

**NOTIFICATION OF LAWS AND REGULATIONS UNDER
ARTICLES 18.5 AND 32.6 OF THE AGREEMENTS**

**Replies to Questions Posed by the EUROPEAN COMMUNITIES¹
Regarding the Notification of LITHUANIA²**

The following communication, dated 18 October 2002, has been received from the Permanent Delegation of Lithuania.

1. Could Lithuania clarify how it will apply in practice its Anti-Dumping Law with regard to the free economic zone, referred to in Article 2.4 of this Law?

In conformity to the Law on the Fundamentals of Free Economic Zones, the free economic zone (hereinafter referred to as "zone") means a territory designated for the purpose of economic-commercial and financial activities wherein economic entities are provided with special economic and legal conditions of operation as established by this Law.

Separated zone territory elements (hereinafter – free territories) may be located in such a zone independent from the remaining zone territory and from the customs territory of the Republic of Lithuania, goods in which shall be considered as being outside the customs territory of the Republic of Lithuania with respect to import and export duties and charges as well as other prohibitions or restrictions of economic character.

When goods are brought into the customs territory of the Republic of Lithuania from the free territories, laws (including Anti-Dumping) and other legal acts which regulate the importation of goods shall apply, i.e. it will be treated as the import according to the Article 2.17 of the Anti-Dumping Law, this imports shall be subject of anti-dumping investigation and of the anti-dumping duties as the result of, the producers which are located in the free zones will not be treated as the part of the domestic industries according to Article 2.13 of the Anti-Dumping Law.

2. Article 4.7 of the Anti-Dumping Law defines when sales of the like product are loss-making and therefore not in the ordinary course of trade. Could Lithuania explain the addition of "reasonable profits" to the productions costs plus selling administrative and general costs, in particular in the light of Article 2.2.1 of the Anti-Dumping Agreement?

¹ G/ADP/Q1/LTU/1 – G/SCM/Q1/LTU/1.

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Considering the fact that the provisions of Article 2.2.1 of the Anti-Dumping Agreement do not require that such sales be profitable, the profit should not be included in the total unit production costs. Saying that, we recognize that the phrase "reasonable profits" which appeared as a technical mistake in the Article 4.7 of the Anti-Dumping Law should be deleted. This inaccuracy will be corrected while amending and revising the Law.

At the same time we assure the Committee that the practice of the investigation performing Institution (Ministry of Economy) was such that the "reasonable profits" have not been included determining whether the sales in question shall be treated as being not in the ordinary course of trade in respect of the Article 2.2.1 of the Anti-Dumping Agreement. Until the appropriate amendments and revisions of the Law will be made the provisions of the Article 2.1.1 of the Anti-Dumping Agreement will be applied directly according to the Article 42 of the Anti-Dumping Law, which defines: *"If the international agreement to which the Republic of Lithuania is a party establishes regulations other than those established by this Law, the provisions of the international agreement shall apply"*.
