

# WORLD TRADE ORGANIZATION

RESTRICTED

WT/ACC/MOL/25

15 October 1999

(99-4433)

---

**Working Party on the  
Accession of Moldova**

Original: English

## 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.

---



TABLE OF CONTENTS

	Question Number	Page Number
INTRODUCTION	1	1
II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE		
2. Economic Policies		
(a) Main directions	2-6	1
IV. POLICIES AFFECTING TRADE IN GOODS		
1. Import Regulations		
(a) Registration requirements	7-8	4
(d) Other duties and charges	9-13	5
(h) Customs Valuation	14-20	8
(j) Pre-shipment inspection	21-22	12
(k) Application of internal taxes on imports	23-26	13
(l) Rules of origin	27	14
3. Internal policies affecting foreign trade in goods		
(b) Technical regulations and standards	28-31	15
(c) Sanitary and phytosanitary measures		
(e) State trading practices	32	16
(f) Free zones	33	17
V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME	34-42	17
VI. TRADE-RELATED SERVICES REGIME	43	21
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	44-47	21



**Question 1.**

We seek a commitment from Moldova in the protocol along the following lines. We have not yet received WT/ACC/SPEC/MOL/6:

- xx. The representative of Moldova stated 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 Agreements. Any regulations subsequently enacted by Moldova which gave effect to the laws enacted to implement any Agreement constituting part of the WTO Agreement would also conform to the requirements of that Agreement. The Working Party took note of this commitment.

The representative of Moldova stated that a schedule on notifications required by Agreements constituting part of the WTO Agreement had been submitted in document WT/ACC/SPEC/MOL/6 with information about deadlines of all notifications required upon accession and immediately after accession. Any regulations subsequently enacted by Moldova which gave effect to the laws enacted to implement any Agreement constituting part of the WTO Agreement would also conform to the requirements of that Agreement. The Working Party took note of this commitment.

**Answer**

Moldova proposes to replace the paragraph [225] of the Draft Working Party Report with the following the text:

"The representative of Moldova stated that a schedule on notifications required by Agreements constituting part of the WTO Agreement had been submitted in document WT/ACC/SPEC/MOL/6 with information about deadlines of all notifications required upon accession and immediately after accession. Any regulations subsequently enacted by Moldova which gave effect to the laws enacted to implement any Agreement constituting part of the WTO Agreement would also conform to the requirements of that Agreement. The Working Party took note of this commitment".

**II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE****2. Economic Policies****(a) Main directions****Question 2.**

We thank Moldova for the additional information provided in WT/SPEC/ACC/MOL/Rev.I, and the note on privatization prior to 1997. We suggest that the following information be included to assist the Working Party in understanding the earlier history of Moldova's privatization process:

Moldova initiated its programme of on privatization in 1993-1994 adopted by Law no .1333-XII dated 12 March 1993. In the first two years, 577 large, medium and small size enterprises were privatized, along with about half the state buildings. Around 800 thousand citizens of the Republic of Moldova participated in this endeavour. As the programme was not completed at in 1994, a further draft programmes for privatization was presented for 1995-1996. This second phase contemplated a deeper privatization, including the comprehensive privatization for

patrimonial shares; an increase in private property owners and importance of the private sector, restructuring of the economy, development of capital markets and infrastructure; a new system of organizing companies, and other laws to protect owners rights. By 1996, this plan had achieved a number of objectives-circulation of the wealth accruing to privatization, creation of a stock market, and liberalization of real estate ownership. At the end of this period, the private sector prevailed in the economy, accounting for 60 per cent of the industrial production, 70 per cent of the services supplied in the detailed sales, the social services and 44 per cent of the bulk works in constructions and transports. Over 74 per cent of the total number of enterprises, including 93 per cent of enterprises for the procession of agricultural raw materials, 82 per cent of the light industry, 95 per cent - of trade and social services have been privatized. Almost a million citizens now own private land. During this process, the citizens of the Republic of Moldova had free access to privatization directly or by the intermediary of investment funds, fiduciary companies, created especially with this goal (totally 53). With the contribution of these institutions there have been invested around 2/3 of patrimonial shares and a patrimony with a value of more than 1.2 billion lei has been privatized.

Most recently, a system of republican bids was established with shares subscription, based on the Czech model, which consisted of: the Republican Centre of Calculation, two centres of electronic introduction of data, 115 points of requests collection, place uniformly on the territory of the Republic of Moldova. The given system allowed the citizens to have free access to the shares procurement, it insured the equilibrium between the request and offer of shares, the considerable save of time and of financial resource from the part of organizers and participants at bids. This way the patrimony of around 1.1 thousand enterprises, which constituted 90 per cent of all the patrimony subject to privatization has been privatized.

We urge Moldova to provide clear information on state firms reserved from privatization, e.g., those noted in section 3 a, b, and c in the note on privatization.

The table does not indicate the difference between privatized firms and privatized objects. We would appreciate clarification in the table.

Answer:

Moldova has included the text requested above in the Working Party Report (WT/ACC/SPEC/MOL/4/Rev.2) under paragraph 20. As regards the difference between privatized firms and privatized objects it consists in privatizing part of the assets of the enterprises subject to privatization separately. In many cases, prior to privatization, the enterprises have transferred to state part of their assets in order to cover some debts. These assets, called objects, represent units that were functioning separately from technological process of the enterprises (for example: canteens, kinder gardens, unfinished buildings, etc.) and the State had to privatize them separately. An explanation note has been introduced in the Working Party Report (WT/ACC/SPEC/MOL/4/Rev.2) under paragraph 25 to give more clarification to this subject.

The Law on Privatization Programme 1997 – 1998 that is extended by the new Law on Privatization Programme 1999 – 2000 contains only the list of enterprises that are subject to privatization. The fact that the Law does not stipulate explicitly a list of firm that would not be subject to privatization means that their privatization remains opened. According to the article 9 of the law the objects intended for keeping the state reserves values, mobilization reserves, wine factory deposits, which constitute the national patrimony are not subject to privatization. So far sectors like air and railway transportation, education system, health system are not subject to privatization as well.

**Question 3.**

We also renew our request that Moldova revise the table to contain the information requested above and requested at the last meeting, i.e., listing the total number of firms identified for privatization, listed by sector or industry, and noting the progress of their privatization, e.g., year by year or some other useful period.

In general, the information provided is poorly organized and not at all refined so that it can be easily understood by the WP. We strongly suggest that Moldova completely revise this section to clarify the information and make it useful.

Answer:

The information on the list of firms identified for privatization has been revised and included in the Working Party Report (WT/ACC/SPEC/MOL/4/Rev.2) under paragraph 25. The two tables contain the number of objects and enterprises identified for privatization and the number objects and enterprises that have been privatized as of 1<sup>st</sup> of August 1999 including the method of privatization for each sector.

**Question 4.**

In addition, Moldova should use the information on agricultural privatization provided in the note to give a concise picture of how private ownership has been facilitated in agriculture in Moldova.

Answer:

Additional information on privatization of agricultural sector has been added in Working Party Report (WT/ACC/SPEC/MOL/4/Rev.2) under paragraph 24.

**Question 5.**

We cannot support truncating the commitment text proposed. We seek its restoration in the report, as follows:

- xx. The representative of Moldova confirmed the readiness of Moldova to ensure the transparency of its ongoing privatization programmes 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 programmes of privatization as long as the privatization programmes 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.

We are confident that the Government of Moldova will not have any trouble identifying issues that come up as Moldova's economic reform process proceeds that have WTO relevance. We suggest that reporting on these developments, in addition to comments on the pace of privatization will not be onerous for Moldova.

Answer:

Moldova accepts the formulation of the text suggested above.

**Question 6.**

**We appreciate the additional information on price controls applied by Moldova. In this section, Moldova has indicated that it applies extensive price controls. We seek information for the Working Party report on Moldova's plans to reduce the incidence of price controls in its economy.**

Answer:

Moldova included the commitment to reduce the incidence of the price control in the national economy in Working Party Report (WT/ACC/SPEC/MOL/4/Rev.2) under paragraph 29.

**IV. POLICIES AFFECTING TRADE IN GOODS**

**1. Import Regulations**

**(a) Registration requirements**

**Question 7.**

**We appreciate the additional information provided in WT/ACC/SPEC/MOL/4/rev. I on activity licensing.**

**In the interests of clarity, however, we suggest that the list of licensed activities be moved to the back of the report.**

Answer:

The list of licensed activities was moved to the back of the Working Party Report in Annex 1.

**Question 8.**

**We are concerned about the licensing fees for licenses to trade in alcohol and tobacco. Examination of Annex 17 of the 1999 budget law indicates that the license fees to import and store imported alcoholic beverages is five times that of for domestic alcohol. This brings into question the commitment that Moldova is prepared to take on application of Article III:4 to its trade regime (trading rights) is not true.**

**Annex 17 states:**

- 4. Manufacturing, storage and wholesale of alcohol products**
- f) manufacturing, storage and wholesale of raw material and final alcohol products, produced in the republic —50**
- g) manufacturing, storage and wholesale of wine raw materials in bulk up to 5,000 litres —10**
- h) storage and sale or sale only of raw materials for alcohol products —1,000**
- i) storage and wholesale of domestic alcohol products—2,000;**
- j) import and wholesale of alcohol and tobacco products—10,000.**

**Will this be changed in the 2000 budget law to bring it into conformity with WTO? If so, we would like to see this fact, i.e., that the fees are currently discriminatory and will be fixed, reflected in the report.**



Answer:

The following formulation of text have been introduced in the draft Budget Law 2000 regarding manufacturing, storage and wholesale of alcohol products:

- production, storage and wholesale of the raw material and finished alcoholic production in the territory of the Republic of Moldova - US\$100;
- storage and wholesale of domestic and imported raw materials and finished alcoholic products up to 5,000 litres – US\$10;
- storage and wholesale of domestic and imported raw materials and finished alcoholic products over 5,000 litres – US\$100.

Moldova believes that the regime of license fees for production, storage and wholesale of alcoholic production, as presented above, is consistent with Article III (4) of the GATT 94.

**(d) Other duties and charges**

**Question 9.**

**We appreciate the information added to this section and the statement that Moldova does not intend to bind any charges as "other charges" in its tariff schedule.**

**Moldova has reported bilaterally that its foreign representative or embassies of Moldova abroad apply "consular charges" for performing consular actions and documents with juridical importance for the legal and physical persons of the Republic of Moldova abroad. These consular services are not, however, required for the authentication of documents necessary to import goods into Moldova.**

**We seek the inclusion of this information in the Working Party Report.**

Answer:

Moldova confirms that "consular charges" are not required for the authentication of documents necessary to import goods into Moldova. This also is reflected in the Working Party Report (WT/ACC/SPEC/MOL/4/Rev.2) under paragraph 57.

**We appreciate Moldova's commitment to replace its customs user fee of 0.25 per cent of the value of imported and exported goods with a fixed fee associated with the cost of services rendered.**

Answer:

Moldova will introduce a flat customs user fee in the Budget Law instead of the *ad valorem* customs user fee, which is currently in use. The commitment to adjust the regime of the customs user fee to WTO provisions has been included in the Working Party Report (WT/ACC/SPEC/MOL/4/Rev.2) under paragraph 59.

**Question 10.**

**Please update the first paragraph of this section of the draft report to indicate the level and method of application of the flat customs fee.**

Answer:

Starting with year 2000 the following procedure, as presented in the table, will be introduced in the Budget Law.

Types of custom services	Rate in Euro
For the customs authorisation of goods with a customs value <ul style="list-style-type: none"> <li>- less than 50 Euro</li> <li>- between 50 and 1000 Euro</li> <li>- more than 1000 Euro</li> </ul>	3 5 0.25% of customs value but not more than 600Euro
For the customs authorisation of imported or exported goods that must be returned to the country of origin <ul style="list-style-type: none"> <li>- for each customs declaration</li> <li>- for each additional customs declaration sheet</li> </ul>	30 15
For the authorisation of goods in the case of transit for each customs declaration <ul style="list-style-type: none"> <li>- for each additional customs declaration sheet</li> </ul>	10 15
For the authorisation of goods to be transferred to/or from the bounded customs warehouse <ul style="list-style-type: none"> <li>- for each customs declaration</li> <li>- for each additional customs declaration sheet</li> </ul>	30 15
For the authorisation of goods, that are outside of zones of customs control (companies 'premises ) , or outside of established working hours (per hour of one customs officer 's time) <ul style="list-style-type: none"> <li>- outside of customs control zones</li> <li>- outside of office hours, Saturday, Sunday</li> <li>- public holiday's</li> </ul>	20 40 50
For the cancellation of ordered services, stipulated in point 5 , which was not motivated in due time and written form	20
For the customs inspection of transport of individual use , if this transport is used for transportation of goods in under taxation quantities	10
To submit the certificate of transport registration of chassis and engine toc, introduced on the territory of the Republic, as well as temporary, that must be registered in the Ministry of Internal Affairs	5
For storage goods at customs warehouse, for one kilo per each day <ul style="list-style-type: none"> <li>- for the first 10 days</li> <li>- for each of the following days</li> </ul>	0.1 0.5
For the obligatory retention of goods to be left at custom, as mortgaged goods for each day of storage <ul style="list-style-type: none"> <li>- for the first 10 days</li> <li>- for each of the following days</li> </ul>	0.5% of the total price of goods 0.1% of the total price of goods
To submit the custom 's declarant certificate to each person with a right to fill in custom declaration for a year	150
To extend the valid period of the customs declarant certificate	100
Additional payment for issue of duplicate certificates by the declarant during the year	10
To change the terms in custom declaration	0.1% of the customs value, but not more than 200 Euro

Types of custom services	Rate in Euro
For the re-evaluation of the customs value, indicated in the Custom declaration at the request of the company in the cases stipulated in the legislation	1% in the customs value but not more than 500 Euro
For the escort of goods transported under the customs control	0.5 for 1 km within stipulated time and 1 Euro for exceeding the stipulated time
For applying of customs sealing devices and customs stamps	3 per piece
For presenting evidence that confirm export and import operation did by companies	10
For the customs authorisation of international mail sent by public at designated offices	0.4

**Question 11.**

**Moldova has stated to this delegation that following the bilateral negotiations with member countries Moldova would revise its draft Report of the Working Party on the accession regarding the import surcharge as follows:**

**"The representative of Moldova stated that the surcharge imposed by the Budget Law 1999 will be eliminated by 1 January, 2000, and prior to WTO accession. Moldova confirmed that it will undertake all necessary measures to ensure full application of the WTO provisions."**

**This is not the statement that has been included in this section in the draft Report of the Working Party. We would like to see the more definitive statement in the report instead.**

Answer:

Moldova introduced the commitment in the Working Party Report (WT/ACC/SPEC/MOL/4/Rev.2) under paragraph 62, according to which starting from year 2000 it will not apply the import surcharge and will undertake all necessary measures to ensure full application of the provisions of the WTO Agreement.

**Question 12.**

**In addition, we seek a statement that the surcharge is, or is not, applied on an MFN basis at the current time.**

Answer:

The surcharge of 5 per cent *ad valorem* was applied only to those items to which according to the current trade regime Moldova applied "zero" customs duty rate. Accordingly, the surcharge is applied to all products traded under the free trade regime with CIS and Romania and to all products from other countries to which a free trade regime is applied in accordance with the customs tariff from the Budget Law.

**Question 13.**

**As noted at the last meeting, we cannot agree that Moldova is entitled to claim a balance of payments exception for the 5 per cent surcharge or any other measures prior to its accession to the WTO.**

**If this statement remains in the report, we seek inclusion of additional text reflecting this delegation's views to the contrary.**

Answer:

Moldova agrees that the current regime of application of the surcharge of 5 per cent *ad valorem* is not fully consistent with the WTO practices. Accordingly Moldova excluded the second sentence from the Working Party Report (WT/ACC/SPEC/MOL/4/Rev.1) under paragraph 60.

**(h) Customs valuation**

**Question 14.**

**We have reviewed "Law on the Customs Tariff No. 1380-XIF enacted on November 20, 1997, and the draft amendment to the "Law on Customs Tariff No. 1380-XIT and the draft Governmental Decision on Regulations for Implementation of the Law on Customs Tariff No. 1380-XII.**

**In response to our previous comments dated July 12, 1999 (our file 547428), Moldova provided cites to the draft amendment and draft regulations which Moldova claims solve any insufficiencies in their implementation of the WTO Valuation Agreement. We have reviewed all the submitted material. While we note that Moldova's draft amendment and draft regulations address many of the prior insufficiencies, Moldova's Laws and Regulations still fail to address the following areas:**

**Article 7(4): Rights and responsibilities of a declarant (Article 11 of the WTO Valuation Agreement)**

**We need assurance from Moldova that Article 11(3) of the WTO Valuation Agreement is contained within the Code of Civil Procedure. Article 11(3) provides: notice of the decision on appeal shall be given to the appellant and the reasons for such decision shall be provided in writing. He shall also be informed of his rights of any further appeal" Moldova states that these procedures are established in the Code of Civil Procedure. This office has not had the opportunity to review the Code of Civil Procedure to determine whether it provides for Article 11(3). We require a commitment from Moldova that the Code of Civil Procedure implements Article 11(3).**

Answer:

Moldova has amended the Article 7 (4) and 8(5) of the Customs Tariff Law, which implement the Article 11 of the WTO Agreement. The new amended law will have the following text:

Article 7(4)

"In cases where a declarant disagrees with the decision of the customs authorities over the determined customs value of goods, a complaint can be lodged against this decision according to procedures established by the law and without penalty to a judicial authority."

and Article 8 (5)

"In case the official of the customs authorities takes the decision regarding the impossibility to accept the customs value of the good stated by the person making the declaration, the customs authority, at the person making the declaration's request, notifies him/her in written

form about the reasons of not accepting this value, offering him the possibility to appeal without penalty, by the importer or any other person liable for the payment of the duty."

#### Question 15.

**Article II: Method of customs valuation on the basis of value of transaction with respective goods Articles I and 8 of the WTO Valuation Agreement).**

**We note that Moldova amended its Article 11 to provide that "Method of customs valuation on the basis of the transaction value with respective goods, or price actually paid or payable." This provision does not correctly implement Article I of the WTO Valuation Agreement which provides that the customs value shall be the transaction value which is the price actually paid or payable when sold for exportation to the country of importation [the Republic of Moldova] adjusted in accordance with Article 8 of the WTO Valuation Agreement. We note that Moldova has implemented the Article 8 adjustments. However, Moldova must modify its Law to clearly provide that the transaction value is the price actually paid or payable when sold for exportation to the Republic of Moldova.**

#### Answer:

Article 11 (1) first sentence of the Law is amended in the following way:

"The customs valuation of goods on the basis of the value of transaction with the respective goods, or price actually paid or payable when sold for export to the Republic of Moldova. In the transaction value are included the following components in case they have not been previously included in the value of the imported goods:"

#### Question 16.

**Article 11(l)(c) concerning "goods and services" of Article 8(l)(b) of the WTO Valuation Agreement does not provide that it is applicable when presented at a reduced cost. This provision should be modified to conform to Article 8(l)(b) of the WTO Valuation Agreement.**

#### Answer:

Article 11 (1) (c) of the Law is amended in the following way:

"the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:

- materials, components, parts and similar items incorporated in the imported goods;
- tools, dies, moulds and similar items used in the production of the imported goods;
- materials consumed in the production of the imported goods;
- engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the country of importation and necessary for the production of the imported goods;"

#### Question 17.

**With regard to Article 11(l)(d) concerning royalty fees, Moldova does not provide that to be added to the price actually paid or payable the royalty fees need to be related to the imported goods. Tills provision should be modified to conform to Article 8(l)(c) of the WTO Valuation Agreement.**

Answer:

Article 11 (1) first sentence of the Law is amended in the following way:

"The customs valuation of goods on the basis of the value of transaction with the respective goods, or price actually paid or payable when sold for export to the Republic of Moldova, in the transaction value are included the following components in case if they have not been previously included in the value of the imported goods:"

**Question 18.**

**Article 11(l)(e) concerning proceeds does not state that the proceeds must accrue to the seller. This provision should be modified to conform to Article 8(l)(d) of the WTO Valuation Agreement.**

Answer:

Article 11 (1) (e) of the Customs Law shall be modified in the following way:

“the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller”.

**Question 19.**

**Article 14 of the WTO Valuation Agreement: Moldova has implemented the majority of the Interpretative Notes set forth in Annex I of the WTO Valuation Agreement as provided in Article 14 of the WTO Valuation Agreement in its draft regulations. However, we note that the Interpretative Notes to Article 2(4) and Article 3(4) appear to be missing. If Moldova has implemented the Interpretative Notes to Article 2(4) and Article 3(4) elsewhere in its Law or regulations, we request direction on where to locate the provisions. Otherwise, Moldova should implement the Interpretative Notes to Article 2(4) and 3(4).**

Answer:

Article 2 (4) and 3 (4)of the WTO Valuation Agreement will be implemented trough the Note to article 12(4) of the draft Government Decision, which is provided respectively with the following language:

"For the purposes of Article 12, the transaction value of identical imported goods means a customs value, adjusted as provided for in paragraphs 14 (4), which has already been accepted under Article 11 of the Customs Tariff Law" -

"For the purpose of Article 13, the transaction value of similar imported goods means a customs value, adjusted as provided for in paragraphs 14 (4), which has already been accepted under Article 11 of the Customs Tariff Law"

**Question 20.**

**Additionally, for your reference, you may want to inform Moldova that provisions within Articles 15 and 16 of the Law on the Customs Tariff No. 1380-XII, as (draft) amended, are inconsistent with Moldova's election to include international transportation and insurance costs as an addition to the price actually paid or payable in determining transaction value in Article 11.**

Answer:

In order to be fully in conformity with Article 5 and 6 of the WTO Agreement the relevant articles 15 and 16 of the Customs Tariff Law is amended as follows:

Article 15

If the imported goods or identical or similar imported goods are sold in the country of importation in the condition as imported, the customs value of the imported goods under the provisions of this Article shall be based on the unit price at which the imported goods or identical or similar imported goods are so sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, subject to deductions for the following:

- (a) either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in such country of imported goods of the same class or kind;
- (b) the usual costs of transport and insurance and associated costs incurred within the country of importation;
- (c) where appropriate, the costs and charges referred to in paragraph 1(a) of Article 11; and

the customs duties and other national taxes payable in the country of importation by reason of the importation or sale of the goods.

“If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued, the customs value shall, subject otherwise to the provisions of paragraph 1, be based on the unit price at which the imported goods or identical or similar imported goods are sold in the country of importation in the condition as imported at the earliest date after the importation of the goods being valued but before the expiration of 90 days after such importation.”

"If neither the imported goods nor identical nor similar imported goods are sold in the country of importation in the condition as imported, then, if the importer so requests, the customs value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in the country of importation who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the deductions provided for in paragraph 1."

Article 16

1. The customs value of imported goods under the provisions of this Article shall be based on a computed value. Computed value shall consist of the sum of:

- the cost or value of materials and fabrication or other processing employed in producing the imported goods;
- an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the country of importation;
- the cost or value of all other expenses necessary to reflect the valuation option chosen by the Member under paragraph 1 (a) of Article 11.”

2. The Republic of Moldova may require or compel any person not resident in its own territory to produce for examination, or to allow access to, any account or other record for the purposes of determining a computed value. However, information supplied by the producer of the goods for the purposes of determining the customs value under the provisions of this Article may be verified in another country by the authorities of the country of importation with the agreement of the producer and provided they give sufficient advance notice to the government of the country in question and the latter does not object to the investigation”.

**(j) Pre-shipment inspection**

**Question 21.**

**Moldova has stated in the draft WP report that, in response to questions from some members of the Working Party, the representative of Moldova said that, in order to implement the provisions of Customs Tariff Law No. 1380-XIII of 20 November 1997 and for improvement of the mechanism of pre-shipment inspection, the Government of Moldova had approved the Decision No.747 of 3 August 1999 "On introduction of the pre-shipment inspection for imported goods".**

**Please outline the provisions of this Decision for the WP. Please provide a copy of the Decision for review.**

Answer:

A brief information about the introduction of the pre-shipment inspection on the base of this Governmental Decision is provided in the Working Party Report (WT/ACC/SPEC/MOL/4/Rev.2) under paragraph 93. A copy of the Decision will be submitted to the WTO Secretariat together with the answers to these questions.

**Question 22.**

**In addition to a description of the regime, we seek the following commitment as a framework that may have to be expanded after review of Moldova's regime:**

**xx. The representative of Moldova confirmed that in utilizing a pre-shipment inspection service provider, Moldova would ensure that the requirements of the Agreement on Preshipment Inspection were implemented in full. Moldova would take full responsibility to ensure that the enterprise operating on its behalf complied with the provisions of WTO Agreements. Decisions by the firm could be appealed by importers in the same way as administrative decisions taken by the Moldovan government. Moldova confirmed that its pre-shipment inspection regime would be temporary and would only operate until such time as the Moldovan Customs authorities were able to carry out such functions. The Working Party took note of these commitments.**

Answer:

The text of the above commitment was included in the Working Party Report (WT/ACC/SPEC/MOL/4/Rev.2) under paragraph 95.

**(k) Application of internal taxes on imports**

**Question 23.**

**We have reviewed the List of excisable products from the 1999 Budget Law in the draft**



**Working Party report and the responses of Moldova to our questions on the various taxes presented at the last WP session.**

**We observed at the last meeting that the tax treatment of beer and distilled spirits appeared discriminatory, and would better meet the norms established in recent panel reports on this subject if similar types of alcohol were taxed at the same rate even when marketed in different packages.**

Answer:

According to the List of excisable products that was accepted by all ministries involved to be included in the draft Budget Law 2000 and which also was included in the Working Party Report (WT/ACC/SPEC/MOL/4/Rev.2) under paragraph 66 the internal taxation as regards products member countries is being brought into conformity with the Article III of GATT 1994. Although the level of the excise tax could be different as presented in the WP report when the Law will be adopted, the treatment will remain equal.

**Question 24.**

**We noted the following specific problems: specifically the excise tax rate for Vodka and liqueurs is 50 per cent higher than the rate applied to other liquors, including national drinks; 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; Divin" including cognacs made from grapes is taxed at a different level than "brandy" made from wine and other fruits; kegged beer is taxed at half the rate of bottled beer; in addition, the excise tax applicable to motor cars is for imported cars only.**

Answer:

According to the new List of excisable products all distilled spirits falling under Harmonized System tariff groups 2207 and 2208 (with the exception of 2208 20 – “cognac” and similar products that are also treated equally) are taxed equally. “Beer” will be taxed uniformly, regardless of the holder. Although Moldova is not a car producer it will similarly bring the internal taxation into conformity with Article III of the GATT as regards these goods. Classic and natural sparkling wine will be taxed at the same level.

**Question 25.**

**Moldova responded bilaterally that it was aware that its commitment to apply Article III would require important changes in the way domestic taxes are handled in the Budget Law 2000, as compared to the Budget Law 1999, but it would not commit to specific improvements in the current regime.**

**Since Moldova has not indicated how it intends to deal with these issues, we are becoming concerned that the assurances and commitments will not directly address these measures.**

**We do not believe that Moldova's accession can be finalized on this basis, and we seek a renewed effort by Moldova to respond concretely to these problems.**

Answer:

Moldova is very well aware that without bringing the current regime of internal taxation into compliance with the principle of national treatment the accession is not possible. As presented above

in response to the two previous questions, Moldova is making efforts to bring its internal taxation regime into conformity with the requirements of the Article III of GATT 94.

**Question 26.**

**Please provide the relevant text of the 2000 draft Budget law that is intended to bring Moldova's tax regime into conformity with WTO.**

**We appreciate the commitment in the last paragraph in this section, but we must reserve pending resolution of these issues.**

Answer:

Moldova will submit the draft Budget Law to the WTO Secretariat together with the answers to these questions. The last changes to this draft regarding application of the excise tax were presented in the Working Party Report. Also, the table containing the new List of excisable products will be submitted together with the replies to these questions.

**(l) Rules of origin**

**Question 27.**

**Has Moldova already implemented article 2(h) and paragraph 3(d) of Annex II in law? if not, could the text reflect what vehicle Moldova will use to achieve the conformity noted in the commitment?**

Answer:

Article 25 of the Customs Law will be completed with a paragraph (3) that contains the following: "upon the request of an exporter, importer or any person with a justifiable cause, assessments of the origin and preferential origin they would accord to a good are issued as soon as possible but no later than 150 days after a request for such an assessment provided that all necessary elements have been submitted. Requests for such assessments shall be accepted before trade in the good concerned begins and may be accepted at any later point in time. Such assessments shall remain valid for three years provided that the facts and conditions, including the rules of origin and preferential rules of origin, under which they have been made, remain comparable."

**3. Internal policies affecting foreign trade in goods**

- (b) Technical regulations and standards**
- (c) Sanitary and phytosanitary measures**

**Question 28.**

**Moldova has indicated to us bilaterally that it would supply better translations of the three principle laws cited in the chart, i.e., the "Law on TBT", "Law on Certification" and "Law on Standardization" (including the separate document "Amendments and Supplements to the Law on Standardization").**

**Have these been provided to the secretariat for circulation? We need these documents to finish our review in this area.**

**We would also appreciate receiving a copy of the Law on Certification for our review, and description in the WP report on Moldova's certification regime.**

Answer

The translation of the three legal documents was improved and submitted to the WTO Secretariat in September 1999.

**Question 29.**

**Moldova indicates in the draft Working Party Report (WT/ACC/SPEC/MOL/4/Rev.2) under paragraph 47 that of 20,000 standards in existence now, about 5,000 standards are mandatory. Moldova also notes that it is taking measures to "transfer" mandatory standards into technical regulations.**

**What is the distinction between a "mandatory standard" and a "technical regulation? E.g., Are technical regulations limited to those areas where government involvement is necessary to achieve such legitimate policy objectives as protection of human health, safety, the environment, etc.?**

**What is the criteria or basis for determining whether a standard will be a technical regulation or applied on a voluntary basis?**

**Is there an action plan for converting such mandatory standards into technical regulations? What steps is Moldova talking to replace many of the existing 5,000 mandatory standards with voluntary measures based on international standards? Is this process underway, and is it detailed in any Moldovan government plan? What product areas are and will continue to be - subject to mandatory standards?**

Answer:

According to the last information provided from the Moldova-Standard, from 20,000 regional standards GOST, available on the territory of the Republic of Moldova, are *really* applied approximately 8,000 standards, and approximately only 2,000 standards are mandatory. The definition of technical regulation includes more types of normative documents, including mandatory standards.

The amendments to the Law on Standardization and draft Law on TBT stipulated that from 1 January 2002 the application of national standards would become voluntary. The application of a national standard will remain mandatory only by reference to a technical regulation, adopted by a public authority in accordance with legitimate objectives, such as national security, preventing of misuse practices, protection of the health and life of physical persons, of the health and life of animals, plants protection, environment protection.

Till 1 January 2002 authorities from the Republic of Moldova are obliged to approve and to make known the technical regulations, which comprise provisions from standards, if they consider it necessary to maintain the mandatory character of these provisions.

**Question 30.**

**Article 23 of the Law on TBT and Amendment 12 to the Law on Standardization appear to state that mandatory standards will become voluntary standards, unless a technical regulation is deemed necessary. For this process, the amendment to the Law on Standardization appears to specify a two-year timeframe, while the Law on TBT appears to specify a January 2002 timeframe.**

**Can Moldova clarify these provisions and the process it elaborates?**

Answer:

The terms in the drafts of mentioned laws have now been coordinated: in both documents has been indicated a January 2002 timeframe. The process of development of technical regulation is described in the draft law on TBT.

**Question 31.**

**The Working Party Report (WT/ACC/SPEC/MOL/4/Rev.2) under paragraph 116 notes that Moldova accepts only conformity assessment certificates from bodies in the CIS countries and Romania.**

**As part of the accession process, will Moldova take steps to recognize conformity assessment procedures from bodies in other countries? What is the current list of products subject to mandatory certification?**

Answer:

Recognition of the CIS countries and Romanian certificates by the certification Bodies of the Republic of Moldova is based on bilateral agreements with respective states. Moldova is ready to recognize conformity assessment procedures from bodies in other countries and to conclude such Agreements with any other countries. Negotiations are initiated with Poland and Turkey. We plan to propose such agreement to Baltic countries, Bulgaria, Hungary and other.

The current list of products subject to mandatory certification is regulated by the Government Decision No.414 of 13 June 1994 and will be submitted together with the answer to these questions.

We appreciate Moldova's clearly stated intent to implement both the TBT and SPS agreements prior to accession. We support the commitment at the end of this section.

**(e) State trading practices**

**Question 32.**

**We cannot tell from the treatment in the text if Moldova intends to notify any enterprises. If so we would like to know which ones.**

Answer:

The intention of the Republic of Moldova was to show under this statement that no state trading enterprises covered by the provision of Article XVII of the GATT 94 exist.

**(f) Free zones**

**Question 33.**

**Given the growth of Moldova's trade zones, we propose the following:**

- xx The representative of Moldova confirmed that in the administration of its free zones established within its territory, these zones would be fully subject to the coverage of Moldova's commitments taken in its Protocol of Accession to the WTO Agreement, and that Moldova would ensure enforcement of its WTO obligations in those zones. In addition, goods produced in these areas under tax and tariff provisions that exempt imports and imported inputs from tariffs and certain taxes will be subject to normal**

**customs formalities when entering the rest of Moldova, including the application of tariffs and taxes. The Working Party took note of these commitments.**

Answer:

The content of the above text was reproduced in the Working Party Report (WT/ACC/SPEC/MOL/4/Rev.2) under paragraph 138.

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

### **Question 34.**

**We look to the Government of Moldova to accede to the Berne Convention and Geneva Phonograms in addition to the intellectual property conventions listed in WT/ACC/SPEC/MOL/4 Draft Report of the Working Party on the Accession of Moldova.**

**Membership in both Berne and Geneva Phonograms is necessary for the GOM to fulfil its multilateral and bilateral obligations in the area of copyright protection.**

Answer

The Bern Convention is currently being applied in the territory of the Republic of Moldova since 2 November 1995. As regards the accession of the Republic of Moldova to Geneva Phonogram, the Parliament of the Republic of Moldova has elaborated a Decision "On the accession to the Geneva Convention on October 29, 1971 on protection of the phonogram producers copyrights against their illegal reproduction. The Decision is now before Parliament for adoption.

### **Question 35.**

**Please review and re-address questions 122 and 123 in WT/ACC/MOL/9, concerning copyright protection for phonograms.**

Answer:

Article 10 of the Law No. 293-XII on "Copyrights and related rights" foresees that the author or other owner of the copyright has the exclusive rights to use it in any form. The exclusive right to use the copyright means that the author or other owner of the copyright is entitled to perform, to authorize or to prohibit following actions:

- reproduction of the work;
- broadcasting, including marketing or leasing of the work;
- public demonstration and comment on work;
- translation of the work;
- modification of the work.

According to Article 29 the broadcasting organization has the exclusive right to use the broadcastings in any form which means the right to allow or to prohibit the following actions:

- printing;
- reproduction of the broadcasting printing;
- simultaneous translation through radio-electronic or cable by other broadcasting organization;
- translation through radio-electronic or cable;

**Question 36.**

**The WT/ACC/SPEC/MOL/4 Draft Report of the Working Party also states that the GOM legislative schedule envisions "enactment of the necessary legislation no later than January 2000."**

**It is our understanding that the GOM's IP regime will conform with TRIPS requirements at the time of accession, without recourse to a transitional period.**

Answer:

Moldova has submitted to the United States and to WTO Secretariat a package of 30 legal documents and amendments to them. These amendments were made with the purpose to bring the current Intellectual Property regime of the Republic of Moldova into compliance with the TRIPS requirements. All amendments will be implemented upon accession of Moldova to WTO.

**Question 37.**

**We appreciate the GOM's intention to enact special border provisions required by TRIPS, but in the same we would request an estimate of when these measures would be in place. (We appreciate having received in draft form the proposed regulations in this area, and our comments will be forthcoming.)**

**With regard to restoration of copyright protection for works, which were already in the public domain by 31 December 1994, the GOM states in WT/ACC/SPEC/MOL/4 that protection has not yet been restored.**

**In order to comply with TRIPS Article 9.1 and Article 14.6, both incorporating Berne Article 18, Moldova will need to provide protection to these pre-existing works.**

Answer:

The Bern Convention is being applied in the territory of the Republic of Moldova since 2 of November 1995. When Moldova acceded to the Bern Convention the condition was that the provisions of the Convention will not apply in the Republic of Moldova to copyrights whose protection period expired before 31 of December 1994 and accordingly were made available to public use in the territory of Moldova. In accordance to article 18.2. of the Convention copyrights whose period of protection expired in the country where the protection is claimed, the protection can not be restored.

Although, if by the expiry of the period of protection, guaranteed previously a work becomes a good of public usage in the state where the protection is relieved, the respective work will not be under protection again in this country."

This does not cause prejudices to the works and phonograms, which have not been previously protected by copyrights and neighbouring rights. This way all the movies and phonograms produced after the 1<sup>st</sup> of January 1949 are protected (in case that after the publication or creation of which, in case they have not been yet published 50 years have not yet expired).

According to the law, Article 17(3) in the Republic of Moldova copyrights are valuable for the whole life long period of the author plus 50 years after his death, except for the audio-visual works, protected only for 50 years and decorative and applied artistic works protected only for 25 years.

On the basis of Article 5(3), Article 6(2) and 16(1) of the Rome Convention, with the act of accession of the Republic of Moldova to this Convention has been declared: "

will not apply Article 5 (1-b) - the criterion of the place of first recording of the phonogram;

according to Article 6(2), will supply protection for the programmes in case the headquarters of the organization of broadcast is in another contractual country, and the public communication has been undertaken by a transmission centre, placed in the same Contractual Country.

On the basis of Article 16(1) (a):

will not applied Article 12 in case the public communication of phonograms has at the basis generous purposes or related to the perfection of educational system, the increase of the social welfare and the development of religion, with the exception of cases when the entry is not free in those parts of the buildings, where the phonogram may be listened to and the income is used with purposes, different from those, mentioned above;

will not apply Article 12 in case of phonograms, the producer of which is not a citizen of the other Contractual Party;

will limit the protection of phonograms, the producer of which is a citizen of the other Contractual Country, in case this other country does not supply protection for the phonograms, produced in the Republic of Moldova.

### **Question 38.**

**Moldova should commit itself to meeting the full requirements of Berne Article 18, as incorporated in to TRIPS Articles 9.1 and 14.6, with respect to restoring copyright protection for works that fell into the public domain prior to 31 December 1994, and confirmation of this should be included in the Working Party Report.**

#### Answer:

From all the above mentioned at point 1 and 2 the conclusion can be made that in the Republic of Moldova Article 9(1) and 14 (6) of the TRIPS Agreement are observed.

For Article 14(6) of the TRIPS Agreement it is also established, that the Country - Member is not obliged to observe the personal (moral) rights of authors, performers and producers of phonograms. In the Republic of Moldova the law (Article 9 and 27) protects these rights.

### **Question 39.**

**In the area of patents, with regard to provisions on compulsory licensing and government use discussed in WT/ACC/SPEC/MOL/4:**

**Does importation qualify as use for purposes of determining whether the invention had been used for three years since the patent was issued?**

#### Answer:

Moldova qualifies the importation as use for purposes of determining whether the invention had been used for 3 years since the patent was issued with regard to provisions on compulsory licensing and government use.

**Question 40.**

**If so, language confirming that should be added, e.g., "Importation shall qualify as use for purposes of determining whether the invention has been used with regard to provisions on compulsory licensing and government use."**

Answer:

Moldova agrees to include the following text in the Working Party Report: "Importation shall qualify as use for purposes of determining whether the invention has been used with regard to provisions on compulsory licensing and government use", under the last sentence of the paragraph 186.

**Question 41.**

**We appreciate the additional discussion in WT/ACC/SPEC/MOL/4 in the areas of statutory damages (civil) available with regard to IP infringement generally, and criminal penalties available in the cases of copyright and trademark infringement that is wilful and committed on a commercial scale.**

**We would still appreciate a consolidated discussion that lays out clearly the minimum and maximum damages and penalties available in each case under Moldovan law.**

Answer:

In each case of infringements of the owner's rights the judicial authority on the basis of the provided evidence shall establish the payments of damages. The minimum and maximum amount of fines shall be stipulated in the Civil Code of the Republic of Moldova on Administrative Contraventions, the exact amount of the fine shall be established by the judicial authority depending on the level of damages caused.

We seek a commitment from Moldova in the protocol along the following lines:

**Question 42.**

**xx. The representative of Moldova stated that Moldova would comply with all the provisions of the Agreement on trade-related Aspects of Intellectual Property Rights from the date of accession to the WTO without resource to any transitional period. The Working Party took note of this commitment.**

Answer:

This language has been included in the draft Working Party Report (WT/ACC/SPEC/MOL/4/Rev.2) under paragraph 210.

**VI. TRADE-RELATED SERVICES REGIME**

**Question 43.**

**The following paragraph doesn't meet the scheduled GATS commitment:**

**In response to requests for information, the representative of Moldova explained that although initially, the open competition for the supply of insurance services was permitted, the amendment to the Law "On Insurance" of 20 June 1996, stipulated that foreign insurance**



companies were allowed to operate in Moldova only as a joint venture with Moldovan partners. The foreign share in such joint venture is not limited. Every company supplying insurance services had to obtain a licence issued by the Ministry of Finance. The detailed rules governing the licensing requirements for insurance companies were contained in the Regulation "On the Issue of Licenses for Insurance Services" from 17 November 1995.

Answer:

The GATS Schedule of commitments reflects the stipulations of the Law amending the Law on Insurance that currently is before the Government for adoption and transmission to the Parliament. The amendment revokes the previous requirement that foreign participation should be in the form of a joint venture. When adopted this amendment will eliminate all remaining restrictions on commercial presence.

**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**

**Question 44.**

**We have sought a coherent comprehensive treatment in the draft Working Party Report describing Moldova's bilateral agreements with preferential trade components.**

**We have not yet had response to these requests.**

**We urge Moldova to review the questions from the last meeting and to provide this information.**

**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, and .**

**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:

Free Trade Agreements with CIS Countries

In accordance with Moldova's bilateral agreements on free trade with other CIS countries, the importation of any goods (including agricultural products) originating from CIS countries into the customs territory of the Republic of Moldova is not subject to any duties. Such tariff preferences are granted on the basis of a certificate of origin, to any exporter that is a resident of a CIS country.

The Moldovan regime of free trade is governed by Free Trade Agreements between the Government of the Republic of Moldova and the Government of the following countries:

Country	Signed	Entry into force
- Republic of Armenia	24 December 1993	20 September 1995
- Republic of Azerbaijan	26 May 1995	16 April 1996
- Republic of Belarus	16 June 1993	4 October 1994
- Republic of Georgia	28 February 1998	

- Republic of Kazakstan	26 May 1995	23 February 1996
- Kyrgyz Republic	26 May 1995	21 November 1995
- Russian Federation	9 February 1993	30 March 1993
- Turkmenistan	24 December 1993	1 September 1996
- Ukraine	29 August 1995	27 May 1996
- Republic of Uzbekistan	30 March 1995	29 August 1995

#### Type of Agreements

The Agreements creates a free-trade area in conformity with the definition set out in Article XXIV:8(b) of GATT 1994.

#### The objectives of this Agreement are:

- to maintain the formed integration economic relation of the Republic of Moldova and CIS, interdependency and mutual support of economies of ten countries;
- to further to growth of economic activity and ensuring of full employment and raise of the productivity and the rational exploitation of resources;
- to favour the harmonious development and growth of international trade, and elimination of barriers of the way of its development.

The Agreements covers all trade in industrial products and agricultural products (HS Chapters 1-97) and services

The parties, on the basis of mutuality, seek a gradual cancellation of restrictions with a view to create conditions for free rendering services within the territory of the Agreement.

The products covered are products originating in the Republic of Moldova or CIS according to rules of origin laid out in the Agreements. The procedure of determining a country of origin of goods imported to customs territory of the CIS Member States from third countries and exported from these States shall be regulated by national legislation of the CIS Member States.

A country of origin of a product is considered a State where the product was fully produced or subject to sufficient processing.

The following goods shall be considered fully produced in this country:

- (a) natural resources mined on its territory or in its territorial waters, on its continental shelf and in sea insides if the country has exclusive rights to the development of these insides;
- (b) vegetable products grown and gathered on its territory;
- (c) alive animals born and raised in it;
- (d) products got in this country, of animals raised in it;
- (e) products of hunting, fishery and sea business produced in it;

- (f) products of sea business mined and/or produced in the World Ocean by vessels of this country or vessels that it rents (freights);
- (g) secondary raw material and wastes which are the result of performed and other operations being carried out in this country;
- (h) products of high technologies got in open space on space vessels which belong to this country or this country rents them;
- (i) goods produced in this country using exclusively the products mentioned in sub-paragraphs "a"-"h"

Where two or more countries participate in the production of a product, its origin shall be determined in compliance with the criterion of sufficient processing.

Trade of the Republic of Moldova with CIS (US\$ thousands)			
In Total Imports	Import	Export	Import share of CIS
1996	663.3	546.0	61.5%
1997	604.6	608.4	52.6%
1998	445.1	431.1	43.5%

## Free Trade Agreements with Romania

### Background information on the agreement

The Parties to the Agreement are the Government of Romania and the Government of the Republic of Moldova. The Agreement applies in respect of the territory to which the customs laws of Romania and the Republic of Moldova are applicable respectively.

The Agreement was signed on 15 February 1994. The Agreement was ratified in the Republic of Moldova and Romania respectively in the legislatures of October-December 1994 (Moldova ratified on 31 December 1994 and Romania ratified on 8 November 1994). The Agreement entered into force on 1 January 1995.

### Type and coverage of Agreement

The Agreement creates a free-trade area in conformity with the definition set out in Article XXIV:8(b) of GATT 1994. The Agreement covers all trade in industrial products and agricultural products (HS Chapters 1-97). The products covered are products originating in the Republic of Moldova or Romania according to rules of origin. The agreement does not include trade in services.

### The objectives of Agreement are:

to promote, through the expansion of mutual trade, the harmonious development of the economic relations between Romania and the Republic of Moldova, the improvement of living and employment standards, increasing of productivity and financial stability;

to provide fair conditions of competition for trade between the States Parties to this Agreement;

to contribute in this way, by the removal of barriers to trade, to the harmonious development and expansion of world trade.

Total trade coverage of the Agreement is as follows:

Trade of the Republic of Moldova with Romania (US\$ thousands)			
	Import	Export	Total Import (%)
1996	72.09	74.89	6.6
1997	101.3	58.9	8.6
1998	112.9	60.8	11.0

Source: Ministry of Economy and Reforms.

### Trade Provisions

#### Duties and charges

As prescribed in Article 3.2 of the Agreement, customs duties of all originating goods listed in HS Chapters 1-97 will be eliminated on the entry into force of the Agreement. According to the provisions in Article 3.3 of the Agreement, the Republic of Moldova will apply an import charge of 0.25 per cent and Romania will apply an import charge of 0.5 per cent. The purpose of these import charges is to develop and to improve the Customs Authorities' infrastructures. Article 7.1 of the Agreement prohibits the imposition of any duty, tax or other charge on the export of any goods of the other Party. However, according to Article 5.2 of the Agreement, Romania applies an export charge of 0.5 per cent and the Republic of Moldova an export charge of 0.25 per cent. The purpose of these export charges is to develop and to improve the Customs Authorities' infrastructures.

### Quantitative restrictions

Article 6 of the Agreement prohibits the imposition of quantitative restrictions or any other measure having equivalent effect on the importation of any goods from the other Party. Article 7.1 of the Agreement prohibits the imposition of quantitative restrictions or any other measure having equivalent effect on the exportation of any goods from the other Party. A few exceptions are listed in Annex I for Romania and in Annex II for the Republic of Moldova.

### Rules of origin

Detailed rules of origin are defined in Protocol A to the Agreement. These rules of origin are meant to establish the origin of products qualifying for the treatment established through the Free Trade Agreement. In general the origin is conferred when:

the good is wholly obtained or produced in the territory of a Party;

each of the non-originating materials used in the production of the goods undergoes an applicable change in tariff classification set out in the specific rule for that good (detailed in Annex II), and the good satisfies any other applicable requirement set out in that rule, as a result of production occurring entirely in the territory of one or both of the Parties;

the good is produced entirely in the territory of one or both of the Parties exclusively from originating materials.

Protocol A also contains a series of provisions to facilitate customs procedures, including the certification of origin and the administration and enforcement of origin determination, while the Agreement, under Article 9, states that the Joint Committee will review and ensure the effective and harmonious application of the provisions of Protocol A.

### Technical barriers to trade, sanitary and phytosanitary measures

As prescribed in Article 8 of the Agreement, the Parties shall notify each other of the draft technical regulations and draft amendments thereof which they intend to issue. Article 11 of the Agreement stipulates that the Parties shall apply their veterinary, phytosanitary and sanitary measures in a non-discriminatory manner.

### General Provisions

The Agreement includes a provision on national security in Article 13. Exceptions provided for in Article XX of GATT 1994 are incorporated in Article 12 of the Agreement. Article 30 stipulates that the Parties have the right to maintain or to establish new customs unions, free trade or economic union agreements as well as special arrangements for frontier trade. The Agreement establishes a Moldova-Romania Joint Committee which is to meet at least once a year to monitor the implementation of the Agreement. On government procurement, under the Article 18.1, the Parties agree to further liberalize their respective public procurement markets. The Parties shall develop rules governing public procurement, in order to ensure mutual access to contract award procedures in their public procurement markets.

The Agreement does not contain specific disciplines in the area of trade in services. However, Article 15 of the Agreement provides for freedom of the transfer of payments. On intellectual property rights protection, the Agreement stipulates that the relevant international treaties and conventions will apply.

**Question 45.**

**We seek a commitment from Moldova in the protocol along the following lines, not the text in the draft Working Party Report:**

- xx The representative of Moldova said that Moldova would observe all WTO provisions, including those of Article XXIV of the GATT 1994 and Article V of the GATS in the trade agreements, and would ensure that the provisions of these WTO agreements for notification, consultation and other requirements concerning free trade areas and customs unions of which Moldova was a member were met from the date of accession. He confirmed that Moldova would, upon accession, submit notifications and copies of its Free Trade Area and Customs Union Agreements to the Committee on Regional Trade Agreements (CRTA). He further confirmed that these Agreements would be consistent with the provisions of the WTO and would, in any case, be notified to the CRTA during its examination of the same. The Working Party took note of this commitment.**

Answer:

Included in the draft Working Party Report was the text according to which Moldova would ensure that the obligations regarding notification, consultation and other requirements concerning free trade areas and customs unions are met at the date of accession. Nevertheless, Moldova agreed with the member countries to submit within the 6 months after accession the notifications and copies of its FTA and Customs Union Agreements to the Committee on Regional Trade Agreements. Moldova also agrees to include the same commitment in the protocol of accession.

**Question 46.**

**We suggest revising Moldova's commitment to join the WTO Agreement on Trade in Civil Aircraft as follows:**

- xx. The representative of Moldova confirmed that Moldova would become a signatory to Agreement on Trade in Civil Aircraft upon accession to the WTO. The Working Party took note of this commitment.**

Answer:

Moldova is currently preparing to join the Plurilateral Agreement on Trade in Civil Aircraft, although it might take a longer time than the expected date of accession. Nevertheless, in order to prove the clear intention to join the Agreement, Moldova set at "zero" all tariff items destined for use in civil aircraft in its schedule of concessions on goods.

**Question 47.**

**We cannot support Moldova's reversal on the commitment to join the aircraft agreement. We believe that membership in the Agreement would help Moldova.**

**Please explain Moldova's backtracking on this commitment.**

Answer:

See above answer.

---