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**Working Party on the  
Accession of Moldova**

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## ACCESSION OF THE REPUBLIC OF MOLDOVA

### Additional Questions and Replies

The Ministry of the Economy of the Republic of Moldova has submitted the following additional questions and replies concerning the Memorandum on the Foreign Trade Regime of Moldova with the request that they be circulated to Working Party members.

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**CONTENTS**

	Question Number	Page Number
<b>I. INTRODUCTION</b>	1-2	1
<b>II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE</b>	3	1
<b>2. Economic Policies</b>		
(a) Main directions of the ongoing economic policies, tactical and strategical goals of the economic policies, pricing policy, economic development plans, privatization plans, sectoral priorities, regional development plans, etc	4-9	3
<b>III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES AFFECTING FOREIGN TRADE IN GOODS AND TRADE IN SERVICES</b>	10-11	8
<b>3. Division of authority between central and sub-central governments</b>	12-17	9
<b>IV. POLICIES AFFECTING TRADE IN GOODS</b>		
<b>1. Import Regulation</b>		
(a) Registration requirements for engaging in importing	18-26	11
(d) Other duties and charges, specifying any charges for services rendered	27-33	15
(e) Quantitative import restrictions, including prohibitions, quotas and licensing systems	34-37	18
(f) Import licensing procedures (Annex 3 refers)	38-42	19
(h) Customs valuation (WTO Customs Valuation Agreement (Annex 4 refers), the Brussels Definition of Value, or any other system) whether used only for purposes of levying ad valorem rates of duty or for other purposes	43-64	20
(j) Pre-shipment inspection	65	30
(k) Application of internal taxes on imports	66-76	31
(l) Rules of origin	77	34
(m) Anti-dumping regime	80	35
(n) Countervailing duty regime	80	35
(o) Safeguard regime	80	35
<b>2. Export Regulation</b>	81	36
(f) Export financing, subsidy and promotion policies	82	36

	Question Number	Page Number
<b>3. Internal policies affecting foreign trade in goods</b>		
(a) Industrial policy, including subsidy policies	83	37
(b) Technical regulations and standards, including measures taken at the border with respect to imports (Annex 5 refers)	84-102	37
(c) Sanitary and phytosanitary measures, including measures taken with respect to imports	84-102	37
(l) Government procurement practices, including general legal régime and procedures for tendering, dealing with tenders and award of contracts	103-110	44
 <b>V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME</b>		
	111-127	46

## I. INTRODUCTION

### Question 1.

**Is there some reason why WT/ACC/MOL/10 is not listed with the other documentation in paragraph 3 of the draft Working Party Report?**

Answer:

Since the Working Party Report was circulated later, it did not include the reference to WT/ACC/MOL/10, as well as the updated information included therein. These and other amendments will be introduced in the revised version of the Working Party Report.

### Question 2.

**We seek a commitment in the protocol from Moldova that, at the latest upon entry into force of the Protocol of Accession, Moldova would submit all initial notifications required by any Agreement constituting part of the WTO Agreement.**

Answer:

Moldova will take the commitment in its protocol to submit, at the latest upon entry into force of the Protocol of Accession, all initial notifications required by any Agreement part of the WTO Agreement.

## II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

### 2. Economic Policies

#### Question 3.

**Re Question 2 of WT/ACC/MOL/9, please provide us with an update on progress in macro-economic stabilization and macro-economic measures to deal with balance of payments problems since November 1998.**

Answer:

1998 was a very difficult year for Moldova. By the last quarter of 1998, the combination of weak public finances, a problematic energy sector, and the fall of the Russian market produced an acute economic crisis in the country. The crisis was characterized by capital flight, a depreciating exchange rate, international reserves that fell to critically low levels, rising expenditure arrears and budget financing coming only through central bank credit. Real GDP fell by 8.6 per cent in 1998 and stood at MDL (Moldovan Leu) 8,804 million. Both industrial and agricultural output dropped in 1998. At the same time, final consumption constituted more than 102 per cent of GDP, with the trade deficit growing from 15.4 per cent of GDP in 1997 to 24 per cent last year. 1998 was the first year since independence when both export and import volumes registered a reduction, exports by 27 per cent and imports by 12 per cent as compared with 1997. The pattern of trade has changed, with exports to CIS countries in the second half of 1998 only one half the levels recorded during the same period of 1997. The crisis in Russia has not only influenced output through the collapse of Moldova's major export market, but has also put pressure on the Leu causing the annual inflation rate for 1998 to stand at 18.2 per cent, ending the excellent anti-inflation record of the previous years.

Years of easy financing, especially foreign, and slow and incomplete structural reforms have resulted in excessive budget deficits and increased indebtedness of public sector. The figures for the

1998 budget proved unrealistic and called for considerable revisions. In the second half of 1998, the Government had to cut spending in order to ensure the resumption of IMF and to accommodate its limited financing options. The drastic reduction in spending was also necessitated by the sharper than expected reduction in real output and therefore of revenue inflows. A large item of payment is the public debt service, which in 1998 reached MDL 421.2 million including MDL 182.4 million for external debt servicing. The share of public debt service in the consolidated budget expenditure increased to 13.9 per cent in 1998. Capital investment, by contrast, has remained at a stagnant, low proportion of public expenditure. Both 1998 and 1999 are considered as years with highest debt-service payments. In December 1998 Moldova managed to repay the principal of a Merrill Lynch private placement by reducing its foreign currency reserves. However, in 1999 Moldova is to repay considerable amounts for the Gazprom debt to Russia (about US\$44.5 million) and Eurobonds (US\$7.45 million).

In view of this difficult situation the Government and the National Bank of Moldova (NBM) are seeking to stabilize the economy and avoid an inflationary spiral and further depreciation of the currency, continue restructuring and therefore resume growth, avoid a default on treasury bill redemption, renegotiate external debt and external debt arrears, and create a stable and credible policy environment to restore confidence and growth. Indeed the 1999 budget that was approved by the Parliament in December calls for spending cuts in all major areas. It met the IMF's fiscal austerity requirements, and opened the way for resuming IMF funding. In January 1999 the IMF released a US\$35 million from a three-year EFF. However, this budget was built on the assumption of one per cent growth in real output in 1999, and an average overvalued exchange rate of MDL 7 : US\$1. Both assumptions may prove to be overly optimistic.

In mid-January the National Bank of Moldova approved a monetary and credit policy for 1999. The target of this policy is to reduce the inflation rate from 18.2 per cent to 13-15 per cent. The programme envisages that by the end of 1999 the money stock should be increased by 35 per cent and reach the level of MDL 2.29 billion, monetary base by 24 per cent to the level of MDL 1.23 billion, and the volume of lending that goes directly to the national economy by 18 per cent to the level of MDL 2.1 billion. In order to implement this it is planned to diminish the bank liquidity ratio from 0.94 to 0.89 and to gradually reduce the obligatory reserves ratio back to 8 per cent from 15 per cent. The last measure becomes necessary in order to ease the pressure on an already fragile banking system. As a result of resumed IMF lending, international reserves have risen, and are expected to rise again with disbursement of US\$35 million from the World Bank, but still remain at critically low levels. The low levels of reserves will force the NBM to continue its non-intervention policy, and its relative inability to protect the Leu against further pressure. Since reaching its low point in December 1998, the Leu has succeeded in remaining relatively stable through January and February 1999. Nevertheless in March one could observe the cash exchange rate to decline much faster than the official rate, plunging to MDL 10.3 = US\$1. This makes it evident that the Leu remains vulnerable to shocks, either due to debt crisis in Moldova or to further real depreciation in the currencies of its major trading partners.

Moldova's external debts reached US\$1.35 billion or approximately 140 per cent of GDP and debt servicing difficulties are severe (in the first quarter of 1999 Moldova has already missed a principal payment to Gazprom). However, further external financing is essential, and Moldova is seeking alternative sources of financing. The EU has already made EUR 15 million available. The World Bank will provide up to US\$60 million, including US\$35 million from a structural adjustment programme suspended in 1997, and a further US\$25 million through the International Development Association. The Government intends to use some of the privatization receipts from the sale of Moldtelecom etc. towards debt repayment. Some commercial financing is also under discussion, including a syndicated loan towards the end of the year. Non-payments for energy, waste of energy, low prices, energy thefts and the chronic build-up of debt to Gazprom can be partly resolved with an agreed debt-equity swap between Gazprom and Moldovagas.

- (a) Main directions of the ongoing economic policies, tactical and strategical goals of the economic policies, pricing policy, economic development plans, privatization plans, sectoral priorities, regional development plans, etc.

State Ownership and Privatization

**Question 4.**

**We request that Moldova prepare a table listing the number of firms identified for privatization, listed by sector or industry, and noting the progress of their privatization over the most recent representative period.**

**Re Question 3 in WT/ACC/MOL/9, please provide us with an update on your privatization efforts in 1998, and a schedule for further efforts in 1999 - 2000. Please confirm in this update that the privatization of those enterprises marked in WT/ACC/MOL/9 for total privatization—namely textiles and garments, electronics, machine building, chemical and furniture products, leather goods, food-stuff and package producing enterprises and hotels—has begun.**

Answer:

The Privatization Programme for 1997-1998 is still in force in parallel with the recently adopted Privatization Programme for the period of 1999-2000 due to the fact that a part of it has still to be implemented. In Annex 1 to the Law on Privatization Programme for 1997-1998 there is a schedule of enterprises identified for privatization. According to this schedule Moldova prepared information on the state of the privatization process (see document WT/ACC/MOL/12), where enterprises identified for privatization are listed by sectors.

The privatization of the enterprises marked in WT/ACC/MOL/9 for total privatization has begun and is at various stages of implementation.

**Question 5.**

**Moldova's responses in WT/ACC/MOL/9 and previous indicate that its privatization programme and other aspects of economic reform are well underway and ongoing. We seek a commitment from Moldova in the Working Party Report to report on its privatization programme until it is completed and on other aspects of its economic reform and restructuring programme. We suggest the following language:**

**"The representative of Moldova confirmed the readiness of Moldova to ensure the transparency of its ongoing privatization programme and to keep WTO Members informed of its progress in the reform of its transforming economic and trade regime. He stated that his Government would provide annual reports to WTO Members on developments in its programme of privatization as long as the privatization programme would be in existence along the lines of that provided to the Working Party. He also stated that his Government would provide annual reports on other issues related to its economic reforms as relevant to its obligations under the WTO. The Working Party took note of these commitments."**

Answer:

Taking into consideration requests from the member countries, Moldova improved its draft Working Party Report related to the privatization programme. Moldova will take the commitment to report on its privatization programme until it is completed and on other aspects of its economic reform and restructuring programme relevant to its obligations as a member of WTO, and in the final Working Party Report the Republic of Moldova will include the language suggested.

**Question 6.**

**Please report on the resolution of the tenders for the large enterprises in Telecoms and tobacco.**

Answer:

The Law on the reorganization and privatization of "Moldtelecom" has been enacted. "Moldtelecom" has been reorganized from a state company to a joint-stock company. A governmental commission has been established to carry out the privatization of "Moldtelecom".

Soon an international tender will be announced to select a bank (consulting company) that will help the Government with further stages of privatization.

After several attempts to privatize the tobacco industry the Government is still looking for a formula to privatize both the fermentation plants and Chisinau Tobacco Factory.

The Government plans to privatize several tobacco fermentation plants (from Orhei, Falesti and Ceadar-Lunga) through international investment tenders. Reiffeisen Investment AG, within the TACIS Privatization Task Force Project (EU technical assistance programme) is the privatization intermediary and will assist the Department of Privatization and State Property Administration in carrying out valuation and due diligence of the companies, preparing Information Memorandums, drafting documentation, promoting the companies and selling the companies' state shares.

**Question 7.**

**Re Question 4 of WT/ACC/MOL/9, please confirm that the plans for privatizing energy enterprises/providers has been approved.**

Answer:

The privatization plans for energy enterprises has been approved.

**Question 8.**

**Concerning Moldova's statement in the response to Question 8 of WT/ACC/MOL/9, we look forward to the promised additional updates on the status of privatization of the energy sector and private sector participation in the privatized or new entities.**

Answer:

Starting from 1997, the electric energy sector is being decentralized and incorporated. State Company "Moldenergo" was split, according to the functional principle, in generation, distribution and transport enterprises. Incorporating sub-units of the former state company "Moldenergo" provides for establishing new commercial relations between different players in the electroenergetic market, which need adjustment of the legal framework and a regulatory body that would arbitrate these relations. With regard to the gas sector, it is not decentralization that is needed, but a merger of existing distribution and transport enterprises into a single joint-stock company. The thermal energy sector will be transferred into municipal ownership. In 1998, the split of the Joint Stock Company "Tirex-Petrol" into independent enterprises, as well as their privatization, will be finished. Taking into account the long-run nature of reform of the energy sector, the Department of Privatization will elaborate a government programme of reorganization and technological renovation of this sector for the period till 2005.

Starting in 1998, there will be privatized eight electric power enterprises: three generating ones, and five distributing, all created as a result of split of Joint Stock Company "Moldenergo". For



paying off the debts for gas, a part of the State's shares in the enterprise for gas transportation and distribution is being transferred to the Russian Joint Stock Company "Gazprom".

At the same time the process of restructuring of the energy sector has already been started and a number of laws on this issue have been enacted. Since 1997, Moldova has a legal framework allowing for long-term development of energy complex. In this context, there were elaborated about ten laws and normative acts. The state of implementation of the Privatization Programme for 1997-1998 was very poor. This was due not only to the financial crisis in the neighbouring countries but also to a low interest of investors. Long awaited strategic tenders for energy sector did not take place last year and its privatization is extended in 1999.

The Law on the Concept of privatization of enterprises from the energy sector No. 63-XIV of 25 June 1998 and Law on individual project of privatization of enterprises from energy sector No. 233-XIV of 23 December 1998, envisaged that distributing companies would be privatized first, followed by the generating companies. Privatization represents a possibility for quick revitalizing of the sector and supplying consumers with energy and energy resources in a reliable and efficient way, at minimal cost.

The strategy of privatization of electroenergetic enterprises is based on objectives that should be attained and on world experience. Strategic investors will be offered a package from 51 to 100 per cent of shares having voting rights. Depending on the enterprise' financial and technical standing, the strategic investors could be offered different proportions of participation in statutory capital.

The Government will need to make good the difference between accounts receivable and accounts payable of these enterprises, and would approve the mechanism of managing the undertaken stock of debt. As a main source of financing expenditures for repaying outstanding debts, tariffs for electricity and gas, which should include a margin for servicing foreign debt, and budget allocations financed from privatization process could be used.

### Pricing Policies

#### **Question 9.**

**The response to Question 7 of WT/ACC/MOL/9 states that the foreseen gradual increase to cost-recovering prices for gas, electricity and heating has not taken place as scheduled in 1997. New tariffs for gas, electricity and heating were elaborated by the National Energy Regulatory Agency in early 1998 and for electricity and for thermal energy and gas in October and November 1998. Paragraph 16 of the draft report contradicts this information, however.**

**Please clarify and update in the draft Working Party Report the information on Moldova's price controls and state pricing still in place. Are any products other than bread and energy subject to such controls?**

**Is there any legal authority for Moldova to apply such controls other than Governmental Decision No. 767 of 11 August 1997?**

**Moldova should also list its current price controls in the draft Working Party Report, by HS line item as appropriate, citing the reasons for their application and, as appropriate, incorporate the following in that presentation:**

**The representative of Moldova confirmed that prices for goods and services in every sector of Moldova were determined freely by market forces with the exception of those listed in Tables 1 and 2.**

**The representative of Moldova confirmed those prices for goods and services in Moldova other than for the items listed in Tables 1 and 2 were not subject to State control. He confirmed that Moldova would apply its current state prices and any other state prices or price controls applied from the date of accession in a WTO-consistent fashion, and would take account of the interests of exporting WTO Members as provided for in Article III. 9 of the GATT 1994. Moldova would publish any list of goods and services subject to State pricing or price controls in the Official Journal, including any changes in existing measures. The Working Party took note of these commitments.**

Answer:

In accordance with Governmental Decision No. 767 of 11 August 1997 National Energy Regulatory Agency (NERA) was created, being considered as a main regulatory body of the relations between energy market players. However this Agency is a non - governmental, independent regulatory body.

According to paragraph 6 of this decision, NERA has the following functions:

- issuance of licenses for activities related to producing, transportation, dispatching services, distribution, supplying, import and export of energy;
- regulation of tariffs for the energy products and services;
- ensuring protection of energy consumers rights;
- promotion of competition in the energy market.

NERA does not have the right to establish new tariffs for gas, electricity and heating, as well as price control. Rather it has the right to establish a methodology for calculation of costs and tariffs of energy by electroenergetic enterprises. The methodology is available for a five year period. The tariffs for production, transportation, distribution and marketing of energy have to cover the cost of production, as well as the necessary benefit for continuation of enterprises' functionality. At the same time, the NERA limits the profit of electroenergetic enterprises.

At the time Governmental Decision No. 415 of 10 May 1999 was adopted, it ensured the cost recovering level with recalculation for the previous months for the electricity, thermic energy and natural gas (fixing the tariffs in MDL) but with the dramatic depreciation of the Moldovan currency the tariffs established on the internal market for the energy products fell again below the delivery costs.

Nevertheless, a new draft Governmental Decision presented to the Government is expected to bring tariffs for the energy products to the cost-recovering level again, thus being consistent with the above mentioned methodology.

In addition to Governmental Decision No. 767 of 11 August 1997, Governmental Decision No.547 of 4 August 1998 "On State coordination and regulation of prices and tariffs" establishes legal authority to apply state control over the prices for a number of items listed in table below.

Table 1: Nomenclature of goods and services for which fixed prices are settled by the Government and local authorities

Description of goods and services	Regulating public body
Services supplied by cadastral territorial authorities	Government of the Republic of Moldova
Rent of public network by "Radio-Moldova" Company	Government of the Republic of Moldova
Paid medical services	Government of the Republic of Moldova
Products and services of monopolies	Ministry of Economy and Reforms
Coal commercialized by Joint Stock Company "Tirex-petrol"	Ministry of Economy and Reforms
Passenger rail transport services	Ministry of Economy and Reforms
Telecommunication, wire broadcasting, telegraph, postal services supplied for population within the Moldova's territory	Ministry of Economy and Reforms
precious metals	Ministry of Finance
Interurban and international road transportation of passenger and freight (except air transport)	Ministry of Transport and Communication
Freight transportation of rail transport services	Ministry of Transport and Communication
Air transportation of passengers	State Agency of Civil Aircraft
Natural gas, electric and thermal energy	National Energy Regulatory Agency
Notary services	Ministry of Justice & Ministry of Finance
Aqueduct and sewerage services	Local public authorities

Table 2. Nomenclature of goods and services for which there is a limited profitability established

	Description of product	HS code
1.	Milk and dairy products	0401-0405
2.	Cheese with fat up to 2 per cent	0406
3.	Flour of I and II quality to make bread	1101-1102
4.	Bread and bakery products	1905

At the same time, according to Governmental Decision No. 547 of 4 August 1995 there are a number of goods (table 3), which for social reasons shall be sold with a margin of profit that may not exceed 20 per cent of the wholesale price (except for pharmaceutical products for which the margin may not exceed 40 per cent).

Table 3

	Description of product	HS code
5.	Canned meat foodstuff	1602
6.	Fruits and vegetables for children	0702, 0704-0709
7.	Vegetables oil	1507-1515
8.	Butter and dairy products	0405
9.	Cheese	0406
10.	Sugar	1701
11.	Flour	1101-1102
12.	Bread and bakery products	1905
13.	Footwear for children	Part of 64
14.	Notebooks for children	482020
15.	Household soap	340219
16.	Detergents	3402

	Description of product	HS code
17.	Toys	9501
18.	Pharmaceutical products (approved by the Ministry of Health)	30

### III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES AFFECTING FOREIGN TRADE IN GOODS AND TRADE IN SERVICES

#### Question 10.

The response to Question 12 of WT/ACC/MOL/9 states that "all decisions of the executive branch which affect international trade are subject to independent judicial review."

**Would this review be made by the economic courts? Does this include all issues covered by WTO Agreements, e.g., for TRIPS and GATS as well as customs matters?**

Answer:

All issues covered by WTO Agreements are examined in the ordinary courts or economic court depending on the parties involved. In the case where both parties are juridical persons the issue will be examined by the economic court, and in the case that one of the parties involved is a natural person the issue is examined in the ordinary court.

#### Question 11.

**Moldova should describe, for the Working Party Report, how administrative decisions on issues covered by the WTO can be appealed (a) within the Ministry responsible for the issue, and (b) to an independent tribunal, describing which of their court systems would be involved.**

Answer:

Any administrative decisions on issues covered by the WTO can be appealed:

- (i) within the responsible governmental institution according to the Law on Petitioning No. 190 - XIII of 19 July 1994 with following amendments introduced by the Law No. 18 - XIII of 14 May 1998.

Article 2 of the Law on Petitioning provides the right of foreigners to address complaints to the relative governmental institutions or tribunals in case their legitimate rights are affected.

Article 7 (1) of the same Law states that the claims shall be presented to the concerned institutions in which competence is the question addressed. Paragraph 2 of this Article states that the claim on an administrative decision or act produced by an authority shall be addressed to the immediate hierarchically superior body. Paragraph 3 of the same Article states that the claims on decisions of the organizations without hierarchically superior institution, as well as on decisions of local authorities and municipalities of the cities under the republican authority shall be addressed to the tribunals.

Articles 8 and 9 stipulate the timeframe in which the petitions shall be examined. This timeframe varies from one week to one month. In special cases the examination may take maximum two months.

Full text of this law in English will be submitted before the next Working Party meeting together with other laws.

- (ii) to an independent tribunal
- In the case both parties at the trial are juridical persons the issue will be examined by the economic courts. There are two economic courts in Moldova. One has the jurisdiction over the Chisinau municipality and the other over the rest of Moldova.;
- If one of the parties to the trial is a natural person, in this case the issue is brought to the ordinary court and other superior judicial institutions as described below.

Courts of first instance are based in each administrative unit (former rayons), in total 40. Despite the creation of new administrative units - judets, that consist of several rayons, courts of first instance remain in each former administrative unit, as well as major cities: Chisinau, Balti, Bender and Tiraspol that have several such courts based on their internal administrative division.

Higher rank authority tribunals are based in Chisinau, Balti, Bender, Tiraspol and Cahul.

There is one Court of Appeal in Chisinau and the Supreme Court of Justice is also based in Chisinau.

### **3. Division of authority between central and sub-central governments**

#### **Question 12.**

**Re Question 13 of WT/ACC/MOL/9, please confirm that the fiscal, financial and budgetary activities performed by local governments will be in compliance with Art III of GATT 1994.**

#### Answer:

Moldova confirms that the fiscal, financial and budgetary activities performed by local governments will be in compliance with Article III of GATT 1994.

#### **Question 13.**

**Paragraph 25 of the draft Working Party Report states that the "Gagauz-Yeri region" has autonomy in the area of economy, but "had no autonomous authority with respect to foreign trade, did not issue or implement technical standards, sanitary or phytosanitary standards and did not subsidize."**

**Please indicate if the region has the power to levy its own local taxes on goods, e.g., excise, stamp, or sales taxes, or any authority to establish requirements for investment, e.g., trade related investment measures covered by the WTO Agreement on TRIMS. In case provide this information for inclusion in the draft Working Party Report.**

**In order to clarify the status of WTO provisions within Moldova after accession, we would appreciate a statement/commitment along the following lines:**

**The representative of Moldova confirmed that sub-central entities had no autonomous authority over issues of subsidies, taxation, trade policy or any other measures covered by WTO provisions. He confirmed that the provisions of the WTO Agreement, including Moldova's Protocol, shall be applied uniformly throughout its customs territory and other territories under its control, including in regions engaging in border trade or frontier traffic, special economic zones, and other areas where special regimes for tariffs, taxes and regulations are established. He added that when apprised of a situation where WTO provisions were not being applied or were applied in a non-uniform manner, central authorities would act to enforce WTO provisions without requiring affected parties to petition through the courts. The Working Party took note of these commitments.**

Answer:

Based on the Law on Special Judicial Statute of the Gagauz-Yeri No. 344 of 23 December 1994, the autonomy of the "Gagauz-Yeri region" in economic matters refers mostly on its autonomy in administrating its own budget and running economic activity. This region has no authority regarding the excise, stamp, or sales taxes or any other taxes related to trade, as well as on establishing requirements for investment, e.g., trade related investment measures covered by the WTO Agreement on TRIMS. These are under the exclusive authority of the Moldovan Parliament. All legal acts adopted by the People's Assembly of Gagauz-Yeri region shall not contradict with Moldovan legislation or international commitments taken by Moldova. All the WTO Agreements and Moldova's commitments in the WTO will apply uniformly on its customs territory. Moldova agrees to introduce the text suggested above into its Working Party report.

**Question 14.**

**Please confirm that Article 4 of the draft Foreign Trade Law provides that after ratification of the WTO protocol package by the Moldovan Parliament and Moldova's accession to the WTO, the provisions of the WTO and Moldova's protocol will supersede any domestic laws found to contradict them.**

Answer:

Hereby, Moldova confirms that after ratification of the WTO protocol package by the Moldovan Parliament and Moldova's accession to the WTO, the provisions of the WTO and Moldova's protocol will supersede any domestic laws found to contradict them.

**Question 15.**

**We would appreciate information from Moldova on the application of WTO provisions in the Transnistrian region, after Moldova's WTO accession.**

**We suggest that information on the special trade information facility provided for in the draft Foreign Trade Law contained in paragraph 29 of the draft Working Party report and any subsequent information provided by Moldova on this facility not related to the transparency requirements of specific WTO Agreements covered elsewhere in the report should be moved to the "transparency" section of the report.**

Answer:

As mentioned earlier in the reply to Question 14 of WT/ACC/MOL/9, legal bases for settling the conflict represents the Memorandum on the basis for normalization of relations between the Republic of Moldova and Transnistria, signed in Moscow on 8 May 1997, as well as the Agreement on the Organizational Basis of Social-Economic Collaboration, signed on 10 November 1997.

Based on this Moldova is making every effort together with other interested countries to liquidate the consequences of the conflict. The activity displayed so far proved to ensure economic stability and compliance with Moldova's external obligations. In economic issues related to foreign trade commitments Moldova succeeded in finding common interest with the Transnistrian authorities. Already decisive steps have been taken by Moldovan authorities to initiate local experts from the region in the WTO issues, inviting them to various seminars on WTO issues. Despite the remaining problems, they tend to lay mostly on political ground.

**Question 16.**

**Re Question 14 of WT/ACC/MOL/9, please specify what form of customs cooperation is in place between Moldova and the Transnistria region.**

Answer:

Moldova has signed a special protocol on customs cooperation with the Transnistria region that foresees mutual elaboration of customs policy, exchange of statistics and facilitation of border measures.

**Question 17.**

**In addition, please confirm that Moldova is able to fully apply the transparency requirements of the GATS, including GATS Article III.**

Answer:

Based on the Governmental Decision No. 1104 of 28 November 1997 all laws, governmental decisions and other legal documents enter into force only after their publication thus ensuring the compliance with Article III (1) of GATS. The English version of this Decision will be made available to the member countries together with other laws before next Working Party meeting.

The information centre that will be established at the Ministry of Economy and Reforms could serve as central GATS inquiry point. Other similar inquiry points will be established in other governmental institutions, such as the Ministry of Finance, National Bank, Ministry of Transport and Communications thus ensuring compliance with paragraphs 3 and 4 of Article III of GATS.

In addition Moldova confirms that it will undertake all necessary measures to ensure full application of other transparency requirements of the GATS, including GATS Article III.

**IV. POLICIES AFFECTING TRADE IN GOODS**

**1. Import Regulation**

- (a) Registration requirements for engaging in importing

**Question 18.**

**Article 7 of the draft Foreign Trade Law states "Both residents and non-residents can be participants in foreign trade activity in the Republic of Moldova." In line with this, Moldova states in paragraph 8 of the draft Working Party Report that all firms and individuals are authorized to import and export, with the exception that goods requiring import or export licenses must be traded by firms, not individuals. Paragraph 8 also states that there are no restrictions on the right of foreign and domestic individuals and enterprises to import and export goods and services incompatible with WTO Agreements."**

Answer:

Article 6 of the draft Foreign Trade Law states "the participants of foreign trade activity are juridical and physical persons registered in the established way and which foreseen in its registered documents performance of such activity".

Both firms (juridical persons) and individuals can engage in import or export operations with any commodities, including those for which a licence is required.

**Question 19.**

**What other requirements or restrictions, whether or not in Moldova's view incompatible with WTO Agreements, are applied to the right to import and export? Are there special registration requirements for traders?**

Answer:

No other additional requirements exist.

**Question 20.**

**The response to Question 36 in WT/ACC/MOL/9 states that Moldova has established "activity licensing" requirements for firms performing certain activities. These activities are identified in the response to Question 38 as firms importing or wholesaling alcohol beverages or tobacco products; importing or selling petrol and diesel; and importing or trading in chemical and biological products and fertilizers for plants. Licensing is also required for trade or storage of chemical reagents, liquefied gas and toxic chemical substances and with danger of deflagration; ozone depleting substances; and ionic radiation sources radioactive materials.**

**We would appreciate more information on the provisions of Government Decision No. 859 of 13 August 1998 that establishes the system.**

Answer:

After the decision of the Constitutional Court the Governmental Decision No. 859 has been abolished. Currently, the only law establishing a licensing system for some types of activities is the Law "On Licensing of Certain Types of Activities" mentioned above. Article 18 of Chapter V "Final Provisions" provides that in two months' term, the Government will adjust its normative acts in accordance with the present law. Annex 2 of this Law lists the types of activities for which a licence is required and responsible institutions for issuing such licensing. This list is presented together with these answers in document WT/ACC/MOL/xx.

The English version of this Law is submitted together with these questions for members' consideration.

**Question 21.**

**Confirm that the list provided in response to Question 38 is exhaustive. Does the Decision provide for expansion to other activities, or would that require additional legislation?**

Answer:

The list provided in Annex 2 to the Law is exhaustive and its expansion to other activities would require additional legislation as stipulated in Article 2 (2) of the same Law.

**Question 22.**

**Please describe the requirements that must be met by individuals or firms to acquire a licence, the criteria used to judge whether a licence would be granted, the timetable for receiving the licence, and the duration of the licence.**



Answer:

The provisions of the draft Law “on licensing of certain types of activities” state the following:

According to Article 6 the right to obtain the licence is given to any legal or natural person, local or foreign, registered as subjects of entrepreneurial activity in the Republic of Moldova.

Article 7 of the same law states that in order to obtain a licence any economic agent has to submit the following:

- request, where it should be indicated:
  - for legal persons - name of enterprise and organizational type, address and fiscal code;
  - for natural person - name and surname, identity card data (number, home address) and fiscal code;
  - types of activity applied for.
- to the licence the following is annexed:
  - statute of the company (for legal person) or decision of foundation (for natural person);
  - the act (certificate) of registration by the State Chamber of Registration of the Ministry of Justice;
  - in case of necessity – the authorization of the institution responsible for the relevant type of activity according to Annex 2 of the Law;
- According to Article 13 (2) the reasons to refuse the issue of a licence are:
  - inauthentic or changed data, contained in the submitted documents;
  - negative results of the expertise showing non-conformity of the existent conditions (or lack of such conditions) for performing respective type of activity (such as technical, technological, sanitary and hygienic conditions, ecological security of technological processes);
  - In the case of the precedent for which the licence for the same type of activity had been withdrawn.
- The provisions of the Article 12 state that the decision to issue or refuse a licence shall be adopted within 30 days from the date of the presentation of all the documents mentioned above.

According to Article 5 the licence is issued for a period of at least three years. For some types of activities the licence is issued for one year.

**Question 23.**

**Please outline the right of appeal for rejected licence applications.**

Answer:

According to the Article 13 (4) of the above mentioned law the decision may be appealed in accordance with existing legislation as specified earlier in the reply to Question 7.

**Question 24.**

**The draft Working Party Report states:**

**The representative of Moldova added that for medications, drugs and medical equipment prior authorization to import had to be obtained from the Ministry of Health before an application for an import licence could be made to the department for Foreign Economic Relations. In accordance with Annex 3 to Government Decision No. 581 of 17 August 1995 the following documents had to be presented in order to obtain an authorization from the Ministry of Health for activities requiring an authorization:**

**application for the authorization, stating the type of activity for which the licence was requested and the time period for which the licence was needed. For legal persons the application had to include the following additional information: name and legal status, address, bank account number and name of bank where the account was held, fiscal registration number. For individual firms: name and surname, passport details, fiscal registration papers.**

**This would appear to be a form of activity licensing for pharmaceutical importing, not simply an import licence related to a specific product.**

**Please clarify this point, and indicate to what extent the activity of importing pharmaceuticals is subject to licensing. Please demonstrate that similar requirements are made of domestic firms producing or distributing pharmaceuticals.**

Answer:

The requirements laid down by Government Decision No. 581 of 17 August 1995 are no longer valid since this decision has been superseded by Government Decision No. 777 of 13 August 1997. Currently in the Republic of Moldova there is only one legal document on which the import licenses are issued.

The detailed procedure for obtaining licenses and documents required have been provided in previous submissions (WT/ACC/MOL/8/Add.1) with some clarifications in WT/ACC/MOL/9. The latest version of the document describing import licensing requirements is presented in document WT/ACC/MOL/15 together with these answers. It applies in the same manner to domestic and foreign firms engaging in such activities.

The activity of importing pharmaceuticals is not subject to licensing. There is just an import licence for specific imports of pharmaceutical products.

**Question 25.**

**Please add "import of pharmaceutical products" to the table on activity licensing in the draft working party report and include pharmaceuticals in the description of products covered by this practice.**

Answer:

As indicated in the answer to the previous question the activity of importing pharmaceutical products is not subject to licence and should not be specified in the table on activities licensing.

**Question 26.**

We seek a confirmation from Moldova in the Working Party Report and protocol that its activity licensing regime and other provisions of law do not restrict trading rights, along the following lines:

The representative of Moldova confirmed that the former state foreign trade monopoly had been abolished and that no restrictions existed on the right of foreign and domestic individuals and enterprises to import and export goods within Moldova's customs territory, with the exception that the importation and exportation of goods under licence could be undertaken only by registered firms, and with the exception of licensing requirements for those activities listed in Table xx. The importation or exportation of products covered by activity licenses were subject only to requirements consistent with the WTO Agreement. The activity licenses enumerated in Table xx did not restrict foreign participation as they applied equally to foreign and domestic businesses. Activity licenses were administered for the purpose of ensuring product safety and \_\_\_\_\_.

The criteria for granting activity licenses were as follows: \_\_\_\_\_. They were published in the Official Journal. The criteria for engaging in import and export trade in the restricted sectors were consistent with generally applicable restrictions placed on trade in similar domestically produced goods. The availability of activity licenses was not restricted nor was the licensing applied to restrict imports, the production, wholesale or retail trade in any product.

The representative of Moldova confirmed that from the date of accession Moldova would ensure that its laws and regulations relating to the right to trade in goods and all fees, charges or taxes levied on such rights would be in full conformity with its WTO obligations, including Articles VIII: I (a), XI: I and 111:2 and 4 of the GATT 1994 and that it would also implement such laws and regulations in full conformity with these obligations. The Working Party took note of this commitment.

Answer:

Pending.

(d) Other duties and charges, specifying any charges for services rendered

**Question 27.**

The response to Question 26 of WT/ACC/MOL/9 states that Moldova plans to bind a charge of 0.25 per cent as "other charges" in its tariff schedule.

We oppose the binding of any additional charges on imports in Moldova's tariff schedule. We seek a commitment from Moldova in the text of the Working Party report that confirms that Moldova would not list any other charges in its Goods Market Access Schedule under Article II:1 (b) of GATT 1994, binding such charges at "zero".

We would also like the statement recorded that Moldova levies no duties and charges on imports other than ordinary customs duties and charges for services rendered, and that any such charges applied to imports after accession would be in accordance with WTO provisions.

Answer:

Following the results of bilateral negotiations with member countries Moldova has taken the commitment to bind other charges at "zero" in its Goods Market Access Schedule under

Article II:1 (b) of GATT 1994. Moldova is also taking the commitment that charges applied to imports after accession will be in accordance with WTO provisions.

**Question 28.**

**Response to Question 33 in WT/ACC/MOL/9 states that Moldova established through Article 17.2 of the Budget Law 1999 a five per cent tariff surcharge on items whose statutory tariff rate is "zero". With reference to the information on Moldova's duty free trade for 1997 given in the response to Question 25:**

**Does that mean that the five per cent surcharge applies only to the tariff items that accounted for about 8.6 per cent in 1997, i.e., not to imports from the CIS or Romania, or to imports exempted from duties for investment purposes or into free trade zones?**

Answer:

In the text of the Article 17.2 of the Budget Law 1999 a 5 per cent surcharge applies to all goods irrespective of their origin (with few exceptions (mostly energy products) as indicated in the answer to Question 33 in WT/ACC/MOL/9) that means including imports from CIS and Romania and imports exempted from duties for investment purposes.

**Question 29.**

**Approximately how many tariff lines does this surcharge apply to? How long will this surcharge be in place? Does Moldova contemplate eliminating this surcharge prior to its accession to the WTO? If not, how does Moldova expect to apply this surcharge consistent with its goods market access tariff binding commitments?**

Answer:

This surcharge applies to approximately 700 tariff lines at four digit level. It will stay in place until the end of 1999. Moldova applied the surcharge as a remedy for its balance-of-payment problems in accordance with Understanding on the Balance-of-Payments Provisions of the GATT 1994 and depending on the situation in future might be forced to use it again. In such cases Moldova will follow strictly the procedures allowed by the Understanding on the Balance-of-Payments Provisions of the GATT 1994, as well as Article XII of GATT 1994.

**Question 30.**

**Re Question 27 of WT/ACC/MOL/9, please specify which charges the 2000 Budget would introduce to customs user fees.**

**The response to Question 26 of WT/ACC/MOL/9 states that Moldova currently applies a customs user fee of 0.25 per cent of the value of imported goods from all countries and intends to replace it with a flat fee for customs clearance "in the year 2000." How will Moldova determine that this flat fee is related to the cost of the customs services rendered?**

Answer:

The change to a flat fee will be included in the draft Law on Budget 2000 being prepared by the Ministry of Finance which supervises the Department of Customs Control. The necessary calculations concerning average processing costs of individual entry by groups of similar products are currently underway. In addition to basic administrative expenses related to the processing of imported or exported goods other related costs such as statistical services will be taken into consideration, as

well as apportionment of the general costs related to improve basic customs infrastructure in order to facilitate movements of merchandise. No other costs will be included.

**Question 31.**

**Will revenues from this fee be used to fund export processing as well as import processing? Will there be any exemptions from this fee? When, precisely, in the year 2000 will the flat customs user fee replace the 0.25 per cent *ad valorem* fee?**

Answer:

The customs user fee is applied both to import and export operations and will reflect the approximate costs for the services rendered as described in the answer to the previous question. There are no exemptions from this fee and none are foreseen for the future.

The customs user fee is adopted through the Budget Law. Hence the flat customs user fee replacing the previous one will be applied from 1 January 2000 when the new Law on Budget 2000 will come into force.

**Question 32.**

**The response to Question 27 of WT/ACC/MOL/9 states that "the Decision of the Constitutional Court No. 14 of 19 May 1998 and Government Decision No. 716 of 30 June 1998 introduced certain amendments to the Decision No. 777 that abolished the import licence fee of 0.1 per cent, as well as licensing fee of MDL 200,000 for import of alcohol or tobacco products."**

**What is the fee structure for such licenses now?**

Answer:

Currently there are none. No fees are paid for any licenses.

**Question 33.**

**We seek a commitment in the protocol along the following lines:**

**The representative of Moldova confirmed that, from the date of accession, Moldova would not apply or reintroduce an *ad valorem* customs fee. Moldova applied a flat fee for import processing, which would be applied in conformity with WTO obligations, in particular Articles VIII and X of the GATT 1994. The level of the applied fee would not exceed the approximate cost of the customs processing of imports, revenues from the fee would be used solely for customs processing of imports and total annual revenue from collection of the fee would not exceed the approximate cost of customs processing operations for the items subject to the fees. He confirmed that revenues from the fee would not be used for customs processing of exports or imports exempted from the fee, should there be any, or for any other objective. Information regarding the application and level of the fee, revenues collected and their use, would be provided to WTO Members upon request. The Working Party took note of these commitments.**

Answer:

Pending.

- (e) Quantitative import restrictions, including prohibitions, quotas and licensing systems

**Question 34.**

**Article 12 of the draft Foreign Trade Law appears to authorize, as a rule, the setting quantitative restrictions, awarding of quotas and issuing of licenses "through holding a tender or an auction," and that "distribution of quotas and issue of licenses are conducted by an authorized body of public administration, with preference given to manufacturing organizations."**

**Are these provisions still in the draft Law? If so, how can the auctioning of quotas, licenses and other quantitative restrictions be compatible with the provisions of Articles II, XI, and XIII?**

Answer:

According to Article 10 of the draft Foreign Trade Law the import and export is without any quantitative restrictions. The Government of the Republic of Moldova can introduce the quantitative restrictions on import and export only in the exceptional cases foreseen in the new draft law. These exceptional cases are stipulated in Article 11 of the Foreign Trade Law and are in compliance with Articles XX and XXI of GATT 94.

The Governmental Decisions concerning the introduction of quantitative restrictions on import and export has to be published in the established way at least 30 days before the entry into force of these restrictions.

In the case of establishment of any quantitative restrictions, the distribution of quotas and the issue of licenses are effectuated by the authorized body of public administration.

Following the provisions of Article 3 of the draft Law that provides for the supremacy over that Law of any international agreements to which the Republic of Moldova is part, the consistency with the WTO Agreements is assured, including as regards Articles IX and XIII of GATT 1994.

**Question 35.**

**How is preferential treatment in the distribution of licenses compatible with the provisions of Article III and XI?**

Answer:

Article 12 of the draft Foreign Trade Law has been amended to delete all references to preferences.

**Question 36.**

**Article 14 of the draft Foreign Trade Law states that "The State monopoly on exports and/or imports of certain types of goods is exercised on the basis of licensing exports and/or imports of goods. The licenses are issued by an authorized public administrative body."**

**Does Moldova preserve a state monopoly in the trade of any product, i.e., those products listed in the draft Working Party Report as requiring import and export licenses?**

Answer:

However, allows the introduction of state monopoly, currently Moldova has no state monopoly in the trade of any product and the list of products given in the draft Working Party Report

as requiring import licenses does not imply any state monopoly. Moreover, there are no export licenses at the moment.

**Question 37.**

**Does Moldova intend to notify its state trading monopolies under Article XVII of the GATT, and if so, how is the quantitative restriction of trade in monopolized commodities compatible with the provisions of Article XVII and the Understanding on State Trading Enterprises requiring the use of "commercial considerations" in the sale and purchase of state traded commodities?**

Answer:

In case Moldova were to decide to introduce state trading monopolies, it would notify them under Article XVII of the GATT 1994 and would make sure that any relevant regulations were in conformity with WTO provisions, including those of GATT 1994 Article XVII and the Understanding on State Trading Enterprises requiring the use of "commercial considerations" in the sale and purchase of state traded commodities.

(f) Import licensing procedures

Product coverage

**Question 38.**

**Re Question 41 of WT/ACC/MOL/9, please describe the main features of the new regulation on imports of alcohol and tobacco products.**

Answer:

Currently there are no regulations on imports of alcohol and tobacco products and only the activity licensing is introduced by the Law on licensing of certain types of activities.

**Question 39.**

**The response to Question 38 of WT/ACC/MOL/9 states that Moldova has established a single import licensing system in Government Decision No. 777, and that amendments were introduced later through Governmental Decision 76 of 22 January 1997 and Governmental Decision 716 of 30 June 1998.**

**We seek Moldova's revision of its revised response to the questionnaire in Annex 3 of WT/ACC/1, on Import Licensing Procedures, contained in WT/ACC/MOL/8/Add.1, incorporating the changes introduced through Governmental Decision 76 of 22 January 1997, 716 of 30 June 1998, and 859 of 13 August 1998.**

Answer:

Moldova presents (together with these answers) its revised response to the questionnaire in Annex 3 of WT/ACC/1 on Import Licensing Procedures, contained in WT/ACC/MOL/8/Add.1, incorporating the changes.

**Question 40.**

**Re Question 49 of WT/ACC/MOL/9, please specify the time required for obtaining the import licence.**

Answer:

Licenses are normally issued within five days from the date of application.

**Question 41.**

**Please include information on current licensing fees or fees for processing licensing applications, enquiry points, time frames for response to applications and utilization of import licenses, and information as to whether these licenses are considered to be automatic or non-automatic.**

Answer:

There are no fees related to the issuance or processing of licence applications. Inquiry points are at the relevant institutions where all the relevant information can be obtained.

A licence is issued within five days after the complete set of documents have been submitted.

Import licenses are valid for the period requested by the importer. The applicant can request that the validity of the licence be extended.

The licenses are automatic.

**Question 42.**

**Please outline Moldova's future plans for the use of import and export licenses in light of the provisions of Articles 12 and 14 of the draft Foreign Trade Law.**

Answer:

For the time being, Moldova has no plans to introduce any export licenses in light of the provisions of Articles 10 and 11 of the latest draft Foreign Trade Law, as well as to expand its current list of products for which import licence is required, according to information provided in the revised questionnaire.

(h) Customs valuation

**Question 43.**

**Re Question 53 of WT/ACC/MOL/9, please clarify the present state of the implementation of the Law on Customs Tariff, and provide any legislation and/or regulations that have been enacted in order to implement fully the provisions of the Law.**

**We would also appreciate Moldova's review of questions we submitted after the second Working Party meeting on the draft Customs Tariff Law concerning customs valuation that didn't receive response in WT/ACC/MOL/9, and responses as necessary in light of the enacted law.**

**Please note that the following comments are made pursuant to our interpretation of the translated documents. The problems with implementation noted in some of our technical comments may have arisen from the document's translation. Additionally, our comments concern the draft "Law of the Republic of Moldova on the Customs Tariff".**



Answer:

Moldova's General comments:

We highly appreciate the efforts made by experts in reviewing our draft law on customs tariff and for the useful comments provided.

As previously stated in document WT/ACC/MOL/9, the Law on Customs Tariff has been enacted on 20 November 1997. Thus the comments to the concerns raised in the paragraphs below are based on the text of enacted Law that might differ in certain cases from the draft circulated before.

The English version of the enacted Law on Customs Tariff has been submitted to the members of the Working Party together with the document WT/ACC/MOL/9.

In order to ensure full implementation of the WTO Agreements a programme of legislative reforms was approved by the President of the Republic of Moldova in February 1999. A draft amendment to the Law on Customs Tariff and a draft governmental decision introducing the provisions of the relevant Notes from the WTO Valuation Agreement have already been presented to the relevant institutions for comments. Both documents are expected to be approved shortly by the Government and the Parliament. They will be translated into English and submitted to the member countries for comments.

**Question 44.**

**Article 7: Observance of trade secrets (Article 10 of the WTO Valuation Agreement). This Article provides that confidential information is not released "except in cases established by current legislation of the Republic of Moldova". Without reviewing Moldova's current legislation on confidential information, we are unable to provide comments on this provision. Moldova should provide references to its current legislation on confidential information.**

Answer:

Instead of the previous Article 7 of the draft law, cited in the questions the final text of the Law incorporated a clear provision in its Article 8 (4) (Rights and responsibilities of customs authority) stipulating that "the information submitted by declarant while declaring the value of the imported goods is commercial secret that could be used by customs authority only for its own purpose and cannot be transmitted to the third parties. Customs authority is held responsible for any release of information that constitutes commercial secret".

**Question 45.**

**Article 8: Rights and responsibilities of a declarant (Article 11 of the WTO Valuation Agreement). This Article provides the declarant can lodge a complaint against a decision of customs "according to procedures established by the Customs Code of the Republic of Moldova". Additionally, Moldova has established judicial and administrative tribunals or procedures in the law "On the judicial system" No. 514-XIII of 6 July 1995" and the law "On arbitration" No. 129-XIII of 31 May 1994. Without reviewing these laws, we are unable to provide comments on this Article. As written Article 8 does not fully implement Article 11 of the WTO Valuation Agreement.**

**Article 11 (2) and (3) of the WTO Valuation Agreement are missing and it is not clear from Article 8 whether the importer's right of appeal to Customs is an appeal without penalty.**

Answer:

The final reading of the Article 7 (Rights and responsibilities of declarant) of the enacted Law provides the importers with the right of appeal according to the procedures established by the Code of Civil Procedure which stipulates in its Chapter II the procedure to be followed while lodging a complaint in the economic courts and ordinary appeal procedure in its Chapter III, providing no penalty for this. In addition, the Customs Code in its Chapter 16, Article 96 provides the importer the initial right of appeal without penalty to an authority within the customs administration or to an independent body.

Currently, a new draft of the law amending the Law on Customs Tariff in its Article 1 (2) and (3) introduces expressly the language for the right of appeal without penalty.

In addition the new draft of the Customs Code is in the final stage of coordination. It will also provide for the right of appeal according to the WTO Valuation Agreement.

Moldova will in due course inform the members on the amendments foreseen and will submit a copy of this law as soon as it is ready.

**Question 46.**

**Article 11: Methods of calculation of customs value. This Article provides that "Methods of subtraction and addition can be used in any succession". This Article should be clarified to bring the provision in conformance with Article 4 of the WTO Valuation Agreement and the General Notes, Sequential Application of Valuation Methods in Annex I of the WTO Valuation Agreement. Namely the provision should reiterate that appraisal should proceed under deductive value before proceeding to computed value unless the importer elects a reversal of the order. We note that Moldova has the ability to make a reservation with regard to Article 4 as set forth in Paragraph 3 in Annex III of the WTO Valuation Agreement.**

Answer:

Article 10 (Methods of determination of the customs value of the goods) provides for sequential application of valuation methods and stipulates that the deductive and computed value methods could be applied in a reversal of the order at the request of the importer.

However, Moldova took into consideration these comments and included some provisions in the draft Governmental Decision "On Regulation on Application of Provisions of the Law on Customs Tariff", reiterating the provisions of General Notes, Sequential Application of Valuation Methods in Annex I of the WTO Valuation Agreement.

In addition, Moldova will in due course inform the member countries whether it will make a reservation to Article 4 as set forth in Paragraph 3 in Annex III of the WTO Valuation Agreement.

**Question 47.**

**Article 12: Method of customs valuation at the price of a transaction with imported goods (Article 1 and 8 of the WTO Valuation Agreement). We note that Moldova has not specifically provided for "the cost of insurance" set forth in Article 8 (2) (c) of the WTO Valuation Agreement in Article 12 (l) (a). This Article does not implement apportionment of "goods and services" of Article 8 (1) (b) of the WTO Valuation Agreement. Additionally, the Interpretative Notes to Article 8, Paragraph 1 (b) (ii) in Annex I of the WTO Valuation Agreement are not fully implemented concerning "goods and services".**

**There is no implementation of Article 8 (4) of the WTO Valuation Agreement concerning no other additions other than those provided for are to be included in the price actually paid or payable.**

**With regard to related parties, Article 12 (2) (d) states that fact that the price did not influence the parties relationship" ... should be confirmed by the declarant ....". This Article does not conform to Interpretative Note to Article 1, Paragraph 2 (2) in Annex I of the WTO Valuation Agreement which states that " it is not intended that there should be an examination of the circumstances in all cases where the buyer and the seller are related. Such examination will only be required where there are doubts about the acceptability of the price. Where the customs administration have no doubts about the acceptability of the price, it should be accepted without requesting further information form the importer ..." Moldova should modify Article 12 (2) (d) to conform to the Interpretative Note to Article 1, Paragraph 2 (2) in Annex I of the WTO Valuation Agreement.**

**Additionally, Moldova fails to fully implement the related parties provisions of Article 1 (2) (a), (b) and (c) of the WTO Valuation Agreement and the Interpretative Notes to Article 1, Paragraph 2 and 2 (b) in Annex I of the WTO Valuation Agreement.**

Answer:

Article 11 (Method of customs valuation at the price of a transaction with imported goods) of the enacted Law includes, as well, "the cost of insurance" set forth in Article 8 (2) (c) of the WTO Valuation Agreement.

Article 11 (c) provides for the apportionment of "goods and services" of Article 8 (1) (b) of the WTO Valuation Agreement. In addition the new draft of the governmental decision implementing the Interpretative Notes (including Article 8, Paragraph 1 (b) (ii)) in Annex I of the WTO Valuation Agreement will shortly be submitted to Government for approval.

With regard to the implementation of Article 8 (4) of the WTO Valuation Agreement concerning no other additions other than those provided for are to be included in the price actually paid or payable, the draft law, mentioned above, amending the current Law on Customs Tariff will implement this issue.

Both drafts mentioned above, draft law on amendments to the current Law on Customs Tariff and draft governmental decision have been elaborated to fully implement WTO Valuation Agreement. The provisions implementing Article 1 (2) (a), (b) and (c), as well as Interpretative Notes to Article 1, Paragraph 2 and 2 (b) in Annex I of the WTO Valuation Agreement are included in the new drafts.

**Question 48.**

**Article 13: Method of customs valuation at the price of a transaction with identical goods (Article 2 of the WTO Valuation Agreement). We note that Article 13 (3) should read "... expenses listed in Article 12 (l) (a) ... " not "Article 17."**

Answer:

The final text of the Law has such a reference in Article 14 (4), although the provision of Article 2 of the WTO Customs Valuation Agreement is not totally contained. The new draft law amending the Law on Customs Tariff will fully implement Article 2 of the WTO Customs Valuation Agreement.

**Question 49.**

**Article 14: Method of customs valuation at the price of a transaction with analogous goods (Article 3 of the WTO Valuation Agreement). We note that Article 14 (2) and (3) should read " ... Article 13 ... " not "Article 18".**

Answer:

The text of the enacted Law contains correct references.

**Question 50.**

**Article 15: Method of customs valuation through value subtraction (Article 5 of the WTO Valuation Agreement). In Article 15 (1), Moldova provides that this method "...is applied in cases where the goods identical or analogous to those under valuation ... " It is not clear if Moldova is applying this method to "the imported goods or identical or similar imported goods" as set forth in Article 5 of the WTO Valuation Agreement. Article 15 (1) should conform to the language in Article 5 (1) (a) of the WTO Valuation Agreement.**

With regard to the determination of unit prices, Moldova uses the term "largest consignment" for "greatest aggregate quantity" as set forth in Article 5 (1) (a) of the WTO Valuation Agreement. "Largest Consignment" should be defined according to the definition of "greatest aggregate quantity" as set forth in the Interpretative Note to Article 5, Annex I of the WTO Valuation Agreement.

Additionally, Moldova does not separately provide for the use of this method " at or about the time of the importation of the goods being valued" and "at the earliest date after the importation of the goods being valued but before the expiration of ninety days after such importation". Article 5 (1) (a) and (1) (b) of the WTO Valuation Agreement. Moldova combine these two provisions into Article 15 (2) by providing for "no later than 90 days after the date of entrance of the goods to be valued".

With regard to the deductions to be made under deductive value, Article 5 (1) (a) (i) of the WTO Valuation Agreement is not properly implemented. Article 15 (3) (a) states that " expenses of paying commission, and usual rise in profit and overheads ..." Moldova fails to provide for the terms " either ... or" in "either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses ... (emphasis added)" of Article 5 (1) (a) (iv) of the WTO Valuation Agreement.

Answer:

With regard to the language in Article 15 of the enacted Law, it is mainly translation subtleties that changed the meaning of the phrase. However, Moldovan experts involved in the elaboration of the new amendments introduced relevant changes to the wording of the Article to address the precise meaning of the Article 5 (1) (a) of the WTO Customs Valuation Agreement.

The meaning could seem different due to the translation, although the text of Article 15 (2) of the Law corresponds to the meaning of Article 5 of the WTO Valuation Agreement. Concerning the implementation of the Interpretative Note to Article 5, Annex I of the WTO Customs Valuation Agreement, as it was mentioned before, a new draft governmental decision addresses this issue.

To fully implement the provisions of Article 5 (1) (a) and (1) (b) of the WTO Customs Valuation Agreement new draft law and governmental decision included all relevant provisions.

With regard to the deductions to be made under deductive value, appropriate amendments are introduced in the new drafts to fully implement the provisions of Article 5 (1) (a) (i) (iv) of the WTO Customs Valuation Agreement.

**Question 51.**

**Article 16: Method of customs valuation through addition of value (Article 6 of the WTO Customs Valuation Agreement)**

Article 6 (1) of the WTO Customs Valuation Agreement provides for the addition of " an amount for profit and general expenses equal to that usually reflected .." Moldova has separated profit from expenses its provisions. Article 16 (b) and (c). This is incorrect. Interpretative Note to Article 6 (5) in Annex I of the WTO Valuation Agreement states that " profit and general expenses are to be taken as a whole". Article 16 (b) and (c) should be modified to reflect the components of computed value in Article 6 of the WTO Valuation Agreement.

**The Interpretative Notes to Article 6 in Annex I of the WTO Valuation Agreement are not implemented.**

**Additionally, Article 6 (2) of the WTO Valuation Agreement is not implemented.**

Answer:

The text of the Law corresponds to the provisions of Article 6 (1) of the WTO Customs Valuation Agreement and possible translation errors modified the meaning of the provisions. However, Moldova recognizes that additional amendments are necessary to ensure full compliance with the wording of Article 6 and its Interpretative Note in Annex I of the WTO Customs Valuation Agreement. Both issues are incorporated in the new drafts.

**Question 52.**

**Article 17, Reserve method of establishing the customs value (Article 7 of the WTO Valuation Agreement). This Article stated " ... the customs value of goods should be established in accordance with world practice". The term "world practice" needs to be defined? How is merchandise appraised pursuant to this section? To this term consistent :with the language in Article 7 of the WTO Valuation Agreement which states" ... the custom value shall be determined using reasonable ... consistent with the principles and general provisions of this Agreement: and of Article VII of the GATT 1994 and on the basis of data available in the country of importation." The term "world practice" should be consistent with the principles set forth in Article 7 of the WTO Valuation Agreement.**

Answer:

The language of the enacted Law is different from the language contained in the previous draft. Article 17 of the Law on Customs Tariff includes the provisions of Article 7 of the WTO Customs Valuation Agreement. In addition Article 30 of the Law on Customs Tariff states that "in the case the Republic of Moldova is a Part of international agreement that stipulates another norms that those provided by the present law, it should apply the norms of the international agreement ".

The new draft governmental decision included the language of interpretative note to Article 7 of the WTO Customs Valuation Agreement.

**Question 53.**

**Article 7 (3) of the WTO Valuation Agreement concerning informing the importer should be modified to reflect that Custom's response to the importer should be in written form.**

Answer:

The final text of the Law implements this requirement in its Article 8 (6).

**Question 54.**

**Moldova does not link all the negative appraisal methods listed in Article 7 of the WTO Valuation Agreement. Specifically missing are Article 7 (2) (b), (4) and (f) of the WTO Valuation Agreement.**

Answer:

The Article 17 (3) provides all notions of Article 7(2), including Article 7 (2)(b), (d) and (f). The item (b) corresponds with 3 (d) of Article 17, (d) corresponds with 3 (e) of the same Article and item (f) corresponds with 3 (g).

**Question 55.**

**Moldova should be questioned whether it has minimum pricing and/or reference in use ?**

Answer:

Moldova applies reference prices introduced by Governmental Decision No. 1092 of 29 October 1998.

**Question 56.**

**Currency Conversion (Article 9 of the WTO Valuation Agreement). Moldova states that the conversion to national currency to establish the customs value of goods is based on the exchange rate established and published by the National Bank of the Republic of Moldova. WT/ACC/MOL2, 3 and 5 23 September 1996-1997 October 1997. Where or how are these rates published by the National Bank of the Republic of Moldova?**

**Does Moldova convert currency at the time of import, or at the time of export? Article 9 (2) of the WTO Valuation Agreement provides "the conversion rate to be used shall be that in effect at the time of exportation or the time of importation, as provided by each Member (emphasis added)".**

Answer:

Moldova converts currency at the time of import. The National Bank of Moldova is required to coordinate with the Government and Parliament in respect of monetary and foreign exchange policy and to provide the Government, Parliament and the public with periodic reports on the implementation of such policy, including the provision of information in respect of monetary supply credit expansion, balance of payments and foreign exchange.

The Moldovan Leu is a convertible currency for all current account transactions, under the criteria of Article 8 of the Articles of Agreement of the International Monetary Fund. The National Bank of the Republic of Moldova sets the daily exchange rate with reference to an interbank market.

This rates are daily reported in news agencies and published in the periodical press, as well as in Internet (<http://www.bnm.org/>).

**Question 57.**

**Transparency (Article 12 of the WTO Valuation Agreement).** We note that Moldova's national laws are published in "Monitorul Oficial". What other law or regulation are in effect to implement Article 12 of the WTO Valuation Agreement concerning publication of Moldova's regulations, judicial decisions and administrative ruling of general application?

Answer:

Based on the Governmental Decision No. 1104 of 28 November 1997 all laws, governmental decisions and other legal documents enter into force only after their publication. According to the legislation of the Republic of Moldova, all normative acts, laws and other, generally application decisions come into force only after publication in the official newspaper "Monitorul Oficial". After this procedure other newspapers can publish these documents.

**Question 58.**

**Article 14 of the WTO Valuation Agreement.** Moldova has failed to implement fully this Interpretative Notes set forth in Annex 1 of the WTO Valuation Agreement. Specific reference to various Interpretative Notes are ... above. Additionally, the following Interpretative Notes are not fully implemented:

- **Interpretative Notes, Use of Generally Accepted Accounting Principles;**
- **Note to Article 1, Price Actually Paid or Payable;**
- **Note to Article 1, Paragraph 1 (a) (iii);**
- **Note to Article 1, Paragraph 1 (b);**
- **Note to Article 8, Paragraph 1 (a) (i);**
- **Note to Article 8, Paragraph 1 (b) (iv);**
- **Note to Article 8, Paragraph 1 (c);**
- **Note to Article 8, Paragraph 3;**
- **Note to Article 2;**
- **Note to Article 3;**
- **Note to Article 5;**
- **Note to Article 6;**
- **Note to Article 7; and**
- **Note to Article 15, Paragraph 4 (e).**

Answer:

According the Article 14 of the Agreement on Custom's Valuation the Republic of Moldova elaborated the draft Governmental Decision implementing the Interpretative Notes set forth in Annex I of the WTO Valuation Agreement.

**Question 59.**

**Article 15 of the WTO Valuation Agreement.** We did not find the definitions of the terms "produced" and "goods of the same class or kind" as set forth in Article 15 (1) (c) and (3) of the WTO Valuation Agreement.

Answer:

Both drafts, amending the Law on Customs Tariff and draft Governmental Decision, address this concern.

**Question 60.**

**Is the Article 15 (5) of the WTO Customs Valuation Agreement concerning sole agent, sole distributor or sole concessionaire implemented in law or regulation? If so, please state where.**

Answer:

The provisions of Article 15 (5) are stipulated in the present law in the Article 11 (2) (d).

**Question 61.**

**Article 16 of the WTO Valuation Agreement. We note that Article 9 provides that at the written request of the declarant, customs must provide a "...written statement explaining the reasons why the customs value declared by the declarant ... be accepted by the customs as a basis to calculate duties." This Article does not fully implement Article 16 of the WTO Valuation Agreement which provides that "upon written request, the importer shall have the right to an expansion in writing from the customs administration of the country of importation as to new customs value of his imported goods was determined (emphasis added)." Moldova should modify Article 9 to reflect the language in Article 16 of the WTO Valuation Agreement.**

Answer:

The provisions of Article 16 (WTO Customs Valuation Agreement) are provided in Article 8 (5,6) of the current Law.

**Question 62.**

**We have reviewed the Law on the Customs Tariff provided by Moldova for circulation to the Working Party. With respect to Articles 1 through 8 of the WTO Customs Valuation Agreement, the basic provisions appear to be covered. We have a few comments that may relate to translation differences, rather than substantive conflicts with the Agreement. We will submit these comments separately in writing for explanation.**

**We would also appreciate clarification of the right of appeal within the Customs department and a legal citation on right of appeal to an independent tribunal, e.g., the economic courts.**

Answer:

As stated in the reply to Question 7 a general provision on the right of appeal both within the Customs Department and to an independent tribunal is stipulated by the Law on Petitioning No. 190 XIII of 19 July 1994 with following amendments introduced by the Law No. 18 - XIII of 14 May 1998. The reply to Question 7 also gives clarification as to when appeals are brought to the courts of first instance or to the economic courts.

The draft amendments to the Law on Customs Tariff stipulates expressly the right of appeal without penalty, as stipulated in Article 11 of the Customs Valuation Agreement.

Article 1 (2) of the draft amendment provides for right of appeal without penalty to a judicial authority.



Article 1 (3) of the draft amendment containing this provision states "Article 8 of the Law on Customs Tariff will be changed in the following way, after the words "offering him the possibility of appeal" the words "without penalty" shall be added".

The English version of the amendments will be sent shortly after these answers.

In addition, the new draft of Customs Code that has been recently elaborated provides as well for the right of appeal. General provision for such right is given by Article 388. Article 389 provides for two ways of appealing: administrative and judicial. Section 55 (Articles 390 through 398) of the Code provides the detailed procedure for an administrative appeal and Section 56 (Articles 399 and 400) of the Code provides details on procedures for a judicial appeal. This draft Customs Code is expected to be enacted before the end of 1999. The English version of the draft Customs Code will be provided later.

### **Question 63.**

**In its responses to Questions 56-58 of WT/ACC/MOL/9, Moldova stated that "amendments" to the Customs Tariff Law were under preparation by the Ministry of Finance, which would fully implement the following provisions of the Customs Valuation Agreement:**

- **the assists/goods and services of the Interpretive Notes to Article 8;**
- **the related party provisions in Article I and the Interpretive Notes to Article I, Paragraph 2 and 2(b);**
- **Article 8(4) of the Agreement concerning no other additions other than those provided for are to be included in the price actually paid or payable.**

**Has Moldova prepared additional amendments to the Customs Tariff Law to address these issues. If so, please provide the text. If not, please indicate when this will be done.**

### Answer:

As stated in the replies to Questions 56-58 of WT/ACC/MOL/9, Moldova has prepared in addition to the draft amendments to the Law on Customs Tariff, draft Governmental Decision "On Implementation of the Law on Customs Tariff" that mostly implements the interpretative notes of the Customs Valuation Agreement.

This draft Governmental Decision includes the provisions of Interpretative Notes to Article 8, as well as related party provisions in Article I and the Interpretative Notes to Article I, Paragraph 2 and 2 (b). In the draft Governmental Decision both issues are part of Note to Article 11 of the Law on Customs Tariff.

Provisions of Article 8(4) of the Customs Valuation Agreement concerning no other additions other than those provided for are to be included in the price actually paid or payable, are stipulated in the draft Law on amendments to the Law on Customs Tariff, as amendments to Article 11 (1) (f) of the Law on Customs Tariff.

The English versions of both drafts (draft Law on amendments to the Law on Customs Tariff and draft Governmental Decision "On implementation of the Law on Customs Tariff") will be provided shortly after these answers.

### **Question 64.**

**The responses to Questions 63-64 state that Moldova will address the need to implement Article 15(5) of the Agreement concerning sole agent, sole distributor, or sole concessionaire and the Interpretive Notes in Annex 1 of the Agreement in further amendments to its law and**

regulations. Article 14 of the Agreement stipulates that the Interpretive notes of the Agreement form an integral part of it and that the Articles of the Agreement are to be read in conjunction with these Notes.

**Has Moldova prepared additional amendments to the Customs Tariff Law to address these issues. If so, please provide the text. If not, please indicate when this will be done.**

**We seek confirmation from Moldova that it also intends to address in these amendments to its customs valuation law the WTO provisions on the Treatment of Interest Charges in Customs Value of Imported Goods and for the Valuation of Carrier Media Bearing Software for Data Processing Equipment. We seek, in accordance with these latter provisions, that only the cost of the carrier medium itself would be accounted for in the customs value.**

**Moldova has stated on several occasions its intention of bringing its customs valuation regime into line with the WTO Customs Valuation Agreement, and we commend its efforts to date in this regard. In order to conclude our review, we seek comment on these additional points.**

**We suggest the following confirmation of Moldova's intent:**

**The representative of Moldova confirmed that, from the date of accession, Moldova would apply fully the WTO provisions concerning customs valuation, including in addition to the Agreement on the Implementation of Article VII of the GATT 1994, the provisions on the Treatment of Interest Charges in Customs Value of Imported Goods and for the Valuation of Carrier Media Bearing Software for Data Processing Equipment. In accordance with these latter provisions, only the cost of the carrier medium itself would be accounted for in the customs value. He added that, as an international agreement, the provisions of the WTO Agreement on the Implementation of Article VII of the GATT 1994 would supersede domestic law upon accession. The Working Party took note of these commitments.**

Answer:

The draft Law on amendments to the Law on Customs Tariff in its Article 4 (c) will implement the provision of Article 15(5) of the Agreement concerning sole agent, sole distributor, or sole concessionaire. As stated in the reply to the previous question all interpretative notes, including that referring to Article 15 of the Valuation Agreement, are covered in the draft Governmental Decision "On implementation of the Law on Customs Tariff".

The WTO provisions on the Treatment of Interest Charges in Customs Value of Imported Goods and for the Valuation of Carrier Media Bearing Software for Data Processing Equipment are as well part of the draft Governmental Decision "On implementation of the Law on Customs Tariff". This draft Governmental Decision provides that only the cost of the carrier medium itself should be accounted for in the customs value.

(j) Pre-shipment inspection

**Question 65.**

**Re Question 69 of WT/ACC/MOL/9: Has the Government of Moldova completed the examination of the possible use of a PSI company ?**

Answer:

Currently a draft Governmental Decision providing for the introduction of pre-shipment inspection is in its final stage of coordination with the relevant governmental institutions. This draft governmental decision provides for a tender to select a PSI company and criteria for their evaluation.

A copy of this draft governmental decision will be translated and submitted to the member countries' consideration.

(k) Application of internal taxes on imports

**Question 66.**

**Re Question 70 of WT/ACC/MOL/9, please confirm that excise taxes and VAT taxes have been brought into full WTO conformity.**

Answer:

Moldova confirms that VAT application has been brought into full WTO conformity. Concerning the application of excise taxes Moldova signed bilateral agreements with Belarus, Kazakstan, Uzbekistan and Armenia, that provided for the implementation of destination principle for excise taxes as well. Starting with the Law on Budget 2000 the application of excise taxes will be brought fully into conformity with WTO provisions with all the countries.

Value Added Tax

**Question 67.**

**The draft Working Party Report states that Moldova exempts the sale of products from crop farming and animal husbandry in unprocessed form and on a live-weight basis from VAT taxation.**

**Does this exemption extend to imports of similar products, as provided for in Article III of the GATT. If not, will Moldova bring this into line with WTO provisions?**

**According to the response to a question of WT/ACC/MOL/9, the 1999 draft Budget Law has completed the work of bringing Moldova's VAT into conformity with the relevant WTO provisions.**

Answer:

The exemption from VAT of products from crop farming and animal husbandry in unprocessed form and on a live-weight basis does not extend to imports of similar products. Unfortunately the final text of the Law on Budget 1999 provides for the same exemption in Article 26 (e). This practice will be discontinued with the new Budget Law starting 1 January 2000.

Excise taxes

**We have reviewed the List of excisable products from the 1999 Budget Law in the draft Working Party report. It is encouraging the Moldova has unified its rate structure to ensure that there is no overt discrimination against imports. We note, however, that there are distinctions in the rates of application of some of the excise taxes that raise additional questions. We would appreciate Moldova's assistance in clarifying these issues.**

**Re Question 73 of WT/ACC/MOL/9, please explain the reasons for the adoption of the categories you have given in your excise duty table for the following products: wine, other liqueurs, cigarettes.**

**Please confirm that the categories you have created do not discriminate against foreign products under Art III of GATT 1994.**

**Question 68.**

**The excise tax rate for vodka and liqueurs is 50 per cent higher than the rate applied to other liquors, including national drinks. Could Moldova indicate which national drinks are taxed at the lower rate and explain why? Could Moldova indicate why Vodka and liqueurs are taxed at the higher rate?**

Answer:

The final text of the Annex 9 of the Law on Budget 1999 has two different headings: one includes only vodka (excise tax is MDL 2.00 per bottle of 0.5 litres) and other includes liqueurs, strong alcoholic beverages, including national drinks (excise tax is MDL 0.75 per bottle of 0.5 litre).

Different excise taxes do not mean to discriminate against imports. There is a large production of vodka in Moldova as well. Under the heading of liqueurs, national brandies are included. Following the different technological processes and different production costs for vodka (lower production costs) and for brandy and taking into consideration the larger consumption of vodka it was decided for fiscal reasons to fix a higher excise rate for it. Other liqueurs are taxed at the same rate as national drinks.

**Question 69.**

**The excise tax rate for "natural, carbonated" carbonated grape wines is 50 per cent higher than the excise rate applied to "traditional" carbonated grape wines. Could Moldova indicate if "traditional" carbonated grape wines include substantially all domestic production of such beverages and if "natural, carbonated" carbonated grape wines include most imports? Could Moldova indicate why "traditional" carbonated grape wines are taxed at a lower excise rate than "natural, carbonated" wines?**

Answer:

Annex 9 (List of excisable goods) of the Law on Budget 1999 provides for the 50 per cent higher rate on "traditional" carbonated grape wines made according to the classic technology than on "natural, carbonated" carbonated grape wines as indicated in the document WT/ACC/MOL/9. The technological process for the "natural, carbonated" is cheaper and Moldova produces a large quantity of both types of carbonated grape wines. There is no discrimination built in this excise rate structure and, unlike the case for vodka, a higher excise tax was established on higher quality carbonated wine (produced according to traditional method) for the same fiscal reason, this product is being considered as a luxury product with a higher value added.

**Question 70.**

**Does "Divin" include imported brandies and cognacs made from grapes? Made from other fruits? If not, where are these beverages classified for the purpose of excise taxation?**

Answer:

For the purpose of excise taxation under the heading "Divin" imported cognacs made from grapes are included. Imported brandies made from grapes and from other fruits are included under the heading of liqueurs, strong alcoholic beverages, including national drinks.

**Question 71.**

**Can Moldova indicate the unit of fluid measure upon which the excise tax of MDL 0.5 is applied to kegged beer? Can Moldova indicate the unit of fluid measure upon which the excise tax of**

**MDL 1.0 is applied to bottled or canned beer? On what basis is beer in one form of packaging taxed at a higher rate than beer sold in another? What portion of Moldova's beer imports is in kegs? What portion of its domestic production is sold in kegs? What portion of Moldova's beer imports occurs in bottles or cans?**

Answer:

The unit of fluid measure of one litre is applied to both kegged, bottled or canned beer. According to Moldova's statistics the major part of its beer imports come in bottles. Imported beer in kegs accounts for 45 per cent. At the same time, domestic beer sold in kegs accounts for 18 per cent, the major part being sold in bottles (82 per cent). The same fiscal reason is applied in fixing the excise tax higher for higher value.

**Question 72.**

**Why are the excise taxes on filter cigarettes twice to five times the tax rate applied to unfiltered cigarettes? Why are cigarettes of length greater than 81 mm taxed at more than twice the excise rate applied to shorter cigarettes? What portion of Moldova's domestic cigarette production is (a) filtered, (b) unfiltered, (c) of cigarettes of length below 81 mm? What portion of imports of cigarettes are (a) filtered, (b) unfiltered, (c) of cigarettes of length below 81 mm?**

Answer:

The higher value for filtered cigarettes is determined on the basis that a higher excise rate for them will bring more revenue to the budget. Approximately 30 per cent of Moldova's domestic production is unfiltered. To avoid discrimination in taxation, a draft of amendment to the Law on Budget 1999 has been presented to the Government. This new draft includes HS codes that will replace the current system of discriminating between cigarettes of different lengths.

Over the last few years Moldova faced serious problems with imports of cigarettes that came almost entirely as contraband (for example the registered imports in 1998 accounts for just US\$263,000). Therefore the last efforts of the Government have been focused on lowering the tax burden on cigarettes imports, including lowering of import duty to the extent it will cut smuggling. As a result there is a lack of reliable statistics on import of cigarettes that makes it impossible to present a detailed split-up of the imported cigarettes.

**Question 73.**

**Why is ground coffee and instant coffee, by weight, taxed at a rate 25 per cent higher than coffee grains? Does Moldova produce coffee beans?**

Answer:

Moldova does not produce or process coffee beans. The only reason for setting a higher rate for ground coffee and instant coffee is the fact that these items are mostly imported and consumed that allows increase to the revenue for the budget.

**Question 74.**

**How is "Top class home furniture" distinguished from other furniture for the purposes of excise taxation?**

Answer:

Government Decision No. 1265 of 24 December 1998 "On the list of goods (office furniture and top class home furniture) subject to excise taxes and their technical parameters" established the criteria for distinguishing the excised products.

**Question 75.**

**Please explain the reasons for exempting components used in the manufacture of jewelry which are imported by the "Giuvaer y" factory in Chisinau from excise tax. (page 30)**

Answer:

This exemption was introduced for the "Giuvaer" factory being the only producer of these goods. This provision will be taken out from the next Law on Budget.

**Question 76.**

**We believe that, to some extent, Moldova's revised excise tax regime remains inconsistent with Article III of the GATT, in line with recent rulings by WTO dispute settlement panels on taxation of alcoholic beverages. We would appreciate Moldova's cooperation in clarifying the issues raised and, as necessary, proposing remedies that will redress deficiencies in the current system vis-a-vis Article III.**

Answer:

As explained in the previous answers Moldova believes that its excise tax regime mostly corresponds to the provisions of Article III of the GATT 1996. As mentioned above, the Government has already taken action as regards cigarettes. Moldova appreciates Members support in clarifying as necessary any remaining issues that may be raised in line with the recent rulings by WTO dispute settlement and is ready to cooperate to bring its tax regime in line with the WTO provisions.

- (1) Rules of origin

**Question 77.**

**Moldova has stated that its rules of origin for preferential trade are included in the Agreements establishing the preferential arrangement. It also has stated that a valid, official certificate of origin was considered "proof" of origin.**

**Does Moldovan law provide for determination of origin through the application of independent criteria to imports claiming preferential tariff treatment that are not accompanied by such certificates, i.e., criteria such as substantial transformation indicated by change of tariff category or origin indicated by some fixed percentage of import value created within the preferential system?**

Answer:

The Law on Customs Tariff provides in Chapter V the rules of determining the origin of goods. Article 21 of the Law sets the criteria for determining the origin by substantial transformation indicated by change of tariff category or origin indicated by fixed percentage of import value created.

**Question 78.**

**Do the rules of origin laid out in the Customs Tariff Law incorporate, for both non-preferential and preferential rules of origin, the requirements of Article 2(h) and Annex II, paragraph 3(d) respectively, which require provision upon request of an assessment of the origin of the import and outline the terms under which it will be provided? If not, will Moldova enact such requirements in regulation or law prior to accession?**

**We propose that Moldova confirm that following:**

**The representative of Moldova stated that the Customs Tariff Law of November 1997 established Moldova's rules of origin, and he confirmed that from the date of accession Moldova's preferential and non-preferential rules of origin would comply fully with the WTO Agreement on Rules of Origin, and that the requirements of Article 2(h) and Annex II, paragraph 3(d) of the Agreement, which require provision upon request of an assessment of the origin of the import and outline the terms under which it will be provided, would be established in Moldova's legal framework prior to accession. The Working Party took note of this commitment.**

Answer:

The provisions of the Law on Customs Tariff refer to both preferential and non-preferential rules of origin. The requirements of Article 2(h) and Annex II, paragraph 3(d), which require provision upon request of an assessment of the origin of the import and outline the terms under which it will be provided will be introduced by Moldova in its legislation prior to accession.

Moldova agrees to the language suggested to be introduced in its Working Party Report.

- (m) Anti-Dumping regime
- (n) Countervailing duty regime
- (o) Safeguard regime

**Question 79.**

**Re Question 74 of WT/ACC/MOL/9, please confirm that the draft Law on Anti-dumping, countervailing duties and Safeguard Measures has been approved by the Government and Parliament.**

Answer:

The draft law has been submitted to the Government and is expected to be approved shortly.

**Question 80.**

**The response to Question 34 in WT/ACC/MOL/9 states that no safeguard measures have been taken under Article 15 of the Law on Foreign Economic Activity, and that a new draft law has been prepared that addresses antidumping, countervailing duty and safeguard actions.**

**The provisions of Article 15 are not WTO-consistent. Moldova should eliminate the parallel provisions on safeguard measures in Article 15 of the Foreign Trade Law prior to its accession to the WTO.**

**We seek confirmation in the Working Party Report and protocol of Moldova's intent not to use such measures prior to establishment of WTO consistent legal provisions, as follows:**

The representative of Moldova confirmed that Moldova would not apply any anti-dumping, countervailing or safeguard measure until it had notified and implemented appropriate laws in conformity with the provisions of the WTO Agreements on the Implementation of Article VI, on Subsidies and Countervailing Measures, and on Safeguards. In this regard, the provisions of Article 15 of the Foreign Trade Law would not be applied after Moldova's accession. In the elaboration of any legislation concerning such anti-dumping, countervailing and safeguard measures Moldova would ensure their full conformity with the relevant WTO provisions, including Article VI and XIX of the GATT 1994 and the Agreements on the Implementation of Article VI, the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards. After such legislation was implemented, Moldova would also apply any anti-dumping duties, countervailing duties and safeguard measures in full conformity with the relevant WTO provisions. The Working Party took note of these commitments.

Answer:

The latest draft of the Law on Foreign Trade Regime does not contain such a provision. Moldova will submit its draft legislation on anti-dumping, subsidies and countervailing measures and safeguards prior to accession. Moldova agrees to the suggested language to be included in the Working Party report.

## **2. Export Regulation**

### **Question 81.**

**Please confirm whether Moldova applies an export-processing fee on exports. Please confirm that there are no export licensing requirements and no export duties, at this time.**

**If an export processing fee is applied, please describe how it is applied and at what level.**

Answer:

Moldova confirms that it does not apply any export-processing fee on exports, export licensing requirements or export duties. In the elaboration of any legislation concerning export regulations Moldova would ensure their full conformity with the relevant WTO provisions of the GATT 1994. After such legislation will be implemented, Moldova would also apply any measures regarding export regulations in full conformity with the relevant WTO provisions.

(f) Export financing, subsidy and promotion policies

### **Question 82.**

**In light of Moldova's statements on the issue of export subsidies, we propose the following:**

**The representative of Moldova stated that from the date of accession Moldova would not maintain any subsidies, including export subsidies, which met a definition of a prohibited subsidy within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures, and would not introduce such prohibited subsidies from the day of accession. The Working Party took note of this commitment.**

Answer:

Moldova agrees to the proposed statement to be included in the Working Party report.



**3. Internal Policies Affecting Foreign Trade in Goods**

- (a) Industrial policy, including subsidy policies

**Question 83.**

**Moldova has stated that it does not at present provide any subsidies prohibited by WTO Agreements.**

**Can Moldova confirm that any subsidy programmes provided by its Government after accession will be administered in line with the Agreement on Subsidies and Countervailing Measures and that all necessary information on noticeable programmes would be notified to the Committee on Subsidies and Countervailing Measures in accordance with Article 25 of the Agreement upon entry into force of Moldova's Protocol of Accession?**

Answer:

Moldova confirms that any subsidy programmes provided by its Government after accession will be administered in line with the Agreement on Subsidies and Countervailing Measures and that all necessary information on noticeable programmes would be notified to the Committee on Subsidies and Countervailing Measures in accordance with Article 25 of the Agreement upon entry into force of Moldova's Protocol of Accession.

- (b) Technical regulations and standards, including measures taken at the border with respect to imports (Annex 5 refers)
- (c) Sanitary and phytosanitary measures, including measures taken with respect to imports

**Question 84.**

**Please provide the Working Party with a detailed schedule outlining the steps which have been taken with the effect of making Moldovan technical standards fully compatible with the TBT Agreement to date, and the time table for future reforms.**

**We appreciate Moldova's clearly stated intent to implement both the TBT and SPS agreements. Moldova is expected, however, to demonstrate the capacity to appropriately implement both agreements in a timely fashion. Could Moldova describe the steps it has taken since the last working party to insure a timely implementation of the agreements?**

**For example, can Moldova describe domestic regulatory activity implemented since March 1998 that shows its conformity with the SPS and TBT Agreements?**

Answer:

According to the programme of measures approved by the President of the Republic of Moldova in order to implement the necessary regulatory reform, Department of Standards, Metrology and Technical Supervision of the Republic of Moldova elaborated a number of laws introducing the basic principles of the TBT Agreement.

Since March 1998, in order to comply with WTO provisions, the Government of Moldova has taken measures to introduce the above mentioned legislation that is currently at different stages of approval. Newly prepared legislation introduced the following provisions in order to comply with the TBT Agreement:

- concept of technical regulations and transfer of mandatory standards into the category of technical regulations;

- the avoidance of unnecessary obstacles to international trade;
- the non-discrimination and national treatment;
- harmonization and participation in international standardizing bodies;
- equivalence of technical regulations;
- mutual recognition of conformity assessment procedures;
- transparency: statement on the implementation and administration of the Agreement, inquiry point and notification, the publication used to announce that work is proceeding on draft technical regulation or standards and procedures for assessment of conformity or the text of approved documents are published in.

Table: Stage of implementation of Moldova's legislation related to TBT

No.	Draft laws and regulations	Circulation of the final draft for comments	At Government for approval	At Parliament for approval
1.	Law on Certification on Goods and Services	X	X	X
2.	Amendment Law on Standardization	X	X	
3.	Amendments to Law on Protection of Consumers' Rights	X	X	
4.	Law on Technical Barriers to Trade	X	X	
5.	Law on Accreditation	X		
6.	Law on Industrial Security	X		
7.	Amendments to the Statute of Phytosanitary Inspectorate	X		

Note: Normally, the expected length of time for presentation of comments on draft legislation or normative acts with afterwards approval by the Government and adoption by the Parliament is 5 months maximum. Taking into consideration the priority set by the Presidential programme this term is expected to be shorter.

Draft amendments to the phytosanitary regulation have been elaborated to address the following issues of WTO Agreement on SPS:

- transparency: notification and access to documentation;
- provision on scientific evidence for regulations governing animal and plant health and food safety;
- harmonization with the international standards, guidelines and recommendations in establishing SPS measures;
- non-discrimination;
- establishment of a single inquiry point;
- equivalence: recognition of the SPS measures of other members that achieve the same level of protection;
- provisions for taking into account regional conditions when preparing SPS measures.

Currently similar amendments are being drafted for the sanitary and veterinary regulations. These regulations are expected to be passed at the same time.

The first draft of the amendments relating to Phytosanitary regulations are contained within document WT/ACC/MOL/17.

#### **Question 85.**

**Re Question 80 (b) [p. 36] of WT/ACC/MOL/9, please confirm that the draft law on certification was accepted by the Government and the Parliament. Please give the date this law entered into force.**

Answer:

This draft law has been adopted by the Government and is currently in the Parliament for approval.

**Question 86.**

**We have reviewed Moldova's Standardization Law, and we note that Moldova's responses to questions indicate the existence of a draft certification law and amendments to the Standardization law.**

**Please provide a copy of the amendments to the Standardization Law and the amendments to implement the WTO SPS Agreement referred to in the response to Question 96 of WT/ACC/MOL/9.**

Answer:

As said earlier in the response to Question 96 of WT/ACC/MOL/9, concerning the implementation of the SPS Agreement, Moldova has prepared amendments to the Statute of Phytosanitary Inspectorate that address the issues referred to in the reply to the previous question.

Together with these answers are submitted (unofficial translation):

- draft Law "Amendments to the Law on Standardization";
- draft Law on Certification of Goods and Services (currently in the Parliament for approval);
- amendments to the Statute of Phytosanitary Inspectorate;
- list of legislation and translated copies of some of them provided in document WT/ACC/MOL/22 "Analytic Note listing Moldovan Legislation, Decrees, Decisions and Regulations Relevant to the WTO Legal Texts: Status of Draft Legislation and Draft Amendments".

**Question 87.**

**In the context of Moldova's response to Question 95 of WT/ACC/MOL/9, we have provided a list of specific requirements of the WTO Agreements on Technical Barriers to Trade and Sanitary and Phytosanitary measures (checklists provided separately).**

**We would appreciate Moldova's efforts to indicate in written response the specific citation in Moldovan law or regulation and other relevant information that addresses each requirement describing the specific measures that Moldova has undertaken to bring its system into conformity with TBT and SPS obligations.**

Answer:

The Republic of Moldova has submitted the checklists for Moldovan compliance with TBT and SPS Agreements in documents WT/ACC/MOL/19 and WT/ACC/MOL/20, providing the specific citation in Moldovan law or regulation and other relevant information that addresses each requirement describing the specific measures that Moldova has undertaken to bring its system into conformity with TBT and SPS obligations.

**Question 88.**

**Our preliminary review to date indicates that Moldova does not provide for non-discrimination and national treatment in its TBT and SPS regimes, has not yet established procedures for publication for prior comment, or to prohibit unnecessary barriers to trade in the formulation of standards, technical regulations and conformity assessment procedures.**

Answer:

As stated in the reply to the Question 80, Moldova introduced relevant provisions in its draft TBT and SPS legislation addressing non-discrimination and national treatment, procedures for publication for prior comment, and prohibition of unnecessary barriers to trade in the formulation of standards, technical regulations and conformity assessment procedures.

**Question 89.**

**We have the following specific questions and comments:**

**The response to Question 82 in WT/ACC/MOL/9 states that certification requirements for specific classes of products are spelled out by the Standards Department for each accredited body. The response to Question 85 states that there are no specific regulations or requirements for electrical safety, telecommunications equipment, medical devices, etc.**

**Does this mean that certification requirements for these classes of products are spelled out in mandatory standards?**

Answer:

No, they are not included in the standards. General certification requirements are spelled out in two documents: General and Specific Procedures of the Certification Bodies (RG 01-05-92 of 1994 and RG 01-06-92 of 1994 respectively). These requirements correspond to the European Standard EN 45011 "General criteria of certification bodies" for certification of products.

**Question 90.**

**The response to Question 86 of WT/ACC/MOL/9 deals with specific certificates. Moldova indicates that production certification in the Republic of Moldova is carried out according to the TBT Agreement conformity requirement. What does that mean in practice, i.e., please describe specifically how is it in accordance with the Agreement? Are there no certificates of conformity required for products subject to mandatory certification, except for hygiene certificates?**

Answer:

The MFN and national treatment provisions applied to imported product in the Republic of Moldova.

The procedures for conformity assessment in accordance with TBT Agreement "in a manner no less favourable than that accorded to like products of national origin and to like products originating in other countries" are respected by the National Certification Body (NCB) in the meaning that imported products are treated equally with respect to any fees charged for certification. The procedures are not stricter or more time-consuming than are necessary to assess that a product complies with the domestic laws and regulations of the Republic of Moldova. The international guides or recommendations issued by international bodies are used for national procedures of conformity assessment unless they are inappropriate for Moldova concerning such reasons as national security

requirements, prevention of deceptive practices, protection of human health or safety, animal, plant life or health.

The hygienic certificate is a part of certificate of conformity. The conformity documents are required for all products subject to mandatory certification. The Governmental Decision No.414, dated 13 June 1994 and the Governmental Decision No. 696 dated 9 October 1995 list the products that are subject to mandatory certification. Currently, new draft amendments are proposed to Governmental Decision No. 696 and Governmental Decision No. 414 that list a new nomenclature of products subject to mandatory certification.

**Question 91.**

**What products can be placed on the market solely on the basis of a manufacturer's declaration of conformity?**

Answer:

The manufacturer's declaration of conformity could be recognized if the manufacturer has the Quality System and is able to demonstrate that requirements of European Standard EN 45014 "General criteria for suppliers" declaration of conformity" are respected.

**Question 92.**

**Re Question 16 of WT/ACC/MOL/9, please confirm the creation of an inquiry point, required by the SPS agreement, under the State Inspection of Phytosanitary Quarantine or within the Department of Standards.**

Answer:

Moldova confirms that the inquiry point required by the SPS Agreement is set within the Department of Standards.

**Question 93.**

**In the response to Question 91, Moldova states that it has established the required inquiry points concerning government actions in the areas of standards and technical barriers to trade, as well as services in August 1998.**

**Moldova also describes how the inquiry offices will help address the GATT requirements of Article X for transparency in the application of laws, decrees, etc. Could Moldova describe the activities of the inquiry point and its contributions to transparency in the application of laws and decrees since August 1998?**

Answer:

As mentioned in the reply to the Question 91 of the document WT/ACC/MOL/9, an inquiry point has been established within the Department of Standards. For the purpose of addressing the issues of services other inquiry points will be established within the relevant governmental institutions. The first one will be established within the Ministry of Economy and Reforms. There are already contacts with private businesses for providing relevant information requested, as well as compiling the necessary database of legislation, including some translated laws and regulations.

**Question 94.**

**Could Moldova describe any proposed rules that it has published, and any public comments it has received in response to the proposed rules?**

Answer:

The draft of the Law on Protection of Consumers Rights was published on 18 September 1998 in the newspaper "Chisinau Observer" for comment. Some 25 comments were received from Moldovan consumers, lawyers, ministries and departments and ten of them have been taken into consideration.

**Question 95.**

**Could Moldova describe any final rules it has published since the last Working Party?**

Answer:

No such rules have been published since last Working Party meeting in April 1999.

**Question 96.**

**Moldova should notify the Working Party of the address and other information on how to contact these offices, e.g., in the manner of WT/ACC/EST/19.**

Answer:

The TBT and SPS inquiry point is created within the National Centre for standardization and certification. The address is:

28, Coca str,  
Chisinau city  
Republic of Moldova  
Tel: (373-2) 75  
Fax: (373-2) 75-05-81  
E-mail: standard @ standart.mldnet.com.  
Director: Mr. Keptene Pavel

**Question 97.**

**The response to Question 93 indicates that Moldova intends to present an updated information to TBT questionnaire.**

**Please revise the response given to the TBT questionnaire, and provide similar information on Moldova's compliance with the WTO Agreement on Sanitary and Phytosanitary Measures.**

Answer:

The updated TBT and SPS Questionnaires are submitted together with these answers.

**Question 98.**

**We have the following additional comments on the 1995 Law on Standardization:**

**Concerning Article 4, Moldova states that most standards are mandatory and thus actually serve as "technical regulations". There are no references, however, to international standards until Article 18 and 19.**

Answer:

The draft Law on TBT (Articles 5, 6 and 8) and the Moldovan Standards SM 1-0, SM 1-3, SM 1-5 provide for consideration of appropriate international standards, guides and recommendations as a basis for standards.

**Question 99.**

**Article 8 states that any Ministry, department or company can establish a standardization division. How does Moldova plan to address the means of coordinating ministry or department activities?**

Answer:

The methodological co-ordination of the activity of standardization divisions of ministries, departments or companies will be organized and monitored by the National Standardization Body – Department of Standards, Metrology and Technical Supervision of the Republic of Moldova.

**Question 100.**

**Article 9, concerning the elaboration and approval of standards - there is nothing mentioned about this process being open, transparent, or providing opportunity for comment by interested parties. How does Moldova intend to provide for this?**

Answer:

Fundamental Moldovan standard SM 1-3:1997 paragraphs. 3.8.1 and 3.8.2 provide for the drafts of standards to be subject to public comment during 60 days. The official publication “Buletinul standardizarii” publishes the documents drafted by technical committees and informs the public on time limits for comments.

**Question 101.**

**Article 13 - application of standards and their obligatory character - this Article states "in areas where no normative standardization documents have been established it is prohibited to ...place products on the market". This seems overly restrictive. Could Moldova clarify how this Article is administered?**

Answer:

The Law on Amendments to the Standardisation Law provides the voluntary application of standards. In the case there is no standardization document in Moldova related to a certain product it could be placed on the market after a general certification concerning the medico-biological requirements and after the presentation of the producer's standard on it.

**Question 102.**

**Article 15 - state control and supervision - this Article addresses standardization documents concerning the development, production, delivery, trade, use, storage and transport of products. This seems more like comprehensive technical regulations than standards. Could Moldova clarify?**

**Our objective is to confirm that Moldova will apply all obligations under the WTO Agreements on Sanitary and Phytosanitary Measures and Technical Barriers to Trade from the date of accession. We appreciate the efforts made to date by Moldova in this regard. We look forward to reviewing the additional information offered by Moldova and recently requested to complete our review and assessment.**

Answer:

The Law on Amendments to the Standardization Law addresses this issue by introducing the principle of voluntary standards. With this change, questions taken by Article 15 will become the subject, as necessary, to technical regulations.

- (1) Government procurement practices

**Question 103.**

**In response to Question 40 of WT/ACC/MOL/8, Moldova indicated its intent to initiate negotiations for accession to the Government Procurement Agreement upon accession. The response to Question 102 of WT/ACC/MOL/9, however, appears to withdraw from that statement. Please clarify Moldova's position on this issue.**

**We urge Moldova to confirm in the Working Party report and protocol that, upon accession to the WTO, Moldova will become an observer to the Agreement on Government Procurement and initiate negotiations for membership in the Agreement by tabling an entity offer.**

Answer:

Moldova confirms that, upon accession to the WTO, it will become an observer to the Agreement on Government Procurement and initiate negotiations for membership to the Agreement by tabling an entity offer immediately after accession.

**4. Policies Affecting Foreign Trade in Agricultural Products**

**WT/ACC/SPEC/MOL/I/Rev.3.**

**Moldova has done a good job in preparing these supporting tables on domestic support and export subsidies. We know how difficult this task is, and provide only a few comments on this submission.**

**DS:1 Measures exempt from the reduction commitment**

**Question 104.**

**Generally speaking, the measures Moldova includes in the "green box" look on the surface, to be consistent with Annex 2 criteria. However, Moldova should include more descriptive detail of how these programmes operate (either in an endnote or next to the measure), including specific reference to the relevant Annex 2 criteria, so that we can be certain that these measures are truly consistent with the green box criteria.**

Answer:

Moldova has included specific references to the relevant Annex 2 criteria for each measure from Table DS:1. Additional details on the operation of such programmes will be presented later as general information.



**DS: 4 Calculation of the Aggregate Measurement of Support**

**Question 105.**

**Thank you for supplying value of production data for the *de minimis* calculation. Is Moldova aware that it is not required to include in the total AMS any support that is 5 per cent of less than the value of production? If Moldova includes *de minimis* support in its base AMS, then this support will have to be included in each year's current total AMS.**

Answer:

Moldova considers that according to Article 1(h) "Total Aggregate Measurement of Support" and "Total AMS" should "include all domestic support provided in favour of agricultural producers, calculated as the sum of all aggregate measurements of support for basic agricultural products, all non-product-specific aggregate measurements of support ...".

**Question 106.**

**The total value of non-product specific support appears to be missing from these tables. Please specify the total non-product specific AMS in column 2.**

Answer:

Moldova included non-product-specific support values in column 2 of Table DS: 4 for each year.

**DS:6 Product-Specific Aggregate Measurements of Support: Non-Exempt Direct Payments**

**Question 107.**

**Please verify that the 1995 loan expenditures for livestock improvement expenditures only reflect the subsidized component of these loans: for example, interest rate subsidies or deferrals in repayment. Please clarify how these loans are subsidized, and how this calculation is made for the livestock AMS.**

Answer:

The relevant calculations to reflect the subsidized component of the loans are currently in process and will be provided later with the revised tables.

**DS:7 Product-Specific Aggregate Measurements of Support: Other Product-Specific Support and Total Product-Specific AMS**

**Question 108.**

**Tax exemptions and privileges are not included in the AMS calculation. These should be removed from supporting Table DS:7 (milk and livestock).**

Answer:

Due to different circumstances, historical debts accumulated during the privatization period, as well as financial constraints, the mechanisms supporting the agricultural producers used during the previous years and that continue to be used nowadays mainly took the form of tax exemptions and

privileges. This was the reaction to the real needs of the agricultural producers, and demonstrates the government support during this period, which should be taken into consideration.

Moreover, Moldova considers tax exemptions and privileges of Table DS:7 as revenue foregone according to Annex 3, paragraph 2 which stipulates that measures under paragraph 1 of Annex 3 (market price support, non-exempt direct payments, or any other subsidy non-exempt from the reduction commitment ("other non-exempt policies")) shall include both budgetary outlays and revenue foregone by governments and their agents.

Currently Moldova is preparing its revised tables, where new information on debt relief has been introduced and included, and VAT exemptions are removed. The revised tables and supporting information together with other clarifications will be submitted shortly after this paper.

#### **DS:9 Non-product Specific Aggregate Measurement of Support**

##### **Question 109.**

**Please provide more information (description) of the irrigation subsidy. How does this policy operate? Is the amount reflected a budgetary outlay, or an estimate of revenue forgone? If it is an estimate, please provide calculation details.**

Answer:

"Irrigation" subsidy represents budgetary outlays administrated by "Apele Moldovei" specialized in water supply. The purpose of this measure is to lower the costs for irrigation of agricultural enterprises. At the beginning the government covered all expenditures on irrigation to the agricultural sector. This included electricity and maintenance costs as well as the salaries of the employees of those services units. Later the Government covered just electricity costs for state-owned enterprises; this decreased the amount for subsidy.

##### **Question 110.**

**Again, tax exemptions and privileges are not included in the AMS calculation. These measures (road and real estate tax exemptions, land tax exemption, VAT exemption) should be removed from DS:9.**

Answer:

See previous answer

#### **V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME**

##### **Question 111.**

**Upon reviewing the materials provided by Moldova since the last WP meeting as well as previous documentation, we have the following comments on Moldova's IPR regime:**

**Has Moldova made available to member countries (in English) its detailed programme of specific legislation and other changes that it deems necessary to bring it into full compliance with TRIPS? (Referred to by Moldova in WT/ACC/MOL/9 (20 January 1999), in answer to Q 118).**

Answer:

Together with these answers Moldova is submitting the document WT/ACC/MOL/22 "Analytic Note listing Moldovan Legislation, Decrees, Decisions and Regulations Relevant to the WTO Legal Texts: Status of Draft Legislation and Draft Amendments" where all relevant IPR legislation is listed, as well as pending draft legislation.

**Question 112.**

**What is the status of Customs Code legislation aimed at bringing Moldovan Customs procedures into compliance with TRIPS?**

Answer:

Although there is no provision in the Customs Code in the field of intellectual property protection, a draft Governmental Decision on intellectual property rights enforcement and border measures is addressing relevant TRIPS issues. The English version of the draft is submitted together with these answers.

**Question 113.**

**How has the Moldovan government implemented obligations under the two most recently ratified WIPO copyright and phonogram treaties (ratified 28 January 1998)?**

Answer:

The Parliament of the Republic of Moldova ratified on 20 January 1999, by Decision No. 1452-XIII: the WIPO Agreement concerning the copyrights of 20 December 1996; the WIPO Agreement concerning interpretation and the phonograms of 20 December 1996; and in 28 November 1999, by Decision No. 206-XIV, the Agreement concerning the collaboration in the Copyright's and Neighbouring Rights' domain, signed in Moscow at 25 September 1993.

Following the provisions of the above-mentioned agreements and Moldovan practice, the State Agency for Copyright presented draft amendments to Law No. 29-XIV from 28 May 1998.

**Question 114.**

**Re. Question 133 of WT/ACC/MOL/9, please provide more information in follow-up to your answer to Question 133 of WT/ACC/MOL/9 about when the law on Patents will be amended to comply with Article 31 of TRIPS.**

Answer:

The following amendments are proposed to the Law on Patents to comply with Article 31 of TRIPS:

Judicial instances may authorize, without the agreement of the owner, the right to use a patented invention under the following provisions:

- authorization of such use shall be considered on its individual merits;
- such use may only be permitted if: within a period of three years from the date on which the patent was granted, the invention was not used or it was insufficiently used by the owner; prior to such use the proposed user has made efforts to obtain

authorization from the right holder in reasonable commercial terms and conditions, and if such efforts have not been successful within a reasonable period of time. This provision may be waived in the case of a national emergency or other circumstances of extreme urgency or in cases of public non-commercial use; in such situations the right holder shall be notified as soon as reasonably practicable;

- the scope and duration of such use shall be limited to the purpose for which it was authorized, and in the case of semi-conductor technology shall only be for public non-commercial use or to remedy a practice determined after judicial or administrative process to be anti-competitive;
- such use shall be non-exclusive and non-assignable, except with that part of the enterprise or goodwill which enjoys such use;
- any such use shall be authorized predominantly for the supply of the domestic market;
- authorization for such use shall be liable, subject to adequate protection of the legitimate interests of the persons so authorized, to be terminated if and when the circumstances which led to it cease to exist and are unlikely to recur. The judicial instance shall have the authority to review, upon motivated request, the continued existence of these circumstances;
- the right holder shall be paid adequate remuneration in the circumstances of each case, taking into account the economic value of the authorization;
- the legal validity of any decision relating to the authorization of such use as well as any decision relating to the remuneration provided in respect of such use shall be subject to a judicial review;
- conditions set forth in subparagraphs b) and e) shall not be applied where such use is permitted to remedy a practice determined after judicial or administrative process to be anti-competitive. The need to correct anti-competitive practices may be taken into account in determining the amount of remuneration in such cases. Court instances shall have the authority to refuse termination of authorization if and when the conditions which led to such authorization are likely to recur.

Where a non-exclusive compulsory licence is granted for the exploitation of a patented invention (hereinafter "the second patent") which cannot be exploited without infringing another patent (hereinafter "the first patent"), the following additional conditions shall apply:

- the invention claimed in the second patent shall involve an important technical advance of considerable economic significance in relation to the invention claimed in the first patent;
- the owner of the first patent shall be entitled to a cross-licence on reasonable terms to use the invention claimed in the second patent;
- the use authorized in respect of the first patent shall be non-assignable except with the assignment of the second patent;
- The Agency shall be informed about the decision concerning the grant of a non-exclusive compulsory licence; the Agency shall record the decision in the National Patent Register;

- The Agency shall publish in the Official Bulletin data referring to the granted non-exclusive compulsory licenses, as well as data in respect of modifications occurred in connection with it within 3 months following the date on which they were entered in the National Patent Register;
- If the holder of a non-exclusive compulsory licence has not undertaken any preparation for exploiting the invention within the year following the grant of the licence, the non-exclusive compulsory licence may be cancelled;
- In any event, a non-exclusive compulsory licence shall terminate if the holder thereof has not begun exploitation of the invention within two years following the date on which the licence was granted to him.

#### **Question 115.**

**Re Question 134 of WT/ACC/MOL/9, please clarify your answer to Question 134 of WT/AC/MOL/9 on patents.**

Answer:

In conformity with the provisions of Article 23 (1) a , the importation of the patented product shall constitute the fact of "working that patent".

#### **Question 116.**

**Re Question 138 of WT/ACC/MOL/9, please give more information on Question 138 of WT/AC/MOL/9 on the timing of the legislative process for the law under consideration.**

Answer:

Deadline of timing of the legislative consideration of the draft governmental decision on border enforcement measures is August 1999, as is stated by the President of the Republic of Moldova.

#### **Question 117.**

**Moldova does not appear to have restored protection for works which, at the coming into force of the Berne Convention, had not yet had a full term of protection in Moldova and were still protected in the country of origin, as is required by Article 18 of the Bern Convention. The documentation provided by Moldova to the WTO Working Party on Accession of the Republic of Moldova does not refer to any proposal for amendment of the copyright law to provide protection for such pre-existing works.**

**Does Moldova have any pending legislative or regulatory mechanism to provide copyright protection or pre-existing works (pre-1994) as required by Bern Article 18, incorporated into TRIPS Article 9.1?**

Answer:

The same draft amendments to the Law No. 29-XIV from 28 May 1998 address this issue.

#### **Question 118.**

**With regard to the protection of data submitted to obtain marketing approval for pharmaceuticals and agricultural chemicals:**

**Is it possible for a second applicant to obtain approval for a pharmaceutical or agricultural chemical that is the bio equivalent of another pharmaceutical or agricultural chemical by relying on data that was submitted by the first applicant?**

Answer:

Since there is no such legislation so far in Moldova, the Government is considering how to meet its obligations to protect undisclosed information as set in TRIPS Part II Section 7.

**Question 119.**

**Statutory damages provided for intellectual property infringement are stipulated in terms of minimum salaries.**

**Can the Government of Moldova estimate what the range of damages would be in dollars?**

Answer:

For the infringement of copyright and neighbouring rights the following penalties have been established (in dollar equivalent):

- In 1994 at the time of adoption of the Law on Copyright and Neighbouring Rights the penalties were ranging from US\$5 to US\$90.000;
- At current exchange rates, the same penalties would range approximately from US\$1.5 to US\$30.000.

**Question 120.**

**Also, given the different questions and answers that have addressed this issue over time, would it be possible for the Moldovan government to provide a comprehensive response that provides details of available criminal and civil damages for trademark and copyright infringement, as well as for patent infringement?**

Answer:

Copyright infringements are stipulated in the following legal acts:

- Law on Copyright and Neighbouring Rights (Article 38);
- Code on Administrative Infringements (Article 51(2));
- Penal Code (Article 141 (1)).

Also see:

- Law on Patents (Article 34 and 35).

Unlawful hold of authorship, forcing to co-authorship is penalized with the term in prison for up to two years or with a fine of up to 60 minimum salaries (currently equivalent to approximately US\$95).

For the infringements of the right of patent holder, the person found guilty is obliged to repair the damages caused, including the foregone profit.

Law on trademarks and appellations of origin of products in its Article 25 provides that at the request of the right holder the stock of fraudulent trademarks shall be destroyed even if this action will lead to destroying the product.

Administrative and penal responsibility is foreseen by Article 152 (2) of the Code on Administrative Infringements and Articles 141 and 158 of the Penal Code respectively. To conform to TRIPS further amendments have been prepared to these legal acts in order to increase the penalty.

#### **Question 121.**

**We welcome Moldova's emphasis on the establishment of procedures for provisional relief, and for civil and criminal damages. We are unclear, however, as to what the actual penalties are. Could Moldova provide more information on this point?**

#### Answer:

Administrative and penal responsibility is foreseen by Article 152 (2) of the Code on Administrative Infringements and Articles 141 and 158 of the Penal Code respectively. According to TRIPS further amendments have been prepared to these legal acts in order to increase the penalty.

Article 152 (2) of the Code on Administrative Infringements foresees a fine of 15 to 25 minimum salaries (approximately US\$20 to US\$40) with or without confiscation of the products that have been counterfeited or for illicit utilization of a trademark.

The penalties are specified in Article 141 of the Penal Code are given in the previous answers to Question 116. In addition, the penalties foreseen by Article 158 of the Penal Code for the counterfeiting of products and illicit utilization of the trade mark are ranging from 500 to 1,000 minimum salaries (approximately from US\$780 to US\$1,600) in the case there is a precedent penalized administratively.

Further amendments to this Article have introduced the following penalties:

- for the production, trade, transportation and stocking of counterfeited alcoholic beverages, in the case there is already a precedent penalized administratively, the penalty is a term of up to three years in prison or a fine ranging from 150 to 500 minimum (approximately from US\$30 to US\$780) salaries with confiscation of the products;
- for the same infringements in larger proportions and with precedents the penalty is a term in prison of 3 to 7 years, or a fine ranging from 500 to 2,000 minimum salaries (approximately from US\$780 to US\$3,200) with confiscation of the products;
- for the same infringements in very large proportions the term in prison is from 7 to 12 years or a fine ranging from 2,000 to 3,000 minimum salaries (approximately from US\$3,200 to US\$4,800) with the confiscation of the products.

#### **Question 122.**

**The response to a number of questions, Moldova indicates that it is preparing legislation to bring its IPR regime into conformity with the WTO TRIPS Agreement. We are submitting a chart listing TRIPS provisions and seeking reference by Moldova for each requirement the citation in Moldovan law or regulation that addresses this requirement. We believe that this can be helpful in monitoring Moldova's progress towards compliance.**

**Moldova should prepare and submit to the Working Party a chart listing the legislation intended to address deficiencies in current implementation, the specific requirements of the TRIPS Agreement this legislation is designed to address, and the time table for implementation.**

**We seek Moldova's full compliance with all the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights from the date of its accession to the WTO, without recourse to any transitional period.**

Answer:

Moldova is ready to fully comply with all the TRIPS provisions from the date of its accession to WTO.

Together with these answers, a Checklist of TRIPS requirements and compliance by the Republic of Moldova is provided in document WT/ACC/MOL/21, as well as a chart listing the existing legislation and the drafts intended to address deficiencies in current implementation.

## **VII. INSTITUTIONAL BASE FOR TRADE AND ECONOMIC RELATIONS WITH THIRD COUNTRIES**

### **1. Bilateral or plurilateral agreements relating to foreign trade in goods and trade in services (Annex 8A refers)**

#### **Question 123.**

**We continue to seek a commitment from Moldova that it will join the WTO Agreement on Trade in Civil Aircraft upon accession and eliminate tariffs on imports of civil aircraft and parts.**

Answer:

Moldova confirms that it will join the WTO Agreement on Trade in Civil Aircraft, as soon as possible after accession and eliminate tariffs on imports of civil aircraft and parts.

#### **Question 124.**

**Concerning Moldova's trade agreements with Romania and the CIS:**

**In its response to Question 25 of WT/ACC/MOL/9, Moldova stated that "the portion of the imports coming from the countries with whom Moldova has signed free trade agreements (CIS and Romania) constitutes 61.5 per cent of total import" in 1997. These agreements greatly affect the value of Moldova's market access commitments, and additional information on them is necessary in this context.**

**We would appreciate the information promised by Moldova in the response to Question 146, including information on the scope of the duty free treatment accorded in each agreement; exceptions to the elimination of tariffs; and any special provisions concerning trade in services, investment, or movement of persons.**

Answer:

Currently the information on the free trade agreements signed with CIS countries and Romania in the format used in Committee on Regional Trade Agreements is in preparation. Due to a large amount of statistics and recent changes introduced in the CIS free trade agreement these documents will be submitted later.



**Question 125.**

**Please provide additional information on Question 25 of WT/ACC/MOL/9 concerning products which enter Moldova duty free as part of any preferential trading agreement. Please specify the products in your response, and the PTA under which they qualify for duty free access.**

Answer:

The products entering Moldova duty free in the framework of the free trade agreements signed with CIS countries and Romania are agricultural and industrial products, as well as energy resources and other raw materials. These products account for more than 700 items of goods classification at the four digit level.

**Question 126.**

**Re Question 146 of WT/ACC/MOL/9, please clarify your answer to Question 146 of WT/ACC/MOL/9 by providing a schedule which clarifies the state of all preferential agreements presently held by Moldova with third countries. In this schedule state the name of the country with which the PTA is negotiated, the goods covered, the percentage of trade covered by the PTA, and give details about whether the agreement is still in force. Please also state on the schedule whether each PTA has been made compatible with the GATT rules.**

**Also as promised in Moldova's answer to Question 146, we look forward to Moldova's provision of additional information on its economic integration agreements that include trade in services and how they are consistent or are being brought into consistency with the requirements of GATS Article V.**

Answer:

Moldova confirms that it will observe the WTO provisions, including those of Article XXIV of the GATT 1994 and Article V of the GATS in its trade agreements, and will ensure the notification of the provisions of these agreements to the WTO. The detailed information requested will be submitted later.

**Question 127.**

**Please confirm any border agreements which have entered into force with neighbouring countries. Are there any aspects of customs co-operation in these agreements?**

Answer:

There are customs cooperation agreements signed with Ukraine and Romania that foresee usual customs cooperation concerning the facilitation and harmonization of border control measures.

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