

REPUBLIC OF LITHUANIA
LAW
ON COUNTERVAILING DUTIES

No XX of X (month) 1999

Chapter 1

General Provisions

Article 1. Objective of the law

The purpose of this law is to provide legal conditions for the protection of domestic producers against subsidised imports, if such imports causes injury to domestic

product, another product which has characteristics closely resembling those of the product under consideration.

8. Customs territory of the Republic of Lithuania means the territory of the Republic of Lithuania, bordered by the customs boundaries of the Republic of Lithuania, unless the international agreements of the Republic of Lithuania provide otherwise.

9. Customs boundaries of the Republic of Lithuania means the border of the customs territory of the Republic of Lithuania, coinciding with the state border of the Republic of Lithuania, unless the international agreements of the Republic of Lithuania provide otherwise.

10. Countervailing duty means the duty which may be applied to imports subsidized with countervailable subsidy, if upon the release of such product for free circulation in the customs territory of the Republic of Lithuania injury is caused to domestic industry.

11. Provisional countervailing duty means the duty which may be imposed during the investigation period when it is determined preliminary that imported product is being subsidized with a countervailable subsidy and causes injury to the domestic producers.

12. Interested parties in respect of the procedures related to the calculation and application of countervailing duties means:

- 1) the Lithuanian producers of the like product (including potential producers) or business associations, a majority of the members of which are the producers of the like product;
- 2) exporters of the subsidized products, foreign producers or importers or business associations, a majority of the members of which are foreign producers, exporters or importers;
- 3) the governments of the countries exporting the subsidized product;
- 4) Lithuanian consumers, which use a subsidized product for the production of their products as well as non-industrial Lithuanian consumer associations;

13. The exporter means an economic entity of the country of origin or export, selling the subsidized product to the natural or legal person of the Republic of Lithuania or an undertaking not having legal personality, or who has concluded any other transaction with a foreign economic entity for the supply of such product.

14. Developing country means the country included in the list of countries provided in paragraph 4 of Article 46, which are eligible to concessions.

15. Final determination means the decision which is adopted by the Competition Council on the basis of not only the findings of the investigation, but also having taken into consideration the state interests of Lithuania, as provided for in Article 28 of this law.

Article 3. Public authorities in charge of the implementation of this law

1. The responsibility for the implementation of the Law on Countervailing Duties shall be vested in the Competition Council.
2. The administration officials authorised by the Competition Council (hereinafter referred to as authorised persons) shall carry out investigation for the determination of countervailable subsidy and injury, adopt decisions relative to sampling and perform selections, carry out reviews of the imposition of countervailing duty and an undertaking, prepare and submit to the Competition Council proposals concerning the investigation, its suspension or termination, on

the imposition of the provisional countervailing duty or review of application of an undertaking, on the changing of the amount of a countervailing duty or an undertaking and continuation or termination of imposition (after review) and refund of overpaid countervailing duty.

3. The Competition Council shall adopt decisions relative to the initiation of the investigation for the determination of countervailable subsidy and injury, its suspension or termination, the imposition of provisional countervailing duty, on the review of the application of a countervailing duty and review of an undertaking, on the changing of the rate of a countervailing duty and an undertaking and continuation or termination of its imposition (after review) and refund of the overpaid countervailing duty.

Chapter 2

Subsidies

Article 4. Existence of a subsidy

1. A subsidy shall be deemed to exist if the conditions provided for in paragraph 2 and 3 of this Article are met.
2. The government of the country of origin and/or export of a product or any other public body provides a financial contribution by:
 - 1) a direct transfer of funds (e.g. grants, loans, equity infusions) as well as providing conditions for the potential direct transfers of funds or liabilities (e.g. loan guarantees); or
 - 2) not collecting or deferring the collection of government revenue (e.g. fiscal incentives such as tax credits). However the exemption of an exported product from duties or taxes, borne by the like product when destined for domestic consumption, or the remission of such duties and taxes in amounts not in excess of those which have acc

3. If the granting authority or the legislation pursuant to which the granting authority operates, establishes objective criteria or conditions governing the eligibility for and the amount of, a subsidy, specificity shall not exist, provided that the eligibility is automatic and that such criteria and conditions are strictly adhered to. Objective criteria and conditions mean that they do not favour certain enterprises over others and they are horizontal in application (account is taken of the number of employees or size of enterprise, but not the type of production, etc.) Such criteria and conditions must be clearly set out by law, regulation or other official document, so as to be capable of verification.
4. If pursuant to paragraph 3 of this Article the subsidy is not specific, but in order

2. A countervailing duty shall not apply in respect of subsidies for research activities conducted by firms or by higher education and or research establishments on a contract basis with firms (with the exception of civil aircraft), if the subsidies cover not more than 75 per cent of the costs of industrial research or 50 per cent of the costs of pre-competitive development activity specified in paragraph 6 of this Article, provided that such subsidies are limited exclusively to:
 - 1) wages costs of researchers, technicians and other supporting staff employed exclusively in the research activities;
 - 2) costs of instruments, equipment, land and buildings used exclusively for the research activity , except when disposed of on a commercial basis;
 - 3) costs of consultancy and equivalent services used exclusively for the research activity, including bought-in research, technical knowledge, patents, etc.;
 - 4) additional overhead costs incurred directly as a result of the research activity;
 - 5) other running costs (such as those of materials, supplies and the like) incurred directly as a result of the research activity.

3. Subsidies to disadvantaged regions within the territory of the country of origin and/ or export, given pursuant to a general framework of regional development (when regional subsidy programmes are part of an internally consistent and generally applicable regional development policy) may be considered to be non – specific if the criteria laid down in paragraphs 2, 3, 4 of Article 5 of this law were applied to each eligible region concerned. Such subsidies shall not be subject to countervailing measures, provided that :
 - 1) each disadvantaged region is a clearly designated geographical area with a definable economic and administrative identity;
 - 2) the region is regarded as disadvantaged on the basis of neutral and objective criteria (which do not favour certain re

- 4) be directly linked to and proportionate to a firm's planned reduction of nuisance and pollution, and not cover any manufacturing cost savings which may be achieved; and
 - 5) be available to all firms which can adopt new equipment and/or production processes.
5. Industrial research mentioned in paragraph 2 of this Article means planned research aimed at discovery of new knowledge, with the view to use such knowledge for developing new products, processor services or bringing about a significant improvement to existing products, processes or services.
 6. Pre-competitive development activity, mentioned in paragraph 2 of this Article, means the translation of industrial research findings into a plan, blueprint or design for new, modified or improved products, processes or services, whether intended for sale or for use. Pre-competitive development activity also includes the creation of a first prototype which would not be capable of commercial use. It may also include the creation of alternative products, processes or services and initial demonstration and pilot projects, provided that they cannot be used for commercial exploitation. It does not include routine or periodic alterations to existing products, production lines, manufacturing processes, services, and other ongoing operations even though those alterations may represent improvements.
 7. Allowable levels of non-countervailable subsidy indicated in paragraph 2 of this Article, shall be established by reference to the total eligible costs incurred over the duration of an individual project. In the case of programmes which span both industrial research and pre-competitive development activity the allowable level of non-countervailable subsidy shall not exceed the simple average of the allowable levels of non-countervailable subsidy applicable to the above two categories, calculated on the basis of all costs indicated in all items of paragraph 2 of this Article.

Chapter 3

Injury to Domestic Industry

Article 7. Determination of injury

1. A determination of injury shall be based on positive evidence and on the objective examination of the volume of the subsidized imports and the effects of the subsidized imports on the prices of the like products in Lithuanian market and the impact of those imports on the domestic industry.
2. With regard to the volume (those TJJ17TcoTc.D.0012 T12.0aT870d.15 TD0) ricthe im

3. Where imports of a product from more than one country are simultaneously subject to investigation, the effects of such imports shall be cumulatively assessed only if it is determined that :
 - 1) the amount of countervailable subsidies established in relation to the imports from each country is more than the minimum set in paragraph 5 of Article 11 of this law and the volume of imports from each country is not negligible;
 - 2) a cumulative assessment of the effects of the imports is appropriate in light of the

- 2) a significant rate of increase of subsidized imports into the customs territory of the Republic of Lithuania, indicating the likelihood of substantially increased imports;
 - 3) freely disposable capacity of the exporter or an imminent substantial increase in such capacity indicating the likelihood of substantially increased subsidized exports, taking into account the availability of other export markets to absorb any additional exports;
 - 4) whether imports are entering at prices that would, to a significant degree, depress prices or prevent price increases which would otherwise would have occurred, and would probably increase demand for further imports;
 - 5) inventories of the product under investigation.
9. None of the factors listed in this paragraph by itself can give a decisive guidance but the totality of the factors considered must lead to the conclusion that further subsidized exports are imminent and that unless protective action is taken, material injury will occur.

Article 8. Definition of domestic industry

1. Pursuant to the provisions of paragraph 5 of Article 2 of this law, if the Lithuanian producers are related to the exporters or importers or are themselves importers of such product, for determining whether the volume of collective output of certain group or producers constitutes a major portion of the total production of such products in the customs territory of the Republic of Lithuania, the volume of output of such group of producers shall be disregarded. In this case the definition of “domestic industry” shall not apply to them.

2. Producers shall be considered to be related to exporters or importers only if:

- 1) one of them is directly or indirectly controls the other;
- 2) both of them are directly or indirectly controlled by a third person;
- 3) together they directly or indirectly control a third party, provided that there are grounds to believe or suspect that the effect of the relationship is such as to cause the producer related to the exporter of the subsidized product to behave differently from non-related producers.

3. For the purpose of paragraph 2 of this Article, one shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter.

4. In exceptional circumstances, for the purpose of the examination of the production of a like product, the customs territory of the Republic of Lithuania may be divided into two or more markets. In each of these markets the producers may be regarded as a separate domestic industry if:

- 1) the producers within a such a market sell more than 80 percent of their production of the like product;
- 2) the producers within the remaining part of the customs territory of the Republic of Lithuania do not sell in that market or sell less than 20 per cent of the total volume of the like product.

5. In circumstances referred to in paragraph 4 of this Article, injury may be found to exist even where major portion of the total domestic industry is not injured, provided that there is a concentration of subsidized imports in such separate market and causes injury to domestic producers which producer not less than 80 per cent of the volume of output of such product in such market.

Chapter 4.

Evidence of a Countervailable Subsidy

Article 9. Initiation of investigation

1. An investigation to determine the existence, amount and effect of a countervailable subsidy shall be initiated when the Competition Council receives a written application of domestic producers or any other person acting on their behalf (in the manner established in paragraph 4 of Article 11) and adopts the decision to carry out investigation. The contents of the application must be in compliance with the requirements set forth in paragraph 1 of Article 10.
2. A written application may be lodged by a natural or legal person or any other economic entity without a legal personality acting on behalf of domestic producers (as referred to in paragraph 4 of Article 11).
3. If in exceptional circumstances the Competition Council decides to carry out investigation without having received a application referred to in paragraph 1 of this Article , it may do so if it is in possession of sufficient evidence referred to in paragraph 1 of Article 10 of this law that there is a countervailable subsidy and an injury to domestic industry and a causal link between them.

Article 10. A application to investigate a countervailable subsidy

1. A application to investigate a countervailable subsidy shall include evidence of the existence of countervailable subsidy (indicating , if possible, their amount), injury and a causal link between the subsidized imports and injury. The application shall contain such information as is available to the applicant on the following:
 - 1) full name and address of the applicant (applicants), in case of a legal person the name and address of its head office and a description of the volume and value of the production of the like product by the applicant in the customs territory of the Republic of Lithuania, indicating what portion it accounts for in the total output of the like product in the customs territory of the Republic of Lithuania;
 - 2) where the volume of production of the applicant(s) is less than that referred to in paragraph 4 of Article 11, the application shall identify the domestic producers on behalf of which the application is lodged by a list of all known domestic producers of the like product in Lithuania (or associations of domestic producers of the like product in Lithuania). This list shall provide a description of the volume and value of each of these producers of the like product in the customs territory of the Republic of Lithuania;
 - 3) a complete description of the subsidized product so as it would be possible to classify it according the Combined Nomenclature and Common Customs Tariffs and Foreign Trade Statistics Nomenclature;
 - 4) the names of the countries of origin of a subsidized product and /or exporters , as well as lists of all known foreign producers of this product and exporters into the customs territory of the Republic of Lithuania and lists of importers;
 - 5) evidence proving the subsidization of a product, the amount, nature and countervailability of the subsidy;
 - 6) information on changes in the volume of the subsidized imports, the effect of those imports on prices of the like product in the Lithuanian market and the consequent impact of the imports on the domestic producers, including the factors

and indices, having a bearing on the state of the domestic industry, referred to in paragraphs 2 and 4 of Article 7 of this law;

2. The application shall not be publicised until the decision to initiate investigation is adopted. However upon the receipt of the application which meets all the requirements set forth in paragraph 1 of this Article and intending to carry out investigation on its own initiative, (pursuant to paragraph 3 of Article 9 of this law), the Competition Council shall notify the governments of the countries of origin and/or export of subsidized products, in order to be able to consult them with the aim of clarifying the issues referred to in paragraph 1 of this Article and reach a mutually agreed solution.

Article 11. Consideration of an application

1. Upon receipt of an application to investigate a countervailable subsidy, the Competition Council shall review the accuracy and adequacy of the evidence provided in the application to determine whether the evidence is sufficient to justify the initiation of an investigation.
2. Having examined the evidence provided in the application, the investigation may be carried out also in order to determine whether an alleged subsidy is specific or non-countervailable.
3. If upon the examination of evidence provided in the application it becomes evident that there is no sufficient evidence of countervailable subsidy and injury to justify the investigation, the Competition Council shall

interested party shows due cause for such extension, in terms of its particular circumstances.

3. During the course of investigation, normally information covering the most recent financial accounting period of the beneficiary is examined, but may be selected any other period (which shall be indicated in the determination to initiate investigation) of at least six months prior to the initiation of the investigation for which reliable financial and other relevant data is available.
4. During the investigation the evidence of both subsidies and of injury shall be considered simultaneously.
5. The investigation shall be based only on written information.
6. If the information submitted by the applicant and exporter, as well as information obtained from other sources is contradictory, the Competition Council may address the governments of the interested parties involved in the investigation, with a request to carry out investigation in their territory and having received their consent and the consent of enterprises involved in investigation, to carry out such investigation. The procedures for investigations in the territory of another country shall be established by the Government of the Republic of Lithuania in accordance with paragraph 5 of Article 46 of this law or any other body authorised by it.
7. The Competition Council, on the basis of the provisions of paragraph 6 of this Article, may arrange verification visits to examine the records of exporters, importers, traders (or their representatives), producers, trade associations involved in the investigation and information provided on subsidies and injury to verify information. Such visits shall be possible only if the replies to the questionnaire were submitted properly and in due time. Prior to such visits, relevant enterprises shall be informed of the nature of the information to be verified and any further information which needs to be provided during such visits. This should not preclude requests made during the verification for further details in the light of information obtained. At the request of the Competition Council, in the course of on-site inspections, it may be assisted by the

information shall be given in the decisions provided for in paragraph 2 of Article 42.

12. Information, supplied by the interested parties and /or on which investigation findings are based (referred to in paragraph 8 of this Article) and on the basis of which the Competition Council adopts its determinations taking into consideration the time limits of the investigation and possibilities to check it by reference to information from other interested parties or information from other independent sources, such as published price lists, official import statistics and customs

4. Where the subsidy can be linked to the acquisition or future acquisition of fixed assets, the amount of the countervailable subsidy shall be calculated by spreading the subsidy across a period which reflects the normal depreciation of such assets in the industry concerned. The amount so calculated which is attributable to the investigation period, including that which derives from fixed assets acquired before this period, shall be allocated as described in paragraph 3 of this Article. The subsidy intended for the acquisition of the fixed assets which are non-depreciating, shall be valued as an interest free loan, and be treated in accordance with point 2 of paragraph 1 of Article 16.
5. Where a subsidy cannot be linked to the acquisition of fixed assets, the amount of the benefit received during the investigation period shall in principle be attributed to this period and allocated as described in paragraph 3 of this Article, unless special circumstances arise justifying attribution over a different period.

Article 16. Calculation of benefit to the recipient

The benefit to the recipient conferred by a countervailable subsidy shall be calculated in accordance with the methodology provided for in paragraph 3 of Article 46 of this law and the following rules:

- 1) government provision of equity capital shall not be considered to confer benefit, unless the investment can be regarded as

- 2) to the largest representative volume of the production, sales, or exports which can reasonably be investigated within the investigation period.
3. The samples indicated in item 1 of paragraph 2 of this Article must be statistically valid on the basis of information available at the time of the selection. Decision concerning sampling shall be adopted by the officials authorised by the Competition Council. Preference shall be given to choosing a sample in consultation with and with the consent of , the parties concerned, provided that such parties make sufficient information available, within three weeks of initiation of the investigation, to enable a representative sampling to be chosen.
4. In cases where the investigation has been limited in accordance with this Article, an individual amount or countervailable subsidization shall, nevertheless, be calculated for any exporter or producer not initially selected who submits the necessary information, except where the number of exporters or producers is so large that individual examinations would be unduly burdensome and would prevent completion of the investigation in due time.
5. If after the selection of the samples, there is a degree of non-cooperation by some or all of the parties selected which is likely to materially affect the outcome of the investigation, a new sample may be selected. However, if a material degree of non-cooperation persists or there is insufficient time to select , the provisions of paragraphs 8, 9, 10, 11, and 12 shall apply.

Article 18. Conclusion of investigation

The investigation shall be concluded and an appropriate determination adopted

- 1) if the existence of a countervailable subsidy and injury is affirmed and decision adopted to impose countervailing duty and its rate is established;
- 2) if taking into account the countervailable subsidy, scope of injury and the interest of the Republic of Lithuania it has been decided not to impose a countervailing duty;
- 3) if in the course of investigation it has been established that there is no countervailable subsidy and /or injury, or that in accordance with paragraphs 5 and 5 of Article 11 of this Article they are negligible;
- 4) upon the withdrawal of the application by the applicant and when the Competition Council determines that the termination of investigation without imposing countervailing duties (in accordance with paragraph 4 of Article 28) is in the interest of the Republic of Lithuania.

CHAPTER 5

APPLICATION OF PROVISIONAL COUNTERVAIING DUTY

Article 19. Terms and Conditions for the Application of Provisional Countervailing Duties

1. If it is suspected that the imported product benefits from subsidies, a provisional countervailing duty may be imposed during the investigation of import of the product provided that the following conditions are satisfied:

- 1) the investigation has been initiated in accordance with the provision s1, and 12hall appTj10.58Lav

3) a provisional affirmative determination has been made that the imported product benefits from countervailing subsidies and of consequent injury to domestic industry;

4) the application of provisional countervailing duty (in accordance with Article 28, paragraph 4 of this Law) is in compliance with the interests of the Republic of Lithuania and is necessary to prevent injury being caused during the investigation.

2. However, if an anti-dumping duty (including provisional anti-dumping duty) is imposed or already applied in respect of a subsidized imported product for the purpose of eliminating injury to the domestic producers, the provisional countervailing duty may not be applied even though all the conditions specified in paragraph 1 hereof are met.

Article 20. Taking a Decision to Apply a Provisional Countervailing Duty

1. Where all the requirements set forth in Article 19 of this Law have been fulfilled, the Competition Council shall take a decision to impose the provisional countervailing duty, set the amount of the duty and the date from which it is to be applied (so as to allow for the preparation for the application of the duty).

2. The provisional countervailing duty shall be imposed no earlier than 60 calendar days from the initiation of the proceedings but no later than nine months from the initiation of the proceedings. Provisional countervailing duties shall be imposed for a maximum period of four months.

3. After the Competition Council takes a decision to impose the provisional countervailing duty, a notice to the effect must be publicised in accordance with the procedure established in Article 42 paragraph 5 of this Law.

4. The amount of the provisional countervailing duty shall not exceed the total amount of countervailable subsidies as provisionally established but it should be less than this amount, if such lesser duty would be adequate to remove the injury to the domestic producers.

Article 21. Application of the Provisional Countervailing Duty

1. The provisional countervailing duty may be applied only in respect of the imported subsidized products which are released for free circulation in the customs territory of the Republic of Lithuania from the date stated in the decision to apply the provisional countervailing duty.

2. Where the facts as finally established upon the completion of investigation show, that no injury has been caused or would have been caused even if the provisional countervailing duty had not been imposed, any collected amount of the provisional countervailing duty must be refunded.

Article 22. Securing the Payment of the Provisional Countervailing Duty

The provisional countervailing duty on the subsidized imports must be paid in accordance with the procedure laid down in the Law on Customs Tariffs of the Republic of Lithuania; the set amount of the duty not paid by the due date according to the above procedure shall be recovered.

CHAPTER 6 PROCEDURES FOR ACCEPTING UNDERTAKINGS

Article 23. Acceptance of Undertakings

1. During the investigation the country of origin and/or export of the subsidized product may offer undertakings under which:

- 1) the country of origin and/or export of the subsidized product agrees to eliminate or limit the subsidy or take other measures concerning its effects; or
- 2) any exporter undertakes to revise its prices or to cease exports to the area in question as long as such exports benefit from countervailable subsidies.
2. Price increases under such undertakings must not be higher than is necessary to offset the amount of countervailable subsidies and should be less than the amount of countervailable subsidies if such increases would be adequate to remove the injury to the domestic producers.
3. The country of origin and/or export of the subsidized product may be suggested the undertaking specified in paragraph 1 hereof by the Competition Council, but no country or exporter shall be obliged to enter into such an undertaking. The fact that countries or exporters do not offer such undertakings or do not accept an invitation of the Competition Council to do so shall in no way prejudice consideration of the case.
4. The Competition Council may not suggest to offer undertakings or accept the offered undertakings unless a provisional or affirmative determination of subsidization and injury caused by such subsidization to local industry has been made.
5. The undertaking to reduce the price offered by the exporting country or exporter after the lapse of the time period set in Article 43 paragraph 5 of this Law shall not be accepted except in cases when the Competition Council decides to accept the undertaking due to the extraordinary economic circumstances in Lithuania or the exporting country.
6. The Competition Council may refuse to accept the offered undertaking if the number of actual or potential exporters is too great, or for other reasons, including reasons of general policy. In such cases, if possible, the exporter and/or the country of origin and export concerned must be provided with the reasons for which it is proposed to reject the offer of an undertaking and be given an opportunity to make

due to the existence of the accepted undertaking, the Competition Council may require that the undertaking be maintained.

5. In the event of an affirmative determination of subsidization and injury is made, the undertaking shall continue consistent with its terms.

Article 25. Supervision of Fulfilment of the Undertaking

After the Competition Council accepts the undertaking, any country or exporter from whom undertakings have been accepted must periodically provide information relevant to fulfilment of such undertaking and permit verification

7. Countervailing duty, including provisional countervailing duty, shall be applied irrespective of other duties, taxes or levies generally imposed on imports, except in the case specified in Article 30.

Article 30. Imposition of Countervailing Duty and Anti-dumping Duty

No imports may be simultaneously subject both to countervailing duty and anti-dumping duty if the purpose of their application is settlement of the problem created by dumping or export subsidization.

Article 31. Amount of Countervailing Duty

1. In the decision of the Competition Council to impose the countervailing duty on subsidized imports, a countervailing duty shall be imposed in the appropriate amounts in each case. Where it is impracticable to specify the duty for each supplier, the amount of the countervailing duty shall be established on imports individually according to the country of origin and/or export of the product.

2. The amount of the countervailing duty must not exceed the amount of countervailable subsidies from which the exporters or producers have been found to benefit, but must be less than the total amount of countervailable subsidies, if such lesser duty were to be adequate to remove the injury to the domestic producers.

3. When the examination has been limited in accordance with Article 17 of this Law, any countervailing duty applied to imports from exporters or producers which were not included in the examination but which have made themselves known (in accordance with the above-mentioned Article) shall not exceed the weighted average amount of countervailable subsidies established for the parties in the sample. In this case any zero and *de minimis* amounts of countervailable subsidies (under Article 11 paragraph 5) and amounts of countervailable subsidies established in the circumstances referred to in Article 14 paragraph 8 of this Law. Individual duties shall be applied to imports from any exporter or producer for which a individual amount of subsidization has been calculated as provided for in Article 17 paragraph 4 of this Law, except in cases when the amount of duty is established for the country of origin or export.

Article 32. Accelerated reviews

1. Any exporter or producer who was not individually investigated during the original investigation for reasons other than a refusal to cooperate with the authorised officials conducting the investigation but whose exports are subject to a definitive countervailing duty shall be entitled, upon request, to an accelerated review in order that the Competition Council may promptly establish an individual countervailing duty rate for the exporter.

2. The accelerate review specified in paragraph 1 hereof shall be initiated after the domestic producers have been notified thereof in writing and have been given an opportunity to comment within a 20-day period (counting from the day of sending of the notice).

3. Accelerated reviews must be carried out on a fast track basis and may not last longer than 12 months.

4. Unless this Article provides otherwise, requirements laid down for the conduct of investigation in Articles 11, 12, 14, 45, 46, 17, 18 and 28 of this Law must be applied to accelerated review procedures and evidence. Article 37 paragraphs 4 and 5 shall also be applicable in respect of the reviews.

CHAPTER 8
REVIEWS OF APPLICATION OF COUNTERVAILING DUTIES AND
UNDERTAKINGS

Article 36. Initiating the Review of the Application of a Countervailing Duty and Undertaking

1. A review of the application of a countervailing duty or undertaking shall be carried out:

such that they would indicate the likelihood

hereof) is applied in respect of imports from the appropriate country or origin or export or the accepted undertaking remains in force.

3. If, as a result of a review, it is determined that after the reduction of the rate of the countervailing duty and/or of the undertaking it would not be necessary to offset the countervailable subsidy and injury would not be likely to continue or recur, the countervailing duty and the undertaking must be reduced accordingly.

4. If, as a result of a review, it is determined that the accepted undertaking is not sufficient to offset the countervailable subsidy and remove injury, an additional undertaking may be accepted or countervailing duty imposed. Where the applied countervailing duty is not sufficient to offset the countervailable subsidy and remove injury, the duty may be increased without prejudice to Articles 28, 30 and 31 of this Law.

CHAPTER 9 CIRCUMVENTION

Article 39. Cases of Circumvention

1. Circumvention of the imposed countervailing duty shall be deemed to take place when all following conditions are met:

- 1) there is a change in the pattern of trade between third countries and Lithuania which stems from a practice, process or work for which there is insufficient cause or economic justification other than the imposition of the countervailing duty;
- 2) there is evidence that the remedial effects of the countervailing duty are being undermined in terms of the prices and/or quantities of the like products;
- 3) there is evidence that the imported like product and/or parts thereof still benefit from the subsidy.

Article 40. Actions in the Cases of Established Circumvention

1. Countervailing duties imposed pursuant to this Law may be extended to imports from third countries of like products, or parts thereof, when circumvention of the measures in force is taking place.

2. Investigations shall be initiated pursuant to this Article where the request is lodged with the Competition Council by the domestic producers or on their behalf which contains sufficient evidence regarding the factors set out in Article 39 of this Law. The investigation shall be carried out on the decision of the Competition Council.

3. The investigation must be concluded within 9 months.

4. In order to ascertain that there is circumvention of countervailing duty, investigation shall be conducted in accordance with Articles 11, 12, 14, 15, 16, 17, 18 and 28 of this Law, and information on the investigation and taken decisions shall be provided in accordance with the provisions of Chapter Eleven.

CHAPTER 10 APPEALING AGAINST THE DECISIONS CONCERNING COUNTERVAILING MEASURES

Article 41. Appealing against the Decisions of the Competition Council

1. The interested party which disagrees with the decisions of the Competition Council made in the course of the investigation or objects to the actions of the Competition Council or authorised officials, may appeal to the Supreme Administrative Disputes

Commission or, in case of disagreement with the Commission's decision, appeal against it to the High Administrative Court.

2. If, before making an appropriate decision, the Competition Council has rejected the allegations of the interested party or has refused to respond or if the interested party has not been informed before the decision was taken (as its is established in Chapter Eleven of this Law), the interested party shall be entitled under paragraph 1 hereof to lodge a complaint with the Supreme Administrative Disputes Commission and the High Administrative Court.

3. If the allegations of the interested party were rejected, the decision may be appealed within 2 months of the publication of the definitive decision of the Competition Council in the *Official Gazette*, if the interested party as not been duly informed, the decision may be appealed within 6 months of the publication of the definitive decision in the *Official Gazette*.

4. Unless the High Administrative Court establishes otherwise, the appeal to the High Administrative Court shall not suspend the validity the decisions of the Competition Council.

CHAPTER 11 INFORMATION

Article 42. Publication and Entry into Force of Decisions

1. The Competition Council must make a public announcement of the decisions made by the Competition Council.

2. The Official Gazette must publish the following decisions of the Competition Council regarding:

- 1) the initiation of investigation or review;
- 2) the acceptance of the undertaking (including a decision on the suspension of investigation);
- 3) the application of provisional countervailing duty;
- 4) the application of a countervailing duty (including retroactive application of the duty) or refusal to apply;
- 5) termination or suspension of investigation;
- 6) continued application, after a review, of the countervailing duty and extension of duration of the undertaking, change of the amount of the imposed countervailing duty or the accepted undertaking or termination of application thereof;
- 7) the refund of the countervailing duty.

3. The decision to initiate investigation or review must contain information on the following:

- 1) the identity of the exporter or producer or, if reasonably not available, the country of origin or export;
- 2) a complete description of the allegedly subsidized product so as to allow for it

4. The decision to accept or refuse to accept an undertaking, taking account of the confidentiality requirements, all material information regarding the facts, legal provisions and reasons on the basis whereof the decision has been made. If investigation is suspended by a decision to accept an undertaking, the decision must contain, with due consideration taken of the confidentiality requirement, all information specified in paragraph 5 hereof, the reasons for acceptance or rebuttal of arguments presented by the exporters, importers, countries of origin or export , a reference to a publicly accessible document where the non-confidential part of the undertaking is presented. The document must be deposited with the Competition Council.
5. The decision to impose provisional countervailing duty shall contain, taking into account the confidentiality requirements, the following information:

in paragraph 5 hereof and the reasons for acceptance or rebuttal of arguments presented by the exporters, importers, countries of origin or export.

9. Every known interested party must be within 15 calendar days provided copies of the Competition Council's decisions specified in paragraph 2, subparagraphs 2, 4, 5 and 6 hereof.

Article 43. Disclosure

1. The interested parties may request disclosure of the details underlying the essential facts and considerations on the basis of which provisional measures have been imposed. Such requests must be responded to if made to cc in writing within 15 calendar days after the announcement of the decision to impose provisional measures. In such case disclosure must be made by the Competition Council in writing within 30 days after the announcement of the decision to impose provisional measures.

2. The interested parties may request final disclosure of the essential facts and considerations (especially those which differ from the facts and considerations substantiating the necessity of provisional measures) on the basis of which it is intended to recommend the imposition of countervailing duty or the termination of an investigation without the imposition of measures.

3. Request for final disclosure of facts and considerations specified in paragraph 2 hereof shall be addressed to the Competition Council in writing. In cases where a provisional duty has been applied, the requests must be received not later than one month after the publication of that imposition. Where a provisional duty has not been imposed, parties shall be provided with an opportunity to request final disclosure within time limits set by the Competition Council.

4. Final disclosure shall be given in writing, due regard being had to the protection of confidential information, not later than 30 calendar days prior to a decision to impose countervailing duty or terminate investigation without imposing any measures. Where the Competition Council is not in a position to disclose certain facts or considerations at that time, these shall be disclosed as soon as possible thereafter. Disclosure shall not prejudice any subsequent decision which may be taken by the Competition Council but where such decision is based on any different facts and considerations these shall be disclosed as soon as possible.

5. Representations made after final disclosure is given shall be taken into
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summary. In such exceptional circumstances a statement of the reasons why summarisation is not possible must be provided.

3. If it is considered by the authorities implementing this Law that a request for confidentiality is not warranted and if the supplier of information is unwilling to make the information available (in generalised or summary form) such information may be disregarded. Requests for confidentiality shall not be arbitrarily rejected.

CHAPTER 12 FINAL PROVISIONS

Article 45. International Agreements

If international agreements to which the Republic of Lithuania is a party contain provisions other than those laid down in this Law, the provisions of international agreement shall apply.

Article 46. Proposals to the Government

1. To form a working group for the drafting of legal acts necessary for the implementation of this Law.

2. To charge the working group:

1) to compile an explanatory list of export subsidies;

2) to compile a list of government support measures to agriculture;

3) to prepare the methodology of calculating the countervailable subsidies and benefit conferred by them;

4) to compile and approve the list of developing countries in respect of whose imports into the customs territory of the Republic of Lithuania provisions of Article 12 (4,6) of this Law shall apply.

5) to determine the procedures to be applied in the course of investigation of countervailable subsidies in the territory of another country.

I promulgate this Law passed by the Seimas of the Republic of Lithuania

President of the Republic

Valdas Adamkus