certain machines to originate in third countries, whereas the corresponding figure in the EC and EFTA agreements is 30 to 40 percent.[52]

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45. *See* EFTA free trade agreements, *supra* notes 40-44, art. 1.

46. The other countries that form the EFTA states and are parties to EFTA free trade agreements are Austria, Iceland, Liechtenstein, Norway, Sweden, and Switzerland.

47. *See* the EFTA free trade agreements with the Czech and Slovak Republics, Hungary and Poland, *supra* notes 41-44, art. 33; the EFTA free agreement with Bulgaria, *supra* note 44, art. 32.

48. *See* discussion on termination of the KEVSOS agreements *supra* note 31 and the accompanying text.

49. *See* article 4 of each respective EC interim agreement with the Czech and Slovak Republics, Hungary, and Poland; article 5 of the EC interim agreement with Bulgaria; article 4 and enclosure III of each respective EFTA free trade agreement.

50. All customs duties between Finland and its KEVSOS partners have been abolished. *See supra* notes 9-13 and accompanying text.

51. *See supra* notes 25-27 and accompanying text.

52. *See* MUUTTUVA ITÄ-EUROOPPA—UUDISTUVAT MARKKINAT [CHANGING EASTERN EUROPE—RENEWING MARKETS], 32-33/1993, at 1 [hereinafter CHANGING EASTERN EUROPE].

The EC and EFTA agreements have identical lists of products and time tables for the reduction of the customs duties.[53]

Agricultural products have been treated separately in the EFTA free trade agreements. Each EFTA country, including Finland, has agreed to a separate, bilateral protocol concerning agricultural products.[54] Thus, the comparative benefit of lower barriers of trade provided by the KEVSOS agreements no longer applies to these products. The Finnish food industry will probably suffer from this protocol as its exports to the KEVSOS countries had already risen considerably. For example, the volume of Finnish agricultural exports to Poland was 217 percent higher in 1992 than in 1991.[55] Similarly, the EFTA free trade agreement made with Poland has reduced KEVSOS benefits as to paper products and gasoline.[56]

III. Comparison to the CEFTA Agreement

On December 21, 1992, Hungary, Poland, the Czech Federal Republic, and the Slovak Federal Republic signed the Central European Free Trade Agreement.[57] The CEFTA is not yet formally effective, but it has been applied provisionally since March 1, 1993.[58] The purpose of the CEFTA is to gradually establish a free trade area as contemplated by article XXIV of the GATT. However, the CEFTA does not apply to trade between the Czech and Slovak Republics. The CEFTA has features and contents similar to both the EC interim agreements and the EFTA free trade agreements. The tariff concessions granted by the CEFTA are set forth in bilateral protocols.

The transitional periods under the CEFTA are somewhat shorter than in the EC and EFTA agreements. The CEFTA system is based on bilateral agreements. It provides for the possibility of various individual arrangements between specific countries. For example, Hungary and Poland have agreed that about 60 percent of all the industrial products they trade with each other be duty free, effective from the date the CEFTA became provisionally applicable.[59] Pursuant to the CEFTA, no new quantitative restrictions may be introduced, and the existing quantitative restrictions must be abolished by the end of the transitional period.

53. *See* TRADE POLICY, *supra* note 6, at 23.

54. *See* each respective protocol between Finland and the KEVSOS countries concerning the treatment applicable to products falling within chapters 1 to 24 of the harmonized system, *supra* note 1. As to the Czech and Slovak Republics, see *supra* note 41. As to Poland, the protocol was signed in Geneva on December 10, 1992, and became provisionally applicable as of November 15, 1993. As to Bulgaria and Hungary, the Protocols were signed in Geneva on March 29, 1993, and have not yet become effective. *See supra* notes 43-44.

55. *See* KAUPPALEHTI [BUSINESS JOURNAL], Feb. 9, 1993, at 5.

56. *See* TRADE POLICY, *supra* note 6, at 24.

57. The Finnish Ministry of Foreign Affairs provided the following information to the authors concerning the CEFTA agreement.

58. *See* HELSINGIN SANOMAT, Mar. 29, 1993.

59. *Id.*

IV. Summary of the Comparative Benefits Provided by the KEVSOS Agreements to Finnish Exporters

A. Average Benefits Provided by the KEVSOS Agreements

The average benefits in customs duties of Finnish exports, as compared to exports from the EC and EFTA countries, after all the EFTA free trade agreements have become effective, are as follows (expressed in percentages):[60]

Group of products	Czech and Slovak Republics	Poland	Hungary	Bulgaria
25-27	0.0	3.1	3.2	0.0
28-40	4.4	15.3	13.7	3.8
41-43	4.7	30.2	7.7	0.0
44-49	6.7	6.6	6.8	15.4
50-67	5.3	16.6	10.7	20.5
68-71	2.1	13.0	8.3	7.6
72-83	5.5	15.0	7.2	10.4
84-93	4.4	8.5	10.1	9.7
94-97	6.9	19.3	10.5	25.0
All industrial products	5.1	7.5	9.0 (+5)	12.5

Explanation of product groups:

25-27	Minerals
28-40	Products of chemical industry; plastic and rubber
41-43	Leather products, leathers, etc.
44-49	Products of timber and paper industry
50-67	Products of textile, clothing, and shoe industries
68-71	Stone, ceramics, glass, and similar products
72-83	Products of metallurgical industry
84-93	Machines, equipment, etc., not including cars, and as to Poland, certain other products
94-97	Furniture, toys, and other miscellaneous products.

B. Country-Specific Comparative Analysis

The comparative average benefits of KEVSOS arrangements can be broken down to country specific comparisons as follows:[61]

(1) *Finnish Trade with Hungary*

In 1993 the average benefit of Finnish exports to Hungary was 14 percent compared to exports from the EC countries and 14.5 percent compared to exports from the EFTA countries and all other countries. When the EFTA free trade agreement with Hungary becomes effective, the comparative benefit of Finnish exports will be reduced to 14 percent. In addition to customs duties, Hungary

60. *See* Changing Eastern Europe, *supra* note 52, at 2.
61. *Id.*

usually collects a treatment fee of 2 percent and a statistics fee of 3 percent (reflected by the 5 percent in parentheses in the table above). Finnish exports to Hungary avoid such fees pursuant to the KEVSOS agreements. Therefore, the effective benefits for exports from Finland to Hungary, compared to exports to Hungary from the EC, EFTA, and other countries, are presently between 14 percent and 14.5 percent.

(2) *Finnish Trade with the Czech and Slovak Republics*

In 1993 the average benefit of Finnish exports to the Czech and Slovak Republics was 5.1 percent compared to exports from the EC and EFTA countries, and 6.3 percent compared to other countries.

(3) *Finnish Trade with Poland*

The average benefit of Finnish exports to Poland in 1993 was 7.5 percent compared to exports from EC and EFTA countries, and 10.2 percent compared to all other countries. As allowed by the KEVSOS agreement exceptions,[62] Poland introduced a new customs tariff of 6 percent, effective on July 1, 1993, on the basis of difficulties in their balance of payments. This new charge applies to all imports to Poland, including those from Finland.

Pursuant to the EFTA free trade agreement with Poland, customs duties will be introduced on imports of gasoline, some other oil products, and certain paper products. The customs duty on gasoline and oil products will be 27 percent lower to Finland than to other EFTA-countries for the first 475,000 tons. This amount represents approximately the present level of imports. With regards to paper products, the benefit of Finnish exports is 40 percent compared to the exports of other EFTA countries, up to the tariff quota of US$ 7 million.[63]

(4) *Finnish Trade with Bulgaria*

The average benefit of Finnish exports to Bulgaria will be 12.5 percent after both the EC interim agreement and the EFTA free trade agreement become effective. Until that time the average benefit as compared to third countries is 15.3 percent. Pursuant to the EC interim agreement, Bulgaria has a customs clearance fee of 0.5 percent. Also, some perfume and cosmetics products have an import duty of 5 percent.

In summary, the benefits afforded to Finnish exports to the Central and Eastern European countries, compared to exports from the EC and EFTA countries, are currently highest as to Hungary and Bulgaria, and lowest as to the Czech and Slovak Republics.

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62. *See* discussion *supra* note 23 and accompanying text.
63. *See* TRADE POLICY, *supra* note 6, at 24.

IV. Conclusion

The comparative benefits provided by the KEVSOS agreements to exporters located in Finland are significant. At the same time, it is apparent from the present relatively low volume of Finnish trade with the countries concerned that the benefits provided by KEVSOS agreements have not yet been used as effectively as possible. Enterprises outside Finland have not realized the possibility of gaining an economic advantage from the KEVSOS agreements.

Manufacturers located in countries that have no special agreements with the KEVSOS countries, for example the United States, should consider the possibility of establishing or acquiring manufacturing facilities in Finland for products intended for the Eastern and Central European markets. In this manner, provided that the rules of origin of the KEVSOS agreements are complied with, companies from third countries will also benefit from the agreements. Depending on the outcome of Finland's proposed accession to the EU, the benefits for exports from Finland to the KEVSOS countries may continue for a significant period of time. Also, restrictions on foreign investments in Finland have largely been abolished. Thus, the KEVSOS agreements could benefit businesses from third countries to a greater extent than before.