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Letter dated 22 December 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 9 June 2004 (S/2004/483). The Counter-Terrorism Committee has received the attached fourth report from Lithuania submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. **Denisov**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 21 December 2004 from the Permanent Mission of Lithuania to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Republic of Lithuania to the United Nations presents its compliments to the Chairman of the Committee and has the honour to submit the fourth report of the Republic of Lithuania in accordance with paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

Enclosure

THE FOURTH REPORT OF THE REPUBLIC OF LITHUANIA TO THE COUNTER-TERRORISM COMMITTEE PURSUANT TO PARAGRAPH 6 OF SECURITY COUNCIL RESOLUTION 1373 (2001)

EFFECTIVENESS IN THE PROTECTION OF FINANCIAL SYSTEM

1.1 Regarding the suppression of the financing of terrorist acts under the effective implementation of sub-paragraph 1(a) of the Resolution, the CTC would appreciate learning whether the Lithuanian Financial Intelligence Unit (FIU) is adequately structured, empowered and staffed (human, financial and technical) to enable it to carry out its mandate. Please provide data in support of your response to the above question.

Financial Crime Investigation Service under the Ministry of Interior of the Republic of Lithuania (FCIS) was founded on 4 February 1997. At the moment the FCIS is comprised of about 463 employees in 10 county divisions including 60 employees in the central office. The service has its advisory body – FCIS Council. The FCIS budget for the year 2004 is equal to LTL 20.86 million (in 2003 – LTL 19.75 million), where appropriations for wages make up LTL 14.17 million (in 2003 – LTL 13.02). The task of fighting terrorism financing is assigned to Money Laundering Prevention Division of the FCIS, which has 12 analysts and 10 investigators.

1.2 Effective implementation of sub-paragraph 1(a) of the Resolution also requires financial institutions and other intermediaries to identify their clients and to report suspicious financial transactions to the relevant authorities. In this regard, would Lithuania please provide the CTC with the number of suspicious transactions reports (STRs) received by its Financial intelligence Unit, indicating also the number of STRs analyzed and disseminated, as well number of STRs that have resulted in investigations, prosecutions or convictions.

In 2002, the FCIS received 156 reports concerning suspicious monetary transactions. On the basis of the reports received and other information, 193 reports were sent to FCIS county divisions for further investigation, which resulted in one pre-trial investigation pursuant to Article 216 *Money Laundering* of the Criminal Code of the Republic of Lithuania.

In 2003, 170 suspicious transactions reports were received, 77 reports were sent to FCIS county divisions for further investigation. Five pre-trial investigations were launched.

From January to July of this year, 44 suspicious transaction reports were received, 48 reports were sent to FCIS county divisions for further investigation, which led to seven pre-trial investigations.

1.3 The CTC would welcome a progress report on the amendment of the draft resolution of the Government of the Republic of Lithuania "On the Approval of Criteria for Qualifying a Monetary transaction as Suspicious", as mentioned in the third report (at page 6).

The list of criteria for qualifying a monetary transaction as suspicious was updated on 22 July 2004 when the Government of the Republic of Lithuania adopted its Resolution No 929 "On the Amendment of Resolution No 1411 of the Government of the Republic of Lithuania of 6 September 2002 "On the Approval of Criteria for Qualifying a Monetary Transaction as Suspicious."

1.4 The effective implementation of paragraph 1 of the Resolution requires States to have in place effective executive machinery for the prevention and the suppression of the financing of terrorist acts. In this regard, does Lithuania provide training to its administrative, investigative, prosecutorial and judicial authorities aimed at enforcing its laws in relation to typologies and trends to counter-terrorist financing methods and techniques? In the same context, does Lithuania train the said authorities in techniques for tracing property, which represents proceeds of crime or is to be used to finance terrorism? Please outline relevant programs and courses in place to educate its various economic sectors as how to detect suspicious and unusual transactions related to terrorist activities.

FCIS officials provide information on criteria for recognising possible cases of money laundering or suspicious monetary operations or transactions to financial institutions and other entities (e.g. auditors, notary publics, lawyers, casinos, etc.) on a regular basis. In 2003, the FCIS started implementing the EU PHARE project "Strengthening the Administrative and Technical Capacity of the FCIS while implementing effective money laundering prevention measures." In the course of the implementation of the project, seven seminars have already been delivered to officials of financial institutions:

- 29 March – 1 April 2004: train-the-trainer seminar aimed at training trainers who could deliver training materials to an audience on the issue of money laundering;
- 3 – 5 May 2004: seminar "Management of Suspicious Transaction Reports, Personal Identification Techniques and Data Protection in the EU;
- 18 – 19 May 2004: seminar on Methods and Trends of Money Laundering;
- 20 – 21 May 2004: seminar on the Prevention of Terrorism Financing;
- 9 – 10 September 2004: seminar on the Investigation Process of Money Laundering Offences;
- 13 October 2004: seminar on Drug-Based Money Laundering;
- 13 October 2004: seminar "EU, its institutions, legal framework and legal acts relating to money laundering prevention".

The last three seminars under the PHARE project will be held in December 2004:

- Terrorist financing and risk to financial institutions;
- Effective use of the reporting system;
- Information exchange and co-operation with national and foreign authorities.

In addition, FCIS officials and officials of other institutions are given opportunities to attend international events that address the issue of the fight against money laundering and the financing of terrorism. In 2004, FCIS officials participated in the following international events:

- 1 – 2 April 2004: Interpol's 2nd International Financial Crime Conference;
- 26 – 29 April 2004: Conference on Money Laundering in Santandere (Spain);
- 10 – 14 May 2004: EU TAIEX seminar on Money Laundering and Recovery of Assets in the Hague;
- 24 – 25 May 2004: EU TAIEX seminar on Combating Terror Financing in Brussels;
- 10 – 11 June 2004: Money Laundering Prevention Seminar in Tallinn (Estonia);
- 22 – 24 June 2004: meeting of the Egmont Group in Guernsey.

1.5 The CTC would appreciate receiving a progress report on the enactment of the draft law on the Amendment of the Law on the Prevention of Money Laundering that has been drafted, according to the third report (at page3).

The Republic of Lithuania Law Amending the Law on Prevention of Money Laundering was adopted on 25 October 2003 and came into force on 1 January 2004.

When drafting this law consideration was given to Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purposes of money laundering, Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001 amending Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering and special FATF recommendations on the financing of terrorism.

The Law was supplemented by a new concept of the financing of terrorism, defined as activities aimed at using the proceeds derived from criminal activities or otherwise and other assets for direct or indirect financing of terrorism.

The new revision of the Law stipulates that financial institutions and other entities responsible for the implementation of the Law, other than lawyers or lawyers' assistants, upon establishing that their customer is performing a suspicious monetary transaction, must suspend the transaction and report it, within three hours, to the FCIS, irrespective of the amount involved in the monetary transaction. The FCIS must, when it is justifiable, within 48 hours from the receipt of the information, take steps to impose provisional measures restricting property rights in accordance with the procedure provided for in the Code of Criminal Procedure.

The Law also stipulates that where a financial operation or a transaction may be related to the financing of terrorism, the data specified in the Law must be reported within 24 hours of the receipt of the data about the operation or transaction to the State Security Department by the FCIS pursuant to the procedure prescribed by the Government.

Financial institutions and other entities other than lawyers or lawyers' assistants must establish appropriate mechanisms of internal control in order to prevent financial operations relating to money laundering and the financing of terrorism and ensure that their employees are well informed and properly trained in the prevention measures.

The Council of the Lithuanian Bar Association shall approve instructions for lawyers and lawyers' assistants aimed at prevention of money laundering and the financing of terrorism and shall ensure that

lawyers and lawyers' assistants are properly qualified and informed about the prevention measures specified in this Law and other legal acts.

1.6 Effective implementation of sub-paragraph 1(d) of the Resolution requires States to have mechanisms in place to register, audit and monitor the collection and use of funds and other resources by religious, charitable and other associations, with a view of ensuring that these are not diverted to other than their stated purposes – in particular for the financing of terrorism. The CTC would appreciate receiving further information about the provisions and mechanisms in place in order to audit and monitor the collection and use of funds by such entities.

As it was already stated in the previous report, the control mechanism for the organizations seeking or claiming that they seek charity-social goals is laid down in the Republic of Lithuania Law on Charity and Sponsorship. Article 12 of the Law prescribes an obligation for both suppliers and recipients of charity to conduct accounting and submit data to territorial tax inspectorates. In order to prevent misuse of funds and possible financing of terrorism related activities, these reports and other financial activities of selected charities and other non-profit organizations are monitored by the State Security Department of Republic of Lithuania, which is the coordinating institution in the fight against terrorism.

Has Lithuania frozen the assets of any non-profit organization because of their links with terrorist groups or terrorist activities?

The Prosecutor General's Office of the Republic of Lithuania does not have any data on any provisional restrictions of property rights imposed by prosecutors during pre-trial investigations on the assets of non-profit organisations because of their links with terrorist groups or terrorist activities.

EFFECTIVENESS OF COUNTER-TERRORISM MACHINERY

1.7 As indicated in the third report, the "draft conception on the prevention of terrorism" has been submitted to the National security and Defence Committee of the Parliament of Lithuania. The CTC would appreciate receiving a report on the progress made with the drafting and enactment of this proposed Law.

The draft concept of the Republic of Lithuania Law on the Prevention of Terrorism submitted to the National Security and Defence Committee of the Parliament of the Republic of Lithuania is still under deliberation.

1.8 Effective implementation of paragraph 2 of the Resolution requires each Member State, inter alia, to have in place effective police, intelligence, and/or other structures as well as adequate legal provisions to detect, monitor and apprehend those involved in terrorist activities as well those supporting terrorist activities, with a view that such persons are brought to justice. The CTC would appreciate receiving information concerning the coordination of the work of the various agencies charged with the enforcement of the Resolution. Do the legal provisions in force in Lithuania

authorize its administrative authorities to share public and non-public information with their domestic and foreign counterparts? If yes, please provide an outline of the relevant legal provisions.

On 28 April 2003, with the aim of improving co-operation in the area of operational (intelligence) activities, entities responsible for operational activities (Prosecutor General's Office of the Republic of Lithuania, Police Department under the Ministry of Interior, State Security Department, Special Investigation Service, Financial Crime Investigation Service under the Ministry of Interior, State Border Protection Service under the Ministry of Interior, VIP Security Department under the Ministry of Interior, Second Department of Operational Services under the Ministry of National Defence, Customs Department under the Ministry of Finance) concluded an agreement "On co-operation of entities of operational activities and co-ordination of operational activities" which provides for the exchange of public and non-public operational information and co-operation in carrying out joint operational actions. A co-ordination group headed by the Deputy Prosecutor General of the Republic of Lithuania was set up to co-ordinate co-operation of these services and ensure their interoperability. Plans are for the co-ordination group to meet at least once in six months to address issues relating to the implementation of the agreement.

Exchange of operational (intelligence) information with foreign partners is carried out within the framework of multilateral police organisations, INTERPOL and EUROPOL, and multilateral instruments, such as the Bern and the Egmont clubs and also on the basis of bilateral agreements.

Exchange of information obtained during pre-trial investigations is regulated by Article 177 of the Criminal Procedure Code of the Republic of Lithuania, which stipulates that information obtained during pre-trial investigations shall not be disclosed. This information may be disclosed prior to trial proceedings only if authorised by the prosecutor and to the extent it is allowed to do so. Thus, in all cases the prosecutor who conducts or supervises an investigation must decide whether the transfer of information collected during a pre-trial investigation to another institution or colleagues abroad should be allowed and whether this will not constitute a breach of any persons' rights and will not be detrimental to the pre-trial investigation. Article 162 of the Criminal Procedure Code of the Republic of Lithuania stipulates that information obtained by coercive measures may be used in other cases only with the consent of the investigating judge or the court.

Exchange of information with other countries involving information collected during the pre-trial investigation stage is carried out pursuant to the European Convention on Mutual Assistance in Criminal Matters of 1959, as well as bilateral agreements. Exchange of information with the EU Member States involving information obtained during pre-trial investigations takes place within the framework of EUROJUST.

1.9 With a view to bringing terrorists and their supporters to justice, please indicate whether Lithuania has taken measures to protect vulnerable targets in the prosecution of terrorist cases (e.g. the protection of victims; the protection of people collaborating in the administration of justice; the protection of witnesses, judges and prosecutors). Please describe the legal and administrative provisions in place to ensure this protection. Could Lithuania also outline whether those measures can be utilized in cooperation with, or at the request of another State.

Current legislation of the Republic of Lithuania allows for ensuring protection of the participants of operational activities and criminal proceedings in cases of serious offences. Terrorist offences are

attributed to the category of serious and very serious offences; therefore, it is possible to grant protection in cases of these offences.

First of all, pursuant to the Criminal Procedure Code of the Republic of Lithuania, in cases of serious offences, the principle of anonymity may be applied to the victim and the witness during criminal proceedings. Granting of anonymity is a guarantee to the victim or witness that their personal identification data will not be disclosed to any person other than the judge (court) who investigates the case and that they will be heard either by setting up acoustic or visual barriers preventing them from being recognised or personally by the investigating judge (court) in a separate room.

A special Republic of Lithuania Law on the Protection of Participants of Criminal Proceedings and Operational Activities and of Officials of Justice and Law Enforcement Institutions from Criminal Influence has been in force since 1 January 1997. It defines measures of protection from criminal influence and lays down the grounds and procedure for their application. According to this law protective measures against criminal influence may be applied to:

- persons participating in operational activities;
- persons participating in criminal proceedings – witnesses, victims, experts, defence counsels, suspects and accused, convicted and acquitted persons;
- officials of justice and law enforcement institutions – judges, prosecutors, officials involved in pre-trial investigations and bailiffs;
- relatives of persons listed in bullet points 1-3 – parents, foster parents, children, adopted children, brothers and sisters, grandparents, grandchildren and spouses.

Persons listed in bullet points one and two have the right, if there are grounds to do so, to apply to the Head of the Police Department under the Ministry of Interior or the City (district) Police Commissariat, Prosecutor General or his deputies or the Country Chief Prosecutor or his deputies or the District Chief Prosecutor for the application of measures of protection against criminal influence. Persons listed in bullet point three have the right, if there are grounds to do so, to apply to the Prosecutor General or his deputies, the County Chief Prosecutor or his deputies or the District Chief Prosecutor for the application of measures of protection against criminal influence.

Protective measures against criminal influence may be applied to the above-mentioned persons if, during a pre-trial investigation or investigation of criminal cases involving serious or very serious offences, there are grounds to believe that:

- there is a threat to their life or health;
- there is a risk of destruction or damage of property of these persons;
- constitutional rights and freedoms of these persons are in danger.

Protective measures against criminal influence may be designated and applied when carrying out operational activities, during a pre-trial investigation or during trial proceedings of a criminal case, or after operational activities or trial proceedings are completed.

Types of protective measures against criminal influence:

- physical protection of a person and his/her property;
- temporary relocation of a person to a safe location;
- establishment of a special regime for the disclosure of personal data at passport divisions and other databases of official information;

- change of residence, workplace or place of education;
- change of data in the person's file and biographical information;
- plastic surgery to change the person's appearance;
- issuance of a firearm or special protection equipment to the person.

The Head of the Police Department under the Ministry of Interior selects one or several specific protective measures against criminal influence taking into account the specific circumstances and wishes of the person to be afforded protection.

Protection of persons who should be afforded protection is ensured by the Service for the Security of Police Witnesses and Victims. The Service became an autonomous structural unit of the Lithuanian Police in 2003.

Co-operation with other countries in the area of protection of witnesses, victims and other persons involved is carried out on the basis of international and inter-agency agreements. On 17 March 2000, the Republic of Lithuania signed an intergovernmental agreement with Latvia and Estonia "On Co-operation in the Area of Protection of Witnesses and Victims." An analogous inter-agency agreement was signed with the Republic of Poland on 19 May 2004.

1.10 Effective implementation of sub-paragraph 2(e) of the Resolution requires each Member State to have in place effective police, intelligence and/or other structures, as well as adequate legal provisions to detect, monitor and apprehend those involved in terrorist activities and those supporting terrorist activities with a view to ensuring that those persons are brought to justice. Without compromising any sensitive information, the CTC would be grateful for information concerning the use of special investigative techniques in the fight against terrorism, such as undercover police operations, controlled deliveries and the monitoring and/or interception of terrorist communications.

Special investigation methods are applied for the purposes of terrorism prevention in accordance with the provisions of the Republic of Lithuania Law on Operational Activities, the Republic of Lithuania Law on Intelligence and the Criminal Procedure Code of the Republic of Lithuania. These laws allow:

- covert monitoring of postal items and document consignments, postal orders and their documents;
- special use of technical means;
- receiving information from telecommunications services providers;
- secret entry into residential and non-residential premises and vehicles and their inspection;
- temporary seizure of documents and their inspection;
- seizure of substances, raw materials and samples of products and other items for the purposes of analysis without disclosing information about their seizure, and other actions.

The Republic of Lithuania Law on Operational Activities stipulates that special use of technologies (including interception of telecommunication) has to be authorized by the Head of the regional court or the Head of Criminal cases division of the regional court. The request for an authorization has to be submitted by the Prosecutor General, the commissioned Deputy Prosecutor General, the Head of

Regional Prosecutor office (Chief Prosecutor) or the commissioned Deputy of the Head of Regional Prosecutor office. The request must include:

- name and the position of the officer that submits the request;
- evidence that could substantiate the necessity to special use of the technologies;
- data on the persons towards whom this special use of the technologies will be applied;
- phone number or other concrete objects that will be controlled;
- anticipated term of the special use of the technologies;
- intended results of the special use of the technologies.

It is foreseen that in cases of great urgency the authorization for special use of technologies may be made by the Prosecutor General of the Republic of Lithuania, the commissioned Deputy Prosecutor General, the Head of Regional Prosecutor office (Chief Prosecutor) or the commissioned Deputy of the Head of Regional Prosecutor office. However, the above-mentioned judges must confirm such authorization in 24 hours.

1.11 In the context of effective implementation of sub-paragraph 2(e) of the Resolution, could Lithuania provide the CTC with information concerning the number of persons prosecuted for terrorist activities, financing of terrorist activities, recruitment to terrorist organizations, providing support to terrorists or terrorist organizations. Could Lithuania also indicate how many people have been prosecuted for soliciting support (including recruitment) for proscribed organizations, other terrorist groups or organizations?

According to the data available to the Prosecutor General's Office of the Republic of Lithuania, there are no persons in Lithuania suspected or accused of activities classified as terrorist activities, there are no ongoing pre-trial investigations with regard to setting up terrorist organisations, recruiting persons to their activities or other forms of support or financing.

EFFECTIVENESS OF CUSTOMS, IMMIGRATION AND BORDER CONTROLS

1.12 Effective implementation of sub-paragraph 2 (c) and (g) of the Resolution requires effective customs, immigration and border controls to prevent the movement of terrorists and the establishment of safe havens. The CTC would be grateful for information as to whether Lithuania has established any procedure for supplying advance information concerning international cargo and passengers to its own relevant authorities as well as to those of other States to enable them to screen for prohibited cargo and suspected terrorists before disembarkation.

The above-mentioned agreement of 28 November 2003 concluded by entities involved in operational activities on co-operation of entities responsible for operational activities and co-ordination of operational activities lays down the basis for the Customs Department and the State Border Protection Service to receive operational information from other entities involved in operational activities, primarily from the State Security Department, and to co-operate in carrying out joint operational actions. The information received is forwarded to border control posts.

Both the Customs Department under the Ministry of Finance of the Republic of Lithuania and the State Border Guard Service at the Ministry of Interior of the Republic of Lithuania have established close contacts with similar services of neighbouring countries and are involved in information exchange on persons, goods and vehicles crossing the border of the Republic of Lithuania on the basis of bilateral and multilateral agreements, and conduct bilateral/trilateral operations to apprehend persons or illegally transported goods.

International and inter-agency co-operation in investigating cases of smuggling and transportation of illegal goods and prevention of these crimes at the Customs Department is the responsibility of the Customs Criminal Investigation Service. At the State Border Guard Service, these functions are performed by the Criminal Investigation Board.

For the purposes of co-operation in the customs area, the EU Member States signed the Convention on Mutual Assistance and Co-operation between Customs Administrations (Naples II) in 1997. Lithuania ratified this Convention in 2004. Article 33 of the Convention, which provides for early application, has already given Lithuanian customs authorities the opportunity to co-operate with customs authorities of other EU Member States that have already ratified the Convention.

The Government of the Republic of Lithuania has also signed 17 bilateral agreements on mutual administrative assistance in the customs area with the governments of the following countries: Azerbaijan, Belarus, Belgium, Denmark, Georgia, the United States of America, Kazakhstan, Poland, Moldova, Netherlands, Norway, Russia, Finland, Sweden, Turkey, Ukraine and Uzbekistan.

The Republic of Lithuania is also a contracting party to the International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences (Nairobi Convention). This Convention provides a legal basis for the co-operation of Lithuanian customs authorities with customs administrations of those countries with which Lithuania has not signed bilateral agreements on mutual assistance in the customs area.

1.13 The third report mentions that a working group, established by a Decree of the Minister of Interior, is presently in the process of drafting a new law on the Legal Status of Foreigners. The CTC would appreciate receiving a report on the progress made with the drafting and enactment of this proposed piece of legislation.

The Republic of Lithuania Law on the Legal Status of Aliens was adopted on 29 April 2004 and came into force on 30 April 2004. Supplementary legislation for the implementation of the law is currently being drafted.

Prior to the adoption of the new law, issues relating to the legal status and asylum of aliens were regulated by two separate laws: the Republic of Lithuania Law on Refugee Status and the Republic of Lithuania Law on the Legal Status of Aliens. These legal acts were repealed after the enactment of the new law.

The purpose of the new law is to harmonise legal provisions regulating the legal status of aliens in the Republic of Lithuania with the European Union *acquis* requirements in the area of visas, migration and asylum and free movement of persons. Prevention of terrorism and interests of state security was also one of the factors in the process of drafting this law.

The Law details provisions relating to the issuance of visas and the issuance procedure. Previously this area was regulated only by a resolution approved by the Government of the Republic of Lithuania.

The Law sets forth the principle that aliens who apply for a temporary residence permit for the first time must lodge their application for the issue of such a permit to a diplomatic mission or a consular post of the Republic of Lithuania abroad. Until recently, the majority of aliens submitted their applications for the issue of permits for residence in the Republic in Lithuania while already on the territory of the country. According to the new law, an alien who is in the Republic of Lithuania may apply for a residence permit only in the cases determined by the Minister of the Interior.

The Law has extended the list of grounds for issuing permits for temporary residence in the Republic of Lithuania. A temporary residence permit in the Republic of Lithuania is issued when an alien is put under guardianship (curatorship) or granted subsidiary or temporary protection. Previously these issues were dealt with when issuing an alien with a permit for temporary residence in the Republic of Lithuania for humanitarian reasons.

The Law has extended the time limit for processing applications for the issue of a temporary residence permit in the Republic of Lithuania: it should not exceed six months following the receipt of an application (previously such applications were processed within 3 months).

The Law contains a new provision stipulating that the issue or replacement of a residence permit shall be refused if an alien who has a residence permit fails to send a notification of the changes in his identification or citizenship documents, marital status or place of residence within seven days.

To obtain a permanent residence permit in the Republic of Lithuania in the case of family reunification, an alien will have to reside in the Republic of Lithuania for five years with a temporary residence permit (previously it was two years). However, in order to achieve better integration of aliens into the Lithuanian society, the law stipulates that this period may be shortened by one year for an alien who can speak the state language and who has passed state language examinations in accordance with the procedure established by the laws.

The procedure for granting asylum has been amended. This procedure has been simplified (it will be conducted by one state authority). This will have an impact on the length (the time limit for processing applications is reduced by half) and effectiveness (applications will be processed and decisions made by civil servants of one state authority) of the procedure.

The list of grounds for detaining aliens has been expanded in the Law (according to the previous Republic of Lithuania Law on the Legal Status of Aliens, an alien could only be detained for the purpose of identification). The grounds for detention of aliens cover only identified infringements of the procedure regulating the legal status of aliens in the Republic of Lithuania.

The previous Republic of Lithuania Law on the Legal Status of Aliens did not provide adequate regulation with regard to the identification of a person. The new Law specifies the steps that may be taken for the purposes of identifying a person, including photographing, fingerprinting, DNA testing and age determination tests.

1.14 Regarding the prevention of the movement of terrorists, please outline the legal and administrative procedures developed by Lithuania to protect: port facilities and ships; persons,

cargo, cargo transport units; as well as ships' stores from the risks of terrorist attacks. Have competent Lithuanian authorities put procedures in place for the periodic review of transport security plans, with a view to keeping them up-to-date? If yes, please outline.

To prevent the threat of deliberate unlawful acts, such as terrorism, cases of piracy, etc., and ensure continuous protection of navigation, persons using navigation services and of the environment, the Republic of Lithuania has implemented amendments to the 1974 Convention for the Safety of Life at Sea (SOLAS) of the International Maritime Organisation (IMO) adopted at the diplomatic conference on 12 December 2002 and the International Ship and Port Security (ISPS) Code.

For the purpose of implementation of the Code, the Government of the Republic of Lithuania adopted Resolution No 90 of 28 January 2004 "On the Implementation of the Requirements of the International Ship and Port Security Code" which designated institutions implementing the Code in the Republic of Lithuania.

In implementing the said Government Resolution, on 3 February 2004, Transport Minister of the Republic of Lithuania issued Decree No 3-56 "On the Implementation of the International Ship and Port Security Code Requirements" which identifies port facilities where port security officers must be appointed and defines security assessment procedures for port facilities.

Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security came into force in the Republic of Lithuania on 1 July 2004.

To ensure the implementation of this regulation, the Transport Minister of the Republic of Lithuania issued Decree No 3-370 of 29 June 2004 "On Ensuring the Implementation of the Requirements of Regulation No 725/2004 of the European Parliament and of the Council in the Republic of Lithuania."

CONTROLS ON PREVENTING ACCESS TO WEAPONS BY TERRORISTS

1.15 Sub-paragraph 2(a) of the Resolution requires each Member State, inter alia, to have in place appropriate mechanisms to deny access to weapons to terrorists. With regard to this requirement of the Resolution, please provide the CTC with information relevant to the following questions:

A) Legislation, regulations, administrative procedures

What national laws, regulations and administrative procedures exist to exercise effective control over firearms, ammunition and explosives in the following areas?

- *Transit;*
- *Retransfer.*

Transit of weapons and ammunition in the Republic of Lithuania is regulated by the Republic of Lithuania Law on Weapons and Ammunitions Control adopted in 2002 and Government Resolution No 665 of 27 May 2003 "On the Transport of Firearms and Ammunitions." These and other related

legal acts ensure effective control over circulation of weapons and ammunitions in Lithuania. The concept of retransfer is not defined in these legal acts.

Circulation of explosives in the Republic of Lithuania is regulated by the Republic of Lithuania Law on Control Over Circulation of Explosives adopted in 2003 and Government Resolution No 717 of 10 June 2004 "On the Approval of the Rules for State Control Over Circulation of Explosives" and other related legal acts.

Criminal liability for any unlawful acts or acts involving illegal weapons is established by articles of Chapter XXXVI of the Criminal Code of the Republic of Lithuania and liability for smuggling such items is provided for in Article 199(2) of the Criminal Code.

What national measures exist to prevent the manufacture, stockpiling, transfer and possession of unmarked or inadequately marked:

- *Small and light weapons;*
- *Other firearms, their parts and components and ammunition;*
- *Plastic explosives;*
- *Other explosives and their precursors?*

Article 22 of the Republic of Lithuania Law on Weapons and Ammunitions Control places an obligation on manufacturers of weapons, their components and ammunition to mark them with identification codes. Manufactured weapons and their main components must contain the following data: country of manufacture, manufacturer's name, year of production and number. The marking is unique for every weapon. If found, unmarked weapons are seized pending an administrative decision concerning their further handling.

Article 14 of the Republic of Lithuania Law on Control over Circulation of Explosives places an obligation on manufacturers to label explosives with marks allowing identification of the manufacturer. Government Resolution No 717 of 10 June 2004 "On the Approval of the Rules of State Control over Circulation of Explosives" lays down the procedure for certifying and marking explosives. This procedure stipulates that "all explosives imported into the Republic of Lithuania or transported to an EU Member State must be CE marked." Customs authorities shall seize all shipments of unmarked or incorrectly marked explosives and shall immediately inform the Non-Food Products Inspectorate, which in turn shall assess conformity of the seized explosives to safety and marking requirements.

B) Export control

Please describe the system of export and import licensing or authorization, as well as any measures regarding international transit used by Lithuania for the transfer of:

- *Weapons and ammunition, including their parts and components designated as military in nature;*
- *Plastic explosives;*
- *Explosives and their precursors.*

Please specify what mechanisms exist for the exchange of information on sources, routes and methods used by traders in arms.

Only companies that possess an export licence for weapons and ammunition issued by the Police Department under the Ministry of Interior of the Republic of Lithuania or have obtained single permits for every individual export, import or transit operation may export, import or transport in transit weapons or ammunition of Category B, C and D.

The procedure for lodging an application to issue a permit for export, import or transit of weapons, application forms as well as the procedure for issuing permits to export weapons is established in the Rules for Export, Import and Transit of Weapons of Category B, C and D, Ammunitions and Their Parts approved by Government resolution No 665 of 27 May 2003 "On the Transport of Weapons and Ammunitions."

Companies that hold a licence allowing them to engage in export of weapons and ammunition issued by the Police Department under the Ministry of Interior and wish to export weapons of Category B, C and D, must apply for a permit to export such weapons by submitting an application of prescribed form, the contract of the purchase of weapons and end user certificate of the importing country to the Police Department.

Prior to issuing a permit for export, import or transit of weapons, the Police Department shall consult the Weaponry Fund under the Government of the Republic of Lithuania. In cases defined in the European Union Arms Export Code the Police Department shall consult the EU Member States through the Ministry of Foreign Affairs of the Republic of Lithuania regarding the issuance of a permit to export weapons.

The Police Department shall notify the Weaponry Fund under the Government of the Republic of Lithuania and the Customs Department under the Ministry of Finance of its refusal to issue a permit for the export, import or transit of weapons or ammunition. In cases defined by the European Union Code of Conduct on Arms Exports, information on the refusal to issue a permit to export weapons shall be forwarded to other EU Member States.

Explosives included in the Common List of Military Equipment, as well as explosives included in Annex I of Council Regulation (EC) No 1334/2000 of 22 June 2000 setting up a Community regime for the control of exports of dual-use items and technology, shall be imported and shipped into the Republic of Lithuania, exported and shipped from and transported in transit in accordance with the procedure established by the Republic of Lithuania Law on the Control of Strategic Goods. The licences are issued by the Ministry of Economy, which, together with other state authorities and bodies conducting control over imports, exports and transit of strategic goods, controls their exports, imports and transit in accordance with the procedure established by the Republic of Lithuania Law on the Control of Strategic Goods and other legal acts.

Other explosives classified as shipments of danger category I (in accordance with the list approved by the Weaponry Fund) are imported, brought into the Republic of Lithuania, exported and shipped from

and transported in transit only with a permit issued by the Weaponry Fund of the Republic of Lithuania.

If a company wants to export, import or transport explosives in transit through the territory of the Republic of Lithuania, it must submit an application for the issue of a permit to the Weaponry Fund together with the company registration certificate, a licence giving the right to engage in commercial and economic activities involving explosives and the contract (bill of lading). In case of doubt, the Weaponry Fund is entitled to demand that additional documents be presented.

Please advise whether it is enough to file and register, or is it also necessary to check a Goods Declaration and its supporting documents prior to the import, export or transit of firearms. Please also advise whether importers, exporters and third parties provide information Customs prior to shipments as a routine matter, or whether they need to be encouraged in this. Please further outline any mechanisms used to verify the authenticity of the licensing or authorization documents for the import, export or transit of firearms.

Has the Lithuanian Customs Service implemented an intelligence-based risk management system on its borders to identify high-risk goods? Please outline the data required by the Customs Administrations in order to identify a high-risk consignment prior to shipment.

Prior to completing any customs formalities, checks on documents relating to consignments are performed and consignments are checked on the basis of risk sampling. In the case of shipment of weapons, checks of consignments and documents are mandatory. Goods must be presented to customs authorities within 24 hours from the arrival of the consignment. In individual cases where memoranda of understanding with transport companies exist, information is received in advance from the parties to the memorandum. Following the implementation of the ship information system, there will be a mandatory requirement to provide information on consignments in advance. In the case of shipment of weapons, mandatory checks of the licence issued by the Ministry of Economy (a copy of the issued licence is sent to customs authorities) are conducted and the Customs Authority verifies whether the licence and the consignment correspond to the original documents. The risk management system implemented by the Lithuanian Customs also operates at the border and is used to identify high-risk consignments. For that purpose, the Lithuanian Customs uses data presented in the ship manifesto, general declaration and the general document. The Customs uses the List of Essential Data Elements for Identification of High-Risk Consignments drawn up by the World Customs Organisation.

C) Brokering

Do Lithuania's laws require the disclosure of names and locations of the brokers involved in the transaction, when completing import and export licenses, authorizations, or accomplishing documents?

Do legal provisions in place allow for the sharing of relevant information with foreign counterparts to enable cooperation in preventing illegal shipments of firearms, their parts and components and ammunition, as well as explosives and their precursors?

Pursuant to the provisions of Article 25 of the Republic of Lithuania Law on Weapons and Ammunitions Control, manufacturers, importers, exporters and sellers of weapons, ammunition and their parts are allowed to conclude contracts for the purchase, import and export of weapons, ammunition and their parts through brokers. Both legal and natural persons may act as brokers.

In accordance with Government Resolution No 668 of 27 May 2003 "On the Approval of the Rules for Registration of Brokers in the Area of Trade in Weapons, Ammunitions and their Parts," brokers must register with the Police Department under the Ministry of Interior.

Brokers must submit a report to the Police Department specifying the names, codes and addresses of buyers to whom they provided brokerage services in concluding contracts on the purchase, import or export of weapons, ammunition or their parts, as well as indicating the quantity and types of those weapons, ammunition and their parts.

Exchange of information with foreign partners is possible on the basis of signed bilateral agreements.

D) Stockpile management and security

Please outline the legal provisions and administrative procedures in Lithuania that provide for the security of firearms, their parts and components, ammunition and explosives and their precursors at the time of manufacture, import, export and transit through its territory.

What national standards and procedures exist for the management and security of firearms and explosives stocks held by Government of Lithuania (in particular, held by its armed forces, police, etc.) and other authorized bodies?

Has Lithuania implemented, using risk assessment principles, any special security measures on the import, export and transit of firearms, such as conducting security checks on the temporary storage, warehousing and of transport of firearms? Are persons involved in these operations required to undergo security vetting? If yes, please, give details.

The Republic of Lithuania Law on the Control over Circulation of Explosives and the Republic of Lithuania Law on Weapons and Ammunitions Control and other legal acts relating to their implementation regulate safe circulation of both explosives and firearms and their parts in order to ensure the security of people, the society and the state. The legal framework of the Republic of Lithuania lays down the procedures for licensing this type of activity, warehousing, accounting, data collection, accumulation and exchange, etc. Administrative and criminal sanctions are prescribed by both the Administrative Code and the Criminal Code of the Republic of Lithuania for infringements of the above-mentioned procedures.

Pursuant to the Lithuanian Police Commissioner General's Decree No V-265 of 12 May 2003 "On the Requirements for Checking Premises Used for Trade in Weapons, Ammunition and Their Parts", manufacturers, importers, exporters and sellers must keep weapons of Category B, C and D in special storage facilities for weapons.

In accordance with Article 8 of the Republic of Lithuania Law on Weapons and Ammunitions Control, on 21 August 2003, the Government of the Republic of Lithuania issued Resolution No 1066 "On the Reorganisation of the Weapons Register into the State Weapons Register and on the Approval of the Regulations of the State Weapons Register" thus approving the Regulations of the State Weapons Register and designating the Weaponry Fund of the Republic of Lithuania to be responsible for the management of this Register. The Weapons Register is used for registering weapons of entities with a special status and natural and legal persons, as well as weapons imported to the Republic of Lithuania, and exported and destroyed weapons. The purpose of the State Weapons Register is to collect, accumulate, process, systematise, store, use and provide data stored in the Weapons Register in accordance with the procedure established in the laws and regulations of the Republic of Lithuania.

E) Law enforcement / illegal trafficking

What special measures are used by Lithuania to prevent and suppress illegal trafficking in firearms, ammunition and explosives, likely to be utilized by terrorists?

Lithuanian legislation ensures an effective control over circulation of firearms, ammunition and explosives. The Republic of Lithuania Law on the Control of Arms and Ammunition (in force since the 1st of July 2003) is in compliance with the EU Council Directive 91/47/EEC and regulates the circulation of arms and ammunition. The Republic of Lithuania Law on the Control of Explosives (in force since the 1st of January 2004), which is in compliance with the EU Council Directive 93/15/EEC, regulates the circulation of explosives. The two laws, by-laws and administrative procedures supplementing them lay down sound legal basis for control over firearms, ammunition and explosives. Special measures to prevent illicit trafficking are executed by entities having a special status, such as the Department of State Security. Their activities are regulated by the Republic of Lithuania Law on Strategic Activities.

F) National point of contact

Does Lithuania have a national point of contact to act as a liaison with other States on matters relating to the prevention of access to weapons by terrorists? If so, please, give details.

There is no single national point of contact on this issue in Lithuania.

1.16 With regard to Lithuania's compliance with international standards with a view to protecting and safeguarding hazardous materials, such as radiological, chemical, and biological substances and their waste products, the CTC would be pleased to receive an outline of Lithuania's legal provisions which it has put in place to prevent terrorists from acquiring, by legal or illegal means, of hazardous materials, such as radiological, chemical and biological materials, their waste products, as well as of nuclear, chemical and biological weapons.

Lithuania is a party to all non-proliferation treaties in the area of weapons of mass destruction:

- 1925 Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare,
- Treaty on Non-Proliferation of Nuclear Weapons,

- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction,
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction,
- Comprehensive Nuclear Test Ban Treaty.

In the area of nuclear safety and nuclear waste, Lithuania has acceded to:

- Vienna Convention on Civil Liability for Nuclear Damage,
- Vienna Convention on the Physical Protection of Nuclear Material,
- Joint Protocol relating to the Vienna Convention on Civil Liability for Nuclear Damage and Paris Convention on Third Part Liability in the Field of Nuclear Power,
- Convention on Early Notification of a Nuclear Accident,
- Convention on Nuclear Safety,
- Joint Convention on the Safety of the Spent Fuel Management and on the Safety of Radioactive Waste Management,
- Protocol of amendment to the Vienna Convention on Civil Liability for Nuclear Damage.

The international treaties, which are ratified by the Parliament of the Republic of Lithuania, form an integral part of the national legal system.

Lithuania's national laws allow for effective implementation of export control and preventive activities for prohibiting the trafficking, carriage and storage of illicit and prohibited goods.

- The Republic of Lithuania Law on the Basics of National Security of 1996 states the Non-Proliferation Treaty on Nuclear Weapons to be one of the four fundamental provisions ensuring national security.
- The Republic of Lithuania Law on Environmental Protection of 1992 prohibits the production, stationing, transit and importation of nuclear weapons, the production of radioactive matter used for the production nuclear weapons or for fuel elements of nuclear power plants and the reprocessing of spent nuclear fuel in Lithuania.
- The Republic of Lithuania Law on Klaipėda National Port of 1996 prohibits the ships with nuclear plants and nuclear weapons from entering the port.
- With a view to implementing the 1993 Chemical Weapons Convention, the 1998 Republic of Lithuania Law on the Prohibition of Chemical Weapons prohibits development, production, acquisition, possession, stockpiling, use or retention of chemical weapons and sets forth conditions for import, export, and transfer of scheduled chemicals listed in the Annex on Chemicals to the Chemical Weapons Convention. The Law requires both legal and natural persons to provide the Ministry of Economy with information on transactions involving scheduled chemicals or their precursors. Secondary legislation prescribes the procedure and conditions for the production, acquisition, import into and export from the territory of the Republic of Lithuania of controlled toxic chemicals and their precursors, as well as the procedure for submitting information on such substances to the Ministry of Economy.
- The Republic of Lithuania Law on Nuclear Energy of 1996 ensures nuclear safety and prevents any illegal disposition of nuclear materials, including nuclear fuel and nuclear waste.
- The Republic of Lithuania Law on the Management of Radioactive Waste of 1999 established the grounds for managing radioactive waste.

- The Republic of Lithuania Law on Radiation Protection of 1999 sets forth the legal basis allowing protecting people and the environment from the harmful effects of ionising radiation. It is prohibited to produce, operate, market, store, assemble, maintain, repair, recycle, and transport sources of ionising radiation and to handle (collect, sort, treat, keep, recycle, transport, store and decontaminate) radioactive waste without a licence. A licence is required for these activities.
- The 1994 Governmental Resolution No.938 on Approval of Regulations of Transportation of Dangerous and Military Goods of Foreign States across the Territory of the Republic of Lithuania prohibits the transportation of weapons of mass destruction (nuclear, chemical and biological) and their components across the territory and the airspace of the Republic of Lithuania.
- The Republic of Lithuania Law on the State Border and the Protection Thereof of 2000 prohibits any transportation of nuclear or any other weapons of mass destruction across the national borders.
- The Republic of Lithuania Aviation Law prohibits the use and carriage of weapons of mass destruction and also dangerous goods and substances in the airspace of the Republic of Lithuania.
- The Republic of Lithuania Law Amending the Law on the Export, Import and Transit Control of Strategic Goods, dated 1 May 2004. Following this Law and EU Council Regulation (EC) 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology, persons willing to export dual-use items or export and import military equipment and well as transport them by transit across the territory of the Republic of Lithuania must have a licence. In accordance with the EU Council Common Position 2003/468/CFSP of 23 June 2003 on the control of arms brokering, the Law also defines the conditions for the control of brokering (mediation).

The Criminal Code of the Republic of Lithuania (the CC) provides criminal liability for unlawful actions relating to weapons of mass destruction or materials used for the production thereof:

- The CC imposes criminal liability on persons who order or carry out a military attack prohibited under international humanitarian law using weapons of mass destruction (Art. 111, p. 2 of the CC – imprisonment for a term of 10 to 20 years or life imprisonment) and on persons who disseminate radioactive, biological or chemical noxious substances, preparations or micro organisms (Art. 250, p. 1 of the CC – imprisonment for a term of 5 to 15 years).
- Art. 199 of the CC sets forth that smuggling of firearms, ammunition, explosives, explosive, radioactive or other strategic goods shall bear a maximum sentence of imprisonment of 3 to 10 years.
- Art. 256 of the CC provides imprisonment of up to 4 years to any person who steals or otherwise acquires, stores, uses or alters in an illegal manner ionising radiation sources, radioactive or nuclear material, whatever their form or physical condition. In case of aggravating circumstances, imprisonment of up to 10 years is provided.
- Art. 257 of the CC prescribes a maximum sentence of imprisonment of up to three years to any person who violates regulations regarding the storage, use or transportation of ionising radiation sources, radioactive or nuclear material and thereby may cause grave consequences.

- Art. 267, p. 2 of the CC reads that any person who produces, acquires, stores, transports or sells poisonous chemical substances used as chemical weapons, or chemical substances or their precursors for the production of chemical weapons or for other prohibited purposes specified in the Law on the Prohibition of Chemical Weapons may be imposed a maximum sentence, i. e. imprisonment of up to 5 years.
- A prohibition to produce, refine or transport biological weapons or the substances used in the production thereof is not explicitly covered in the Lithuanian criminal laws. At present, the storage or transportation of biological weapons would be qualified as preparation to use weapons of mass destruction (Art. 21 and Art. 111, p. 2 of the CC) or as preparation for a terrorist act (Art. 21 and Art. 250, p. 3 of the CC), or as aiding to prepare or commit the above-mentioned crimes (Art. 24, p. of the CC), or this would not incur any criminal liability at all.
- Persons are liable for any unlawful use of radioactive, toxic or powerful substances, including chemical substances, under the Criminal Code of the Republic of Lithuania, regardless of their nationality, place of residence, the place where the crime was committed or the punishability of the committed act under the laws of the place where the act was committed (Art. 7 of the CC).

Code of Administrative Offences (CAO):

- Art. 189(9) of the 1998 Code of Administrative Offences of the Republic of Lithuania provides that import, export and transit of strategic goods and technologies without a license incurs a fine of 5,000 to 10,000 Litas.
- Art. 84, p. 1 of the CAO sets forth liability for violations of the requirements of management of chemical substances and preparations.

A more extensive outline of the legislative and other measures taken by Lithuania to ensure due protection of radiological, chemical and biological substances, as well as non-proliferation of nuclear, chemical and biological weapons, is provided in Lithuania's report on implementation of the UNSCR 1540 (2004).

1.17 The CTC would appreciate receiving a progress report on the ratification and implementation by Lithuania of the International Convention for the Suppression of Terrorist Bombings.

Lithuania ratified the International Convention for the Suppression of Terrorist Bombings on 9 December 2003. The ratification documents were deposited in New York on 17 March 2004.