SUBJECT: Request for revoking the Non-market Economy Status of the Republic of Estonia in the context of U.S. Antidumping Law

The United States Antidumping Law establishes and uses a term “non-market economy country”. A country, which is regarded as a non-market economy country is considered not to operate on market principles, so that sales in such country do not reflect the fair value of the goods. In case the antidumping investigation is initiated with regard to the producer from a non-market economy country, the cost of production will usually be calculated on the cost of factors of production in a market economy country at a similar level of economic development. While the use of this methodology is in full conformity with the rules of the World Trade Organization, it may still affect negatively the position of the producer under investigation. In some cases it may even lead to results that do not reflect the real situation in a country that is currently categorized as a non-market economy country, but in reality meets all the criteria characterizing a market economy country.

U.S. Section 771(18) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1677(18) sets forth the rules for revoking the status of a non-market economy country [19 U.S.C. § 1677(18)(C)] as follows:

> **(i)** Any determination that a foreign country is a non-market economy country shall remain in effect until revoked by the administering authority.
>
> **(ii)** The administering authority may make a determination under subparagraph (A) with respect to any foreign country at any time.

When revoking the status of a foreign country, the U.S. Section 771(18) (B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1677(18) (B) requires the authorities to take into account the following factors:

> **(i)** the extent to which the currency of the foreign country is convertible into the currency of other countries,
> **(ii)** the extent to which wage rates in the foreign country are determined by free bargaining between labor and management,
>
> **(iii)** the extent to which joint ventures or other investments by firms of other foreign countries are permitted in the foreign country,
>
> **(iv)** the extent of government ownership or control of the means of production,
>
> **(v)** the extent of government control over the allocation of resources and over the price and output decisions of enterprises, and
>
> **(vi)** such other factors as the administering authority considers appropriate.

With respect to the abovementioned provisions of the U.S. Antidumping Law the Government of Estonia requests the International Trade Administration to revoke the status of Estonia as a non-market economy country.

Below we briefly consider the factors noted above that relate to our request to revoke the status of Estonia as a non-market economy country.

1. The extent to which the currency of the foreign country is convertible into the currency of other countries.
Since the monetary reform of 1992 the Estonian monetary system is based on a currency board arrangement. Initially the Estonian kroon was pegged to the German Mark and now it is pegged to euro (EUR 1 = EEK 15.65). Estonia maintains an exchange system that is free of restrictions on payments and transfers for current international transactions. There are also no restrictions on capital transactions.[1]
Main legal acts regulating this field are:

- Currency law of the Republic of Estonia - http://www.ee/epbe/norm/4.html.en
- Law of the Republic of Estonia on the security for Estonian kroon - http://www.ee/epbe/norm/5.html.en

2. The extent to which wage rates in the foreign country are determined by free bargaining between labor and management.
Wages are determined by market forces. There exists a government-imposed minimum wage and cooperative agreements, but in 2001, average wage exceeded minimum wage more than three times.

3. The extent to which joint ventures or other investments by firms or other foreign countries are permitted in the foreign country.
The Government of Estonia maintains a highly favorable attitude towards foreign investment, which is governed by the "Law on Foreign Investments" enacted in 1991 shortly after re-gaining independence. The Government does not screen foreign investments. It does, however, establish requirements for certain sectors. These requirements are not intended to restrict foreign ownership but only to regulate it and establish clear ownership responsibilities. Licenses are required for a foreign investor wishing to become involved in: mining, energy, gas and water supply, railroad and transport, waterways, ports, dams and other water related structures, and telecommunications and communication networks. The Estonian Central Bank issues licenses for foreign interests seeking to invest in or establish a bank.

The amount of foreign capital that can be invested in Estonian business enterprise is not limited and companies can be in full foreign ownership. Foreign companies have the same rights and obligations as local companies, including unrestricted repatriation of profits and the right to own land.[2]

4. The extent of government ownership or control of the means of production
Privatization of state-owned industrial enterprises is virtually complete in Estonia; only a small number of infrastructure companies are still controlled by the state or

[1] Estonian Investment Agency - http://www.eia.ee/pages.php3/020203
[2] Estonian Investment Agency - http://www.eia.ee/pages.php3/020206; U.S. Commercial Service, Estonia Country Commercial Guide 2002 - http://www.usemb.ee/inv.php3

municipal governments. In 2001, 1.4% of total government revenues came from state owned enterprises and from government ownership of property.[3]

5. The extent of government control over the allocation of resources and over the price and output decisions of enterprises.

The prices are determined freely by the market forces with some minor exceptions (electricity, heating), in those cases the price changes have to be coordinated with the central or municipal government accordingly. According to the Estonia Country Commercial Guide 2002: "There are no price controls in Estonia."[4]

6. Such other factors as the administering authority considers appropriate

Under this section some facts, figures and references are presented, that would be helpful for the International Trade Administration to make a decision in regard of the issue of revoking nonmarket economy status of Estonia.

European Union has regarded Estonia as a market economy for many years already. A clear proof of that are the ongoing accession negotiations with the European Union as one of the clearly stated economic criteria for accession is the existence of a functioning market economy.[5] In its Opinion on Estonia's Application for Membership of the European Union the European Commission asserts: "Estonia can be regarded as a functioning market economy, and it should be able to make the progress necessary to cope with competitive pressure and market forces within the Union in the medium term;"[6]

Furthermore, as a result of Estonia's gradual economic progress, the European Commission's 2001 Regular Report on Estonia's Progress Towards Accession was even more positive: "Estonia is a functioning market economy. Provided that it continues with and fully implements its reform programme, it should be able to cope with the competitive pressure and market forces within the Union in the near term."[7]

According to the Estonia Country Commercial Guide 2002 put together by the U.S. Commercial Service: "Since regaining independence in 1991, Estonia's economic reform policy has led to a liberalized, nearly tariff-free, open market economy//…// The economic reforms put in place in Estonia have limited the government's role in the economy to an extraordinary degree."[8]

Recently, according to the 2002 Index of Economic Freedom, a survey carried out by the Heritage Foundation and the Wall Street Journal, Estonia was ranked as one of the freest economies in the world, taking the fourth place in the list of 155 countries. According to the study, three most liberal economies in the world are Hong Kong,

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[3] Ministry of Economic Affairs; Ministry of Finance;

[4] U.S. Commercial Service, Estonia Country Commercial Guide 2002 - http://www.usemb.ee/prod.php3

[5] Agenda 2000 - Commission Opinion on Estonia's Application for Membership of the European Union - http://europa.eu.int/comm/enlargement/dwn/opinions/estonia/es-op-en.pdf, p. 32

[6] Agenda 2000 - Commission Opinion on Estonia's Application for Membership of the European Union - http://europa.eu.int/comm/enlargement/dwn/opinions/estonia/es-op-en.pdf, p. 116

[7] 2001 Regular Report on Estonia's Progress Towards Accession - http://europa.eu.int/comm/enlargement/report2001/ee_en.pdf, p. 90

[8] U.S. Commercial Service, Estonia Country Commercial Guide 2002 - http://www.usemb.ee/exec.php3, http://www.usemb.ee/trends.php3

Singapore and New Zealand. Estonia shares fourth place in this index together with Ireland, Luxembourg, the Netherlands and the United States.[9]

Possible sources for additional information:

Ministry of Financial Affairs of Estonia – http://www.fin.ee/eng/

Statistical Office of Estonia – http://www.stat.ee

Estonian Investment Agency - http://www.eia.ee

Bank of Estonia (Estonian Central Bank) – http://www.ee/epbe/en/

Ministry of Economic Affairs of Estonia - http://www.mineco.ee/default.asp?lng=eng

Ministry of Foreign Affairs - http://www.fin.ee/eng/

Estonia Country Commercial Guide 2002. U.S. Foreign Commercial Service and the U.S. Dept. of State, 2002. - http://www.usemb.ee/commerce.php3#ccg

Report on macroeconomic and financial sector stability developments in candidate countries. European Commission –

http://europa.eu.int/comm/economy_finance/publications/enlargement_papers/2002/elp08en.pdf

2001 Regular Report on Estonia's Progress Towards Accession. European Commission –

http://europa.eu.int/comm/enlargement/report2001/ee_en.pdf

Gerald P. O'Driscoll Jr., Kim R. Holmes, Mary Anastasia O'Grady - 2002 Index of Economic Freedom – Washington D.C. The Heritage Foundation, The Wall Street Journal, 2002.

http://www.heritage.org/index/index.html

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[9] Gerald P. O'Driscoll Jr., Kim R. Holmes, Mary Anastasia O'Grady - *2002 Index of Economic Freedom* – Washington D.C. The Heritage Foundation, The Wall Street Journal, 2002.